

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

S:\ALL\LITIGATION CASES\East Maui IIFS Remand\Opening Brief Documents\Responsive Pleading Docs\COM Supplemental Exhibit List.wpd

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, PUAKEA, WAIOHUE, PAAKEA, WAIAAKA, KAPAULA, HANAWI, and MAKAPIPI</p>	<p>CASE NO. CCH-MA13-01</p> <p>COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY'S SUPPLEMENTAL EXHIBIT LIST; EXHIBITS "B-22" - "B-29"; CERTIFICATE OF SERVICE</p>
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COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY'S
SUPPLEMENTAL EXHIBIT LIST

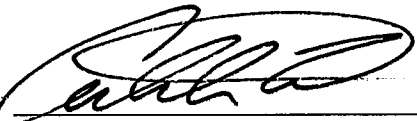
Exhibit No.	Description	References	Admitted in Evidence
B-022	Email from Issac Hall dated January 7, 2015	DWS Responsive Brief, p. 2; Declaration of Caleb P. Rowe ("Rowe Dec.") ¶ 3	
B-023	Email from Issac Hall dated January 15, 2015	DWS Responsive Brief, p. 2; Rowe Dec. ¶ 4	
B-024	Letter from Isaac Hall to Lawrence Miike dated January 15, 2015	DWS Responsive Brief, p. 2; Rowe Dec. ¶ 5	
B-025	Email from Issac Hall dated October 13, 2014	DWS Responsive Brief, p. 2; Rowe Dec. ¶ 6	
B-026	Email from Gwyn Matsuda, Secretary to Caleb P. Rowe, dated December 30, 2014.	DWS Responsive Brief, p. 2; Rowe Dec. ¶ 7	
B-027	Waikamoi Flume Replacement - Status Report dated May 17, 2011	DWS Responsive Brief pp. 5, 7; Supplemental Declaration of David Taylor "Supplemental Taylor Dec." ¶ 9	
B-028	Waikamoi Flume Replacement - Status Report No. 2 dated March 6, 2013	DWS Responsive Brief pp. 5, 7; Supplemental Taylor Dec. ¶ 9	
B-029	Waikamoi Flume Replacement - Status Report No. 3 dated May 29, 2014	DWS Responsive Brief pp. 5, 7; Supplemental Taylor Dec. ¶ 9	

In addition to the above-listed exhibits, the County reserves the right to introduce other documents at the remand hearing for purposes of impeachment or rebuttal.

The County also requests that the Hearing Officer take Judicial Notice of all exhibits introduced in the original proceeding and the complete contents of the Commission on Water Resource Management's ("CWRM's") files relative to this matter, all correspondence, and all other official filings.

DATED: Wailuku, Maui, Hawaii, January 27, 2014.

PATRICK K. WONG
Corporation Counsel
Attorneys for COUNTY OF MAUI,
DEPARTMENT OF WATER SUPPLY

By 

CALEB P. ROWE
KRISTIN K. TARNSTROM
Deputies Corporation Counsel

From: Isaac Hall <idhall@maui.net>
To: Lawrence Miike <lhmike@hawaii.rr.com>, Kathy Yoda <Kathy.S.Yoda@hawaii...>
CC: Alan Murakami <alan.murakami@nhlchi.org>, Summer Sylva <summer.sylva@nhl...>
Date: 1/7/2015 3:52 PM
Subject: East Maui IIFS

Dear Hearings Officer Miike, Kathy Yoda, Linda Chow and Parties

Maui Tomorrow has met the deadline for its Opening filings on December 30, 2014. Due in part to the rush of the holiday season, there are a number of mostly clerical and non-substantial corrections that Maui Tomorrow needs to make to these Opening filings. Maui Tomorrow plans to promptly file and serve electronically several ³Corrected/Amended² pleadings. Hard copies of Maui Tomorrow's original pleadings have not yet been filed with the CWRM.

The primary purpose of this email is to seek the permission of the Hearings Officer to excuse Maui Tomorrow from submitting the original hard copies of its Opening filings so long as Maui Tomorrow promptly files a full set of the ³Corrected/Amended² pleadings in electronic format as well as a complete set of the required number of hard copies of the Opening filings with the CWRM, as ³Corrected/ Amended². This would save the time, expense and paper that would otherwise be required in submitting the hard copies of the original Opening filings with the CWRM when these original filings will be followed with another ³Corrected/Amended² set of the Opening filings, essentially replacing the Opening filings. It also would avoid confusion.

