

CADES SCHUTTE LLP

DAVID SCHULMEISTER            2781-0  
ELIJAH YIP                        7325-0  
1000 Bishop Street, Suite 1200  
Honolulu, HI 96813-4212  
Telephone: (808) 521-9200

Attorneys for HAWAIIAN COMMERCIAL &  
SUGAR COMPANY

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, KAPAULA,  
HANAWI, AND MAKAPIPI STREAMS

Case No. CCH-MA13-01

HAWAIIAN COMMERCIAL AND SUGAR  
COMPANY'S REBUTTAL BRIEF  
REGARDING RE-OPENED  
EVIDENTIARY HEARING;  
CERTIFICATE OF SERVICE

## **HAWAIIAN COMMERCIAL AND SUGAR COMPANY'S REBUTTAL BRIEF REGARDING RE-OPENED EVIDENTIARY HEARING**

### **I. INTRODUCTION**

The Responsive Submissions of Nā Moku/MT persist in attempting to impose a standard of proof on HC&S' future water requirements for diversified agriculture that is both unsupported by the Public Trust Doctrine and is so stringent that it would undermine, rather than support, the obvious public interest in facilitating the transition of HC&S former sugar lands into continued agricultural use. Ignoring the fact that significantly more water will flow in East Maui streams even under full implementation of the Diversified Agricultural Plan due to the permanent restoration of the seven priority streams and diminished water needs under the plan as compared with sugar cultivation, they persist in characterizing any potential withdrawal of surface water to support agribusiness as harmful to instream uses.

Nā Moku/MT seem to discount the significance of the opportunities made possible by the closure of sugar operations and the prerequisites for realizing them. A&B's vision of diversified agriculture will keep the former sugar lands in agriculture, transform the agricultural industry in Maui, provide additional food and energy security, and boost the economies of the County and the State. For this vision to have any realistic chance of being fulfilled, availability of surface water is an absolute necessity. A core assumption underlying any business plan involving diversified agriculture on the former sugar lands is the existence of a reliable source of water to support the proposed agricultural activity. It would be imprudent to make significant new investments to develop agricultural ventures on the former sugar lands, however, if water were unavailable or would require spending hundreds of thousands of dollars to participate in a multi-year contested case hearing to amend the IIFS. It is important to note that the economics of establishing new agricultural businesses on the former sugar lands are significantly different from maintaining an ongoing sugar operation, with a significant amount of investment already made.

CWRM should take care to avoid creating this conundrum. Water needs for offstream uses like the Diversified Agricultural Plan should not have to be proven with specificity of a degree that is unattainable absent significant investment in such uses, which businesses would be deterred from making given the exorbitant cost and delay associated with petitioning CWRM to amend the IIFS downward if the amended IIFS set in this proceeding do not account for A&B's

proposed offstream uses. In concrete terms, this means that a “reasonable estimate” of future offstream uses in this IIFS proceeding should not be equated with the same rigorous standard necessary to justify an allocation of water in a water use permit application (“WUPA”) proceeding. A&B is not presently asking CWRM to determine its entitlement to withdraw a specified amount of water from the subject streams; it is simply requesting that CWRM consider the water requirements of the Diversified Agricultural Plan in the balancing analysis so that enough water will be available for diversion when the plan is operational.

Nor are Nā Moku/MT correct in suggesting that lack of certainty at this stage of HC&S’ transition to a diversified agriculture model endangers public trust purposes. The diversions of stream water to support HC&S’ Diversified Agricultural Plan will occur only when agricultural uses are established. If implementation of the plan is delayed or never materializes, the water anticipated to be used for the plan would remain in the streams.

## **II. DISCUSSION**

### **A. HC&S Has Provided Adequate Information to Enable CWRM to Reasonably Estimate Water Requirements For the Diversified Agricultural Plan.**

- 1. A “reasonable estimate” of A&B’s water requirements for the Diversified Agricultural Plan should take into account the incipient status of the plan and the challenge of procuring commitments from prospective business partners given the uncertainty surrounding the availability of water.**

