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MONSANTO COMPANY, a
Delaware corporation

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Petition of

MONSANTO COMPANY, a Delaware
corporation

For Declaratory Order to Designate Important
Agricultural Lands for approximately 1,550
acres at Kunia, O'ahu identified by TMK Nos.
(1) 9-2-001-001 (por.); (1) 9-2-001-005; and
(1) 9-2-004-009

DOCKET NO. DR17-59

PETITION FOR DECLARATORY ORDER
TO DESIGNATE IMPORTANT
AGRICULTURAL LANDS; VERIFICATION;
EXHIBITS "1" - "10"; CERTIFICATE OF
SERVICE

LAND USE COMMISSION
STATE OF HAWAII
2017 SEP - 8 P 4: 01

**PETITION FOR DECLARATORY ORDER
TO DESIGNATE IMPORTANT AGRICULTURAL LANDS**

Petitioner MONSANTO COMPANY, a Delaware corporation (“**Monsanto**”), by and through its attorneys, Carlsmith Ball LLP, respectfully petitions the Land Use Commission of the State of Hawai‘i (“**Commission**”) to issue a declaratory order designating approximately 1,550 acres of land at Kunia, O‘ahu (the “**Property**”), more particularly described below, as Important Agricultural Lands (“**IAL**”) pursuant to §§ 205-44 and -45 of the Hawai‘i Revised Statutes (“**HRS**”) and §§ 15-15-98, -99, -120 and -121 of the Hawai‘i Administrative Rules (“**HAR**”). In support of this Petition for Declaratory Order to Designate Important Agricultural Lands (this “**Petition**”), Monsanto alleges and avers as follows:

1. PETITION CONTENT REQUIREMENTS

Content requirements for a Petition for Declaratory Order pursuant to HAR §15-15-99 are as follows:

1.1 Name, Address and Telephone Number of Petitioner. Monsanto Company is a Delaware corporation. Monsanto’s address on O‘ahu is 94-520 Kunia Road, Kunia, Hawai‘i 96759, and its telephone number is 808.685.8300. As permitted by HAR §15-15-35(b), Carlsmith Ball LLP represents Monsanto in this matter. All correspondence and communication regarding this Petition shall be addressed to and served upon JENNIFER A. LIM, Carlsmith Ball LLP, 1001 Bishop Street, Suite 2100, Honolulu, Hawai‘i 96813.

1.2 Statement of Petitioner’s Interest in the Subject Matter, Including the Reasons for Submission of the Petition. Monsanto owns and manages the Property. The only land that Monsanto owns in fee simple on the island of O‘ahu is located in Kunia. This fee simple land is shown on **Petitioner’s Exhibit 1** and consists of approximately 2,151 acres, and will hereinafter be referred to as the “**Kunia Land.**” Of this Kunia Land, Monsanto is requesting

that the Commission designate approximately 1,550 acres as IAL. See Petitioner's Exhibit 1 for proposed IAL boundaries. The land that Monsanto seeks to have designated as IAL is approximately seventy-two percent (72%) of all of its Kunia Land, and is hereinafter referred to as the "**Property.**" Monsanto respectfully requests that the Commission designate the Property as IAL pursuant to HRS §§ 205-44 and -45 and HAR §§ 15-15-120 and -121. As set forth below, the proposed designation of the IAL lands in Kunia, O'ahu supports and advances Monsanto's overall land management plans in the State of Hawai'i.

Prior to filing this Petition, Monsanto inventoried and assessed all of the land that it owns in fee simple in the State of Hawai'i, as well as lands leased from others. Out of that process, Monsanto determined that the Property should be designated as IAL pursuant to applicable statutory and regulatory requirements. IAL designation would preserve the Property for agricultural purposes and allow Monsanto and future generations to continue to use the Property for agricultural production into the future.

1.3 Designation of Specific Statutory Provision, Rule, or Order in Question. This Petition is made pursuant to HRS §§ 205-44 and -45 and HAR §§ 15-15-98, -99, -120, and -121.

