MEMORANDUM

TO: Mr. Johnson H. Wong, Supervisor
    Division of Land/Transportation
    Office of the Attorney General

ATTN: Mr. William Tam, Deputy Attorney General

FROM: Rae M. Loui, Deputy Director

SUBJECT: Application to be a Party in a Contested Case Hearing

Attached is an application to be a party in a contested case hearing for all water use permit applications in the Kawela Ground Water Management Area, Molokai.

We request that a determination be made concerning the validity of the request and, if valid, whether the applicant does indeed have standing. At the September 15, 1993 Commission meeting on Molokai, the applicant requested a contested case if any of the water use permit applications in the Kawela Ground Water Management Area were approved. As you know, the Commission deferred action to go to public hearing.

We believe that the contested case request is premature. However, an application to be a party was filed but we do not know its legal implications. We believe that Mrs. Grambusch has the right and can request a contested case hearing at the public hearing or at a Commission meeting where action on the individual applications in the Kawela area are to be acted upon.

RH:ko
Attach.
APPLICATION TO BE A PARTY IN A CONTESTED CASE HEARING BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN 10 DAYS OF PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST FOR A CONTESTED CASE HEARING IS MADE.

IF MAILED, SEND TO: Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Please provide the following information:

1. NAME: Wilma Kamakana Grambusch  PHONE:

2. ADDRESS: P.O. Box 614,
Kaunakakai, HI 96748

3. ATTORNEY (IF ANY):  Williamson B. C. Chang, Esq.

4. ATTORNEY ADDRESS:  969 Ahuwale Place
Honolulu, HI 96821
PHONE: (808) 377-1205

5. SUBJECT MATTER: Objection to water permit applications

6. DATE OF PUBLIC HEARING/COMMISSION MEETING: September 15, 1993

7. LEGAL AUTHORITY: Intervention pursuant to Water Code section 174C-60 (contested Cases). Petitioner Grambusch has a property interest in the area in which permits are sought.

8. WHAT STATUTORY OR OTHER RIGHT OF YOURS IS BEING AFFECTED? Applicant's use will interfere with standard water use permit conditions 3(c) and 3(q) "existing legal right" to use water by members of the Kalamaula Homestead Association, including petitioner. (see Petition for Contested Proceeding 9/15/93 and letter of 9/13/93)

8. SPECIFIC LEGAL ISSUE: The Commission must protect Native Tenancy and Native Tenant's rights under the Water Code. Applicants have not shown a need for amounts requested and the Commission must protect the right of those who have not yet applied for water from the aquifer.

9. PROVIDE YOUR TAX MAP KEY AND THE TAX MAP KEY OF THE PROPERTY
CONSIDERED IN THIS ISSUE. ARE YOU AN ADJACENT OR NEIGHBORING PROPERTY OWNER? DESCRIBE THE NATURE AND EXTENT OF YOUR INTEREST IN THIS MATTER.

Petitioner is adjacent to some of the properties in question and draws from the same aquifer as all of the applicants seeking permits. See tax map keys attached.

10. WHAT IS YOUR SPECIFIC DISAGREEMENT REGARDING THIS ISSUE?

As outlined in petition to intervene/petition for Contested Proceeding of 9/15/93, Petitioner's right to develop her property for agriculture as well as the right's of those Homestead Association members she represents will be threatened by the "water banking" which applicants seek via the permits in question. As a native tenant, her water rights supercede those of surrounding landowners.

11. OUTLINE THE SPECIFIC ISSUES.

1. Can the Commission permit the use of a substantial portion of an aquifer (36%) without a comprehensive plan to protect those who have not yet applied? 2. The Commission must limit any permit to an amount the applicant can prove a need for to limit "water banking". 3. The Commission must protect the rights of native tenants who have a superior claim to the water. (see individual permit objections see attached Petition)

12. OUTLINE OF THE BASIC FACTS: Applicants have sought a combined 36% share of the Kavela aquifer. This threatens the water interests of all landowners over the aquifer. Water must be given out fairly, equitably and a primary right must rest with the native tenants.

13. WHAT RELIEF OR REMEDY DO YOU SEEK:

Petitioner seeks denial of the permits, or in the alternative, a reduction in the amount to that which can be proved is necessary. Further, petitioner seeks a showing by the Commission that Native Rights are being protected. (see attached)

If there is not sufficient space to fully answer any of the items noted above, please use additional sheets of paper).

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Mrs. Wilma Kamakana Hambisch

Petitioner
TAX MAP KEYS

Kawela Plantation

5-4-01-29  1/2 owner
5-4-01-94
5-4-01-63
5-4-01-41  1/2 owner
5-4-01-65  1/2 owner

Iaea and Granger

as above plus

5-4-01-18  1/2 owner
5-4-01-15  1/2 owner
5-4-01-14  1/2 owner

Curtis and Hawaiian Research

all Keys referenced above
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT
STATE OF HAWAII

In the Matter of the Application of
Use Permits for David Curtis, R.M.
Granger, Kawela Plantation Homeowners Association, John
Wm. Iaea, Sr., and Maui Water Department of Water Supply for Water Use Permits,
Kawela Ground Water Management Area, Molokai

Petition for Contested Proceeding on Applicants' Request for Water Permits
Certificate of Service

PETITION TO INTERVENE AND
CERTIFICATE OF SERVICE

WILLIAMSON B.C. CHANG, ESQ. 1696-0
MICHAEL FOULKES
969 AHUWALE PLACE
HONOLULU, HAWAII 96821
TEL: 808-377-1205
ON BEHALF OF INTERVENOR
MRS. WILMA KAMAKANA GRAMBUSCH

1
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT  
STATE OF HAWAII

In the Matter of the  
Application of  
Use Permits for  
David Curtis, R.M.  
Granger, Kawela Plantation  
Homeowners Association, John  
Wm. Iaea, Sr., and Maui Water  
Department of Water Supply  
for Water Use Permits,  
Kawela Ground Water Management  
Area, Molokai  

PETITION TO INTERVENE  

INTERVENOR, MRS. WILMA GRAMBUSCH, RESIDENT OF KAWELA, 
MOLOKAI, STATE OF HAWAII, an individual and Native Hawaiian tenant 
residing within the Ahupua'a bequeathed to her by her ancestors, 
petitions for unrestricted status as an intervenor in this 
proceeding. ON BEHALF OF HERSELF AND HER LEGAL HEIRS objects to 
the application of the above noted applicant

I. NATURE OF PETITIONERS STANDING AND STATUTORY OR OTHER RIGHT

Petitioner seeks to intervene pursuant to the right to a 
contested case hearing under section 174C-60 [contested Cases] as 
set forth in the state water code. Petitioner Grambusch has a 
property interest in the area in which applicant seeks a permit 
and thus has statutory power to petition and seek a contested case 
proceeding under the water code. In addition petitioner Grambusch 
possesses appurtenant water rights, which, pursuant to the common 
law of Hawaii, have priority over applicant's claims to 
correlative water rights, whether or not petitioner Grambusch's 

property is overlying the aquifer or is riparian to the water 
source.

II. REASONS FOR REJECTION OF PETITIONER'S REQUEST
1. THE NUMBER OF APPLICATIONS FOR GROUNDWATER FOR THE KAWELA AQUIFER REQUIRE DEFERRING THE ISSUANCE OF ANY PERMITS UNTIL ALL INFORMATION CAN BE OBTAINED.

In the "background" section of the submittal, the staff reports indicates that a total of 23 applications for permits have been submitted for the Kawela aquifer system. This application seeks 5 permits. The purpose of the water code was to provide all parties with legal rights to an aquifer a fair right to their appropriate share of water. The issuance of permits herein would prejudice other applicants, including those who plan to file in the near future. Moreover, the water code requires that no permit be issued in contravention of the common law of the state of Hawaii. Since the groundwater law of the state is that of correlative rights and such correlative uses are protected under the statute constitution, all overlying landowners, pursuant to the City Mill decision, have a right to a share of water. The issuance of the permits sought herein would prejudice overlying landowners such as intervenor Grambusch.

2. COMMISSION ACTION AT THIS TIME WOULD BE INCONSISTENT WITH ITS PROPOSED FUTURE ACTIONS

It would clearly be premature to grant these permits since the staff report admits that so far, only one permit, for 2,000 gpd has been granted. It is admitted that nine permits require action, eight are scheduled to be heard on November 11, and five are incomplete pending further augmentation of their application. Intervenor Grambusch asserts that as the possessor of appurtenant water rights, a matter which she can prove to the commission, the constitution of the state of Hawaii, and the water code, give her a priority as to the appropriate quantity of water due to appurtenant right holders.

In this situation, the water code clearly contemplated a aquifer-wide adjudication of all rights at once. Indeed, the doctrine of correlative water rights is derived from mutual respect for the rights of all landowners with property near or overlying an aquifer. The large volume of potential withdrawal from this aquifer [.31 mgd] constitutes a strong rationale for preventing parties from "gun-jumping" in an attempt to secure water permits ahead of other rightful claimants.

3. APPLICANT CURTIS SHOULD BE DENIED A PERMIT BASED ON FAILURE TO COMPLY WITH THE REQUIREMENTS FOR A PUMP INSTALLATION PERMIT

Petitioner Curtis is seeking a water use permit although he
has failed to comply with the legal requirements that called for an earlier application for a pump installation permit. In light of the above general reasons for denying all permits at this time, Mr. Curtis appears before the Commission with "unclean hands" and should not be allowed a permit as if his prior flouting of commission rules has no consequence. Apparently the Staff and the MWG feel that since the amount requested is small, no penalty should be levied for his prior wrongful acts. There is no relationship between violation of the code and the present size of the application. To award a permit would be tantamount to sanctioning disregard of Commission rules that have been applied with vigor to other parties. The applicant can face a variety of penalties for the knowing failure to apply for the pump installation permit. Clearly, the applicant sought to grandfather a questionable existing use by pumping without application for a pump installation permit on the eve of designation. This is exactly the kind of conduct that constitutes the worst exploitation of the designation process and was raised during testimony during designation. It appears that the staff is confused in its own reasoning when it refers to the applicant's use as "genuine" albeit conduct clearly designed to avoid the appropriate regulations. Applicant should be facing enforcement of penalties rather than the possible award of a permit.

4. APPLICANT GRANGER HAS FAILED TO PROVIDE THE COMMISSION WITH HONEST AND RELIABLE INFORMATION AS TO INTENDED USES AND BE DENIED A PERMIT.

The applicant is clearly seeking to bootstrap a small use into a much larger use where there is strong likelihood that the applicant intends to improperly change the nature of the water received under a permit. He presently admits only a 3,700 gpd use and has applied for a 25,000 gpd. There is no verification as to what crops he intends to plant, and the fact that he has not begun such planting nor disclosed the nature of a plant which requires 16,000 gpd undermines the credibility of applicant’s request which is limited to four acres. The staff has placed no limitation on applicant preventing him from transferring water to other plots, or from using the water for other large scale uses. The staff recommendation allows a margin of error of 600 per cent. It appears that the applicant will not be using the water for corn, nor is he willing to disclose his intended plans. The staff’s failure to require further details violates the letter and spirit of the water code and the state water plan.

5. APPLICANT KAWELA PLANTATION MISREPRESENTS THE INTENDED PURPOSE OF ITS APPLICATION AND ITS APPLICATION SHOULD BE DENIED

4
The Staff recommends that the objector, Mrs. Grambusch be allowed a public hearing on this applicant’s request. Hence, Intervenor is agreement with the staff recommendation. Kawela Plantation is clearly seeking a much larger amount of water than its present needs indicate and furthermore, is seeking water for irrigation purposes. A site visit of the applicant would show that the applicant clearly intends to develop housing and other urban uses and that the irrigation quantification is an erroneous factor to be used.

6. APPLICANT IAEA’S APPLICATION SHOULD BE DENIED AS INCOMPLETE:

The applicant has failed to supply sufficient data for the Commission to make a proper ruling. The staff has made an error in concluding that 1) since applicant has failed to supply information 2) his request fall below the threshold of concern of the Commission and 3) therefore it should be granted. Any code exemption for small users is predicated on the users proof of that small usage. Until applicant provides sufficient information his application should be denied.

7. APPLICANT MAUI DWS SHOULD BE DENIED ITS REQUEST FOR .432 MGD SINCE THE APPLICANT HAS NOT CONCURRENTLY APPLIED FOR A PUMP INSTALLATION PERMIT, PROVEN THAT ITS WITHDRAWAL WILL NOT DETRIMENTALLY AFFECT THE INTERVENOR AND HAS FAILED TO SHOW THAT ITS WITHDRAWAL IS CONSISTENT WITH THE MOLOKAI GENERAL PLAN.

Moreover, Intervenor Grambusch wishes to prove at trial that DWS will interfere with intervenor’s exercise of appurtenant water rights which protected by the state constitution and the water code.

II. PETITIONER GRAMBUCHE’S INTEREST WILL NOT BE REPRESENTED BY OTHER PARTIES

In addition to objecting to the application on the above grounds, Intervenor requests a contested case proceeding if any adverse actions are taken. No other party present before the commission can adequately represent her interest as she is asserting her rights as native Hawaiian tenant with appurtenant water rights who can demonstrate a continuity of title from the Mahele.

III. NONE OF THE ABOVE APPLICATION SHOULD BE GRANTED SINCE THE STAFF RECOMMENDS THAT A PUBLIC HEARING ON INTERVENOR’S INTERESTS
Intervenor contends that all applicants are, under the common law of the state of Hawaii, hold correlative water rights, and as such, no party can be awarded a right to water until the full extent of the rights of all parties are adjudicated in an aquifer-wide proceeding. This is required under the City Mill decision which is still in effect as part of the common law. The issuance of permits to some but not all applicants would violate the water code's assurance that present legal rights not be violated by the issuance of permits.

IV. INTERVENOR'S REQUEST WILL ASSIST IN THE DEVELOPMENT OF A COMPLETE RECORD, AND SERVE THE PUBLIC INTEREST

This request for a contested case proceeding is the first of its kind as a designated groundwater area. It will assist the commission in developing a process for implementing a basin-wide adjudication in keeping with the law of correlative water rights. In this sense, intervenor appears before this body in a respectful, relevant and timely manner. This petition is filed before the date of the scheduled hearing of September 15, and in any event is filed in advance of staff's recommendation for a November hearing. It is thus timely. Intervenor asserts that law and logic require that all parties seeking claims to the Kawela aquifer necessarily participate in the proposed November hearing.

