



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

STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

October 20, 2020
Honolulu, Hawai'i

Action on the Petitions Requesting a Contested Case Hearing Before the
Commission on Water Resource Management Filed Separately by

- 1) John and Linda Hayama,
- 2) Structural Hawaii, Inc., and
- 3) HH Constructions, Inc.

on Agenda Item B-1 of the March 17, 2020 Meeting (Request Imposing a Fine Against the
Applicant - Structural Hawaii, Inc., Landowner - John and Linda Hayama, and Contractor -
HH Constructions, Inc., for Altering a Stream Channel Without a Permit as
Required in HRS §174C-71(3)(A) and HAR §13-169-50) For the Installation of a Gabion
Retaining Wall, Hayama Residence, Mānoa Stream, Mānoa, O'ahu, TMK: (1) 2-9-037:085;
and

Delegation of Authority to the Chairperson to Appoint a Hearings Officer

PETITIONERS:

John and Linda Hayama
3148C East Mānoa Road
Honolulu, HI 96822

Structural Hawaii, Inc.
1255 Kuala Street, 2nd Floor
Pearl City, HI 96782

HH Constructions Inc.¹
2175 Makaanani Drive
Honolulu, HI 96817

ATTORNEY OR REPRESENTATIVE:

Harvey J. Lung, Esq. and Andrew D. Chianese, Esq.
700 Bishop Street, Suite 900
Honolulu, HI 96813

Paul R. Grable, Esq.
841 Bishop Street, Suite 1800
Honolulu, HI 96813

Larry Lau
94-1058 Paha Place, Apt. 3
Waipahu, HI 96797

¹ The March 17, 2020 CWRM submittal for item B-1 listed the entity as "HH Constructions, Inc.", but the State DCCA Business Registration website has the legal registered name spelled as "HH Constructions Inc."

SUMMARY OF REQUEST:

This submittal recommends the Commission on Water Resource Management (Commission): 1) grant a contested case hearing on the petitions for a contested case hearing filed by John and Linda Hayama, Structural Hawaii, Inc., and HH Constructions Inc., and 2) delegating authority to the Chairperson to appoint a hearings officer to conduct the contested hearing on the subject matter.

BACKGROUND:

On March 17, 2020, during a regularly scheduled monthly meeting, the Commission considered the submittal for Item B-1, requesting to impose a fine against the applicant Structural Hawaii, Inc., landowners John and Linda Hayama, and contractor HH Constructions Inc., for altering a stream channel without a permit, which is required in HRS §174C-71(3)(A) and HAR §13-169-50, and to approve the after-the-fact Stream Channel Alteration Permit (SCAP.5136.3) application for the installation of a gabion retaining wall at the Hayama's Residence on Mānoa Stream, TMK (1) 2-9-037:085. The submittal is incorporated herein by reference and is available on the Commission website at: <https://files.hawaii.gov/dlnr/cwrn/submittal/2020/sb20200317B1.pdf>

Following presentation of the staff submittal and discussion between the Commissioners and the parties, the Commission voted unanimously to approve the submittal as recommended. The March recommendations were as follows:

That the Commission:

1. Find that the Applicant, Structural Hawaii, Inc.; the Landowner, John and Linda Hayama; and the Contractor, HH Constructions Inc., collectively or individually as appropriate, authorized, oversaw, and/or conducted construction activities within the stream beginning on or about May 25, 2109 and violated HRS §174C-71 and HAR §13-169-50 by installing a retaining wall and altering a stream channel without a permit.
2. Issue a written notice of violation to the Applicant, Structural Hawaii, Inc., pursuant to HRS §174C-15 and HAR §13-169-3; authorize imposing a fine of \$39,500, due within 30 days of Commission action; issue a written warning that any future violations involving a stream channel alteration without the necessary permits shall be considered a repeat violation; and suspend any current, pending or future applications including the subject application until the fine is paid.
3. Issue a written notice of violation to the Landowner, John and Linda Hayama, pursuant to HRS §174C-15 and HAR §13-169-3, authorize imposing a minimum fine of \$13,500, due within 30 days of Commission action; issue a written warning that any future violations involving a stream channel alteration without the necessary permits shall be considered a repeat violation; and suspend any current, pending or future applications including the subject application until the fine is paid.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

