

EAST MAUI IRRIGATION COMPANY, LLC

P.O. BOX 791628, PAIA, MAUI, HAWAII 96779-1628 • (808) 579-9516

October 29, 2021

The Honorable Suzanne Case, Chair
and Members of the Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

RE: Holdover of Revocable Permits Nos. S-7263, S-7264, and S-7265 issued to Alexander & Baldwin, Inc. ("A&B") and Revocable Permit No. S-7266 issued to East Maui Irrigation Company, Limited ("EMI") for Water Use on the Island of Maui: Q3 2021 Status Report

Dear Chair Case:

The purpose of this letter is to provide the 3rd quarter status report on A&B/EMI's compliance with permit conditions imposed by the Board of Land and Natural Resources ("**BLNR**") as part of its November 13, 2020 approval of the holdover of Revocable Permits Nos. S-7263, S-7264, and S-7265 issued to A&B and Revocable Permit No. S-7266 issued to EMI for the calendar year 2021. We are providing this status report at this time in compliance with the conditions of the permits requiring quarterly written reports to the BLNR.

The attached document lists each of the permit conditions and corresponding compliance actions undertaken as of October 28, 2021. As you know, the agenda, minutes, and staff recommendation for the BLNR's November 13, 2020 meeting relating to the subject permits are the source of the permit conditions listed on the attached.

Since the last report that was submitted, water collection enabled by these East Maui revocable permits continued to serve the needs of the public water systems that serve Upcountry Maui and Nahiku, both owned and operated by the County of Maui Department of Water Supply, as well as the County's Kula Ag Park and increasing diversified agricultural activities in Central Maui undertaken by Mahi Pono. Maintaining these Central Maui lands in agriculture is consistent with the state's constitutional mandate to protect important agricultural lands, as well as the Hawaii State Plan, Maui Countywide Policy Plan, Maui Island Plan, and Maui community plans. These uses of East Maui stream water are further recognized and confirmed by the June 20, 2018, Interim Instream Flow Standard ("**IIFS**") decision issued by the Commission on Water Resource Management ("**CWRM**") for East Maui streams, 24 of which are within the area covered by the East Maui R.P.'s. The diversion and use of East Maui stream water this year has been in compliance with the CWRM's June 2018 IIFS decision.

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Through the 3rd quarter of 2021, A&B and EMI continued to work with Mahi Pono to finalize the Environmental Impact Statement ("**EIS**") for the proposed long-term water lease for East Maui in lieu of these revocable permits. The final version of the EIS was submitted to the BLNR and to the Environmental Review Program (formerly the Office of Environmental Quality Control) now within the Office of Planning and Sustainable Development in the Department of Business, Economic Development, and Tourism, on July 20, 2021. On September 24, 2021, the BLNR accepted the final EIS.

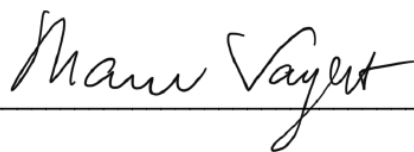
Additionally, while government leaders further loosened travel restrictions during Q3 2021, those restrictions still made it challenging to conduct in-person meetings throughout the quarter. The Q3 MP/A&B East Maui Revocable Permit Committee meeting was again held via video conference on October 28, 2021. Updates relating to the IIFS, EIS, and Mahi Pono's farming operations were provided to the Committee. The Q4 meeting is scheduled for January 6, 2022.

Please do not hesitate to contact us should you have any questions on the attached permit compliance status report.

Sincerely,



Meredith J. Ching, A&B



Mark Vaught, EMI

cc: Ian Horikawa, DLNR Land Division (via email)

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BLNR CONDITIONS FOR HOLDOVER OF EAST MAUI WATER PERMITS STATUS OF COMPLIANCE AS OF SEPTEMBER 30, 2021

CONDITIONS PER 11/9/18 STAFF SUBMITTAL

3. Require the holdover of the revocable permits to incorporate the June 20, 2018 order of the Commission on Water Resource Management (CWRM). There shall be no diversion from the streams listed in the CWRM order, and the timing for stopping the diversions shall be in accordance with the aforesaid CWRM order.

