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WAIKŌ INDUSTRIAL INVESTMENT, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2012 NOV 30 P 3:40

In the Matter of the Petition of

DOCKET NO. A12-796

WAIKŌ INDUSTRIAL INVESTMENT, LLC

To Amend the Land Use District Boundary of
Certain Lands Situated at Waikapu, Wailuku,
Island of Maui, State of Hawai'i, Consisting of
approximately 31.222 Acres, from the
Agricultural District to the Urban District, Tax
Map Key No. (2) 3-8-007:102.

PETITIONER WAIKO INDUSTRIAL INVESTMENT, LLC'S

WRITTEN DIRECT TESTIMONY OF WITNESSES¹

EXHIBITS "28", "32", "34", "36", "39", "41", "43", "45", "47", AND "49"

REBUTTAL LIST OF WITNESSES AND REBUTTAL LIST OF EXHIBITS²

CERTIFICATE OF SERVICE

¹ Please note that the written direct testimony of Petitioner's witnesses are listed as Exhibits on Petitioner's List of Exhibits, previously submitted to the Land Use Commission on November 21, 2012.

² Please note that we are requesting an extension regarding the submission of Rebuttal Exhibit 52.

WRITTEN TESTIMONY OF CHARLES G. JENCKS

Mr. Chair and members of the State Land Use Commission:

My name is Charles Jencks and I am authorized by Waiko Industrial Investment, LLC, the owner (the "**Owner**") of the Waiko property (TMK No. (2) 3-8-007-102) (the "**Property**"), to represent it in its Petition to the State Land Use Commission (the "**Commission**") to amend the state land use classification of the Property (the "**Petition**") from Agriculture to Urban. My resume is Petitioner's Exhibit "29".

The Owner has provided financial information to the Commission, which is Petitioner's Exhibit 6, to substantiate the Owner's ability to develop the proposed 41-lot light industrial subdivision (the "**Project**"). I am authorized to further inform the Commission that if appropriate commercial financing cannot be obtained when the development of the Project is ready to proceed based on market conditions, the Owner will be willing to seek alternate financing.

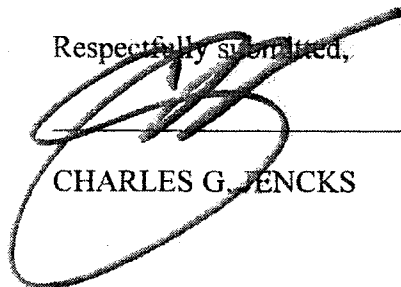
Secondly, I am authorized to confirm the testimonies and representations of the Project consultants, including Mr. Roderick Fong, who has an interest in the ownership, pertaining to commitments made by the Owner regarding this Project.

Thirdly, the Owner has authorized me to make decisions for the Project which the Commission may require before it is able to reach a decision on the Petition. In the context of this discussion, the Owner requests the Commission take into consideration the difficult economic situation facing the business community today and the construction industry in particular, in its review and assessment of this Project.

Finally, the Owner is a responsive and reliable developer interested in providing jobs for Maui residents, improving the economy of Maui and enhancing the welfare of the community. Thank you for your efforts in improving the quality of life for all the residents of the State of Hawaii.

DATED: Wailuku, Hawaii, November 30, 2012.

Respectfully submitted,



CHARLES G. JENCKS

WRITTEN TESTIMONY OF VINCE G. BAGOYO

My name is Vince Bagoyo. I am the principal of V. Bagoyo Consulting Group, LLC (“**Bagoyo Consulting**”), a full-service planning and project management consulting firm that I started in 2003. Today, Bagoyo Consulting is based in Wailuku with a client base encompassing government agencies, non-profit organizations and private sector landowners and builders. Our professional services include land use regulatory processing, environmental consulting including development of environmental assessments and environmental impact statements under Chapter 343, Hawaii Revised Statutes (“**HRS**”), development-related feasibility analysis, and community outreach services related to land use proposals.

As reflected in my resume, Petitioner’s Exhibit “33”, I earned my master’s degree in Public Administration with the emphasis in Public Policy and Planning from California State University, Long Beach.

My professional experience is focused on project development and environmental consulting and planning both in corporate and private business and many years in government service. I have worked in this field since 1980s with more than 30 years of work experience, I am versed in all aspects of environmental consulting and planning, from assessment of impacts to policy analysis to complex technical and feasibility studies and land use entitlement processes.

My experience in land use entitlements projects which involved District Boundary Amendment review and approval include, among others, the Manele and Koele Resorts and residential Project Districts on the Island of Lanai; Valley Isle Fellowship; and Hoonani residential subdivision. Ongoing projects that I am currently working on are Waikapu Gardens Phase II affordable housing project and Ohana Kai residential affordable housing project.

I was retained by Petitioner Waiko Industrial Investment, LLC (“**Petitioner**”) to prepare an environmental assessment for Petitioner’s proposed Waiko Light Industrial Project (the “**Project**”) located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key (“**TMK**”) No. (2) 3-8-007-102 (the “**Project Area**”). Petitioner’s Exhibit “1” is a true and correct copy of the Final Environmental Assessment (“**EA**”) that I prepared for the Project.

Project Overview

The Project Area is located at Waiko Road, Waikapu, Wailuku Area, Island of Maui, Hawaii, and is adjacent to an existing light industrial subdivision known as Consolidated Industrial Baseyard and East Waiko Road, and on its north and east sides by undeveloped pasture lands, and on its south side by Kuihelani Highway. Approximately 4 acres of the Project Area is presently used as a construction equipment and materials storage facility through an approved Maui County Conditional Permit and Special Use Permit. The remaining acreage is presently vacant and fallow with overgrown buffelgrass and kiawe trees and is used for pastureland.

The Petitioner proposes to utilize the Project Area for light industrial use, specifically for development of approximately 41 fee simple lots including internal roadways. The lot sizes for the subdivision are proposed to range from 10,000 square feet to approximately 8.5-acre lot(s). Also planned are related infrastructure improvements required for the proposed light industrial subdivision, such as construction of internal roadways, drainage retention systems, utilities, private wastewater system, site grading work, and offsite roadway improvements. The estimated cost of the subdivision improvements is approximately \$8 million to \$10 million. Construction of the subdivision improvements and related infrastructure improvements is anticipated to begin as soon as all permitting approvals have been received. The Petitioner anticipates that completion of subdivision improvements is expected to take approximately 12 months barring no unanticipated delays.

The Project Area is designated within the urban growth boundary in the proposed Maui County General Plan. According to the market demand study prepared by ACM Consultants, Inc. (Appendix L to Petitioner's Exhibit "1") for the Project, there is a strong demand for a light industrial subdivision that addresses the needs of small local businesses for centrally-located, fee simple reasonably-priced properties. In addition, as large portions of the property are now in use for a construction baseyard facility under a Special Use Permit and Conditional Permit, the proposed land use changes are consistent with its present use and its proposed urban boundary designation in the draft Maui County General Plan.

Final Environmental Assessment

To develop the Project, the Project Area will require a Maui Community Plan Amendment, Change-In-Zoning from “Agriculture” to “Light Industrial” and a State Land Use District Boundary Amendment from “Agriculture” to “Urban.” Hence, the EA was prepared to comply with the requirements for community plan and State Land Use urban district boundary amendments. The EA is prepared consistent with Chapter 343, HRS and the accepting agency of the EA is the Maui Planning Commission (“MPC”) as part of its review and consideration of the Petitioner’s Community Plan amendment and Maui County Change-In-Zoning applications.

The Draft EA for the Project was published in the Office of Environmental Quality Control’s (“OEQC”) December 8, 2011 edition of the Environmental Notice. Written comments from Maui County, State and Federal agencies and responses thereto were incorporated into the Final EA. Comments from the MPC were also incorporated. The Final EA was published in OEQC’s August 8, 2012 edition of the Environmental Notice. The MPC reviewed the Final EA and determined that the Project would not have a significant impact on the environment and issued a Finding of No Significant Impact, or “FONSI”. The MPC’s FONSI determination was based on the analysis of impacts provided in the EA, which included, among other things, a biological resources survey, archaeological inventory survey, traffic impact assessment report, cultural impact assessment, market analysis report, water resources report, and a preliminary engineering report. In reaching its FONSI determination, the MPC considered comments received on the EA document during the pre-assessment consultation and Draft EA review phases of the process. In addition, the MPC considered the Project’s impacts as it related to “Significance Criteria”, which are set forth in Section 12, Title 11, Chapter 200, Hawaii Administrative Rules. The assessment of potential impacts of the Project and mitigation measures to be implemented is contained in the Final EA document (Chapter III) found in Petitioner’s Exhibit “1”.

As detailed in the Final EA (Chapter III), as to certain Project impacts, the mitigation measures summarized below will be implemented in connection with the Project:

- Air Quality: To minimize temporary air effects during construction of the Project, Best Management Practices will be implemented. In addition, dust controls will be instituted

such as dust barriers, watering graded areas, and/or sprinklers to control dust during Project construction.

- **Noise:** Construction related noise will be mitigated in accordance and strict adherence with Title 11, Administrative Rules, Chapter 46, Community Noise Control of the State Department of Health. In addition, where appropriate, permit conditions for construction activities may include the following: (1) “No permit shall allow construction activities creating excessive noise before 7:00 A.M. and after 6:00 P.M. of the same day”; and (2) “No permit shall allow construction activities which emits noise in excess of ninety-five dB(A) except between 9:00 A.M. and 5:30 P.M. of the same day.”
- **Traffic:** According to the Traffic Impact Analysis developed by Phillip Rowell and Associates, the following mitigation measures were recommended and will be implemented: 1) Installation of a left turn refuge lane at the intersection of Waiko Road and Waiale Road so as to improve the level-of-service of the southbound to eastbound left turn at this intersection.; (2) Installation of a separate right turn lane along the westbound approach of Waiko Road to Driveway A of the Project; and (3) Installation of a left turn refuge lane for left turns from Driveway A to eastbound Waiko Road.
- **Archaeological Resources:** Archaeological monitoring will be provided during any earthmoving activities in connection with construction of the Project.

Provided that the above mitigation measures are implemented, in my professional opinion, the Project will not have an adverse impact on the environment.

Land Use Commission Criteria Under HRS § 205-17

In determining whether to reclassify the Project Area, under HRS § 205-17 the following criteria must be considered by the Land Use Commission:

- (1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawaii state plan and relates to the applicable priority guidelines of the Hawaii state plan and the adopted functional plans;
- (2) The extent to which the proposed reclassification conforms to the applicable district standards;
- (3) The impact of the proposed reclassification on the following areas of state concern:
 - (A) Preservation or maintenance of important natural systems or habitats;
 - (B) Maintenance of valued cultural, historical, or natural resources;
 - (C) Maintenance of other natural resources relevant to Hawaii’s economy, including agricultural resources;

- (D) Commitment of state funds and resources;
 - (E) Provision for employment opportunities and economic development; and
 - (F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups;
- (4) The standards and criteria for the reclassification or rezoning of important agricultural lands in section 205-50;
 - (5) The county general plan and all community, development, or community development plans adopted pursuant to the county general plan, as they relate to the land that is the subject of the reclassification petition; and
 - (6) The representations and commitments made by the petitioner in securing a boundary change.

My discussion of the above criteria follows:

Hawaii State Plan:

Reclassification of the Project Area is consistent with the Hawaii State Plan. Chapter 226, HRS, also known as the Hawaii State Plan, is a long-range comprehensive plan which serves as a guide for the future long-range development of the State by identifying goals, objectives, policies, priorities, as well as implementation mechanisms. The Project is consistent with the following State goals, objectives, and policies of the Hawaii State Plan:

Chapter 226-4, HRS, State Goals

- (1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.
- (2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.

Chapter 226-5, HRS, Objectives and Policies for Population

- (b)(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.
- (b)(3) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.

Chapter 226-6, HRS, Objectives and Policies for the Economy

- (a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.

- (a)(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.
- (b)(3) Seek broader outlets for new or expanded Hawaii business investments.
- (b)(5) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.
- (b)(6) Strive to achieve a level of construction activity responsive to, and consistent with, State growth objectives.
- (b)(8) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.
- (b)(10) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.
- (b)(13) Encourage businesses that have favorable financial multiplier effects with Hawaii's economy.

Chapter 226-10, HRS, Objectives and Policies for the Economy—Potential Growth Activities

- (b)(5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State.
- (b)(6) Provide public incentives and encourage private initiatives to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives.

