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 NĀ MOKU AUPUNI O KO'OLAU HUI

FIRST CIRCUIT COURT  
 STATE OF HAWAII  
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
 STATE OF HAWAII

NĀ MOKU AUPUNI O KO'OLAU HUI,  
 Appellant,

vs.

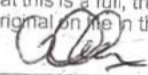
BOARD OF LAND AND NATURAL  
 RESOURCES, DEPARTMENT OF LAND  
 AND NATURAL RESOURCES,  
 SUZANNE CASE, in her official capacity  
 as Chairperson of the Board of Land and  
 Natural Resources, ALEXANDER &  
 BALDWIN, INC., EAST MAUI  
 IRRIGATION CO., LTD., COUNTY OF  
 MAUI DEPARTMENT OF WATER  
 SUPPLY, HAWAI'I FARM BUREAU  
 FEDERATION, and MAUI TOMORROW,  
 Appellees.

) Civil No. 16 - 1 - 0052 - 01 JHC  
 ) (Environmental Court)  
 )  
 ) DLNR File No. 01-05-MA  
 )  
 ) NOTICE OF APPEAL TO CIRCUIT  
 ) COURT; STATEMENT OF THE CASE;  
 ) DESIGNATION OF RECORD ON APPEAL;  
 ) ORDER FOR CERTIFICATION AND  
 ) TRANSMISSION OF RECORD ON  
 ) APPEAL; CERTIFICATE OF SERVICE  
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**NOTICE OF APPEAL TO CIRCUIT COURT**

Notice is hereby given that Appellant Nā Moku Aupuni O Ko'olau Hui, by and through its undersigned attorneys, pursuant to HRS § 91-14, HRS chapter 604A, Rule 72 of the Hawai'i Rules of Civil Procedure and Articles XI, §§ 1 and 9 and XII, § 7 of the Constitution of the State of Hawai'i, appeals to the Environmental Court of the Circuit Court of the First Circuit from the

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

  
 Clerk, Circuit Court, First Circuit

Board of Land and Natural Resources' December 11, 2015 decision affirming the holdover status of revocable permits 7263, 7264, 7265, and 7266.

The agency's action prejudiced the substantive and procedural rights of the Appellant for each and every reason articulated in HRS § 91-14(g). This appeal is also made upon the grounds set forth more fully in the Statement of the Case, filed on this date.

Dated: Honolulu, Hawaii, January 8, 2016.



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DAVID KIMO FRANKEL  
SUMMER L.H. SYLVA  
CAMILLE K. KALAMA  
Attorneys for Appellants

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

NĀ MOKU AUPUNI O KO`OLAU HUI,	)	Civil No. _____
	)	(Environmental Court)
Appellant,	)	
	)	DLNR File No. 01-05-MA
vs.	)	
	)	STATEMENT OF THE CASE
BOARD OF LAND AND NATURAL	)	
RESOURCES, DEPARTMENT OF LAND	)	
AND NATURAL RESOURCES,	)	
SUZANNE CASE in her official capacity as	)	
Chairperson of the Board of Land and	)	
Natural Resources, the ALEXANDER &	)	
BALDWIN, INC., EAST MAUI	)	
IRRIGATION CO., LTD., COUNTY OF	)	
MAUI, DEPARTMENT OF WATER	)	
SUPPLY, HAWAII FARM BUREAU	)	
FEDERATION, and MAUI TOMORROW,	)	
	)	
Appellees.	)	
	)	

STATEMENT OF THE CASE

Pursuant to Rule 72(e) of the Hawai'i Rules of Civil Procedure, Appellant Nā Moku Aupuni O Ko'olau Hui, by and through its undersigned attorneys, make the following statement of the case.

INTRODUCTION

1. Appellant Nā Moku Aupuni O Ko'olau Hui appeals the board of land and natural resources' (BLNR) December 11, 2015 ruling in which it reaffirmed the holdover status of the authorization allowing private corporations to use state land and to divert hundreds of millions of gallons of water daily from public streams in East Maui.

JURISDICTION

2. The Circuit Court has jurisdiction over this appeal pursuant to HRS § 91-14,

which provides in pertinent part:

**Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review under this chapter.**

3. In the alternative, this Statement of the Case may also be construed as an original complaint, pursuant to Rules 1, 8(a) and 8(e), Hawai'i Rules of Civil Procedure. *See also, Life of the Land v. Land Use Comm'n*, 58 Haw. 292, 292-5, 568 P.2d 1189, 1189-92 (1977). This Court has jurisdiction over the claims for relief set forth in this complaint, if construed as an original complaint, under HRS §§ 603-21.5, 603-21.9, 661-1, 205A-6, 92-12, HRS chapters 604A, 632 and 343, and Articles XI, §§ 1 and 9 and Article XII, § 7 of the Constitution of the State of Hawai'i.