The need for water from the East Maui streams averaged approximately 17.79 million gallons per day (MGD) during the third quarter of 2021. Due to dry weather, less stream water has been available. This amount continues to be well within the bounds of the 2018 IIFS decision concerning total quantity and the use of specific streams and is also significantly less than the 45 MGD allocation set by the BLNR at its November 13, 2020, meeting.

The water that was diverted in Q3 2021 continued to supply the County of Maui for its Nahiku and Upcountry Maui water systems, the Kula Ag Park, as well as fire suppression needs, historical industrial/non-agricultural use, and agricultural uses in Central Maui, on lands now owned and managed by Mahi Pono.

Mahi Pono continues the expansion of its agricultural operations, which will result in a corresponding increase in the need for water from East Maui. Mahi Pono continues in its plans to complete the planting of an additional 3,675 acres of crops in calendar year 2021. The Permittees – and by extension, Mahi Pono – remain committed to the efficient use of East Maui stream water. Mahi Pono's total amount of water usage, together with that of the County of Maui, will not exceed the limits of the IIFS decision at any point during its expansion.

All of the initial approvals have been sought and received from the CWRM to abandon the diversions on the "taro streams" to fully restore their streamflow. EMI continues to make progress toward meeting the conditions of those approvals and securing the necessary reviews and permits, including the submittal of Best Management Practices for the Category 2 diversions. The Department of Health has reviewed and approved the BMP's, thus enabling work on the diversions to be initiated. We are currently working with CWRM staff on a diversion-by-diversion analysis of the "Category 1" diversions requested by the CWRM as part of its deliberations of the abandonment permits for these 15 diversions.

The Permittees have also initiated discussions with CWRM staff on IIFS compliance for the 'non-taro streams.' A draft work plan has been submitted to CWRM for 41 diversions on 17

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additional streams that are implicated by the 2018 IIFS decision. Before issuing the needed permits to undertake the work, CWRM will need to conduct site visits to each diversion site. In the meantime, the Permittees comply with the IIFS decision regarding instream flow requirements (i.e., by individual streams and the total quantity of flow). This compliance is subject to CWRM staff verification. Connectivity requirements of the IIFS decision are being met to the extent possible without the physical modifications that require governmental reviews and approvals. The draft work plan transmitted by the Permittees to the CWRM does address means of achieving full connectivity compliance for these additional non-taro streams.

In summary, the Permittees' diversion of water under the subject 2021 RPs continues to comply with the CWRM's June 20, 2018, IIFS order concerning flow volumes, by individual streams, compliance with connectivity requirements has been met to the extent legally possible without further governmental review and approvals. Significant progress has been made on pursuing the modifications and abandonment of diversions on the seven 'taro streams,' an established and continued priority for both the permittees and the State.

4. There shall be no waste of water. All diverted water shall be put to beneficial agricultural use or municipal use.

Status: See uses outlined in response to #3 above. All are beneficial uses related to agriculture and municipal/public needs.

5. Any amount of water diverted under the revocable permits shall be for reasonable and beneficial use and always in compliance with the amended IIFS.

Status: See responses to #3 and #4 above.

6. The holdover shall comply with all conditions required by the CWRM's Amended IIFS Decision.

Status: As mentioned above, total water diverted for use in Upcountry and Central Maui approximated an average of 17.79 MGD this past quarter, which is well within the bounds of the CWRM's 2018 IIFS decision concerning the diversion of specific streams and the total amount of water diverted. Over 2020 and the first two quarters of 2021, the Permittees achieved significant progress relative to pursuing the ditch system/diversion modifications that are necessary to ensure IIFS compliance as water needs increase.

7. Permittee shall provide a specific report on the progress regarding the removal of diversions and fixing of the pipe issues before the end of the holdover period.