VII. PRAYER FOR RELIEF

In the event that the Commission seeks to issue permits to
any of the contested applicants, intervenor seeks a contested case, under HRS Chapter 91, as referenced in the state water code, with full review before the Hawaii Supreme Court [as provided in the state water code.]

Dated: Molokai, Hawaii, September 14, 1993

Williamson Chang, Esq and
Michael Poulkes [admission to the California Bar pending]
on behalf of Intervenor Mrs. Wilma Grambusch
CERTIFICATE OF SERVICE

I hereby certify that on September 15, 1993, I served a copy of the foregoing petition to Intervene and Certificate of Service by hand delivery or certified mail to the following and at the following addresses:

Commission on Water Resources Management
Kalanimoku Building
Honolulu, Hawaii [fifteen copies plus original]

David W. Curtis
P.O. Box 1829
Kaunkakai, Hi 96748

R.M. Granger
P.O. Box 371
Kaunkakai, Hi 96748

Kawela Plantation Homeowners Assn
P.O. Box 698
Kaunkakai, Hi 96748

John Wm Iaea
P.O. Box 405
Kaunkakai Hi 96748

Maui Department of Water Supply
P.O. Box 1109
Wailuku, Maui HI 96793

Dated: September 15, 1993, Kaunkakai, Hi,

Michael Foulkes, for the Intervenor
Mrs. Wilma Grambusch
Re: Matters raised at Meetings on Molokai, September 15th, 1:30 at Mitchel Pauoli Center and at 6:00 at Molokai High School

I. Request for Deferral of Several Matters scheduled for 1:30 until 6:00

On behalf of the Kalamaula Homestead Association, I wish to request deferral of decision-making on items 7-13 of the agenda for the Meeting of COWRM scheduled for 1:30 on September 15. Unfortunately, many of the members of the association, including myself, acting as counsel for the association have work commitments which prevent us from attending the 1:30 meeting. We request that you keep open the record on these items, defer decision making and allow us to testify at the 6:00 meeting. The Kalamaula Homestead Association, asserts that it has appropriate standing on all of these issues as its lands are sufficiently proximate to the applicants proposed use such that the association has an adequate property interest. The Association relies on the language of the HHCA, particularly section 221, which strongly states that the waters of Molokai, shall be first used to place homesteaders on the land.

II. Specific Objections to Applications:

a. Item 8 -- application of Curtis, et al, Kawela Plantation Homeowners Association. The Kalamaula Homeowners Association objects to the application of David Curtis et al on numerous grounds:
   1. The applicant's use will interfere with the 3(c)
standard water use permit conditions] and 3(g) "existing legal right" to the use of water by members of the Kalamaula Homestead Association. The rights of Homesteaders are defined by both congressional and state law and the barrier to homesteading has been the inability to obtain water. The rights of the association extend island-wide and thus all uses other than those for homesteading are subordinate to the rights of homesteaders not able to live on their lands due to failure to supply water. The strength of this right is obvious, since it is repeated a number of times in different parts of the standard water use permit conditions, particularly in 9(g) and section 6. Any issuance of a water use permit on Molokai should be deferred until the public hearing on the proposed rule. Chronologically, only after the rule reserving waters is finalized, including the scope of aquifers which are affected, can water permits be issued on Molokai.

2. Request for Contested Case Proceeding: In the event that the Commission sees fit to proceed with the issuance of a water permit for the applicants in item 8, the Kalamaula Homestead Associations exercises its rights under Chapter 91 in seeking a contested case proceeding. The request for such a hearing requires the Commission to defer decision making.

b. Item 9 --

a. Request of DHHL for Water Use Permits: Kalamaula Homestead Association requests that this matter be consolidated with the proposed rule to be heard at 6:00 P.M. The reservation of amount sought by DHHL coheres with the amount proposed by the Molokai Working Group. Kalamaula Homestead Association asserts that the rights to water of Hawaiian Homesteaders is not subservient to the rulemaking authority of COWRM and that the amounts set forth are grossly inadequate to meet the needs of the Kalamaula Homestead Association and its future plans. Objector, Kalamaula Homestead Association protests the arrangements made by DHHL for sharing water with the Department of Water Supply and the complete failure of DHHL to act as a fiduciary representative of the native Hawaiian beneficiaries. The limitation stated on page 3 limiting the issuance of interim permits, which is to be temporary until the reservations are set by rule, is a limitation that should be placed on all permits on Molokai. Under the original version of the Hawaiian Homes Commission Act, all waters, for domestic or agricultural use, were to be first used for the benefit of Homesteaders.

b. The Kalamaula Homestead Association asserts that COWRM has no legal authority to issue interim permit subject to conditions that are based on federal restrictions.

c. In addition, the Kalamaula Homestead Association asserts that the Supremacy Clause of the United States Constitution nullifies the right of COWRM to set limitations on water use of

Item 10: Kalamaula Homestead Association, acting on behalf of Mr. Harry Aki, and other residents of Mauna Loa town, objects to applicant Molokai Ranch's request, and objects to the staff recommendation as to nos. 2 and 3, on the grounds that Molokai Ranch, under equitable doctrines of law, is acting with "unclean hands" in that it has failed to comply with the federal Safe Drinking Water Act in its delivery of water to Mauna Loa Town. Until this violation of federal standards is rectified, the applicant should not receive further sources of water.

Item 11: Kalamaula Homestead Association objects to the applicant, Maui Department of Water Supply to use 171,000 gallons for municipal use on the grounds that the Department of Water Supply has "unclean hands" in failing to enforce the intent of the consent decree[ between the state and Molokai Ranch] as to the quality of water delivered to Mauna Loa Town. Kalamaula Homestead Association is willing to put on evidence of the failure of DO and Maui County to meet the terms of the decree and the terms of the Safe Drinking Water Act. Moreover, Kalamaula Homestead Association objects to the issuance of a water use permit to the County when there is present evidence of the county's failure to fully comply with environmental laws in terms of the proper closing of the landfill and dumpsite that exists on Kalamaula Homestead Property. The County should not be rewarded with permits for more water when they have failed to meet the quality requirements as to existing uses.

Item 13-- Kalamaula Homestead Association objects to applicants proposal and agrees with the staff recommendation for a deferred public hearing on November 10. Objector asserts that the original purposes and terms of the Waikolu source have been violated to the benefit of the County and the detriment of Objector. Objector wishes to have the ability to prove its case at a later date.

Item 7 -- Objector, Kalamaula Homestead Association, opposes the staff recommendation on the grounds that the permit should be issued only after all needs of the native Hawaiian beneficiaries have been met. Moreover, it does not make any sense to grant such a permit prior to the full hearing and final determination of the rule to be heard on the reservation of homestead waters.
In conclusion, Objector seeks a consolidation of the 1:30 agenda with the 6:00 rule making agenda and finds that the attempt to proceed with permitting without a final rule as to reserved waters violates the intent of the state legislature. Objector thus reserves its right to seek judicial review, by way of a contested case proceeding, or otherwise as to all permits issued prior to finalizing the issues as to the rule reserving waters for Homesteaders.

DATED: September 13, 1993. Honolulu, Hawaii

Yours,

Williamson B.C. Chang
Counsel for Objector, Kalamaualua Homestead Assn, Professor of Law, University of Hawaii
Mr. Richard Dwayne Steele
P.O. Box 78
Honolulu, HI 96810

Dear Mr. Steele:

Application for a Water Use Permit
Kawela Ground Water Management Area, Molokai

We acknowledge receipt, on June 25, 1993, of your completed water use permit application for the P&P Ventures Wells (Well Nos. 0356-02 & 03).

However, it appears your use may be an individual domestic home use, which does not require a permit. We have been trying to contact you by phone to clarify the nature of your water use. If your plans do not include 1) charging the future residences for water, 2) dedication of the wells to the Maui County Department of Water Supply, and 3) commercial development of the five acres for which irrigation water is being requested, then a water use permit is not required. In the event that your planned and existing uses do not require a permit, then we will return your filing fee of $25.00 and the original application for your records.

In the event that you are withdrawing water for purposes other than individual domestic home use, you are required to file for a water use permit. We will continue to process your application if and when you notify us that this is the case. Normally, one can expect their application to be processed within ninety (90) days from the date of receipt. However, a condition imposed by the Commission during designation proceedings is temporarily holding final action on all water use permit applications on Molokai until the end of July 1993 for review by the Molokai Task Force. This may cause your application to go beyond the normal action time limit.

We will be sending you a copy of the public notice for your application and any further information regarding the status of your application. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.

Please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218 at your earliest convenience so that we may know how to handle your application.

Sincerely,

RAE M. LOUI
Deputy Director
APPLICATION FOR WATER USE PERMIT

State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources

APPLICATION FOR WATER USE PERMIT

Ground Water □ Surface Water

Instructions: Please print in ink or type and send completed application with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96808. Application must be accompanied by a non-refundable filing fee of $125.00 payable to the Dept. of Land and Natural Resources. The Commission may not accept incomplete applications. For assistance, call the Regulation Branch at 808-587-0235 (neighbor islands) 1-800-496-6644.

PERMITTEE INFORMATION

1. (a) APPLICANT
   Firm/Name: Richard Dwayne Steele
   Address: P.O. Box 78
   Honolulu, HI 96810
   (b) LANDOWNER OF SOURCE
   Firm/Name: Richard Dwayne Steele
   Address: P.O. Box 78
   Honolulu, HI 96810

SOURCE INFORMATION

2. WATER MANAGEMENT AREA: Kawela
   ISLAND: Molokai
3. (a) EXISTING WELL/DIVERSION NAME AND STATE NUMBER: P&P Ventures 40336-030
   (b) PROPOSED (NEW) WELL/DIVERSION NAME: Kawela, Molokai
   Tax Map Key: 6-4-01-43
   (Attach a USGS map, scale 1" = 2000', and a property tax map showing source location referenced to established property boundaries.)

4. SOURCE TYPE (check one): Stream □ Bassi □ Divert-confined □ Perched □ Cap Rock
   METHODS OF TAKING WATER (check one): Artesian □ Well & Pump □ Diverted Surface □ Other (explain)

USE INFORMATION

6. LOCATION OF PROPOSED WATER USE: (of possible, show on same maps as source location. Otherwise, attach similar maps)
   (a) Proposed use of water is: □ Existing □ New
   (b) Tax Map Key: 6-4-01-43
   (c) Address: Kawela, Molokai
   (d) Current Land Use District (check one): □ Urban □ Agriculture □ Conservation □ Rural □ Agriculture
   (e) Current County Zoning Code: □ Agricultural □ Commercial □ Industrial □ Other (explain)

7. QUANTITY OF WATER REQUESTED: 4,000 gallons per day
8. METHOD OF MEASUREMENT: □ Flowmeter □ Open-pipe □ Weir □ Office □ Other (explain)
9. QUALITY OF WATER REQUESTED: □ Fresh □ Brackish □ Salt □ Potable □ Non-Potable □ Industrial
10. PROPOSED USE: □ Municipal (including hotels, stores, etc.) □ Individual Domestic □ Irrigation □ Other (explain)

For questions 12 & 13: If multiple TMKs are involved, please complete Table 1 on back of application.

11. TOTAL NUMBER OF RESIDENCES TO BE SERVED:
12. TOTAL ACRES TO BE IRRIGATED AND TYPE OF CROP:
   (acre) 2
   (crop) 24 hrs.
13. PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION:
   (daytime hours of operation, ex. 7 a.m. to 2 p.m.)

14. APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON WATER USE:
   (a) Impact on Sustainable yield (7?): □ realizable
   (b) instream Flow Standards affected (7?): □ N/A
   (c) Hawaiian Home Lands use affected (7?): □ N/A
   (d) Other existing legal uses affected (7?): □ realizable
   (e) Other (pending permits, EIS, etc.)(?): □

15. REMARKS, EXPLANATIONS:
   water not available (if more space is needed, continue on back side)
   plan to build 2 residences - county

NOTE: Signatures below indicate that the applicant understands that, if a water use permit is granted by the Commission on Water Resources Management, a permit is subject to prior existing permitted use, changes in sustainable yields and increase flow standards, reserved use as defined by the G-030 amendment, and Hawaiian Home Lands future uses. In addition, applicant understands that upon permit approval water, may also must be submitted should the Commission require one.

Applicant (print) Richard Dwayne Steele
Signature: R. D. Steele
Date 8/21/93

Landowner (print) Richard Dwayne Steele
Signature: R. D. Steele
Date 8/21/93

For Official Use Only:
Hydrologic Unit No.
Diversion Works No.
State Well No.

4/13/93 WUPA Form
### Table 1. Multiple TMKs to Use Requested Water

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>TMK</th>
<th>CURRENT COUNTY ZONING CODE</th>
<th>NET ACRES</th>
<th>GPD/ACRE</th>
<th>TOTAL GPD</th>
<th>% OF TOTAL TO BE USED OVER NEXT 4 YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ISLAND OF MOLOKAI

DEVELOPABLE YIELD - 39 MGD

CENTRAL - 11 MGD

KUALAPUU - 7 MGD

KALUAKOI - 2 MGD (Brackish)

HOOLEHUA - 2 MGD (Brackish)

WEST - 4 MGD

PUNAKOU - 2 MGD (Brackish)

MAUNAWAINUI - 2 MGD (Brackish)

KUALAPUU - 7 MGD

KALAUPAPA

KAHAUNUI

WAIKOLU

HAUPU

PELEKUNU

WAILAU

HALAWA

WAIALUA - 8 MGD

UALAPUE - 8 MGD

KAWELA - 5 MGD

KAMILOLOA - 3 MGD

SOUTHEAST - 24 MGD


EXHIBIT 1
ESTIMATED DEVELOPABLE YIELDS BY AQUIFER SECTORS/SYSTEMS
July 11, 1989

P & P Ventures
Star Route Box 95
Kaunakakai, Hawaii 96748

Gentlemen:

The Commission on Water Resource Management will be acting on your permit application for Kewela-P & P Ventures Wells (0356-02,03) at their regularly scheduled meeting on July 19, 1989, at 2:00 p.m. in Board Room 132, 1151 Punchbowl Street, Honolulu.

