

ISAAC HALL #2238
 2087 Wells Street
 Wailuku, Maui, Hawaii 96793
 Telephone: (808) 244-9017
 Attorney for Maui Tomorrow Foundation, Inc.
 and its Supporters

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

IN RE PETITIONS TO AMEND INTERIM)	Case No.: CCH-MA13-01
INSTREAM FLOW STANDARDS FOR)	
HONOPOU, HUELO (PUOLUA),)	SPECIFIC EXCEPTIONS OF
HANEHOI, WAIKAMOI, ALO,)	MAUI TOMORROW
WAHINEPE'E, PUOHOKAMOA,)	FOUNDATION, INC. AND ITS
HAIPUA'ENA, PUNALAU/KŌLEA,)	SUPPORTERS TO THE
HONOMANU, NU'AILUA, PI'INA'AU,)	HEARINGS OFFICER'S
PALAUHULU, OHIA (WAIANU),)	AMENDED PROPOSED
WAIOKAMILO, KUALANI,)	FINDINGS OF FACT,
WAILUANUI, WEST WAILUAIKI, EAST)	CONCLUSIONS OF LAW &
WAILUAIKI, KOPILI'ULA, PUAKA'A,)	DECISION AND ORDER;
WAIOHUE, PA'AKEA, WAIAKA'A,)	CERTIFICATE OF SERVICE
KAPA'ULA, HANAWĪ AND MAKAPIPI)	
STREAMS)	
_____)	
mt/ho/exceptions)	

**SPECIFIC EXCEPTIONS
 OF MAUI TOMORROW FOUNDATION, INC. AND ITS SUPPORTERS
 TO THE HEARINGS OFFICER'S AMENDED PROPOSED FINDINGS OF FACT,
 CONCLUSIONS OF LAW & DECISION AND ORDER**

Maui Tomorrow Foundation, Inc., on behalf of itself and its Supporters ("MTF"), through its undersigned counsel, hereby files its Specific Exceptions to the Hearings Officer's Amended Proposed Findings of Fact, Conclusions of Law & Decision and Order (the "Report"), pursuant to HRS § 91-11 and Minute Order 29 of the Report, as follows:

I. INTRODUCTION

The closing and auctioning of the assets of the Hawaiian Commercial & Sugar ("HC&S") Sugar Plantation, though unfortunate, provided the opportunity to restore the many East Maui streams that have been largely dewatered for over a century to facilitate sugar cane growth on

Maui's otherwise dry Central Isthmus, depriving taro growers of sufficient water to grow healthy crops and causing environmental degradation to instream life.

Instead of taking this opportunity to effect environmental justice by restoring flows to a substantial number of Petition streams, the Hearings Officer in his Report elected to recommend that the great majority of stream waters continue to be diverted for the offstream benefit of the largely unknown and unidentified prospective private lessees of Alexander & Baldwin, Inc. ("A&B") without any probative or reliable testimony regarding when, in the next twenty years, any actual cultivation would commence on former plantation lands.

The Report allows the continued dewatering of at least half of the Petition streams, only piecemeal restoration of the remainder, does not protect instream values recognized in the Report and provides no assurances as to when in the future actual restoration will take place. All the while, the offstream users receive the benefit of "future" amounts of water for which they have no current need.

The Commission on Water Resource Management (the "Commission") has the authority to reject or modify this Report and must do so.

II. METHODOLOGY TO EXCEPTIONS TO REPORT

"Where a hearing officer has conducted the hearing, the hearing officer shall file a report with the evidence, or a summary thereof, as well as proposed findings of facts and conclusions of law which the commission may adopt, reject, or modify" according to § 13-167-63(a) of the Rules of Practice and Procedure of the Commission.

These Specific Exceptions are hereby taken to the Hearings Officer's Amended Proposed Findings of Fact, Conclusions of Law & Decision and Order (hereafter the "Report"). The Report contains appealable errors that prejudice the substantial rights of Maui Tomorrow Foundation, Inc. and its Supporters. Some of the appealable errors in the Report are of such a magnitude that they affect the whole structure of the Report or, at a minimum, large numbers of proposed findings, and are therefore best discussed, as they are below, as general exceptions.