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Status: This permit condition was initially imposed in 2018, and we believe it relates to a pipe at Pualoa (aka Puolua) Stream at the Lowrie Ditch. In last year's status report, we reported that the pipe had been extended to provide wetted pathways for the movement of stream biota on Pualoa Stream. At the 2018 BLNR hearing on the subject RP's (for 2019), statements were made that the pipe needs to be extended further to go under the road and that two 4" rusted pipes needed to be removed. Accordingly (and as reported in previous quarterly reports), the two 4" pipes have since been removed from the watershed and a new design intended to improve fish migration has been incorporated in the diversion modification plan for compliance with the IIFS and approved by the CWRM in its approval of the Category 3 SWUP's. This specific scope of work was part of the overall work plan referenced earlier. Road maintenance and repair activities continue in order to better facilitate access to several of the more remote intakes that are subject to Category 2 permits. We continue to work with CWRM to finalize a modification plan (as requested by CWRM) to the Category 1 closures that restore the streams to as natural a condition as possible. The Category 2 BMP plan was revisited and altered based on field information. A new BMP plan for these intakes was developed and submitted to the Department of Health Clean Water Branch.

8. Permittee shall clean up trash from revocable permit areas starting with areas that are accessible and close to streams.

Status: The Permittees have established several standard operating procedures to address the cleanup of trash and debris in the license areas. Besides recognizing unnecessary debris in the field during routine maintenance tasks, EMI has conducted specific identification and removal operations of debris that has been observed from previous fieldwork. In the 3rd quarter of 2021, EMI has continued to be vigilant about monitoring and removing unused material. EMI also practices removing any equipment and excess materials it brings into the license area to perform work on the ditch system as soon as the job(s) is completed.

BLNR ADDITIONAL CONDITIONS (11/9/18 BLNR Meeting):

- 1. The Board established an interim committee to discuss water usage issues in the license area. The committee shall consist of five members, representing Alexander & Baldwin, Farm Bureau, OHA, Native Hawaiian Legal Corporation and the County of Maui. The interim committee shall meet once a month for the first quarter, then at least quarterly thereafter, more often as useful***

Status: With COVID-19 pandemic travel restrictions still in place, a third-quarter Committee meeting was held through video conference on October 27, 2021. The meeting was well attended by the following:

- Ashley Obrey – Legal Practice Administrator/Staff Attorney, Native Hawaiian Legal Corporation
- Warren Watanabe – Executive Director, Maui County Farm Bureau

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- Mark Vaught – Director, East Maui Irrigation
- Jayson Watts – Director of External Affairs & Strategic Initiatives, Mahi Pono LLC

EMI provided an update on the work related to the IIFS and EIS, and Mahi Pono supplied an update on ongoing farming operations. Updates were well-received by attendees. The committee's next meeting is set for January 6, 2022.

CONDITIONS PER 10/11/19 STAFF SUBMITTAL

1. *Permittees shall provide quarterly written reports to the Board containing the following information:*

- a. The amount of water used on a monthly basis, including the monthly amount of water delivered for: the County of Maui DWS and the County of Maui Kula Agricultural Park; diversified agriculture; industrial and non-agricultural uses, and reservoir/fire protection/hydroelectric uses. Also provide an estimate of the system loss for the EMI ditch system and the A&B field system. Diversified agricultural uses shall also provide information as to location, crop, and user of water. Industrial and non-agricultural uses shall specify the character and purpose of water use and the user of water.**

Status: The amount of water used on a monthly basis, including the monthly amount of water delivered for the County of Maui DWS and Kula Ag Park, diversified agriculture, industrial and non-agricultural uses, and reservoir/fire protection/hydroelectric uses can be found in the table attached as Exhibit A. The existence of and continued use of reservoirs is extremely important for fire safety reasons. They are a major source of water for fighting fires on Maui, which occur during the dry months of the year. The location, crop, and users of agricultural water, and the specifics on industrial and non-agricultural uses can be found in the table attached as Exhibit B.