Your application will be included on the agenda as Item 11 (attached).

You or your representative are invited to attend the meeting.

Sincerely,

[Signature]

Deputy Director

ES:bm
Enc.
DECLARANT/SOURCE FILE/CROSS REFERENCES

DECLARANT ________________________________

SOURCE FILE #/STR TITLE/FILE NAME ________________________________

SEE OTHER DECLARATIONS FOR SAME SOURCE/SAME PARCEL:

OWNERSHIP CHANGE: DuanYe Steel, 1990

______________________________

______________________________

______________________________
Verification of Water Sources and Uses--Molokai

Report submitted to:
Commission on Water Resource Management
Department of Land and Natural Resources

December 3, 1992

Sterling J. L. Chow Engineering and Planning Services
615 Piikoi Street, Suite 1601 / Honolulu, Hawaii  96814 / (808) 524-1399 / FAX (808) 536-3975
FIELD MEMORANDUM

DECLARANT (File Reference): P&P VENTURES

SITE VISIT DATE: October 14, 1992

PRESENT: Ray Miller (Friendly Isle Realty) Sterling Chow

STATUS: Unused dug well. Well index number 0356-02 (Steel) will be assigned to this well.

SOURCE(S): TMK: 5-4-1:43. USGS Kamalo quad (Mo-4). Well to be assigned number 0356-02 (Steel).

USE(S): Not in use.

FIELD NOTES:

1. Source: The Declaration of Water Use form indicates the well was dug in 1989. As observed in the field, the well has an 8-inch diameter PVC casing extending 18 inches above ground. From the top of the casing, the total depth of the well is 7 feet 4 inches, and 4 feet 3 inches to the water surface level.

2. Use: Currently not in use by present owner. Well does not have motor nor pump. Before selling land, declarant had used well for domestic and irrigation purposes.

3. Location: Source, TMK: 5-4-1:43. Using the GPS: latitude = 21 deg 03 min 56.7 sec N longitude = 156 deg 56 min 25.0 sec W


5. Well number 0356-02 (Steel) will be assigned to this well.
PART I: USE OF WATER

Declarant’s File Reference: P4P VENTURES

1. Tax Map Key where the water is used: 5 - 4 - 1 : 43. Does the declarant own this land? NO If not, who does? NEW OWNER: DUANEY STEEL, PURCHASED 1990

2. What is the water used for? NOT IN USE
   If for irrigation, how many acres are being irrigated by crop type? N/A
   If for livestock, how many and what kind? N/A
   If for drinking, at how many houses? N/A by how many people?

3. Is the quantity of water use being measured? N/A. If yes, document the location of the measurement point and method of measurement; also get use records if these were not submitted previously.

4. If this person takes from a multi-user pipe or ditch system: N/A
   How is the water taken from the system?
   What is the capacity for taking (gpm)?
   How often is it taken (used)?

   TO BE ASSIGNED

PART II: WATER SOURCE

Source #: 0356-02 Name: STEEL

1. Where does the water come from / what kind of source is this? PER DECLARATION
   FORM, WELL - DUG, 8” PVC, Casing 18” Above Rod, + 3” TOC = WATER LEVEL
   Types of sources include:
   1) Wells (drilled, dug tunnel)
   2) Diversions (ditch, pipe, pump, or livestock from a stream, spring, swamp, pond)
   3) Multi-source systems. (Declared use cannot be traced to a single well or diversion)
   NOTE: If a multi-user system: take from pipe or ditch (need to determine whether this is a multi-source or single-source system before the data can be input to the computer
   4) Instream (i.e., crops planted along water edge)

   Show the source location on maps, determine latitude and longitude, and document the nature of source development by measurements, sketches, and photographs. How is the water taken? NOT IN USE.
   GPM: LAT = 31° 02’ 56.7” N, LON = 115° 56’ 25.0” W
   What is the capacity for taking (gpm)? NO PUMP
   How often is it taken (used)?

2. Tax Map Key at the source: 5 - 4 - 1 : 43. Determine declarant’s relation to source. Does the declarant:

   1) Operate and maintain the source? NO If not, who does? NOT IN USE
   2) Own the land at the source? If not, who does?
   3) Use the water from this source? NO If not, who does?
   4) Own the land where the water is being used?
   5) None of the above? If so, why did they file?

3. Does any one else also use water from this source? NO If yes, is their use included in this user’s declaration? Who are the other users? Did they file?

VERIFIED BY: STEERING CHAIR DATE: 10-14-92
Mapped, edited, and published by the Geological Survey
Control by USGS, USC&GS, and Hawaii State Survey
Selected hydrographic data compiled from USC&GS Charts 4121 (1966) and 4130 (1964)
This information is not intended for navigational purposes
Polyconic projection. Old Hawaiian datum
10,000-foot grid based on Hawaii coordinate system, zone 2
1000-meter Universal Transverse Mercator grid ticks, zone 4 shown in blue

Mo-4
Unused dug well. Deteriorated 5 gallon bucket around casing had been used as a cover for the well.
FIELD MEMORANDUM

DECLARANT (File Reference): P&P VENTURES

SITE VISIT DATE: October 14, 1992

PRESENT: Ray Miller (Friendly Isle Realty)
          Sterling Chow

STATUS: Unused dug well. Well index number 0356-02 (Steel) will be assigned to this well.

SOURCE(S): TMK: 5-4-1:43. USGS Kamalo quad (Mo-4). Well to be assigned number 0356-02 (Steel).

USE(S): Not in use.

FIELD NOTES:

1. Source: The Declaration of Water Use form indicates the well was dug in 1989. As observed in the field, the well has an 8-inch diameter PVC casing extending 18 inches above ground. From the top of the casing, the total depth of the well is 7 feet 4 inches, and 4 feet 3 inches to the water surface level.

2. Use: Currently not in use by present owner. Well does not have motor nor pump. Before selling land, declarant had used well for domestic and irrigation purposes.

3. Location: Source, TMK: 5-4-1:43. Using the GPS: latitude = 21 deg 03 min 56.7 sec N
          longitude = 156 deg 56 min 25.0 sec W


5. Well number 0356-02 (Steel) will be assigned to this well.
December 4, 1992

Ms. Rae M. Loui, Deputy Director
Commission on Water Resource Management
P. O. Box 621
Honolulu, Hawaii 96809

Attention: Yoshi Shiroma
Project Coordinator

Project: Verification of Water Sources and Uses--Molokai

Subject: Water Source and Use Reports

Transmitted for your review a report on the water source and use for the following declarant:

(1) P&P VENTURES

To date, including the reports in this transmittal, water source and use reports for 8 of 131 declarants have been completed. Attached is a chronological list of reports submitted for this project.

If there are any questions regarding these reports, please call me at 524-1399.

Sincerely,

Sterling J. L. Chow

Sterling J. L. Chow Engineering and Planning Services
615 Piikoi Street, Suite 1601 / Honolulu, Hawaii 96814 / (808) 524-1399 / FAX (808) 536-3975
December 4, 1992

VERIFICATION OF WATER SOURCES AND USES--MOLOKAI
LIST OF REPORTS SUBMITTED TO DATE

<table>
<thead>
<tr>
<th>File Reference</th>
<th>Date Submitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. LINDHOLM JK</td>
<td>October 9, 1992</td>
</tr>
<tr>
<td>2. KALAIKAMANU</td>
<td>November 9, 1992</td>
</tr>
<tr>
<td>3. 3-L FARM</td>
<td>November 23, 1992</td>
</tr>
<tr>
<td>4. CURTIS DW</td>
<td>November 23, 1992</td>
</tr>
<tr>
<td>5. YAMASHITA HN</td>
<td>November 23, 1992</td>
</tr>
<tr>
<td>6. HEM AM</td>
<td>December 2, 1992</td>
</tr>
<tr>
<td>7. PEDRO S</td>
<td>December 2, 1992</td>
</tr>
<tr>
<td>8. P&amp;P VENTURES</td>
<td>December 4, 1992</td>
</tr>
</tbody>
</table>
COMMISSION ON WATER RESOURCES MANAGEMENT  
STATE OF HAWAII

In Matter of Petitioner  

David Patmon

Petition Seeking Declaration of  
Petitioner's Use (Inchoate Riparian  
or Correlative Rights, Appurtenant  
Rights and Uses and Future Uses  
under Section 26 of the State Water  
Code and Certification under Section  
27 of the State Water Code:

COMES NOW ABOVE NAMED DECLARANT THROUGH HIS OR HER AUTHORIZED AGENT, NATIVE HAWAIIAN ADVISORY COUNCIL, INC., IN ORDER TO REQUEST THAT PETITIONER'S USE BE DECLARED UNDER SECTION 26 AND CERTIFIED UNDER SECTION 27 OF THE STATE WATER CODE.

The agent for the declarant, Native Hawaiian Advisory Council, Inc., is authorized to represent the petitioner in these proceedings based on documents previously filed.

Petitioner and its agent requests that the rule requiring triplicate filings of documents with the chairperson (Rule 13-167-25(c)) be waived as to this petition. This is consistent with earlier determinations made by the Commission as to declarations.

DATED: OCTOBER 15, 1990, HONOLULU, HAWAII.

PETITIONER THROUGH HIS OR HER AUTHORIZED AGENT, NATIVE HAWAIIAN ADVISORY COUNCIL, INC.,

Elizabeth Pa Martin

BY AND FOR NATIVE HAWAIIAN ADVISORY COUNCIL, INC. BY WILLIAMSON B.C. CHANG, ESQUIRE, ITS LEGAL SERVICE DIRECTOR AND ELIZABETH MARTIN, ITS WATER CLAIMS MANAGER.

"CATEGORY THREE" (PINK)
COMMISSION ON WATER RESOURCES MANAGEMENT
STATE OF HAWAII

In the Matter of Petitioner

Petition requesting additional
) Time to File Declaration; (Pursuant
) To Rule 13-167-26) "Category two" or
) "Category Three" Declarant Now also
) Asserting a Consumptive Use,
) (Petitioner Unable to Measure Water
) Flow or Verify Point
) of Diversion or Withdrawal

COMES NOW ABOVE NAMED DECLARANT THROUGH HIS OR HER AUTHORIZED
AGENT, NATIVE HAWAIIAN ADVISORY COUNCIL, INC., IN ORDER TO REQUEST
ADDITIONAL TIME TO COMPLETE DECLARATION OF (CONSUMPTIVE) WATER USE.

Native Hawaiian Advisory Council, Inc., agent of record for
petitioner, asserts, either from the original declaration or based
on new information elicited from the petitioner, that the
petitioner has a valid "consumptive use" and therefore should be
placed in the Commission's designated "category one." Petitioner
seeks additional time to prove this use and asserts that any
consumptive use should be deemed an "open" file until the process
of verification is complete. Agent for petitioners also requests
to be informed two weeks in advance if the Commission or its staff
intends to inspect site of petitioner's declaration. Agent for
petitioner will, in timely fashion, attempt to verify or measure
the flow or consumption of water by petitioner. These statements
are not, however, to be deemed a waiver of the position taken by
petitioner that non-consumptive uses and inchoate rights (see
attached blue and pink documents) are valid uses within the meaning
of that term in Sections 26 and 27 of the State Water Code. If
deemed necessary by the Chairperson, Agent for petitioner agrees to
place this matter on the agenda of the next meeting of the
Commission (or thereafter).

Petitioner and its agent requests that the rule requiring
triplicate filings of documents with the chairperson (Rule 13-167-
25(c)) be waived as to this petition.
DATED: OCTOBER 15, 1990, HONOLULU, HAWAII.

PETITIONER THROUGH AUTHORIZED AGENT, NHAC,

BY AND FOR NATIVE HAWAIIAN ADVISORY COUNCIL,
INC. BY WILLIAMSON B.C. CHANG, ESQUIRE, ITS
LEGAL SERVICE DIRECTOR AND ELIZABETH MARTIN,
ITS WATER CLAIMS MANAGER.

"CATEGORY TWO OR THREE BUT CONTACTED AND HAS CONSUMPTIVE USE"
(YELLOW)
TO: STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
P. O. BOX 373  
HONOLULU, HAWAII 96809  

DATE: 10/15/90  

RE: WC REF #: P&P VENTURES   CATEGORIES: 1 3   NHAC FILE NO. MK023-1  

ADDENDUM TO DECLARATION OF WATER USE  
FOR REGISTRATION OF: STREAM X WELL SPRING  

DECLARANT: Patmon, David  
Cross Reference:  

This declarant has been placed in Category 1 for at least one of the declarations previously submitted. The Water Commission has not comprehensively indicated to NHAC (authorized agents for these declarants), the breakdown of particular declarant’s distinct Category 1, 2 and 3 uses and information needs. Also, the Water Commission has not specified a deadline for submitting additional Category 1 information. Nonetheless, NHAC is currently gathering the required information. However, because this Category 1 declarant has also been placed in Category 2 and/or 3, additional information and requests to certify these Category 2 and 3 uses and rights are hereby submitted. (See Letter to Mr. M. Tagomori dated October 15, 1990)

This addendum also consists of:

☑ Addendum Statement  
☑ Request to Certify Category 2 (Instream) Uses  
☑ Request to Certify & Acknowledge Category 3 Inchoate Uses & Rights  
☑ Tax Maps  
☑ Topographical Maps  
☑ Other Maps or Sketches  
☑ State Water Use Declaration Form  
☑ Supplemental Declaration Form  
☑ Other Information
NATIVE HAWAIIAN ADVISORY COUNCIL, INC., a non-profit 501(c)(3) corporation

THIS DECLARANT, THROUGH HIS OR HER AGENT, RESERVES THE RIGHT TO SUBMIT ADDITIONAL INFORMATION AFTER OCTOBER 9TH AND 15TH.

In light of procedural irregularities, misleading statements and the failure to apply the requirements of the rules promulgated under the state water code, this declarant asserts that the commission is estopped from denying verification or certification of these uses. First, the Commission, and/or its staff allegedly failed to comply with the requirements of public notice as set forth in Rule 13-168-5(b). Moreover, the state, while claiming to have notified more than 1000 water users by mail, failed to mail notice to clients represented by NHAC whose wells or other uses were known to state or county agencies.