4. The environmental court has exclusive jurisdiction over this case pursuant to HRS § 604A-2 because this proceeding arises, at least in part, under HRS chapter 171, which is part of title 12, and HRS chapter 343.

5. The acts and/or omissions which give rise to this appeal occurred in the City and County of Honolulu, State of Hawai'i.

#### PARTIES

6. Appellant Nā Moku Aupuni O Ko'olau Hui ("Nā Moku") is a Native Hawaiian nonprofit organization that represents East Maui taro farmers and practitioners of Native Hawaiian traditional and customary practices in the East Maui area.

7. Appellee BLNR heads the department of land and natural resources (DLNR) pursuant to HRS § 26-15 and is an agency of the State of Hawai'i.

8. Appellee Suzanne Case is the Chairperson of the BLNR and is named in her



official capacity.

9. Appellee DLNR is an agency of the State of Hawai`i that is charged by law to responsibly manage and administer the approximately 33,000 acres of ceded lands that are at issue in this appeal.

10. According to DLNR's own website, its mission is to "[e]nhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of visitors and the people of Hawaii nei in partnership with others from the public and private sectors."

11. Appellee Alexander & Baldwin, Inc. ("A&B") is a for-profit corporation engaged in real estate development in Hawai`i and sugar cultivation in Central Maui.

12. Appellee East Maui Irrigation Co., Ltd. ("EMI") is a subsidiary of A&B, which transports the diverted water from East Maui streams to Central Maui for A&B to operate its Hawaii Commercial & Sugar Company's ("HC&S") sugar plantation.

13. Appellee County of Maui Department of Water Supply supplies Upcountry Maui domestic and pastoral water customers with surface water diverted from East Maui streams and transported using Appellee EMI's ditch system.

14. Appellee Hawaii Farm Bureau Federation intervened in contested case DLNR File No. 01-05-MA, claiming an interest in protecting farming.

15. Appellee Maui Tomorrow is a 501c(3) nonprofit corporation dedicated to responsible planning and sound management of Maui's Natural and cultural resources. Among other things, it has worked to see flows restored to East Maui's historic streams so that traditional agriculture can continue in Maui's rural villages.

16. Appellee Maui Tomorrow's interests are more properly aligned with Nā Moku's.

#### STANDING

17. Nā Moku's members engage in traditional and customary practices including gathering aquatic life, fishing, clearing stream banks, teaching their children about their practices, and swimming in dozens of East Maui streams currently diverted by A&B and EMI.

18. The traditional and customary practices of Nā Moku's members include (but are not limited to) growing kalo irrigated by Honopou, Waiokamilo, Kualani, and Wailua streams; gathering 'ulu, kalo, 'uala, moi, āholehole, banana, 'o'opu, pūpū, kala, hau, native crayfish, hīhīwai, 'opihi, limu, pohole, 'awapuhi, tī leaf, lū'au, 'ōpae, hāhā, pepeiao, hīhīwai, pupulo'i and medicinal plants in various East Maui streams, including (but not limited to) Wahinepee, Puohokamoa, Haipuaena, Punalau/Kolea, Honomanu, Nua'ailua, Pi'inaau, Palauhulu, Waiokamilo, Kualani, Wailua, Waikani (Wailuanui), West Wailuaiki, East Wailuaiki, Kopili'ula Puaka'a, Pa'akea, Waia'aka, Kapā'ula, Hanawī, Waiohue, Makapipi, Honopou and Honomanu streams; fishing for moi, manini, ulua, uaouao, āholehole, uouo, and mullet near the mouths of Nua'ailua, Pi'inaau, Palauhulu, Waiokamilo, Kualani, Wailua, Waikani (Wailuanui), West Wailuaiki, East Wailuaiki, Kopili'ula Puaka'a, Pa'akea, Waia'aka, Kapā'ula, Hanawī, Honopou, Punalau/Kolea, Honomanu, Hanawī, Waiohue, and Makapipi streams; enjoying the natural beauty of these streams; and swimming in them.

