

PATRICK K. WONG 5878  
Corporation Counsel  
CALEB P. ROWE 9520  
KRISTIN K. TARNSTROM 9934  
Deputies Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No.: (808) 270-7741  
Facsimile No.: (808) 270-7152  
email: caleb.rowe@co.maui.hi.us

Attorneys for COUNTY OF MAUI,  
DEPARTMENT OF WATER SUPPLY

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

<p>PETITION TO AMEND INTERIM INSTREAM FLOW STANDARDS FOR HONOPOU, HUELO (PUOLUA), HANEHOI, WAIKAMOI, ALO, WAHINEPEE, PUOHOKAMOA, HAIPUAENA, PUNALAU/KOLEA, HONOMANU, NUAAILUA, PIINAAU, PALAUHULU, OHIA (WAIANU), WAIKAMILO, KUALANI, WAILUANUI, WEST WAILUAIKI, EAST WAILUAIKI, KOPILIULA, PUKAA, WAIQHUE, PAAKEA, WAIATAKA, KAPAULA, HANAWI, and MAKAPIPI</p>	<p>CASE NO. CCH-MA13-01  DECLARATION OF CALEB P. ROWE</p>
---	---

**DECLARATION OF CALEB P. ROWE**

I, CALEB P. ROWE, declare as follows:

1. I am an attorney at law, duly licensed to practice before all courts of this State. I am one of the Deputies Corporation Counsel assigned to represent County Defendants.

2. The facts recited in this Declaration are true of my own personal knowledge and if called upon, I could testify competently thereto.

3. The exhibit marked "B-022" and attached to DWS Supplemental Exhibit List is a true and correct copy of an email sent on January 7, 2015 by Isaac Hall, attorney for Maui Tomorrow, to the parties to this contested case. In this email, Mr. Hall requests leave to file an amended opening statement and opening brief. The email states that Maui Tomorrow seeks this extension to address "mostly clerical and non-substantial corrections."

4. The exhibit marked "B-023" and attached to DWS Supplemental Exhibit List is a true and correct copy of an email sent on January 15, 2015 by Isaac Hall, attorney for Maui Tomorrow, to the parties to this contested case. This email contains attachments including a cover letter, Maui Tomorrow's Opening Statement and Brief as Amended, Maui Tomorrow's Amended Exhibit List, and Maui Tomorrows Amended Witness list.

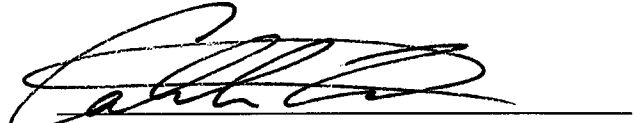
5. The exhibit marked "B-024" and attached to DWS Supplemental Exhibit List is a true and correct copy of the cover letter referred to in the previous paragraph which was attached to Mr. Halls January 15, 2015 email. In this cover letter, Maui Tomorrow states that "pages 33, 34, and 37 were missing from the Opening Brief.

6. The exhibit marked "B-025" and attached to DWS Supplemental Exhibit List is a true and correct copy of an email sent on October 13, 2014 by Isaac Hall, attorney for Maui Tomorrow, to the parties to this contested case. In this email, Mr. Hall details his satisfaction with the County of Maui's processing of Maui Tomorrow's discovery requests.

7. The exhibit marked "B-026" and attached to DWS Supplemental Exhibit List is a true and correct copy of an email sent on December 30, 2014 by Gwyn Matsuda, Secretary to

Caleb P. Rowe, attorney for Maui County Department of Water Supply. Attached to this email is a copy of the Department of Water Supply's Opening Statement and Brief.

I declare under penalty of law that the foregoing is true and correct of my own personal knowledge and that this Declaration was executed on January 27, 2015 in Wailuku, Maui, Hawaii.