4. Issue a written notice of violation to the Contractor, HH Constructions Inc., pursuant to HRS §174C-15 and HAR §13-169-3, and authorize imposing a minimum fine of \$13,500, due within 30 days of Commission action; issue a written warning that any future violations involving a stream channel alteration without the necessary permits shall be considered a repeat violation; and suspend any current, pending or future applications including the subject application until the fine is paid.
5. Approve the after-the-fact Stream Channel Alteration Permit (SCAP.5136.3) application for the installation of a retaining wall subject to the standard conditions (Exhibit 16);

Following Commission action, each of the parties requested a contested case hearing on the fines levied against them.

On March 25, 2020, the Commission received via email a Petition Requesting a Contested Case Hearing Before the Commission on Water Resource Management, filed by Larry Lau, for HH Constructions.[sic] Inc. (See **Exhibit 1**).

On March 27, 2020, the Commission received via email a Petition Requesting a Contested Case Hearing Before the Commission on Water Resource Management, filed by Kathy Jenkins, Assistant to Paul R. Grable, Esq., for Structural Hawaii, Inc. (See **Exhibit 2**); and a Petition Requesting a Contested Case Hearing Before the Commission on Water Resource Management, filed by Andrew D. Chianese, Esq., for John and Linda Hayama (See **Exhibit 3**).

DISCUSSION:

A written petition for a contested case must be filed – or mailed and postmarked - not later than ten days after the close of the regular commission meeting. See Hawaii Administrative Rules (HAR) §13-167-52 (“Request for hearing”) subsection (a). Each of the parties’ petitions were timely filed.

A contested case is defined by HRS §91-1 as “a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.” An “agency hearing” is defined by §91-1 as “such hearing held by an agency immediately prior to a judicial review of a contested case as provided in section 91-14.”

HAR §13-167-52(a) provides, *inter alia*, that a “hearing on a contested matter may be requested by the commission on its own motion or upon written petition by any government agency or interested person.” This proceeding, by its very nature, is a legally contested matter in which due process must be provided. HAR §13-167-54 (“Parties”) states at paragraph (a)(1) that “[t]he petitioner shall be a party.”

HAR §13-167-54(a)(1) provides that the petitioner shall be admitted as a party in the contested case hearing where a matter involving permits in the context of an enforcement invokes HRS chapter 91, thus John and Linda Hayama’s timely petition for a contested case hearing should be granted; Structural Hawaii, Inc.’s timely petition for a contested case hearing should be granted; and HH Constructions Inc’s timely petition for a contested case hearing should be granted.

As Hawaii case law suggests, when a request for a contested case is made and the requester is clearly entitled to a contested case, the Commission is not authorized to act upon a pending matter until the contested case hearing is granted [and] occurs. *Mauna Kea Anaina Hou v. Board of Land and Natural Resources*, 136 Hawai‘i 376, 399, 363 P.3d 224, 247 (2015).

Appointment of a Hearings Officer:

The Commission may conduct the hearing itself or appoint a Hearings Officer or master to hear and reach a preliminary decision. HRS §174C-11 and HAR §13-167-56(d). In the past, to be efficient and expeditious in conducting various proceedings, the Commission has delegated authority to the Chairperson to appoint a Hearings Officer.

RECOMMENDATIONS

Staff recommends that the Commission:

1. Consolidate and grant the contested case petitions of John and Linda Hayama, Structural Hawaii, Inc., and HH Constructions Inc.
2. Delegate authority to the Chairperson to appoint a hearings officer to conduct the contested case hearing.

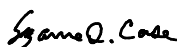
Respectfully submitted,



M. KALEO MANUEL
Deputy Director

- Exhibit 1 Petition for a Contested Case Hearing before the Commission on Water Resource Management, filed by filed by Larry Lau, for HH Constructions. Inc.
- Exhibit 2 Petition for a Contested Case Hearing before the Commission on Water Resource Management, filed by Kathy Jenkins, Assistant to Paul R. Grable, Esq., for Structural Hawaii, Inc.
- Exhibit 3 Petition for a Contested Case Hearing before the Commission on Water Resource Management, filed by Andrew D. Chianese, Esq., for John and Linda Hayama

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN 10 DAYS OF THE PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST FOR A CONTESTED CASE HEARING WAS MADE.

