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COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

PETITION TO AMEND INTERIM
INSTREAM FLOW STANDARDS FOR
HONOPOU, HUELO (PUOLUA),
HANEHOI, WAIKAMOI, ALO,
WAHINEPEE, PUOHOKAMOA,
HAIPUAENA, PUNALAU/KOLEA,
HONOMANU, NUAAILUA, PIINAAU,
PALAUHULU, OHIA (WAIANU),
WAIOKAMILO, KUALANI, WAILUANUI,
WEST WAILUAIKI, EAST WAILUAIKI,
KOPILIULA, PUAKAA, WAIOHUE,
PAAKEA, WAIAAKA, KAPAUULA,
HANAWI, AND MAKAPIPI STREAMS

Case No. CCH-MA13-01

**HAWAIIAN COMMERCIAL & SUGAR
COMPANY'S EXHIBIT LIST;
CERTIFICATE OF SERVICE**

HAWAIIAN COMMERCIAL & SUGAR COMPANY'S EXHIBIT LIST

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-1	EMI map of the ditch system which shows the four license areas as well as the EMI owned portions of the watersheds	Declaration of Garret Hew at ¶¶ 4, 7	
C-2	09/13/1976 September 13, 1876 Agreement between Hamakua Ditch Company and Hawaiian Government	Declaration of Garret Hew at ¶ 5	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-3	03/18/1938 1938 Agreement between the Territory of Hawaii and EMI	Declaration of Garret Hew at ¶ 6	
C-4	License issued to EMI for the Huelo license	Declaration of Garret Hew at ¶ 8	
C-5	Revocable Permit No. S-7264 to A&B	Declaration of Garret Hew at ¶ 8	
C-6	License issued to EMI for the Honomanu license area	Declaration of Garret Hew at ¶¶ 9, 15	
C-7	Revocable Permit No. S-7263 to A&B	Declaration of Garret Hew at ¶ 9	
C-8	License issued to EMI for the Keanae license area	Declaration of Garret Hew at ¶¶ 10, 12	
C-9	Revocable Permit No. S-7265 to A&B	Declaration of Garret Hew at ¶ 10	
C-10	License issued to EMI for the Nahiku license area	Declaration of Garret Hew at ¶ 11	
C-11	Revocable Permit No. S-7266 to EMI	Declaration of Garret Hew at ¶ 11	
C-12	10/24/1985 Letter from EMI to the USGS reporting for the 1984/1985 fiscal year, followed by USGS' November 6, 1985 report for the same period to the State	Declaration of Garret Hew at ¶ 13	
C-13	EMI's report to the State for Fiscal Year 1985-1986	Declaration of Garret Hew at ¶¶ 14, 15	
C-14	EMI's report to the State for Fiscal Year 1986-1987	Declaration of Garret Hew at ¶ 14	
C-15	EMI's August 22, 1988 report to the State for 1987-1988	Declaration of Garret Hew at ¶ 15	
C-16	EMI's reports to the State for Fiscal Years 1988-1989 through 2013-2014	Declaration of Garret Hew at ¶ 16	
C-17	USGS report to the State dated December 7, 1983	Declaration of Garret Hew at ¶ 16	
C-18	East Maui Water License Yield report for Fiscal Year 2007-2008	Declaration of Garret Hew at ¶ 18	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-19	12/22/1961 1961 Agreement which cancelled all previous agreements and was for a term extending from January 1, 1962 through June 30, 1986	Declaration of Garret Hew at ¶ 19A	
C-20	Memorandum of Understanding (the “1973 MOU”) entered into as of December 31, 1973 with an initial term extending from January 1, 1974 through December 31, 1993.	Declaration of Garret Hew at ¶ 19B	
C-21	07/27/1982 Letter setting forth additional understandings related to the 1961 Agreement and the 1973 MOU	Declaration of Garret Hew at ¶ 19C	
C-22	05/01/1992 Amendment to the 1973 MOU entered into on May 18, 1992	Declaration of Garret Hew at ¶ 19D	
C-23	04/25/1994 Second Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19E	
C-24	01/03/1996 Third Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19F	
C-25	Agreement regarding the 1973 MOU dated March 21, 1996	Declaration of Garret Hew at ¶ 19G	
C-26	12/30/1996 Fourth Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19H	