- b. For each stream that is subject to the CWRM order, a status update as to the degree to which the flow of each stream has been restored, and which artificial structures have been removed as required by CWRM.**

Status: EMI prioritizes its compliance with the CWRM order and has been working with CWRM staff on implementation plans and permitting. EMI notes that the language of the CWRM order relating to the removal of artificial structures is spelled out on page 269 of the D&O, items i, j, and k which State in part that "it is intended that diversion structures only need

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to be modified to the degree necessary to accomplish the amended IIFS and to allow for passage of stream biota, if needed." and "The intent of the Commission is to allow for the continued use and viability of the EMI ditch system and will not require the complete removal of diversions unless necessary to achieve the IIFS. A status update is provided in the table attached as Exhibit C. Also included in Exhibit C is a copy of the section of the CWRM order relating to the removal of artificial structures.

- c.** *Update on removal of trash, unused man-made structures, equipment and debris that serve no useful purpose, including documenting any reports of such items received from the Department, other public or private entities, and members of the general public and action taken by Permittee to remove the reported items.*

Status: See above response to #8 of Conditions per 11/9/18 Staff Submittal.

- d.** *The method and timeline for discontinuing the diversion of water from Waipi'o and Haneho'i streams into Ho'olawa stream, including status updates on implementation.*

Status: As the stream levels fluctuate during inclement weather, EMI personnel are dispatched to manually control the intake gates to prevent excess stream water inflow to the ditch. As for Haneho'i, all intakes have been sealed (per the 2018 D&O); therefore, no water enters the ditch from this stream. Regarding the Waipi'o stream, EMI personnel manually control the intakes on the ditch to prevent excess flow from entering the ditch. Thus, all flows to the ditch are delivered to and used by Mahi Pono and the County of Maui. The flows are no longer controlled into Hoolawa stream.

- 2. *The permittee may not divert an amount of water per month exceeding an average of 45mgd, further subject to all water diverted shall be for reasonable and beneficial uses.***

Status: The 3rd quarter's need for water from the East Maui streams has averaged approximately 17.79 million gallons per day (MGD). Only that amount of water is being diverted from the East Maui watershed. This amount complies with the limit of an average of 45 MGD set by the BLNR as amended by Judge Crabtree's July 30, 2021 Ruling and Order Modifying Permits to a cap of 25 MGD, averaged monthly, and continues to be well within the bounds of the 2018 IIFS decision concerning total quantity and the use of specific streams. This water is being used to supply the County of Maui for its Nahiku and Upcountry Maui water systems, the Kula Ag Park, fire suppression needs, historical industrial/non-

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agricultural use, and agricultural uses in Central Maui, on lands now owned and managed by Mahi Pono.

- 3. For RP S-7266, the area identified as the Hanawi Natural Area Reserve shall be removed from the revocable permit premises. Additionally, A&B/EMI shall continue discussions with DOFAW to identify additional forest reserve lands to be removed from the license areas to be implemented in connection with the issuance of a water lease, if any, or sooner.**

Status: Representatives from EMI and DOFAW met last year to continue discussions about general logistics and the potential removal of forest reserve acreages from the license area. These meetings were held on March 18 and September 24. The initial meeting included an exchange of information related to access routes and a discussion regarding potential impacts on EMI's operations due to a reduction in the license area. The most recent meeting in September furthered this discussion and focused on specific access routes in greater detail. Future meetings will be scheduled as more information becomes available and COVID restrictions continue to ease.

AMENDMENTS PER MINUTES OF 10/11/19 BLNR MEETING:

- 1. Mahi Pono is to advise any third-party lessee's, that any decisions they make is based on availability of water on a month-to-month basis renewed annually unless there is a permanent lease**

Status: All third-party lessees have been informed through existing language in their lease agreements that the availability of water is subject to change based on various conditions, one of which would be the nature of the water availability from East Maui through an annually renewed revocable permit or an eventual permanent lease.

- 2. the (14) streams outside of the IIFFS (sic) area continue to be cleaned of debris and Applicant is to provide a status report every three months to Staff**

Status: EMI has continued to remove debris and trash from stream areas. These efforts include locations surrounding the streams located outside of the IIFS area.