(Please submit an original and 3 copies, pursuant to HAR 13-167-25(c)).

IF MAILED, SEND TO: Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809
Phone: (808) 587-0225 Fax: (808) 587-0219

IF DELIVERED: Commission on Water Resource Management
1151 Punchbowl St., Rm. 227, Kalanimoku Bldg.
Honolulu, HI 96813

Please provide the following information:
(If there is not sufficient space to fully answer any of the items noted below, please use additional sheets of paper)

- 1. NAME: HH Constructions. Inc.
(If you are representing an organization, please attach the resolution, meeting minutes, or other evidence that provides your authority.)
- 2. ADDRESS: 2175 Makanani Dr.
Honolulu, HI 96817
PHONE: (808) 554-2879 FAX: _____
- 3. ATTORNEY OR CONTACT PERSON: Larry Lau
- 4. ADDRESS: 94-1058 Paha Pl. Apt. 3
Waipahu, Hi. 96797
PHONE: (808) 386-8328 FAX: _____
- 5. SUBJECT MATTER: The Commission on Water Resource Management
- 6. DATE OF PUBLIC HEARING/COMMISSION MEETING: March, 17 2020
- 7. WHAT IS THE LEGAL AUTHORITY UNDER WHICH THE PROCEEDING, HEARING OR ACTION IS TO BE HELD OR MADE (CITE APPLICABLE SECTION OF CONSTITUTION, STATUTES, OR ADMINISTRATIVE RULES):
SCAP.5136.3 Docket No. 2019-CW-EO-38
- 8. ARE YOU HAWAIIAN? No

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
THE COMMISSION ON WATER RESOURCE MANAGEMENT

9. WHAT IS THE TAX MAP KEY OF THE PROPERTY ON WHICH YOU RESIDE?
N/A
10. WHAT IS THE TAX MAP KEY OF THE PROPERTY CONSIDERED IN THIS ISSUE?
2-9-037:085
11. WHAT IS THE TAX MAP KEY OF THE PROPERTY OR PROPERTIES WHICH YOU OWN IN THE VICINITY OF THE PROPERTY CONSIDERED IN THIS ISSUE?
N/A
12. WHAT, IF ANY, ACTIVITIES HAVE YOU ENGAGED IN ON THE PROPERTY CONSIDERED IN THIS ISSUE?
Contract to construct a Gabion Retaining Wall System to repair erosion of stream bed that comprise the west end of the property.

13. WHAT IS NATURE AND EXTENT OF YOUR INTEREST THAT MAY BE AFFECTED?
Construction of a Gabion Retaining Wall.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
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14. WHAT IS THE DISAGREEMENT, DENIAL, OR GRIEVANCE WHICH YOU ARE
CONTESTING?

We were told by Structural Hawaii that Army Corp of Engineer gave us 'The Go Ahead', with the emergency repair. Structural Hawaii assured us, they were continuing with the stream permit applications, but we could start with the emergency repair.

15. WHAT ARE THE BASIC FACTS AND ISSUES?

- 1.. The collapse of a portion of a wall caused erosion of the bank of the stream ,. This erosion caused the bank to get amazingly close to the house and its foundation.
- 2.. Structural Hawaii, Basic on a granting of the Emergency Repair Permit of the Army Corps. Of the engineering told us that we could processed to work. The firm assured us that they would continue to pursue the prepare permits this was never done.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
THE COMMISSION ON WATER RESOURCE MANAGEMENT

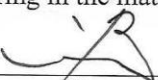
16. WHAT IS THE RELIEF THAT YOU SEEK OR THAT YOU DEEM YOURSELF
ENTITLED?

As of now. We would like to pay the fine.. If this job can be processed to avoid more erosion and have the
stream back to normal in sooner. It's Very Dangerous.

17. IDENTIFY ANY AND ALL OTHER PERSONS WHO MAY OR WILL BE AFFECTED
BY THE RELIEF WHICH YOU SEEK:

The above-named person hereby requests and petitions the Commission on Water Resource
Management for a Contested Case Hearing in the matter described above.