The Project conforms with the objectives and policies of HRS 226-4,5,6 and 10 for the economy, potential growth activities, and population. The Project will provide a wide range of economic activities and opportunities for the Waikapu area as well as the Kahului-Wailuku Community Plan regions. The variety of activities envisioned from the Project include commercial retail and light industrial development. In addition, the Project will provide the opportunity for the expansion and possible creation of new companies to employ Maui island residents. It is anticipated that the development of the Project will generate significant expenditures by the developer of this subdivision and the secondary owners of the light industrial lots. With the infusion of new capital expenditures on the Project, these investments are expected to favorably impact the Maui economy on a broad scale and in a multitude of ways. According to the economic study prepared by ACM Consultants, Inc., with the capital investment during the initial phase of the subdivision development, significant direct new job opportunities are expected to be created. Based on State economic multipliers of capital infusion

for the initial construction of the subdivision it is expected that the forecasted annual average directly related to the construction of the Project is approximately 45 jobs. In addition, construction of the individual buildings on the light industrial lots will add substantial new construction jobs. It is forecasted based on State economic multipliers that the annual jobs directly related to the construction of vertical improvements within the proposed subdivision will be approximately 280 jobs. Furthermore, the increase in construction will also create the need for supplementary companies to strengthen their labor force. These additional jobs may be from building supply companies, hardware stores, equipment rental companies, and shipping and warehousing companies. These are just some of the indirect employment opportunities that are anticipated as a result of this proposed light industrial and commercial project.

The Project is intended to reflect the needs and desires of the Waikapu Town village and Kahului-Wailuku regions through the creation of a project that embraces the rural character of the area, appropriate in scale and theme for the regions as stated in the Wailuku-Kahului Community Plan District.

Chapter 226-11, HRS, Objectives and Policies for the Physical Environment—Land-Based, Shoreline, and Marine Resources

- (a)(2) Effective protection of Hawaii’s unique and fragile environmental resources.
- (b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.
- (b)(8) Pursue compatible relationships among activities, facilities, and natural resources.

Chapter 226-12, HRS, Objectives and Policies for the Physical Environment—Scenic, Natural Beauty, and Historic Resources

- (b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

The Project meets the stated objective and policies of HRS § 226-11 and 12 for physical environment, scenic and historic resources. View corridors and topographic features will be maintained and highlighted in the design of the Project. The proposed commercial component of the Project will reflect a rural sense of Waikapu Village that is envisioned in the Wailuku-Kahului Community Plan District. The historical setting of the region will be reflected in Project’s traditionally-based planning and design. The Project’s design concept will meet the intent of the objectives of the community plan within the district and stated objectives of HRS §

226-11 and 12.

In response to the Maui Planning Commission's comments in its meeting of February 28, 2012, the Project will be consistent with the light industrial district development standards and with its existing light industrial subdivision neighbors. Based on thorough field assessment of the Project Area by the applicant's consultant, no rare or endangered plant and animal species or habitats are present on site. Native habitats do not exist on the site given its history of agricultural activities of the site and equipment industrial baseyard use.

Chapter 226-13, HRS, Objectives and Policies for the Physical Environment—Land, Air, and Water Quality

- (b)(2) Promote the proper management of Hawaii's land and water resources.
- (b)(6) Encourage design and construction practices that enhance the physical qualities of Hawaii's communities.
- (b)(7) Encourage urban developments in close proximity of existing services and facilities.

The Project will be designed to be complimentary with the existing industrial and commercial developments bordering and in close proximity of the project site that will serve residents of the Wailuku-Kahului Community Plan region. The Project is located along the main thoroughfare to west and central Maui and in very close proximity to Kahului and Wailuku regions as well as Paia and South Maui regions. The Project is inland and will not have any impact on our shoreline resources. Also, the Project is in close proximity to existing services and facilities critical to the success of the Project.

Chapter 226-15, HRS, Objectives and Policies for Facility Systems—Solid and Liquid Wastes

- (b)(2) Promote re-use and recycling to reduce solid and liquid wastes and employ a conservation ethic.
- (b)(3) Promote research to develop more efficient and economical treatment and disposal of solid wastes.

The Project will be designed to meet best management practice with respect to reducing and recycling solid and liquid waste. Privately operated individual wastewater system ("IWS") will be constructed to meet the wastewater demand for the Project. Individual lot owners will be encouraged to recycle solid waste to the extent possible and drought tolerant plants will be used

to minimize the use of landscape irrigation.

Chapter 226-16, HRS, Objectives and Policies for Facility Systems—Water

(b)(2) Support research and development of alternative methods to meet future water requirements well in advance of anticipated needs.

As noted in the EA and the Preliminary Engineering Report prepared by Otomo Engineering, Inc. for the Project, the domestic water demand and fire flow requirements for the Project will be provided by the existing Consolidated Baseyard private water system located adjacent to the Project Area. The private system has two wells and a 350,000 gallon storage tank that are adequate to meet the domestic water and fire flow demand for the proposed Project. The applicant is in negotiation with the owner/operator regarding use of the private water system.

In addition to being consistent with the goals, objective and policies the Hawaii State Plan, the Project is also consistent with the following priority guidelines of the Hawaii State Plan:

Chapter 226-103, HRS, Economic Priority Guidelines

(1) Seek variety of means to increase the availability of investment capital for new and expanding enterprises:

- a. Encourage investments which:
 - (i) Reflect long-term commitments to the State;
 - (ii) Rely on economic linkages within the local economy;
 - (iii) Diversify the economy;
 - (iv) Reinvest in the local economy;
 - (v) Are sensitive to community needs and priorities; and
 - (vi) Demonstrate a commitment to provide management opportunities to Hawaii's residents.

As noted in the EA, the proposed Project will provide a variety of economic activities for the Waikapu Town and in the Kahului-Wailuku Community Plan regions. Because of the anticipated large investment capital that will be infused in the development of this Project, both short-term and long-term employment opportunities will be created as a result of the development. As shown in the Project's market and economic impact analysis prepared by ACM Consultant's, Inc. dated March 2011, the anticipated direct new job opportunities during

the initial construction phase of the subdivision by using the State economic multipliers is approximately 44 new jobs. In addition, construction of the individual buildings on the individual subdivision lots using the state economic multipliers is forecasted to create an annual average of 280 jobs directly related to the construction of vertical improvements within the proposed subdivision. The proposed Project is designed to reflect the rural character of the area and it is anticipated to attract residents within the Waikapu Town and the Kahului-Wailuku Community Plan regions. The Project will contribute, because of its infusion of capital investment to the growth of Maui's economic base.

Chapter 226-104, HRS, Population Growth and Land Resources Priority Guidelines

- (a)(1) Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawaii's people.
- (b)(2) Make available marginal lands or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.
- (b)(12) Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline conservation lands, and other limited resources for future generations.

The Project is in keeping with the priority guidelines of the Hawaii State's Plan's Economic Priority Guidelines, HRS § 226-103. With the proposed Project and anticipated infusion of capital investment, it will diversify the Maui economy by providing expansion of light industrial businesses; will provide reinvestment in the local economy through the expansion or development of local businesses. The project will meet the Population, Growth and Land Resources Priority Guidelines pursuant to HRS § 226-104, by encouraging urban growth in an existing urban area. Also, the Project site is designated as an urban growth boundary district within the proposed MIP as recommended by the Maui Planning Commission.

As noted earlier in this report, the subdivision design will be complimentary to an existing LI subdivision in the area. It will serve the current residents of the area, and will meet projected growth as stated in the Kahului-Wailuku Community Plan District and the proposed Maui County General Plan. As previously noted, there are existing other light and heavy industrial uses currently operating in close proximity and immediately adjacent to the Project

Area. The Project will not have a significant impact on the population in the surrounding region. The reclassification of the Project Area from “Agriculture” to “Urban” will make available marginal lands for light industrial uses.

In addition to being consistent with the Hawaii State Plan, the Project is also consistent with the State Functional Plans:

The State Functional Plans define actions for implementation of the Hawaii State Plan through the identification of needs, problems and issues, and recommendations on policies and priorities, which address the identified areas of concern. The Final EA addresses the relationship of the Project to the various functional plans. The request to reclassify the Project Area is consistent with the following State Functional Plans:

State Agricultural Functional Plan

Currently, a portion of the Project Area is used for pasture, a cattle feedlot and a construction equipment baseyard under a State Special Use and Maui County Conditional permits. The Project Area is designated within the urban growth district boundary in the proposed Maui Island Plan pending the approval of the Maui County Council. The close proximity of the Project Area to existing and planned urban land uses and with the proposed urban growth boundary designation under the draft general plan provides a reasonable foundation for the proposed action.

State Employment Functional Plan

As noted in the EA, in the short term, it is estimated that the Project will generate approximately 44 direct jobs during the subdivision development phase of the Project. In addition, according to the economic analysis report done by ACM Consultants, Inc., on a long-term basis, the Project is forecasted to generate approximately 280 jobs directly related to the construction of vertical improvements within the proposed subdivision.

State Transportation Functional Plan

Based on the Project’s Traffic Impact Analysis Report prepared by Phillip Rowell and Associates, there are no anticipated significant impact on the State’s highway system from the

Project. Recommended road improvements fronting the Project will be implemented to ensure compliance with State and County requirements.

District Standards:

Reclassification of the Project Area also conforms to the following standards of the Urban District as set forth in HAR § 15-15-18:

HAR § 15-15-18(1): It shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level services and other related land uses.

The Project is located in close proximity of Waikapu Town which contains commercial, recreational, and single-family residential uses. The Project is also located immediately adjacent to the existing Consolidated Baseyard industrial subdivision and in close proximity to Waiko Baseyard (Rojac) industrial subdivision. Approximately 0.5 miles makai of the Project is the Waikapu Gardens affordable housing project.

HAR § 15-15-18(2): It shall take into consideration the following specific factors:

- (a) Proximity to centers of trading and employment except where development would generate new centers of trading and employment.**
- (b) Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and**

There are other industrial uses in very close proximity to the Project. Furthermore, the Project Area is located adjacent to the State of Hawaii Kuihelani Highway, which serves as a major transportation route. Additionally, there are small “mom and pop” commercial uses in Waikapu Town. Waikapu and the Project are located approximately 1.2 miles from Wailuku Town which is the County seat of government and a center of trading and employment. Finally, the Project is located approximately 1.5 miles from Kahului Town which is a major center of commercial activities and employment.

The Project will not result in increased demands on schools and parks. The applicant will provide private water service utilizing the existing approved private system owned and operated by Consolidated Baseyard which is located adjacent to the Project. Wastewater and solid waste

services will be handled on an individual lot basis. Basic infrastructure services such as transportation systems are available in close proximity to the Project Area. Drainage improvements will comply with County of Maui standards. Police and fire services also presently serve Waikapu Town and they are located in very close proximity to the Project Area.

HAR § 15-15-18(3): It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects.

The Project Area is relatively flat and is located in Flood Zone “X” which represents areas outside of the 0.2% annual chance flood plain. The Project Area is not subject to tsunami inundation or unstable soil conditions.

HAR § 15-15-18(4): Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans.

The Project Area is in very close proximity to areas already in the Urban District, as well as other light and heavy industrial uses in the area. The existing Consolidated Baseyard Subdivision and Waiko Baseyard (Rojac) industrial subdivision are all developed and currently in the Urban District. Consolidated Baseyard is located adjacent to the Project and Waiko Baseyard (Rojac) is located about 0.2 miles mauka of the Project Area. Also, immediately north of the Project Area is A&B Properties, Inc.’s 545-acre proposed Waiale Community Master Plan project consisting of approximately 2,550 residential mixed-use units as well as commercial and light industrial projects.

HAR § 15-15-18(5): It shall include lands in appropriate locations for new urban concentration to areas of urban growth as shown on the state and county general plans.

The Project Area is an appropriate location for an Urban District reclassification, Wailuku-Kahului Community Plan Designation, and Change-In Zoning. After due deliberation by the Maui General Plan Advisory Committee consisting of Maui residents, the Project Area is designated within the Urban growth boundary of the draft Maui Island Plan currently before the Maui County Council for consideration and approval. Importantly, the draft Maui Island Plan has been thoroughly reviewed by the Maui Planning Commission which has recommended

approval to the Maui County Council.

HAR § 15-15-18(6): It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in the public infrastructure or support services.

The proposed reclassification and land use approval do not contribute to scattered spot urban development. The Project Area is adjacent to existing fully developed industrial uses, such as the Consolidated Industrial Subdivision and Waiko Baseyard (Rojac) industrial subdivision. As noted above, the Project Area is currently permitted for baseyard use of approximately 4 acres through a State Special Use Permit and County Conditional Permit. It is further noted that the Project Area is designated within the proposed Urban Growth Boundary in the draft Maui County General Plan currently before the County Council for approval.

The proposed development will not necessitate unreasonable public investment in infrastructural facilities or public services. The Petitioner will comply with all applicable provisions regarding rules and regulations pertaining to infrastructure and facilities.

HAR § 15-15-18(7): It may include lands with a general slope of twenty percent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state or county agency, are adequate to protect the public health, welfare and safety, and the public's interest in the aesthetic quality of the landscape.

The Project area is characterized as lands having slopes ranging from 3 percent to 2 percent average slopes.

Six Areas of State Concern Under HRS § 205-17(3):

HRS § 205-17(3) provides six areas of state concern that must be considered by the Commission in its decision-making. My assessment of the Project's impact on the six areas is as follows:

(A) Preservation or maintenance of important natural systems or habitats.