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CONDITIONS PER 11/13/20 STAFF SUBMITTAL

In addition to any pre-existing requirements...:

- 1. *Permittee shall cooperate with CWRM and DAR in studies, site inspections and other actions as necessary to address the streams in the license areas not covered by the CWRM order.***

Status: EMI is in contact with CWRM personnel regarding site visits to evaluate diversions that weren't covered by the D&O. CWRM field staff conducts these site visits on a stream-by-stream basis. EMI has contacted DAR, while on a field visit to review the Category 4 intakes, however, no discussion regarding the streams outside the license area has commenced with DAR.

- 2. *Permittee shall work with CWRM and DOFAW to determine whether there are alternatives to diversion removal that effectively prevent mosquito breeding and can be feasibly implemented. Permittee shall include the status of alternatives in their quarterly reports.***

Status: EMI has worked with CWRM in the context of the earlier discussion with DOFAW regarding diversion structures that can impede free flow of water and create habitat for mosquito breeding. Considerable evaluation and analysis has been conducted by the CWRM and EMI on nine "Category 1" diversions regarding additional work to be done on these diversions to mitigate these issues. CWRM will meet with stakeholders to discuss this mitigation plan and report back to EMI as to the additional diversion modification work to be undertaken.

- 3. *If the Board finds that use of water is not reasonable and beneficial and does not comply with the permitted uses, Permittee shall cease such use within a timeframe as determined by the Department.***

Status: EMI remains willing to comply with this requirement and stands ready to assist the Board in any way it can regarding this matter.

- 4. *For water used for agricultural crops, Permittees are to estimate how much water is required for each crop per acre per day.***

Status: Water requirements for each crop is highly dependent on several factors, including soil composition, weather, and the maturity of the crop itself. That said, the average water requirements for Mahi Pono's agricultural crops are estimated to be as follows:

- Orchard Crops - 5,089 gallons per acre per day
- Row Crops - 3,392 gallons per acre per day
- Tropical Fruits - 4,999 gallons per acre per day
- Energy Crops - 3,392 gallons per acre per day

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These estimates are consistent with the estimated water requirements contained in Table 3 of the Appendix I (Agricultural and related Economic Impacts) of the Draft EIS.

- 5. *Permittee shall submit to the Department a plan for their proposed upgrades, including an implementation timeline, to the irrigation system intended to address CWRM's concerns no later than June 30, 2021.***

Status: The Mahi Pono Water Efficiency Upgrade Summary was submitted.

- 6. *Permittee shall pay the 2021 monthly rent amounts as determined above.***

Status: EMI has remained current in its payment of rent to the State for the subject revocable permits.

- 7. *"Trash and Debris" shall be further defined as "any loose or dislodged diversion material such as concrete, rebar, steel grating, corrugated metals, railroad ties, etc. that can be removed by hand (or by light equipment that can access the stream as is)."***

Status: EMI understands the term "Trash and Debris" is further defined as noted in the DLNR staff submittal. As mentioned previously, EMI has established several standard operating procedures to address the cleanup of trash and debris in the license areas. Besides recognizing unnecessary debris in the field during routine maintenance tasks, EMI has conducted specific identification and removal operations of debris that has been observed from previous field work. EMI also has a practice of removing any equipment and excess materials it brings into the license area to perform work on the ditch system as soon as the job(s) is completed. These practices continue to apply to the "Trash and Debris" term as more clearly defined by DLNR staff.

- 8. *System losses and evaporation shall not be considered as a waste of water.***

Status: Exhibit A notes system losses and evaporation as water uses.

AMENDMENTS PER MINUTES OF 11/13/20 BLNR MEETING:

- 3. *Include a representative of the Huelo Community Association to the interim discussion group first authorized in 2018.***

Status: Ramana Sawyer of Huelo represents the Huelo Community Association as a member of the interim discussion group and has attended the last two meetings on the 2nd and 3rd Quarters.