Although Nā Moku/MT concede that no party bears the burden of proof in this proceeding, they continue to apply the evidentiary standard applicable to WUPAs, as evidenced by their heavy reliance on cases involving water use permits. MT, for example, contends that “[p]ermit applicants must demonstrate their actual needs and the propriety of draining water from public streams to satisfy those needs.” That standard was articulated in the portion of *Waiāhole I* discussing issues pertaining to WUPAs. *In re Water User Permit Applications*, 94 Hawai‘i 97, 162, 9 P.3d 409, 474 (2000). In portion of the decision regarding IIFS, however, the court articulated a less demanding evidentiary standard, explaining that “due to the fact that the Commission must articulate an IIFS at an ‘early planning stage’ of water management, the Commission ‘need only reasonably estimate instream and offstream demands.’” *Id.* at 155 n. 60, 9 P.3d at 467 n. 60. The Hawai‘i Supreme Court further held that the IIFS may be based “not only on scientifically proven facts, but also on future predictions, generalized assumptions, and

policy judgments.” *Id.* at 155, 9 P.3d at 467; *see also In re ‘Iao Ground Water Mgmt. Area High-Level Source Water Use Permit Applications*, 128 Hawai‘i 228, 254, 287 P.3d 129, 155 (2012) (citing foregoing standards in reviewing IIFS decision). Nā Moku does acknowledge that offstream demands need only be “reasonably estimated” in an IIFS proceeding, but nevertheless criticizes HC&S for providing what it perceives to be an inadequate amount of detail about the Diversified Agricultural Plan.

A review of the findings on water needs for diversified agricultural in the Waiāhole case demonstrates why CWRM should reject Nā Moku/MT’s position on the applicable evidentiary standard. In *Waiāhole I*, CWRM issued water use permits for diversified agriculture largely on land formerly in sugar cultivation. *See Waiāhole I*, 94 Hawai‘i at 474, 9 P.3d at 162. CWRM concluded that an estimated water duty of 2,500 gad was reasonable despite “a lack of data on actual uses for diversified agriculture,” which the Hawai‘i Supreme Court noted “appear[ed] to stem largely from the embryonic state of diversified agricultural operations.”<sup>1</sup> *Id.* The Hawai‘i Supreme Court vacated the 2,500 gad allocation for diversified agriculture but not because of the speculative nature of the evidence supporting the use. The Court found an inconsistency between CWRM’s conclusion and evidence that only a fraction of the acreage in diversified agriculture (approximately one-third) was in cultivation at any given time. It was in this vein that the Court made the remark quoted in MT’s Responsive Statement, that “permits should reflect *actual water needs*.” *Id.* at 474, 9 P.3d at 162 (emphasis added). The Court vacated the decision for that reason and remanded for further proceedings. *Id.* at 475, 9 P.3d at 163.

After conducting further hearings on remand, CWRM issued a second decision clarifying the terms *arable* land (land that is able to be cultivated but not necessarily in cultivation), *cultivated* land (land that goes through the cycle of being plowed, planted, harvested, plowed under and left to rest), and *planted* (when plants are actually present). *In re Water Use Permit*

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<sup>1</sup> The 2,500 gad figure was based on testimony of farmers that the water demand ranged from 1,800 gad to 5,400 gad. One farmer testified that a “comfortable zone” would be about 3,500 gad. CWRM used the “more conservative” 2,500 gad figure due to the lack of data on actual uses for diversified agriculture. *See Findings of Fact, and Decision and Order, In re Water Use Permit Applications, Petitions for Interim Instream Flow Standard Amendments, and Petitions for Water Reservations for the Waiāhole Ditch Combined Contested Case Hearing on Remand*, Case No. CCH-OA95-1 (Dec. 24, 1997) (“*Waiāhole I D&O*”) at 6 (¶ E.1). The *Waiāhole I D&O* is accessible at <http://files.hawaii.gov/dlnr/cwr/cch/cchoa9501/CCHOA95-1.pdf>.

*Applications*, 105 Hawai‘i 1, 21, 93 P.3d 643, 663 (2004) (“*Waiāhole II*”). Based on these distinctions and the testimony of the applicants regarding their farming practices, CWRM concluded that 2,500 gad for acres under cultivation or planned to be under cultivation is a reasonable water duty for diversified agriculture. *See id.* at 664, 93 P.3d at 22. The Court affirmed, noting CWRM’s “daunting task to synthesize the evidence and reach a conclusion while balancing various interests and accounting for the public trust” and concluding that the “allocation of 2,500 gallons of water per cultivated acre per day appears to be based on the *best information currently available.*” *Id.* (emphasis added).