The only explanation given by the Report for rejecting Findings, Conclusions, Decisions and Orders proposed by MTF and other parties is that:

... they may be duplicative, not relevant, not material, taken out of context, contrary (in whole or in part) to the found facts, an opinion (in whole or in part), contradicted by other evidence, or contrary to law.

See the third paragraph on page 2. The Report does not include a description of “the evidence, or a summary thereof” as required by § 13-167-63(a) of the Commission’s Rules. The Report simply leaves out critical evidence that must be considered by the Commission and has left it to MTF and Na Moku Aupuni o Ko’olau Hui, Lurlyn Scott, and Sanford Kekahuna (“Na Moku”), to make the Commission aware of this probative evidence.

The parties are required to take specific or general exception to particular Findings, Conclusions, Decisions and Orders proposed by the Hearings Officer in his Report and to state the grounds for the exception. This is not possible when the Report has provided only a one sentence, wide-ranging statement of possible reasons meant to apply to hundreds of pages of Proposed Findings, Conclusions, Decisions and Orders.

Chapter 91 recognizes four types of appealable errors: (1) errors of law (“EL”), (2) mixed errors of law and fact (“MELF”), (3) errors of fact (“EF”), and (4) arbitrary and capricious actions or abuses of discretion (“ACAD”).¹ Errors of law are freely reviewable as are findings which are mixed when affected by an error of law.

Citations to the record are provided herein by referring to the Proposed Findings of Fact (“FOF”), Conclusions of Law (“COL”) and Decision and Order (“D&O”) contained in the Report which are noted simply as FOF, COL, D&O, as numbered in the Report, which, for the sake of brevity, are hereby incorporated by reference. Citations to the record referencing the Proposed FOF, COL and D&O submitted by MTF are noted simply as MT PFOF, MT PCOL and MT PD&O as numbered in the Proposed FOF, COL and D&O submitted by MTF which, for the sake of brevity, are also hereby incorporated by reference. These citations are not intended to be exclusive. The General Exceptions of MTF to the Report are filed concurrently but separately and are hereby realleged and incorporated by reference as the entire Exceptions of MTF to the Report. With respect to the Report’s Proposed Findings of Fact, Conclusions of Law, Decision and Order filed with the Commission January 15, 2016 -- that the Hearings Officer has not

¹ HRS §91-14(g) recognizes that decisions are reversible if the administrative findings, conclusions, decisions or orders contain errors of law which are “(1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority or jurisdiction of the agency; (3) made upon unlawful procedure; or (4) affected by other error of law.” The findings are also reversible if they contain errors of fact such that the findings are, as stated in HRS §91-14(g)(5), “clearly erroneous in view of the reliable, probative and substantial evidence on the whole record.” Findings may be challenged if they are mixed and the factual finding has been affected by an error of law. Arbitrary and capricious actions or abuses of discretion may be challenged through HRS §91-14(g)(6).

modified -- MTF realleges and incorporates by reference its Exceptions taken to them filed with the Commission on February 29, 2016.

III. SPECIFIC EXCEPTIONS TO THE REPORT

A. To the Amended Proposed Findings of Fact Recommended in the Report

2, 39. The contents of this letter are mischaracterized and misused later in a context that is not fully and completely explained.

3. This is not a full, complete or accurate description of the Hanehoi Watershed. See, MTF PFOF 23 – 35.

35. This is not a full, complete or accurate description of the closure of the HC&S sugar plantation or of its Diversified Agriculture Plan. See, MTF PFOF 99 – 183.

41. This is not a full, complete or accurate description of the July 18, 2016 Order that speaks for itself.

43. This is not a full, complete or accurate description of the BLNR December 9, 2016 Order and does not fully and accurately explain the context for the issuance of this Order.

48 – 60. This is not a full, complete or accurate description of the EMI diversions in East Maui. See, MTF General Exceptions and the citations within, Section IV.