19. A&B and EMI's diversion of streams in East Maui has adversely affected Nā Moku and its members' ability to engage in their traditional and customary practices.

#### GENERAL FACTUAL ALLEGATIONS

20. In May 2000, the BLNR authorized A&B and EMI to use, pursuant to revocable

permits 7263, 7264, 7265, and 7266, approximately 33,000 acres of public land and to divert hundreds of millions of gallons of waters per day from the streams flowing through this area.

21. In 2001, instead of granting A&B's thirty year lease request pursuant to HRS § 171-58(c), the BLNR authorized A&B and EMI's use of the approximately 33,000 acres and millions of gallons of water on a holdover basis pending resolution of the contested case hearing arising from A&B's thirty year lease request.

22. In 2002, the BLNR again authorized A&B's and EMI's use of the approximately 33,000 acres and millions of gallons of water on a holdover basis.

23. In 2007, the BLNR issued an order regarding ongoing stream diversions in which it observed, "All parties now concede that an EA (and potentially an environmental impact statement ("EIS")) must be prepared[.]"

24. In the 2007 order, BLNR also directed DLNR "to take all administrative steps necessary to . . . prepare an EA in accordance with HRS Chapter 343."

25. Since 2000, none of the appellees have prepared an EA or an EIS regarding the use of these 33,000 acres of state land and the diversion of hundreds of millions of gallons of water from more than one hundred public streams.

26. Since 2000, the BLNR has never once determined that the use of these 33,000 acres of land and the diversion of public streams is exempt from the requirements of HRS chapter 343.

27. In November 2009, DLNR's division of aquatic resources produced a report titled "The Use of Hawaiian Stream Habitat Evaluation Procedure to Provide Biological Resource Assessment in Support of Instream Flow Standards for East Maui Streams."



28. According to DLNR's division of aquatic resources report titled "The Use of Hawaiian Stream Habitat Evaluation Procedure to Provide Biological Resource Assessment in Support of Instream Flow Standards for East Maui Streams":

- a. "Stream diversions decrease the size of the freshwater plume and therefore make it harder for recruiting animals to detect the freshwater from their offshore larval development areas."
- b. "In addition to the size of the freshwater plume, in many streams, a stream mouth berm is created when deposition from wave action is greater than erosion by stream flow. . . . [I]ncreased stream flow will decrease the amount of time that stream remains closed by a berm and therefore blocked to recruitment."
- c. "Management actions that increase freshwater discharge into the ocean are likely to improve recruitment by attracting more groups of recruiting animals and expanding the window of opportunity for recruits to enter an open stream mouth."
- d. "The diversion structures can be a physical barrier, create dry sections that prohibit movement by aquatic species, or entrain animals as they attempt to pass over the diversion structure."
- e. "From a management perspective, the maintenance of adequate stream flow from upstream adult habitat to the stream mouth is critical for amphidromous animals."
- f. "Typical stream diversion structures divert 100% of the water at low to



moderate flows. Under these conditions, 100% of downstream moving individuals would be entrained by the diversion.”

- g. “Kōlea Stream: . . . Restoration of flow, especially related to providing passage for streams animals, and protection from entrainment would likely result in increased habitat availability for native species.”
- h. “Waikamoi Stream: . . . Dry sections of the stream bed were observed below the diversion and where surveyed the diversion removed 100% of the stream flow. . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream greatly by providing large amounts of habitat for native species.”
- i. “Puohokamoa Stream: . . . Dry sections of the stream bed were observed below the diversion and where surveyed the diversion removed 100% of the stream flow. It was noted that low flow conditions provided little habitat in areas downstream of the diversions. . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream greatly by providing large amounts of habitat for native species.”
- j. “Haipua`ena Stream: . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream by increasing habitat for native species.”
- k. “Punalau Stream: . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream by increasing habitat for native species.”