The basis for the Court’s initial reversal of CWRM’s allotment of water for diversified agriculture in *Waiāhole* is inapplicable in this proceeding. The Court was concerned that CWRM had allocated water toward acreage that would never actually be in cultivation even when the proposed diversified agriculture venture is fully operational. Here, A&B’s estimate of its water needs is based on acres forecast to be under cultivation, as that term was used by CWRM in its second decision in *Waiāhole*. The fact that not all the acreage A&B plans to put into diversified agriculture is *currently* under cultivation is a temporary condition that should not preclude such acreage from being included in the estimate of A&B’s future offstream demands. The Diversified Agricultural Plan anticipates that such land will be cultivated in the future. The prospective timeframe of the plan does not put public trust resources at risk because EMI’s diversion of surface water will correspond to actual needs at any given time.

Although the Court’s reversal of the diversified agriculture allocation in *Waiāhole* is distinguishable, there are aspects of CWRM’s decision in *Waiāhole* concerning diversified agriculture that are instructive. The decision teaches that estimates of water demands for an “embryonic” private commercial enterprise engaged in diversified agriculture can be based on “the best information currently available.” *Waiāhole II*, 105 Hawai‘i at 664, 93 P.3d at 22. CWRM calculated the estimated allocation of 2,500 gad for the leeward diversified agricultural operations—a finding the Court ultimately affirmed—even though it lacked the kind of detailed information that Nā Moku/MT insist CWRM must consider to fulfill its public trust duties, such as the economic viability of various crops or the time frame for full utilization of all acreage that

is planned for cultivation.<sup>2</sup> Rather, the record in *Waiāhole* disclosed the existence of the same quandary that A&B faces here: The impracticability of investing in a proposed agricultural operation absent reasonable assurances that water will be available, which in turn limits the specificity of data about the operation that can be marshaled to justify an estimate of water requirements.

For example, CWRM's decision after the first remand hearing included the following findings:

Until [Sou, one of the farmers] is assured that he will be able to get a continuous and adequate supply of water from the Ditch to supply Field 280, ***he is reluctant to invest in additional irrigation infrastructure and will not risk losing crops because he is not confident that the water will be available when he needs it.***

Legal Framework, Findings of Fact, and Decision and Order, *In re Water Use Permit Applications, Petitions for Interim Instream Flow Standard Amendments, and Petitions for Water Reservations for the Waiāhole Ditch Combined Contested Case Hearing on Remand*, Case No. CCH-OA95-1 (July 13, 2006) at 82 (emphasis added) ("*Waiāhole II D&O*").<sup>3</sup> CWRM also made these findings:

Jefts's build out plans are event driven. These events are primarily the events that reduce the risk profile that given him the confidence that he can run a successful farming operation. In Kunia, some of the important events did not happen as quickly as he would have liked. ***These events included the assurance of the availability of water:*** 1) until the Water Commission's decision came at the end of 1997, it was anybody's guess as to how much water would be available for how long, so even though he began farming, he had to go slow; 2) until the State took over the Ditch in July 1999, he didn't have a comfortable level of assurance that the owner would continue to operate or adequately maintain it; and 3) the Supreme Court's decision in August 2000 has been a definite setback.

*Id.* at 84 (emphasis added).

A&B has encountered similar challenges in pursuing potential lessees of the former sugar lands. The topic of water for irrigation is raised by virtually every prospective lessee and A&B is pressed for assurances regarding the provision of reliable access to water, and the cost for the

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<sup>2</sup> Notably, CWRM arrived at this estimate based on preliminary information in the context of a WUPA proceeding in which the evidentiary standard is more stringent than that in an IIFS proceeding.

<sup>3</sup> The *Waiāhole II D&O* is accessible at <http://files.hawaii.gov/dlnr/cwr/cchoa9501/CCHOA95-3F.pdf>.

same. *See* Declaration of Jerrod Schreck for Reopened Hearing (“*Schreck Decl.*”) at ¶ 9. A&B’s current inability to provide assurances regarding whether and how much irrigation water can be made available to lessees from the EMI Ditch System is a major obstacle to procuring commitments from prospective lessees who need such assurance in order to justify committing the necessary capital to develop a new agricultural operation. *See id.* Prospective lessees have stressed to A&B that it would be foolhardy for them to sign long term leases and commit significant capital to the development of new agricultural ventures without a clear idea of what sort of access they will have to irrigation water. *See* Declaration of Rick W. Volner, Jr. for Rebuttal Brief in Reopened Hearing (“*Volner Rebuttal Decl.*”) at ¶ 4.

