

EXHIBIT "F"
(Water Use Permit)
(Attached)



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

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JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR

March 15, 2018

01052 gwup.docx

Mr. Joshua Uyehara
Hartung Brothers Hawaii, LLC
7050 Kaumualii Highway
Kekaha, HI 96752

Dear Mr. Uyehara:

Transfer of Ground Water Use Permit (GWUP No. 860 to GWUP No. 1052)
Waiahole Ditch Ground Water Management Area, Oahu

Your request to transfer Ground Water Use Permit No. 860 for the Waiahole Ditch System is approved. Your new permit (which supersedes GWUP No. 860) is GWUP No. 1052. As provided by law, this transfer does not create any new rights and liabilities in favor of or against the transferee; *however, we would like to note that since the State of Hawaii owns some of the ditch sources that compliance with HRS 171 may be required in the future.*

Special Conditions

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.
3. The use is limited to the land area shown in the attached map.
4. Please be aware that the issuance of this permit in no way guarantees water availability for the same parcels under GWUP No. 1034, for the Del Monte Pump 3 and 4 (State Well Nos. 3-2803-005 and 3-2805-007).

Your ground water use permit is enclosed with this letter of approval. Please be sure to read the conditions of this permit.

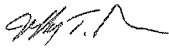
We draw your attention to two key conditions of your permit that require your response. First, in accordance with Hawaii Administrative Rule §13-168-7, you are required to keep a record of your monthly total pumpage, water level, salinity, and water temperature. This information must be submitted to the Commission on a regular monthly basis using the form that can be found on our website at <http://hawaii.gov/dlnr/cwrm/forms/GWUR-MON.pdf>

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Second, in a water shortage situation, the Commission may require temporary reductions in pumpage from all sources. To plan for such a contingency, you are required to submit a water shortage plan to the Commission within thirty (30) days of the issuance date of this permit. Your individual water shortage plan should identify what you are willing to do should the Commission declare a water shortage situation in the Waiahole Ditch Ground Water Management Area. The plan may be brief, but must be clear. The Commission is required by law to formulate a plan to implement such area-wide reductions. The Commission will seek to accommodate your plan in any overall reductions. By submitting your water shortage plan, you help the Commission formulate an overall Water Shortage Plan.

If you have any questions, please call Ryan Imata of the Commission staff at (808) 587-0255.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey T. Pearson".

Jeffrey T. Pearson, P.E., Deputy Director for
Suzanne D. Case, Chairperson

Attachments: End use map



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

GROUND WATER USE PERMIT

GWUP NO. 01052

PERMITTEE

Permittee/Water User

Address Hartung Brothers Hawaii, LLC
7050 Kaumualii Highway
Kekaha, HI 96752

Landowner of Source

Address Various – refer to table below

PERMITTED SOURCE INFORMATION

Island Oahu

Water Management Area _____

Aquifer Sector Waiahole Ditch

Aquifer System Waiahole Ditch

System Sustainable Yield 15 mgd

State Well No.	Well Name	Landowner
3-2657-005	Waiawa Dev Tun Exit	Kamehameha Schools
3-2853-001	Waiahole Main Tunnel	Department of Land and Natural Resources, State of Hawaii
3-2953-001	Waiahole Uwao Tunnel	Agribusiness Development Corporation, State of Hawaii
3-2953-002	Waikane Tunnel 2	Royal Fountain, LLC
3-2953-003	Uwao Tunnel Ext	Castle & Cooke, Inc.
3-3053-001	Waikane Tunnel 1	Royal Fountain, LLC
3-3154-001	Kahana Tunnel 1	Department of Land and Natural Resources, State of Hawaii

PERMITTED USE INFORMATION

Withdrawal (12 month moving ave.) 0.590 mgd

Reasonable Beneficial Use	TMK	State Land Use Classification	County Zoning Classification
Div Ag (770 acres)			
	(1) 9-2-004:003	AG	AG-1
	(1) 9-2-004:006	AG	AG-1
	(1) 9-2-004:011	AG	AG-1
	(1) 9-2-004:012	AG	AG-1

Pursuant to Hawaii's State Constitution, Article XI, Section 7, Hawaii Revised Statutes, Chapter 174C; Hawaii Administrative Rules, Chapters 13-167 through 13-171; and Hawaii decisional law and custom, the permittee is hereby authorized to use ground water from the sources and in the amount and from and upon the locations described above; subject however, to the requirements of law including but not limited to the following conditions:

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization which is both reasonable and consistent with State and County land use plans and the public interest." (HRS § 174C-3)
2. The right to use ground water is a shared use right.
3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
 - a. Can be accommodated with the available water source;
 - b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
 - c. Will not interfere with any existing legal use of water;
 - d. Is consistent with the public interest;
 - e. Is consistent with State and County general plans and land use designations;
 - f. Is consistent with County land use plans and policies; and
 - g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).
4. The ground water use here must not interfere with surface or other ground water rights or reservations.
5. The ground water use here must not interfere with interim or permanent instream flow standards. If it does, then:
 - a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
 - b. The interim or permanent instream flow standard, as applicable, must be amended.
6. The ground water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.
7. The ground water use permit application and submittal, as amended, approved by the Commission at its July 13, 2006 meeting are incorporated into this permit by reference.
8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
 - a. protect the water sources (quantity or quality);
 - b. meet other legal obligations including other correlative rights;
 - c. insure adequate conservation measures;
 - d. require efficiency of water uses;
 - e. reserve water for future uses, provided that all legal existing uses of water as of June, 1987 shall be protected;
 - f. meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
 - g. carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

10. An approved flowmeter(s) must be installed to measure monthly withdrawals and monthly records of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on the form located at <http://hawaii.gov/dlnr/cwrm/forms/GWUR-MON.pdf>
11. This permit shall be subject to the Commission's periodic review of the Waiahole Ditch Aquifer System Area's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the Waiahole Ditch Aquifer System Area, or relevant modified aquifer(s), is reduced.
12. A permit may be transferred, in whole or in part, from the permittee to another, if:
 - a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
 - b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer, which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.

13. The use(s) authorized by law and by this permit do not constitute ownership rights.
14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances that will affect the permittee's water use.
15. The permittee understands that under HRS § 174C-58(4), that partial or total nonuse, for reasons other than conservation, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period of forfeiture.
16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Waiahole Ditch Ground Water Management Area.
17. The water use permit shall be subject to the Commission's establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.
18. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.
19. Special conditions in the attached cover transmittal letter are incorporated herein by reference.



Jeffrey T. Pearson, P.E., Deputy Director for
Suzanne D. Case, Chairperson
Commission on Water Resource Management

END USE MAP



