



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

March 19, 2024
Honolulu, Oahu

North Shore Water Company, LLC
REQUEST FOR MODIFICATION OF WATER USE PERMITS
Mokulē'ia 1 & 2 and Crowbar Ranch Wells (Well Nos. 3-3310-001, 3-3310-002, 3-3410-001)
TMK (1) 6-8-003:005 (Mokulē'ia 1 & 2), (1) 6-8-003:040 (Crowbar Ranch)
Existing Water Use Permit Nos. 777 (Mokulē'ia 2) and 813 (Crowbar Ranch)
Proposed Modified Water Use Permit No. 1088
Existing Use for 0.351 mgd
Mokulē'ia Ground Water Management Area, Oahu

APPLICANT

North Shore Water Company, LLC
151 S. El Camino Drive
Beverly Hills, CA 90212

LANDOWNER

Dillingham Ranch Holdings, LLC
58 11th Street
Hermosa Beach, CA 90254

SUMMARY OF REQUEST:

The applicant requests that the Commission on Water Resource Management (Commission) approve a modification of water use permit numbers 777 and 813 to add Mokulē'ia 1 and 2 wells to the Crowbar Ranch well under one water use permit, and reduce the total allocation to 0.351 mgd.

LOCATION MAP: See Exhibit 1

BACKGROUND:

Currently issued water use permits:

Well 3-3310-001 Mokulē'ia 1 well

A water use permit (No. 37) was issued for this well on September 11, 1981 and subsequently extinguished for non-use in a letter dated November 21, 1986. Note that these actions were done by the Board of Land and Natural Resources prior to the establishment of the State Water Code.

The intended use of water from this well was for domestic and agricultural use of 1.250 mgd on the same parcel.

Well 3-3310-002 Mokulē‘ia 2 well

A water use permit (No. 79) was originally issued for this well on September 11, 1981. Subsequent land transfers followed, and the Commission issued a water use permit for Dillingham Ranch Aina LLC, as landowner on June 5, 2006, for an allocation of 0.850 mgd (WUP No. 777).

The allocation for this well was for golf course irrigation and the domestic needs of a clubhouse, but those projects haven’t been constructed, nor are there plans to use this water for those needs. Water use reporting indicates that this well has not been used.

Well 3-3410-001 Crowbar Ranch well

A water use permit (No. 51) was originally issued for this well on September 11, 1981. Subsequent land transfers followed, and the Commission issued a water use permit for North Shore Water Company, LLC as landowner on August 3, 2007, for an allocation of 0.500 mgd (WUP No. 813).

The allocation for this well is for agriculture and domestic uses of water, but the end uses were not clearly documented under water use permit no. 813. Water use reporting from this well indicates that usage on a 12-month moving average has been steadily under 0.200 mgd.

Original application for water use permit no. 1088

April 24, 2019 - the applicant submitted a request to modify WUP No. 777 to include Well No. 3-3310-001 (Mokulē‘ia 1).

December 11, 2019 - the applicant submitted a revised application to include new end uses, which amounted to a 72-lot agricultural subdivision. Staff assigned this application water use permit number 1088.

May 1, 2020 / May 8, 2020 – Public Notices were published in the Honolulu Star Advertiser.

May 22, 2020 – Protect Mokulē‘ia Hui submits an objection to the application.

December 15, 2020 – Commission grants a contested case hearing on this application.

Various dates – Contested Case Hearings are conducted.

January 24, 2023 – Carlsmith Ball LLP, as agent for the applicant, submits a request to revise the application to withdraw the inclusion of the 72-lot subdivision (refer to Exhibit 2).

February 27, 2023 – Commission issues an order staying the Contested Case Hearing (refer to Exhibit 3).

Summary of revisions requested in letter from Carlsmith Ball LLP dated January 24, 2023

The primary change to the application for water use permit no. 1088 is the withdrawal of the inclusion of the 72-lot subdivision. Consequently, the end uses associated with this water use permit are only for the existing uses covered under water use permit no. 813 for 3-3410-001 (Crowbar Ranch).