1.4 Statement of Petitioner's Position or Contention. The Property is appropriate for designation as IAL under HRS § 205-44 and HAR § 15-15-120, and the Commission should issue a declaratory order designating the Property as IAL pursuant to HRS § 205-45 and HAR § 15-15-121.

1.5 Memorandum of Authorities, Containing a Full Description of Reasons and Legal Authorities in Support of Petitioner's Position or Contention. Under HRS § 205-45(c), a petition for declaratory order designating IAL shall be submitted in accordance with

subchapter 14 of the Commission’s rules and include the additional requirements contained in HRS § 205-45(c).

The eight content requirements for a petition for declaratory order under subchapter 14 are found at HAR § 15-15-99 and are addressed in paragraphs 1.1 through 1.4, and paragraphs 1.6 through 1.8 of this Petition.

The additional requirements of HRS § 205-45(c), which are restated in HAR § 15-15-121(b), are set forth in this paragraph 1.5, and include the following:

1.5.1 Tax Map Key Numbers, Verification and Authorization from the Applicable Landowners.

Monsanto is petitioning to designate as IAL approximately 1,550 acres of land that it owns in fee simple on the island of O’ahu, Hawai‘i. The Property proposed for IAL designation is identified by Tax Map Key parcel numbers (1) 9-2-001:001 (por.); 9-2-001:005; 9-2-004: 009. See Petitioner’s Exhibit 1 (map showing the location of the Property). The table below shows the Tax Map Key Parcel Numbers associated with the Property, and the approximate acreage of each tax parcel sought to be designated as IAL.

<u>TMK No.</u>	<u>IAL Acres</u>	<u>Total Acres</u>
1-9-2-001:001 Lot A Net Area	1,112.458	1,691.639
1-9-2-001:001 Lot B	0.000	21.254
1-9-2-001:005	0.392	0.392
1-9-2-001:016 - (Lot 16851-A-2)	0.000	0.205
1-9-2-004:009	437.150	437.150
Total:	1,550.000	2,150.640
Percentage of Total:	72.072%	

The letter from Title Guaranty of Hawaii, Inc. attached as **Petitioner's Exhibit 2** confirms that Monsanto owns the Property. Attached hereto as **Petitioner's Exhibit 3** is an executed Landowner Letter of Authorization, authorizing Carlsmith Ball LLP to file and process this Petition through the Commission on behalf of Monsanto. In addition, Yarrow Flower, Land Asset Manager of Monsanto, has provided a signed Verification of this Petition, which is included herein.

1.5.2 Proof of Qualification for Designation as IAL under HRS § 205-44.

The standards and criteria for identifying IAL are set forth under HRS § 205-44(c) and HAR § 15-15-120(c). Lands identified as IAL do not need to meet every standard and criterion listed in HRS §205-44(c). Rather, lands meeting any of the criteria in HRS §205-44(c) shall be given initial consideration, and the designation of IAL shall be made by weighing standards and criteria with each other to meet the constitutionally mandated purposes in Article XI, Section 3, of the Constitution of the State of Hawai'i and the objectives and policies for IAL identified in HRS §§205-42 and -43.

The following is a summary and overview of the characteristics of the Property proposed to be designated as IAL. The report attached as **Petitioner's Exhibit 4** (Agricultural Land Assessment for Monsanto Company's Proposed Important Agricultural Lands, hereinafter the "**Ag Assessment**") describes in greater detail these and other characteristics of the Property. The Property satisfies substantially all of the standards and criteria for IAL designation.

1.5.2.1 Land Currently Used for Agricultural Production - HRS § 205-44(c)(1) and HAR § 15-15-120(c)(1).

1.5.2.1.1 Current Agricultural Production. All of the Property is currently in active agricultural production. Approximately 1,158 acres, or 75% of the Property is in active seed corn and soybean production on a year round basis. Of this, approximately 95% of the fields are planted with seed corn, and the remaining 5% of the fields are planted in soybeans. Each field is used to produce no more than one (1) seed corn or soybean crop per year.

