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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, PUAKAA, WAIOHUE, PAAKEA, WAIAAKA, KAPAULA, HANAWI, and MAKAPIPI STREAMS	CASE NO. CCH-MA13-01 COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY'S PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW; CERTIFICATE OF SERVICE

COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY'S
PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

COMES NOW, County of Maui Department of Water Supply, by and through its attorneys PATRICK K. WONG, Corporation Counsel, and CALEB P. ROWE and KRISTIN K. TARNSTROM, Deputies Corporation Counsel, and hereby submits the following Findings of

Fact, Conclusions of Law, and Decision and Order. The County of Maui Department of Water Supply has only compiled Findings of Fact and Conclusions of Law directly relevant to its interests, and they are not intended to be complete or exclusive.

FINDINGS OF FACT

1. Any conclusions of law erroneously designated as findings of fact shall be deemed to be conclusions of law; any findings of fact erroneously designated as conclusions of law shall be deemed to be findings of fact.

2. Petitioners Na Moku Aupuni O Ko`olau Hui (**"Na Moku"**), Maui Tomorrow Foundation (**"MT"**), Hawaiian Commercial and Sugar Company ("**HC&S**"), Jeffrey Paisner ("**Paisner**"), Hawaii Farm Bureau Federation ("**HFBF"**) and the County of Maui Department of Water Supply ("**MDWS**") participated in this matter. Collectively they shall be referred to as the **"Parties."**

A. Procedural History

3. These findings of fact, conclusions of law, decision and order are the final adjudication by the Commission on Water Resource Management (the "**CWRM**") of the "Petition to Amend Interim Instream Flow Standards for Honopou, Huelo (Puolua), Hanehoi, Waikamoi, Alo, Wahinepee, Puohokamoa, Haipuaena, Punalau/Kolea, Honomanu, Nuaailua, Pi`ina`au, Palauhulu, Ohia (Waianu), Waikamilo, Kualani, Wailuanui, West Wailuaiki, East Wailuaiki, Kopiliula, Puakaa, Waiohue, Paakea, Waiaaka, Kapaula, Hanawi, and Makapipi streams" filed by Na Moku, on behalf of their members and other native Hawaiian residents of East Maui on May 24, 2001.

4. An agreement was reached on July 30, 2001 between Na Moku and CWRM to initially focus on eight of the 27 streams, namely, Honopou, Hanehoi and Puolua, Waikamilo, Kualani, Pi`ina`au, Wailuanui, Waikani and Palauhulu.

5. CWRM held public meetings to consider the initial 8 petitions on September 24-25, 2008, and ultimately voted to accept the staff's recommendations for these eight streams.

6. On May 25, 2010, CWRM voted on the IIFS for the remaining 19 petitions. CWRM voted to restore flow to 6 of the streams, and to maintain the status quo for the remaining 13 streams.

7. As part of the May 25, 2010 decision, CWRM also required MDWS to make various repairs to the Waikamoi Flume instructing MDWS to "initiate rehabilitation and construction on the Waikamoi Flume within three (3) years."

8. At the conclusion of the May 25, 2010 CWRM meeting, counsel for Na Moku made an oral request for a contested case hearing on the 13 streams which had been left at status quo. Na Moku followed up with a written Petition for a Contested Case Hearing on June 4, 2010.

9. CWRM met on October 18, 2010 to consider Na Moku's request for a contested case hearing and denied Na Moku's petition. A timely appeal of CWRM's decision was filed on November 17, 2010.

10. On November 30, 2012, the Hawaii Intermediate Court of Appeals reversed CWRM's decision and remanded the case to CWRM for a contested case hearing on the 13 streams in question. See In re Petition to Amend Instream Flow Standards for Waikamoi, 128 Hawaii 497 (2012).

11. On remand, CWRM authorized its chairperson to appoint a Hearings Officer for the contested case hearing.

12. Minute Order 7 called for briefing and oral argument on the Hearings Officer's suggestion that the 27 petitions be consolidated into a single Contested Case Hearing. After this briefing and oral argument, CWRM voted in favor of expanding the scope of the contested case hearing to include all 27 streams in Na Moku's original petitions on August 20, 2014.

B. MDWS Services

13. MDWS is the sole municipal water provider for the County of Maui. The MDWS Upcountry Water System serves the communities of Kula, Haiku, Makawao, Pukalani, Haliimaile, Waiakoa, Keokea, Waiohuli, Ulupalakua, Kanaio, Olinda, Omaopio, Kula Kai and Pulehu. Declaration of David Taylor ("Taylor Dec.") ¶ 6; Transcript V. 7, p. 41:11 - 15.