- l. “Honomanū Stream: . . . Dry sections of the stream bed were observed below the diversion and where surveyed, the diversion removed 100% of the stream flow. . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream greatly by providing large amounts of habitat for native species.”
- m. “West Wailua Iki Stream: . . . In general, flow diversion eliminated about 50% of the habitat for the middle reach species (*Awaous guamensis*, *Sicyopterus stimpsoni*, and *Neritina granosa*) and entrainment issues associated with the diversion had a large influence on *Lentipes concolor* and *Atyoida bisulacata*. . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream by increasing habitat for native species.”
- n. “East Wailua Iki Stream: . . . In general, the loss of instream habitat was due to water removal which resulted in about 45% loss of habitat for lower and middle reach species, while *Lentipes concolor* and *Atyoida bisulacata* were mostly affected by entrainment issues. . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream by increasing habitat for native species.”
- o. “Kopili‘ula Stream: . . . Restoration of flow to increase local habitat and improve fish passage would benefit the stream by increasing habitat for native species.”
- p. “Waiohue Stream: . . . In general, the loss of instream habitats due to

water removal resulted in about 40% loss of instream habitat for these species, and *Lentipes concolor* and *Atyoida bisulacata* were affected more by entrainment issues than the other species. . . Restoration of flow to increase local habitat and especially to improve fish passage would improve stream conditions for native species.”

- q. “Pa’akea Gulch: . . . Restoration of flow to improve fish passage at upstream sites would improve stream conditions for native species.”
- r. “Kapā’ula Gulch: . . . Restoration of flow to improve fish passage at upstream sites would improve stream conditions for native species.”
- s. “Hanawī Stream: . . . Restoration of flow to improve fish passage would improve stream conditions for native species.”
- t. “Makapipi Stream: . . . Restoration of flow to increase local habitat and improve fish passage would improve stream conditions for native species.”
- u. “The streams of northeast Maui in this analysis had a range of surface water diversions affecting their stream flow and, therefore, the amount of instream habitat for native amphidromous animals. . . . In most cases where diversions did occur, the diversions blocked the stream and captured 100% of the stream flow at low and moderate rates of discharge.”

29. In a May 17, 2010 letter to then-BLNR Chair Laura Thielen, Robert Nishimoto, the environmental program manager for the division of aquatic resources, wrote: “The removal of stream diversions and the complete restoration of stream flow would be the best possible



condition for native aquatic animals.”

30. A BLNR contested case hearing, DLNR File No. 01-05-MA, “In the Matter of the Contested Case Hearing Regarding Water Licenses at Honomanu, Keanae, Nahiku and Huelo, Maui” has been on-going since 2001, but nothing substantive has transpired in that contested case hearing since 2007.

31. The circuit court has considered appeals from this contested case hearing on multiple occasions, including Civ. No. 03-1-0289-02, Civ. No. 05-1-0671-04 and Civ. No. 14-1-0918-04

32. The scope of the contested case hearing, DLNR File No. 01-05-MA “In the Matter of the Contested Case Hearing Regarding Water Licenses at Honomanu, Keanae, Nahiku and Huelo, Maui” is unclear.

33. The BLNR, however, has taken the position that the focus of the contested case hearing, DLNR File No. 01-05-MA “In the Matter of the Contested Case Hearing Regarding Water Licenses at Honomanu, Keanae, Nahiku and Huelo, Maui,” is the thirty-year lease.

34. In December 2015, DLNR recommended to the BLNR that the BLNR renew revocable permits 7263, 7264, 7265, and 7266.

35. The BLNR’s December 11, 2015 agenda identified, as Item D-14, the “Annual Renewal of Revocable Permits on the Islands of Hawai‘i, Maui, Moloka‘i, Kaua‘i and O‘ahu” on its agenda.

36. Appellant Nā Moku (and two non-parties to the contested case hearing arising from A&B’s thirty year lease request) submitted a written petition on December 10, 2015, and made an oral request on December 11, 2015 for a contested case hearing on the renewal of revocable permits 7263, 7264, 7265, and 7266 for the specific term of January 1, 2016 to December 31, 2016, which

were part of Item D-14 on the December 11, 2015 BLNR Agenda.

37. The BLNR did not provide any notice in its December 11, 2015 agenda of its intent to consider re-affirming the holdover status of the authorization allowing A&B and EMI's continued use of approximately 33,000 acres of state land and the diversion of hundreds of millions of gallons of water from more than one hundred public streams.

38. The BLNR did not provide prior notice to the parties to the contested case hearing, DLNR File No. 01-05-MA "In the Matter of the Contested Case Hearing Regarding Water Licenses at Honomanu, Keanae, Nahiku and Huelo, Maui," that it would be considering, or accepting testimony on, the issue of re-affirming the holdover status of the authorization allowing A&B and EMI's continued use of approximately 33,000 acres of state land and the diversion of hundreds of millions of gallons of water from more than one hundred public streams.

39. No court reporter transcribed the December 11, 2015 BLNR meeting.

40. On December 11, 2015, the BLNR voted to refrain from deciding on whether to continue the revocable permits 7263, 7264, 7265, and 7266 for the specific term of January 1, 2016 to December 31, 2016.