Approximately one third (1/3) of the fields at the Property are planted at any given time. This allows for year round crop production with three (3) crops per year. During the period between seed corn or soybean production, the fields are planted with cover crops for conservation and crop rotation purposes. Currently the cover crops used at the Property are a combination of sunflowers, sunn hemp (legume), mustards, buckwheat, flax, clover, guar, and spring lentils. The general location of the seed corn fields (including the soybean production areas) is shown on Petitioner's Exhibit 6 (Map of Uses).

Monsanto's agriculture operations include a comprehensive conservation plan developed in conjunction with the United States Department of Agriculture's Natural Resource Conservation Service, with a goal of soil and water conservation. This plan includes the use of vegetative terraces established across slopes to slow and divert rain water runoff, grassed waterways to channel rain water runoff and slow its flow rate, and sediment basins. In addition, the plan includes use of drip irrigation, cover crops, windbreaks and other tillage and dust mitigation measures. Monsanto's agriculture practices emphasize sustainability and best management practices. For additional information please see Monsanto's Farm Stewardship Practices (2016) attached hereto as Petitioner's Exhibit 7.

On the portion of the Property that is too steep for row planted agricultural production, a tenant of Monsanto runs an active cattle ranching operation. H.E. Bud Gibson, doing business as “Rocker G. Livestock” leases approximately 134 acres of the Property. See Petitioner’s Exhibit 6; and see Ag Assessment, Fig. 2. Depending upon weather and other conditions, this tenant will graze his cattle for anywhere between three (3) and six (6) months per year. Mr. Gibson has approximately seventy (70) cattle on the Property at a given time. However, he runs a total of approximately 415 head of cattle on 3,000 acres of land, including the portion leased from Monsanto and adjacent lands that are not owned by Monsanto. Mr. Gibson’s lease is on a month to month tenancy. However, Mr. Gibson has been occupying that portion of the Property since at least 2006, if not before that time.

In addition, other tenants of Monsanto, Circle “C” Ranch & Hay Co., Inc. and dB Cattle Inc., have a year round cattle ranching operation on approximately 142 acres of the Property. See Petitioner’s Exhibit 6; and see Ag Assessment Fig. 2. This operation has approximately forty (40) head of cattle on Property at a given time and uses water from the Waiahole Ditch system. This tenant has been on a year to year lease, with the current term expiring on December 31, 2018.

Collectively, these cattle ranching operations occupy approximately two hundred seventy-six (276) acres, or 18% of the Property.

The remainder of the Property, consisting of approximately one hundred sixteen (116) acres, or 7% of the Property, consists of water and road infrastructure, soil conservation measures (such as detention basins, berms, and filter strips), and some gulch land, all used in the agricultural uses on the Property. Of this land, approximately two thousand five hundred (2,500)

square feet is occupied by the United States Geological Survey of the Department of the Interior for stream monitoring.

The remainder of the Kunia Land, consisting of approximately six hundred (600) acres (the “**Remainder Land**”), which is the remaining twenty eight percent (28%) of the Kunia Land for which Monsanto is not seeking IAL designation, consists of two main uses, both consistent and permitted by applicable land use and zoning laws. There is the area set aside and in use for Monsanto’s processing facilities and office spaces, and along Kunia Road there are lands used for seed corn production. As indicated in paragraph 1.5.2.1.2 below, Syngenta Seeds, LLC only recently vacated that portion of the Remainder Land in May of 2017.

Monsanto fully intends to continue using these portions of the Remainder Land for agricultural production and related and permitted agricultural facilities. However, in light of the intended long-term and potentially further restricted nature of IAL-designated lands for current and future generations (see e.g., HRS § 205-42 “The objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations.”), and to preserve flexibility for future uses that are consistent and compatible with ongoing agricultural production both on the Remainder Land and at the Property, Monsanto is not seeking IAL designation for this portion of the Kunia Land at this time.