14. MDWS's water rates are uniform throughout the County. Some areas, however, are more expensive to deliver to, such as the upcountry service area, where pumping is required. The amount charged is directly related to the costs of delivery, and MDWS does not make a profit off of its distribution of water. Taylor Dec. ¶ 18; Transcript V. 7, pp. 39:25 – 40:11; V. 8, p. 52:7 - 17.

15. The population being served by the MDWS upcountry system is projected at 35,251 people, and includes several businesses, churches, Kamehameha Schools, Hawaiian Homelands and government facilities. Declaration of Michele McLean ("McLean Dec.") ¶ 5; Ex. "B-1"; Taylor Dec. ¶ 6; Transcript, V. 7, pp. 41:16 – 42:2.

16. Of the 31 Na Moku members who offered either written or verbal testimony regarding protected instream uses, 28 have admitted either by way of testimony or by way of stipulation that they use MDWS water in their homes for domestic purposes. The three

remaining witnesses live off grid and rely directly on stream flow for water for domestic use. Ex. "B-30" – "B-45"; Transcript V. 3, p. 13:1 - 10; V. 4, p. 243:10 - 20; V.5, pp. 96:1 - 14, 132:1 - 15, 219:23 – 220:13, 240:8 - 15, 259:10; V. 6, pp. 57:20 – 58:17, 105:3 - 24, 133:9 - 25; V. 10, pp. 62:20 – 63:7; Stipulation to Waive Cross Examination of Certain Witnesses (parts 1 & 2).

17. Consistent access to clean water is important for public health and safety (including fire protection). For purposes of cleaning and consumption, treated water, such as that provided by MDWS is preferable from a public health standpoint than water in its natural state. Transcript, V. 2, pp. 191:2 – 193:6; Ex. "B-16."

18. The County has been in an ongoing process to make repairs to the Waikamoi Flume since being ordered to do so by CWRM in 2010. The County has provided a series of letters to CWRM informing it of the status of repairs, and recently completed reconstruction. Exs. "B-27" – "B-29"; Ex. "B- 54"; Supplemental Declaration of David Taylor ("Supp. Taylor Dec.) ¶¶ 5-9; Transcript, V.1, pp. 199:21 – 202:10; V. 7, pp. 55:5 – 59:7, 93:24 – 94:7.

19. In addition, MDWS has also been making several other improvements to its infrastructure to minimize losses and increase cost efficiency. These include relining of the Waikamoi reservoirs, lining of the basin at the Olinda plant, and pump improvements at the Kamole-Weir Water Treatment Facility. Transcript, V. 7, pp. 54:12 – 55:4.

C. <u>MDWS Usage</u>

20. Approximately 80% of the water delivered by MDWS within the upcountry system comes from surface water sources, either directly or by way of various raw water storage facilities. Taylor Dec. ¶¶ 7 – 8, 18; Ex. "B-2," Table 2; Transcript, V. 7, p. 44:12 - 20.

21. Approximately 60% of MDWS water in the upcountry system is used domestically. The remaining 40% is used for agricultural purposes. Taylor Dec. ¶ 17; Ex. "B-2," p. 1-2; Transcript, V. 7, pp. 44:21 – 47:3.

22. There are a total of three MDWS water treatment facilities that take water from the streams at issue in this contested case hearing: the Kamole-Weir Water Treatment Facility, the Piiholo Water Treatment Facility, and the Olinda Water Treatment Facility. Taylor Dec. ¶ 7; Transcript, V. 7, pp. 43:22 – 44:5.

23. MDWS's Kamole-Weir Water Treatment Facility ("Kamole Facility") relies on surface water from the Waialua Ditch, which diverts from the Honopou, Hanehoi, Puolua, Alo, Waikamoi, Puohokamoa – West, Middle and East branches, Haipuaena, Kolea – East and Punalau, Honomanu, Nuaailua, Piinaau, Palauhulu, East and West Wailuanui, West Wailuaiki, East Wailuaiki, Kopiliula, Puakaa, Waiohue, Paakea, Waiaaka, Kapaula, Hanawi and Makapipi, East and West streams. The Kamole Facility's average daily production is 3.6 million gallons per day ("MGD"), but can process 6 MGD running at maximum capacity. Taylor Dec. ¶ 9; Ex. "B-3," p. 24; Transcript, V. 7, p. 47:4 – 15.