The applicant is also requesting the reduction of the allocation from 0.500 mgd to 0.351 mgd.

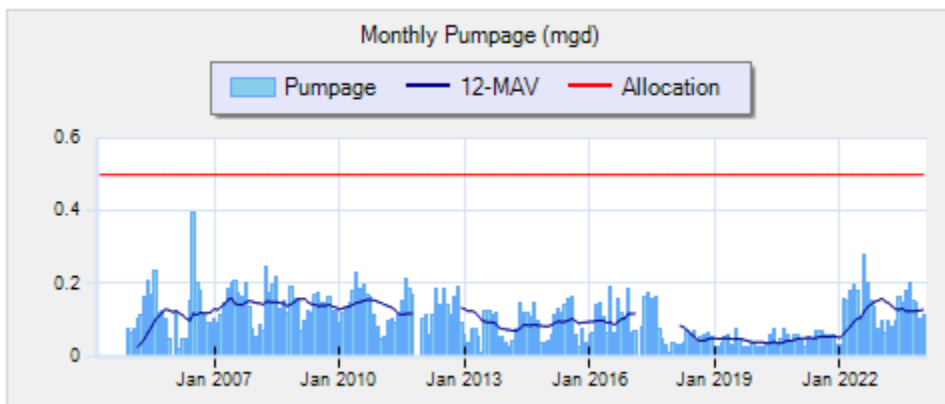
The applicant is requesting the transfer of the allocation from 3-3410-001 (Crowbar Ranch) to 3-3310-001 (Mokulē'ia 1) and 3-3310-002 (Mokulē'ia 2). Because of the location of the Mokulē'ia 1 and 2 wells, the elevation would provide suitable fire protection for the community. Additionally, the fact that there are two wells would provide system redundancy in case one well goes down.

ANALYSIS/ISSUES:

Reduction of allocation

The applicant is requesting the reduction of their allocation from 0.500 mgd to 0.351 mgd on a 12-month moving average.

Historically, pumpage has been less than 0.200 mgd on a 12-month moving average, as the below graph indicates.



Staff believes reduction to 0.351 mgd is a good faith effort by the applicant to free up available allocation that they are not using.

Phased approach to incorporation of 3-3310-001 and 3-3310-002

The January 24, 2023 letter in Exhibit 2 states that the transfer of allocation to 3-3310-001 and -002 is pending PUC approval to fund the rehabilitation of the wells. Because PUC approval would be pending the permitting of 3-3310-001 and -002 into the system, staff is proposing incorporating all three wells into water use permit 1088.

March 19, 2024

This way, 3-3410-001 can service the end uses until 3-3310-001 and -002 can be brought online. Note that the use from all three sources won't be allowed to exceed the proposed approved 0.351 mgd allocation.

End use parcels

The end use parcels were not indicated under water use permit no. 777 for well no. 3-3310-002. The applicant has submitted a table of the parcels served (refer to Exhibit 4).

RECOMMENDATION:

Staff recommends that the Commission approve the issuance of water use permit no. 1088 to North Shore Water Company, LLC for the reasonable and beneficial use of 0.351 million gallons per day of potable water for private municipal use from the Mokulē'ia 1 and 2 wells (Well No. 3-3310-001 and -002), and the Crowbar Ranch well (3-3410-001), subject to the standard water use permit conditions listed in Exhibit 5 and the following special conditions:

1. This permit is subject to suspension and/or revocation if the use as described in Exhibit 4 changes. This includes, but is not limited to: type of use, location of use, land use classification changes, or anything that varies from the application.
2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

Respectfully submitted,



DEAN D. UYENO
Acting Deputy Director

Exhibits: 1 (Location Map)
 2 (Carlsmith Ball LLP Letter 1/24/23)
 3 (Order Staying Contested Case Hearing)
 4 (End Use Parcels)
 5 (Water Use Permit Standard Conditions)

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG
Chairperson

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

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1001 BISHOP STREET
HONOLULU, HAWAII 96813
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WWW.CARLSMITH.COM

DIRECT DIAL NO.
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January 24, 2023

VIA U.S. MAIL

EMAIL: [DLNR.CWRM@HAWAII.GOV]