The Remainder Land also includes a small area (approximately three (3) acres in size) to be subdivided and dedicated to the Board of Water Supply of the City and County of Honolulu as a water tank site. Lastly, a portion of the Remainder Land on the western portion of the Kunia

Land (approximately 21.254 acres) identified as “Lot B (DPP File No. 2014/SUB-126)” on Petitioner’s Exhibit 1 is being subdivided. Once subdivision is completed, it is intended to be deeded to the National Park Service for inclusion in the Honouliuli National Monument. It is noted that Monsanto previously conveyed the land where the Honouliuli National Monument is located to the National Park Service.

1.5.2.1.2 Prior Land Use. The Property has been in agricultural production since the late Nineteenth Century. According to the James Campbell Company LLC website, the Property was owned by James Campbell and leased to Benjamin F. Dillingham in 1889, and subleased in or around 1897 to Oahu Sugar Company, Ltd. for sugar cane until around 1995. See <https://www.jamescampbell.com>. In the mid-1990s a portion of the Property was leased to Del Monte Fresh Produce (Hawaii), Inc. for pineapple cultivation, a portion of the Property was leased to Larry G. Jefts (Sugarland Farms, Inc.) for vegetable production, and a portion of the Property was leased to Zeneca Inc., doing business as ICI Seeds, as assigned to Syngenta Seeds, LLC. Monsanto acquired the Kunia Land (including the Property) in 2007. Until May of 2017, Syngenta Seeds, LLC leased the portion of the Remainder Land closest to Kunia Road. Since 2007, Monsanto has used the Property as described in paragraph 1.5.2.1.1.

1.5.2.2 Land with Soil Qualities and Growing Conditions that Support Agricultural Production of Food, Fiber, or Fuel- and Energy-Producing Crops – HRS § 205-44(c)(2) and HAR § 15-15-120(c)(2).

The Detailed Land Classification System and Agricultural Land Productivity Ratings by the Land Study Bureau (“**LSB**”), University of Hawai’i are based on a five-class productivity rating system using the letters A, B, C, D, and E, with A representing the class of highest

productivity and E the lowest. Approximately 54.7% of the Property is rated A, and 21.2% is rated B, 1.4% is rated C, 2.7% is rated D, 19.2% is rated E, and 0.8% is unrated. See Ag Assessment, Fig. 4. The soil productivity ratings on the Property are strong, and the area has been and continues to be used for active agriculture uses. The table below summarizes the productivity rating of the Property:

Productivity Rating	Total IAL	
	Acres	% of IAL
A	849	54.7%
B	328	21.2%
C	22	1.4%
D	42	2.7%
E	297	19.2%
Unclassified	12	0.8%
Total:	1,550	100%

The Property receives more than sufficient solar radiation to support agricultural production. Mean annual solar radiation on the Property ranges from 187 to 190 watts per square meter per hour, based on information from the Evapotranspiration of Hawai'i Final Report prepared in February 2014 by Department of Geography, University of Hawai'i at Mānoa for U.S. Army Corps of Engineers Honolulu District and State of Hawai'i Commission on Water Resource Management. See Ag Assessment, Fig. 6.

1.5.2.3 Land Identified under Agricultural Productivity Rating – HRS § 205-44(c)(3) and HAR § 15-15-120(c)(3).

The Agricultural Lands of Importance to the State of Hawai'i (“ALISH”) classification system was developed in 1977 by the State Department of Agriculture. The system was

primarily, but not exclusively, based on the soil characteristics of lands and existing cultivation. There are three classes of ALISH lands – Prime, Unique, and Other.

Prime ALISH is land best suited for the production of food, feed, forage and fiber crops. The land has the soil quality, growing season, and moisture supply that are needed to produce high yields of crops economically when the land, including water resources, is treated and managed according to modern farming methods.

Unique ALISH is land other than Prime ALISH that is used for the production of specific high-value food crops. The land has the special combination of soil quality, growing season, temperature, humidity, sunlight, air drainage, elevation, aspect, moisture supply, or other conditions, such as nearness to market, that favor the production of a specific crop of high quality and/or high yield when the land is treated and managed according to modern farming methods. In Hawai'i, some examples of such crops are coffee, taro, rice, watercress, and non-irrigated pineapple.