24. MDWS's Piiholo Water Treatment Facility ("Piiholo Facility") diverts water from Waikamoi, Puohokamoa – West, Middle and East branches, Haipuaena and Honomanu streams into the Piiholo Reservoir, which has 50 million gallons of raw water storage capacity. The Piiholo Facility's average daily production is 2.5 MGD, but can process up to 5 MGD at maximum capacity. Taylor Dec. ¶ 10; Ex. "B-3," p. 25; Transcript, V. 7, p. 47:16 – 20.

25. MDWS's Olinda/Upper Kula Water Treatment Facility ("Olinda Facility") diverts water from the Waikamoi, Puohokamoa – West, Middle and East branches and Haipuaena streams. Water from this facility is stored in the 30 million gallon Waikamoi Reservoirs and the

100 million gallon Kahakapao Reservoir. The Olinda Facility's average daily production is 1.6 MGD, with a maximum capacity of 2 MGD. Taylor Dec. ¶ 11; Ex. "B-3," p. 25; Transcript, V. 7, p. 47:21 – 24.

26. Because all the streams that service the Olinda/Upper Kula Facility and the Piiholo Facility also divert into the Waialua Ditch, release of water for the purposes of setting IIFS to those streams, specifically Waikamoi, Puohokamoa, Haipuaena and Honomanu, can be met by limiting diversions from those streams into the Waialua Ditch. Taylor Dec. ¶ 9-11; Ex. "B-3", p. 24-25; Transcript, V. 7, p. 144:2 – 21.

27. MDWS also provides non-potable water to the Kula Agricultural Park ("KAP") through diversions from the same streams which service the Kamole-Weir Water Treatment Facility. Water there is stored in two storage reservoirs with a total capacity of 5.4 million gallons. The KAP consists of 31 farm lots which range in size from 7 to 29 acres, and which are owned by the County of Maui. The individual lots are metered and billed by MDWS. Taylor Dec. ¶ 13; Ex. "B-4."

28. MDWS receives its surface water under a series of contracts with East Maui Irrigation, Inc. ("EMI"). MDWS relies on EMI to deliver this water via the Wailoa Ditch and to maintain MDWS's diversion structures. If EMI were no longer able to operate, MDWS's ability to serve the Upcountry System would be immediately impacted. Taylor Dec. ¶ 15; Transcript, V.7, pp. 162:9 – 169:5; V. 11, pp. 195:7 – 196:9.

29. The original contract between MDWS and EMI was entered into in 1961. This "Master Water Agreement" was replaced by a 1973 "Memorandum of Understanding" as the primary contract between EMI and MDWS, and had a term of 20 years. Since expiration, there have been a total of 8 extensions. After the lapse of the most recent extension, EMI has

continued to provide water to MDWS through a "Memorandum of Understanding Concerning Settlement of Water and Related Issues" dated April 13, 2000 (**"MOU"**). Taylor Dec. ¶ 15; Exs. "B-5" – "B-15."

30. The MOU provides that MDWS will receive 12 MGD with an option for an additional 4 MGD. During periods of low flow, the County will receive a minimum allotment of 8.2 MGD and HC&S will also receive 8.2 MGD. If these minimum amounts cannot be delivered, the MOU states that MDWS and HC&S will receive prorated shares of the water available. Taylor Dec. ¶ 15; Ex. "B-15"; Transcript, V. 7, pp. 53:8 – 54:11.

31. The MDWS Upcountry System has a series of basal aquifer wells. The Haiku Well can produce 0.5 MGD, the Pookela Well can produce 1.3 MGD, and the two Kaupakalua Wells can produce 1.5 MGD for a total of 3.3 MGD capacity. In times of emergency, MDWS may also draw 1.5 MGD from the Hamakuapoko wells. This water, however, is only available during times of emergency pursuant to Maui County Code ("MCC") Section 14.01.050, due to concerns over legacy pesticides from former pineapple production. Taylor Dec. ¶ 16; Ex. "B-3" p. 25; Ex. "B-16" p. 8, table 8; Transcript, V. 7, pp. 43:22 – 44:5, 60:20 – 62:14; V. 8, pp. 11:1 – 12:25, 51:12 – 52:1.

32. With these combined sources, the production capacity for the Upcountry System is 17.9 MGD. However, due to occasional maintenance requirements and statutory limitations on the use of the Hamakuapoko Wells, reliable capacity stands at 9.1 MGD. Taylor Dec. ¶ 16; Ex. "B-16" p. 9, table 9; Transcript, V. 8, pp. 68:16 - 69:6.