Second, Native Hawaiians, whose rights are specifically preserved in the constitution and various provisions of the code,

1. That rule provides as follows:

"The commission shall cause notice of the rules to be published on three separate days in a newspaper of general circulation statewide and in a newspaper of areawide or countywide circulation."

The state has informally admitted the failure to comply with this requirement. See Honolulu Advertiser, "Water Users Must Report or Lose Rights," "State water official Dan Lum conceded that a newspaper campaign--consisting of obscure, small print legal notices, was not adequate."

2. Id. See Advertiser article.

3. NHAC has a record of declarants who did not receive mailed notice. Rule 13-168-5 requires mailed notice to persons the commissions should know needs to declare. The 1000 or so parties notified, undoubtedly were the "large" water users. During May of 1989, one person from Kona complained to NHAC that a meeting was held to inform large water users of the declaration requirement (with no similar meeting for smaller users) as early as one year prior to the May 1989 deadline. The fact that almost no NHAC declarants, many whose uses were known to the state, did not receive any of the 1000 mailed notices, seems to confirm this unequal treatment.

4. The water code protects Native Hawaiian rights by defining these rights as an "instream use" by definition (see paragraph nine of HRS 174C-3) and more directly in HRS 174C-101 "Native Hawaiian water rights." Moreover, the state constitution also requires particular protection for traditional Hawaiian rights. See Article XII, Section 7:

Executive Centre, Suite 1204, 1088 Bishop Street, Honolulu, Hawaii 96813, (808) 523-1445
Addendum to declaration:
Violaions of Process

were led to believe that the declaration process was a "survey" not imposed by law.

Third, there was an aura of procedural confusion around the declaration process including uncertainty as to the date required for filing, the necessity of notarizing declarations, the number

Traditional and Customary Rights Section 7. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right to regulate such rights.

A statement to this effect was distributed at a meeting of Native Hawaiians at a meeting on Molokai in April of 1989. Unlike a "survey," the consequences of failure to declare would, of course, have been severe to Native Hawaiians seeking to protect their rights. If no declaration is filed, the commission may "conclusively" determine the extent of uses. See Rule 13-168-5 (d). These determinations would be the basis for resolving all rights and claims, including appurtenant rights, riparian and correlative uses. See Rule 13-168-6 (a). Thus, representations made to Hawaiians that Hawaiian rights would not be adjudicated or affected and thus were still reserved to them under Section 101, amounted to imprudent legal advice.

Although the advice was somewhat puzzling, state officials eventually urged both registration and non-action in reliance on the code. See "Hawaiians warned to file water-use claims," Becky Ashizawa, Honolulu Star Bulletin, May 10, 1989; "Tagamori said that the water code does assure those rights even for those who don't file but as a safeguard he advises Hawaiian farmers to do so."

Many Hawaiians refrained or resisted declaration based on these representations. See "Hawaiians warned to file water-use claims," Becky Ashizawa, Honolulu Star Bulletin, May 10, 1989 (describing Keoki Fukumitsu who refused to register his water used to irrigate a taro lo'i on grounds that he had 'well documented' kuleana rights)

The rules provide that the declarations must be filed one year from the "effective" date of the rules. See Rule 13-168-5 (a), that rule, Rule 13-168-5, was signed by the Governor on May 16, 1988 and received in the office of the Lieutenant Governor on May 17, 1988. The effective date of the particular chapter in question, 13-168 is deemed to be ten days after filing with the Lieutenant Governor. ("The adoption of chapter 13-168 shall take effect ten days after filing with the Office of the Lieutenant Governor.") However, May 27, 1989 fell on a Saturday. At
Addendum to declaration:  
Violations of Process  
of copies to be filed,\(^8\) and the necessity of the information  
requested,\(^9\) often irrelevant to the particular declarant, or beyond  

different times during the spring of 1989, the staff used different  
dates for the deadline. The commission did not rule on this matter  
until the week before the deadline. 
Oddly enough one public notice promulgated by the commission  
in March even stated that the deadline was \textbf{May 28} (a Sunday) (See  
also the article in the Maui News, May 23, 1990 "Water Mahele:  
State Registering stream, well users" wherein the author states  
"The state Department of Land and Natural Resources (DLNR) also  
said the May 28 registration--..."  
Newspaper articles and other documents generally referred to  
the \textbf{27th} as the appropriate deadline even though state offices  
would clearly be closed that day. (see Advertiser Editorial of May  
15, 1990 "Water Deadline") or the \textbf{28th} (see Advertiser article,  
Finally, the commission determined, since Monday May 29th, the  
first weekday after the \textbf{27th}, was Memorial Day, that the deadline  
would be \textbf{May 30, 1990}. See public notice promulgated by the  
commission: "Attention: Owners or Operators of Existing Wells  
and Existing Stream Diversions."  
The title of one article was an apt depiction of the  
confusion: "Water rights registration is murky; if you're in  
doubt, file" -- Kimie Lane, Maui News May 23, 1990: "One source of  
confusion was eliminated last week when the Commission on Water  
Resources set a new filing deadline of May 30. Before that, the  
deadline was May 28, which was Sunday, in the middle of the long  
Memorial Day weekend."  

\(^7\) See Rule 13-168-5 (c):  

"Each declaration shall contain a statement, signed and  
sworn to by the person required to file the  
declaration,..."  

\(^8\) Rule 13-167-25 (c) states:  

"Unless otherwise specifically provided by a particular  
rule or order of the commission, an original and three  
copies of all papers shall be filed."  

\(^9\) The forms required or suggested (without detailing the  
consequences of failure to comply) attaching a USGS map (one set  
costs approximately $400.00), naming the pump or stream diversion  
operator, and providing, on a monthly basis, measurements of flow  
for the five years prior to 1988.
Addendum to declaration:

**Violations of Process**

the means of the individual to determine. The forms prepared by the staff also limited the uses that may be declared. The forms provided only for registering wells, as groundwater uses and stream diversions for municipal, industrial, military irrigation, domestic or other (but not non-consumptive) purposes, as instream uses. Fourth, the commission has not, and will not, until December of 1990, notify declarants of the consequences accorded the information declared. Generally, the staff has been unable, or reluctant, to assist declarants and their agents in the process of preparing the forms.

10. The forms suggested that stream diversion declarants report the "method" of measurement, including the use of "weir" gauges or "rating flumes". This equipment is far beyond the means of small farmers. It was not clear whether more unsophisticated methods, such as "floating orange" would be acceptable.

11. In one form, the state provided for both declaration and the "registration of wells," a requirement derived from a part of the code wholly unrelated to section 26 (declaration). In the other, the state provided a form for declaration and "stream diversion," another requirement wholly unrelated to declaration. In combining forms in this manner, the commission limited the rights of persons seeking to declare by requiring that uses also qualify for well registration or stream diversion permits. Absent any indication of this interpretation in the code, the limited interpretation given certification through the combination of forms constitutes rulemaking without the requisite public notice or public hearing.

12. For example, there is no indication that failure to provide the name of the "stream diversion operator" will not have adverse consequences to the declarant. It is inequitable and a violation of due process to require applicants to comply with rules wherein the declarant has no advance knowledge of the consequences of the failure to comply.

13. Declarants received one version of the deficiencies in their declaration, a more detailed description than the brief references in the "book" of all declarants made available to agents of record such as NHAC. Lacking such necessary details, NHAC has been severely hampered in assisting its declarants. Moreover, the staff has forbidden the photocopying of the declarations of other parties (while allowing visual examination and note-taking of the same declarations) on the grounds of "confidentiality." Denying declarants and their agents the right to photocopy such other declarations, in the absence of a legal
Addendum to declaration:
Violations of Process

Finally, the rules and forms failed to require the declarants to provide an address or telephone number. Thus a number of declarations filed in timely fashion in May 1989 have been sequestered in a "dead letter" file. The staff has not provided ready access to this file. Thus, declarants who complied in every respect with the rules and the forms will not be certified through no fault of their own. Thus, the commission is estopped from adverse action on forms in this category.

HENCE THIS DECLARANT AND ITS AGENT IN FILING, NATIVE HAWAIIAN ADVISORY COUNCIL, INC., submits this declaration subject to the above claimed violations of due process, equity and compliance with the statutory requirements of the Hawaii Administrative Procedures Act.

The ruling, has impeded the ability of declarants and their agents to complete the declarations with full knowledge of the claims of other parties. Finally, an existing statewide database of declarations, prepared by the commission staff and admittedly available to the public, will not be made available until after the coming deadline. This would have been of great assistance to those seeking knowledge as to neighboring claimants.

The rule required the forms to request only the following information:

(c) Declarations by the user shall be made on forms provided by the commission and shall contain information including, but not limited to, the location of the water sources and all usage related facts, or information within his knowledge or possession. The user shall include a declaration of the manner, purposes, time in which the water source is being used and operated, the rate and volume of water being withdrawn or diverted therefrom, and the method or means of measuring and controlling the water taken or used. Each declaration shall contain a statement, signed and sworn to by the person required to file the declaration, or by some other person duly authorized in the other person's behalf, to the effect that the contents thereof are true to the best of the person's knowledge and belief.

As such, some declarants have not been contacted by the commission and their files will be deemed incomplete and denied. Thus, even though a declarant might have provided all information exactly as demanded by the forms, a declaration may be denied simply for failure to locate the declarant.
SUPPLEMENTAL STATEMENT SUPPORTING THE CERTIFICATION OF INCHOATE APPUR TENANT, RIPARIAN AND CORRELATIVE RIGHTS

The commission's position is that non-existing riparian and correlative uses¹ (wherein the declarant cannot prove use as of May 1988²) and inchoate appurtenant rights are not appropriate for certification. These claims have been placed in category three. This statement presents evidence that the commission's position is in error.

First, the legislative intent is clear that non-existing claims of appurtenant rights, even if there is no existing use, must be certified.³ The commission's own rules,⁴ the state

¹. See statement dated March 1st, titled AMENDED RECOMMENDATION PERTAINING TO DECLARATION OF WATER USE AS APPROVED BY THE COMMISSION ON WATER RESOURCE MANAGEMENT AT ITS MEETING OF FEBRUARY 28, 1990 (dated March 1, 1990) (see paragraph (A), page two under the heading "Action on Category 3 Declarations (820 Declarants)") stating:

"As to any declaration proposing a certification of legal rights as such, declarants are permitted 180 days from the date of notice of this action to amend their declarations to state and document any actual existing use they may have within the meaning of the statute and the commission."

². See statement dated March 1st, titled AMENDED RECOMMENDATION PERTAINING TO DECLARATION OF WATER USE AS APPROVED BY THE COMMISSION ON WATER RESOURCE MANAGEMENT AT ITS MEETING OF FEBRUARY 28, 1990 (dated March 1, 1990) (see paragraph three, page two under the heading "Action on Category 3 Declarations (820 Declarants)") stating:

"The commission also advises, however, that persons who declared that they are not presently using existing wells, stream diversions, and spring sources are to be notified that their sources will be registered under other sections of HRS 174C as unused existing sources."

³. Section 7 of Article XII of the State Constitution, requires that appurtenant rights (even if not in use) must be "assured."

Executive Centre, Suite 1204, 1088 Bishop Street, Honolulu, Hawaii 96813, (808) 523-1445
constitution,\(^5\) the state water code\(^6\) and the procedures under

"The legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies;...while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawaii's water resources." (emphasis added)

The choice of the term "right" was deliberate, since only riparian and correlative "uses" (indicating exercise of the right) are accorded such protection in the constitution.

\(^4\) See Rule 13-171-27:

"Appurtenant Rights. Appurtenant rights are preserved. Nothing in this part shall be construed to deny the exercise of an appurtenant right by the holder thereof at any time. A permit for water use based on an existing appurtenant shall be issued upon application. Such a permit shall be subject to sections 13-168-5 (declaration), 13-168-6 (certification) 13-171-12 (application for new and existing water use permits) 13-171-25 (transfer of water use permits) 13-171-26 (contested cases) and subchapters 4 (Principles of water shortage declaration) and 5 (Declaration of water emergency)" (parenthetical and emphasis added)

The language above, "Such a permit shall be subject to sections...." can have only one meaning. Since the constitution requires that appurtenant rights (whether or not presently put to use) must be assured, this language clearly intends that appurtenant rights are not to be diminished or distinguished by declaration or certification (the procedure at issue here) or even the most compelling of circumstances: the declaration of a water emergency and water shortage.

The commission and staff, by designating appurtenant rights within category three, arguably claim that such rights will be protected at some future date when they are asserted by the claimholder. However, unless the water duty is properly allocated to these rights at the present time, certification proceedings for neighboring rights will prejudice the future exercise of appurtenant rights.

\(^5\) See note 3, supra.

\(^6\) See HRS 174C-63 Appurtenant Rights:

"Appurtenant rights are preserved. Nothing in this part shall be construed to deny the exercise of an appurtenant right by the holder thereof at any time. A permit for water use based on an existing appurtenant right shall be
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

section 27 require that inchoate appurtenant rights be certified. Without such certification (preceded by the allocation of the proper measurement of water to the asserted acreage) such appurtenant rights cannot be protected as required by the state constitution, the water code and commission rule.

In light of testimony of this nature at its February 28, 1990 meeting, the commission deferred denying inchoate appurtenant rights certification until a staff inventory of statewide appurtenant rights has been completed. In light of this decision, issued upon application. Such permit shall be subject to sections 174C-27 and 174C-58 to -62." (emphasis added).

If "nothing" is to "deny" the exercise of an appurtenant right, at "any time" (including in the future) such rights must be certified, so that they are of record at the time any certification proceeding affecting such rights is commenced. Under the holding of the Hawaii Supreme Court in Reppun v. Board of Water Supply, 65 Hawaii 531 (1982), appurtenant rights "run" with the land and cannot be lost, even by successors in interest to such parcels, unless there is an intent to extinguish such right by deed. ("We agree that the rule posited in McBryde prevents the effective severance or transfer of appurtenant water rights [by sale]. This position is consistent with the general rule that appurtenant easements attach to the land and cannot exist or be utilized apart from the dominant estate" 65 Hawaii at 551-552 (1982)) (emphasis added).