66 – 89. This is not a full, complete or accurate description of the EMI diversions in East Maui. The Commission has failed to assemble actual data on these diversions even though it has been required to do so since 1988. See, MTF General Exceptions and the citations within, Section XI.

95. MDWS was required to report on the amounts of additional water supplied once the leaky flume was repaired but failed to do so during the reopened hearing.

100 – 101. The Report mischaracterizes the actual terms contained within the MOU. MTF objects to COL 238 on the same grounds. See, MTF General Exceptions and the citations within, Section VII.D.7.

103 – 112. MTF objects to the use of “estimates” of Stream Flows when the Commission has been required to assemble actual data on these flows so since 1988. MTF objects on the same grounds to COL 167 – 173, 191 – 196. See, MTF General Exceptions and the citations within, Section XI.

113 – 135, 278 – 304. MTF objects to the reliance upon “Restoration Potential” evidence assembled prior to the reopening that fails to address, upon reopening, the availability of significantly greater amounts of water for instream values. See, MTF General Exceptions and the citations within, Section X.

MTF objects to the manner in which the Report calculates, upon reopening, the amount of stream flow required to support instream uses and values in exactly the same manner as had been used when these instream values were competing with a fully functioning sugar plantation and neglected to take into consideration that the majority of these fields are now fallow without any commitments to commence cultivation for the next twenty years.

201 – 244, 269 – 277, 305 – 329. MTF objects to the manner in which the Report rejected the future and potential claims of East Maui taro growers and farmers and arbitrarily acquiesces in the speculative potential claims of offstream users A&B and MDWS.

517 – 520. MTF opposes these proposed facts to the extent that they are intended to demonstrate the ability of EMI to manage the EMI diversions and to bolster the Hearings Officer’s suggestion that the Commission should abdicate its Constitutional duty to manage stream resources by allowing EMI to divert amounts of water that EMI and A&B unilaterally decide upon, at dates and times that they unilaterally decide upon. See, MTF General Exceptions and the citations within, Section XI.

B. To the Amended Proposed Conclusions of Law Recommended in the Report

1 – 4. MTF objects to these COL to the extent that they are prefatory to the dubious COL that follow.

6, 8. The Hearings Officer’s unsolicited, sua sponte, suggested opinion on the BLNR March 2007 interim order regarding Waikamilo Stream must be rejected. There can be no doubt that BLNR has the authority to issue orders regarding the waters arising on state lands. The power of BLNR to issue this Order was not within the scope of the reopened hearing and, at a minimum, briefing on this issue must be permitted before these orders are rescinded on these grounds.

7, 8. The Hearings Officer’s unsolicited, sua sponte, suggested opinion on the BLNR December 9, 2016 interim order must be rejected. There can be no doubt that BLNR has the authority to issue orders regarding the waters arising on state lands. The power of BLNR to issue

this Order was not within the scope of the reopened hearing and, at a minimum, briefing on this issue must be permitted before these orders are rescinded on these grounds.

10. The Hearings Officer's unsolicited, sua sponte, suggested opinion that the Commission had no authority to add Honomanu Stream to the streams that should remain undiverted through its July 18, 2016 Order must be rejected. There can be no doubt that the Commission had the authority to issue such an order. The Hearings Officer serves the Commission – not the other way around. The power of the Commission to issue this Order was not within the scope of the reopened hearing and, at a minimum, briefing on this issue must be permitted before this order is rescinded on these grounds.

11. The interim orders may only be effective until the Commission issues final orders in this case but this does not preclude the Commission from making these orders final as well. The Commission has the option to continue these orders in effect if it elects to do so. To effect anything approximating the statutory “balance” intended, these orders must be made permanent.

12. The Commission may be the agency with the authority to establish IIFSs, however the Commission is decidedly not the only agency with the power and authority to issue orders with respect to the waters arising on state lands in East Maui.

13 – 16. The Hearings Officer's proposed standard of proof is incorrect. Worse, the Hearings Officer has applied this incorrect standard of proof to the benefit of offstream users and uses and to the detriment of instream users and uses, resulting in a grave imbalance between these uses. See, MTF General Exceptions and the citations within, Section XI.