Dawn N.S. Chang
M. Kaleo Manuel, Deputy Director
Members of the Commission on
Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Re: Commission on Water Resource Management Contested Case
No. CCH-0A20-04, Dillingham Ranch Aina LLC, WUPA 1088

Dear Chairperson Chang, Deputy Manuel and Members of the Commission
on Water Resource Management:

We are writing on behalf of Dillingham Ranch Aina LLC ("DRA"), the Applicant in the above-referenced matter, to advise the Commission on Water Resource Management of the State of Hawai'i ("CWRM") that DRA has decided not to pursue the 72-lot agricultural subdivision at Mokuleia at this time. As a result, DRA hereby requests CWRM approval to amend WUPA 1088 to provide that the ground water use permit to be issued under GWUPA 1088 be issued to the North Shore Water Company, LLC ("NSWC") for Well Nos. 3410-01 and 3410-02 to be operated in tandem with an allocation of 350,750 gallons per day to be used to serve the customers of NSWC pursuant to NSWC's certificate of public convenience and necessity issued by the Public Utilities Commission of the State of Hawaii ("PUC"). In the meantime, DRA requests that the pending contested case hearing be continued until the Commission issues a decision on DRA's amendment request and, if approved, for a period of time thereafter for Intervener Protect Mokuleia Hui ("PMH") to determine if it wishes to continue with the contested case.

On December 11, 2019, DRA filed its Application to Modify WUPA 1088 (the "Application"). The Application was deemed complete on March 11, 2020. Through the Application, DRA sought to modify the permitted allocations for Well No. 3310-001 (Mokulē'ia 1), and 3310-002 (Mokulē'ia 2) (collectively, the "1088 Wells"), both located within the Dillingham Ranch agricultural subdivision property, and Well 3410-01 owned and operated by

HONOLULU

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MAUI

NSWC and also located within Dillingham Ranch. These wells are located within the Mokulē'ia aquifer. As originally filed in 2019, the modification would reduce the permitted water use allocations from 1.35 million gallons per day ("MGD") to an aggregate allocation of 0.417 MGD. The reduced allocation was to be used for agricultural, irrigation, and domestic purposes to supply both the Dillingham Ranch 72-lot agricultural subdivision and to continue to provide water for domestic and agricultural purposes for Dillingham Ranch and approximately 100 customers in the Mokulē'ia community served by NSWC.

On April 3, 2020 the City and County of Honolulu ("City") Department of Planning and Permitting ("DPP") issued its tentative approval for the agricultural subdivision planned by DRA. Among the conditions imposed by DPP was DRA's compliance with the requirements of the State Department of Health, Safe Drinking Water Branch ("DOHSDWB") for the public water system proposed to be constructed by DRA for the subdivision and the construction of improvements and utilities for the subdivision that would include the new water source, storage and transmission facilities proposed by DRA. DRA's engineering report for the public water system for the subdivision submitted to the DOHSDWB included the use of the 1088 Wells as the new potable water sources for the subdivision and NSWC. On October 8, 2021, the final deadline for meeting the requirements for final subdivision approval required by DPP, including the submission of construction drawings for all of the subdivision improvements including the new water improvements, was set as April 3, 2022.

DRA's pending Application seeks CWRM approval of amendments to the permits for the 1088 Wells required to proceed with the subdivision. The 1088 Wells would be operated in tandem to provide water for the farm dwellings to be constructed on the planned agricultural subdivision and their related uses, current uses at Mokulē'ia Ranch, and for the approximately 100 customers located makai of Farrington Highway served by the NSWC. On December 15, 2020 CWRM granted intervention in the proceeding to the PMH who requested that a contested case be held. On November 3, 2021, almost 23 months after the Application was filed, DRA was advised by Louis Chang that he was appointed by CWRM as the hearings officer for the contested cases. The contested case hearing is now set for the week of February 13, 2023.