7. HRS 174C-27 indicates the importance of declaring and certifying inchoate appurtenant rights since certification of neighboring uses will adversely affect such rights, effectively denying the protection promised by the state constitution. The procedure in section 27 indicates that this may occur:

"With respect to certificates for water use, the confirmed usage shall be recognized by the commission in resolving claims relating to existing water rights and uses, including appurtenant rights, riparian and correlative uses."

8. "..., appurtenant rights are rights to the use of water utilized by parcels of land at the time of their original conversion into fee simple land." Reppun v. Board of Water Supply, 65 Hawaii 531, 551 (1982)

9. On March 1, the Commission issued the following decision regarding declaration of appurtenant rights:
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

It is clear that the commission must accept declarations based on
appurtenant rights, whether or not presently in use

Second, the commission has indicated it will certify only
"existing" uses.\textsuperscript{10} The staff and the commission have taken the
unwarranted position that "existing" is limited to uses that could
be measured as of May 1988. However, there is no statutory support
for this position.\textsuperscript{11} The water code does not specify any

\textsuperscript{10} The question of whether appurtenant rights which are not
currently being exercised shall be considered a use under
this section [section 26] is reserved for further
determination. The Commission staff is directed to
initiate a survey of appurtenant rights. The staff shall
prepare a proposal of how this survey should be conducted
and present it to the Commission for its approval."

See statement dated March 1st, titled \textit{AMENDED RECOMMENDATION
PERTAINING TO DECLARATION OF WATER USE AS APPROVED BY THE
COMMISSION ON WATER RESOURCE MANAGEMENT AT ITS MEETING OF FEBRUARY
28, 1990} (dated March 1, 1990) (see paragraph (c), page two under
the heading "Action on Category 3 Declarations (820 Declarants")
stating:

\textsuperscript{11} Rather, the commission should consider the definition of
"existing" a policy decision left to its wisdom. Since it is the
statute itself which governs the obligations and scope of
declaration, the commission must find within the four corners of
the water code support for its position that May 1988 is the
governing date. Nowhere does the commission point out the
statutory basis for this conclusion.

Rather, section 26 (requiring declaration) simply states that
declarations must be made one year after the regulations have
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

particular magic "date" on which a "snapshot" of the water uses in
the state will govern certification.\(^12\)

From a logical point of view, allowing a single twenty-four
hour period, two years in the past, to be determinative of use, is
absurd. All hydrologists recognize that measurements on any one
day have little logical relationship with the meaningful
quantification of flow.\(^13\) The commission should propose a more
representative means of measuring use. Thus, administrative action
placing declarants in "category-three" on the basis of the lack of
a use, as of May 1988 (particularly when there is an alleged
history of use--even intermittent use) is violative of due process
as arbitrary and capricious.

Finally, the commission has ruled that proposed riparian and
correlative rights, not in use as of May 1988, will not be
certified. The staff's characterization of these proposed uses as
non-certifiable "future" uses ignores the possibility that

become final. This language governs the date for filing
declarations, not the date on which a "use" must exist in order to
be certified.

Second, an "existing use" refers to a use that must currently
exist. It is contradictory, as of October 1990, to speak of
"existing uses" in terms referring to May 1988." These are "prior
uses." An existing use is one that is presently occurring.

\(^12\) Certainly this would not be considered the proper means of
measuring uses (or rights) for the purposes of drafting the water
plan. Neither is it sensible for certification. As argued infra,
since the water plan contains no mechanism for enforcement of its
objectives, certification should be viewed as the process for
implementing long range planning goals. Viewed in this light,
certification should encompass an inventory of likely, future uses.

\(^13\) Rainfall in May of 1988 may have been unusually low, due
to a severe drought. Or, on that date, pumps, valves or gates may
have been shut down for a variety of reason, wholly unrelated to
the objectives of declaration and certification. Moreover, if
there was a heavy storm during May 1988, flows would have been
abnormally high resulting in exaggerated uses leading to misleading
certification of use. During a non-storm period, the clash of
exaggerated claims would exhaust the waters available. As a random
and arbitrary choice, singling out a single date, instead of
averaging use over a more representative period of time, (including
dry as well as wet phases of the water cycle) is inconsistent with
modern hydrology.
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

Claimants may have been prevented from executing these uses at the
appropriate date of measurement through no fault of their own.

For example, one NHAC declarant stated that a stream no longer
ran along her property subsequent to the state's construction of a
dam upstream. Thus, although she has no existing riparian use,
she had a valid riparian right that may have been unlawfully
terminated. Unless allowed to declare, she will not be afforded
the right to prove her case. Worse, she will not receive notice
when upstream users, who may be violating her common law rights,
petition for certification.

While the staff has indicated these "rights" claims are not
appropriate for certification,14 to refuse certification of her
riparian right effectively terminates her ability to protect the
certification of a use that is properly hers.15 Since there are
no commission rules requiring notification of affected landowners,
denying the certification of these inchoate rights is, as mentioned

14. See ADDITIONAL INFORMATION TO BE SUBMITTED TO AMEND
DECLARATIONS OF WATER USE (dated March 21, 1990) (signed by William
W. Paty, Chairperson) (paragraph one, under the heading "Additional
Information from Category 3 Declarants"): "Category 3 declarations describe something other than an
existing use as of May 1988. These include claims for
water rights, proposed future developments, and
registration of existing but unused wells and diversions.
The State Water Codes's certificate of use process does
not certify legal rights as such, proposed future uses or
unused existing sources."

15. The very use of the terms, "correlative" and "riparian"
in section 27 creates the obligation to apply those terms as
understood under Hawaii common law. The common law, particularly
Reppun v. Board of Water Supply, 65 Hawaii 531 (1982) and City
Mill v. Board of Water Supply, 30 Hawaii 912 (1929) are the present
law of the state. These cases firmly hold that unexercised riparian
and correlative rights are not extinguished by failure of use. The
specific choice of these terms in section 27 further strengthens
the logic that a certification proceeding, which conceivably draws
in many parties sharing a stream or an aquifer, would result in a
meaningless exercise if these rights were not taken into account.
If left unaccounted for in such a proceeding, any certification
decree would be subject to later collateral attack on the basis of
unexercised correlative or riparian rights.
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

earlier, to deny effective notice as to actions affecting a
property right.\textsuperscript{16}

Furthermore, since the statutory requirements for notice
under section 26 were allegedly not met,\textsuperscript{17} the commission is
estopped from denying declaration and certification to those who
would have, had they been timely informed of the importance of
declaration, acquired the proper permits to put into use water on
their property.\textsuperscript{18}

\textsuperscript{16} If certification is intended to determine the amounts that
will be conclusive in resolving claims, parties who do not receive
verified declarations will be denied their day in court.
Particularly, they will be denied the right to challenge the
legality of "uses" asserted by neighbors with whom there may be
conflicting claims. By failing to verify these inchoate
dclarations of rights, the Commission may be violating the
property rights of the parties.

\textsuperscript{17} State officials have admitted publicly that the
requirements of rule 13-168-5 "Declaration of Water Use" were not
met. That section requires: "...The commission shall cause notice
of the rules to be published on three separate days in a newspaper
of general circulation statewide and in a newspaper of areawide or
countywide circulation. The commission shall also cause notice of
the rules to be given by mail to any person required to file of
whom the commission has or could readily obtain knowledge or who
has requested mailed notice to be given when the commission adopts
rules requiring the filing of declarations." In an article in
the Honolulu Advertiser, "Water Users Must Report or Lose Rights,"
"State water official Dan Lum conceded that a newspaper campaign--
consisting of obscure, small print legal notices, was not
adequate."

Of the 800 declarants represented by Native Hawaiian Advisory
Council, Inc., only a handful reported that they received mailed
notice. Many of these declarants, particularly those with wells,
were already registered with the state. These were persons whom
the state could readily have obtained knowledge that these users
should have registered. Thus, noticed should have been mailed to
these parties.

\textsuperscript{18} There are difficult questions to resolve in determining what
constitutes an "existing use." Persons may have held valid permits
for well construction, but due to no fault of their own, been
unable to commence actual use of the water as of May 1988. Thus,
the issue of existing use must be taken on a case by case basis.
It is inequitable to deny certification to a farmer who would have
been withdrawing water, with the proper permits, had he or she
received timely notice.
Inchoate Appurtenant, Riparian and Correlative Rights
Supplemental Statement

There is no reason to assume that "use" refers to "prior" uses. The logic of certification -- the inventory of uses and rights in order to resolve water conflicts serves planning as well as adjudicatory objectives. The planning ramifications of certification are increasingly evident since the limitations set by the forthcoming state water plan have no "teeth." Although limits on withdrawal may be set for valid health or hydrologic reasons, the water plan can not be enforced since the goals and limits of the plan are not legal restrictions on permitting.

Thus, certification of future uses, based on riparian and correlative rights, will be the only method by which the commission can "reserve" water for high-priority uses that are certain to occur in the future. For example, if water needs for the Ewa plain are forseeable in light of current general plans, the certification process, wherein claimants with no present uses are allowed to reserve water, is the only mechanism for effectively providing for known future needs.

The state water plan was originally intended to serve the function of "reserving" water for future needs. However, the connection between planning and permitting that existed in the earlier drafts, based on the Model Water Code, was eliminated when the code was passed.

In conclusion, the commission has bound itself to accept declarations of appurtenant rights, even if presently unexercised. The proper assessment of inchoate riparian and correlative rights are essential if the water commission is to truly "manage" water for future generations. Thus, these rights should be examined on a case by case basis. They should not be summarily denied as presently suggested by the staff.

FOR THE REASONS STATED ABOVE DECLARANT HEREIN SUBMITS THE ASSERTED INCHOATE APPURTENANT, RIPARIAN OR CORRELATIVE RIGHT OR RIGHTS AS APPROPRIATE FOR CERTIFICATION.

Unfortunately, the large number of applications for well construction permits in the months before May 1989, corroborate community sentiment that large water users were given advance notice, while small users, on the other hand, were informed only a few weeks before the day of reckoning.
Mr. David Patmon  
P&P Ventures  
3489 N.E. Gunderson Road  
Poulsbo, WA  98370  

Dear Mr. Patmon:

Notice to Declarants of Water Use

Enclosed is a copy of amended recommendations regarding declarations of water use which were adopted by the Commission on Water Resource Management at its special meeting on February 28, 1990. These recommendations replace the earlier staff recommendations which were a part of the submittal mailed to all declarants last December.

There is now a 180 day deadline in effect to amend declarations which describe instream uses (Category 2), no existing use (Category 3), or which are incomplete (Category 4). This deadline does not affect declarations which have been accepted as being reasonably complete and describing an actual existing use (Category 1). The commission staff will verify the Category 1 uses and conduct other activities necessary to issue certificates of water use.

Our records currently show that your declarations have been placed in Categories 1 and 3. Category 3 refers to unused existing sources, proposed future uses, or claims for water rights. The commission staff has described your actual existing use (Category 1) as follows:

Water from one pumped well with a 14 gpm pump is used for domestic supply at one connection and for irrigation of 5 acres of truck garden.

If you have not already done so, please write to confirm whether this summary is accurate, advise us of any changes which should be made, and provide additional information. The enclosed sheet dated March 21 (Enclosure #2) describes what is required and how to amend your declarations. When you write to us, clearly indicate that it is regard to file reference P&P VENTURES, Molokai, which has been assigned to you.
The deadline for you to amend your Category 3 declaration(s) is October 15, 1990. You are required to do this only if you have an actual existing use (as of May 1988) which we placed in Category 3 because it was not properly declared.

If you have questions regarding additional information to amend your declaration, please phone the commission staff in Honolulu at 548-2316 or 548-3948. Neighbor island residents can reach these and other state government numbers toll-free through the government switchboard at 1-800-468-4644.

Sincerely,

[Signature]

MANABU TAGOMORI
Deputy Director

Encls.:
(1) Amended Recommendations
(2) Additional Information Sheet
December 28, 1989

Mr. David Patmon
P&P Ventures
SR Box 95
Kaunakakai, HI 96748

Dear Mr. Patmon:

Notice to Declarants of Water Use

The Commission on Water Resource Management held a special meeting on November 29, 1989, to act on 7,300 declarations of water use which had been filed by approximately 2,600 declarants. At the meeting, the Commission unanimously approved a proposal:

1) that the amended recommendations regarding declarations of water use under H.R.S. §174C-26 be adopted at a special meeting of the Commission on February 28, 1990;

2) that all declarants be sent a copy of the amended recommendations; and,

3) that all declarants be sent a request to file additional information regarding their declarations of use.

Enclosed please find a copy of the submittal which will be formally brought before the Commission on February 28, 1990. It recommends four types of actions to be taken on four categories of declarations. The categories are based on the content and completeness of the declarations and are described on the second and third pages of the submittal. Recommended actions are described on the third and fourth pages of the submittal. Attachment "A" referred to by the submittal is a 300 page condensed summary of all 7,300 declarations, and is available for public inspection in Honolulu at room 227, 1151 Punchbowl, and at Department of Land and Natural Resources offices on the neighbor islands. The portion of Attachment "A" which refers to you is reproduced on the second page of this letter.

Based on an initial review, your declaration has been placed in Categories 1 and 3, meaning that you submitted a declaration of an actual existing use and also a declaration for unused sources, intended future uses, or water rights without indicating an existing use of water.
Your declared use has been summarized as follows:

Water from one pumped well with a 14 gpm pump is used for domestic supply at one connection and for irrigation of 5 acres of truck garden.

Also enclosed with this letter is a sheet dated December 19, 1989, which describes additional information to be submitted for declarations of water use. Please read this sheet and provide any additional information which is applicable to your declaration, so that your existing use(s) of water can be accurately described. It is important that you advise us of any errors or omissions which need to be corrected. Changes from your additional information will not affect the submittal to the Commission on February 28, but will be added to your declaration file and changes will be shown in subsequent documents. When you respond, be sure to indicate that it is in regard to file reference P&P VENTURES, Molokai, which has been assigned to you.