CALEB P. ROWE  
Deputy Corporation Counsel  
County of Maui

PATRICK K. WONG 5878  
Corporation Counsel  
CALEB P. ROWE 9520  
KRISTIN K. TARNSTROM 9934  
Deputies Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No.: (808) 270-7741  
Facsimile No.: (808) 270-7152  
email: caleb.rowe@co.maui.hi.us

Attorneys for COUNTY OF MAUI,  
DEPARTMENT OF WATER SUPPLY

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

<p>PETITION TO AMEND INTERIM INSTREAM FLOW STANDARDS FOR HONOPOU, HUELO (PUOLUA), HANEHOI, WAIKAMOI, ALO, WAHINEPEE, PUOHOKAMOA, HAIPUAENA, PUNALAU/KOLEA, HONOMANU, NUAAILUA, PIINAAU, PALAUHULU, OHIA (WAIANU), WAIKAMILO, KUALANI, WAILUANUI, WEST WAILUAIKI, EAST WAILUAIKI, KOPILIULA, PUAKAA, WAIQHUE, PAAKEA, WAIATAKA, KAPAULA, HANAWI, and MAKAPIPI</p>	<p>CASE NO. CCH-MA13-01  DECLARATION OF KYLE K. GINOZA</p>
--	--

**DECLARATION OF KYLE K. GINOZA**

I, KYLE K. GINOZA, declare as follows:

1. I am the duly appointed Director of the Department of Environmental Management, County of Maui. I have served in this capacity since January 2011. Prior to my

appointment, I was employed as a project engineer for the County of Maui, Department of Environmental Management's Wastewater Reclamation Division.

2. I am a registered professional mechanical engineer, duly licensed in the State of Hawaii.

3. I have personal knowledge of the facts stated in this Declaration, except as to matters stated on information and belief, and as to those matters, I believe them to be true. If called upon, I could testify competently thereto.

4. I have reviewed the 2010 Central Maui Recycled Water Verification Study ("CMRWVS") and know the contents thereof.

5. The Kahului Wastewater Reclamation Facility ("KWRF") serves the Central Maui area. All wastewater processed by the facility is treated to the R-2 recycled water standard required by the state laws and regulations prior to disposal via gravity fed injection wells.

6. The CMRWVS does not mention or conclude that KWRF's recycled water is pumped directly or seeps into Kahului Bay. To my knowledge, no reliable evidence of such a condition or effect exists.

7. The CMRWVS does not mention or conclude that the operations of the KWRF contribute to algal blooms or degrade near shore waters. To my knowledge, no reliable evidence of such a condition or effect exists.

8. The CMRWVS does not mention or conclude that public health issues, including staph and MRSA infections, may be attributed to the operations of KWRF. To my knowledge, no reliable evidence of such a condition or effect exists.

9. The Department of Environmental Management denies that the operation of the KWRF degrades near shore waters, contributes to algae blooms, or contributes to public health concerns of staph and MRSA infections. Statements to the contrary lack foundation.

I declare under penalty of law that the foregoing is true and correct of my own personal knowledge and that this Declaration was executed on January 27, 2015, in Wailuku, Maui, Hawaii.



---

KYLE K. GINOZA, P.E.  
Director  
Department of Environmental Management  
County of Maui

PATRICK K. WONG 5878  
Corporation Counsel  
CALEB P. ROWE 9520  
KRISTIN K. TARNSTROM 9934  
Deputies Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No.: (808) 270-7741  
Facsimile No.: (808) 270-7152  
email: caleb.rowe@co.maui.hi.us

Attorneys for COUNTY OF MAUI,  
DEPARTMENT OF WATER SUPPLY

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

PETITION TO AMEND INTERIM INSTREAM FLOW STANDARDS FOR HONOPOU, HUELO (PUOLUA), HANEHOI, WAIKAMOI, ALO, WAHINEPEE, PUOHOKAMOA, HAIPUAENA, PUNALAU/KOLEA, HONOMANU, NUAAILUA, PIINAAU, PALAUHULU, OHIA (WAIANU), WAIKAMILO, KUALANI, WAILUANUI, WEST WAILUAIKI, EAST WAILUAIKI, KOPILIULA, PUAKEA, WAIOHUE, PAAKEA, WAIAAKA, KAPAULA, HANAWI, and MAKAPIPI	CASE NO. CCH-MA13-01  SUPPLEMENTAL DECLARATION OF DAVID TAYLOR
--	---

**SUPPLEMENTAL DECLARATION OF DAVID TAYLOR**

I, DAVID TAYLOR, declare as follows:

1. I hereby attest that the statements made in my January 3, 2015 Declaration are accurate and true and hereby incorporate them by reference.