Nā Moku/MT’s suggestion that the IIFS should be set at levels that would leave almost all of the water in the streams indefinitely and require prospective lessees to re-petition CWRM to amend the IIFS in the future would effectively scuttle any serious interest on the part of prospective farmers. Water availability is the essential threshold requirement that must be met before a prospective farmer can even begin to address the other challenges involved in establishing a viable, sustainable farming operation. It is well known on Maui and throughout the farming community state-wide that this proceeding has already been pending for more than 15 years without any final resolution. In order to preserve any realistic opportunity to maintain the agricultural use of the former sugar lands in the central isthmus of Maui, which all parties seem to agree would clearly be in the public interest, the cloud of legal uncertainty generated by this IIFS proceeding regarding reasonable access to surface water from the EMI system to support future agricultural endeavors needs to be removed. *See id.* at ¶ 5.

**2. A&B is making good faith efforts to successfully implement the Diversified Agricultural Plan.**

Nā Moku/MT’s suggestion that the A&B is not committed to the Diversified Agricultural Plan is unfounded.<sup>4</sup> A&B is seriously and in good faith striving to successfully implement the Diversified Agricultural Plan. *See* Volner Rebuttal Decl. at ¶ 3. A&B has planned a number of projects for 2017 in pursuit of the Diversified Agricultural Plan, including:

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<sup>4</sup> For example, MT’s executive director cites the sale of equipment used by HC&S for sugar cultivation as evidence that HC&S is not serious about engaging in agricultural activity on the former sugar lands. This conclusion is flawed because the equipment being sold is specific to a large-scale sugar operation and is not suitable for growing, harvesting, processing or transporting the crops that will be produced in the future. *See* Volner Rebuttal Decl. at ¶ 6.

- A pasturing agreement with Maui Cattle Co. to populate the 4,000 acres of former sugar lands A&B is in the process of converting to grazing pasture by fencing, seeding with signal grass and—in certain areas—installing supplemental irrigation;
- Responding to a utility-issued RFI designating lands that are suitable for renewable energy development (solar, wind, bioenergy), and making those lands available in any subsequent RFPs for the siting of renewable generating assets on Maui;
- The sale of approximately 850 acres of land to the County for an ag park;
- The establishment of approximately 100 acres of oilseed orchards – the first phase of a planned 250 acres; and
- The execution of a commercial feedstock agreement for anaerobic digestion crop feedstocks and the associated use of innovative farming techniques to expand A&B’s bioenergy and grain crop rotation on up to 500 acres.

Schreck Decl. at ¶ 6.

In addition, A&B is actively pursuing lessees with the necessary experience and capital to undertake new agricultural ventures to the maximum extent possible. *See* Volner Rebuttal Decl. at ¶ 3. Of the approximately 250 inquiries A&B has received since the announcement of the cessation of sugar cultivation, it has directly followed up on approximately 170. *See* Schreck Decl. at ¶ 8. A&B conducts diligence on prospective lessees by evaluating them based on detailed criteria, including their experience, acreage needed, crops they propose to grow, and production methods.<sup>5</sup> *See id.* at ¶ 7(a).

Over 60 of the inquiries are “possible” prospects meriting some further investigation. A&B is currently in active discussions with approximately fifteen of these “possibles” and has been engaged in the process of conducting site visits and pursuing the negotiation of business terms for potential leases. *See id.* at ¶ 7(b), 8. Of the remaining “possibles,” A&B is awaiting feedback/details from some in order to better understand their experience and intentions, and A&B has additional follow-up to pursue with others. Those who are looking to farm small plots are generally considered to be prospective ag park tenants, and A&B expects to follow up with them when there is a clear path on the ag park initiative, which is currently conceived as approximately 850 acres, and is being separately pursued with the County of Maui. Hypothetically, if all these “possible” leases were successfully sited on former sugar lands and mutual agreements were reached on lease terms, a rough estimate of the aggregate acreage

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<sup>5</sup> See paragraph 7(a) of the declaration of Jerrod Schreck for a discussion of A&B’s criteria for evaluating potential agricultural lessees.



required would total approximately 19,500 acres. A&B continues to receive new expressions of interest, so A&B believes there is some additional market interest in leasing these lands for agricultural use that remains to be explored. *See id.* at ¶ 8.

