

COMMISSION ON WATER RESOURCE MANAGEMENT

RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT

STATE OF HAWAI'I

2019 JUN 24 AM 11:00

Surface Water Use Permit Applications,) Case No. CCH-MA15-01
Integration of Appurtenant Rights and)
Amendments to the Interim Instream Flow) HUI O NĀ WAI 'EHĀ'S AND MAUI
Standards, Nā Wai 'Ehā Surface Water) TOMORROW FOUNDATION, INC.'S
Management Areas of Waihe'e, Waiehu,) RESPONSE TO HAWAIIAN
'Īao, & Waikapū Streams, Maui) COMMERCIAL & SUGAR COMPANY'S
) AND MAHI PONO, LLC'S JOINT MOTION
) FOR WITHDRAWAL AND
) SUBSTITUTION OF PARTIES FOR
) SWUPA 2206; CERTIFICATE OF SERVICE
)

HUI O NĀ WAI 'EHĀ'S & MAUI TOMORROW FOUNDATION, INC.'S
RESPONSE TO HAWAIIAN COMMERCIAL & SUGAR COMPANY'S AND
MAHI PONO, LLC'S JOINT MOTION FOR WITHDRAWAL AND
SUBSTITUTION OF PARTIES FOR SWUPA 2206

AND

CERTIFICATE OF SERVICE

ISAAC H. MORIWAKE #7141
EARTHJUSTICE
850 Richards Street, Suite 400
Honolulu, Hawai'i 96813
Telephone No.: (808) 599-2436
Email: imoriwake@earthjustice.org

Attorneys for Intervenors:
HUI O NĀ WAI 'EHĀ and
MAUI TOMORROW FOUNDATION, INC.

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications,)	Case No. CCH-MA15-01
Integration of Appurtenant Rights and)	
Amendments to the Interim Instream Flow)	HUI O NĀ WAI ‘EHĀ’S AND MAUI
Standards, Nā Wai ‘Ehā Surface Water)	TOMORROW FOUNDATION, INC.’S
Management Areas of Waihe‘e, Waiehu,)	RESPONSE TO HAWAIIAN
‘Īao, & Waikapū Streams, Maui)	COMMERCIAL & SUGAR COMPANY’S
)	AND MAHI PONO, LLC’S JOINT MOTION
)	FOR WITHDRAWAL AND
)	SUBSTITUTION OF PARTIES FOR
)	SWUPA 2206; CERTIFICATE OF SERVICE
)	

HUI O NĀ WAI ‘EHĀ’S & MAUI TOMORROW FOUNDATION, INC.’S
 RESPONSE TO HAWAIIAN COMMERCIAL & SUGAR COMPANY’S AND
 MAHI PONO, LLC’S JOINT MOTION FOR WITHDRAWAL AND
 SUBSTITUTION OF PARTIES FOR SWUPA 2206

Pursuant to Minute Order No. 14, dated June 6, 2019, Hui o Nā Wai ‘Ehā and Maui Tomorrow Foundation, Inc. (collectively, the “Community Groups”), through their counsel Earthjustice, respectfully submit the following response to Hawaiian Commercial & Sugar Company’s and Mahi Pono, LLC’s Joint Motion for Withdrawal and Substitution of Parties for SWUPA 2206, filed on May 14, 2019. The Community Groups take no position on the request for withdrawal and substitution in itself and note that a similar withdrawal and substitution effectively occurred when HC&S and Waikapu Properties, LLC gave notice that HC&S would no longer pursue a permit for the ‘Īao-Waikapū Fields, and that Waikapu Properties, the owner of those lands, would instead pursue that permit.¹ The Community Groups point out, however,

¹ See Hawaiian Commercial & Sugar Company’s Notice Regarding SWUPA 2206, filed on July 25, 2016; Waikapu Properties, LLC Response to Hawaiian Commercial & Sugar Company’s Notice Regarding SWUPA 2206, filed on July 26, 2016. (Note that HC&S had mistakenly referred to the permit for the ‘Īao-Waikapū Fields as “SWUPA 2206,” but it was actually SWUPA 2205.)

that they have submitted exceptions to the proposed Findings of Fact, Conclusions of Law, and Decision and Order, dated November 1, 2017, specifically regarding HC&S's proposed uses under SWUPA 2206,² and the Community Groups continue to stand by those exceptions based on the current record and proposed decision on SWUPA 2206.

As was the case with SWUPA 2205 and Waikapū Properties, the Community Groups expect that they, along with the other parties in this proceeding, will have a due opportunity to address any proposed changes in SWUPA 2206 by the substituting party Mahi Pono. The Community Groups respectfully urge the Commission to avoid and minimize any further delays in allowing this opportunity, since *more than a year and a half* has already passed since the parties submitted their exceptions to the proposed decision in this case.

DATED: Honolulu, Hawai'i, June 21, 2019.



ISAAC H. MORIWAKE
EARTHJUSTICE

Attorney for HUI O NĀ WAI 'EHĀ and MAUI
TOMORROW FOUNDATION, INC.