C-27	01/20/1998 Fifth Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19I	
C-28	12/28/1998 Sixth Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19J	
C-29	12/29/1999 Seventh Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19K	
C-30	03/28/2000 Eighth Amendment to the 1973 MOU	Declaration of Garret Hew at ¶ 19L	
C-31	Monthly invoices for calendar year 2013, showing the meter readings and the calculated payment amounts approved by and paid to EMI in 2013	Declaration of Garret Hew at ¶ 21	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-32	Monthly Surface Water Use Reports for the months of December, 2007 through August, 2014	Declaration of Garret Hew at ¶ 22	
C-33	Schematic diagram which depicts the EMI ditch system and the HC&S ditch and reservoir systems	Declaration of Garret Hew at ¶¶ 23, 25	
C-34	Summary of Total Monthly and Annual East Maui Ditch Deliveries from 1925 through August of 2014	Declaration of Garret Hew at ¶ 24	
C-35	HC&S field map color coded to show the water sources available to each field	Declaration of Garret Hew at ¶ 25	
C-36	HC&S field map color coded to show the service area of Well 1	Declaration of Garret Hew at ¶ 26A	
C-37	HC&S field map color coded to show the service area of Well 2	Declaration of Garret Hew at ¶ 26B	
C-38	HC&S field map color coded to show the service area of Well 3	Declaration of Garret Hew at ¶ 26C	
C-39	HC&S field map color coded to show the service area of Well 4	Declaration of Garret Hew at ¶ 26D	
C-40	HC&S field map color coded to show the service area of Well 6	Declaration of Garret Hew at ¶ 26E	
C-41	HC&S field map color coded to show the service area of Well 7	Declaration of Garret Hew at ¶ 26F	
C-42	HC&S field map color coded to show the service area of Well 8	Declaration of Garret Hew at ¶ 26G	
C-43	HC&S field map color coded to show the service area of Well 9	Declaration of Garret Hew at ¶ 26H	
C-44	HC&S field map color coded to show the service area of Well 11	Declaration of Garret Hew at ¶ 26I	
C-45	HC&S field map color coded to show the service area of Well 12	Declaration of Garret Hew at ¶ 26J	
C-46	HC&S field map color coded to show the service area of Well 13	Declaration of Garret Hew at ¶ 26K	
C-47	HC&S field map color coded to show the service area of Well 16	Declaration of Garret Hew at ¶ 26L	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-48	HC&S field map color coded to show the service area of Well 17	Declaration of Garret Hew at ¶ 26M	
C-49	HC&S field map color coded to show the current service area of Well 18	Declaration of Garret Hew at ¶ 26N	
C-50	HC&S field map color coded to show the service area of Well 19	Declaration of Garret Hew at ¶ 26O	
C-51	HC&S' monthly ground water use reports by year from 1986 through August of 2014 by well and pump numbers	Declaration of Garret Hew at ¶ 31	
C-52	06/10/2008 HC&S' letter and enclosures submitting comments and information to CWRM in response to the May 2008 Public Review Draft Inseam Flow Standard Assessment Reports ("IFSARs") for the Hydrologic Units of Honopou (6034), Hanehoi (6037), Piinaau (6053), Waiokamilo (6055) and Wailuanui (6056)	Declaration of Garret Hew at ¶¶ 32, 33; Declaration of Rick W. Volner, Jr. at ¶ 32	
C-53	10/30/2009 Letter from EMI to CWRM providing comments and observations with regard to the losing reaches of Makapipi Stream below the EMI diversions	Declaration of Garret Hew at ¶ 34	
C-54	11/05/2010 USGS letter report documenting the results of flow measurements during a release from EMI's Koolau diversion of Makapipi Stream	Declaration of Garret Hew at ¶ 35	