Based upon the historical uses of the land within the Project Area, the requested reclassification and subsequent development of the Project is not expected to have a significant adverse effect on the environment, including any important natural systems or habitats. As reflected in the Biological Resources Survey prepared for the Project by Robert W. Hobdy (Appendix M to Petitioner's Exhibit 1) no threatened or endangered plant species are located

within the Project Area. No endangered or threatened avifaunal, feral mammal or invertebrate species are located within the Project Area. No native water birds, nesting seabirds or migratory shorebirds were observed at the Project Area.

(B) Maintenance of valued cultural, historical, or natural resources.

The Cultural Impact Assessment concluded that the development of the Project would have no significant impact on Hawaiian cultural resources, beliefs and practices.

Although the Project Area is located within an area that may contain human burials, during the archaeological assessment survey for the Project no significant surface or subsurface cultural remains were identified. In addition, subsurface investigation was done (20 mechanical backhoe test trenches) and no significant cultural material were identified. Given the general location of the Project Area, precautionary archaeological monitoring will be done during any earthmoving activities related to the Project.

(C) Maintenance of other natural resources relevant to Hawaii's economy, including agricultural resources.

Based upon the historical uses of the land and the poor soils within the Project Area, the development of the Project is not expected to have an adverse impact on agriculture. As noted previously, approximately 4 acres of the Project Area is presently used as a construction equipment and materials storage facility through an approved Maui County Conditional Permit and Special Use Permit. The remaining acreage is presently vacant and fallow with overgrown buffelgrass and kiawe trees and is used for pastureland.

(D) Commitment of state funds and resources.

The development of the Project will not require the commitment of State funds and resources.

(E) Provision for employment opportunities and economic development.

As indicated in Appendix L to Petitioner's Exhibit 1, development of the Project will create immediate and long-term economic benefits including, but not limited to, design and construction employment which will have a multiplier effect on local material suppliers and retail businesses connected with the construction industry. In the long-term, the Project will support local businesses and provide needed reasonably-priced light industrial areas that are centrally-located for commercial uses.

(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.

The Project is not a residential Project and therefore, will not provide housing opportunities. However, the Project will provide employment opportunities for all income groups.

Important Agricultural Lands:

The Project Area is not designated important agricultural lands.

County General Plan:

The Project is consistent with the Maui County General Plan (“GP”). The 1990 update of GP establishes broad objectives and policies to guide the long-range development of the County. The GP advances five major themes that focus on the overall goals of the GP. The Project responds to GP theme number 4, regarding the maintenance of a viable economy that offers diverse employment opportunities for residents. The Project is consistent with the following GP objectives and policies relating to economic activity:

Objective: To provide an economic climate which will encourage controlled expansion and diversification of the County’s economic base.

Policies:

- Maintain a diversified economic environment compatible with acceptable and consistent employment.
- Support programs, services and institutions which provide economic diversification.

Objective: • To provide a balance between visitor industry employment and non-visitor employment for a broader range of employment choices for the County’s residents.

Policies:

- Encourage industries that will utilize the human resources available from within Maui County rather than having to import workers.
- Encourage industries that will give incentives to the county’s youth to seek higher education to be utilized in jobs within Maui County.

The Project will provide a variety of economic activities for the Kahului-Wailuku Community Plan District and Waikapu Town area including a light industrial subdivision and commercial complex as well as construction jobs. It is anticipated that with infusion of capital investment to develop the Project, the Project will have a significant contribution to Maui’s economic base. The development reflects the needs and desires of the Kahului-Wailuku Community Plan district and residents of Waikapu Town village. The proposed Project is in

keeping with the stated objectives and policies of land use in Maui County by providing a range of land use districts to meet the economic needs of the community.

Kahului-Wailuku Community Plan:

The Project is also consistent with the Kahului-Wailuku Community Plan. The Project Area is located within the Kahului-Wailuku Community Plan region, one of nine community plan regions established in the County of Maui. Planning for each region is guided by the respective community plans, which are designed to implement the Maui County General Plan. Each community plan contains recommendations and standards which guide the sequencing, patterns and characteristics of future development in the region.

The Kahului-Wailuku Community Plan was adopted by the County of Maui through Ordinance Number 3061, Bill Number 29, and became effective on June 5, 2002. The Project is consistent with the following goals, objectives, and policies of the Kahului-Wailuku Community Plan:

Economic Activity: A stable and viable economy that provides opportunities for growth and diversification to meet long-term community and regional needs and in a manner that promotes agricultural activity and preserves agricultural lands and open space resources.

Objectives and Policies:

- (4) Provide industrial growth opportunities through the expansion of existing industrial centers associated with the airport and harbor, and in Wailuku and Kahului. Encourage the fee simple ownership of lots provided by private developers.
- (5) Recognize the importance of small businesses to the region's economy.

Land Use: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in the manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources and traditional towns and villages.

Objectives and Policies:

- (6) Establish an adequate supply of urban land use designations to meet the needs of the community over the next 20 years.

The Project is in conformance with the goals, objectives and policies of economic activity for the Kahului-Wailuku region as it will provide industrial growth opportunities through the

expansion of an existing industrial center which has existing transportation routes to the nearby airport and harbor in Kahului. In addition, the Project will encourage the creation of new local small businesses for Maui and will create needed employment opportunities for island residents. The Project will contribute significantly to Maui's economy with the Project's large infusion of capital investments. It will increase the availability and variety of light industrial and commercial services to provide for regional needs because of its unique and strategic location in close proximity to the core residential areas of Kahului-Wailuku region.

As described above, the Commission's decision-making criteria are fully satisfied. In my professional opinion, I recommend reclassification of the Project Area and the development of the Project.

DATED: Wailuku, Hawaii, November 21, 2012.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Vince G. Bago", is written over a horizontal line.

VINCE G. BAGOYO

WRITTEN TESTIMONY OF PHILLIP J. ROWELL

My name is Phillip Rowell. I am the Principal and primary project engineer of Phillip Rowell and Associates, which is a transportation and traffic engineering consulting firm that I founded in 1995.

As reflected on my resume, Petitioner's Exhibit "5", my professional work includes 40 years experience in civil engineering, transportation planning and traffic engineering. I have specialized in transportation planning and traffic engineering for the past 30 years. I earned my Bachelor of Science degree in Civil Engineering and my Masters of Engineering degree in Transportation and Traffic Engineering, both from Clemson University, in 1971 and 1972, respectively.

Prior to founding Phillip Rowell and Associates, I was employed as a Principal with at Barton-Aschman Associates, now Parsons Transportation Group, Inc., from 1984 through 1995, practicing transportation planning and traffic engineering the LA, Phoenix and Las Vegas areas and Hawaii. Prior to joining Barton-Aschman Associates, I was City Traffic Engineer for the City of Beverly Hills, CA, and before that I was a design engineer and traffic engineer at Wilbur Smith and Associates. I have practiced in Hawaii, California, Arizona, Nevada, Guam, Hong Kong and Malaysia. I am a registered Civil Engineer in Hawaii and California.

Since founding my own firm in 1995, I have completed over 400 transportation and traffic engineering projects in Hawaii. My primary experience primarily includes traffic impact analyses. I have prepared traffic impact analysis reports for a variety of projects including, subdivisions, hospitals, office buildings, schools, shopping centers, resorts, hotels, planned communities, and many other land use types.

I have previously been qualified and testified before the Land Use Commission as an expert witness in transportation and traffic engineering.

Phillip Rowell and Associates was retained by Petitioner Waiko Industrial Investment, LLC ("Petitioner") to prepare the Traffic Impact Analysis Report ("TIAR") for Petitioner's proposed Waiko Baseyard Light Industrial Project (the "Project") located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("TMK") No.

(2) 3-8-007-102 (the "Project Area").

Attached to Petitioner's Exhibit "1" as Appendix "P" is the May 17, 2011 TIAR prepared by Phillip Rowell and Associates. The TIAR was prepared in accordance with the best practices of the engineering profession, and are intended to assist in assessing the Project's traffic impacts on the area traffic systems. The purpose of the TIAR was to identify and assess the traffic impacts resulting from the proposed development of the Project.

The methodology for the TIAR consisted of the following tasks:

1. Site reconnaissance to identify existing roadway cross-sections, intersection lane configurations, traffic control devices, and surrounding land uses;
2. Existing peak-hour traffic volumes for the evaluated intersections were obtained;
3. A list of related development projects within and adjacent to the Project that will impact traffic conditions was compiled;
4. Estimation of future background traffic volumes at the study intersections without traffic generated by the Project;
5. Estimation of peak hour traffic using trip generation analysis procedures recommended by the Institute for Transportation Engineers;
6. Level-of-service analysis for future traffic conditions with traffic generated by the Project;
7. Quantification and estimation of the impacts of traffic generated by the Project at the study intersections;
8. Identification of locations that traffic generated by the Project may significantly impact; and
9. Formulation of recommendations, improvements or modifications necessary to mitigate the traffic impacts of the Project and to provide adequate access to and egress from the site.

The TIAR consists of the following components:

10. Description of the Project;
11. Evaluation of existing roadway and traffic conditions in the vicinity of the Project;
12. Analysis of future roadway and traffic conditions without the Project;
13. Analysis and development of trip generation characteristics for the Project;
14. The identification and analysis of traffic impacts resulting from the Project; and
15. Recommendations of improvements that would mitigate the traffic impacts resulting from the Project.

EXISTING TRAFFIC CONDITIONS

Access to the Project will be provided via Waiko Road, a two-lane County collector road intersecting Honoapiilani Highway and Kuihelani Highway. Honoapiilani Highway is a State highway and the main artery connecting Waikapu to Central, South and West Maui. Honoapiilani Highway is located approximately 4,000 feet west of the Project. In the vicinity of the Project, Honoapiilani Highway is a two-lane, two-way facility with separate left turn lanes into East and West Waiko Road. The posted speed limit on Honoapiilani Highway near the Project is 35 miles per hour. The intersection with Waiko Road is signalized.

Kuihelani Highway is also located in the vicinity of the Project. Kuihelani Highway is a four-lane divided State highway connecting Kahului and Maalaea. The posted speed limit in the vicinity of the Project is 55 miles per hour. The intersection with Waiko Road is a signalized T-intersection with a separate left turn lanes for northbound to westbound left turns onto Waiko Road. The southern end of Kuihelani Highway is its intersection with Honoapiilani Highway. The northern end of Kuihelani Highway is at its intersection with Pu'unene Avenue, where it transitions to Dairy Road in Kahului.

Also located in the vicinity of the Project is Waiale Road, a two-lane road with its southern terminus at Waiko Road. Waiale Road turns into Lower Main Street near Ka'ahumanu Avenue.

The intersection of Honoapiilani Highway and Waiko Road currently operates at an acceptable Level-of-Service B during morning peak hour and Level-of-Service A during the afternoon peak hour. All lane groups operate at Level-of-Service C, or better, during both peak periods. The intersection of Kuihelani Highway at Waiko Road operates at Level-of-Service B during morning peak hour and Level-of-Service A during afternoon peak hour. The northbound left turn operates at Level-of-Service D during the afternoon peak hour. All other lane groups operate at Level-of-Service C, or better.

All intersections in the vicinity of the Project currently operate at an acceptable Level of Service.

IMPACT AND MITIGATION

Signalized and Unsignalized Intersections:

The impact of the Project was assessed by analyzing the changes in levels-of-service at the study intersections. The level-of-service analysis of the study intersections was performed for background and background plus Project conditions. The incremental difference of the volume-to-capacity ratios between the two conditions is the impact of the Project. It was assumed that the existing intersection configurations will be maintained. The results of the level-of-service analysis of the signalized intersections (intersections with Honoapiilani and Kuihelani Highways) indicate that the overall intersections and major northbound and southbound through movements operate at Level-of-Service D, or better, and all the volume-to-capacity ratios are less than 1.00. Based on this, no mitigation will be required.

The intersection of Waiko Road and Waiale Road is the only unsignalized study intersection. The results of the level-of-service analysis for this intersection indicate that all the controlled movements will operate at Level-of-Service C during the morning peak hour and Level-of-Service F during the afternoon peak hour with Project generated traffic. The level-of-service of the southbound left and right turns will decrease from Level-of-Service C to Level-of-Service F, with the addition of Project related traffic, during the afternoon peak hour. The average vehicle delay increases from 18.5 seconds per vehicle to 151.0 seconds per vehicle. Since the delay increases to over 3.5 minutes, this implies that Project generated traffic will have a significant impact on the level-of-service of the overall intersection.

As noted in the TIAR, the Institute for Transportation Engineers standard is that Level-of-Service D is the minimum acceptable Level-of-Service. For signalized intersections, this criteria is applicable to the overall intersection rather than each controlled lane group. Minor movements, such as left turns, and minor side street approaches may operate at Level-of-Service E for short periods of time during the peak hours so that the overall intersection and major movements along the major highway will operate at Level-of-Service D, or better. All volume-to-capacity ratios should also be less than 1.00. A volume-to-capacity ratio equal to or greater than 1.00 implies that the intersection or lane group operates at or over capacity.

