

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

SIERRA CLUB,	)	CIVIL NO. 19-1-0019-01 JPC
	)	(Environmental Court)
Plaintiff,	)	
vs.	)	DECLARATION OF MEGAN LOOMIS
	)	POWERS
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.	)	

**DECLARATION OF MEGAN LOOMIS POWERS**

I, Megan Loomis Powers, 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.
3. I have been a member of the Sierra Club since 2003.
4. I lived next to Ho'olawa Stream for many years.
5. My parents still own land next to Ho'olawa Stream and I enjoy returning there to swim and observe the beauty of the stream.
6. I have also lived next to Honopou Stream and Hanawana Stream.
7. I have played in these three streams from the age of 4 to the age of 54, rescued fish and pollywogs when they were drying out, floated on every imaginable toy, rope-swinged, bathed, lounged, swam a mile for exercise daily with my father for many years. And in my

Junior year in high school at Seabury Hall, I started my day by jumping off the 30-foot waterfall. I know the many faces of these streams through their yearly cycles.

8. I plan to continue visiting and using these streams for the rest of my life and my adult children plan to do the same.

9. Between 1972 and 2016, on Ho'olawa stream, after more than a 1/4 mile of stagnant, stinky, mucky streamwater and debris was cleared out after a big rain event, and when diversions are curbed (1x/yr.) allowing for the natural stream flow, I would witness an event unfold over the next few weeks where life returned to the streams and banks with spring-like fervor to finally settle into a state of thriving balance. It is the most beautiful thing one can ever imagine! Water is life! Life in Balance! But it was always taken away and everything would dry out again and again and again for many years.

10. I have seen the ill effects of diversions on all three of these streams.

11. When these streams have been diverted, the streams are fairly dry, which impacts the streamlife's ability to flourish and allows invasive weed species to take over the banks, it also impacts my ability to enjoy and recreate in them. Also, the dry streambeds prevent seepage which has caused springs to dry out from which we used to gather drinking water. This is very disturbing, heartbreaking and scary to lose our drinking water. I know firsthand, from daily experience, the difference of how BAD it usually is with the total diversion and, how GOOD it can get when allowed to thrive.

12. Before 2016, Ho'olawa stream below the Haiku Ditch diversion was generally pretty dry except after winter storms, or when EMI decided to open the gates, causing unexpected flooding. Since A&B stopped growing sugarcane, it has been flowing in excess of what would be considered "normal stream flow" because water diverted from other streams is

being dumped into Ho'olawa Stream via an underground tunnel. This has impacted my ability to enjoy the stream because of the danger of getting washed away over the next waterfall. In addition, it has caused a lot of erosion on the banks of the river and root rot which killed a whole grove of trees, not to mention flooding Ho'olawa Bay with excess silt, adversely impacting the fishery.

13. Allowing diversions to continue, or to increase, adversely affects my enjoyment of these streams.

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

DATED: Haiku, Hawai'i, February 25<sup>th</sup>, 2019.

  
MEGAN LOOMIS POWERS

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

**Defendant A&B/EMI's Exhibit AB-88**

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

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

CLERK \_\_\_\_\_