Given the delays in obtaining approval of the Application, and the resulting uncertainty as to how water would be provided to the subdivision, DRA was unable to meet the April 3, 2022 deadline set by DPP. As a result, in order to proceed with the project DRA would be required to file a new subdivision application for the agricultural subdivision which DRA has decided not to pursue at this time. Under these circumstances, DRA proposes to amend its pending Application such that the permitted uses of the 1088 Wells will be approved for NSWC and only for the water required by the NSWC to supply users in NSWC's service area and not the subdivision. As set forth on the schedule enclosed with this letter, the permitted allocation would be reduced to 350,750 gallons per day.

NSWC is a Hawai'i limited liability company that has been issued a certificate of public convenience and necessity by the Public Utilities Commission of the State of Hawai'i ("PUC") pursuant to Decision and Order No. 30472 issued on June 27, 2012 in Docket No. 2008-0180 (the "CPCN Order"). NSWC currently provides water service to Dillingham Ranch and

approximately 100 customers in the Mokulē'ia area of the Island of O'ahu, utilizing a single, artesian well designated as Well No. 3410-01 (WUP 813).

While a major concern raised by the PUC in Docket No. 2008-0180 was the ownership and poor condition of the supply line serving NSW's customers makai of Farrington Highway, there is currently no back-up well that would allow for uninterrupted water service if Well No. 3410-01 becomes inoperable. Furthermore, NSW's system does not have sufficient water pressure to meet the fire flow standards of the City. As a result, one condition imposed by the PUC was that "NSW should undertake or have a study or analysis performed on its behalf to verify that the entirety of the existing system meets all applicable standards[.]".

In order to address those concerns, the Application proposes that Well No. 3410-01 would be replaced by water provided from Well No. 3310-01 and Well No. 3310-02 operating in tandem. DRA's subdivision plan also included the construction of a storage reservoir either mauka or makai of the 1088 Wells to provide water pressure sufficient to meet the City fire flow protection standards for its users.

CWRM approval of DRA's amended Application is the first of several approvals that the NSW will need to obtain from CWRM, the PUC, DPP and other governmental agencies in order to upgrade NSW's system. With proceeds from the sale of the 72 agricultural lots no longer available as a possible source of funding for the upgrades, NSW will need to obtain PUC approval of loans and/or increases in NSW's rates and charges as a replacement funding source. However, unless CWRM approves the requested change in the permitted uses of the water from the 1088 Wells for NSW's users, there is no reason for NSW to pursue the other approvals required to upgrade its water system to include, among other things, a back-up well and a reservoir with adequate storage capacity to provide water pressure meeting the City's fire flow protection standards. The continuation of the contested case and appeals that may follow will only further delay NSW's ability to pursue upgrades to its water system beyond the almost three years that will have elapsed since DRA first filed its Application.

While WUP 813 issued for Well No. 3410-01 authorizes the use of 500,000 gallons per day, as shown on the enclosed schedule NSW proposes that permitted withdrawals from Well Nos. 3410-01 and 3410-02 required in order to serve its customers would be reduced to 350,750 gallons per day. As a result, DRA requests CWRM approval of an amendment of its Application to reduce the permitted withdrawals in the aggregate from the 1088 Wells (and Well 3410-01 before it is replaced by the 1088 Wells) to 350,750 gallons per day under a WUP issued to NSW. The reduced permitted uses will not include water for the 72-lot agricultural subdivision. In the meantime DRA proposes that the contested case proceeding be held in abeyance until such time as the Commission has acted on DRA's request to amend its Application followed by a reasonable period of time for PMH to determine whether it wishes to continue with the contested case even if DRA is permitted to amend GWUPA 1088 as described above and, if not, for the parties to reengage in the contested case proceeding.

Dawn N.S. Chang
Page 4

Thank you for your consideration of these requests.