Other ALISH is land other than Prime or Unique that is of state-wide or local importance for the production of food, feed, fiber, and forage crops. The land is important to agriculture in Hawai'i and yet it exhibits properties, such as seasonal wetness, erodibility, limited rooting zone, slope, flooding, or droughtiness, that exclude the land from Prime or Unique agricultural land use classifications. Two examples are: 1) lands which do not have an adequate moisture supply to be qualified as Prime; and 2) lands which have similar characteristics and properties as Unique, except that the land is not currently in use for the production of a "unique" crop. These Other lands can be farmed sufficiently by applying greater amounts of fertilizer and other soil amendments, drainage improvement, erosion control practices, and flood protection. Other ALISH land can produce fair to good crop yields when managed properly.

Approximately 89.3% of the Property is classified under the ALISH system, 68.7% is classified as Prime, 0.1% is classified as Unique, and 20.5% is classified as Other. See Ag Assessment, Fig. 5. The table below summarizes the ALISH classifications of the Property:

ALISH Classifications	Total IAL	
	Acres	% of IAL
Prime	1,064	68.7%
Unique	2	0.1%
Other	318	20.5%
Unclassified	166	10.7%
Total:	1,550	100%

The balance of the Property is not classified under the ALISH system but includes essential elements for active agricultural operations, such as streams and drainage ways, water system infrastructure, roadways, and areas for soil conservation. See e.g. Ag Assessment, Fig. 3 (Topography and Streams), and Fig. 7 (Water Resources and Agricultural Infrastructure).

1.5.2.4 Land Types Associated with Traditional Native Hawaiian Agricultural Uses, such as Taro Cultivation, or Unique Agricultural Crops and Uses, such as Coffee, Vineyards, Aquaculture, and Energy Production – HRS § 205-44(c)(4) and HAR § 15-15-120(c)(4). The Property has been in active crop production both under Monsanto’s ownership, and prior ownership, since 1897.

1.5.2.5 Land with Sufficient Quantities of Water to Support Viable Agricultural Production – HRS § 205-44(c)(5) and HAR § 15-15-120(c)(5).

The large majority of the Property is irrigated by a plantation era on-site irrigation system put in place by either Oahu Sugar Company, Ltd. or by Del Monte Fresh Produce (Hawaii), Inc., or a combination of both users. The western most portion of the Waiahole Ditch irrigation

system is located on the mauka boundary of the Property, including Reservoir 155 (see Ag Assessment, Fig. 7), operated by the Agribusiness Development Corporation, a corporation authorized and created under HRS Chapter 163D. Monsanto has a water use permit (WUP No. 828) that was issued in 2007 by the Commission on Water Resource Management, State of Hawai'i, allowing withdrawal of 2.636 million gallons per day (“**mgd**”) of water on a twelve (12) month moving average basis. See **Petitioner's Exhibit 8.**¹

For the past four (4) years (2013 through 2016), the twelve (12) month moving average collective water usage of Monsanto and its tenants has ranged from 1.815 mgd to 2.158 mgd per day. See **Petitioner's Exhibit 9.** Water usage for 2017 is consistent with these numbers. Id. This data is from the Agribusiness Development Corporation. Earlier data was not made available to Monsanto.

In addition to water from the Waiahole Ditch system, the Property receives a mean annual rainfall of approximately 25 to 34 inches of rain according to the Rainfall Atlas of Hawai'i. See Ag Assessment, Fig. 7. The portion of the Property used for cattle ranching operations by H.E. Bud Gibson is not irrigated, but can be supplied by the Waiahole Ditch System water under Monsanto's WUP No. 828, and has a mean annual rainfall of 33 inches. For this reason, cattle grazing on this part of the Property is somewhat weather dependent. Mr. Gibson grazes cattle on that portion of the Property for between three (3) and six (6) months per year, in conjunction with his cattle ranching operations on the adjacent property (not owned by Monsanto), which is also not irrigated but has access to potable water from the Board of Water Supply.

