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STATE OF HAWAII
LAND USE COMMISSION

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OUR REFERENCE NO.:
066928-00012

October 18, 2017

VIA HAND DELIVERY AND EMAIL

Mr. Daniel E. Orodener, Executive Officer
Land Use Commission, State of Hawaii
235 South Beretania Street
Room 406, Leiopapa A. Kamehameha Bldg.
Honolulu, Hawaii 96813

Re: Monsanto Company, DR17-60, Petition for Declaratory Order to Designate Important Agricultural Lands for approximately 1,084.079 acres at Naiwa, Manowainui, Kahanui, Moloka'i, identified by TMK (2) 5-2-012-004

Dear Executive Officer Orodener:

We provide this letter response on behalf of Petitioner Monsanto Company ("**Petitioner**"), to address the comments submitted by the Office of Planning, State of Hawaii ("**OP**") dated October 10, 2017 ("**OP's Ltr.**"), and the Department of Agriculture, State of Hawaii ("**DOA**") dated October 11, 2017 ("**DOA's Ltr.**"), and also the County of Maui ("**County**") dated October 9, 2017. Petitioner greatly appreciates the supportive feedback from OP, DOA, and the County, in response to the Petition for Declaratory Order to Designate Important Agricultural Lands that we filed with the Commission on September 29, 2017.

We are pleased that OP and DOA recognize that a 1,026.079 acre portion of the Petition Area should be designated as Important Agricultural Lands ("**IAL**"). As noted by OP, DOA, and the County, the Petition Area meets, in whole, or in part, each of the possible standards and criteria under Chapter 205, Hawaii Revised Statutes. While the County recommends that the Commission approve the Petition as to the entire 1,084.079 acre Petition Area, OP (without objection from the DOA) recommends that the Commission approve the Petition and designate the Petition Area as IAL, subject to a recommendation that approximately 58 acres of the Petition Area where Pu'u 'Uala is located be excluded. OP's Ltr., at 6-7.

The 58-acre exclusion area ("**Pu'u 'Uala**") is shown on Slide 11 of Petitioner's Power Point Slides for Proposed Moloka'i IAL, filed as Petitioner's Exhibit 16. OP bases its recommendation to exclude Pu'u 'Uala on the following:

- (a) the 58-acre portion of the Petition Area "is comprised of a culturally significant Puu Uala" (OP's Ltr., at 1),
- (b) "aerial photos of the site indicate that the Puu . . . is not under active production" (OP's Ltr., at 3),

(c) the Land Study Bureau rating system classifies the 58-acre Pu‘u ‘Uala area as “E” (Very Poor) (OP’s Ltr., at 4), and

(d) the 58-acre area is adjacent to the State owned MIS Reservoir, and is naturally separated from the cultivated row crops in the Petition Area (OP’s Ltr., at 4).

DOA also recommended that the Commission approve the Petition, but DOA stated that it “would not be opposed to the exclusion” of Pu‘u ‘Uala from the land to be designated by IAL (DOA’s Ltr., at 5) for reasons similar to those given by OP.

Petitioner does not use, and does not intend to use, the 58-acre Pu‘u ‘Uala portion of the Petition Area for commercial agricultural production. Petitioner respects that Pu‘u ‘Uala is part of a culturally important 4 pu‘u complex, with Pu‘u ‘Uala being the only pu‘u in the Petition Area. Petitioner’s Exhibit 5, at 3. Based upon the recommendation of OP, and after thoughtful consideration of all of the above, Petitioner hereby states that Petitioner does not oppose OP’s recommendation to exclude the 58-acre Pu‘u ‘Uala portion of the Petition Area (shown on Slide 11 of Petitioner’s Power Point Slides for Proposed Moloka‘i IAL, filed as Petitioner’s Exhibit 16) from the land to be designated at IAL.

Petitioner appreciates the feedback from OP, DOA, and the County in support of the IAL Petition. We also appreciate the work of the Commission and its staff in reviewing and considering the IAL Petition. Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

CARLSMITH BALL LLP

**Mark K.
Murakami**

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Jennifer A. Lim
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Attorneys for Monsanto Company

cc: Office of Planning, State of Hawaii
Department of Agriculture, State of Hawaii
Planning Department, County of Maui
Monsanto Company