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- 4. Permittee shall look into supplying the Maui Invasive Species Committee with water, and if feasible, and despite it not being an agricultural use, be considered a reasonable and beneficial and permitted use under the RP.**

Status: EMI/Mahi Pono maintains ongoing discussions with MISC regarding their need for water to conduct invasive species removal. We continue to discuss additional options for this.

- 5. Regarding staff recommendation #5, in reviewing efficiency upgrades to their system, Permittee is to work with the Maui Fire Department to determine what their exact needs are.**

Status: A breakdown of what the Maui Fire Department's requirements are is attached.

EXHIBIT A – MONTHLY WATER USAGE

All Figures in Millions of Gallons per Day ("MGD")

| <i>Month</i> | <i>East Maui Water @ Honopou</i> | <i>County of Maui DWS¹</i> | <i>County of Maui Ag Park²</i> | <i>Diversified Agriculture³</i> | <i>Historic/ Industrial Uses⁴</i> | <i>Reservoir/Fire Protection/ Evaporation/Dust Control/ Hydroelectric⁵</i> |
|--------------------------|----------------------------------|---------------------------------------|---|--|--|---|
| JULY | 18.57 | 2.60 | 0.36 | 5.01 | 1.10 | 9.49 |
| AUGUST | 18.12 | 2.21 | 1.08 | 5.62 | 1.10 | 8.11 |
| SEPTEMBER | 16.70 | 3.15 | 0.49 | 9.08 | 1.10 | 2.87 |
| Quarterly Average | 17.79 | 2.65 | 0.64 | 6.57 | 1.10 | 6.82 |

- The numbers in this column are based on reports received from the County of Maui and have not been independently verified by EMI. Operationally, a minimum of approximately 6 MGD must be reliably conveyed to / made available to the County each and every day so that the County has flexibility regarding when to run its plan depending upon weather conditions, demand, water available from its Piihola plant, etc. Water conveyed by EMI but not used by the County is redirected by EMI to reservoirs located on the former plantation.
- The numbers in this column are based on reports received from the County and have not been independently verified by EMI. Operationally, a minimum of approximately 1.5 MGD must be reliably conveyed to / made available to the County each and every day so that the County can be flexible regarding how to meet the needs of the Ag Park. Water conveyed by EMI but not used by the County is redirected by EMI to reservoirs located on the former plantation.
- Diversified Ag includes the users/uses described in Exhibit B.

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4. Historical/Industrial Uses are uses other than plantation and A&B uses that have historically relied on water from the EMI system. These include uses by entities located either adjacent to or within the boundaries of the farm and are further described in Exhibit B.

5. The numbers in this column include water not separately accounted for in the columns to the left. The EMI system is operated in a manner that ensures continuous water availability in the reservoirs to meet the County's needs for fire protection for brush fires, the risk of which has increased due to the reduction of the irrigated acreage following the cessation of sugar cultivation, but is decreasing as Mahi Pono continues to implement its farm plan. System losses (generally in the form of seepage and evaporation) are also included in this column. The water used by the Mahi Pono's hydroelectric system is non-consumptive and is returned to the ditch after being used to generate clean energy. It is re-used consumptively by one of the other uses, or if there is no reuse, ends up in the reservoirs.

EXHIBIT B – WATER USAGE SPECIFICS

Diversified Agriculture Users

| Entity | Crop | Location (TMK) | Field | Acreage |
|------------------|-------------|--|--------------|----------------|
| <i>Mahi Pono</i> | Coffee | 250030030000 | 301 | 169 |
| <i>Mahi Pono</i> | Citrus | 250030330000, 250030310000, 250030320000 | 303 | 176 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 501 | 83 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 502 | 290 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 503 | 144 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 504 | 294 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 509 | 79 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 510 | 181 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 511 | 161 |
| <i>Mahi Pono</i> | Citrus | 380030040000 | 512 | 132 |
| <i>Mahi Pono</i> | Citrus | 380010010000 | 604 | 343 |
| <i>Mahi Pono</i> | Citrus | 380010010000 | 605 | 399 |
| <i>Mahi Pono</i> | Citrus | 380010010000 | 606 | 134 |
| <i>Mahi Pono</i> | Citrus | 380040010000 | 610 | 40 |
| <i>Mahi Pono</i> | Citrus | 380030010000 | 701 | 249 |