**3. MT's specific criticism of the information on the Diversified Agricultural Plan provided by HC&S is flawed or easily addressable.**

MT's executive director, Albert Perez, suggests that certain information submitted by HC&S in support of the Diversified Agricultural Plan is flawed or incomplete. Mr. Perez's criticisms are either flawed or can easily be addressed.

First, Mr. Perez complains that HC&S has not provided maps that depict the areas that can be irrigated only with surface water, and those which can be irrigated with a combination of surface water and brackish well water. However, HC&S previously submitted maps depicting this information. *See Exs. C-35 through C-50.* The relevant data regarding the acreage served by surface water and by brackish well water has, moreover, already been appropriately summarized and presented in Exhibit C-156. *See Volner Rebuttal Decl.* at ¶ 7.

Second, Mr. Perez suggests that the evapotranspiration data in Exhibit C-157 is inadequate because it relates to only "11 fields." In fact, the data is drawn from 14 weather stations strategically located throughout the plantation by representative region that have been consistently operated for many years and thus have a high degree of reliability. *See Volner Rebuttal Decl.* at ¶ 8.

Third, Mr. Perez questions the sufficiency of the crop co-efficients used to calculate the irrigation requirements for each category of use contained in Exhibit C-157. Unfortunately, the column in the original excel file showing the crop co-efficients was partially obscured when the file was printed and marked as an exhibit. The crop co-efficients that were used for each category of use are now clearly set forth in Mr. Volner's rebuttal declaration. *See Volner Rebuttal Decl.* at ¶ 9. Each respective crop co-efficient was selected by HC&S based upon the review of multiple published sources, discussions with prospective tenants, and consideration of HC&S' many decades of experience irrigating the fields in question. The determination of these crop co-efficients already assumes that good farming practices will be utilized where feasible to enhance the moisture retention characteristics of the soil. *See Volner Rebuttal Decl.* at ¶ 10.

**B. The Hearings Officer's Recommended Findings and Conclusions Regarding System Losses Remain Valid.**

Na Moku has argued that HC&S should not rely upon its 2015 estimate of system losses

of 22.7% in its forecast of the irrigation requirements of its Diversified Agricultural Plan because presumably a completely new “system” will be used to replace the system that was used by HC&S to irrigate its sugar fields. The 2015 estimate of 22.7% was calculated, however, in order to approximate the seepage and evaporation losses experienced from the HC&S ditches and reservoirs west of Maliko Gulch. This number was backed into by subtracting water used from the gross amount of surface water delivered and groundwater pumped. It was then compared to expected seepage and evaporation rates obtained from the National Engineering Handbook to show that the amount of water not otherwise accounted for fell within a reasonable range of expected losses from seepage and evaporation. *See* Declaration of Garret Hew for Rebuttal Brief in Reopened Hearing (“*Hew Rebuttal Decl.*”) at ¶ 8. It is anticipated that the same HC&S ditches and reservoirs will be utilized, where appropriate, under the Diversified Agricultural Plan. Since the same parameters would affect seepage and evaporation in the future (reservoir and ditch surface areas and material composition), it is reasonable to continue to use the 22.7% system loss rate as a proxy for future system losses. *See id.* at ¶ 9. Moreover, the reduced volume of water that is anticipated to be used under the Diversified Agricultural Plan does not affect the estimate because it is expressed in terms of a percentage. If less water is used, the loss rate will remain roughly the same, but the actual amount of water loss will correspondingly be reduced.

**C. The Stream Restoration Issues Raised by Nā Moku/MT Are Beyond the Scope of This Hearing or Are Based on Factual Misconceptions.**

**1. High flows in Honopou Stream**

Lurlyn Scott has testified that, in April of 2016, she noticed that flows in Honopou Stream were “much higher than ever before and more than what I would expect to flow naturally under undiverted conditions.” Declaration of Lurlyn Scott at ¶ 4. She further testified that she was concerned that “water diverted from streams to the East of Honopou is being brought through the ditches and dumped in Honopou Stream so that the water flows are higher in the stream when normally summer flows are lower.” *Id.* at ¶ 6.