A comparable standard, however, has not been established for unsignalized intersections. Because of this, we have used a standard that Level-of-Service D as an acceptable level-of-service for any major controlled lane groups, such as left turns from a major street to a minor street. Side street approaches may operate at Level-of-Service E or F for short periods of time. This is determined from the delays of the individual lane groups. If the delay of any of the side street approaches appears to be so long that it will affect the overall level-of-service of the intersection, then mitigation measures should be assessed.

The results of the level-of-service analysis indicates that Project generated traffic will have a significant impact at the unsignalized intersection of Waiko Road and Waiale Road during the afternoon peak hour. The average vehicle delay increases from 18.5 seconds per vehicle without Project related traffic to 151.0 seconds per vehicle with Project related traffic. Since the delay increases to over 3.5 minutes, this indicates that Project generated traffic will have a significant impact on this intersection and mitigation measures should be assessed. In the majority of instances, a left turn refuge lane is an effective mitigation measure in comparable cases. Developing a left turn refuge lane for the intersection of Waiko Road and Waiale Road will improve the level-of-service of the southbound to eastbound left turn at this intersection from Level-of-Service F to Level-of-Service D during the afternoon peak hour; an effective mitigation measure.

Driveway Analysis:

A separate level-of-service analysis of anticipated traffic conditions at the Project's driveways along Waiko Road was performed to determine the required lane configuration. There will be two driveways. Drive A will serve the retail portion of the Project, which is located in along the north side of Waiko Road between Kuihelani Highway and the Consolidated Baseyard. The driveway will be along the west boundary of the parcel adjacent to the Baseyard, which is approximately 580 feet from the right-of-way along Kuihelani Highway. It was assumed that the driveway will not be signalized and the exit from the Project will have one left and one right turn lane. It was also assumed that a separate left turn lane would be provided for eastbound to northbound left turns into the Project.

The second driveway, Drive B, will serve the industrial portion of the Project, which is

located west of the Consolidated Baseyard. It was assumed that the driveway is unsignalized and that all intersection approaches are one lane each.

During the morning peak hour, all movements will operate at acceptable levels-of-service. During the afternoon peak hour, the southbound left turn from Drive A, which serves the retail portion of the Project, will have an estimated delay of 301.4 seconds per vehicle, which equates to Level-of-Service F. This also implies that there will be a long queue for left turns from the retail area. Accordingly, additional capacity is required for the driveway to operate acceptably.

After an assessment of various improvements, it was determined that the following improvements will be required for Drive A to operate acceptably:

16. Provide a separate right turn lane along the westbound approach of Waiko Road to Drive A.
17. Provide a left turn refuge lane for left turns from Drive A to eastbound Waiko Road. The refuge lane should provide capacity for three vehicles.

If the above recommendations are implemented, left turns from Drive A will operate at Level-of-Service D and the average vehicle delay is reduced from 301.4 seconds per vehicle to 33.2 seconds per vehicle. This driveway should be monitored as the retail portion of the Project is developed in order to determine if additional improvements should be implemented.

No improvements are required at Drive B.

SUMMARY

The following is a summary of the significant findings and recommendations set forth in the TIAR:

18. The level-of-service analysis concluded that the signalized intersections (Honoapiilani Highway at Waiko Road and Kuihelani Highway at Waiko Road) will operate at acceptable levels-of-service without additional improvements.
19. The southbound approach of Waiale Road at Waiko Road will operate at Level-

of-Service C during the morning peak hour and Level-of-Service F during the afternoon peak hour. An assessment of potential improvements concluded that installation of a left turn refuge lane for left turns from southbound Waiale Road to eastbound Waiko Road would result is Level-of-Service D and is therefore recommended. However, since the projected traffic volumes that result in the unacceptable level-of-service reflect full build out of the Project, it would be prudent to defer the improvement until the left turn refuge lane is required. It is possible that the traffic projections, which are based on Institute of Transportation Engineers trip generation data, may not be realized. The intersection should be monitored and re-assessed when the Project is approximately 50% occupied.

20. The current site plan for the Project indicates two separate parcels. The parcel is located along the north side of Waiko Road between Kuihelani Highway and the east property line of the Consolidated Baseyard. Approximately 100,000 square feet of retail and commercial floor space can be constructed on this parcel. The level-of-service analysis determined that access to and egress from the Project should be provided by a major driveway (unsignalized) along Waiko Road along the west boundary of the Project. The main driveway, Drive A, should have separate turn lanes along each approach and a left turn refuge lane along Waiko Road for left turns from the Project. It is recommended that this driveway be monitored as the parcel is developed to determine if additional improvements are required. As with the previous intersection, the reassessment should be performed when the retail portion of the Project is approximately 50% occupied.
21. The second parcel is located west of the Consolidated Baseyard and will consist of 19.7 acres of light industrial uses. Access to and egress from this parcel will be provided through one driveway, Drive B. This driveway will be unsignalized and all approaches in be one lane only.

Petitioner has agreed to construct the above recommendation to further improve traffic operations in the vicinity of the Project. State of Hawaii Department of Transportation approval will be required prior to finalizing plans and undertaking the above roadway and intersection improvements. Petitioner has expressed that it will ensure that all proposed roadway

development and improvements are in accordance with the applicable State and County standards.

In my professional opinion, and based on the TIAR, the Project is not expected to have a significant impact on traffic operations at signalized intersections in the vicinity of the Project. In addition, if the above-mentioned recommendations are implemented, traffic related impacts of the Project at the unsignalized intersection of Waiko Road and Waiale Road and at Drive A will be effectively mitigated and improved.

DATED: November 20, 2012

Respectfully submitted,



PHILLIP J. ROWELL

WRITTEN TESTIMONY OF TOM NANCE

My name is Tom Nance. I am a registered civil engineer who has specialized in water resource development and water related issues since 1972. Petitioner's Exhibit "37" is a resume of my education and work experience. I am President of Tom Nance Water Resource Engineering and have been since I started the company in 1989. Prior to that, I worked for Belt Collins & Associates from 1972 to 1989.

I have previously been qualified and testified as an expert witness in hydrology, ground water, and water resource development numerous times before the Land Use Commission. I have been qualified and testified as an expert a number of times in State and Federal courts, before the Board of Land and Natural Resources, and before the Commission on Water Resource Management.

I am familiar with the proposed Waiko Light Industrial Project (the "**Project**"), which will be located on 31.222 acres of land in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("TMK") No. (2) 3-8-007-102 (the "**Project Area**"). My understanding is that the Project will be a light industrial and retail subdivision consisting of approximately 41 fee simple lots including roadways. The lot sizes are proposed to range from 10,000 square feet to an approximately 8.5-acre lot. Related improvements of the Project include internal roadways, drainage retention systems, utilities, private wastewater system, site grading work, and off-site roadway improvements.

There is no Maui County Department of Water Supply ("**DWS**") service to the Project Area or adjacent properties. The Project will be served by an existing private potable water system which currently serves the Consolidated Baseyard Subdivision which is adjacent to the Project (the "**System**"). The System consists of two potable quality wells, a 350,000-gallon storage tank, pump delivery system, and related water appurtenances. The System has been approved by the State Department of Health as a potable water system for public use.

The average water supply requirement for the existing Consolidated Baseyards Subdivision has been estimated by others to be 83,000 gallons per day ("**GPD**"). This estimate was based on a design rate that is less than DWS' standards. DWS' standards require 6,000

GPD/acre. As a private system, a design criterion of 3,860 GPD/acre was used to estimate the required supply for the Consolidated Baseyards Subdivision. This is relatively close to the 4,000 GPD/acre standard used by all other municipal water systems in the State.

To estimate the additional supply for the Project, I applied 4,000 GPD/acre over its 31.22-acre area and added an allowance of 15,000 GPD for roadway landscape irrigation to arrive at a total average demand of 139,890 GPD. With 139,800 GPD for the Project, the total average demand for the Project and the adjacent Consolidated Baseyard Subdivision will be 222,890 GPD. The maximum day supply requirement, defined as 1.5 times the average demand (DWS' standard), amounts to 334,335 GPD. Several different design criteria to size well pumping capacity could be used to meet this maximum day amount. These are:

1. Provide the maximum day demand in a 16-hour pumping day with the largest well out of service. This is a criterion of Maui DWS. This criterion results in a required pumping capacity of 348 GPM for each of the System's two wells.
2. Provide the maximum day demand in a 24-hour pumping day with the largest well out of service. This criteria is used by the Hawaii and Kauai County municipal systems, as well as by most private water systems in the State. This criterion results in a required pumping capacity of 232 GPM for each of the System's two wells.
3. Provide the maximum day demand in a 19-hour pumping day. This is a pragmatically adopted criterion of several private water systems that have very deep wells (pumping lifts of more than 1000 feet). This criterion limits pumping to off-peak hours in order to get a lower rate schedule from the power utility. This criterion results in a required pumping capacity of 293 GPM for each of the System's two wells.

In my opinion, Criterion 1 is overly conservative and Criterion 3 is not necessary as pumping costs are very modest for the System. Criterion 2 is the appropriate one to use in this case. It requires a capacity of 232 GPM from each of the wells so that each provides full backup capacity to the other. For my assessment, I rounded this capacity requirement up to 235 GPM for each well.

Hydraulic Capacities of Each Well.

Although the hydraulic performance of each well when originally tested was very good, neither was tested at the 235 GPM pumping rate required by Criterion 2 to accommodate the addition of the Project. Well 1, which has an 8-inch casing, is the smaller of the two wells. It

was test pumped at just 60 GPM. Well 2, with a larger 10-inch casing, was pump tested at 150 GPM. However, test data compiled at these lower pumping rates can be extrapolated to determine the expected well performances at 235 GPM. On this basis and at the 235 GPM rate, the drawdown in Well 1 would be 2.0 feet and it would be 2.3 feet in Well 2. Both of these drawdowns would primarily be turbulent loss rather than an actual aquifer response. Based on this, it is my conclusion that both wells do have adequate hydraulic capacity to supply both the Consolidated Baseyard Subdivision and the Project.

Long-Term Salinity of the Consolidated Baseyard Wells at Increased Pumping Rates.

The constant rate pump test of Well 1 in 2001 was at 60 GPM for twelve hours. Its salinity was stable throughout the testing. Well 2 was tested in 2005 at 100 GPM for 24 hours. Its salinity steadily decreased throughout the test. Samples collected from both wells on February 17, 2011 had lower salinities than during the original testing of each well. Pump tests of the nearby Alexander and Baldwin Waiale Wells 1 and 2 were run at 550 GPM, producing stable salinities at this higher rate. All of these results suggest that a pumping rate of 235 GPM should be sustainable at a stable and acceptable salinity level for the System's two wells.

Conclusions and Recommendations.

1. Both wells have adequate hydraulic capacity to deliver 235 GPM to the 250-foot elevation storage tank with only modest drawdowns. Well 1 is located next to the storage tank. The 4-inch pipeline from Well 2 to the tank, a distance of about 500-foot length, can accommodate the higher pumping rate.
2. Based on available data, it appears that long-term salinity will be stable at the increased pumping rates.
3. Consolidated Baseyard has a 0.35 MG storage tank which has adequate volume for both the Consolidated Baseyard Subdivision and the Project. This existing storage tank volume is adequate to meet the fire flow requirements of the Project.
4. Advanced septic systems for each lot and delivery of the effluent from these systems to a common leach field will be required for the Project in compliance with the DOH requirement that cesspools or leach fields not be located within 1,000 feet of a drinking water well.

5. The existing pumps in the System's two wells will need to be replaced with new pumps capable of delivering 235 GPM to the System's 0.35 MG storage tank.

DATED: Honolulu, Hawaii, ~~December~~ ^{November 29,} ____, 2012.

Respectfully submitted,



TOM NANCE

WRITTEN TESTIMONY OF ERIK MAILAND FREDERICKSEN

My name is Erik Mailand Fredericksen. I have grown up on Maui, and have been involved in archaeological and cultural resource management projects primarily in Maui County since the mid-1970s. I am the owner and Principal Investigator of the consulting firm Xamanek Researches LLC (“**Xamanek**”), which is based in Pukalani, Maui. Xamanek Researches LLC has been providing archaeological and cultural resource management services for public and private sector clients in Maui County since 2005. Prior to this time I served as Field Director and a Principal Investigator for Xamanek Researches between 1994 and 2005. Xamanek’s services include archaeological assessments, archaeological inventory surveys, data recovery projects, burial treatment, archaeological monitoring programs, cultural resource management, and general archaeological consultation. Xamanek also provides analyses of the impact of a proposed action on cultural practices and features associated within a project area and the *ahupua`a* in which it is situated.