33. MDWS studies of customer usage based on meter readings between 2004 and 2013 have quantified the average amount of water actually used by MDWS at 7.9 MGD. However, water use varied widely throughout the year with factors such as weather and visitor

population affecting demand, going as low as 6 MGD and as high as 10 MGD. Ex. "B-2"; Ex. "B-16", p. 3, table 3; Ex. "B-21," p. 14, fig. 1.

D. MDWS Future Water Needs

34. By 2030 the population of the area served by the Upcountry System is anticipated to grow by about 8,424 people, to a total of 43,675. McLean Dec. ¶ 5; Ex. "B-1"; Ex. "B-18"; Ex. "B-58"; Transcript, V.8, pp. 120:23 – 127:11.

35. MDWS anticipates that this increase in population will also increase the amount of water needed for the Upcountry System by approximately 1.65 MGD by 2030. Taylor Dec. ¶ 24; Ex. "B-2," Amended Table 5; Ex. "B-16" Table 3; Transcript, V. 7, pp. 76:16 – 78:4.

36. There are currently 1,852 applicants on the County's water meter priority list who are waiting to have their properties connected to the MDWS system. If MDWS were to connect all 1,852 applicants, it is anticipated that water demand would increase by approximately 7.5 MGD. Taylor Dec. ¶¶ 20-22; Ex. "B-17"; Transcript, V. 7, pp. 66:3 – 74:2.

37. New meter applicants, however, are responsible for building their own connections to the Upcountry System. Because of the high cost of these connections, approximately half of the applicants on the list who have been offered new meters have declined. MDWS anticipates that this trend will continue, and that half of those offered meters will ultimately not connect to the system. Taylor Dec. ¶ 23; Transcript, V. 7, pp. 67:17 – 69:4, 70:2 - 8.

E. Alternative Sources for MDWS

38. If the terms of the water sharing agreement between HC&S and MDWS remain unchanged, up to 15 MGD (of the average 94 MGD) could be returned to the streams that fill up

the Wailoa ditch without significant impact on MDWS' Upcountry System. Return of greater than 15 MGD, however, will significantly increase MDWS's reliance on alternative water sources. Ex. "B-16," p. 16; Transcript, V.7, pp. 145:12 – 147:7; V. 8, pp. 25:11 – 26:11, 93:1 – 11.

39. Use of groundwater sources to replace stream water in meeting the needs of the Upcountry System requires pumping from the location of wells near or at sea level up Haleakala to one of the three water treatment facilities for distribution. This pumping adds significant additional costs to the distribution of water. Ex. "B-16," p. 10; Transcript, V. 7, pp. 62:24 – 63:24; V. 8, pp. 17:23 – 18:17, 52:2 – 6.

40. Replacing surface water with ground water for distribution from the Kamole-Weir Water Treatment Facility would increase the costs of water to the public by approximately $1.64 per 1,000 gallons due to the necessary pumping. Ex. "B-16," p. 10, table 11; Transcript, V. 8, pp. 18:18 – 19:4.

41. Replacing surface water with ground water for distribution from the Piiholo Water Treatment Facility would increase the costs of water to the public by approximately $4.07 per 1,000 gallons due to the necessary pumping. Ex. "B-16," p. 10, table 11; Transcript, V. 8, p. 19:5 – 12.

42. Replacing surface water with ground water for distribution from the Olinda Water Treatment Facility would increase the costs of water to the public by approximately $5.93 per 1,000 gallons due to the necessary pumping. Ex. "B-16," p. 10, table 11; Transcript, V. 8, p. 19:5 – 12.

43. On top of pumping costs, increased reliance on ground water sources would require substantial initial capital expenditures and on going maintenance. Further, groundwater development involves risks due to the uncertainty of the quantity and quality of water that will be present. Ex. "B-16," pp. 14, 16, table 14; Transcript, V. 8, pp. 17:10 – 22, 19:13 – 20:22.

44. There are also legal impediments to development of new groundwater sources due to a consent decree in the case of Coalition to Protect East Maui Water Resources v. Board of Water Supply, County of Maui, Civil No. 03-1-0008(3), December 2003, which requires that MDWS conduct vigorous cost/benefit analyses of other water source options before developing groundwater in the East Maui region. On several occasions, MDWS has tried but been unsuccessful in working within the framework of this consent decree to develop new groundwater sources. Taylor Dec. ¶ 29 - 30; Second Supplemental Declaration of David Taylor ("Second Sup. Taylor Dec.") ¶ 26 – 28; Ex. "B-19"; Ex. "B-20"; Ex. "B-52"; Transcript, V. 7, pp. 64:1 – 65:21.

