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COMMISSION ON WATER
RESOURCE MANAGEMENT

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NĀ MOKU AUPUNI O KO'OLAU HUI

BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT

STATE OF HAWAII

PETITION TO AMEND INTERIM)	Case No. CCH-MA13-01
INSTREAM FLOW STANDARDS FOR)	
HONOPOU, HUELO (PUOLUA),)	PETITIONER NĀ MOKU AUPUNI O
HANEHOI, WAIKAMOI, ALO,)	KO'OLAU HUI'S RESPONSE TO
WAHINEPEE, PUOHOKAMOA,)	HEARINGS OFFICER'S AMENDED
HAIPIUAENA, PUNALAU/KOLEA,)	RECOMMENDATION RE INTERIM
HONOMANU, NUAAILUA, PIINAAU,)	RESTORATION OF STREAM FLOW,
PALAUHULU, 'ŌHI'A (WAIANU),)	DATED MAY 31, 2016;
WAIOKAMILO, KUALANI,)	CERTIFICATE OF SERVICE
WAILUANUI, WEST WAILUAIKI,)	
EAST WAILUAIKI, KOPILIULA,)	
PUAKAA, WAIQHUE, PAAKEA,)	
WAIATAKA, KAPAULA, HANAWI and)	
MAKAPIPI STREAMS)	
)	

**PETITIONER NĀ MOKU AUPUNI O KO'OLAU HUI'S RESPONSE TO HEARINGS
OFFICER'S AMENDED RECOMMENDATION RE INTERIM
RESTORATION OF STREAM FLOW, DATED MAY 31, 2016**

Petitioner Nā Moku Aupuni O Ko'olau Hui, Lurlyn Scott and Sanford Kekahuna
(hereinafter, collectively, "Nā Moku"), by and through their undersigned counsel, hereby submit
their response to the Hearings Officer's Amended Recommendation Re Interim Restoration of
Stream Flow, dated May 31, 2016 ("*Amended Interim Relief Recommendation*") to the
Commission of Water Resource Management (the "Commission").

Nā Moku takes no exception or objection to the Hearings Officer's *Amended* Interim Relief Recommendation to restore 18 million gallons per day (mgd) based on his April 1, 2016 Interim Relief Recommendation ("Original Interim Relief Recommendation") and in the manner specified in his January 15, 2016 Proposed Decision ("Proposed Decision"). Nā Moku further requests, consistent with the Hearings Officer's *Original* Interim Relief Recommendation and all parties' unanimous agreement¹, that the Commission order the 18 mgd restoration to take effect immediately. Nā Moku requested such an order on April 18, 2016 in response to the Hearings Officer's *Original* Interim Relief Recommendation so as "to avoid any *unnecessary* delay" on action unanimously agreed to by all parties and the Hearings Officer one month earlier. Unnecessary delays have already ensued. Time is of the essence.

To the extent that the Hearings Officer's recommendation includes the wholesale adoption of Alexander & Baldwin, Inc. and East Maui Irrigation Co., Ltd's (jointly "A&B") diversion modification proposal dated May 12, 2016 – to implement their April 20, 2016 public announcement to permanently abandon all diversions on and restore the following streams: Honopou (Puoluo), Waiokamilo, Kualani, Piinaau, Palauhulu, and Wailuanui (East and West), Nā Moku takes exception and requests that the Commission order A&B to complete the following:

1. Revise its diversion modification proposal (by stream and by phase) to include specific alpha-numerical identities for all "major" and "minor" diversions² impacted thereby to enable the Commission and its staff to effectively oversee

¹ In the Hearings Officer's Original Interim Relief Recommendation, he acknowledged that as part of the parties March 23, 2016 conference, "all parties agreed that restoring 18 million gallons per day (mgd) recommended by your Hearings Officer's Proposed Decision should be effective immediately" and in the manner described therein.

² According to CWRM staff, "major" diversions are larger (usually) concrete structures that divert water and are denoted by a capital Alpha and a number (e.g., Lowrie Ditch at Hanehoi Stream is L-5), while the "minor" diversions tend to be smaller seeps or tributaries that are captured and/or feed directly into the main system and are similarly denoted by a capital Alpha and a number, along with a lower case alpha (e.g., Lowrie Ditch at East Hanehoi is L-5a). See EMI System map attached hereto as Exhibit 1.

and verify permanent stream restoration efforts.

