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 STATE OF HAWAII
 Clerk, Second Circuit Court and ex
 officio Clerk, 1st Circuit Court

Attorneys for Defendant
 COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 STATE OF HAWAII

HEALOHA CARMICHAEL, LEZLEY
 JACINTHO, and NA MOKU AUPUNI O
 KO'OLAU HUI,

Plaintiffs,

vs.

BOARD OF LAND AND NATURAL
 RESOURCES, CARTY CHANG, in his
 official capacity as Interim Chairperson of the
 Board of Land and Natural Resources, the
 DEPARTMENT OF LAND AND NATURAL
 RESOURCES, ALEXANDER & BALDWIN,
 INC., EAST MAUI IRRIGATION CO., LTD.,
 HAWAIIAN COMMERCIAL AND SUGAR
 CO., and COUNTY OF MAUI,
 DEPARTMENT OF WATER SUPPLY,

Defendants.

CIVIL NO. 15-1-0650-04 VLC
 (Environment; Declaratory Judgment)

DEFENDANT COUNTY OF MAUI,
 DEPARTMENT OF WATER SUPPLY'S
 ANSWER TO FIRST AMENDED
 COMPLAINT FILED APRIL 20, 2015;
 CERTIFICATE OF SERVICE

**DEFENDANT COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY'S
 ANSWER TO FIRST AMENDED COMPLAINT FILED APRIL 20, 2015**

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Defendant County of Maui, Department of Water Supply ("County"), by and through its attorneys, Patrick K. Wong, Corporation Counsel, and Caleb P. Rowe, Kristin K. Tarnstrom and Richard B. Rost, Deputies Corporation Counsel hereby answers the First Amended Complaint ("Complaint") filed by Plaintiffs Healoha Carmichael, Lezley Jacintho, and Na Moku Aupuni O Ko'olau Hui ("Plaintiffs") on April 20, 2015, as follows:

FIRST DEFENSE:

1. The Complaint fails to state a claim against Defendant County upon which relief can be granted.

SECOND DEFENSE:

2. Paragraphs 1, 46, 48, 49, 52, 53, 54, 55, 58, 59 and 61 consist of legal conclusions to which no response is necessary, and on that basis denies the same of the Complaint, Defendant County of Maui admits that jurisdiction is proper.

3. Defendant County is without sufficient knowledge or information to form a belief as to the truth or falsity of paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 45, 47, 50, 51, 57 and 60 and on that basis denies the same.

4. In response to paragraph 15 of the Complaint, Defendant County admits that it supplies Upcountry Maui domestic and pastoral water customers with surface water diverted from East Maui streams and transported using Defendant East Maui Irrigation's ("EMI") ditch system. Defendant County, however, denies that it is only an interested party," in that effectuation of Plaintiffs' requested relief would have extreme consequences to Defendant County. While Plaintiffs' prayer for relief makes provision for 8.4 mgd to still be delivered to Maui County,

it is impracticable to assume that Defendant EMI would continue to operate its diversion system solely to provide water to the County of Maui Department of Water Supply. Accordingly, Plaintiff's prayed for relief could have serious and widespread consequences on Defendant County and its citizens, and therefore, Defendant County has a heavy interest in the outcome of these proceedings.

5. To the extent that paragraphs 40, 41, 42, 43 and 44 cite the Hawaii Revised Statutes or the Hawaii Administrative Rules, Defendant County states that the statutes speak for themselves. Defendant County rejects any other allegations contained therein or any legal conclusions or inferences drawn therefrom and on that basis denies the same.

6. In response to paragraphs 39 and 56, Defendant County realleges and incorporates by reference all the above answers.

THIRD DEFENSE:

7. Defendants raise all common law and statutory immunities available to them as affirmative defenses against Plaintiffs' claims against the Defendants, if any.

FOURTH DEFENSE:

8. Plaintiffs' claims are barred due to their failure to exhaust administrative remedies.

FIFTH DEFENSE:

9. Plaintiffs' claims are barred by the doctrines of res judicata and/or collateral estoppel.

SIXTH DEFENSE:

10. Prior to the filing of this Complaint, identical issues based on identical facts were raised by Plaintiffs and are being addressed in proceedings currently on-going before the Board of Land and Natural Resources. These duplicative filings unnecessarily create a strong likelihood

of inconsistent and contradictory judgments, and the Court should dismiss duplicative claims to avoid any such inconsistency.

SEVENTH DEFENSE:

11. Plaintiffs' claims, and each of them, are barred by the applicable statute of limitations and/or by operation of the time limitations set forth in Hawaii Revised Statutes Chapter 91.

EIGHT DEFENSE:

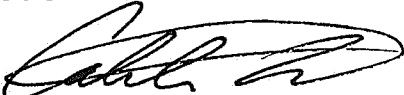
12. County Defendants give notice that they intend to rely upon any other matter constituting an avoidance or affirmative defense as set forth in Rule 8(c), Hawaii Rules of Civil Procedure, and that they intend to seek leave to amend their answer to specifically allege those defenses of which they may become aware during the course of discovery or at trial of this matter.

WHEREFORE, the County Defendants pray for the following relief:'

- A. That Plaintiffs' Complaint be dismissed in its entirety;
- B. That judgment be entered in County Defendants' favor;
- C. That County Defendants be awarded their reasonable attorneys' fees and costs incurred in defending against Plaintiffs' claims; and
- D. That County Defendants be granted such other and further relief as is just and equitable.

DATED: Wailuku, Maui, Hawaii, May 7, 2015.

PATRICK K. WONG
Corporation Counsel
Attorney for Defendant
COUNTY OF MAUI

By 
CALEB P. ROWE
Deputy Corporation Counsel