Kindly let me know if this proposal is acceptable. Thank you for your consideration of these matters.

Sincerely,
Isaac Hall

From: Isaac Hall <idhall@maui.net>
To: Lawrence Miike <lhmiike@hawaii.rr.com>, Kathy Yoda <Kathy.S.Yoda@hawaii....>
CC: Alan Murakami <alan.murakami@nhichi.org>, "Camille K. Kalama" <camille.k...>
Date: 1/15/2015 1:28 PM
Subject: IIFS 27 Streams East Maui
Attachments: 1. Cover Letter Copy.pdf; 2. Opening Brief Copy.pdf; 3. Witness List Copy.pdf; 4. Exhibit List Copy.pdf

Dear Hearings Officer Miike, CWRM and Parties:

Attached in pdf format is a cover letter explaining the Amended and Corrected Opening Filings of Maui Tomorrow. Attached also in pdf format are some of the Amended and Corrected Opening Filings of Maui Tomorrow, as follows:

- 1) The Opening Brief
- 2) The Witness List
- 3) The Exhibit List

The Amended and Corrected Declarations and Exhibits are on cds that are being mailed to you.

Please contact me if you have any questions about any of the foregoing.
Thank you for your cooperation.

Sincerely,
Isaac Hall

ISAAC DAVIS HALL

ATTORNEY AT LAW
2087 WELLS STREET
WAILUKU, MAUI, HAWAII 96793
(808) 244-9017
FAX (808) 244-6775

January 15, 2015

Via Email

lhmiike@hawaii.rr.com
Lawrence Miike,
Hearings Officer
c/o Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96809

Re: Amended and Corrected Opening Filings of Maui Tomorrow
Case No. CCH-MA13-01
Commission on Water Resource Management
State of Hawaii

Dear Hearings Officer Miike and Parties:

Thank you for allowing Maui Tomorrow to file Amended and Corrected Opening filings. The amendments and corrections are explained below:

1. Opening Brief. Pages 33, 34 and 37 were missing from the Opening Brief. These pages have been placed in the Opening Brief. It is filed as a separate document, unattached to the Witness List and the Exhibit List.
2. Witness List. A signed Certificate of Service has been added to the Witness List. The formatting has been corrected. It is filed as a separate document, unattached to the Opening Brief List and the Exhibit List.
3. Exhibit List. This document has been signed and the Certificate of Service has been corrected and signed. The formatting has been corrected. Exhibit E-38 has been amended to reflect that three Deeds to the Hale Akua property are presented. It is filed as a separate document, unattached to the Opening Brief List and the Witness List.
4. Declarations. The originally filed Declarations had not been presented in the order in which Maui Tomorrow's witnesses are intended to appear. See the Witness List. The order of the Declarations has been revised so that it is consistent with the order in which the witnesses are now planned to appear. The contents of the Declarations remain the same, with three

exceptions. First, paragraph 4 of the Declaration of Michael D'Addario has been revised to authenticate the Deeds for the property, Exhibit E-38, A-C. Second, the Declaration of Lucienne de Naie on behalf of Sierra Club Maui has been revised, as follows: paragraph 33 has been revised to remove high lite; paragraph 42 has been revised to include "Exhibit E-59"; paragraph 59 has been revised to include "Exhibit 64 A-D; paragraph 60 was revised to supply the correct exhibit number, paragraph 67 has been revised to include the title of the 2005 USGS Report, paragraph 73 has been revised to delete "Olapa" and replace it with "Olomea" and paragraph 79 has been revised to reflect the correct photographs. Third, p. 7 of the Declaration of Irene Bowie was missing. It has been supplied.

5. Exhibits.

E-18. This Exhibit is intended to include A – J. In the originally filed Exhibits only I – J were included. Exhibit E-18 now includes the entire A – J.

E-24. The original E-24 should have been labeled E-25 and, in corrected form, is labeled as such.

E-38. Exhibit E-38 is comprised of three Deeds, A, B and C. Exhibit E-38 now includes all three Deeds, A, B and C.

E-40. The originally marked Exhibit E-40 should have been labeled Exhibit E-24 and is now labeled as such. In addition, Exhibit E-40 was intended to be a map of the complete tributary system of the Hanehoi hydrologic unit and this map is now presented as Exhibit E-40.