As noted above, I have been involved in the field of archaeology since the mid-1970s. As reflected in my resume, Petitioner’s Exhibit “40”, I received my M.A. from the University of Hawai`i at Manoa in 1983. Since 1983, I have supervised and/or conducted more than 550 archaeological/cultural resource management projects - primarily within Maui County. I have specialized knowledge and skill relating to Hawaiian culture and the preservation of the cultural resources of Maui. I was appointed to the Maui County Cultural Resources Commission for two 5-year terms: 1999-2004; and 2007-2012. During these appointments I served as the Commission’s archaeologist. While on the Commission, I also served as Vice Chair for portions of each term, and was elected as Chair from 2009 until my term expired in March of 2012. During my time on the Commission we dealt with issues pertaining to the Hawaiian culture on a regular basis.

I have previously qualified and/or testified as an expert witness in archaeological related studies before the Land Use Commission and in State court.

Xamanek was retained by Petitioner Waiko Industrial Investment, LLC (“**Petitioner**”) to develop a Cultural Impact Assessment (the “**CIA**”) for the proposed Waiko Light Industrial Project (the “**Project**”) located on a 31.222-acre parcel in Waikapu *Ahupua`a*, Wailuku District, Maui Island, identified by Tax Map Key (“**TMK**”) No: (2) 3-8-007: 102 (the “**Project Area**”). The intent of the CIA is to identify and analyze the impact, if any, of the Project on cultural practices and features associated within the Project Area. Xamanek has previously conducted an Archaeological Assessment Survey (the “**Archaeological Assessment**”) for the Project Area, which has been submitted to the State Historic Preservation Division (“**SHPD**”) as part of the Environmental Assessment process. This Archaeological Assessment has informed the development of the CIA.

I became familiar with the Project through discussions with various employees of the Petitioner including Mr. Vince Bagoyo and Mr. Charles Jencks. I also reviewed maps of

the Project Area created by Otomo Engineering, Inc. – Project engineer, and visited the Project Area several times. In addition, I conducted an extensive literature and records review of historical and contemporary sources discussing the area surrounding the Project Area, including, but not limited to, a review of the following: 1) the Archaeological Assessment for the Project Area, which has been submitted as Appendix O to Petitioner’s Exhibit “1”; 2) the Archaeological Monitoring Plan for the Project, which has been submitted as Appendix A to Appendix N to Petitioner’s Exhibit “1”; and 3) other Archaeological Inventory Surveys for portions of the larger area surrounding the Project Area.

My assessment is based on a review of the above written materials, government and other historical records, Hawaiian language sources translated into English, and interviews of long-term residents and Native Hawaiians familiar with the cultural history and resources of the Project Area. To the best of my knowledge, this methodology is consistent with generally accepted standards.

Portions of the Project Area have been utilized as pastureland for cattle and horses over the years. Much of the land is currently in use for base yards with various large stockpiles, as well as cattle feed lots and associated settling ponds. The bulk of the Project Area has been previously disturbed through grubbing, grading, sand mining, and agricultural or pastoral activities. No historic properties were identified within the Project Area during the fieldwork for the Archaeological Assessment. Subsurface testing included 20 controlled mechanical backhoe test excavations. Although no significant historic properties were identified during subsurface testing, it is nevertheless possible that subsurface significant material culture remains could be located in uninvestigated portions of the Project Area.

It is important to note that the Project Area is located within the larger area known as the Pu’uone sand dune region, an area known to contain isolated and clustered Native Hawaiian human burials and previously disturbed Native Hawaiian human remains. Surface and subsurface sites have been documented on parcels adjacent to the Project Area and thus, there is a possibility for the inadvertent discovery of significant subsurface material culture remains during any potential future land alteration activities.

I interviewed Ted and Zelig Harders on September 8, 2011. Ms. Harders was born in the old Malulani Hospital and was raised in Waikapu Village. Mr. Harders was born and raised on Oahu and moved to Waikapu when he married Zelig. My staff member, Marco P. Molina, interviewed Flo (Florence) Nakama on September 13, 2011. Ms. Nakama was born and raised in Waikapu, Maui. Marco P. Molina also interviewed Walette Pellegrino on September 17, 2011. Ms. Pellegrino, a Waikapu Community Association member, was born and raised in Wailuku, and did not feel comfortable being interviewed more fully about the Project Area as she had not grown up in Waikapu. Finally, my colleague Jenny L. Pickett, interviewed Dana Naone Hall on September 13, 2011.

Based on the studies and interviews that I and others conducted, there are no known Native Hawaiian traditional and customary practices being exercised in the Project Area.

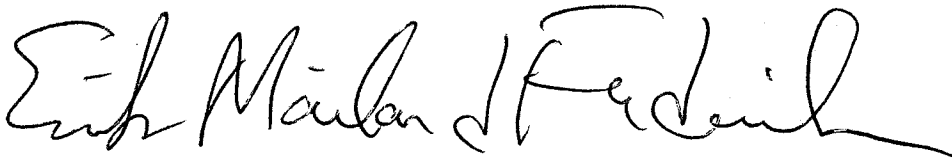
Interviewees did not know of any specific cultural uses of the Project Area. However, two individuals, Ms. Hall and Ms. Pellegrino, remarked that the surrounding area sand dune area (Pu'uone) is generally known for containing Native Hawaiian burials.

The Project Area and much of the surrounding area have been heavily impacted by post-contact activities of the 19th and 20th centuries. If traditional Hawaiian cultural sites were present on the Project Area prior to the plantation era, they were either destroyed or buried by earth altering activities. However, given the location of the Project Area, there is a possibility that Native Hawaiian burials and/or other significant material culture remains could be located in untested subsurface portions of the Project Area. The Pu'uone sand dune area is known for containing isolated and clustered human burials. In addition, traditional Hawaiian and/or post-contact habitation or agricultural site remnants could be present in untested subsurface portions of the previously disturbed Project Area. Traditional Hawaiian subsurface site remnants could include midden deposits, charcoal concentrations (fire hearths), cooking pits, occupation surfaces, and/or stone features.

Given that there is a possibility of encountering significant material culture remains including human burials, during subsurface ground disturbance activities in the Project Area, archaeological monitoring is the recommended mitigation for the proposed development. To this end, a monitoring plan for the Project has previously been submitted to the SHPD for review and comment. This monitoring plan has been approved by the SHPD (SHPD DOC NO: 1205JP13).

Accordingly, no known cultural sites or resources are affected by the Project. The archaeological monitoring provision for the Project will help to ensure that there will be no adverse effect on any cultural sites or resources. Granting the reclassification of the Project Area and the development of the Project will not adversely affect cultural resources, practices or beliefs in this specific case.

DATED: Makawao, Maui, Hawai'i, November 16, 2012



Erik Mailand Fredericksen

WRITTEN TESTIMONY OF ERIK MAILAND FREDERICKSEN

My name is Erik Mailand Fredericksen. I have grown up on Maui, and have been involved in archaeological and cultural resource management projects primarily in Maui County since the mid-1970s. I am the owner and Principal Investigator of the consulting firm Xamanek Researches LLC (“**Xamanek**”), which is based in Pukalani, Maui. Xamanek Researches LLC has been providing archaeological and cultural resource management services for public and private sector clients in Maui County since 2005. Prior to this time I served as Field Director and a Principal Investigator for Xamanek Researches between 1994 and 2005. Xamanek’s services include archaeological assessments, archaeological inventory surveys, data recovery projects, burial treatment, archaeological monitoring programs, cultural resource management, and general archaeological consultation.

As noted above, I have been involved in the field of archaeology since the mid-1970s. As reflected in my resume, Petitioner’s Exhibit “40”, I received my M.A. from the University of Hawai’i at Manoa in 1983. Since 1983, I have supervised and/or conducted more than 550 archaeological/cultural resource management projects - primarily within Maui County. These projects have been conducted on behalf of private and public sector clients, and have ranged from the simple to complex. I was appointed to the Maui County Cultural Resources Commission for two 5-year terms: 1999-2004; and 2007-2012. During these appointments I served as the Commission’s archaeologist. While on the Commission, I also served as Vice Chair for portions of each term, and was elected as Chair from 2009 until my term expired in March of 2012.

I have previously qualified and/or testified as an expert witness in archaeological related Studies before the Land Use Commission and in State court. Currently, I am conducting archaeological work under a permit issued by the Board of Land and Natural Resources (current 2012 SHPD Permit #12-06).

Xamanek was retained by Petitioner Waiko Industrial Investment, LLC (“**Petitioner**”) to conduct an archaeological assessment survey and general archaeological consultation with regard to Petitioner’s Waiko Light Industrial Project (the “**Project**”). Attached as Appendix O to Petitioner’s Exhibit “1” is a true and correct copy of the archaeological assessment (“**AA**”) that Xamanek prepared for the Petitioner.

The proposed Project is located on a 31.222-acre parcel in Waikapu *Ahupua`a*, Wailuku District, Maui Island, identified by Tax Map Key (“**TMK**”) No: (2) 3-8-007: 102 (the “**Project Area**”). Petitioner requests to reclassify the entire Project Area from the Agricultural District to the Urban District.

The AA included historical background research prior to fieldwork as well as a complete pedestrian surface survey of accessible areas, subsurface investigation, and report preparation. The ultimate goals and of the AA were to determine the existence of any

historic properties on the Project Area, assess the significance of any identified historic properties within the Project Area, and to provide recommendations to the State Historic Preservation Division (“SHPD”) concerning any mitigation on the Project Area during the Project’s development, as deemed necessary. The AA report was prepared with compliance with HAR 13-275-276 and Maui County guidelines, rules and recommendations. The AA has been accepted by the SHPD (SHPD DOC NO: 1205TD05). Although significant archaeological sites are documented on adjacent lands, no historic properties were identified within the Project Area during the course of the AA survey. I served as the principal investigator for this AA. Xamanek staff members Jenny Lynn Pickett and Marco Molina assisted in the archaeological survey.

The Project Area consists of Aeolian sand dunes with meandering alluvial stream deposits. The Project Area had been previously altered by land use activities. Generally, prior land use included: 1) pastureland for horses and cattle; 2) construction or farm base yards, 3) previous sand mining areas; 4) stock piling of sand, rock, soil and gravel; 5) ponds; 6) cattle feed lots; and 7) a utility easement. Much of the land at the time of the AA was heavily utilized as base yards with various large stockpiles as well as cattle feed lots and associated settling ponds. A majority of the Project Area has previously been disturbed by earthmoving activities associated with grubbing, grading, sand mining, and agricultural or pastoral endeavors.

Archaeological fieldwork took place during the months of May and June 2011, and consisted of surface and subsurface investigation. Approximately 5 days were expended in the field. The AA covered accessible portions of the Project Area. Subsurface testing consisted of 20 mechanical Backhoe Trenches across accessible portions of the Project Area. 100% coverage was not possible due two active cattle feedlots (including settling ponds), a graded access road, and areas where pipelines and high voltage power lines were located.

All backfill material was visually inspected by the archaeologist, and exposed sidewalls were examined. Following the mechanical test excavations, a representative wall from each subsurface was hand scraped with a trowel to aid documentation. Standard recordation methods were followed.

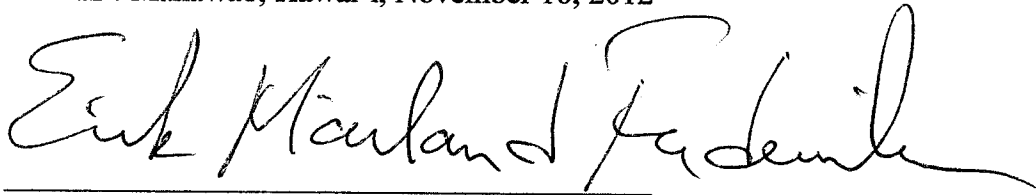
In general, the Project Area is located within an area that is known to contain Native Hawaiian burials. However, no significant surface or subsurface cultural resources were identified during the AA survey of the Project Area. Complete surface inspection of accessible areas took place and a total of 20 backhoe test trenches were excavated in order to assess surface and subsurface conditions. Visual observation of the subsurface excavations and inspection of the backfill did not reveal any significant material culture remains.

Given the results of the AA survey, no further work beyond the assessment level is recommended for the Project Area. However, given the general location of the project area, precautionary monitoring is recommended for any development or future earthmoving activities in order to mitigate potential inadvertent discoveries that could be

uncovered in the future. Xamanek also developed the Cultural Impact Assessment (“CIA”) for the Project, which is attached as Appendix N to Petitioner’s Exhibit “ 1 .” As detailed in the CIA, given that there is a possibility of encountering significant material culture remains during subsurface ground disturbance activities in the Project Area, archaeological monitoring is the recommended mitigation for the proposed development. The monitoring plan for the Project Area has been submitted to the SHPD for review and comment. This monitoring plan has been approved by the SHPD (SHPD DOC NO: 1205JP13).