Sincerely,



Robert E. Strand
Onaona P. Thoene

Enclosure

- c. Dillingham Ranch Aina LLC
Lou Chang, Esq. (w/enclosure)
Michael Biechler, Esq. (w/enclosure)
Susan Hoagbin (w/enclosure)
Cindy Y. Young, Esq. (w/enclosure)

4885-3236-1279.2

Calculated Water Usage (Based on BWS domestic consumption guidelines)

Single Family/Duplex Customer meters Water Allocation Consumption	54 500 gal/unit 27,000 gpd
Multifamily Low Rise HQM Residences Water Allocation Consumption	50 400 gal/unit 20,000 gpd
Commercial Branch Office Water Allocation Parcel 6-E-003; 045 (6M Lot 2) Parcel 6-E-003; 046 (6M Lot 3) Parcel 6-E-003; 047 (6M Lot 4) Irrigation Area (Polo Field) Irrigation Area (Coconut Grove) Irrigation Area (Branch Office) Consumption	1 500 gal/unit 3,000 gal/acre 8 acres 8 acres 8 acres 18 acres 35 acres 18 acres 285,500 gpd
Equestrian Horses Water Allocation Consumption Subtotal (Current Use)	150 75 gal/horse 11,250 gpd 343,750 gpd
Residential (Future Expansion) Ranch existing parcels Water Allocation Consumption	34 dwelling 500 gpd/dwelling 7,000 gpd
Total	350,750 gpd

Table 100-1B - DOMESTIC CONSUMPTION GUIDELINES

ZONING DESIGNATION	AVERAGE DAILY DEMAND*			
	HAWAII	KAUAI	MAUI	OAHU
RESIDENTIAL:				
Single Family or Duplex	400 gals/unit	500 gals/unit	600 gals/unit or 3000 gals/acre	500 gals/unit or 2500 gals/acre
Multi-Family Low Rise	400 gals/unit	350 gals/unit	500 gals/unit or 2000 gals/acre	400 gals/unit or 4000 gals/acre
Multi-Family High Rise	400 gals/unit	350 gals/unit	500 gals/unit	300 gals/unit
COMMERCIAL:				
Commercial Only	3000 gals/acre	3000 gals/acre	6000 gals/acre	3000 gals/acre
Commercial/Industrial Mix	—	5000 gals/acre	100 gals/1000 sq. ft.	100 gals/1000 sq. ft.
Commercial/Residential Mix	—	3000 gals/acre	100 gals/1000 sq. ft.	120 gals/1000 sq. ft.
RESORT (To include hotel for Main only)	400 gals/unit (1)	350 gals/unit	550 gals/unit or 17000 gals/acre	350 gals/unit or 4000 gals/acre
LIGHT INDUSTRY	4000 gals/acre	4000 gals/acre	6000 gals/acre	4000 gals/acre
SCHOOLS, PARKS	4000 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student	1700 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student
AGRICULTURE		2,500 gals/acre	5000 gals/acre	4000 gals/acre

* - Where two or more figures are listed for the same zoning, the daily demand resulting in higher consumption rate shall govern the design unless specified otherwise.

(1) - Subject to special review and control by the Manager.

DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
STATE OF HAWAII

Contested Case Hearing Re:)	DLNR Ground Water Use Permit No. 1088
)	
PROTECT MOKULEIA HUI,)	ORDER STAYING CONTESTED CASE
)	PROCEEDING
Petitioner,)	
)	CERTIFICATE OF SERVICE
and)	
)	
DILLINGHAM RANCH AINA, LLC,)	
)	
Applicant,)	
_____)	

ORDER STAYING CONTESTED CASE PROCEEDING

The above-captioned contested case is stayed as requested and stipulated by the parties. The contested case is stayed until the Commission on Water Resource Management makes a decision on Applicant DILLINGHAM RANCH AINA, LLC's request to amend WUPA 1088 dated January 24, 2023, followed by a reasonable time for Petitioner PROTECT MOKULEIA HUI to determine whether it wishes to continue with its request for a contested case hearing.

DATED: Honolulu, Hawai'i, Feb 27, 2023.