E-47. A cover sheet, the first page of the September 24-25, 2008 CWRM Minutes, has been added to Exhibit E-47.

E-49. The black and white original E-49 has been replaced with a color E-49.

E-51. The black and white original E-51 has been replaced with color E-51.

E-64. The original E-64 did not label A and B though it labeled C and D. Now A, B, C and D are all separately labeled.

E-67. The cover page for the referenced study has been added to Exhibit E-67.

E-70. Exhibit E-70 was inadvertently not provided in the original filing. It is provided now.

E-87. Exhibit E-87 was inadvertently not provided in the original filing. It is provided now.

E-90. Exhibit E-90 was presented in full in the original filing but out of order. It is presented in full, order, now.

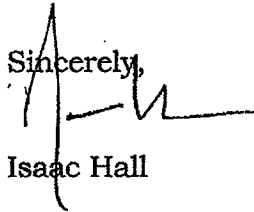
E-101. Exhibit E-101 contained the first page of the Exhibit. The full Exhibit, pp. 100-110, is presented now.

E-102. Exhibit E-102 only contained the first page of the Exhibit. The full Exhibit, pp. 111-132, is presented now.

E-103. Exhibit E-103 only contained the first page of the Exhibit. The full Exhibit, pp. 88-99, is presented now.

With this letter, Maui Tomorrow, submits the Amended and Corrected Opening filings for the Opening Brief, Witness List and Exhibit List electronically to the parties and to the CWRM with the Declarations and Exhibits, as Amended and Corrected, sent by CDs to the parties and to the CWRM. Maui Tomorrow will submit the original and three hard copies of the Amended and Corrected Opening filings to the CWRM. We thank you all for your patience and cooperation. Please feel free to call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'Isaac Hall', written over a vertical line that extends from the word 'Sincerely,' above.

Isaac Hall

IH/gr
Cc: Parties
CWRM
Clients

Kristin Tarnstrom - Maui Tomorrow Request For Documents from HC&S

From: "" <idhall@maui.net>
To: "David Schulmeister" <dschulmeister@cales.com>
Date: 10/13/2014 7:17 AM
Subject: Maui Tomorrow Request For Documents from HC&S
CC: <alan.murakami@nhlchi.org>, <ashley.obrey@nhlchi.org>, <summer.sylva@nhl...

Dear David

I think the best way I can respond to your email dated October 10, 2014, to demonstrate that you and your clients have in fact been dragging your feet on the production of documents, is to compare the way you and your clients have handled Maui Tomorrow's Request for Production of Documents to EMI/HC&S with the manner in which the County of Maui handled a similar Request for Production for Documents by Maui Tomorrow in this case.

1. Maui Tomorrow served lengthy Requests for Production of Documents on both EMI/HC&S and the County of Maui on August 29, 2014. There were fifty-five (55) requests to EMI/HC&S. There were forty-five (45) requests to the County of Maui.

2. Both sets of Requests were authored by me. You claim that the requests are "redundant and overlapping", "broadly worded" and "vague"; however, true or not, this did not prevent the County of Maui from timely producing the documents requested.

3. I participated in a "meet and confer" session with you regarding the Requests for Production of Na Moku and Maui Tomorrow beginning at 2:30 pm on Tuesday, September 16, 2014. During this conference, you committed to producing the requested documents by Friday, September 26, 2014. When I suggested that Maui Tomorrow needed some more documents you asked that I submit an additional written request which I did on September 19, 2014.

4. The County of Maui needed additional time in which to assemble all of the documents to be produced. Counsel for the County of Maui and I agreed in writing to an extension ultimately until September 22, 2014 at which time the County produced all of the documents responsive to Maui Tomorrow's request.

You and your clients did not produce your documents on the date you agreed to - Friday, September 26, 2014. I had to contact you to find out what had happened to your clients' production. You have sporadically, over time, produced documents to only a few of the numbered requests. I have asked you in writing for the date when your production of documents will be complete and you have not given me a date either verbally or in writing.