Flows in Honopou Stream were unusually high in April of 2016 due to high rainfall. According to data from the USGS gaging station 1658700, which is located above the EMI ditches, flows spiked at 300 cfs (193.89 mgd) in early April of 2016, and again at 200 cfs (129.26 mgd) during the third week of April, 2016. These flow rates, which are from 50 to 75 times higher than the median flow rate recorded at this station, would naturally cause Honopou

Stream to expand well beyond its normal streambed. Exhibit C-160 is a graphical depiction of the flow data from this station for April of 2016 that is available from the USGS website. *See* Hew Rebuttal Decl. at ¶ 3.

In addition to high rainfall, in April of 2016, EMI was in the beginning stages of identifying ways to control the ditch flows in the system to reduce deliveries to HC&S. This is not a simple task. The first attempt at controlling deliveries involved adjusting the main control gates located at various points along the system. Due to the location of ditch control points where the ditches cross Honopou Stream, when ditch flows exceeded the control gate settings, flows diverted from further east were redirected into Honopou Stream. This did occur on occasion in the first half of 2016. *See id.* at ¶ 4. In the latter half of 2016, EMI further refined its management of ditch flows by not only adjusting ditch control gates, but also reducing the amount of water taken into the system on a stream by stream basis. As previously explained in Mr. Hew's declaration submitted herein on October 17, 2016, this was accomplished by closing the board gates on individual stream diversion intakes, closing radial gates located in the Wailoa Ditch at individual stream diversions, and opening the sluice gates at individual stream diversions. Because these measures all reduce the amount of water taken into the ditch system at each individual stream, the instances of water being redirected from the ditch system into streams, such as Honopou, that are located near ditch control points, is greatly diminished. *See id.* at ¶ 5; Declaration of Garret Hew For Reopened Hearing dated Oct. 17, 2016 at ¶¶ 3-9.

## **2. Restoration of Hanehoi and Puolua Streams**

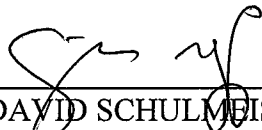
The declaration of Lucienne de Naie contains numerous comments and suggestions on implementation of the interim restoration of stream flow which she considers pertinent to Issue #2(d) in the re-opened hearing regarding "how [EMI] would manage the interim restorations[.]" Minute Order 19 at 3 (¶ 2(d)). Ms. de Naie's declaration goes beyond commenting on EMI's management of the interim restoration and requests CWRM to impose additional requirements on EMI that are not in the interim restoration order. Such comments fall outside the scope of this hearing.

Moreover, Ms. de Naie's suggestions regarding restoration of Hanehoi and Puolua Streams are misinformed. Ms. de Naie opines that open sluice gates at the Haiku diversions on Hanehoi and Puolua are an insufficient interim measure to restore flow pending completion of further modifications upon receipt of the permits for which applications are pending. She

suggests that the sluice gate openings are small and only on one side of the stream, and that “notching” diversion dams would provide more balanced flow. These suggestions reflect a misunderstanding of the practical effect of the opened sluice gates. The sluice gate openings are large enough to pass approximately 30 to 40 mgd, which far exceeds the amount of water that is typically flowing in these two streams. With the sluice gates open, it would not have much effect to also notch the diversion dam since, with the sluice gate open, the flow would not rise up high enough behind the dam to reach the proposed notch under any but the most extreme flow conditions. Under those flow conditions, however, there would be so much water in the stream that there would not seem to be much practical benefit to having a “notch” at the top of the dam. *See* Hew Rebuttal Decl. at ¶ 7.

DATED: Honolulu, Hawaii, January 20, 2017.