28 - 29. The Hearings Officer wrongly suggests that the case law supports considering future water needs even when no immediate need for that water can be demonstrated, relying upon *In re Water Use Permit Applications*, 130 Haw. 346, 310 P.3d 1047 (2010). COL 29. Once again, the Hearings Officer takes this language out of context in struggling to support the speculative, future claims of A&B on behalf of mostly now unknown prospective lessees. This case is a water permit case, not an IIFS case. Campbell Estate applied for water from two separate sources. The Commission found that non-potable Waiahole Ditch water should be used for Campbell Estate's agricultural needs instead of potable Waipahu-Waiawa Aquifer water, which could be used to satisfy the public's future drinking water needs. There is no debate that Hawaii's Constitution, in Article XI, §1 requires the protection and conservation of water resources "[f]or the benefit of present and future generations." In the case

cited by the Hearings Officer the issue was whether the potable water source could be used now since there was no demonstrated current need for that potable water. That is not the issue here. The issue here is whether the protection of public trust stream resources can be jettisoned based upon speculative future offstream uses.

31 – 75. The Hearings Officer’s treatment of the water needs of taro growers demonstrates the lack of proper balancing and the disparate application of the standard of proof.

76 – 89. The Hearings Officer’s continued application of the same standard for minimum stream flow for fish and wildlife habitats before the reopening and after reopening – when increased restorations were expected to occur – demonstrates the gross imbalance suggested by the Hearings Officer. COL 77, 78, 155 – 158, in particular. Likewise, the adoption of the “geographic approach” by the Hearings Officer is not supported by the Water Code. COL 80 – 83, 154 – 158, 209. **See, MTF General Exceptions and the citations within, Section X.I.1.**

90 – 99. The Hearings Officer’s treatment of the water needs for the practice of Native Hawaiian Traditional and Customary rights demonstrates the lack of proper balancing and the disparate application of the standard of proof.

100 – 106. While the Hearings Officer has found that a factual foundation was provided for protected “instream uses” recognized by statute, the Hearings Officer has failed to provide protection to these streams as required by law. **See, MTF General Exceptions and the citations within, Section X.I.2.**

107. The wrong standard of proof is set forth here undermining the entire proposed Decision. **See, MTF General Exceptions and the citations within, Section VI.**

108 - 112. The Hearings Officer misapplies determinations made in *Waiahole I* and *Waiahole I* to this particular factual setting in an egregious error of fact and law. This case is not about lands that are currently fallow because crops are being rotated. This case is about currently fallow lands about which probative and reliable evidence was received that there was no commitment to commence **any planting in the next twenty years**. It is a gross over allocation of water to allow **92.36 mgd** to be diverted to fallow lands under these factual circumstances.

113 – 133. A&B, with all of its economic resources, elected not to conduct any study by a competent professional on the amount of water from its groundwater wells that could be

used to support its proposed diversified crops. Instead, A&B simply advocated that no use was the lower end of its recommended use of this alternative source of water. That left the Hearing Officer to go through a series of mathematical contortions, unsupported by reliable or probative evidence, attempting to arrive at some amount. The case law does not allow reliance upon “generalized assumptions” in a situation in which the entity that owns the groundwater wells, A&B, possesses the economic resources to provide the Commission with competent, factual data on how much of its groundwater can be used to irrigate its proposed diversified agricultural crops. “Generalized assumptions” cannot suffice under these circumstances.

135. The only reliable evidence is the Upcountry water demand at the year 2030 is **1.65 mgd** (the increase due to population growth) and **3.75 mgd** (the most accurate assessment of Waiting List demand) which totals **5.4 mgd**. When **5.4 mgd** is added to 7.1 mgd the total demand is **12.5 mgd**. See, MTF General Exceptions and the citations within, Section VII.D.4.

144. By the time of the reopened hearing, MDWS should have been able to present actual data on additional amounts received since the repair of the leaky flume.

146. There is no basis for this proposed conclusion.

147. This proposed conclusion has no basis in fact or law. The Consent Decree was offered into evidence and speaks for itself.