The Commission has scheduled a special meeting for 2:00 p.m. Wednesday February 28, 1990, at Room 132, 1151 Punchbowl Street, Honolulu, Hawaii. The purpose of this meeting is to decide whether the recommendations of the enclosed submittal should be adopted. The public is invited to attend this meeting. If you disagree with the recommendations or would like to suggest alternatives, you should write to the Commission before February 14, 1990 so that your comments and suggestions can be considered and be put on record. If you plan to attend the meeting, please let us know.

If you have questions regarding additional information for your declaration or if you plan to attend the meeting on February 28, please phone the commission staff in Honolulu at 548-2316 or 548-3948. Neighbor island residents can reach these and other state government numbers toll-free through the government switchboard at 1-800-468-4644.

Sincerely,

[Signature]

MANABU TAGOMORI
Deputy Director

Encls.:
(1) Additional Information Sheet
(2) Submittal for Feb 28, 1990.
FILE REFERENCE:  PGP VENTURES

SUFFICIENCY OF INFORMATION

For each form, has sufficient information been submitted to determine:

(1) whether or not filer has an existing use of water?

If a existing use, has sufficient information been submitted to determine:
(2) the location of source (i.e., a suitably marked map or reference);
(3) the manner of taking (i.e., how water is removed from source);
(4) the type of use and some indication of the quantity of use?

If no to any of above, enter date of request for more information:

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

CONTENT OF INFORMATION

Does the filer declare an existing use of water from:

Well(s) owned or operated by filer? ............
Stream diversion(s) owned or operated by filer? ....
End use from non-municipal, non-state system? ....
Instream use or riparian use with no diversion?  ....

If yes for any of the above, describe the use:
WATER FROM 2 PUMPED DUG WELLS IS USED
FOR DOMESTIC USE IN 1 HOUSEHOLD AND
FOR IRRIGATION OF 5 ACRES OF TRUCK
CROPS.

Has the filer submitted forms to register or declare:

Unused existing well, spring or stream diversion? ....
Appurtenant or kuleana water rights claim? ....

Has the filer submitted forms to declare:

Proposed future developments and uses? ....
Non-appurtenant claims for water rights? ....
System end use from a municipal or state-run water system?  ...

REV 8908-3
REGISTRATION & DECLARATION OF WATER USE
PROCESSING OF FORMS

INITIAL COUNT AND FILING

FILE REFERENCE: P2P VENTURES   ISLAND: MOLOKAI

FILER'S NAME AND ADDRESS IS GIVEN BY:

✓ Operator
  Owner
  User's Signature
  Envelope
  Other
  Filer's address not given

FORMS RECEIVED:

- Number of forms for existing wells: 2
- Number of forms for existing stream diversions: 
- Number of other forms received: 

- TOTAL NUMBER OF FORMS RECEIVED: 2

Notes and Comments

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
STATE WELL NO.: N/A
WELL NAME OR DESIGNATION: P&P VENTURES #1

A. WELL OPERATOR
Firm name: P&P VENTURES
Contact person: Dave Patton
Address: SR Box 95
            KAILUA-KONA HI
Zip: 96748  Phone: 567-6135

B. OWNER OF WELL SITE
Firm name: P&P VENTURES
Contact person: Dave Patton
Address: SR Box 95
            KAILUA-KONA HI
Zip: 96748  Phone: 567-6135

C. WELL LOCATION
Tax Map Key: 5-4-01-43  Town, Place, District: KAILUA (OF KAILUA-KONA)
Attach USGS "Quad" map (scale 1:24,000), tax map, or other map showing the well location.

D. WELL DATA
For Drilled Wells, submit "as-built" drawing, driller's log, and pump test results, and complete items below.
For Tunnels and Shafts, submit construction drawings, plot plan, or sketch map.

Ground elevation (Mean sea level): 7 ft.
Elevation: GROUND ELEVATION ft.
Depth to water (Below reference point): 3 ft.
Maximum recorded chloride: 550 ppm
Minimum recorded chloride: 450 ppm
Minimum chloride in 1987: N/A ppm

Year drilled or constructed: 1989
Well contractor: P&P VENTURES
Casing diameter: 8" in.
Solid casing depth (below ground): 3' ft.
Perforated casing depth (below ground): 3' ft.
Total depth of well: 6' ft.

E. INSTALLED PUMP DATA
Pump type: □ Vertical shaft □ Submersible □ Centrifugal □ Other (specify):
Power: □ Diesel, __ HP □ Gas, __ HP □ Electric, __ HP □ Other (specify):
Pump capacity: ___ gallons per minute
Pump installation contractor: P&P VENTURES

(continued over)
F. DECLARATION OF WATER USE

NOTE: The purpose of the Declaration of Water Use is to obtain information necessary for the management of the State's water resources. The Declaration does not confer a legal right to water or its use.

Water use data are recorded: □ Daily □ Weekly □ Monthly □ Other (Describe): N/A

Method of measurement: □ Flow Meter □ Orifice □ Other (Describe):

Quantity of Use (Report metered or estimated monthly water use from the well described on the reverse side of this form, for the calendar years 1983 through 1987. For a battery of wells which are not individually metered, but which are connected to a single meter or other measuring device, report total use from the battery.):

WATER USE, IN GALLONS x 1000

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>February</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>March</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>April</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>July</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>August</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>September</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>October</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>November</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>December</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ANNUAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Minimum day's use: 500 gallons Maximum day's use: 4000 gallons
Typical times of usage: 7 AM - 7 PM

Type of Use (Check all category boxes that apply and provide additional information as indicated):

- [ ] Municipal (including resorts, hotels, businesses)
- [x] Domestic (systems serving 25 people or less)
- [x] Irrigation

Additional Information

- Number of service connections: ONE
- Acres Irrigated: FIVE (5) ACRES (SEE SUPPLEMENTAL DECLARATION)
- Crop(s): □ Sugar □ Pineapple □ Other (specify): TRUCK GARDEN
- Non-Crop: □ Landscape □ Golf Course □ Other (specify):
- Method: □ Drip □ Furrow □ Sprinkler
- □ Cooling □ Manufacturing □ Mill □ Other (specify): N/A
- □ Industrial □ Military □ Other

Specify (livestock, aquaculture, etc.): N/A

I declare that the contents of the above Declaration of Water Use are, to the best of my knowledge and belief, true, correct, and complete.

Water User's Signature: David Batson
Printed Name: David Batson
Firm or Title (Well Operator, etc.): E. E. Ventures
SUPPLEMENTAL DECLARATION
FOR ALL OWNERS OR USERS OF WATER

1. The following statement is in my own words and describes the basis of the evidence that allows me to lay claim to these water rights or uses: (identify type of evidence, witnesses, past use, projected use and any changes if applicable; when complete attach this form to the State of Hawaii Declaration of Water Use form that is applicable)

The five acres are historically known as part of the "rice patch", an area known for past taro and rice crops. The current owners (P&P Ventures) are engaged in developing the property for agricultural (farming) use in addition to one current homesite, and a future homesite development.

This declaration relates to P&P Ventures Well #1, which is currently in use.

2. I _ did or X did not receive notice from the State of Hawaii Commission on Water Resource Management regarding the registration and declaration of water use.

3. I declare that the contents of the above Supplemental Declaration of Water Use are the truth to the best of my knowledge.

Water User's Signature: David Patrong
Printed Name: DAVID PATMON
Date: 5/23/89
AUTHORIZATION FOR NATIVE HAWAIIAN ADVISORY COUNCIL, INC. TO FILE

May ___, 1989

To whom it may concern:

I hereby authorize the Native Hawaiian Advisory Council, Inc. and its agents to assist me in filing my water use declaration. If I complete my declaration by phone or am otherwise not able to sign my declaration form, I authorize the Native Hawaiian Advisory Council, Inc. and its agents to sign and submit my declaration form for me.

A dated and signed photocopy of this authorization will have the same force and effect as an original.

(please sign your name)

DAVID PATMON

(please print your name)

SR BOX 95

HAWAII, HI 96748

Address
STATE WELL NO.: N/A
WELL NAME OR DESIGNATION: P & P VENTURES #2
SOURCE OR STATION NAME (For a battery of wells): ________________

A. WELL OPERATOR
Name: P & P VENTURES
Contact person: DAVID PATMON
Address: SR BOX 95
Kaukaʻakai, HI 96748
Zip: 96748 Phone: 567-6135

B. OWNER OF WELL SITE
Name: P & P VENTURES
Contact person: DAVID PATMON
Address: SR BOX 95
Kaukaʻakai, HI 96748
Zip: 96748 Phone: 567-6135

C. WELL LOCATION
Tax Map Key: 5-4-01-43
Town, Place, District: Kula (6 MILES EAST OF KAUKAʻAKAI)

Attach USGS "Quad" map (scale 1:24,000), tax map, or other map showing the well location.

D. WELL DATA
For Drilled Wells, submit "as-built" drawing, driller's log, and pump test results, and complete items below.

For Tunnels and Shafts, submit construction drawings, plot plan, or sketch map.

Ground elevation (Mean sea level): 7 ft.
Reference point (Used to measure depth to water): ____________
Elevation: GROUND ELEVATION ft.
Description: 6′ DEEP PUG WELL
Depth to water: (below reference point): 3 ft.
Maximum recorded chloride: 550 ppm
Minimum recorded chloride: 450 ppm
Maximum chloride in 1987: N/A ppm
Year drilled or constructed: 1989
Well contractor: P & P VENTURES
Casing diameter: 8 in.
Solid casing depth (below ground): 3 ft.
Perforated casing depth (below ground): 3 ft.
Total depth of well: 6 ft.
Minimum chloride in 1987: N/A ppm

E. INSTALLED PUMP DATA
Pump type: [ ] Vertical shaft [ ] Submersible [ ] Centrifugal [ ] Other (specify): ________________
Power: [ ] Diesel, 8 HP [ ] Gas, 8 HP [ ] Electric, 1/2 HP [ ] Other (specify): ________________
Pump capacity: 140 gallons per minute
Pump installation contractor: P & P VENTURES

(continued over)
F. DECLARATION OF WATER USE

NOTE: The purpose of the Declaration of Water Use is to obtain information necessary for the management of the State's water resources. The Declaration does not confer a legal right to water or its use.

Water use data are recorded: ☐ Daily ☐ Weekly ☐ Monthly ☒ N/A

Method of measurement: ☐ Flow Meter ☐ Orifice ☐ Other (Describe): 

Quantity of Use (Report metered or estimated monthly water use from the well described on the reverse side of this form, for the calendar years 1983 through 1987. For a battery of wells which are not individually metered, but which are connected to a single meter or other measuring device, report total use from the battery):

WATER USE, IN GALLONS x 1000

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>February</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>March</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>April</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>☒ N/A</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>July</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>August</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>September</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>October</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>November</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>December</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ANNUAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Minimum day's use: 500 gallons  Maximum day's use: 4000 gallons

Typical times of usage: 7 AM - 7 PM

Type of Use (Check all category boxes that apply and provide additional information as indicated):

<table>
<thead>
<tr>
<th>Category</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Domestic (systems serving 55 people or less)</td>
<td>Acres Irrigated: ☒ FIVE (5) ACRES</td>
</tr>
<tr>
<td>☒ Irrigation</td>
<td>Crop(s): ☐ Sugar ☐ Pineapple ☒ Other (specify): TRUCK GARDEN</td>
</tr>
<tr>
<td>☐ Non-Crop</td>
<td>Other (specify): Golf Course</td>
</tr>
<tr>
<td>☐ Industrial</td>
<td>Method: ☐ Drip ☐ Furrow ☒ Sprinkler</td>
</tr>
<tr>
<td>☐ Military</td>
<td>☐ Cooling ☐ Manufacturing ☐ Mill</td>
</tr>
<tr>
<td>☐ Other</td>
<td>☒ N/A</td>
</tr>
<tr>
<td>☐ Other</td>
<td>Specify (livestock, aquaculture, etc.): ☒ N/A</td>
</tr>
</tbody>
</table>

I declare that the contents of the above Declaration of Water Use are, to the best of my knowledge and belief, true, correct, and complete.

Water User's Signature: David Salmon
Printed Name: David Salmon
Firm or Title (Well Operator, etc.): P & P Ventures

Date: 5/23/89
SUPPLEMENTAL DECLARATION
FOR ALL OWNERS OR USERS OF WATER

1. The following statement is in my own words and describes the basis of the evidence that allows me to lay claim to these water rights or uses: (identify type of evidence, witnesses, past use, projected use and any changes if applicable; when complete attach this form to the State of Hawaii Declaration of Water Use form that is applicable)

THE FIVE ACRES ARE HISTORICALLY KNOWN AS PART OF THE "RICE PATCH", AN AREA KNOWN FOR PAST Taro AND RICE CROPS. THE CURRENT OWNERS (P & P VENTURES) ARE ENGAGED IN DEVELOPING THE PROPERTY FOR AGRICULTURAL (FARMING) USE IN ADDITION TO ONE CURRENT HOMESITE, AND A FUTURE HOME SITE DEVELOPMENT.

THIS DECLARATION RELATES TO P & P VENTURES WELLS #2, WHICH IS CURRENTLY NOT IN USE.

2. I          did or       did not       receive notice from the State of Hawaii Commission on Water Resource Management regarding the registration and declaration of water use.

3. I declare that the contents of the above Supplemental Declaration of Water Use are the truth to the best of my knowledge.

Water User's Signature:      Date: 5/23/89
Printed Name:     David Patron
October 9, 1992

MEMORANDUM FOR THE RECORD

FROM: Bill Rozeboom

SUBJECT: Permit Violations: Well Nos. 04-0356-02&03

History:

- On May 30, 1989, registration of well and declaration of use forms were filed by David Patmon of P&P Ventures for P&P Wells #1 and #2. The forms indicated that both wells were constructed in 1989, that each well was equipped with a 0.5 HP, 14 gpm pump, and that only one of the wells was in use at that time.

- Simultaneously (actually June 1, 1989) Mr. Patmon filed an application for a construction permit for the two wells.

- On July 26, 1989, a well construction permit was issued for the two wells. The permit required that no permanent pumps be installed and no water was used from the wells without the necessary pump installation permits from the Commission.

- In early 1990, Mr. Patmon moved to Washington.

- In September 1992, while arranging for field inspections of wells on Molokai (recently designated for water management), we learned that the property had been sold to Grace Pacific Corp.