¹ The University of Hawai'i West O'ahu mauka lands are included within Monsanto's WUP No. 828 (issued in 2007), and those mauka lands have been included in the predecessor water use permits for many years.

1.5.2.6 Land Whose Designation as Important Agricultural Lands is Consistent with General, Development, and Community Plans of the County – HRS § 205-44(c)(6) and HAR § 15-15-120(c)(6).

1.5.2.6.1 State Land Use Designation. All of the Property is in the State Land Use Agricultural District (See Ag Assessment, Fig. 8) and designation of the Property as IAL will be consistent with such land use designation.

1.5.2.6.2 County General Plan. Designation of the Property as IAL is consistent with the General Plan for the City and County of Honolulu by maintaining the viability of agriculture in the County, and particularly by preserving land in Central O‘ahu for continued agricultural uses. See Section II, Objective C, Oahu General Plan (1992, amended October 3, 2002).

1.5.2.6.3 County Community Plans. The majority of the Property is located in the Ewa Development Plan (2013), with the remainder of the Property located in the Central Oahu Sustainable Communities Plan (2002). See Ag Assessment, Fig. 9a. Recognizing the prime agricultural nature of the Property, all of the Property is outside of the Community Growth Boundaries of the Ewa Development Plan (2013) and Central Oahu Sustainable Communities Plan (2002).

The current draft of the proposed Central Oahu Sustainable Communities Plan (October 2016), which is currently in the process of community input, recommits the identification of the Property as prime agricultural property. See Ag Assessment, Fig. 9b. As such, the designation of the Property as IAL is consistent with the Ewa Development Plan (2013), the existing Central Oahu Sustainable Communities Plan (2002), and the pending Central Oahu Sustainable Communities Plan (October 2016).

1.5.2.6.4 County Zoning. All of the Property has an AG-1 (Agricultural - Restricted) designation under the Land Use Ordinance of the City and County of Honolulu (See Ag Assessment, Fig. 10). Designating the Property as IAL is consistent with this zoning designation.

1.5.2.6.5 County IAL Designation. In July 2012, the City and County of Honolulu initiated its Important Agricultural Land Study to identify lands for IAL designation. The City used the eight (8) criteria for IAL designation set forth in HRS § 205-44(c) and added a ninth (9th), which is land with agricultural easements. See <http://mapoahuagland.com>. The City also identified the three (3) most critical of these criteria, which are: (1) land currently used for agricultural production (HRS § 205-44(c)(1)); (2) land with soil qualities and growing conditions suitable for agricultural production (HRS § 205-44(c)(2)); and (3) land with sufficient quantities of water to support viable agricultural production (HRS § 205-44(c)(5)).

The City has proposed that all of the Kunia Land, including both the Property and the Remainder Land, be designated as IAL. See <http://mapoahuagland.com>; and see Ag Assessment Fig. 11. Monsanto participated in this process and indicated to the City that it did not believe that all of Monsanto's Kunia Land should be designated as IAL. See **Petitioner's Exhibit 10.**

Based upon the County's determination process, all of the Property for which Monsanto seeks IAL designation meets criteria number (1) (land currently used for agricultural production). Substantially all of the Property for which Monsanto seeks IAL designation meets criteria number (2) (land with soil qualities and growing conditions suitable for agricultural production). Most of the Property for which Monsanto seeks IAL designation meets criteria number (3) (land with sufficient quantities of water to support viable agricultural production).

The portion of the Property identified as Tax Map Key No. (Oahu) 9-2-004-009, is identified by the City as without sufficient quantities of water. See <http://mapoahuagland.com>. However, this tax parcel is included within WUP No. 828, and most of this tax parcel is in fact irrigated and in active cultivation. The portion of this tax parcel that is too steep for crop production is used for cattle grazing as described in section 1.5.2.1.1.