148, 149 – 153. This proposed conclusion has no basis in fact or law. See, MTF General Exceptions and the citations within, Section VII.D.7.

167 – 173. MTF objects on the same grounds stated to FOF 103 - 112 above.

174 – 175. The subject of this section – “Implementation of the Previously Amended IIFS” is not addressed in these COL. MTF objects that there has been a serious failure to implement and enforce previously amended IIFSs. See, MTF General Exceptions and the citations within, Section XI.C.3.

199. This proposed conclusion has no basis in fact or law. A&B has not ceased all diversions listed in the Commission’s 2008 Order.

201. The Hearing Officer proposes to undermine this proposed conclusion by recommending that the Order be rescinded. See, D&O, p. 163.

211. The Hearings Officer gravely errs by recommending the adoption of the pre-reopening standard of the minimum viable habitat flow (Hmin), defined by DAR as 64% of

median base flow, 64 percent of BFQ50 flow (H90) when the reopening presented the opportunity to support stream life in a far more robust manner.

218 – 223. The Report gravely errs by grossly over-allocating public trust stream water for fallow lands upon which no actual cultivation will commence for twenty years according to the reliable and probative evidence presented during this Contested Case Hearing. See, MTF General Exceptions and the citations within, Section VII.C.

The adoption of the “geographic approach” by the Hearings Officer is not supported by the Water Code. COL 80 – 83, 154 – 158, 209. See, MTF General Exceptions and the citations within, Section X.I.1.

238. See, exceptions taken to FOF 100 – 101. The Report mischaracterizes the actual terms contained within the MOU. See, MTF General Exceptions and the citations within, Section VII.D.7.

224 – 242. The Report errs in calculating the potential water requirements of the MDWS for its Upcountry Water System. The only reliable evidence is the Upcountry water demand at the year 2030 is **1.65 mgd** (the increase due to population growth) and **3.75 mgd** (the most accurate assessment of Waiting List demand) which totals **5.4 mgd**. When **5.4 mgd** is added to 7.1 mgd the total demand is **12.5 mgd**. See, MTF General Exceptions and the citations within, Section VII.D.4.

244 – 261. The Hearings Officer gravely errs by recommending the adoption of the pre-reopening standard of the minimum viable habitat flow (Hmin), defined by DAR as 64% of median base flow, 64 percent of BFQ50 flow (H90) when the reopening presented the opportunity to support stream life in a far more robust manner.

265. This COL is not supported by fact or law.

268. The refusal to restore the nine streams constitutes appealable error since they have protected instream values requiring restoration.

C. To the Amended Proposed Decision and Order Fact Recommended in the Report

Paragraph 1. After finding that the burden of proof is not upon any of the parties it is dubious that it now can be allocated to a petitioner in a future IIFS proceeding involving the same streams.

Paragraph 4. To avoid misunderstanding, commercial agricultural operations are not protected by the public trust. It was erroneous for the Hearings Officer to give such great weight to the commercial agricultural operations of largely unknown lessees of A&B for whom there was no commitment to begin actual cultivation in the next twenty years – when recognized trust resources were thereby placed in jeopardy or, at a minimum, not provided with the protection to which they were and are due.

Paragraph 5. This is an erroneous statement of the burden of proof. See, MTF General Exceptions and the citations within, Section VII.

Paragraph 6. This is one-half of the gross imbalance recommended by the Hearings Officer.

Paragraph 7. This is the other half of the gross imbalance recommended by the Hearings Officer.

Paragraph 8. This minimizes the effect of the balancing recommended by the Hearings Officer. See, MTF General Exceptions and the citations within, Section III., restated for emphasis below:

The Commission and its Hearings Officer, in considering a petition to adopt an interim instream flow standard consistent with the Public Trust Doctrine:

.... **shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for noninstream purposes,** including the economic impact of restricting such uses. (Emphasis added)

The Report tilts this balance grossly and unlawfully in favor of offstream users, the prospective lessees of A&B, and the MDWS, and unjustifiably disfavors instream uses, taro farmers and those exercising Traditional and Customary gathering rights in East Maui Streams.