You suggested, on two occasions, that because you have not heard further from me on several of your productions, that they were somehow complete or satisfactory. This can hardly be inferred reasonably. You never asked me verbally or in writing whether I was satisfied with any one of your sequential productions. You and your clients have been dribbling your production of documents, over time, with the repeated representation that further documents would soon be forthcoming. Maui Tomorrow was waiting for these further productions before agreeing or disagreeing that any singular production by you was satisfactory or complete. For the record, if you had ever asked, Maui Tomorrow would have informed you, in both of your recited instances (Request Nos. 1 – 4), that it did not regard the production as complete or satisfactory.

In addition, for the record, Maui Tomorrow's Request Nos. 5 – 7 cannot be completely answered through IIFS monitoring reports. You have provided no documents indicating how the 70% - 30% split was calculated as requested in Maui Tomorrow's Request Nos. 10 – 11, or whether this split is based on land ownership or water arising on these lands. With respect to Maui Tomorrow's Request Nos. 14 – 16, 21 – 34 and 37 – 54, a simple reading of all of these requests shows that you have only responded to some but not all of them. With respect to Maui Tomorrow's Request Nos. 18 – 19, Maui Tomorrow's requests were broader than Na Moku's and call for more information and, as such, cannot be satisfied through your production to Na Moku. Maui Tomorrow disagrees that records regarding the generation of electricity at the Puunene Mill are beyond the scope of these proceedings. You have not even bothered to address the remainder of Maui Tomorrow's numbered requests.

5. The County has produced as many, if not more, documents in number than have been produced by EMI/HC&S. In fact, many of the documents produced by EMI/HC&S to date have been annual reports of data which, although numerous, are probably assembled in a single file or location and were, therefore, not particularly burdensome on EMI/HC&S to produce.

6. When the County of Maui produced its documents, the production was with a cover letter, addressing its production according to the number of the request used by Maui Tomorrow. For each numbered request of Maui Tomorrow, the County letter indicates the Bate Stamped Numbers for the documents that are responsive to the Request. If the County has no documents responsive to the request, this fact is noted.

You have never provided me with a letter specifically showing how you have responded to each of Maui Tomorrow's requests – as the County did. Your email dated October 10, 2014 does not serve this purpose. Maui Tomorrow still has no response from HC&S on each of its requests. The County was able to do this. There is no reason why EMI/HC&S cannot do this.

7. In its actual response, the County of Maui did, where it deemed it appropriate, group numbered responses for a joint response where the subject matters allowed. Maui Tomorrow does not take issue with these grouped responses.

You have simply complained about purported "redundant and overlapping" requests. The County was able to deal with them (to the extent that they were ever truly problematic) in an appropriate way. Likewise, this alleged issue should not have prevented a full response by EMI/HC&S by now.

8. The County produced its documents on September 22, 2014.

It is a full three (3) weeks later and only two (2) weeks before opening pleadings are now due. You and your clients have not yet produced the documents requested by Maui Tomorrow. You and your clients have not agreed to a date upon which all of these documents will be produced. You and your clients have not provided any response to the request of Maui Tomorrow that could justify refusing to provide any documents in response to more than ninety percent (90%) of the requests served on you on August 29, 2014, a month and a half ago.

Even though the County of Maui is in some respects an adversary, I would not hesitate to say that it has acted "in the spirit of cooperation." When I compare your actions with those of the County of Maui, I do not hesitate to say that you and your clients are unreasonably dragging your feet on the requests of Maui Tomorrow.

Your suggestion that you are ready and willing to discuss your production would normally be welcome, however given this history and the looming deadlines on November 4, 2014, your offer is rather untimely. You are prejudicing the ability of Maui Tomorrow to prepare its opening pleadings.

As such, I respectfully renew Maui Tomorrow's request for the help of the Hearings Officer in assuring a prompt production by EMI/HC&S.

Sincerely,

Isaac Hall

--- dschulmeister@caedes.com wrote:

From: David Schulmeister <dschulmeister@caedes.com>
To: Isaac Hall <idhall@maui.net>
CC: "alan.murakami@nhlchi.org" <alan.murakami@nhlchi.org>, "Ashley Obrey (ashley.obrey@nhlchi.org)" <ashley.obrey@nhlchi.org>, "Summer Sylva (summer.sylva@nhlchi.org)" <summer.sylva@nhlchi.org>, "linda.l.chow@hawaii.gov" <linda.l.chow@hawaii.gov>, larry miike <lhmiike@hawaii.rr.com>, "William Wynhoff (Bill.J.Wynhoff@hawaii.gov)" <Bill.J.Wynhoff@hawaii.gov>, "Robert Thomas (RHT@hawaiilawyer.com)" <RHT@hawaiilawyer.com>, Elijah Yip <eyip@caedes.com>, Caleb Rowe <Caleb.Rowe@co.maui.hi.us>, "camille.kalama@nhlchi.org" <camille.kalama@nhlchi.org>, "Kathy.S.Yoda@hawaii.gov" <Kathy.S.Yoda@hawaii.gov>, Kristin Tarnstrom <Kristin.Tarnstrom@co.maui.hi.us>, Denise Bagasol <denise.bagasol@nhlchi.org>
Subject: Maui Tomorrow Request For Documents from HC&S
Date: Fri, 10 Oct 2014 16:22:31 -1000

Isaac:

The purpose of this email is to set forth the current status of HC&S' responses to the Requests for Documents from Maui Tomorrow, copies of which requests, dated August 29, 2014 and September 19, 2014, are attached.

Preliminarily, HC&S takes exception to the characterization in your email to Dr. Miike that HC&S has been "dragging its feet" in responding to the requests. The first request included 56 separate requests, not including subparts, many of which are redundant and overlapping with other requests of MT and the 17 requests of Na Moku in which MT joined. The personnel at HC&S and EMI collecting responsive documents have full time jobs running the plantation and EMI. It was reasonable to work on Na Moku's requests first, since they were received first, and then address Maui Tomorrow's next in logical groupings of subject matter. Maui Tomorrow's requests, moreover, are extremely broadly worded and, in many cases, vague. HC&S has had no choice but to filter them in consideration of what would realistically be relevant and useful given the issues in this case. With that in mind, HC&S has voluntarily done the following to date in response to the Maui Tomorrow Requests.

MT requests nos. 1, 2 & 3 asked, essentially, for the leases, licenses, etc. and permits relating to the EMI system to the extent it collects water from State lands. In our meet and confer, you said you did not need the 1938 Agreement. We have produced 97 pages of documents including two agreements predating Annexation, and the most recent leases for each of the four license areas. I explained that there are some older leases and licenses, but they are fragile and difficult to scan and copy and since you have the earliest and the most recent ones, I thought that should suffice for the purposes of this proceeding. I have not heard anything further from you on this.

MT request no. 4 asked for records regarding amounts of water diverted. We have produced 237 pages in response to this request including annual water license yield reports to the BLNR since 1988, a sample of the USGS reporting to BLNR from the preceding period (when USGS did the reports), monthly surface water usage reports to CWRM, and a summary of monthly EMI deliveries at Maliko Gulch since 1925. I also emailed you a USGS link with instructions regarding how to access historical data maintained by USGS going back to 1961 that is available online. I also sent you a schematic diagram showing the interrelationship of all of the ditches, internally and externally, to gauging stations. I also offered to speak with you to answer any questions you had on the gauging once you had a chance to review these documents. I have not heard from you in response to this offer.

MT requests 5, 6 and 7 relate to releases below diversions. This overlaps with Na Moku's requests relating to monitoring of the amended IIFS, to which HC&S has responded and copied you with the produced documents.

Requests 10 and 11 requested documents pertaining to the 70%-30% estimated split between water originating on State versus privately owned land. HC&S produced 5 pages of calculations which explain how the ratio was determined and a map of the Ditch system with the land color coded by ownership.

Request 12 requested documents pertaining to ditch capacities. These are shown on the ditch system schematic provided among the documents produced in response to MT Request no. 4.

Requests 14 – 16, 21-34, and 37-54 all relate in some shape, manner or form to EMI's deliveries of water to the Department of Water Supply for the County of Maui ("DWS"). HC&S produced 116 pages of documents consisting mostly of agreements with DWS and amendments thereto. To the extent the requests also seek quantities of water delivered and rates charged, HC&S receives monthly invoices from DWS with the metered deliveries by delivery point and the calculated rate, a sample of which is attached to this email. HC&S will scan and provide you with copies going back for ten years. This should give you enough information on quantities delivered and charged for by delivery point for the purpose of this

proceeding. To the extent these requests seek additional information, I am still awaiting a further response, pending searches of old files.

Requests 18 and 19 pertain to HC&S wells and ground water. Documents responsive to these requests were included in the copies of documents provided to Na Moku, which included maps showing the locations of all HC&S wells and pump reports for each well.