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| | | | | |
|------------------------------|-----------------|--------------|------|-------------|
| <i>Mahi Pono</i> | Citrus | 380030010000 | 702 | 204 |
| <i>Mahi Pono</i> | Citrus | 380030010000 | 703 | 110 |
| <i>Mahi Pono</i> | Citrus | 380030010000 | 704 | 223 |
| <i>Mahi Pono</i> | Citrus | 380040010000 | 803A | 129 |
| <i>Mahi Pono</i> | Pongamia | 380040010000 | 803B | 32 |
| <i>Mahi Pono</i> | Avocado | 380040010000 | 803C | 6 |
| <i>Mahi Pono</i> | Papaya | 380030020000 | 807 | 22 |
| <i>Mahi Pono</i> | Citrus | 380040010000 | 809 | 251 |
| <i>Mau Best (Tenant)</i> | Sweet Potato | 250010010000 | 408 | 281 |
| <i>Mau Best (Tenant)</i> | Sweet Potato | 250010010000 | 409 | 180 |
| TOTAL | | | | 4312 |

EXHIBIT B – WATER USAGE SPECIFICS (Continued)

Historic / Industrial Uses

| Water Users | Source / Delivery Point | Water User's Location | Relationship to EMI / A&B / Mahi Pono | Use |
|---|---|--|--|--|
| HC&D, LLC and subtenant Maui Paving (Camp 10 Puunene Quarry) | Haiku Ditch & 702 Cistern South of Pulehu Rd | 3-8-001-001 3-8-003-004 3-8-003-021 | Tenant | Restrooms, concrete batching, fire suppression, and dust control |
| Imua Energy Maui, LLC, dba Maui EKO Systems LLC (Tenant of County Central Maui Landfill) | Pumped from Haiku Ditch | 3-8-003-019 | Gov't Tenant | General Use for Compost Operation |
| HC&S Mill Area Fire Suppression | 702 Cistern | 3-8-006-001 CPR #1 | A&B - Owned | Fire suppression for ag offices & Puunene Post Office |
| New Leaf Ranch (Non-Profit) | 702 Cistern | 3-8-006-029 | Tenant | Irrigation water for non-profit providing ag-related work opportunities and training as mental health & substance use dependency treatment |
| Maui Demolition & Construction Landfill (Decoite Trucking) | Reservoir 91 | 3-8-005-002 | Tenant | Tank & Standpipe for Irrigation & Dust Control |
| Costo Maddela | Haiku Ditch | 3-8-001-001 | Tenant | Pasture & Animal Water |
| Harriet, Michael, & Jordan Santos | Kauhikoa Ditch | 2-5-001-018 & 019 | Tenant | Pasture & Animal Water |
| Leonard Pagan | Kauhikoa Ditch | 2-5-002-001 | Tenant | Pasture & Animal Water |
| Harry Cambra | Kauhikoa Ditch | 2-5-003-026, 027, 036, 037, 038 | Tenant | Pasture & Animal Water |

EXHIBIT C – CWRM ORDER STATUS UPDATE

Section i, j, & k from CWRM D&O

i. It is intended that diversion structures only need to be modified to the degree necessary to accomplish the amended IIFS and to allow for passage of stream biota, if needed.

j. This Order does not require that every diversion on every tributary be removed or modified, the Commission is only looking at modifications to main stem and major diversions to accomplish the amended IIFS set forth above. The Commission also recognizes that it is not the purpose of this proceeding to determine how the diversions will be modified. That issue will be before the Commission in a subsequent process.

k. The intent of the Commission is to allow for the continued use and viability of the EMI Ditch system and will not require the complete removal of diversions unless necessary to achieve the IIFS.