Larry Y Lau
Name (Print)


Signature

3/24/20
Date

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN 10 DAYS OF THE PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST FOR A CONTESTED CASE HEARING WAS MADE.

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Phone: (808) 587-0225 Fax: (808) 587-0219

IF DELIVERED: Commission on Water Resource Management
1151 Punchbowl St., Rm. 227, Kalanimoku Bldg.
Honolulu, HI 96813

Please provide the following information:
(If there is not sufficient space to fully answer any of the items noted below, please use additional sheets of paper)

- 1. NAME: Structural Hawaii, Inc. (SHI)
(If you are representing an organization, please attach the resolution, meeting minutes, or other evidence that provides your authority.)
- 2. ADDRESS: 1255 Kuala Street 2nd Floor
Pearl City, Hawaii 96782
PHONE: 808-488-5000 FAX: 808-454-8899
- 3. ATTORNEY OR CONTACT PERSON: Paul R Grable
- 4. ADDRESS: 841 Bishop Street, Suite 1800
Honolulu, HI 96813
PHONE: 808-748-2508 FAX: 808-524-3011
- 5. SUBJECT MATTER: Request for Contested Case Hearing, After-the-Fact Stream Channel Alteration
- 6. DATE OF PUBLIC HEARING/COMMISSION MEETING: March 17, 2020
- 7. WHAT IS THE LEGAL AUTHORITY UNDER WHICH THE PROCEEDING, HEARING OR ACTION IS TO BE HELD OR MADE (CITE APPLICABLE SECTION OF CONSTITUTION, STATUTES, OR ADMINISTRATIVE RULES):
HAR Section 13-167-52 for adjudication under Chapter 91 HRS
- 8. ARE YOU HAWAIIAN? No

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
THE COMMISSION ON WATER RESOURCE MANAGEMENT

9. WHAT IS THE TAX MAP KEY OF THE PROPERTY ON WHICH YOU RESIDE?

NA

10. WHAT IS THE TAX MAP KEY OF THE PROPERTY CONSIDERED IN THIS ISSUE?

TMK: (1) 2-9-037:085

11. WHAT IS THE TAX MAP KEY OF THE PROPERTY OR PROPERTIES WHICH YOU OWN IN THE VICINITY OF THE PROPERTY CONSIDERED IN THIS ISSUE?

NA

12. WHAT, IF ANY, ACTIVITIES HAVE YOU ENGAGED IN ON THE PROPERTY CONSIDERED IN THIS ISSUE?

SHI is an engineering firm that applied for the permits for this Project for the owners, Hayamas, including the SCAP permit.

13. WHAT IS NATURE AND EXTENT OF YOUR INTEREST THAT MAY BE AFFECTED?

SHI is the engineer for the proposed retaining wall project and it submitted an application for a SCAP permit for the owners, Hayamas. The CWRM has issued a \$39,500 fine against SHI.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
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14. WHAT IS THE DISAGREEMENT, DENIAL, OR GRIEVANCE WHICH YOU ARE
CONTESTING?

CWRM issued a fine of \$39,500 to SHI for applying for a SCAP permit for the owners, Hayamas, after construction was commenced by the Hayamas', contractor, HH Constuction, Inc., on a retaining wall on the Hayamas' property adjacent to Manoa Stream.

15. WHAT ARE THE BASIC FACTS AND ISSUES?

The bank of the Manoa Stream adjacent to the Hayamas' property is eroding causing danger for the property and potential damage to the foundation of their residence. The Hayamas retained SHI to obtain the necessary permits for the Hayamas to construct a retaining wall adjacent to the stream to protect their residence and property. SHI applied for and was in the process of obtaining the necessary permits so that a building permit for the retaining wall could be issued. Before all of the permits were issued, however, the bank collapsed and an emergency situation was created. The US Army Coprs of Engineers issued permission to the Hayamas to proceed under these emergency conditions. The DPP was notified of the communication from the US Army Corps. SHI did not, however, direct the Hayamas or HH Construction, Inc. to proceed with construction. Nevertheless, HH Construction, Inc. commenced with some emergency work. Shortly after commencement of the emergency work, SHI applied for a SCAP permit, even though all the prerequisites necessary for the SCAP application had not yet been met. CWRM levied fines against SHI, the Hayamas and HH Construction, Inc. and issued the SCAP permit that SHI applied for.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