C-55	Maui County Council Resolution No. 07-65, adopted on May 4, 2007	Declaration of Rick W. Volner, Jr. at ¶ 3	
C-56	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. (" A&B ") filed with the Securities and Exchange Commission (" SEC ") for calendar year 2007	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 11	
C-57	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2008	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 12	
C-58	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2009	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 13	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-59	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2010	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 14	
C-60	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2011	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 15	
C-61	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2012	Declaration of Rick W. Volner, Jr. at ¶¶ 8, 16	
C-62	Excerpt from the Form 10-K Annual Report that Alexander & Baldwin, Inc. filed with the SEC for calendar year 2013	Declaration of Rick W. Volner, Jr. at ¶ 8, 17	
C-63	Excerpts from A&B's Form 10-Q filed with the SEC covering the first three quarters of 2014.	Declaration of Rick W. Volner, Jr. at ¶ 18	
C-64	A chart of historical prices of U.S. raw sugar (Contract No. 14/16, duty fee paid New York) published by the Economic Research Service of the United States Department of Agriculture	Declaration of Rick W. Volner, Jr. at ¶ 23	
C-65	09/00/2008 Consultant paper by Leroy O. Laney, Ph.D., entitled, "The Importance of the Hawaiian Commercial & Sugar Company to the Hawaii Economy and Conditions for its Survival," submitted to CWRM by HC&S	Declaration of Rick W. Volner, Jr. at ¶ 33	
C-66	05/00/2009 White paper prepared by SWCA Environmental Consultants entitled, "Status of Native Hawaiian Macrofauna in East Maui Streams and Biological Considerations for the Amendment of Interim Instream Flow Standards in Selected Streams (IIFS)"	Declaration of Rick W. Volner, Jr. at ¶ 36	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-67	06/02/2009 Letter submitted by HC&S to CWRM enclosing and discussing SWCA white paper and offering further information on HC&S' water needs, its irrigation, practices, the extent of its ability to replace ditch water with ground water, and the potential economic impacts of reductions in surface water deliveries from EMI's Ditch System to HC&S	Declaration of Rick W. Volner, Jr. at ¶ 37	
C-68	09/24/2009 Letter from HC&S to CWRM updating its prior submissions on the economic impacts of restricting HC&S' uses of water and providing further information on the EMI Ditch System, on the then-existing water transportation agreement between EMI and Maui Land and Pineapple Company, Inc., and the designation of 22,254 acres of land irrigated with EMI water had been recently designated as Important Agricultural Lands ("IAL") pursuant to HRS Chapter 205, Part III	Declaration of Rick W. Volner, Jr. at ¶ 38	
C-69	10/30/2009 Letter from HC&S to CWRM commenting on Draft IFSARs dated September, 2009 for the remaining nineteen streams	Declaration of Rick W. Volner, Jr. at ¶ 39	
C-70	02/28/2010 Letter from CWRM to HC&S with a list of requests for more specific data and information from HC&S	Declaration of Rick W. Volner, Jr. at ¶ 41	
C-71	03/19/210 HC&S' response letter and its enclosed Appendices "A" through "I" providing detailed responses	Declaration of Rick W. Volner, Jr. at ¶ 42	