² See Hui o Nā Wai Ehā's and Maui Tomorrow Foundation, Inc.'s Exceptions to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order, dated November 1, 2017, filed on January 8, 2018, at 37-44.

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications,) Case No. CCH-MA15-01
Integration of Appurtenant Rights and)
Amendments to the Interim Instream Flow)
Standards, Nā Wai 'Ehā Surface Water)
Management Areas of Waihe'e, Waiehu,)
'Āao, & Waikapū Streams, Maui.)
_____)

CERTIFICATE OF SERVICE

On June 21, 2019, a copy of the foregoing document was served on the following parties
by electronic service, as indicated below:

ELECTRONIC SERVICE

<u>Name and Address</u>	<u>Email Address</u>
Noelani & Alan Almeida Gordon Almeida P.O. Box 1005 Wailuku, HI	alana89@juno.com
Douglas Bell 1420 Honua Place Waikapu, HI 96793	puna.papabell@gmail.com
Doyle Betsill c/o Betsill Brothers P.O. Box 1451 Wailuku, HI 96793	teresa@bbcmaui.com
Francisco Cerizo P.O. Box 492 Wailuku, HI 96793	cerizof@gmail.com
Heinz Jung and Cecilia Chang P.O. Box 1211 Wailuku, HI 96793	cici.chang@hawaiiantel.net

Name and Address

Email Address

Jordanella (Jorrie) Ciotti
484 Kalua Road
Wailuku, HI 96793

gorrieciotti@gmail.com

Fred Coffey
1271 Malaihi Road
Wailuku, HI 96793

hawaii50peleke@yahoo.com

James Dodd
P.O. Box 351
Wailuku, HI 96793

jimdodd47@gmail.com

Kathy De Hart
P.O. Box 1574
Wailuku, HI 96793

kdehart17@gmail.com

John V. & Rose Marie H. Duey
Hoolulahu LLC
Nani Santos
575 A Iao Valley Rd.
Wailuku, HI 96793

jduey@maui.net
nanisantos808@gmail.com

Stanley Faustino
384 Waihee Valley Road
Wailuku, HI 96793

kanealoha808@gmail.com

William Freitas
2644 Kahekili Highway
Wailuku, HI 96793

kapunafarms@gmail.com

Diannah Goo
2120 C Kahekili Hwy.
Wailuku, HI 96793

ag2517@aol.com

Nicholas Harders
Karl & Lee Ann Harders
1422 Nuna Pl.
Wailuku, HI 96793

waikapu@me.com

Theodore & Zelig Harders
T&Z Harders FAM LTD PTNSHP
1415 Kilohi St.
Wailuku, HI 96793

<u>Name and Address</u>	<u>Email Address</u>
Greg Ibara 227 Kawaipuna Street Wailuku, HI 96793	gregibara56@gmail.com
Evelyn Kamasaki Cynthia Ann McCarthy Claire S. Kamasaki 1550 Nukuna Place Wailuku, HI 96793	cmcmaui@live.com
Charlene E. and Jacob H. Kana, Sr. P.O. Box 292 Wailuku, HI 96793	char1151@hawaii.rr.com
Kimberly Lozano P.O. Box 2082 Wailuku, HI 96793	pauahi808@aol.com
Renee Molina P.O. Box 1746 Wailuku, HI 96793	myoheo@yahoo.com
Douglas Myers Alex Buttaro 1299 Malaihi Road Wailuku, HI 96793	upperwaiehu@yahoo.com
Nelson Okamura Kihei Gardens & Landscaping Co. LLP P.O. Box 1058 Puunene, HI 96784	nokamura@kiheigardens
Lorrin Pang 166 River Road Wailuku, HI 96793	pangk005@hawaii.rr.com
Victor and Walette Pellegrino 1420 Kilohi Street Wailuku, HI 96793	hokuao.pellegrino@gmail.com

Name and Address

Email Address

L. Ishikawa
Piko Ao, LLC
2839 Kalialani Circle
Pukalani, HI 96768

lorilei@hawaii.edu

Michael Rodrigues
2518 W. Main Street
Wailuku, HI 96793

mikerodmaui@yahoo.com

Burt Sakata
107 Waihee Valley Rd.
Wailuku, HI 96793

waihee89@yahoo.com

Bryan Sarasin, Sr.
c/o Bryan Sarasin, Jr.
P.O. Box 218
Wailuku, HI 96793

mauifishfarm@hawaiiantel.net

Duke & Jean Sevilla &
Christina Smith
702 Kaae Road
Wailuku, HI 96793

sevillad001@hawaii.rr.com

Jeff and Ramona Lei Smith
P.O. Box 592
Wailuku, HI 96793

ohianui.ohana@gmail.com

Murray and Carol Smith
P.O. Box 11255
Lahaina, HI 96761

murray@jps.net

Crystal Smythe
John Minamina Bro
727 Wainee Street
Lahaina, HI 96761

nalanismythe@yahoo.com

Clayton Suzuki
Linda Kadosaki
Reed Suzuki
Scott Suzuki
P.O. Box 2577
Wailuku, HI 96793