16. WHAT IS THE RELIEF THAT YOU SEEK OR THAT YOU DEEM YOURSELF ENTITLED?

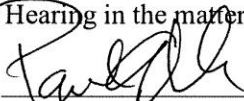
We request a determination of no liability and rescission of the fine levied against Sturctural Hawaii, Inc. by CWRM.

17. IDENTIFY ANY AND ALL OTHER PERSONS WHO MAY OR WILL BE AFFECTED BY THE RELIEF WHICH YOU SEEK:

Hayamas
HH Construction, Inc.

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Paul R Grable
Name (Print)


Signature

3-24-20
Date

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

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Honolulu, HI 96813

Please provide the following information:
(If there is not sufficient space to fully answer any of the items noted below, please use additional sheets of paper)

- 1. NAME: JOHN AND LINDA HAYAMA
(If you are representing an organization, please attach the resolution, meeting minutes, or other evidence that provides your authority.)
- 2. ADDRESS: 3148C East Manoa Road
Honolulu, Hawaii 96822
PHONE: 808-797-7997 FAX: _____
- 3. ATTORNEY OR CONTACT PERSON: Harvey J. Lung, Esq. and Andrew D. Chianese, Esq.
- 4. ADDRESS: 700 Bishop Street, Suite 900
Honolulu, Hawaii 96813
PHONE: 808-523-9000 FAX: 808-533-8184
- 5. SUBJECT MATTER: Stream Channel Alteration Permit (SCAP.5136.3)
- 6. DATE OF PUBLIC HEARING/COMMISSION MEETING: March 17, 2020
- 7. WHAT IS THE LEGAL AUTHORITY UNDER WHICH THE PROCEEDING, HEARING OR ACTION IS TO BE HELD OR MADE (CITE APPLICABLE SECTION OF CONSTITUTION, STATUTES, OR ADMINISTRATIVE RULES):
Hawaii Administrative Rules ("HAR") Chapter 167, including HAR Section 13-167-51 and 13-167-52, and Hawaii Revised Statutes ("HRS") Chapter 91, including HRS Section 91-9.
- 8. ARE YOU HAWAIIAN? No.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
THE COMMISSION ON WATER RESOURCE MANAGEMENT

9. WHAT IS THE TAX MAP KEY OF THE PROPERTY ON WHICH YOU RESIDE?

290370850000

10. WHAT IS THE TAX MAP KEY OF THE PROPERTY CONSIDERED IN THIS ISSUE?

290370850000

11. WHAT IS THE TAX MAP KEY OF THE PROPERTY OR PROPERTIES WHICH YOU OWN IN THE VICINITY OF THE PROPERTY CONSIDERED IN THIS ISSUE?

290370410000

12. WHAT, IF ANY, ACTIVITIES HAVE YOU ENGAGED IN ON THE PROPERTY CONSIDERED IN THIS ISSUE?

The property in question is the Hayama family's primary residence, 3148 C East Manoa Road, Honolulu, Hawaii 96822 ("Property"). HH Constructions, Inc. ("HH Constructions") began preparing for the installation of a gabion retaining wall ("Project") shortly after the Hayamas were notified by Structural Hawaii, Inc. ("Structural Hawaii") that they had approval to proceed with construction. The Hayamas believe HH Constructions initially cleared a landing and installed a metal plate in the Property so as to allow machinery to work within the stream. HH Constructions also removed vegetation that had grown in the area. HH Constructions then installed sand bags and sand barriers along the Property's embankment for the sole purpose of preventing further erosion and providing critical structural support for the land and foundation beneath the Hayamas' home. The Hayamas instructed HH Constructions to stop all work immediately after receiving the Notice of Alleged Violation from the Commission, and there has been no work since.