45. New raw water storage facilities, which would be fed by streams in times of water surplus for use during times of low flows, are an additional means by which MDWS could mitigate the effects of stream flow restoration. Ex. "B-16," p. 13; Supp. Taylor Dec. ¶ 10-11; Transcript, V. 7, pp. 52:23 – 53:7.

46. Currently, MDWS is considering construction of a reservoir at the Kamole-Weir Water Treatment Facility, and has allocated $1,500,000 in its FY2015 budget toward land acquisition for a possible reservoir. The total six-year estimated cost for the project is $25,250,000. Ex. "E-124;" Second Sup. Taylor Dec. ¶ 24; Transcript, V. 7, pp. 50:16 – 53:7.

47. Like new basal groundwater source development, development of new raw water storage would require significant initial capital expenditures and on going maintenance costs. Ex. "B-16" pp. 14, p. 16 table 14; Transcript, V. 8, pp. 19:13 – 24:6.

48. Any reduction over 15 MGD to the Wailoa Ditch would add life-cycle costs ranging from $20 million to $861 million over a 25-year period for MDWS. Ex. "B-16," pp. 17, fig. 3, 18, table 15; Transcript, V. 8, pp. 26:12 – 30:24.

49. A uniform reduction in MDWS' access to water from all sources would also have associated negative economic impacts on the County of Maui as a whole. Ex. "B-21"; Transcript, V. 10, p. 10:1 – 9.

CONCLUSIONS OF LAW

A. General Principles

1. In the context of IIFS petitions, the State Water Code, HRS Chapter 174C, does not place a burden of proof on any particular party; instead, the State Water Code and case law interpreting the State Water Code affirmed the Commission's duty to establish IIFS that "protect instream values to the extent practicable" and "protect the public interest." In re Iao Ground Water Mgmt. Area, 128 Hawaii 228, 253, 287 P.3d 129, 154 (2012).

2. "Instream use" is defined as:

> [B]eneficial uses of stream water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Instream uses include, but are not limited to:
>
> a. Maintenance of aquatic life and wildlife habitats;
> b. Outdoor recreational activities;
> c. Maintenance of ecosystems such as estuaries, wetlands, and stream vegetation;
> d. Aesthetic values such as waterfalls and scenic waterways;
> e. Navigation;

f. Instream hydropower generation;
g. Maintenance of water quality;
h. The conveyance of irrigation and domestic water supplies to downstream points of diversion; and
i. The protection of traditional and customary Hawaiian rights.

3. "Noninstream use" is defined in the Code as "use of stream water that is diverted or removed from its stream channel and includes the use of stream water outside of the channel for domestic, agricultural, and industrial purposes." HRS § 174C-3.

4. "In considering a petition to adopt an interim instream flow standard, the commission shall weigh the importance of present or potential instream values with the importance of the present or potential uses of water for non-instream purposes, including the economic impact of restricting such uses." HRS § 174C-71(2)(D).

5. In providing for instream uses, the Commission must duly consider the significant public interest in continuing reasonable and beneficial existing offstream uses." In re Waiahole I, 94 Hawaii 97, 150, 9 P.3d 409, 462 (2000).

6. The Hawaii Supreme Court recognizes "domestic water use as a purpose of the state water resources trust." In re Waiahole I, 94 Hawaii at 137, 9 P.3d at 449 (2000).

7. The public trust doctrine "does not remain fixed for all time, but must conform to changing needs and circumstances." In re Waiahole I, 94 Hawaii at 137, 9 P.3d at 449 (2000).

B. Domestic Use Is Protected By the Public Trust

8. The majority of water used for domestic purposes comes from municipal sources. Even in East Maui, one of the most remote areas of the state, homeowners, including the majority of petitioners, rely on water provided by the MDWS for domestic use. FOF 13, 15, 16.

9. Because domestically used water comes primarily from municipal sources, domestic use is a recognized purpose of the state water resources trust, and due to the ever

changing nature of the public trust doctrine in Hawaii, water provided by a municipality for domestic use is a recognized public trust use of water.

C. Use of Stream Water by MDWS is Both Reasonable and Beneficial

10. MDWS use of surface water from the subject streams is beneficial to the public. FOF 13-17, 21, 27, 33.

11. MDWS use of surface water from the subject streams is reasonable in light of its proportion to the total amounts diverted, MDWS's efforts to reduce waste, and MDWS's commitment to investing in alternative sources. FOF 7, 18 – 20, 33, 38, 46.