Possible Violation: There seem to be permanent pumps in the wells and water is being used without the necessary pump installation permit(s).
REVOCATION OF WELL CONSTRUCTION PERMIT

Previously issued on July 26, 1989 for
Kawela-P&P Ventures Wells 1 & 2
Well Nos. 0356-02,03
Kawela, Molokai

On July 26, 1989, the Commission on Water Resource Management issued you a permit to construct and test Well Nos. 0356-02,03 within Tax Map Key 5-4-01:43 for domestic and irrigation use. The permit was valid for two years from the date of issuance and required that a well completion report be submitted within 30 days after completion of the wells.

As of this date, no well completion report or other evidence has been received by the Department which indicates that the subject wells were ever constructed. Accordingly, we conclude that the wells were not constructed within the allowable period, which has now expired, and that the permit should be revoked.

You are hereby notified in accordance with H.A.R. §13-168-12(k) that the permit to construct the above-mentioned wells shall be revoked within 60 days of the date of this letter unless you can show good cause that it should not be revoked. If the wells have already been constructed, you must notify us of this before the permit is revoked and provide the information specified by the well construction permit conditions. Please contact our Regulation Branch at (808) 587-0225 if you have any questions.

Sincerely,

RAE M. LOUI
Deputy Director
FILE REF: P&P Ventures

SOLD TO Duanye Steel of
GRACE PACIFIC CORP
He is the Chairman of the Board
PH: Hon. 487-7916
PO Box 78
Holualoa Valley
Hilo, Hawaii 96720

CONTACT Person on Molokai:
FRIENDLY ISLE Realty INC
75 Ala Malama
Molokai, HI

Work Phone 553-3666
Home 567-6260
Fax 553-3867

Oct '92
TO ____________________________
DATE ___________________ TIME ______

WHILE YOU WERE OUT

M __________________________________
of __________________________________
Phone __________________________________

<table>
<thead>
<tr>
<th>TELEPHONED</th>
<th>PLEASE CALL</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALLED TO SEE YOU</td>
<td>WILL CALL AGAIN</td>
</tr>
<tr>
<td>WANTS TO SEE YOU</td>
<td>URGENT</td>
</tr>
<tr>
<td>RETURNED YOUR CALL</td>
<td></td>
</tr>
</tbody>
</table>

Message __________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

__________________________________________________________
Operator
SURVEY BRANCH
Commission on Water Resource Management

FROM: Bell
DATE: 10/9/92
FILE IN: ________

TO: INIT: 

G. MATSUMOTO
F. Ching
E. Hirano
G. Bauer
B. Rozeboom
P. Haraguchi
N. Fujii
L. Mizuno
K. Yoda

1 MITCH
MITCH
2 Roy

PLEASE: 

See Me
Call
Review & Comment
Take Action
Investigate & Report
Draft Reply
Acknowledge Receipt
Type Draft
Type Final
Xerox ___ copies

MARKS:
Completed wells

FOR YOUR:

R. LOUI
S. Kokubun
E. SAKODA
Y. SHIROMA

Approval
Signature
Information

MITCH - Toyama Garden well is drilled. We should be getting a well completion report soon. Well can be "red pencilled."

Roy - need to check out Kawela P&P Wells. Coordinate with Sterling.
(131) 244-3546

W. L. OBrien, Hi 96793

P.O. Box 218

Sarasota

Brian

0356-0293

2 weeks

Kamel Plantation (Mr. Mill)
SURVEY BRANCH
Division of Water Resource Management

FROM: __________________________
DATE: __________
FILE IN: ____________________

INITIAL:

TO

PLEASE:

REMARKS:

___ D. LUM
___ E. Sakoda
___ D. Nakano
___ P. Haraguchi
___ W. Rozeboom
___ R. Jinnai
___ M. Ohye
___ D. Hamada
___ K. Oshiro
___ M. Tagomori
___ G. Matsumoto
___ G. Akita
___ L. Chang
___ S. Kokubun
___ Y. Shiroma

___ See Me
___ Call
___ Review & Comment
___ Take Action
___ Investigate & Report
___ Draft Reply
___ Acknowledge Receipt
___ Type Draft
___ Type Final
___ Xerox ___ copies
___ File
___ Mail
___ Approval
___ Signature
___ Information

FOR YOUR

SIGNATURE

INFORMATION
The Honorable William W. Paty, Chairperson  
Commission on Water Resource Management  
Department of Land and Natural Resources  
State of Hawaii  
P.O. Box 621  
Honolulu, Hawaii 96809  

Dear Mr. Paty:  

SUBJECT: WELL CONSTRUCTION PERMIT APPLICATION  
KAWELA - P & P VENTURES WELLS  
STATE WELL NOS. 0356-02 AND 03  
KAWELA, MOLOKAI  

Thank you for the opportunity to review the subject document. We have reviewed the application and have the following comments to offer:  

1. The application indicates that in addition to farm irrigation, these wells will be for domestic use. If either well is to serve 25 or more individuals at least 60 days per year or will have a minimum of 15 service connections, the applicant will be required to comply with the Department's Administrative Rules, Title 11, Chapter 20, "Potable Water Systems."  

2. Section 11-20-29 of Chapter 20 requires that a new source of potable water serving a public water system be approved by the Director of Health prior to its use. Such an approval is based primarily upon the submission of a satisfactory engineering report which addresses the requirements set in Section 11-20-29.  

3. The proposed wells are situated above the Underground Injection Control (UIC) line. Land areas above the UIC line are considered to contain underground sources of drinking water. Thus, it is essential that the wells be designed and constructed to prevent the possibility of groundwater contamination. For example, each well should have a concrete well pad and full grouting to prevent seepage or floodwaters from migrating down the well shaft.
4. The operation of these wells should not be allowed to adversely affect the water quality of nearby drinking water wells.

If you should have any questions, please contact the Drinking Water Program at 548-2235.

Very truly yours,

[Signature]

JOHN C. LEWIN, M.D.
Director of Health
P & P Ventures
Star Route Box 95
Kaunakakai, Molokai, HI 96748

Gentlemen:

SUBJECT: WELL CONSTRUCTION PERMIT
KAWE LA - P & P VENTURES WEL LS 1 AND 2
STATE WELL NOS. 0356-02 AND 03
KAWE LA, MOLOKAI

The Department has been notified of your well construction permit issued by the Department of Land and Natural Resources on July 26, 1989.

The permit indicates that in addition to irrigation, the subject wells will be for domestic use. If either well is to serve 25 or more individuals at least 60 days per year or will have a minimum of 15 service connections, you will be required to comply with the Department's Administrative Rules, Title 11, Chapter 20, "Potable Water Systems."

Section 11-20-29 of Chapter 20 requires that a new source of potable water serving a public water system be approved by the Director of Health prior to its use. Such an approval is based primarily upon the submission of a satisfactory engineering report which addresses the requirements set in Section 11-20-29.

We would also like to point out that the proposed wells are situated above the Underground Injection Control (UIC) line. Land areas above the UIC line are considered to contain underground sources of drinking water. Thus, it is essential that the wells be designed and constructed to prevent the possibility of groundwater contamination. For example, each well should have a concrete well pad and full grouting to prevent seepage or floodwaters from migrating down the well shaft.

Finally, the operation of these wells should not be allowed to adversely affect the water quality of nearby drinking water wells.
If you should have any questions, please contact the Safe Drinking Water Branch at 548-2235.

Very truly yours,

JOHN C. LEWIN, M.D.
Director of Health
WELL CONSTRUCTION PERMIT
for
Kawela-P&P Ventures Wells 1&2
Well Nos. 0356-02,03
Kawela, Molokai

TO:  P&P Ventures
     Star Route Box 95
     Kaunakakai, Hawaii 96748

In accordance with the Department of Land and Natural Resources Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", your application to construct and test Well Nos. 0356-02,03 within Tax Map Key: 5-4-01:43 for domestic and irrigation use, is approved subject to the following conditions:

1. The Division of Water and Land Development (DOWALD), Geology-Hydrology Section, shall be notified at 548-7619, before any work covered by this permit commences.

2. The permit shall be for construction and testing only. No permanent pumps may be installed and no water used from the wells without the necessary pump installation permits from the Commission.

3. The following shall be submitted to DOWALD within 30 days after completion of the wells:
   a. Well Completion Reports.
   b. Elevation (referenced to mean sea level) survey by a Hawaii-licensed surveyor.
   c. As-built sectional drawings of the wells.
   d. Plot plan and map showing the exact locations of the wells.
   e. Complete pumping test record; including time, pumping rate, drawdown, chloride content, and water quality data.
4. The applicant shall comply with all applicable laws, rules, and ordinances.

5. This permit may be revoked if work is not started within six months of date of issuance or if work is suspended or abandoned for six months. The work shall be completed within two years of the date of issuance.

Date of Issue: 1 Nov 89

WILLIAM W. PATY, Chairperson
Commission on Water Resource Management

cc: USGS
Department of Health,
  Drinking Water Program
  Ground Water Protection Program
Maul Department of Water Supply
Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

P&P Ventures
Application for Well Construction Permit
Kawela-P&P Ventures Wells 1 & 2, Kawela, Molokai

Applicant: P&P Ventures
Star Route Box 95
Kaunakakai, Hawaii 96748

Action Requested: Permission to construct and test two 8-inch diameter, 6± ft. deep wells (Well Nos. 0356-02,03) for domestic and irrigation use.

Well Location: The proposed well site is at Kawela, Molokai at Tax Map Key: 5-4-01:43 (see attached map).

Proposed Use of Wells: To construct and test for a source of water for domestic and irrigation use. Proposed amount of use is 4,000 gallons per day for each well. Proposed pump capacity is 15 gallons per minute for each well.

Well Description:

<table>
<thead>
<tr>
<th>Ground elevation:</th>
<th>7± ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Casing diameter:</td>
<td>8-Inch I.D.</td>
</tr>
<tr>
<td>Solid casing depth:</td>
<td>3 ft. (4 ft., msl)</td>
</tr>
<tr>
<td>Perforated casing depth:</td>
<td>6 ft. (1 ft., msl)</td>
</tr>
<tr>
<td>Total depth:</td>
<td>6± ft.</td>
</tr>
</tbody>
</table>

Agency Review: The application has been sent to the Maui Department of Water Supply (DWS) and the State Department of Health (DOH) for review. The DWS had no objections to the wells provided they do not adversely impact their Kawela Source. The DOH had no objections.

Analysis: The Kawela-P&P Ventures Wells will consist of two 8-inch diameter pvc pipes, placed side-by-side in a rock-filled pit excavated to the water table. The wells are expected to encounter brackish to fresh water. The wells are not likely to adversely affect nearby wells due to their low rates of pumpage.
Chairperson and Members
Commission on Water Resource Management July 19, 1989

RECOMMENDATION:

That the Commission approve the issuance of a well construction permit for construction and testing of Kawela-P&P Ventures Wells, subject to the following conditions:

(1) The Division of Water and Land Development (DOWALD) shall be notified before work commences.

(2) The permit shall be for construction and testing only. No permanent pumps may be installed and no water used from the wells without the necessary pump installation permit.

(3) The following shall be submitted to DOWALD within 30 days after completion of the wells:
   b. Elevation (referenced to mean sea level) survey by a Hawaii-licensed surveyor.
   c. As-built sectional drawings of the wells.
   d. Plot plan and map showing the exact location of the wells.
   e. Complete pumping test record; including time, pumping rate, drawdown, chloride content, and water quality data.

(4) The applicant shall comply with all applicable laws, rules, and ordinances.

(5) The permit may be revoked if work is not started within six months of date of issuance or if work is suspended or abandoned for six months. The work shall be completed within two years of the date of issuance.

Respectfully submitted,

MANABU TAGOMORI
Deputy Director

WILLIAM W. PATY, Chairperson
KAWELA—P&P VENTURES WELLS (0356—02,03)
P & P Ventures  
Star Route Box 95  
Kaunakakai, Hawaii 96748

Gentlemen:

The Commission on Water Resource Management will be acting on your permit application for Kewela-P & P Ventures Wells (0356-02,03) at their regularly scheduled meeting on July 19, 1989, at 2:00 p.m. in Board Room 132, 1151 Punchbowl Street, Honolulu.

Your application will be included on the agenda as Item 11 (attached).

You or your representative are invited to attend the meeting.

Sincerely,

[Signature]

[Deputy Director]

ES:bm  
Enc.
REGISTRATION OF WELL
AND
DECLARATION OF WATER USE

INSTRUCTIONS: Please type or print. If information is not available or not applicable, indicate as N/A. Fill out as completely as possible, sign, and file form with the Division of Water Resource Management, P.O. Box 373, Honolulu, Hawaii 96809. Phone 548-3948 or 548-7543 for assistance.

BATTERY OF WELLS: If a battery of wells, on the surface, in a tunnel, or in a shaft, submit a registration form for each well together with a single map or plot plan showing layout of wells.

STATE WELL NO.: N/A
WELL NAME OR DESIGNATION: P&P VENTURES #1
SOURCE OR STATION NAME: (For a battery of wells):

A. WELL OPERATOR
Firm name: P&P VENTURES
Contact person: DAVID PATON
Address: 518 BOX 95
KALUA-KAHAKAI, HI
Zip: 96748 Phone: 567-6135

B. OWNER OF WELL SITE
Firm name: P&P VENTURES
Contact person: DAVID PATON
Address: 518 BOX 95
KALUA-KAHAKAI, HI
Zip: 96748 Phone: 567-6135

C. WELL LOCATION
Tax Map Key: 6-4-01-4-3
Town, Place, District: KAPAA (6 MILES EAST)
Attach USGS "Quad" map (scale 1:24,000), tax map, or other map showing the well location.

D. WELL DATA
For Drilled Wells, submit "as-built" drawing, driller's log, and pump test results, and complete items below.
For Tunnels and Shafts, submit construction drawings, plot plan, or sketch map.

Ground elevation (mean sea level): 7 ft.
Reference point (used to measure depth to water): Elevation: GROUND ELEVATION ft.