There are a few items I am still working on and expect to respond to shortly. I will note that Request 58, however, pertaining to records relating to Clean Air Act issues at the Puunene Power Plant, seems entirely beyond the scope of this proceeding and will not be voluntarily produced. And Request 60, for A&B Quarterly Reports for the last 10 years, are available from multiple sources on line since A&B is a publicly traded company who files its reports regularly with the SEC. It would be just as easy for you as for me to download these for the use of Maui Tomorrow in this proceeding.

In closing, I would like to emphasize that HC&S was able to amicably resolve with the Petitioners in the Na Wai Eha case all of their requests for documents and information without having to involve Dr. Miike. One of those Petitioners was your client, Maui Tomorrow. It is also my own personal philosophy that these issues are more effectively resolved cooperatively, rather than litigiously. I am ready, willing and able to discuss any of these responses with you further if you feel so inclined.

Aloha,

David Schulmeister

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you think you have received this communication in error, please notify us immediately by reply e-mail or by telephone

EXHIBIT "B-25"

Page 6 of 7

(808)521-9200, and delete the original message.

From: Gwyn Matsuda
To: Alan Murakami; Ashley Obrey; Camille Kalama; David Schulmeister; Eli...
CC: Caleb Rowe; Kristin Tarnstrom; Linda Kimura; Lisa Kahuhu
Date: 12/30/2014 12:08 PM
Subject: CWRM Case No. CCH-MA13-01
Attachments: 2014-12-30_COM Opening Statement & Brief.pdf

All-

On behalf of the County of Maui, I will be sending several emails which will include the following as attachments:

- Opening Statement & Opening Brief
- Declaration of Craig Lekven
- Declaration of David Taylor
- Declaration of Michele McLean
- Declaration of Paul Brewbaker
- Witness List
- Exhibit List
- Exhibits B-001 through B-021

Please confirm receipt of the above documents via email once you have received all documents. Linda Kimura is out of the office today so please contact me should you have any questions. You may contact Linda Kimura should any questions arise tomorrow.

Deputy Corporation Counsel Caleb Rowe will be out of the office today, returning on 1/5/15.

Thank you for your attention to this matter.

Gwyn Matsuda
Secretary to
Caleb P. Rowe, Deputy Corporation Counsel
Telephone No. (808) 270-7741

ALAN M. ARAKAWA
Mayor



DAVID TAYLOR, P.E.
Director

PAUL J. MEYER
Deputy Director

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauliwater.org

May 17, 2011

Mr. William M. Tam, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tam:

**SUBJECT: WAIKAMOI FLUME REPLACEMENT – STATUS REPORT
KOOLAU FOREST RESERVE, EAST MAUI, HAWAII**

In response to the Commission on Water Resource Management's (CWRM) letter dated May 25, 2010 regarding interim instream flow standards, the County of Maui, Department of Water Supply (DWS) is presenting the following progress timeline on the above referenced project.

- August 2010 - KAI Hawai'i was awarded the design contract and Notice to Proceed on August 27, 2010;
- October 2010 - Early Consultation Package requesting preliminary comments relating to the Draft Environmental Assessment (EA) prepared by Munekiyo & Hiraga, Inc. was sent to participatory agencies;
- November 2010 - Flora and Fauna Survey and Assessment, prepared by Robert W. Hobdy, Environmental Consultant, was completed;
- January 2011 - Field Survey of the Waikamoi Flume (approximately 30-ft x 5800-ft) was completed;
- February 2011 - Working Topographic Drawings were developed for design and construction plans;
- March 2011 - Correspondence letter and site assessment report was sent to the

"By Water All Things Find Life"
EXHIBIT "B-27"

Mr. William M. Tam
Subject: Waikamoi Flume Replacement
May 17, 2011
Page 2

US Department of the Army (DA) requesting a "Jurisdictional Determination" on the stream, gully, and gulch crossings that the existing (and proposed) Flume trusses encounter; Preliminary design completed for several flume support systems. The design options are to be included in the Draft Environmental Assessment text.