Should any archaeological remains or cultural materials be encountered during construction and/or earth altering activities, work in the vicinity of the find will be halted and appropriate protocols will be followed in coordination with the SHPD. SHPD will be contacted to establish appropriate mitigation measures in accordance with Hawai’i preservation law and administrative rules for the treatment of inadvertent discoveries, including Chapter 6E of the Hawaii Revised Statutes and required coordination with the Maui/Lana’i Islands Burial Council. In addition, the Office of Hawaiian Affairs shall also be contacted in the event that human remains and/or significant material culture remains are discovered during ground altering activities on the Project Area.

DATED: Makawao, Hawai’i, November 16, 2012

A handwritten signature in black ink, reading "Erik Mailand Fredericksen". The signature is written in a cursive style and is positioned above a horizontal line.

Erik Mailand Fredericksen

WRITTEN TESTIMONY OF STACY A. OTOMO

My name is Stacy A. Otomo and I am the principal engineer of Otomo Engineering, Inc. ("**Otomo**"). Otomo was retained by Petitioner Waiko Industrial Investment, LLC ("**Petitioner**") to develop the Preliminary Engineering Report (the "**Engineering Report**") for Petitioner's proposed Waiko Light Industrial Project (the "**Project**"). Appendix J to Petitioner's Exhibit "1" is a true and correct copy of the Engineering Report that Otomo prepared for the Project. The objectives of the Engineering Report was to evaluate the adequacy of the existing infrastructure and anticipated improvements which may be required for the Project.

As reflected in my resume, Petitioner's Exhibit "42", I obtained a Bachelor of Science degree in Engineering from the University of Hawaii in 1977 and a Masters of Science degree in Engineering from the University of Hawaii in 1979. I have testified before the Land Use Commission in the following matters: (1) Pulelehua; (2) Waikapu Gardens; (3) Kula Ridge Affordable Housing Project; and (4) Consolidated Baseyard Subdivision.

The Project is located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("**TMK**") No. (2) 3-8-007-102 (the "**Project Area**"). It is also known as Lot 1-C of the Kopaa Subdivision No. 2 and is bordered by undeveloped land to the north, a cattle feed lot and Kuihelani Highway to the east, Waiko Road to the south, and undeveloped land to the west. The Project consists of developing 37 industrial lots, ranging in size from approximately 10,000 square feet to 78,000 square feet and a commercial lot of approximately 8.4 acres. Proposed improvements include paved roadways, concrete curb, gutter and sidewalk; private water system, and landscaping. Underground water, sewer, drainage, electrical, and telephone systems will also be constructed.

The following details the anticipated infrastructure improvements to be made as part of the Project:

Roadways:

Access to Project will be from Waiko Road. Waiko Road intersects with Honoapiilani Highway to the west and Kuihelani Highway to the east. The interior subdivision streets of the Project will have 56 foot right-of-ways and will be improved to County of Maui standards. In

addition, the Petitioner is working with Alexander & Baldwin and the County of Maui in an effort to widen the North-South collector road to 100 feet from 56 feet. The cul-de-sacs will have an edge of pavement radius of 40 feet and a right-of-way radius of 50 feet. The larger traffic lanes and cul-de-sac pavement radius are to accommodate the larger fire trucks in the Central Maui district.

The two north-south subdivision roadways will terminate at the northern boundary of the Project Area. These roadways are master-planned to provide future connections to Alexander and Baldwin's Waiale project. It is contemplated that both roadways will eventually connect to Waiko Road.

Waiko Road in the area fronting the Project has an existing right-of-way of 60 feet. Waiko Road will be improved to accommodate the two new intersections providing access into the subdivision and the recommended turning lanes. The improvements will be designed and constructed to meet County of Maui standards.

All of the Project roadways will be constructed to County of Maui standards. In addition, concrete wheel chair ramps will be constructed at appropriate locations to comply with American with Disabilities standards. Appropriate striping and signage will be installed in accordance with the County of Maui's Department of Public Works. In addition, the improvements and traffic mitigation measures recommended in the Project's Traffic Impact Analysis Report dated May 17, 2011, developed by Phillip Rowell and Associates, will be implemented

Drainage:

The Project's drainage system will be designed to accommodate the increase in runoff generated by the development of the entire Project Area. Subdivision improvements will include a master drainage system within the roadways, including curb-inlet catch basins, manholes, drain lines and a drain stubout to each subdivided lot. As each lot is developed, it will be required to install an onsite drainage system to collect runoff from the site and provide a drain line connection to the drain stubout to the master drainage system. The master drainage system will be sized to accommodate runoff from the roadways and developed lots. The runoff will be conveyed to a master underground perforated drainage system to accommodate the increase in

runoff from the subdivision.

It is estimated that the post development runoff = 75.23 cfs (West Section) + 6.30 cfs (Middle Section) + 41.96 cfs (East Section) = 123.49 cfs. Accordingly, the developed runoff volume is 67,705 cubic feet (West Section) + 5,671 cubic feet (Middle Section) + 27,692 cubic feet (East Section) = 101,068 cubic feet, a net increase of 59,134 cubic feet. As each individual subdivided lot is developed, the building permit applicant will be required to construct an onsite storm runoff collection system and connect to the drain line stubout that was provided to the lot.

Based on this, there are no anticipated impacts on downstream properties and no further mitigation measures are required.

Sewer:

The nearest County of Maui sewer system is located approximately 3,000 feet from the Project Area. A master sewer system will be installed within the subdivision roadways and a sewer lateral will be provided to each lot. The master sewer system will outlet into a community leach field, which will require review and approval from the State of Hawaii, Department of Health ("**DOH**").

Individual wastewater systems ("**IWS**") will be used for the treatment of wastewater for each subdivided lot. Each lot will be required to connect the outlet line of the IWS to the sewer lateral provided. Wastewater will be conveyed from each lot into the community leach field. Each IWS will adhere strictly to the requirements set forth by DOH.

It is estimated that the average daily wastewater contribution is 16,436 gallons. As the Project develops and individual building permits are applied for, the building permit applicant will be required to submit the design of each IWS. It is the responsibility of DOH to review and approve each IWS. Some of the restrictions of an IWS are that it has to be at least five feet away from the wall line of any structure, nine feet from a property line, 50 feet from a stream, ten feet from a large tree, and 1,000 feet from a potable drinking water well (if cesspools are used). The IWS to be used for the Project will be aerobic units which will allow installation in proximity to the existing water wells providing water to the Project.

Water:

The existing wells and storage tank which are currently being used as the source for domestic water and fire flow for the Consolidated Baseyard Subdivision adjacent to the Project will be modified and used to supply potable water to the Project. The Petitioner will upgrade the existing water facilities as required to meet domestic water and fire flow requirements for the Project.

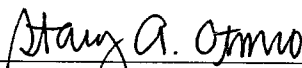
The domestic water demand for the Project, as determined by the Domestic Consumption Guidelines set forth by the Department of Water Supply ("DWS"), is calculated to be approximately 142,920 gallons per day. However, using the analysis for the Consolidated Baseyard Subdivision, it is estimated that the average daily domestic water demand is 139,890 gallons. In accordance with DWS standards, the fire flow demand for a light industrial or commercial development is 2,000 gallons per minute for a two-hour duration. The maximum spacing for fire hydrants is 250 feet. The Petitioner will upgrade the existing offsite Consolidated Baseyard Subdivision water system to adequately meet the demands of the Project. In addition, the conclusions and recommendations set forth in the Memorandum from Tom Nance Water Resource Engineering, dated March 1, 2011, for the Project (Appendix U to Petitioners Exhibit "___") will be implemented.

Electric and Telephone:

The proposed electrical and telephone distribution systems to the Project will be installed overhead from the existing overhead facilities located approximately 1,000 feet to the west of the Project Area. Within the Project, the electric and telephone systems will be installed underground in accordance with the utility companies rules and regulations. Street lights will be installed along the subdivision streets at intervals to be determined by the electrical engineer.

DATED: Wailuku, Hawaii, November 29, 2012.

Respectfully submitted,



Stacy A. Oromo

WRITTEN TESTIMONY OF GLENN K. KUNIHISA

My name is Glenn K. Kunihiisa. I am a Certified General Appraiser experienced and qualified in the performance of both residential and commercial property appraisals. I am a member of the Appraisal Institute and The Counselors of Real Estate.

As reflected in my resume, Petitioner's Exhibit "44", I am the President of ACM Consultants, Inc. ("ACM"). I obtained a Bachelor of Business Administration degree and Masters in Business Administration from the University of Hawaii. I am a past President of the Hawaii Chapter of the Appraisal Institute (2009) and past Chair of the Hawaii Chapter of The Counselors of Real Estate (2011). I was formerly employed by Bank of Hawaii and A & B Commercial Company. I began my appraisal career in 1986 and established ACM in 1997.

ACM has developed appraisals for a diversity of projects, ranging from luxury residential developments to industrial facilities to shopping centers and office buildings. ACM has developed market studies for a number of projects including Consolidated Baseyard, Maui Lani Project District, and the Maui Research & Technology Park. ACM has and continues to be actively involved in the real estate appraisal research and consulting business since 1982. In addition, I have previously qualified and/or testified before the Circuit Court for the Second Circuit of the State of Hawaii as an expert witness in appraisals. I have also testified before the State of Hawaii Land Use Commission ("LUC") on other market studies in the following matters: (1) Consolidated Baseyard project in Waikapu, Maui; and (2) Proposed Waiale Project, SLU Docket No. A10-789.

ACM was retained by Petitioner Waiko Industrial Investment, LLC ("**Petitioner**") to develop a market study for Petitioner's proposed Waiko Light Industrial Project (the "**Project**") located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("**TMK**") No. (2) 3-8-007-102 (the "**Project Area**"). Appendix L to Petitioner's Exhibit "1" is a true and correct copy of the Market Study of the Proposed Waiko Industrial Park that ACM prepared for the Project.

ACM's analysis and market study included the following aspects:

- **Market Analysis:** Conduct a market analysis for the Project by (1) defining and delineating the market area, (2) identifying and analyzing the current supply and demand conditions that comprise the specific real estate market segment, (3) identifying, measuring and forecasting the effect of anticipated developments or other changes for future supply of each market segment, and (4) forecasting the effect of anticipated economic or other changes to future demand.
- **Economic Impact.** Provide a basic economic impact report estimating the general and specific economic effects arising from the development of the Project.

In particular, ACM studied economic trends, demographics, and supply and demand factors for industrial property on the island of Maui. The following points summarize the supply of industrial land in the Central Maui region:

- The majority of the industrial land in Central Maui is provided by five subdivisions in Wailuku and six subdivisions in Kahului. There is a total of about 549 gross acres of land in these projects.
- There is a distinction made among realtors and property owners between vacant land and available land. In other words, vacant land may not be land available for purchase by the market due to the property owner's development plans for the property. Thus, although there appears to be vacant lots in the Consolidated Baseyard and Waiko Baseyard Subdivisions, most of these vacant lots have development plans in place and are not available to the market.
- There are approximately 48.18 acres of industrial land available in Central Maui subdivisions and another 8.85 acres are available as free-standing parcels.
- Including the Project, there are approximately 235 acres of light industrial land proposed for Central Maui, including in the Maui Business Park, Phase II (179 acres) and the Waikapu Light Industrial project (9 acres).

The following points summarize demand of real estate in the Central Maui region.

- The population of Maui County grew 20.12% to 154,834 from 2000 to 2010. The Central Maui region has the largest populace with approximately 32% of the total population. Commercial and industrial establishments must be available to support this population and growth.
- Central Maui is the hub of commercial activity, transportation and employment for Maui County and currently holds 83% of all industrial land in Maui.
- Although Central Maui has the lowest ratio of population to acres of finished commercial and industrial land area, unit prices remain comparable to commercial and industrial

parks in South and West Maui. This indicates the continued demand for commercial and industrial land in Central Maui.

- There is a lack of suitable vacant land in Central Maui. Upon economic recovery, prices for vacant land is expected to rebound significantly due to a resurgence of demand.
- As the economy gains traction, it is expected that rental rates for industrial and commercial space, which have declined in recent years, will reverse course.
- Since 1991, there has been a total of about 174.74 acres of new industrial land absorbed in Central Maui. This equates to about 8.74 acres per year.
- The subject Project will focus on the pure-industrial users in the market--a segment that has been largely under-served over the years as commercial uses have displaced many industrial businesses in Kahului.
- The majority of the lots in the Project are small when compared to properties in the Maui Business Park, Phase II. These lots are better suited to the small owner-user or may be combined for larger industrial businesses. This product is expected to be very well received by the market.

Due to the Central Maui region being the center of employment, economic activity, County, State and Federal offices, as well as community services, properties in this area are anticipated to be in greater demand in the coming years. Based on the desirability of the Central Maui area and forecasted demand, property values are expected to continue their appreciation in the long-term.

The Project is also expected to create immediate short-term economic benefits in the nature of design and construction employment, which shall have a multiplier effect on local material suppliers and retail business connected with the construction industry. In the long-term, the Project will support local businesses and provide needed reasonably-priced light industrial areas that are centrally-located for commercial uses. The Project is being developed based on the future expanding demand for additional industrial space on Maui and will offer new employment opportunities for local residents.