DAWN N.S. CHANG

Kenneth Fink

KENNETH S. FINK, M.D., MGA, MPH

Michael G. Buck

MICHAEL G. BUCK

Neil Hannahs

NEIL HANNAHS

Paul J. Meyer

PAUL J. MEYER

Wayne Katayama

WAYNE K. KATAYAMA

Aurora Kagawa-Viviani

AURORA KAGAWA-VIVIANI

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Order Staying Contested Case Proceeding was duly served upon the following parties, by U.S. Mail, postage prepaid, at addresses below, or by email as indicated below, on February 27, 2023:

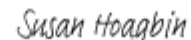
PROTECT MOKULEIA HUI
Michael Biechler
P.O. Box 142
Waialua, HI 96791
Via Email: mbiechler@gmail.com
PETITIONER

DILLINGHAM RANCH AINA, LLC
Robert Strand, Esq.
Carlsmith Ball LLP
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Via Email: rstrand@carlsmith.com
APPLICANT

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Hydrologic Program Manager
Ground Water Regulation Branch
Commission On Water Resource Management
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Via Email: ryan.r.imata@hawaii.gov

CINDY Y. YOUNG
Deputy Attorney General
Department of the Attorney General
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Honolulu, Hawaii 96813
Via Email: cindy.y.young@hawaii.gov
COUNSEL FOR THE COMMISSION ON WATER RESOURCE MANAGEMENT

DATED: Honolulu, Hawaii, February 27, 2023.



SUSAN HOAGBIN
Custodian of Records
Commission On Water Resource Management

NORTH SHORE WATER COMPANY, LLC

Account #	Name	Property Location	Tax Map Key-Oahu
#001	Mike Dailey	Farrington Hwy.	6-8-3-37
#001A	Mike Dailey	Farrington Hwy.	6-8-3-37
#002	Mokuleia Beach Colony	Farrington Hwy.	6-8-9-1
#002A	Mokuleia Beach Colony	Farrington Hwy.	6-8-9-1
#003	Dwelling	Laau Paina Place	6-8-9-3
#004	Dwelling	Farrington Hwy	6-8-9-2
#005	Dwelling	Laau Paina Place	6-8-9-5
#006	Dwelling	Laau Paina Place	6-8-9-6
#007	Dwelling	Laau Paina Place	6-8-9-7
#008	Dwelling	Laau Paina Place	6-8-9-8
#009	Dwelling	Laau Paina Place	6-8-9-8
#010	Dwelling	Laau Paina Place	6-8-9-9
#012	Dwelling	Laau Paina Place	6-8-9-10
#013	Dwelling	Laau Paina Place	6-8-9-11
#014	Dwelling	Laau Paina Place	6-8-9-11
#015	Dwelling	Laau Paina Place	6-8-9-12
#016	Dwelling	Laau Paina Place	6-8-9-13
#017	Dwelling	Laau Paina Place	6-8-9-13
#018	Dwelling	Laau Paina Place	6-8-9-14

EXHIBIT 4: END USE PARCELS

Account #	Name	Property Location	Tax Map Key-Oahu
#019	Dwelling	Laau Paina Place	6-8-9-15
#020	Dwelling	Laau Paina Place	6-8-9-16
#021	Dwelling	Laau Paina Place	6-8-9-17
#022	Dwelling	Farrington Hwy.	6-8-9-19
#023	Dwelling	Laau Paina Place	6-8-9-18
#024	Dwelling	Farrington Hwy.	6-8-9-20
#025	Dwelling	Farrington Hwy.	6-8-10-1
#026	Dwelling	Farrington Hwy.	6-8-10-2
#027	Dwelling	Farrington Hwy.	6-8-10-6
#028	Dwelling	Farrington Hwy.	6-8-10-7
#029	Dwelling	Hoomana Place	6-8-10-5
#030	Dwelling	Hoomana Place	6-8-10-4
#031	Dwelling	Hoomana Place	6-8-10-3
#032	Dwelling	Hoomana Place	6-8-10-8
#033	Dwelling	Hoomana Place	6-8-10-9
#034	Dwelling	Hoomana Place	6-8-10-10
#035	Dwelling	Hoomana Place	6-8-10-11
#036	Dwelling	Hoomana Place	6-8-10-13
#037	Dwelling	Hoomana Place	6-8-10-14
#038	Dwelling	Hoomana Place	6-8-10-15