CADES SCHUTTE LLP



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DAVID SCHULMEISTER  
ELIJAH YIP

Attorneys for HAWAIIAN COMMERCIAL &  
SUGAR COMPANY

COMMISSION ON WATER RESOURCE MANAGEMENT

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HAIPUAENA, PUNALAU/KOLEA,  
HONOMANU, NUAAILUA, PIINAAU,  
PALAUHULU, OHIA (WAIANU),  
WAIOKAMILO, KUALANI, WAILUANUI,  
WEST WAILUAIKI, EAST WAILUAIKI,  
KOPILIULA, PUAKEA, WAIOHUE,  
PAAKEA, WAIAKA, KAPAUULA,  
HANAWI, AND MAKAPIPI STREAMS

Case No. CCH-MA13-01

**CERTIFICATE OF SERVICE**

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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:

COMMISSION ON WATER RESOURCE  
MANAGEMENT  
1151 Punchbowl Street  
Honolulu, Hawaii 96813  
VIA EMAIL ([kathy.s.yoda@hawaii.gov](mailto:kathy.s.yoda@hawaii.gov)) and  
HAND DELIVERY

DR. LAWRENCE H. MIIKE  
Hearings Officer  
State of Hawaii  
Department of Land and Natural Resources  
Commission on Water Resource Management  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

VIA EMAIL ([lhmiike@hawaii.rr.com](mailto:lhmiike@hawaii.rr.com)) and  
HAND DELIVERY

WILLIAM J. WYNHOFF, ESQ.  
LINDA L.W. CHOW, ESQ.  
Department of the Attorney General  
465 South King Street, Room 300  
Honolulu, Hawaii 96813

SUMMER L.H. SYLVA, ESQ.  
CAMILLE K. KALAMA, ESQ.  
Native Hawaiian Legal Corporation  
1164 Bishop Street, Suite 1205  
Honolulu, Hawaii 96813

Attorneys for Petitioners  
Na Moku Aupuni Koolau Hui

Attorney for the Tribunal

VIA EMAIL ([linda.l.chow@hawaii.gov](mailto:linda.l.chow@hawaii.gov)) and  
HAND DELIVERY

VIA EMAIL  
([summer.sylva@nhlchi.org](mailto:summer.sylva@nhlchi.org)) and  
([camille.kalama@nhlchi.org](mailto:camille.kalama@nhlchi.org))

ISAAC HALL, ESQ.  
2087 Wells Street  
Wailuku, Hawaii 96793  
Attorney for Maui Tomorrow  
VIA EMAIL ([idhall@maui.net](mailto:idhall@maui.net))

PATRICK K. WONG, ESQ.  
CALEB P. ROWE, ESQ.  
KRISTIN K. TARNSTROM, ESQ.  
Department of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793  
Attorneys for County of Maui,  
Department of Water Supply

VIA EMAIL  
([pat.wong@co.maui.hi.us](mailto:pat.wong@co.maui.hi.us))  
([caleb.rowe@co.maui.hi.us](mailto:caleb.rowe@co.maui.hi.us))  
([kristin.tarnstrom@co.maui.hi.us](mailto:kristin.tarnstrom@co.maui.hi.us))

ROBERT H. THOMAS, ESQ.  
Damon Key Leong Kupchak Hastert  
Suite 1600, Pauahi Tower  
1003 Bishop Street  
Honolulu, Hawaii 96813  
Attorney for Hawaii Farm Bureau  
Federation

JEFFREY C. PAISNER  
403 West 49<sup>th</sup> Street, #2  
New York, New York 10019  
Pro Se

VIA EMAIL ([jeffreypaisner@mac.com](mailto:jeffreypaisner@mac.com))

VIA EMAIL ([rht@hawaiilawyer.com](mailto:rht@hawaiilawyer.com))

JOHN BLUMER-BUELL  
P.O. Box 787  
Hana, Hawaii 96713  
Witness

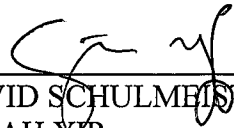
NIKHILANANDA  
P.O. Box 1704  
Makawao, Hawaii 96767-1704  
Witness

VIA EMAIL ([blubu@hawaii.rr.com](mailto:blubu@hawaii.rr.com))

VIA EMAIL ([nikhilananda@hawaiiantel.net](mailto:nikhilananda@hawaiiantel.net))

DATED: Honolulu, Hawaii, January 20, 2017.

CADES SCHUTTE LLP

  
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DAVID SCHULMEISTER  
ELIJAH YIP  
Attorneys for HAWAIIAN COMMERCIAL &  
SUGAR COMPANY