1.5.2.7 Land that Contributes to Maintaining a Critical Land Mass Important to Agricultural Operating Productivity – HRS § 205-44(c)(7) and HAR § 15-15-120(c)(7). Monsanto's Petition includes 1,550 contiguous acres of agricultural land, which in and of itself contributes to maintaining a critical land mass important to agricultural operating productivity.

1.5.2.8 Land with or Near Support Infrastructure Conducive to Agricultural Productivity, Such as Transportation to Markets, Water or Power – HRS § 205-44(c)(8) and HAR § 15-15-120(c)(8).

In addition to on-site infrastructure, such as an irrigation system, drainage infrastructure and internal roads used for agricultural production, the Property has access to all of the necessary off-site infrastructure for long term agricultural productivity including access to Kunia Road, adjacency to the Waiahole Ditch, with applicable utilities, available for use, as and when needed.

1.5.3 Current or Planned Agricultural Use of the Area Sought to be Designated as Important Agricultural Lands. As described in paragraph 1.5.2.1 above, the Property is currently in seed corn production, soybean production and cattle ranching, and Monsanto intends to keep the Property in these uses for the foreseeable future.

1.6 Names of Any Other Potential Parties. Monsanto expects that the Department of Agriculture of the State of Hawai'i, the Office of Planning of the State of Hawai'i, and the

Director of the Department of Planning and Permitting of the City and County of Honolulu may participate in these proceedings.

No other potential parties have been identified. However, the current tenants/users of the Property (and as noted in paragraph 1.5.2.1.1) are: (A) H.E. Bud Gibson, doing business as Rocker G Livestock, 41-1900 Kalaniana'ole Highway, Waimanalo, Hawaii 96795; (B) Circle "C" Ranch & Hay Co., Inc., 87-1155 Iliili Road, Waianae, Hawaii 96792, Attention: Catherine C. Cozzens; (C) dB Cattle Inc., P.O. Box 1441, Kailua, Hawaii 96734, Attention Darrell Bueno; and (D) Brian Loving, Assistant Center Director, United States Geological Survey of the United States Department of the Interior, 1845 Wasp Boulevard, Building 176, Honolulu, Hawaii 96818.

No consulted parties indicated that the proposed IAL designation would in any way interfere with any existing or ongoing native Hawaiian cultural practices, resources, or historic or cultural sites that may be located in or around the Property. See Report of Findings on Cultural Research Related to the Designation of A Majority of Monsanto Company's Oahu Land as Important Agricultural Lands, copy attached hereto and incorporated herein as **Petitioner's Exhibit 5**.

1.7 Signature of Each Petitioner. The sole Petitioner in this matter is Monsanto. Counsel for Monsanto, with the authorization of Monsanto, has signed this Petition on Monsanto's behalf.

1.8 Statement Whether the Petition for Declaratory Ruling Relates to Any Commission Docket for District Boundary Amendment or Special Permit. This Petition is not related to any Commission docket for district boundary amendment or special permit.

2. **WAIVER OF 85/15 RECLASSIFICATION INCENTIVE**


Monsanto is not seeking reclassification of land pursuant to HRS §205-45(b) in conjunction with this Petition to designate IAL.

Monsanto also voluntarily waives all right to assert, claim or exercise any credits pursuant to HRS §205-45(h), effective as of the date of this Petition, that may be earned by Monsanto in the event that this Petition is granted. This waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of this Petition to the Urban, Rural or Conservation District pursuant to HRS § 205-45(h), effective as of the date of this Petition, and shall not apply to any other credits, incentives, rights or privileges that Monsanto may possess now or in the future, whether known or unknown. All such credits, incentives, rights or privileges are expressly reserved.

3. **CONCLUSION**

Monsanto respectfully requests that the Commission: (1) find that this Petition meets the standards for designating IAL pursuant to HRS §205-44 and -45, and (2) designate the Property as IAL.

DATED: Honolulu, Hawaii, September 7, 2017.



MARK E. MURAKAMI
JENNIFER A. LIM

Attorneys for Petitioner
MONSANTO COMPANY, a Delaware
corporation