csuzuki@wailukuwater.com

<u>Name and Address</u>	<u>Email Address</u>
John Varel 191 Waihee Valley Road Wailuku, HI 96793	jvarel@fusionstorm.com
Michele and Leslie Vida, Jr. 135 Pilikana Place Wailuku, HI 96793	mikievida@hotmail.com
Leslie Vida, Sr. c/o Donna Vida 115 Pilikana Street Wailuku, HI 96793	dmlavida@yahoo.com
Roger Yamaoka Kevin Yamaoka 1295 Old Waikapu Road Wailuku, HI 96793	rryamaoka@aol.com kty@hawaii.rr.com
Caleb Rowe, Esq. Kristin Tarnstrom, Esq. County of Maui Department of the Corporation Counsel 200 South High Street Wailuku, HI 96793 (County of Maui, Department of Water Supply)	caleb.rowe@co.maui.hi.us kristin.tarnstrom@co.maui.hi.us susan.pacheco@co.maui.hi.us
Colin J. Lau, Esq. Russell Kumabe Holly McEldowney 465 S. King Street, Room 300 Honolulu, HI 96813 (Department of Land and Natural Resources, Division of State Parks)	colin.j.lau@hawaii.gov russell.p.kumabe@hawaii.gov holly.mcelandowney@hawaii.gov
Yvonne Izu, Esq. Garret Hew Wayne E. Costa, Jr., Esq. Kris N. Nakagawa, Esq. Moriwara Lau & Fong LLP 400 Davies Pacific Center 841 Bishop Street Honolulu, HI 96813 (Hawaiian Commercial & Sugar Co.)	yizu@moriwara.com ghew@hcsugar.com wcosta@moriwara.com knakagawa@moriwara.com

Name and Address

Email Address

Tina Aiu, Esq.
Oahu Island Director
Scott Fisher
Hawaiian Islands Land Trust,
P.O. Box 965
Wailuku, HI 96793

christina@hilt.org
scott@hilt.org
pennysfh@hawaii.rr.com

Avery & Mary Chumbley
363 West Waiko Road
Wailuku, HI 96793
(Makani Olu Partners LLC)

abc@aloha.net

Jodi Yamamoto, Esq.
Wil Yamamoto, Esq.
Yamamoto Caliboso
1099 Alakea Street, Suite 2100
Honolulu, HI 96813
(MMK Maui, LP, The King Kamehameha Golf
Club, Kahili Golf Course)

jyamamoto@ychawaii.com
wyamamoto@ychawaii.com

Pamela Bunn, Esq.
Alston, Hunt, Floyd & Ing
1001 Bishop Street, Suite 1800
Honolulu, HI 96813
(Office of Hawaiian Affairs)

pbunn@ahfi.com

Craig Nakamura, Esq.
Catherine L.M. Hall, Esq.
Carlsmith Ball LLP
2200 Main Street, Suite 400
Wailuku, HI 96793
(Wahi Hoomalu Limited Partnership)

cnakamura@carlsmith.com
chall@carlsmith.com

Peter A. Horovitz, Esq.
Kristine Tsukiyama, Esq.
Albert Boyce
Merchant Horovitz LLLC
2145 Wells Street, Suite 303
Wailuku, HI 96793
(Waikapu Properties, LLC and MTP Operating
Company, LLC)

pah@mhmaui.com
kkt@mhmaui.com
albertboyce@gmail.com

Name and Address

Email Address

Brian Kang, Esq.
Emi L.M. Kaimuloa
Watanabe Ing, LLP
First Hawaiian Center
999 Bishop Street, 23rd Floor
Honolulu, HI 96813
(Wailuku Country Estates Irrigation Company)

bkang@wik.com
ekaimuloa@wik.com

Paul R. Mancini, Esq.
James W. Geiger, Esq.
Avery Chumbley
Mancini, Welch, & Geiger LLP
RSK Building
305 Wakea Avenue, Suite 200
Kahului, HI 96732
(Wailuku Water Company, LLC)

pmancini@mrwlaw.com
jgeiger@mrwlaw.com

Tim Mayer, Ph.D.
Supervisory Hydrologist
Water Resources Branch
US Fish and Wildlife Service
911 NE 11th Avenue
Portland, OR 97232-4181

tim_mayer@fws.gov
frank.wilson@sol.doi.gov

Earleen Tianio
Takitani, Agaran & Jorgensen, LLLP
24 North Church Street, Suite 409
Wailuku, HI 96793
(Ken Ota, Saedence Ota, Kurt Sloan, Elizabeth Sloan, Anthony Takitani, Audrey Takitani, Kitagawa Motors, Inc. SPV Trust and Gerald W. Lau Hee)

earleen@tonylaw.com

Lawrence H. Miike
Hearings Officer
1151 Punchbowl Street, Room 227
Honolulu, HI 96813

lhmiike@hawaii.rr.com

Linda L.W. Chow, Esq.
Deputy Attorney General
465 S. King Street, Room 300
Honolulu, HI 96813

linda.l.chow@hawaii.gov

DATED: Honolulu, Hawai'i, June 21, 2019.



ISAAC H. MORIWAKE

Attorneys for HUI O NĀ WAI 'EHĀ and MAUI
TOMORROW FOUNDATION, INC.