2. The facts recited in this Declaration are true of my own personal knowledge and if called upon, I could testify competently thereto.

3. The Waikamoi Flume is situated within the Koolau Forrest Reserve in East Maui, and stretches approximately 1.1 miles west from its intake at Haipuaena Stream.

4. The source of water within the Waikamoi Flume is stream flow from the Haipuaena Stream and various small tributary streams.

5. As with all diversions, leakage within the Waikamoi Flume is inevitable. DWS does not directly monitor or quantify the amount of water lost due to leaks, nor tracks where the water goes when it leaks. DWS has no mechanisms for quantifying water levels either at the intake or discharge sites of the Waikamoi Flume.

6. The 2012 Conservation District Use Application for Departmental Permit for the Waikamoi Flume Replacement Project (“CDUADP”) was undertaken in June of 2012. In the CDUADP, an estimate of system losses was made by way of visual inspection of the flume on two occasions by an engineer. This estimate was not based on any actual calculations of system losses between the intake and discharge portions of the flume. DWS does not have exact numbers regarding the quantity of water lost to leakage.

7. Since the 2012 CDUADP, DWS has taken various steps to repair the Waikamoi Flume. These repairs have significantly reduced the amount of system loss to an extent that any estimates regarding system loss are no longer accurate or valid.

8. DWS has kept in regular contact with the Commission on Water Resources Management (“CWRM”) regarding the status of proposed improvements of the Waikamoi Flume.



9. DWS Exhibit “B-027” is a true and correct copy of DWS Waikamoi Flume Replacement Status Report dated May 17, 2011 and sent by DWS to CWRM. DWS Exhibit “B-028” is a true and correct copy of DWS Waikamoi Flume Replacement Status Report dated March 26, 2013 and sent by DWS to CWRM. DWS Exhibit “B-029” is a true and correct copy of DWS Waikamoi Flume Replacement Status Report dated May 29, 2014 and sent by DWS to CWRM.

10. DWS’ existing Kula Agricultural Park, Piiholo, Kahakapao and Waikamoi Reservoirs are filled with water which comes directly from stream flow. Future reservoirs would also receive their water directly from stream diversions.

11. Reservoirs are not used as a means to replace stream flow as a source of water, but rather are used to mitigate problems that arise with fluctuations in stream water availability and consumer demand. During dry periods where little stream water is available and demand is comparatively high, water from the reservoirs can be used to supplement water from stream flow. These reservoirs are then replenished during wet periods when stream flow surpasses demands and consumer usage is comparatively low.

12. Water Meters used by DWS do not have a fixed or maximum usage associated with them that would allow for water consumption estimates to be based solely by relying on the number of meters. Accordingly, there is no correlation between the number of meters dedicated to a specific use and the actual amount of water consumption related to that use.

13. The various Memorandums of Understanding (“MOU”) between HC&S and DWS are informal agreements between HC&S and DWS. No other parties were involved in the drafting of these agreements. No other parties were intended as third party beneficiaries of these agreements.

14. The most recent MOU was entered into on April 13, 2000. The MOU states that “as long term agricultural water needs are reduced, a stream restoration program will be studied, developed and initiated by BWS.” The MOU makes no reference as to when agricultural needs are sufficiently reduced to trigger this section. Neither HC&S nor DWS has moved to enforce this provision in the MOU, and DWS does not presently feel that the threshold for the actions it requires has been met.

15. DWS relies on waters diverted by EMI’s ditch system to fulfill its public trust mandate of providing domestic water supply. If EMI were to cease operations, DWS would not be able to meet the demands of the Upcountry System.

16. DWS does not have the infrastructure to support the demands of the Upcountry System without the EMI system, and does not have the capital to create a new ditch system or take over the existing EMI ditch system.

I declare under penalty of law that the foregoing is true and correct of my own personal knowledge and that this Declaration was executed on January 3, 2014 in Wailuku, Maui, Hawaii.



DAVID TAYLOR, P.E.  
Director  
Department of Water Supply  
County of Maui