- April 2011 - Received Jurisdictional Determination from the DA that Haipuaena Stream, Puohokamoa Stream, and Waikamoi Stream, have been determined to be waters of the US under the jurisdiction of the US Army Corps of Engineers (Corps). An aquatic resources survey and determination of the ordinary high water mark (OHWM) are required by the Corps in order to complete jurisdictional determination process for project corridor and to determine applicable Section 404 and related permitting requirements.
Location of all bridge foundations was established.
- May 2011 - Completed site visit with contractor to review proposed design of flume. The purpose of the visit was to get feedback from the contractor regarding the constructability of the proposed design, and to get an opinion as to how much remediation work will be necessary for the access road in order for a contractor to safely traverse the road for the delivery of equipment and materials. An aquatic survey is presently being conducted by Robert W. Hobdy.
Site visit by project biologist to determine Ordinary High Water marks at 13 stream locations. This information is critical for the Department of Army in their 404 determination.
- May 2011 Cultural Impact Assessment and Archaeological Inventory Survey reports are also in the process of being completed for integration into the Chapter 343, EA document.

Below, are the anticipated milestones for the progress of this complex reconstruction-replacement project:

- June 2011 to mid-2012 - Completion of Chapter 343, HRS EA processing
- June 2011 to August 2011 - Continued coordination with DA to determine Section 404

Mr. William M. Tam
Subject: Waikamoi Flume Replacement
May 17, 2011
Page 3

and related permitting requirements for project corridor.

- August 2011 - Fifty Percent (50%) construction plans are to be complete and submitted to DWS for review and comment.
- August 2011 to late-2012 - Processing of applicable DA Section 404 permit, Department of Health Section 401 Water Quality Certification, and Hawaii Coastal Zone Management (CZM) Consistency Determination applications.
- Mid 2012 to late 2012 - Processing of Conservation District Use Application (CDUA) with the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL).
- January 2013 - Anticipated Construction Bid Advertisement.
- March 2013 - Anticipated start of Reconstruction/Replacement of the existing flume.
- December 2014 - Anticipated completion of new flume.

Currently, the critical path for this complex project appears to be dependent on securing confirmation from the DA on any Section 404 and other related State permits that may be triggered by the proposed flume replacement project. Once confirmation has been obtained from the U. S. Army Corps of Engineers, DWS will be proceeding, as necessary, with the preparation and processing of applications addressing any applicable Section 404 DA Permit, Section 401 Water Quality Certification and CZM Consistency Determination requirements for the project. .

If you have any questions or require any additional information, please call Herb Chang or Thomas Ochwat of our Engineering Division at 270-7835.

Sincerely,



David Taylor, P.E.
Director

TO,

March 6, 2013

Mr. William M. Tam, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tam:

**SUBJECT: WAIKAMOI FLUME REPLACEMENT – STATUS REPORT NO. 2
KOOLAU FOREST RESERVE, EAST MAUI, HAWAII**

As a follow-up to the Commission on Water Resource Management's (CWRM) reporting stipulation noted in the letter dated May 25, 2010 regarding interim instream flow standards, the County of Maui, Department of Water Supply (DWS) is presenting the following progress report on the above referenced project.

- Bid Opening for the construction of the flume replacement was October 18, 2012 with Global Specialties, Inc. as the low bidder. The low bid came in at \$11,178,355.00.
- The Notice to Proceed was issued on December 24, 2012 with a Contract Time of 24-months. (see attached construction schedule)
- As of this date, the contractor has begun the fabrication process, mobilization and access road repair/improvements.

The Department of Water Supply (DWS) would like to also inform CWRM of the following permits:

- Final Environment Assessment (FEA): The FES was submitted to the OEQC on October 9, 2012 with a determination of "Findings of No Significant Impact".
- Conservation District Use Application (CDUA): The CDUA has been approved by the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL).
- The US Department of the Army's (DA) Section 401 & 404: Not required due to "Jurisdictional Determination" was withdrawn from the streams within the project site,

Mr. William M. Tam
Subject: Waikamoi Flume Replacement
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thus not requiring the processing of a Section 401 and 404 permits.

- Archaeological Inventory Survey (AIS), Archaeological Monitoring Plan and Archaeological Preservation Plan have been submitted to SHPD for their review and acceptance.

There are no other outstanding permits to date that this project requires.

If you have any questions or require any additional information, please call Jeffrey Pearson or Thomas Ochwat of our Engineering Division at 270-7835.