12. MDWS allocation of water as per the various agreements with EMI should be maintained at current levels to continue meeting the reasonable and beneficial needs of the upcountry service area. FOF 28 – 30, 38.

13. Though MDWS's system may not be adversely affected by release of up to 15 MGD back to streams from diversions supplying the Wailoa Ditch, there could be an indirect adverse effects on MDWS if such releases affects EMI's ability to continue operations. FOF 28, 38, 48.

14. Release of over 15 MGD to streams from diversions servicing the Wailoa Ditch would have negative economic impacts on the existing reasonable and beneficial use of stream water by the MDWS, and these negative impacts are not justified by the instream benefits that would result with release in excess of 15 MGD. FOF 38 - 49.

15. The amount of water diverted by MDWS at the Piiholo Water Treatment Facility is reasonable and beneficial at current diversion levels. Release of additional water to the Waikamoi, Puohokamoa – West, Middle and East branches, Haipuaena and Honomanu streams from these diversions would have negative economic impacts which are not justified by the

instream benefits that would result from additional releases, especially in light of available releases from the Wailoa Ditch. FOF 24, 26, 28, 38, 39, 41, 43 - 49.

16. The amount of water diverted by MDWS at the Olinda/Upper-Kula Water Treatment Facility is reasonable and beneficial at current diversion levels. Release of additional water to the Waikamoi, Puohokamoa – West, Middle and East branches and Haipuaena streams from these diversions would have negative economic impacts which are not justified by the instream benefits that would result from additional releases, especially in light of available releases from the Wailoa Ditch. FOF 25, 26, 28, 38, 39, 42 - 49.

17. Future demands related to inevitable population growth and the water meter priority list can be at least partially accommodated by the reduced waste resulting from the replacement of the Waikamoi Flume and other infrastructure improvements, and from future development of alternative sources. FOF 18, 19, 34 – 37, 46.

DECISION AND ORDER

The Commission issues this Decision and Order in accordance with the foregoing Findings of Fact and Conclusions of Law based on: 1) the evidence in these Proceeding and 2) the evidence in the record of the Remand Proceeding, as supplemented following the Remand Order. Each IIFS set forth below, both individually and in the aggregate, represents a reasonable and equitable resolution of the Petition and balance between the need to protect instream uses and the accommodation of reasonable beneficial noninstream uses, consistent with the Code and the public trust.

A. Amended IIFS

The Amended IIFS is exclusively to establish the interim instream flow standards for the 27 streams at issue in this contested case hearing as follows:

1. Waikamoi

The IIFS for the Waikamoi Stream shall be measured below the Wailoa Ditch and shall not affect the intakes and diversions for MDWS's Piiholo and Olinda/Upper-Kula Water Treatment Facilities.

2. Puohokamoa

The IIFS for the Puohokamoa Stream shall be measured below the Wailoa Ditch and shall not affect the intakes and diversions for MDWS's Piiholo and Olinda/Upper-Kula Water Treatment Facilities

3. Haipuaena

The IIFS for the Haipuaena Stream shall be measured below below the Wailoa Ditch and shall not affect the intakes and diversions for MDWS's Piiholo and Olinda/Upper-Kula Water Treatment Facilities.

4. Honomanu

The IIFS for the Honomanu Stream shall be measured below the Wailoa Ditch and shall not affect intakes and diversions for MDWS'S Piiholo Water Treatment Facility.

D. Implementation

The Commission retains jurisdiction to oversee the implementation, monitoring and compliance with the terms of this Decision and Order and to resolve disputes concerning such implementation, monitoring and compliance.

E. Effective Date

This Decision and Order shall become effective upon issuance by the Commission.

DATED: Wailuku, Maui, Hawaii, October 2, 2015.

PATRICK K. WONG
Corporation Counsel

Attorneys for COUNTY OF MAUI
DEPARTMENT OF WATER SUPPLY

By _____
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KRISTIN K. TARNSTROM
Deputies Corporation Counsel

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

PETITION TO AMEND INTERIM INSTREAM FLOW STANDARDS FORHONOPOU, 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, WAIOHUE, PAAKEA, WAIAAKA, KAPAULA, HANAWI, and MAKAPIPI STREAMS	CASE NO. CCH-MA13-01 CERTIFICATE OF SERVICE

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 U.S mail, postage prepaid, upon the following at their last know address:

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