13. WHAT IS NATURE AND EXTENT OF YOUR INTEREST THAT MAY BE AFFECTED?

The Hayamas' residence and the Property are at serious risk of erosion and in extreme need of the lateral support provided by the gabion retaining wall. Should the Hayamas not be allowed to proceed with the installation of the retaining wall, the Hayamas' engineers have confirmed that a substantial portion of the streambank is at risk of erosion, in addition to portions of the Hayamas' residence being at risk of falling into Manoa Stream.

The Hayamas seek a contested case hearing of the significant fines imposed by the Commission on Water Resource Management ("Commission") against the Hayamas as the fines are disproportionate to the Hayamas' fault in the matter at hand and will be unduely detrimental to their ability to proceed with the Project and complete the stablization and protection of their Property and the surrounding area.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE
THE COMMISSION ON WATER RESOURCE MANAGEMENT14. WHAT IS THE DISAGREEMENT, DENIAL, OR GRIEVANCE WHICH YOU ARE
CONTESTING?

At the March 17, 2020 Commission meeting, the Commission accepted and approved the Hayamas' application for a Stream Channel Alteration Permit ("SCAP") without modification. After it approved the Hayamas' application, the Commission also imposed fines against the Hayamas for violations associated with the application. The Hayamas are solely contesting the validity and amount of the fines imposed by the Commission, and seek to immediately proceed with construction of the Project in accordance with the approved SCAP while the contested case hearing is pending.

15. WHAT ARE THE BASIC FACTS AND ISSUES?

The Project, currently suspended, involves the construction and installation of a gabion retaining wall along the existing banks of the Manoa Stream within the Hayamas' Property for the sole purpose of preventing further erosion and providing critical structural support for the land and foundation beneath the Hayamas' residence. On August 16, 2018, the U.S. Army Corps of Engineers ("Army Corps") verified that the Hayamas' Project complies with Nationwide Permit #13 and authorized the Hayamas to proceed with their Project. Structural Hawaii presented that notice to the Hayamas and instructed them that they had approval to begin the construction and installation of the gabion retaining wall.

Shortly thereafter, HH Constructions began construction, installing sand bags and sand barriers in preparation for the installation of the gabion retaining wall with the belief that it had approval to proceed with the Project. Structural Hawaii conducted numerous site visits while construction was ongoing, and never informed the Hayamas that they were proceeding with construction in violation of any rules, laws or regulations. As such, the Hayamas continued with the construction of their retaining wall in the good-faith belief that they had the requisite approval to proceed with the Project.

On June 28, 2019, the Commission sent the Hayamas a Notice of Alleged Violation regarding a stream channel alteration without a permit. The Hayamas immediately suspended all work on the Project upon receipt of the notice, and have yet to recommence work on the Project. The Commission also sent a Notice of Alleged Violation regarding a stream channel alteration without a permit to Structural Hawaii on July 26, 2019.

Contested Case Petition on Installation of Gabion Retaining Wall, Hayama Residence

PETITION REQUESTING A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

16. WHAT IS THE RELIEF THAT YOU SEEK OR THAT YOU DEEM YOURSELF ENTITLED?

The Commission approved the Hayamas' SCAP application at the Commission's March 17, 2020 meeting, and the Hayamas seek to immediately proceed with their Project in accordance with the approved SCAP while the contested case hearing of the fines is pending. Therefore, the Hayamas are specifically seeking to eliminate or reduce the amount of fines the Commission has imposed against the Hayamas at the March 17, 2020 Commission meeting pursuant to the Hayamas' approved SCAP application, while the Project proceeds in accordance with the approved SCAP.

17. IDENTIFY ANY AND ALL OTHER PERSONS WHO MAY OR WILL BE AFFECTED BY THE RELIEF WHICH YOU SEEK:

The Hayamas do not believe any other party would be affected by the relief the Hayamas seek. Further, at the March 17, 2020 Commission meeting, Structural Hawaii, the Applicant for the subject SCAP application and the Project's engineering firm, and HH Constructions, the Project's Contractor, also submitted verbal requests for a contested case hearing of the Commission's decision to impose fines against each party respectively.

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Andrew D. Chianese	/s/ Andrew D. Chianese	03/27/2020
Name (Print)	Signature	Date