41. On December 11, 2015, the BLNR voted to "re-affirm the holdover status" of the authorization allowing A&B and EMI to use the approximately 33,000 acres and to divert millions of gallons of water per day from the streams flowing through them and covered by revocable permits 7263, 7264, 7265, and 7266.

42. The BLNR does not know exactly how many streams A&B and EMI divert within the area covered by revocable permits 7263, 7264, 7265, and 7266.

43. The BLNR does not know how many diversions exist on the streams within the area covered by revocable permits 7263, 7264, 7265, and 7266.

44. The BLNR does not know how much water is diverted daily from each of the diverted streams within the area covered by revocable permits 7263, 7264, 7265, and 7266.

45. The BLNR does not know how much water is diverted on average from each of the diverted streams within the area covered by revocable permits 7263, 7264, 7265, and 7266.

46. BLNR has never issued an order requiring A&B and EMI to provide data regarding how much water is diverted daily from each of the diverted streams within the area covered by revocable permits 7263, 7264, 7265, and 7266.

47. The BLNR does not know how much water A&B and EMI are able to obtain from sources that do not originate on or from state land.

48. A&B and EMI have alternative sources of water that do not originate from state land.

49. A&B and HC&S pump water from Central Maui wells to irrigate their fields located in Central Maui.

50. According to A&B, approximately one third of the water flowing through the EMI ditch system does not originate from state land.

51. If all diversions of streams located on public lands covered by revocable permits 7263, 7264, 7265, and 7266 were stopped, the EMI ditch system would still transport, on average according to A&B, at least thirty million gallons of diverted East Maui surface water each day.

52. The County of Maui, Department of Water Supply currently receives less than nine million gallons of water per day from the EMI ditch system.

53. The amount of water that the County of Maui, Department of Water Supply currently receives from the EMI ditch system is less than the amount of water on average A&B



and EMI currently divert and transport from sources that do not originate from state land.

54. The holdover authorization granted in 2001 expired long ago.

55. The holdover authorization granted in 2002 expired long ago.

56. The holdover authorization granted in 2007 expired long ago.

57. A&B and EMI currently lack any legal authority to use the 33,000 acres of state land covered by revocable permits 7263, 7264, 7265, and 7266 or to divert water from any of the streams flowing across those lands.

58. The BLNR's December 11, 2015 vote re-affirming the holdover status of the authorization allowing A&B and EMI to use the approximately 33,000 acres of state land and to divert hundreds of millions of gallons of water per day from the streams located in areas covered by revocable permits 7263, 7264, 7265, and 7266 prejudiced the substantive and procedural rights of Appellant Nā Moku for all the reasons articulated in HRS § 91-14(g).

59. The BLNR erred in voting on December 11, 2015 to reaffirm the holdover status of the authorization allowing A&B and EMI to use the approximately 33,000 acres of state land and to divert hundreds of millions of gallons of water per day from the streams located in areas covered by revocable permits 7263, 7264, 7265, and 7266.

a. The BLNR's action violated HRS chapter 171.

b. The BLNR's action violated HRS chapter 343.

c. The BLNR's action violated HRS chapter 205A.

d. The BLNR breached its trust duties.

e. The BLNR breached its duties to protect traditional and customary practices.

- f. The BLNR's action violated HRS chapter 92.
- g. The BLNR's action violated HRS chapter 91.
- h. The BLNR's action violated Appellant Nā Moku's due process rights.

PRAYER FOR RELIEF

Wherefore, Appellant Nā Moku respectfully prays that this Court:

A. Reverse the BLNR's December 11, 2015 ruling reaffirming the holdover status of the authorization allowing A&B and EMI to use the approximately 33,000 acres of state land and to divert hundreds of millions of gallons of water per day from the streams located in areas covered by revocable permits 7263, 7264, 7265, and 7266.

B. Modify the BLNR's ruling by declaring that A&B and EMI have no legal authority to use the approximately 33,000 acres of state land and to divert millions of gallons of water per day from public streams located in areas covered by revocable permits 7263, 7264, 7265, and 7266.

C. Declare that A&B and EMI have no legal authority to use the approximately 33,000 acres of state land and to divert millions of gallons of water per day from public streams located in areas covered by revocable permits 7263, 7264, 7265, and 7266.