Based on my professional opinion, there will be strong demand for the Project driven by a need for additional light industrial and commercial space in Central Maui. In addition, the Project will clearly benefit Maui County as it will provide opportunities to local businesses and generate employment in the short and long-terms.

DATED: Wailuku, Hawaii, ~~December~~ ^{November 29,} , 2012.

Respectfully submitted,



GLENN K. KUNIHISA

WRITTEN TESTIMONY OF ROBERT W. HOBDY

My name is Robert W. Hobdy. I am an environmental consultant. I opened an environmental consulting business in 2004, specializing in flora and fauna surveys and site evaluations.

As reflected in my resume, Petitioner's Exhibit "46", I obtained a Bachelor of Forestry degree from Oregon State University in 1965. I was employed by the State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife for more than 37 years, and I held the position of District Manager for Maui County. I also served on the Maui County Arborist Advisory Committee for over 30 years.

I have conducted approximately 150 biological resources surveys for individual property owners, developers and/or planners in the eight years that I have been an environmental consultant. In addition, I have previously qualified and/or testified before the Land Use Commission as an expert witness in flora and fauna surveys and site evaluations.

I was retained by Petitioner Waiko Industrial Investment, LLC ("**Petitioner**") to provide biological resource consulting services, including an analysis and preparation of a biological resources survey, for Petitioner's proposed Waiko Light Industrial Project (the "**Project**") located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("**TMK**") No. (2) 3-8-007-102 (the "**Project Area**").

Appendix M to Petitioner's Exhibit "1" is a true and correct copy of the biological resources survey that I prepared for the Project. The objectives of my survey were to:

- (1) document the plant, bird and mammal species on the Project Area;
- (2) document the status and abundance of such species;
- (3) determine the presence or likely occurrence of any native flora and fauna, particularly any that are federally listed as endangered or threatened;
- (4) determine if the Project Area contains any special habitats; and
- (5) note which aspects of the Project poses significant concerns for plants or wildlife.

My survey included a walk-through botanical survey method of the Project Area, following routes to ensure complete coverage of this irregularly shaped property. Special focus was made to search for any native plant species that might occur in the Project Area. Vegetation

throughout much of the Project Area was fairly uniform consisting of almost continuous cover of buffelgrass (*Prosopis pallida*) and guinea grass (*Megathyrsus maximus*). The grasses were quite dense with a scattering of kiawe trees throughout the Project Area, at times forming a closed canopy in some small areas. These three species consisted of 95% of the biomass in the Project Area.

Where the grasses were less dense, a variety of other herbaceous species of which were ephemeral annuals existed. Just two common native shrubs were found: 'ilima (*Sida fallax*) and 'uhaloa (*Waltheria indica*) out of a total of 43 plant species that were observed. These shrubs are common throughout Maui County and much of the Pacific.

No Federally listed Endangered or Threatened native plants, or any plants proposed as candidates for such status, were encountered or observed to occur in the Project Area during my survey. No native plant habitats were identified in the Project Area. Furthermore, there are no wetlands on the Project Area.

With respect to fauna, a walk-through survey method of the Project Area was conducted in conjunction with the walk-through botanical survey as previously described. All parts of the Project Area were covered. No Federally listed Endangered or Threatened mammal, bird, or insect species were encountered or observed to occur in the Project Area during the survey. Five species of non-native mammals or their signs were observed in the Project Area including: (1) numerous domestic cattle; (2) tracks and antler rubbings of axis deer; (3) three feral cats; (4) one domestic horse; and (5) a sign of one domestic dog. It should be noted that a special effort was made to conduct an evening survey in two locations at night to determine the presence of the native Hawaiian hoary bat. In addition, a bat-detecting device (Batbox IIID) was employed. However, no evidence of the Hawaiian hoary bat was observed during the survey.

The diversity and number of birds is substantial across the Project Area due to the presence of cattle feed lots with grains and insect populations in the Project Area. 14 species of birds were seen, including twelve introduced, non-native species, one migratory species (the Pacific golden plover-*Pluvialis fulva*) and one indigenous waterbird, 'auku'u or the black-crowned night-heron (*Nycticorax nycticorax hoactli*). The non-native birds were: common myna, zebra dove, spotted dove, chicken, house sparrow, northern cardinal, peacock, gray

francolin, Guinea fowl, red-crested cardinal, cattle egret and northern mockingbird. While ideal for many types of non-native birds, the habitat is not suitable for many native forest birds that are presently restricted to higher elevations beyond the range of mosquitoes and the deadly avian disease they transmit.

It should be noted that one species of reptile was identified (non-native mourning gecko) and a variety of insects. A total of 16 insect species were observed, 14 non-native and two indigenous dragonflies. A few shells of large, non-native African snails were found scattered throughout the Project Area.

Based on my professional opinion, the Project will not have a significant negative impact on the biological resources of the Project Area.

DATED: _____, Hawaii, Nov 8, 2012.

Respectfully submitted,

Robert W. Hobdy
ROBERT W. HOB DY

WRITTEN TESTIMONY OF JOHN S. VUICH

My name is John S. Vuich. I am an environmental consultant with Malama Environmental ("Malama"). I am a Project Supervisor for Malama and have worked in this capacity since 2006. Prior to this, I have been the owner and President for Vuich Environmental Consultants, Inc. from 1994-2008. Previous to this, I have worked in California, Nevada and Arizona as an Environmental Consultant and Engineering Geologist for over 15 years. As reflected in my resume, Petitioner's Exhibit⁴⁸, I obtained a Bachelor of Science degree from the University of Arizona in 1968. I also received my Master of Science degree in Geological Engineering from the University of Arizona in 1972.

I have conducted approximately 450 Phase I and Phase II environmental site assessments for individual property owners, developers and/or planners throughout California, Nevada and Hawaii.

Malama was retained by Petitioner Waiko Industrial Investment, LLC ("Petitioner") to perform a Phase I Environmental Site Assessment ("Phase I") for Petitioner's proposed Waiko Light Industrial Project (the "Project") located on a 31.222 acre parcel in Waikapu Ahupuaa, Wailuku District, Maui Island, identified by Tax Map Key ("TMK") No. (2) 3-8-007-102 (the "Project Area").

Appendix K to Petitioner's Exhibit "1" is a true and correct copy of the Phase I that was prepared for the Project Area under my supervision. In accordance with the Environmental Protection Agency's ("EPA") "All Appropriate Inquiry" ("AAI") rule and the American Society of Testing and Materials ("ASTM") standard E1527-05, which is an acceptable guidance document under the EPA's AAI rule, the objective of the Phase I is to identify *recognized environmental conditions* ("RECs") in order to satisfy the EPA's AAI rule. Under ASTM standard E1527-05, an REC is the presence or likely presence of a hazardous substance or petroleum product on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substance or petroleum product into structures on the property, or into the ground, ground water, or surface water of the property.

The Project Area is located just north of Waiko Road and west of Kuihelani Highway. Currently, the Project Area consists of the Fong Construction Company baseyard and the eastern section of Nobriga's Ranch. Land use located in the surrounding area consists of commercial

and light industrial uses (Consolidated Baseyard subdivision), undeveloped vegetated land, pasture/ranch land and land utilized for sugar cane production.

As a part of the Phase I for the Project Area, the following were conducted to help identify any RECs in connection with the Project Area: (1) records review; (2) site reconnaissance; and (3) interviews with the owner, current occupants and government officials.

Records Review:

The purpose of a records review is to obtain and review records that will help identify RECs in connection with the Project Area. Malama retained the services of Environmental Data Resources, Inc., a firm specializing in assisting with records reviews for environmental site assessments, to compile a database listing and identify pertinent records to review. Our records review did not discover any current investigation of the Project Area under any programs conducted by a federal, state, or local environmental agency.

Site Reconnaissance:

A site investigation focuses on obtaining information (1) indicating the likelihood of identifying physical RECs in connection with the Project Area, and (2) assessing the Project Area in relation to surrounding land uses and natural surface features. A site investigation includes a physical inspection of the real property and any on-site facilities. On December 21, 22 and 23, 2009, supervised by myself, Malama personnel, Ms. Amy Mathis and Mr. Brian Carey, conducted an overall site inspection of the Project Area. Accessible areas of the Project Area were visually and physically inspected. A limited amount of the Project Area's total surface soils were not observable due to dense vegetation, the cattle feedlots and the numerous materials of the Fong Construction Company baseyard.

The following are significant observations made during the site investigation:

Fong Construction Baseyard Co.:

- Four-acre rectangular area dedicated to the storage of construction materials, scrap metal, above-ground storage tanks, heavy equipment and vehicular maintenance.
- Two building structures exist on-site for the purpose of workshop activities, storage and vehicular maintenance.

- Limited vehicle dismantling and repair work is conducted on-site. These operations generate moderate quantities of regulated waste items (waste oil, solvent, batteries and coolant).
- Significant derelict vehicle storage (approximately 80) and derelict boats (approximately six) were noted on-site.
- Numerous above-ground storage tanks ("ASTs") (water and former fuel tanks) were noted on-site. The majority of these ASTs were empty, but some may contain residual fuel and sludge. No associated soil staining or petroleum odors were noted with these tanks. One 1,000-gallon diesel tank is currently in use.
- An undetermined amount of solid waste storage and dumping has taken place on the Project Area, including regulated items such as automobile tires (approximately 200), vehicle batteries (approximately 70) and white goods (approximately two).
- A large scrap metal stockpile is located near the northeastern corner of the baseyard. The majority of this consists of crushed derelict vehicles.
- Bulk storage of petroleum products was evident on-site. Approximately 75 55-gallon drums and approximately 25 5-gallon containers are currently being stored on-site. Most of these drums/containers contained moderate amounts of used oil or other petroleum-based products. The majority of these drums/containers were improperly stored, lacked secondary containment and were not labeled appropriately. Soil staining was noted in the area of some of these drums/containers.
- Numerous pieces of heavy equipment (approximately 70) including trucks, tanker trucks, construction vehicles, and derelict construction machinery were noted on-site. The vast majority of this equipment is leaking petroleum-based fluids causing limited to moderate surface staining.
- Surface staining is located in many areas throughout the baseyard associated with ineffective storage of waste oil and petroleum products, leaking heavy equipment and maintenance activities.
- Eight 40-foot storage containers and seven 20-foot storage containers are located on-site. Most were inaccessible to Malama personnel, but two of these contain 55-gallon drums and vehicle batteries.
- Two soil piles of unknown origin were noted along the eastern boundary of the Fong baseyard.

Nobriga's Feedlot (western portion of the Project Area):

- Three cattle feedlot enclosures with associated sheds exist on-site and one large cattle feedlot enclosure is located just west of the western boundary.
- One manure composting area is located in the southern portion of the Project Area.
- Two catchment lagoons are located on-site associated with the feedlot activities and are used to contain any livestock bio-waste stormwater runoff;
- Seven pieces of heavy machinery (one that is leaking) and one derelict bulldozer exist on-site.
- Eight vehicle tires are located on-site.
- One 20-foot cargo trailer (inaccessible) is located along the lower western boundary.
- Construction debris including fencing material, corrugated metal and wood exist on-site.
- The maintenance area, feed shed and fuel truck location for Nobriga's Feedlot are located west of the access road and off-site.
- Strong cattle and manure odors associated with the feedlot were noted on-site.

Nobriga's Ranch (eastern portion of the subject property):

- Numerous fenced livestock corrals and sheds exist on the premises.
- Associated with the ranch are several 300-gallon poly totes (one is marked Praestol Flocculant and the others likely contained water), horse trailers, heavy equipment, and numerous 55-gallon drums full of horse feed.
- An electrical power line easement traverses east/west through the southern area of the site.
- Regulated items of note associated with the ranch include eleven vehicle tires, one vehicle battery, one 5-gallon canister containing a substance with odors resembling gasoline, one 5-gallon container half full of petroleum-based product and several containers consisting of wood finish, primer, sealer and paint.
- A miscellaneous debris and storage area lies immediately north of the premises. This area consists of vehicle tires, a white-good appliance, various construction debris, two pieces of derelict machinery, two 55-gallon drums containing an unknown liquid product, three 5-gallon containers with trace petroleum product, one 300-gallon poly tote (empty) and two 1,000-gallon AST (labeled potable water) both of which had loose and flaky paint.

Interviews:

Under the AAI rule and ASTM standard E1527-05, interviews are conducted with present and past owners, site managers, occupants, and local government officials in order to identify possible RECs.

Property Owners:

Malama conducted interviews with property owners Roderick and Henry Fong, who operate the Fong Construction Company baseyard on the Project Area. According to Roderick Fong, Fong Construction Company purchased the property from A & B Properties a few years ago. He informed Malama that the current baseyard does not have any underground storage tanks and that the majority of the above-ground storage tanks are empty or contain water. Henry Fong informed Malama that the baseyard currently utilizes one above-ground storage tank for diesel fuel. The majority of the Fong Construction Company trucks are transported off-site for fueling and that Maui Petroleum pumps out all spent waste oil on-site.