The Report suggests applying a much more lax Standard of Proof when acceding to the future or potential water claims of Alexander & Baldwin, Inc. (“A&B”) for its Diversified Agriculture Plan and the County of Maui, Department of Water Supply (“MDWS”) for future or potential water requirements through the year 2030 for its Upcountry Water System, and, by and large, by declining to consider the future and potential instream requirements or uses, future taro needs or future instream restorations. This prejudices the substantial rights of MTF and Na Moku, instream users and uses and violates the public trust.

The Report finds that the average amount diverted by the East Maui Irrigation, Co. (“EMI”) Ditch System totals **117.59 mgd**. The Report ultimately recommends that, of this amount, **92.36 mgd** is required for the Diversified Agriculture Plan of A&B and that **16 mgd** is required for the MDWS Upcountry Water System by the year 2030. ²These two uses total to **108.36 mgd**, leaving **9.23 mgd** diverted by the EMI Ditch System that it not required by A&B and MDWS. ($92.36 + 16 = 108.36$) ($117.59 - 109.36 = 9.23$). **Ninety-two percent (92%)** of the average amounts diverted are recommended to be supplied to A&B, and its largely unknown private lessees, and to MDWS. ($108.36/117.36 = 92\%$)

Of the twenty-four (24) streams that are the subject of this IIFS proceeding, flows have been recommended to be increased in twelve (12) of twenty-two (22) streams, adding a total of 26.49 mgd to their diverted base flows. Prior to the reopening, 18.60 mgd was restored to these streams, such that the reopening – with the promise of the availability of much more water for stream restoration – only, so far, has resulted in a recommended further increase of only **7.89 mgd** for all of the Constitutionally protected public trust purposes in twenty-two (22) streams ($26.49 - 18.60 = 7.89$). These twelve (12) streams include six (6) “taro” streams which will, at some unknown date in the future, have their flows returned to their undiverted, natural flows.

The Report recommends NO restoration in one half or fifty-percent (50%) of the Petition Streams for ANY instream values – now or in the future, even though proof was presented warranting restoration for many more streams. When the amounts recommended for offstream uses and users, **108.36 mgd**, are added to the amounts recommended for instream uses and users, **26.49 mgd**, this totals to **134.85 mgd**. ($108.36 + 26.49 = 134.85$) **The percentage of this total amount recommended for offstream uses and users is over eighty percent (80%). The percentage of this total amount recommended for instream uses and users is over twenty percent (20%).**

After monopolizing East Maui water resources for over 100 years, this is a grave and obvious imbalance.

Paragraph 9. See Paragraph 8 above.

A. Amended IIFS

² The Report finds that the maximum requirement of HC&S is **83.75 mgd** because the additional contribution of **8.59 mgd** from the streams between Honopou and Maliko Gulch has not been included.

Paragraph 1. This D&O contains serious errors. The July 18, 2016 Order should not be rescinded. The Commission must not abdicate its management of stream resources to EMI for the benefit of its parent corporation, A&B.

Paragraph 3. MTF adopts the exceptions of Na Moku with regard to this Paragraph.

Paragraph 4. MTF objects to the adoption of the standard for the minimum viable habitat flow (Hmin), defined by DAR as 64% of median base flow, 64 percent of BFQ50 flow (H90) for stream life when the reopening presented the opportunity to support stream life in a far more robust manner.

B. Status Quo

There is no factual or legal basis for leaving many of the streams in their status quo – meaning available to be fully diverted and dewatered – when reliable facts proved that these streams were entitled by law to protection.

C. Monitoring

MTF objects that there has been no meaningful and comprehensive monitoring and no meaningful and comprehensive enforcement of IIFSs that have been established.

When the IIFSs are not being met, the amounts intended to exist in streams as minimum flows are not present and greater amounts than were intended are diverted and transported for offstream uses, thus upsetting the intended balance between instream uses and offstream uses – in favor of offstream uses, to the prejudice of instream uses.

D. Reporting

MTF objects that the reporting that is recommended does not provide the type of thoroughgoing accountings to all the parties that will assure that the Orders of the Commission are enforced, East Maui streams are restored and EMI will promptly fully and permanently restore flows to the priority taro streams.