C-72	03/23/2010 Letter from CWRM to HC&S requesting more information and sample data regarding the daily water balance of drip irrigation fields from HC&S water balance model.	Declaration of Rick W. Volner, Jr. at ¶ 52	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-73	04/12/2010 HC&S' response letter and enclosures which includes daily water balance information for four sample fields each of which represents one of the four HC&S internal irrigation ditches supplied from EMI (Hamakua, Kauhikoa, Lowrie and Haiku) including two fields (Hamakua and Kauhikoa) that have no access to pump water. Also enclosed was the modified Penman Equation used by HC&S to determine daily evaporation values.	Declaration of Rick W. Volner, Jr. at ¶ 53	
C-74	Table entitled "Monthly Water Needs and Availability"	Declaration of Rick W. Volner, Jr. at ¶¶ 56, 57, 59, 61, 62	
C-75	Spreadsheet estimating average financial impact on HC&S for every million gallons of water per day of reduced deliveries to each of the four HC&S ditches that receive EMI water at Maliko Gulch using average annual flow data from 2008 through 2013	Declaration of Rick W. Volner, Jr. at ¶ 62	
C-76	Spreadsheet detailing average annual financial impact on HC&S for every million gallons of water per day of reduced deliveries to each of the four HC&S ditches that receive EMI water at Maliko Gulch	Declaration of Rick W. Volner, Jr. at ¶¶ 67, 68, 69	
C-77	Spreadsheet detailing the estimated value to HC&S of the average yield per million gallons of available water	Declaration of Rick W. Volner, Jr. at ¶ 68	
C-78	Spreadsheet detailing the estimated average cost of HC&S' pumping	Declaration of Rick W. Volner, Jr. at ¶ 69	
C-79	07/26/2001 Letter dated July 26, 2001 from Alan Murakami to Linnel Nishioka of CWRM	Declaration of Elijah Yip at ¶ 2	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-80	10/10/2003 Order Affirming in Part and Reversing in Part State of Hawai‘i Board of Land and Natural Resources' Findings of Fact and Conclusions of Law and Order, Dated January 10, 2003; Amended January 24, 2003 Regarding Petition Contesting Application For Long Term Disposition of Water Licenses and Issuance of Interim Revocable Permits at Honomanu, Keanae, Nahiku, and Huelo, Maui, in <i>Maui Tomorrow v. State</i> , Civil No. 03-1-0289-02 (First Circuit Court, State of Hawai‘i)	Declaration of Elijah Yip at ¶ 3	
C-81	05/24/2002 Minutes for the Meeting of the May 24, 2002 of the BLNR	Declaration of Elijah Yip at ¶ 4	
C-82	03/18/2005 Prehearing Order Regarding Petitioners' Motions For Summary Relief (Filed Mar. 18, 2005) issued by Hearings Officer E. John McConnell in the Matter of the Contested Case Hearing Regarding Water Licenses at Honomanu, Keanae, Nahiku and Huelo, Maui before the Board of Land and Natural Resources (“ <i>BLNR</i> ”), DLNR File No. 01-05-MA (the “ <i>Water License CCH</i> ”)	Declaration of Elijah Yip at ¶ 5	
C-83	03/23/2007 Findings of Fact, Conclusions of Law, and Decision & Order issued by the BLNR in the Water License CCH	Declaration of Elijah Yip at ¶ 6	
C-84	08/22/2012 HC&S’ Memorandum in Opposition to the Amended Motion to Reconvene Contested Case Proceedings filed by Nā Moku Aupuni O Ko‘olau (“ <i>Nā Moku</i> ”) in the Water License CCH (filed August 14, 2012) filed on August 22, 2012 in the Water License CCH	Declaration of Elijah Yip at ¶ 7	
C-85	09/24/2008 CWRM staff’s Submittal on item C2 of the agenda for the September 24, 2008 CWRM meeting	Declaration of Elijah Yip at ¶ 8	