2. Identify specific dates by which each Phase I, II, III, and IV Projects will be completed to hold A&B accountable for its failure (and reason for same) to meet those deadlines. While we acknowledge that completion times for certain tasks may be difficult to predict, deadlines nevertheless encourage expeditious work from those responsible for executing the diversion modifications, and much needed accountability from those charged with managing these important public trust resources.
3. Ensure that diversion modifications permanently restore stream flows in a manner that enables upstream migration and life cycles for native species populations in these locations.
4. Remove all discarded, unutilized, or surplus debris, equipment and infrastructure from permanently abandoned A&B's diversion work sites to restore these stream habitats to their natural, undiverted conditions to the extent possible.

In summary, Nā Moku requests that the Commission: (1) order that the Hearing Officer's *Amended* Interim Relief Recommendation to restore 18 mgd take effect immediately; and (2) order A&B to take additional action on its diversion modification proposal in the above-detailed manner, to further the prudent management and administration of these vital, public trust resources.

DATED: Honolulu, Hawaii, June 9, 2016.


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CAMILLE K. KALAMA
Attorneys for Nā Moku Aupuni O Ko'olau Hui

EXHIBIT 1

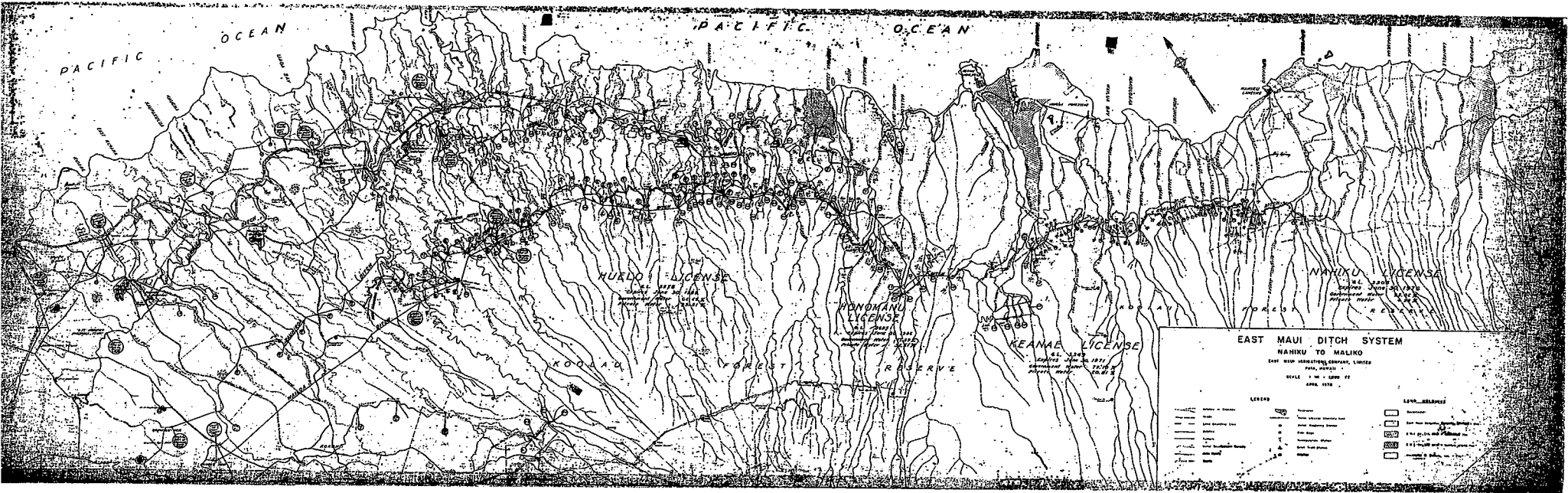


EXHIBIT 1

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following parties in the manner indicated at their last known address:

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DATED: Honolulu, Hawai'i, June 9, 2016.



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