Property Tenants:

Malama conducted interviews with Dave Nobriga, owner and operator of Nobriga's Ranch. Mr. Nobriga informed Malama that he has leased his portion of the Project Area since 1968. Currently, tanker trucks haul in diesel and gas from Maui Soda. Limited truck maintenance is done on-site. Mr. Nobriga is aware of the EPA's NPDES permitting requirements and effluent limitations guidelines for CAFOs and is applying efforts to follow these guidelines for his business.

Government Officials:

Malama conducted interviews with Charlie Ice of the Department of Land and Natural Resources and Kumar Bhagavan of the Department of Health, Safe Drinking Water Branch, to discuss the off-site groundwater wells located on the Consolidated Baseyard subdivision adjacent to the Project Area. No violations have been reported for these wells and although the nitrate level is well below the environmental limits, both officials are monitoring these levels.

Conclusions:

Malama's Phase I for the Project Area has revealed the following evidence of RECs in connection with the Project Area:

Database Listings:

There is no current investigation of the Project Area under any programs conducted by a federal, state or local environmental agency.

The nearby Waikapu Dump site and Maui Scrap Metal site were reviewed for environmental concerns relative to the Project Area. It is possible that these sites, which are in close proximity to the Project Area, have had or could have an environmental impact to underlying groundwater. Groundwater and surface soil quality on the Project Area, may have been degraded over time due to the migration of pollutants from these sites; however, it is unlikely that contaminant levels derived from these sources would be above regulated levels due to the distance from the Project Area (approximately 0.5 miles) and the type of porous and permeable geological surface materials providing good vertical movement conditions. Currently, no groundwater contamination has been detected in the groundwater underlying the Project Area.

Current and Historic Use or Storage of Hazardous and Regulated Substances:

Currently, the generation and/or use of hazardous or regulated substances and wastes occur on the Project Area. Ineffective storage of waste oil and other petroleum products occurs on the Project Area. Improved storage and disposal management of petroleum products on-site would reduce the potential for impacting the Project Area's surface soils.

Malama has outlined some management procedures in its Phase I report that should be followed for the proper storage and management of drums/containers containing hazardous and regulated substances currently taking place on-site.

Sugar cane agriculture has been actively occurring on the property adjacent to the Project Area (south) for several decades. While the use of pesticides and herbicides on an adjacent property does not necessarily result in an adverse impact to the environmental condition of the Project Area, it is possible (but unlikely) for residual amounts of these substances to accumulate to concentrations that present a potential threat to human health or the environment. Soil and

laboratory testing would provide additional information to evaluate potential environmental effects from these agricultural activities. There is, however, no regulatory requirement to conduct this sampling. According to data collected on the wells from the adjacent Consolidated Baseyard, no groundwater contamination has been detected in the groundwater underlying the Project Area.

The concerns listed below are not RECs but may be considered regulated activities under other environmental laws and ordinances and may present potential issues:

Surface Soil Staining:

Numerous areas of surface soil staining were noted by Malama associated with the Fong Construction Company baseyard during the site inspection. The source of petroleum contamination is likely from not practicing best management practices in the handling of petroleum products, waste oil storage or from heavy equipment leakage. In response to MEV's Phase I ESA, the Fong family began initial cleanup of the baseyard. Fong's goal was to consolidate the 4-acre baseyard activities down to a 1-acre facility, cleaning up the remaining 3-acres. Mr. Fong excavated the majority of the stained surface soils and stockpiled the suspect-contaminated soils on the property. The soils were allowed to attenuate. Once attenuation period was complete, the soils were re-used on the property for surface compaction. Although MEV noted that limited amounts of solid waste items and petroleum-based liquids were removed from the subject site, MEV suggested that further improvements were still necessary. MEV was commissioned in June 2010 to collect soil samples for petroleum related products and heavy metals from the baseyard. It was determined that all soil sampling results were below the Environmental Action Levels. MEV concluded that no further action was required for soil characterization at the baseyard. MEV also concluded that more effective product and waste oil management and the implementation of spill protection should be undertaken to eliminate the ability for contaminants to impact the Project Area in the future.

Solid Waste Management:

A significant amount of historical dumping and storage activity (construction materials, scrap metal, ASTs, derelict vehicle and derelict construction equipment) occurs on the Fong Construction Company baseyard. Some of these materials are regulated items

(derelict automobiles and parts, derelict boats and parts; automobile batteries and tires;) that require proper management and disposal procedures. Any waste disposal should be in a permitted solid waste landfill or recycled in a manner that complies with all local, state, and federal regulations as applicable to the specific waste type.

Due to some heavily vegetated areas on the Project Area, the entire site was not visibly inspected. Therefore, it is important to note that if additional clearing of the property commences and large amounts of construction debris or unidentifiable substances (containers) are discovered, proper waste identification, testing and applicable waste handling/disposal procedures should be followed.

Wastewater Management:

Two on-site lagoons are associated with catchment of wastewater from the Nobriga's Feedlot and Ranch activities. These lagoons are part of the Feedlot's nutrient management program to control runoff from the Feedlot.

Implementing conservative, proactive environmental policies should be considered for this portion of the Project Area. These policies might include written environmental protection contracts with any industrial or special-use commercial tenants and posted notices regarding any use, storage and handling of hazardous substances and/or petroleum product. Special attention should be addressed to wastewater (possibly containing contaminants) that could impact the surface soils or enter nearby drainage systems.

All wastewater created on-site should be connected to the County's wastewater system or contained on-site in lined, catchment basins and allowed to evaporate. Wastewater should not be allowed to migrate off-site or negatively impact the subject site's surface soils.

Soil Piles of Unknown Origin:

Two soil piles were noted near the eastern boundary of the Fong Construction Company baseyard. These piles are of unknown origin. No petroleum-based odors were associated with these soil piles.

Groundwater Wells:

Two groundwater wells are located on the Consolidated Baseyard Lots located on the adjacent property. The DLNR permitting requirements of these off-site systems, well No. 5129-03 and well, No. 5129-02 are complete. According to the Safe Drinking Water Branch, these wells are sampled quarterly for analytes required by the US EPA for drinking water standards. No violations have been cited for these systems and water quality data shows no significant pollutant products in the groundwater exceeding EPA maximum levels. However, the activities of the Fong Construction Company and any future development should consider activity management to avoid the potential for contributing to changes in groundwater quality.

Surface Waters and Area Aquifer Protection:

Fong Construction Company Baseyard: Currently, a four-acre portion of the Project Area is operating as a construction baseyard dedicating this area to the storage of construction materials, derelict vehicles, scrap metal, above-ground storage tanks, heavy equipment and vehicular maintenance. The property and business owner should be aware of the potential for contaminants to run off-site and into nearby storm drains. Products of concern would be oils, antifreezes and other fluids from automobile servicing or on-site machinery, or leaks from on-site stocked items.

Nobriga's Feedlot and Ranch: The remaining 27 acres consist of Nobriga's Feedlot and Ranch. The large number of cattle associated with Concentrated Animal Feeding Operations ("CAFO") produces significant amounts of manure and other animal waste products. Environmental problems associated with animal manure and wastewater includes degradation of surface water, groundwater quality, soil quality and air quality. CAFOs produce large amounts of animal manure that emits odors, methane, nitrous oxide, carbon dioxide, antibiotics and ammonia. Manure can also produce water pollution from uncontrolled runoff of phosphorus and nitrates. The bulk storage of manure exists on-site at Nobriga Feedlot and Ranch. Two catchment lagoons are located on-site implementing best management practices to control any potential contaminated runoff. A small stormwater channel traverses from the off-site and upgradient ranch maintenance and feed shed area to the catchment lagoon located on the Project

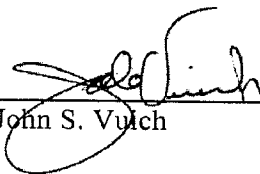
Area adjacent to the access road.

The EPA has finalized (November 20, 2008) revisions to the National Stormwater Pollution Discharge Permit ("NPDES") permitting requirements and Effluent Limitations Guidelines for CAFOs. According to the EPA, as authorized by the Clean Water Act ("CWA"), the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Under this final rule, any CAFO that discharges or proposes to discharge is required to seek permit coverage. The permit coverage provides certainty to CAFO operators regarding activities and actions that are necessary to comply with the CWA. Under the CWA, operators that do not apply for permits operate at their own risk because any discharge from an unpermitted CAFO (other than agricultural stormwater) is a violation of the CWA. The CAFO must implement site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients produced by the operation. A CAFO may be authorized to acquire an NPDES permit based on an on-site inspection by a NPDES permitting authority if the authority finds that the facility is a significant contributor of pollutants to waters of the United States.

Malama reviewed the groundwater well data from both wells located on the adjacent Consolidated Baseyard Lots. Although a small amount of nitrate has been found (2.1 parts per million), this is below the recommended EPA limit (10 ppm) and is not an issue at this time.

DATED: November 14, 2012, Hawaii.

Respectfully submitted,



John S. Vulch

WRITTEN TESTIMONY OF RODERICK FONG

Mr. Chair, Members of the Land Use Commission:

My name is Roderick Fong. I am president of Fong Construction Company, Inc., which has a Special Use Permit on the Waiko property (the "**Waiko Property**") that is being reviewed for an amendment to the state land classification from Agriculture to Urban. I am also a member of Waiko Industrial Investment, LLC, which owns the Waiko Property.

Four acres of the Waiko Property is under this Special Use Permit for storage of construction equipment and materials. The remaining property is being used as a pasture and feed lot by Nobriga Ranch, Inc. for its cattle and horses. Also, the County of Maui (the "**County**") has an access easement through the property from Waiko Road to the former County landfill in Waikapu (the "**County Easement**"). Both Mr. Nobriga and the County have been notified about the pending Petition for District Boundary Amendment. Mr. Nobriga will be given time to relocate his business if the Commission determines that the current petition will be approved.

Waiko Industrial Investment, LLC (the "**Owner**"), has and will work with the County and Alexander & Baldwin ("**A&B**"), the adjacent property owner) to continue allowing access through the southwesterly portion of the Waiko Property (the "**Landfill Road**"), even in reference to any future roadway design.

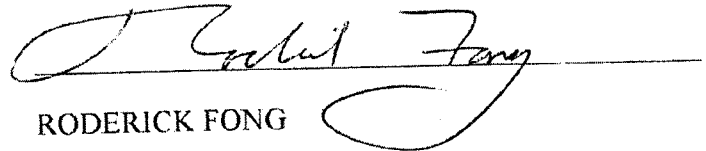
The majority of the 33 acres of the Waiko Property is covered by buffelgrass, kiawe trees and pasture land. In the event that the Waiko Property is reclassified to Urban, the representations made by the Owner to Mr. Nobriga and the County will be honored. In fact, Mr. Nobriga has already begun reviewing other locations that may be appropriate for the needs of his cattle and horses. Also, a specific designed road to realign the Landfill Road has already been agreed upon by the parties.

In conclusion, any governmental permits that are in existence for any portion of the Waiko Property which will be inconsistent or no longer appropriate if the Commission approves the pending Petition will be cancelled or allowed to naturally terminate in accordance with its terms. Thank you for your consideration of the Owner's Petition for District Boundary

Amendment for the Waiko Property.

DATED: Wailuku, Hawaii, November 30, 2012.

Respectfully submitted,


RODERICK FONG

PETITIONER: WAIKO INDUSTRIAL INVESTMENT, LLC

REBUTTAL WITNESSES FOR LUC HEARING

	NAME/ORGANIZATION/POSITION	TO BE QUALIFIED AS AN EXPERT IN:	SUBJECT MATTER	WRITTEN TESTIMONY	ORAL TESTIMONY?
	David A. "Buddy" Nobriga	Not an expert witness		YES	YES

LAND USE COMMISSION

DOCKET NO./PETITIONER: A12-796/WAIKO INDUSTRIAL INVESTMENT, LLC

WAIKO INDUSTRIAL INVESTMENT, LLC

REBUTTAL LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
52	Written Testimony of David A. "Buddy" Nobriga		

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

WAIKŌ INDUSTRIAL INVESTMENT, LLC

To Amend the Land Use District Boundary of
Certain Lands Situated at Waikapu, Wailuku,
Island of Maui, State of Hawai'i, Consisting of
approximately 31.222 Acres, from the
Agricultural District to the Urban District, Tax
Map Key No. (2) 3-8-007:102.

DOCKET NO. A12-796

CERTIFICATE OF SERVICE

I hereby certify that due service of the within document was made by depositing
the same with the United States Mail, postage prepaid, or by hand delivery, on November 30,
2012, addressed to:

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BY MAIL

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BY MAIL

DATED: Honolulu, Hawaii, November 30, 2012.



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