**HOLDOVER OF EAST MAUI WATER PERMITS
2019 BLNR CONDITIONS: STATUS OF COMPLIANCE
AS OF SEPTEMBER 30, 2021
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EXHIBIT C – CWRM ORDER STATUS UPDATE (Continued)

IIFS STREAM UPDATE

| Stream Name | Restoration Status | BRQSO at IIFS (cfs) | IIFS Value (cfs) | IIFS Location | Current Status |
|----------------|--------------------|---------------------|------------------|---------------------------------|---|
| Makapipi | Full | 1.3 | n/a | Above Hana Highway | Gate removed, water flowing downstream below intake |
| Hanawi | Connectivity | 4.6 | 0.92 | Below Hana Highway | Gate open, water flowing downstream below intake |
| Kapaula | Connectivity | 2.8 | 0.56 | On diversion at Koolau Ditch | Main gate open, water flowing downstream below intake |
| Walaaka | None | 0.77 | 0.77 | Above Hana Highway | Gate open, water flowing downstream below intake |
| Pakaa | Connectivity | 0.9 | 0.18 | At Hana Highway | Intake gate closed, water flowing downstream over dam |
| Waiohue | Full | 5 | n/a | At Hana Highway | Intake gate closed, sluice gate removed. All water flowing downstream. |
| Pua'aka'a | Connectivity | 1.1 | 0.2 | Above Hana Highway | Gate open, water flowing downstream below intake |
| Kopiliua | H90 | 5 | 3.2 | Below Hana Highway | Main gates open, ditch control gates closed. Water flowing downstream. |
| East Wailuaki | H90 | 5.8 | 3.7 | At Hana Highway | Gates open, water flowing downstream below intake |
| West Wailuaki | Full | 6 | n/a | Above Hana Highway | Gates open, water flowing downstream below intake |
| Wailuanui | Full | 6.1 | n/a | At Hana Highway | All intakes sealed (Category 1) water flowing downstream below intake |
| Ohia/Waihanu | None | 4.7 | n/a | None | No diversion |
| Waiokamilo | Full | 3.9 | n/a | Below diversion at Koolau Ditch | All intakes closed, water flowing downstream |
| Palauhulu | Full | 11 | n/a | Above Hana Highway | All water either passing intakes or flowing out of the Kano sluice gate. Water flowing downstream. |
| Pi'inau | Full | 14 | n/a | Above Hana Highway | Intake sealed, water flowing downstream. |
| Nua'ailua | Connectivity | 0.28 | 2.2 | To Be Determined | Intake gate closed, water flowing downstream over dam |
| Honomanu | H90 | 4.2 | 4.2 | Above Hana Highway | All 4 diversion sluice gates are open, water flowing downstream |
| Punahau/Koia | H90 | 4.5 | 2.9 | Above Hana Highway | Sluice gate open, water flowing downstream below intake |
| Hai'upu'aka | Connectivity | 4.9 | 1.36 | Below Hana Highway | Intake gate closed, water flowing downstream, dam will require modification |
| Puhoikamaa | Connectivity | 8.4 | 1.1 | Below Hana Highway | Intake gate will be used to ensure water flowing downstream, intake dam will require significant modification |
| Wahinepee | None | 0.9 | 0.9 | Above Hana Highway | No diversion. Water flowing downstream. |
| Waikamoi | H90 | 6.7 | 3.8 | Above Hana Highway | Center ditch sluice gate open. Water flowing downstream. |
| Hanahoi | Full | 2.54 | n/a | Upstream of Lourie Ditch | Intakes sealed. Water flowing downstream. |
| Huelo (Pouluu) | Full | 1.47 | n/a | Downstream of Haiku Ditch | Lourie intake will require significant modifications & corresponding permit approvals / Haiku intake sealed |
| Honopou | Full | 6.5 | n/a | Below Hana Highway | Three sluice gates open, one intake sealed. One of two Waiole intakes sealed, water flowing downstream |