D. Enjoin A&B and EMI from diverting any water from any of the streams that exist within the area covered by revocable permits 7263, 7264, 7265, and 7266 unless and until they receive proper legal authority to do so in compliance with HRS chapters 343, 171 and 205A.

E. Grant Appellant Nā Moku's attorneys' fees and costs, including attorneys' fees pursuant to the private attorney general doctrine and/or HRS §92-12(c).

F. Provide for such other and further relief as the Court shall deem just and proper.

Dated: Honolulu, Hawaii, January 8, 2016.



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DAVID KIMO FRANKEL  
SUMMER L. H. SYLVA  
CAMILLE K. KALAMA  
Attorneys for Appellants



IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

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Appellees. )  
\_\_\_\_\_ )

**DESIGNATION OF RECORD ON APPEAL**

TO: CLERK, FIRST CIRCUIT COURT, STATE OF HAWAII

Pursuant to Rule 72(d)(1) of the Hawai'i Rules of Civil Procedure, Appellant designates as the Record on Appeal all records and files and documents relating to the board of land and natural resources (BLNR) decision on December 11, 2015 to affirm the holdover status. At a minimum, the record should include:

- the BLNR's agenda for the December 11, 2015 meeting;
- the minutes from the BLNR's December 11, 2015 meeting;
- the transcript, if there is one, of the December 11, 2015 meeting;
- the report prepared, in part, by the department of land and natural resources' division of aquatic resources titled "The Use of Hawaiian Stream Habitat Evaluation Procedure to Provide Biological Resource Assessment in Support of Instream Flow Standards for East Maui Streams" (November 20, 2009);
- the staff submittal for agenda item D-14;

- all testimony BLNR received for agenda item D-14;
- the testimony submitted by the Native Hawaiian Legal Corporation on behalf of Lezley Jacintho, Healoha Carmichael and Nā Moku Aupuni O Ko`olau Hui for the December 11, 2015 meeting;
- the petition for a contested case hearing submitted by the Native Hawaiian Legal Corporation on behalf of Lezley Jacintho, Healoha Carmichael and Nā Moku Aupuni O Ko`olau Hui for the December 11, 2015 meeting;
- revocable permits 7263, 7264, 7265, and 7266;
- all documents that disclose how much water Alexander & Baldwin and East Maui Irrigation Co., Ltd. are diverting from East Maui streams; and
- any and all decisions that the BLNR characterizes as holdover decisions or holdover authorizations.

Dated: Honolulu, Hawaii, January 8, 2016.



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DAVID KIMO FRANKEL  
SUMMER L.H. SYLVA  
CAMILLE K. KALAMA  
Attorneys for Appellant

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	)	DLNR File No. 01-05-MA
vs.	)	
	)	ORDER FOR CERTIFICATION AND
BOARD OF LAND AND NATURAL	)	TRANSMISSION OF RECORD ON
RESOURCES, DEPARTMENT OF LAND	)	APPEAL
AND NATURAL RESOURCES,	)	
SUZANNE CASE in her official capacity as	)	
Chairperson of the Board of Land and	)	
Natural Resources, ALEXANDER &	)	
BALDWIN, INC., EAST MAUI	)	
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MAUI DEPARTMENT OF WATER	)	
SUPPLY, HAWAI'I FARM BUREAU	)	
FEDERATION and MAUI TOMORROW,	)	
	)	
Appellees.	)	


**ORDER FOR CERTIFICATION AND TRANSMISSION OF RECORD ON APPEAL**

TO: SUZANNE CASE, CHAIRPERSON OF THE BOARD OF LAND AND NATURAL RESOURCES

In accordance with HRS §91-14(d) and Rule 72(d)(1) of the Hawai'i Rules of Civil Procedure, you are hereby ordered to certify and transmit to this Court, within 20 days of the date below, or within such further time as may be allowed by the Court, the entire record in this proceeding, as set forth in the foregoing Designation of Record on Appeal. Any request to enlarge time shall be submitted to the Court prior to the expiration of the above 20-day period.

Dated: Honolulu, Hawai'i, JAN - 8 2016

F. OTAKE  
 Clerk of the above-entitled Court





IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was served on the following parties at their respective addresses by U.S. Mail, postage prepaid on January 8, 2016.

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NĀ MOKU AUPUNI O KO'OLAU HUI

Civil No. 19-1-0019-01 (JPC)

**Defendant A&B/EMI's Exhibit AB-25**

FOR IDENTIFICATION \_\_\_\_\_

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