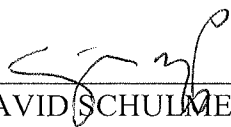
<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-86	06/10/2014 HC&S' Opening Brief Re Expanding Scope of Contested Case to Include all 27 East Maui Streams Which Were the Subject of Nā Moku's Initial Petitions Filed May 24, 2001	Declaration of Elijah Yip at ¶ 9	
C-87	Excerpts of CWRM staff's compilation of public review comments for the hydrologic units of Honopou (6034), Hanehoi (6037), Piinaau (6053), Waiokamilo (6055), and Wailuanui (6056)	Declaration of Elijah Yip at ¶ 10	
C-88	08/18/2008 HC&S' Motion to Consolidate Petitions to Amend Interim Instream Flow Standards For East Maui Streams and Complaint Relating Thereto Filed May 29, 2008 that was filed with CWRM on August 18, 2008	Declaration of Elijah Yip at ¶ 11	
C-89	09/24/2008 – 09/25/2008 Minutes of the CWRM meeting held on September 24-25, 2008	Declaration of Elijah Yip at ¶ 12	
C-90	12/16/2009 CWRM staff's Submittal on item C1 of the agenda for the December 16, 2009 CWRM meeting	Declaration of Elijah Yip at ¶ 13	
C-91	05/25/2010 Minutes of the CWRM meeting held on May 25, 2010	Declaration of Elijah Yip at ¶ 14	
C-92	06/03/2010 Nā Moku's petition for a contested case filed with CWRM on June 3, 2010	Declaration of Elijah Yip at ¶ 15	
C-93	10/18/2010 Minutes of the CWRM meeting held on October 18, 2010	Declaration of Elijah Yip at ¶ 16	
C-94	07/05/2012 Motion to Reconvene Contested Case Proceedings filed by Nā Moku in the Water License CCH on July 5, 2012 (without declarations and exhibits attached thereto)	Declaration of Elijah Yip at ¶ 17	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-95	08/14/2012 Amended Motion to Reconvene Contested Case Proceedings filed by Nā Moku in the Water License CCH on August 14 2012	Declaration of Elijah Yip at ¶ 18	
C-96	07/17/2013 CWRM staff's Submittal on item D1 of the agenda for the July 17, 2013 CWRM meeting	Declaration of Elijah Yip at ¶ 19	
C-97	04/14/2014 Notice of Appeal filed by Nā Moku on April 14, 2014 in <i>Nā Moku Aupuni O Ko'olau Hui v. BLNR</i> , Civil No. 14-1-0918 (the " 2014 Water License CCH Appeal ")	Declaration of Elijah Yip at ¶ 20	
C-98	04/25/2014 Letter dated April 25, 2014 from William Aila to Alan Murakami.	Declaration of Elijah Yip at ¶ 21	
C-99	11/14/2014 Transcript of the oral argument held before the Honorable Rhonda A. Nishimura on November 14, 2014 in the 2014 Water License CCH Appeal	Declaration of Elijah Yip at ¶ 22	
C-100	09/24/2008 Powerpoint presentation of CWRM staff at the September 24, 2008 CWRM meeting	Declaration of Elijah Yip at ¶ 23	
C-101	March 2008 Instream Flow Standard Assessment Report, Island of Maui, Hydrologic Unit 6034, Honopou, March 2008, prepared by CWRM staff	Declaration of Elijah Yip at ¶ 24	
C-102	05/17/2010 Memorandum dated May 17, 2010 from Robert T. Nishimoto of the Division of Aquatic Resources to Ken C. Kawahara of CWRM	Declaration of Elijah Yip at ¶ 25	
C-103	05/25/2010 CWRM staff's Submittal on item C1 of the agenda for the May 25, 2010 CWRM meeting	Declaration of Elijah Yip at ¶ 26	
C-104	11/05/2014 Edited Transcript of Alexander & Baldwin Earnings Call	Declaration of Rick W. Volner, Jr. at ¶ 28	

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>REFERENCES</u>	<u>ADM</u>
C-105	12/16/2009 Minutes of the CWRM meeting held on December 16, 2009	Declaration of Elijah Yip at ¶ 27	
C-106	12/17/2009 Minutes of the CWRM meeting held on December 17, 2009	Declaration of Rick W. Volner, Jr. at ¶ 40; Declaration of Elijah Yip at ¶ 28	

DATED: Honolulu, Hawaii, December 30, 2014.

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Case No. CCH-MA13-01

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this date, a true and correct copy of the foregoing document was duly served on the following parties as stated below:

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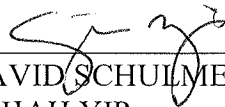
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DATED: Honolulu, Hawaii, December 30, 2014.

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