Sincerely,

David Taylor, P.E.
Director

TO/to

May 29, 2014

Mr. William M. Tam, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tam:

**SUBJECT: WAIKAMOI FLUME REPLACEMENT – STATUS REPORT NO. 3
KOOLAU FOREST RESERVE, EAST MAUI, HAWAII**

As a follow-up to the Commission on Water Resource Management's (CWRM) reporting stipulation noted in the letter dated May 25, 2010 regarding interim instream flow standards, the County of Maui, Department of Water Supply (DWS) is presenting the following annual progress report on the above referenced project. As of May 15, 2014:

- The existing redwood flume has been demolished and removed up to the construction stationing of approximately Station 46+00 (4,600 linear feet of a total of 5,750 feet)
- The new aluminum replacement flume is currently assembled up to the Construction Station 37+00 (3,700 linear feet of a total 5,750 linear feet).
- The newly constructed flume is in service and conveys raw water from several tributary laterals intakes and bypass flows from the Haipuaena Stream. When possible, flows from the intake at Haipuaena Stream by-pass the construction area, and are put back into the newly constructed flume.

Based on the Notice to Proceed, and revised Contract Time of two years-three months, the project is proceeding slightly ahead of schedule.

Mr. William M. Tam
Subject: Waikamoi Flume Replacement
May 29, 2014
Page 2

If you have any questions or require any additional information, please call Jeffrey Pearson or Thomas Ochwat of our Engineering Division at 270-7835.

Sincerely,

David Taylor, P.E.
Director

Cc: J. Oana, Corp. Council COM
Prj. file

TO/to

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, WAIQHUE, PAAKEA, WAIATAKA, KAPAULA, HANAWI, and MAKAPIPI	CASE NO. CCH-MA13-01 CERTIFICATE OF SERVICE
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing document was duly served, via email to the following, with hard copies to follow via certified mail, pursuant to the Minute Order, upon the following individuals as follows:

COMMISSION ON WATER RESOURCE
MANAGEMENT
P.O. Box 621
Honolulu, HI 96809

(via U.S. Mail and
email to:kathy.s.yoda@hawaii.gov)

LAWRENCE MIIKE
c/o the Commission on Water
Resource Management
P.O. Box 621
Honolulu, HI 96809
Hearings Officer

(via email to: lhmiike@hawaii.rr.com)

ALAN T. MURAKAMI, ESQ.
CAMILLE K. KALAMA, ESQ.
ASHLEY K. OBREY, ESQ.
SUMMER L. SYLVA, ESQ.
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1205
Honolulu, HI 96813
Attorneys for NA MOKU AUPUNI O KO'OLAU HUI

(via email to: alan.murakami@nhlchi.org)
(via email to: camille.kalama@nhlchi.org)
(via email to: ashley.obrey@nhlchi.org)
(via email to: summer.sylva@nhlchi.org)

LINDA L.W. CHOW, ESQ.
Deputy Attorney General
Department of the Attorney General
State of Hawai'i
465 South King Street, Room 300
Honolulu, HI 96813
Attorney for the COMMISSION ON
WATER RESOURCE MANAGEMENT

(via email to: linda.l.chow@hawaii.gov)

DAVID SCHULMEISTER, ESQ.
ELIJAH YIP, ESQ.
Cades Schutte, LLP
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
Attorneys for
ALEXANDER & BALDWIN, INC. and
EAST MAUI IRRIGATION COMPANY, LTD.

(via email to: dschulmeister@cades.com)
(via email to: eyip@cades.com)

ROBERT H. THOMAS, ESQ.
Damon Key Leong Kupchak Hastert
1003 Bishop Street
Pauahi Tower, Suite 1600
Honolulu, HI 96813
Attorney for HAWAII FARM BUREAU FEDERATION

(via email to: rht@hawaiilawyer.com)

ISAAC D. HALL, ESQ.
2087 Wells Street
Wailuku, HI 96793
Attorney for MAUI TOMORROW


(via email to: idhall@maui.net)

JEFFREY C. PAISNER
403 West 49th Street, #2
New York, NY 10019

(via email to: jeffreypaisner@mac.com)

DATED: Wailuku, Maui, Hawaii, January 27, 2015.

PATRICK K. WONG
Corporation Counsel
Attorneys for COUNTY OF MAUI,
DEPARTMENT OF WATER SUPPLY

By 
CALEB P. ROWE
KRISTIN K. TARNSTROM
Deputies Corporation Counsel