IV. JOINDERS

MTF joins in the Exceptions of Na Moku generally and, particularly, regarding Honomanu Stream, when the Exceptions of Na Moku are otherwise not directly inconsistent with the Exceptions of MTF.

V. CONCLUSION/ RELIEF REQUESTED

A. Enter Interim Relief

The MTF, and its supporters, have participated in these proceedings for years. Neither the

2008 nor the 2010 Commission Orders led to the actual delivery of water intended for them. It is now 2017.

MTF requests that the Commission immediately Order, in an Interim basis, the flows in the Amended IIFS for the Hanehoi/Puolua Streams. The deprivation has been for such a long period of time that this immediate relief is warranted, even though, based upon these Exceptions, those claiming allocations of water within the Hanehoi Watershed were and are entitled to much more water, as detailed above. The Commission has the authority to grant such interim relief. See HAR §13-169-43.

B. Reject or Modify Report or Remand to Hearings Officer to Correct Report

There are appealable errors in the Report that prejudice the substantial rights of MTF and its Supporters. These must be corrected. The Commission can correct these errors before adopting its final Findings of Fact, Conclusions of Law & Decision and Order or the Commission can instruct the Hearings Officer to correct these errors before adopting his Report – so long as interim relief is provided as requested in the Paragraph above.

DATED: Wailuku, Maui, Hawaii

9.11.17



Isaac Hall
Attorney for Maui Tomorrow Foundation,
Inc., and its Supporters

CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing document was duly served upon the parties listed below by email, on September 1, 2017.

Commission on Water Resource Management
(via U.S. Mail and email
c/o kathy.s.yoda@hawaii.gov)
c/o Kathy S. Yoda
P.O. Box 621
Honolulu, HI 96809

Camille K. Kalama, Esq.
(via email: camille.kalama@nhlchi.org)
Summer L.H. Sylva, Esq.
(via email: summer.sylva@nhlchi.org)
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1205
Honolulu, HI 96813
Attorneys for Na Moku Aupuni O Koolau Hui

Robert H. Thomas, Esq.
(via email: rht@hawaiilawyer.com)
Damon Key Leong Kupchak Hastert
1003 Bishop Street
Pauahi Tower, Suite 1600
Honolulu, HI 96813
Attorneys for Hawaii Farm Bureau Federation

William J. Wynchhoff, Esq.
(via email: bill.j.wynchhoff@hawaii.gov)
Linda L.W. Chow, Esq.
(via email: linda.l.chow@hawaii.gov)
Department of the Attorney General
465 South King Street, Room 300
Honolulu, HI 96813

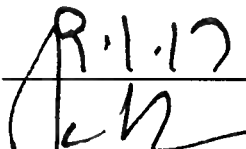
Lawrence Miike, Hearings Officer
(via email: lmiike@hawaii.rr.com)
c/o Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96809

Elijah Yip, Esq.
(via email: eyip@cades.com)
David Schulmeister, Esq.
(via email: dschulmeister@cades.com)
Cades Schutte, LLP
1000 Bishop Street, 10th Floor
Honolulu, HI 96813
Attorneys for Alexander & Baldwin, Inc. and East Maui Irrigation Co., Ltd.

Patrick K. Wong, Esq.
(via email: pat.wong@co.maui.hi.us)
Caleb Rowe, Esq.
(via email: Caleb.Rowe@co.maui.hi.us)
Kristin Tarnstrom, Esq.
(via email: Kristin.Tarnstrom@co.maui.hi.us)
Department of the Corporation Counsel
County of Maui,
200 S. High Street
Wailuku, HI 96793
Attorneys for County Dept of Water Supply

Jeffrey C. Paisner
(via email: jeffreypaisner@mac.com)
121 North 5th Street, Apt. RH
Brooklyn, New York 11249
Pro Se

DATED: Wailuku, Maui, Hawaii



Isaac Hall
Attorney for Maui Tomorrow Foundation, Inc.,
and its Supporters