EXHIBIT 4: END USE PARCELS

Account #	Name	Property Location	Tax Map Key-Oahu
#039	Dwelling	Hoomana Place	6-8-10-16
#040	Dwelling	Farrington Hwy.	6-8-10-17
#041	Dwelling	Farrington Hwy.	6-8-10-18
#042	Dwelling	Farrington Hwy.	6-8-10-19
#043	Dwelling	Farrington Hwy.	6-8-10-20
#044	Dwelling	Farrington Hwy.	6-8-10-21
#045	Dwelling	Farrington Hwy.	6-8-10-22
#046	Dwelling	Farrington Hwy.	6-8-10-23
#047	Dwelling	Farrington Hwy.	6-8-10-24
#048	Dwelling	Farrington Hwy.	6-8-10-25
#049	Dwelling	Farrington Hwy.	6-8-10-26
#050	Dwelling	Farrington Hwy.	6-8-10-27
#051	Dwelling	Farrington Hwy.	6-8-10-28
#052	Dwelling	Farrington Hwy.	6-8-10-29
#053	Dwelling	Farrington Hwy.	6-8-10-30
#054	Camp Mokuleia	Farrington Hwy.	6-8-3-8
#KN1	Kaena North LLC	Farrington Hwy.	6-8-3-37
DRA1	Dillingham Ranch Holdings	Farrington Hwy.	6-8-3-5, 6, 15, 19, 30, 31, 33, 35, 40
DRA2	Dillingham Ranch Holdings	Farrington Hwy.	6-8-2-6
---	Sweet Love Holdings, LLC	Farrington Hwy.	6-8-3-17

EXHIBIT 4: END USE PARCELS

Account #	Name	Property Location	Tax Map Key-Oahu
---	Touching the Earth, LLC	Farrington Hwy.	6-8-3-39
---	Paul D. Alston, et al.	Farrington Hwy.	6-8-3-45
---	Lio Kai LLC	Farrington Hwy.	6-8-3-46
---	Mitch King	Farrington Hwy.	6-8-3-47

EXHIBIT 4: END USE PARCELS

STANDARD WATER USE PERMIT CONDITIONS

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization which is both reasonable and consistent with State and County land use plans and the public interest." (HRS § 174C-3)
2. The right to use ground water is a shared use right.
3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
 - a. Can be accommodated with the available water source;
 - b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
 - c. Will not interfere with any existing legal use of water;
 - d. Is consistent with the public interest;
 - e. Is consistent with State and County general plans and land use designations;
 - f. Is consistent with County land use plans and policies; and
 - g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).
4. The ground water use here must not interfere with surface or other ground water rights or reservations.
5. The ground water use here must not interfere with interim or permanent instream flow standards. If it does, then:
 - a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
 - b. The interim or permanent instream flow standard, as applicable, must be amended.
6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.
7. The water use permit application and submittal, as amended, approved by the Commission at its meeting are incorporated into this permit by reference.
8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
 - a. protect the water sources (quantity or quality);
 - b. meet other legal obligations including other correlative rights;
 - c. insure adequate conservation measures;
 - d. require efficiency of water uses;
 - e. reserve water for future uses, provided that all legal existing uses of water as of June, 1987 shall be protected;

EXHIBIT 5: WATER USE PERMIT STANDARD CONDITIONS

- f. meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
- g. carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

- 10. Approved flowmeters need to be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis (attached).
- 11. This permit shall be subject to the Commission's periodic review of the Mokuleia Aquifer System Area's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the Mokuleia Aquifer System Area, or relevant modified aquifer(s), is reduced.
- 12. A permit may be transferred, in whole or in part, from the permittee to another, if:
 - a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
 - b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.

- 13. The use(s) authorized by law and by this permit do not constitute ownership rights.
- 14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances which will affect the permittee's water use.
- 15. The permittee understands that under HRS § 174C-58(4), that partial or total nonuse, for reasons other than conservation, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period of forfeiture.
- 16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Mokuleia Ground Water Management Area.
- 17. The water use permit shall be subject to the Commission's establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.

EXHIBIT 5: WATER USE PERMIT STANDARD CONDITIONS

18. Special conditions in the attached cover transmittal letter are incorporated herein by reference.
19. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.