Description: 0 DEEP DUG WELl

Depth to water (below reference point): 3 ft.
Maximum recorded chloride: 550 ppm
Minimum recorded chloride: 450 ppm
Maximum chloride in 1987: N/A ppm

Year drilled or constructed: 1989
Well contractor: P&P VENTURES
Casing diameter: 6 in.
Solid casing depth (below ground): 3 ft.
Perforated casing depth (below ground): 3 ft.
Total depth of well: 6 ft.

E. INSTALLED PUMP DATA
Pump type: ☑ Vertical shaft ☑ Submersible ☑ Centrifugal ☑ Other (specify):
Power: ☑ Diesel, 1 HP ☑ Gas, 1 HP ☑ Electric, 1/2 HP ☑ Other (specify):
Pump capacity: 14 gallons per minute
Pump installation contractor: P&P VENTURES

For Official Use Only:
Date received: ________ Date accepted: ________
Field checked by: ________ Date: ________ Latitude: ________ Hydrologic Unit: ________
Comments: ________ Longitude: ________ State Well No.: ________

References: Hawaii Revised Statutes, Chapter 174C.
Hawaii Administrative Rules, Chapters 13-167 to 13-171
F. DECLARATION OF WATER USE

NOTE: The purpose of the Declaration of Water Use is to obtain information necessary for the management of the State's water resources. The Declaration does not confer a legal right to water or its use.

Water use data are recorded: ☐ Daily  ☐ Weekly  ☐ Monthly  ☐ Other (Describe): N/A

Method of measurement: ☐ Flow Meter  ☐ Orifice  ☐ Other (Describe):

Quantity of Use (Report metered or estimated monthly water use from the well described on the reverse side of this form, for the calendar years 1983 through 1987. For a battery of wells which are not individually metered, but which are connected to a single meter or other measuring device, report total use from the battery):

WATER USE, IN GALLONS x 1000

<table>
<thead>
<tr>
<th>Category</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Municipal</td>
<td></td>
</tr>
<tr>
<td>☐ Domestic (systems serving 25 people or less)</td>
<td></td>
</tr>
<tr>
<td>☑ Irrigation</td>
<td></td>
</tr>
<tr>
<td>☐ Industrial</td>
<td></td>
</tr>
<tr>
<td>☐ Military</td>
<td></td>
</tr>
<tr>
<td>☐ Other</td>
<td></td>
</tr>
</tbody>
</table>

Number of service connections: ONE

Acres Irrigated: FIVE (5) ACRES

Crop(s): ☐ Sugar  ☐ Pineapple  ☑ Other (specify): TRUCK GARDEN

Non-Crop: ☐ Landscape  ☐ Golf Course

Method: ☐ Drip  ☐ Furrow  ☑ Sprinkler

Cooling  ☐ Manufacturing  ☐ Mill

Other (specify): N/A

Specify (livestock, aquaculture, etc.): N/A

I declare that the contents of the above Declaration of Water Use are, to the best of my knowledge and belief, true, correct, and complete:

Water User's Signature: James Patman  Date: 5/23/89

Printed Name: DAVID PATMAN

Firm or Title (Well Operator, etc): PEP VENTURES
June 19, 1989

Mr. Manabu Tagomori, Deputy Director
Commission on Water Resource Management
State of Hawaii
P. O. Box 621
Honolulu, Hi 96809

Dear Mr. Tagomori:

Subject: Well Construction Permit Application
Kawela - P & P Ventures Wells (0357-02, 03)

We have no objection to the application provided that the use of these wells will have no impact on the Department of Water Supply's Kawela Source. In the event that the proposed wells show to have adverse impact on our Kawela Source, the use of these wells should be discontinued.

The application indicates that the proposed use of the source is also for domestic purposes. It is recommended that the quality of the water supply be assured to conform to the Department of Health's standards before being used for domestic purposes.

Thank you.

Sincerely,

Vince G. Bagoyo Jr., Director

cc: DWS Engr. file w/Well Permit Application (0356-02,03)
Honorable John C. Lewin, M.D.
Director of Health
Department of Health
1250 Punchbowl Street
Honolulu, Hawaii 96813

Attention: Mr. Thomas Arizumi, Drinking Water Program

Dear Dr. Lewin:

Well Construction Permit Applications

In accordance with the Department of Land and Natural Resources Administrative Rules, Section 13-168-12(c), we are sending you a copy of the following permit applications:

Waialae-Schwartz Well (5730-01)
Mawela-P&P Ventures Wells (0356-02, 03)

Please submit your comments to us, orally or in writing, within three weeks from the date of this letter.

If you have any questions, please contact Nanabu Togemori at 548-7523.

Very truly yours,

WILLIAM C. PATY

Enc.
June 13, 1989

Honorable Vince Bagoyo, Director
Department of Water Supply
County of Maui
200 S. High Street
Wailuku, Maui, Hawaii 96793

Dear Mr. Bagoyo:

**Well Construction Permit Applications**

We are sending you a copy of the following permit applications for your review and comments:

- Waihee-Schwartz Well (5730-01)
- Kawela-P&P Ventures Wells (0356-02, 03)

Please submit your comments to us, orally or in writing, within three weeks from the date of this letter.

If you have any questions, please contact Dan Lum at 548-7643.

Sincerely,

MANABU TAKEMORI
Deputy Director

ES:ko
Enc.
June 13, 1989

P&P Ventures
Star Route Box 95
Kaunakakai, HI 96748

Gentlemen:

We acknowledge receipt of your application and $25.00 filing fee to construct two wells for domestic and irrigation use at Tax Map Key: 5-4-01:43, Kawela, Molokai.

My staff is processing the application and will contact you should there be any questions.

Sincerely,

MANABU TAGOMORI
Deputy Director

ES:ko
<table>
<thead>
<tr>
<th>TO:</th>
<th>INITIAL:</th>
<th>PLEASE:</th>
<th>REMARKS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>M. TAGOMORI</td>
<td></td>
<td>See Me</td>
<td><strong>Kawela - P&amp;P Ventures</strong></td>
</tr>
<tr>
<td>D. Lum</td>
<td></td>
<td>Take Action By</td>
<td></td>
</tr>
<tr>
<td>G. Matsumoto</td>
<td></td>
<td>Route to Your Branch</td>
<td></td>
</tr>
<tr>
<td>G. Akita</td>
<td></td>
<td>Review &amp; Comment</td>
<td></td>
</tr>
<tr>
<td>L. Chang</td>
<td></td>
<td>Draft Reply</td>
<td></td>
</tr>
<tr>
<td>Y. Shiroma</td>
<td></td>
<td>Acknowledge Receipt</td>
<td></td>
</tr>
<tr>
<td>E. Sakoda</td>
<td></td>
<td>Xerox copies</td>
<td></td>
</tr>
<tr>
<td>D. Nakano</td>
<td></td>
<td>File</td>
<td></td>
</tr>
<tr>
<td>W. Rozeboom</td>
<td></td>
<td>Mail</td>
<td></td>
</tr>
<tr>
<td>P. Haraguchi</td>
<td></td>
<td>For Information</td>
<td></td>
</tr>
<tr>
<td>S. Samuels</td>
<td></td>
<td>S. Kokubun</td>
<td></td>
</tr>
<tr>
<td>R. Chung</td>
<td></td>
<td>D. Hamada</td>
<td></td>
</tr>
<tr>
<td>T. Kam</td>
<td></td>
<td>L. Nanbu</td>
<td></td>
</tr>
<tr>
<td>A. Monden</td>
<td></td>
<td>F. Ching</td>
<td></td>
</tr>
<tr>
<td>H. Young</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R. Suzuki</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N. Kaneshiro</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>T. Nakama</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPLICATION FOR

X WELL CONSTRUCTION PERMIT  
X PUMP INSTALLATION PERMIT

INSTRUCTIONS: Please print or type and send completed application with attachments to the Division of Water Resource Management. A non-refundable filing fee of $25.00 must accompany the application. If necessary, phone 948-7543, Hydrology/Geology Section for assistance.

1. WELL LOCATION

Island: _MOLOKAI_  
Address: STAR ROUTE BOX 95 - KANNAKAI, HI 96748  
(Attach a USGS map (scale 1"=2000') and property tax map showing well location referenced to established property boundaries.)

2. WELL OWNER

Firm Name: _P&P VENTURES_  
Contact Person: _DAVID PATMON_  
Address: STAR ROUTE BOX 95 - KANNAKAI, HI 96748  
Phone: 567-6135

3. PROPOSED CONTRACTOR FOR:  

Name: _P&P VENTURES_  
Address: STAR ROUTE BOX 95 - KANNAKAI, HI 96748  
Phone: 567-6135

4. PROPOSED WORK

- Drill New Well
- Deepen
- Seal
- Redrill
- Alter
- Install New Pump
- Replace Pump
- Modify Pump

(Briefly describe the proposed work and fill in the diagram on the back of this form.)

5. PROPOSED USE

- Municipal (including hotels, stores, etc.)
- Military
- Domestic (individual, noncommercial water systems)
- Industrial
- Irrigation (specify)

6. PROPOSED AMOUNT OF WITHDRAWAL: 4000 gallons per day

7. PROPOSED PUMP INFORMATION

- Pump Type:  
  - Vertical Turbine
  - Submersible
- Motor:  
  - Diesel
  - Gas
  - Electric
- Rated Pump Capacity: 65 gallons per minute (gpm)
- Rated Horsepower: 1/2

Well Owner (print): _DAVID PATMON_  
Signature: _DAVID PATMON_  
Date: 5/24/89

Landowner (print): _DAVID PATMON_  
Signature: _DAVID PATMON_  
Date: 5/24/89

For Official Use Only:

Field Checked By:  
Latitude:  
Hydrologic Unit:  
State Well No.: 0356-02-03
Briefly describe the proposed work:

PnCK t

PROVEN SOURCE OF SHALLOW WELL WATER FOR
TWO WELLS (SIDE BY SIDE) NAMED
P & P VENTURES #1 AND
P & P VENTURES #2

PROPOSED SECTION OF WELL

Elevation at top of casing
8.5 ft., msl.

Ground Elev. 7 ft., msl

Cement Grout __ ft.

Hole Dia. 120 in.

Total Depth 6 ft.

Rock Packing 5 ft.

Solid Casing:
Material PVC PLASTIC
Length 3 ft.
Diameter 8 in.
Wall thickness 3/8 in.

Casing: / Perforated / Screen
Material PVC PLASTIC
Length 3 ft.
Diameter 8 in.
Wall thickness 3/8 in.
Openings __________ sq. in./L.F.

Open Hole:
Length __________________
Diameter ____________________ in.

*Approximate elevation at time of filing application. Final elevation (msl) by a surveyor licensed by the State must be submitted at start of construction.
State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources
Division of Water Resource Management

APPLICATION FOR

X WELL CONSTRUCTION PERMIT
X PUMP INSTALLATION PERMIT

INSTRUCTIONS: Please print or type and send completed application with attachments to the Division of Water and Land Development, P.O. Box 373, Honolulu, Hawaii 96829. Application must be accompanied by a non-refundable filing fee of $25.00 payable to the Department of Land and Natural Resources. (Filing fee waived for government agencies.) If necessary, phone 548-7543, Hydrology/Geology Section for assistance.

1. WELL LOCATION

Island MOLOKAI
Tax Map Key 2/5-4-01-43
Address STAR ROUTE BOX 95 -KAUNAKAKAI, HI 96748
(Attach a USGS map (scale 1"=2000') and property tax map showing well location referenced to established property boundaries.)

2. WELL OWNER

Firm Name P&P VENTURES
Contact Person DAVID PATMON
Address STAR ROUTE BOX 95
KAUNAKAKAI, HI 96748
Phone 567-6135

3. PROPOSED CONTRACTOR FOR: X Well Drilling X Pump Installation

Name P&P VENTURES
Address STAR ROUTE BOX 95
KAUNAKAKAI, HI 96748
Contractor's License No. Phone 567-6135

4. PROPOSED WORK

X Drill New Well X Deepen X Redrill
X Alter X Seal X Abandon
X Install New Pump X Replace Pump X Modify Pump

(Briefly describe the proposed work and fill in the diagram on the back of this form.)

5. PROPOSED USE

☐ Municipal (including hotels, stores, etc.) ☐ Military
☐ Domestic (individual, noncommercial water systems) ☐ Industrial
☐ Irrigation (specify) ☐ Other (specify)

6. PROPOSED AMOUNT OF WITHDRAWAL 4000 gallons per day

7. PROPOSED PUMP INFORMATION

Pump Type: ☐ Vertical Turbine ☐ Submersible ☐ Electric: 1/2
☐ Diesel ☐ Gas ☐ Centrifugal Rated Horsepower
Rated Pump Capacity 15 gallons per minute (gpm)

Well Owner (print) P&P VENTURES
Signature David Patmon
Date 5/24/79

Landowner (print) P&P VENTURES
Signature David Patmon
Date 5/24/79

For Official Use Only:
Field Checked By ____________________ Latitude ____________ Hydrologic Unit ____________
Date ____________________ Longitude ____________ State Well No. ____________
Briefly describe the proposed work:

CASE, PACK 3 COMPLETE PRE-TESTED
PROVEN SOURCE OF SHALLOW WELL WATER FOR
TWO WELLS (SIDE BY SIDE) NAMED
P & P VENTURES #1 AND
P & P VENTURES #2

PROPOSED SECTION OF WELL

Elevation at top of casing
8.5 ft., msl.

Ground Elev. 1 ft., msl

Cement Grout ______ ft.

Solid Casing:
Material PVC PLASTIC
Length ______ ft.
Diameter ______ in.
Wall thickness ______ in.

Hole Dia. 120 in.

Casing: / Perforated / Screen
Material PVC PLASTIC
Length ______ ft.
Diameter ______ in.
Wall thickness ______ in.
Openings ______ sq. in./L.F.

Total Depth ______ ft.

Rock Packing ______ ft.

Open Hole:
Length ____________________
Diameter ____________________ in.

*Approximate elevation at time of filing application. Final elevation (msl) by a surveyor licensed by the State must be submitted at start of construction.
ISLAND OF MOLOKAI

SCALE IN MILES

NORTH

PROJECT AREA

ILIO POINT

KALAUPAPA

KAUNAKAII

PUKOO

KUALAPUU

RAMALO

HALAWA

MAUNA LOA

ISLAND OF MOLOKAI
ISLAND OF MOLOKAI