

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAI'I

SIERRA CLUB,

Plaintiff,

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 AND  
BALDWIN, INC., and EAST MAUI  
IRRIGATION, LLC

Defendants.

) CIVIL NO. 19-1-0019-01 JPC  
) (Environmental Court)  
)

) SECOND DECLARATION OF LUCIENNE  
) DE NAIE

**SECOND DECLARATION OF LUCIENNE DE NAIE**

I, Lucienne de Naie, under penalty of perjury hereby state the following is true and accurate to the best of my knowledge and belief:

1. The statements below are based upon my personal knowledge.
2. I live on, and am a resident of, Maui. And have been so for decades.
3. I have been a member of the Sierra Club for decades.
4. I live in Huelo not far from Hanehoi and Waipio Iki Streams.
5. I have served in various roles in the Sierra Club Hawai'i chapter and the Maui Group, including as a hike leader.
6. I have participated in many service trips in which we have worked to get rid of invasive species.
7. I have hiked to or along many east Maui streams as a part of Sierra Club outings.
8. I have also hiked to or along many east Maui streams as an individual or with

friends (i.e. not part of an official Sierra Club outing).

9. I plan to continue to visit many of the east Maui streams this year and in future years.

10. I have hiked to or along the following streams in east Maui: Honopou, Hoolawa ili'ili, Hoolawa nui, Honokala, Mokupapa, Waipio, Waipioiki/Kapalaea, Puolua, Hanehoi, West Hanehoi, Huelo, Hoalua, Hanawana, Kailua, Nailiilihaele, Puehu, Oopuola, Ka'aiea, Kolea, Waiakamoi, Waihinepe'e, Puohakamoa, Haipuaena, Punalau, Honomanu, Nua'ailua, Piina'au, Waiokamilo, Wailuanui, West Wailua iki, East Wailuaiki, Kopiliula, Waiohue, Paakea, Waiakea, Kapaula, Hanawi and Makapipi.

11. I enjoy observing natural beauty, including free-flowing streams and the native aquatic life that is dependent upon them.

12. Over the past 25 years, I have observed the spread of invasive species throughout the east Maui watershed.

13. My enjoyment of hiking in east Maui has been diminished when I have seen:

- a. debris (such as unused/discarded/obsolete pipes) in or near streams;
- b. diversion structures that interfere with the flow of water and the migration of native aquatic life up and downstream;
- c. reduced flow in streams, making it more difficult (and sometimes impossible) to swim or dip in a stream, and making it more difficult for native aquatic species to survive; and
- d. invasive species taking over native forests.

14. I have seen many abandoned and discarded pipes along many streams in east Maui.

15. To be clear, however, the pipes that litter the landscape are not the only form of garbage found on public lands within the revocable permit area. There are also abandoned structures of various types.

16. I have recreational, aesthetic, environmental and public trust interests in ensuring that streams are free-flowing and that public lands are properly managed.

17. Allowing the revocable permits to be held over for another year (without appropriate conditions) will harm my interests by:

- a. allowing debris to be left in or next streams because the department of land and natural resources has not attempted to verify the conditions on the ground or take any meaningful action to get A&B and EMI to clean up their mess;
- b. allowing diversion structures to continue to interfere with the migration of native aquatic species on many east Maui streams;
- c. preventing sufficient water from flowing within many streams;
- d. allowing A&B and EMI to divert water from one stream and dump it into another stream;
- e. allowing A&B and EMI to divert more water than they have been diverting over the past two years;
- f. potentially jeopardizing my ability to hike in this area; and
- g. allowing invasive species to continue to spread.

18. My recreational, aesthetic, environmental and public trust interests are harmed by allowing the revocable permits to be held over for another year.

19. I read reports by government agencies to educate myself and to craft testimony.

20. The lack of information from DLNR and A&B has hindered my ability to be fully informed as to the status of east Maui streams.

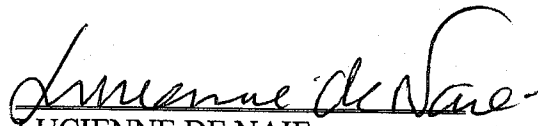
21. The failure of BLNR to require A&B and EMI to provide relevant data (including what percentage of water they are taking from each stream) makes it more difficult for me to protect the streams that I enjoy.

22. On June 30, 2019, I hiked to Makapipi Stream and observed that no concrete or metal or any other permanent seal was blocking the tunnel that takes water out of Makapipi Stream.

23. On July 1, 2019, I went to the east Hanehoi stream by the Lowrie diversion. I saw water being diverted out of the stream into the ditch. In January, 2019, I went to Puolua Stream, a tributary to Hanehoi stream, and saw that it was still being diverted at the Lowrie ditch.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Huelo, Hawai'i, July 16, 2019.

  
LUCIENNE DE NAIE

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

**Defendant A&B/EMI's Exhibit AB-86**

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

RECEIVED IN EVIDENCE \_\_\_\_\_

CLERK \_\_\_\_\_