

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

REVOCABLE PERMIT NO. S-7266

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective the 1st day of July, 2000, by and between the STATE OF HAWAII, hereinafter referred to as the "State," by its Board of Land and Natural Resources, called the "Board," and East Maui Irrigation Company, Limited, a Hawaii Corporation, hereafter called the "Permittee," whose mailing address is Post Office Box 48, Paia, Hawaii 96779, agree that commencing from the 1st day of July, 2000, ("commencement date"), Permittee is permitted to enter and occupy, on a month-to-month basis only, pursuant to section 171-58, Hawaii Revised Statutes, that certain parcel of government land (and any improvements located thereupon) situate at Tax Map Key no. (2) 1-2-04:05 & 07, Koolau Forest Reserve, Nahiku, Maui, Hawaii, as indicated on the map attached hereto, if any, and made a part hereof, containing an approximate area of 10,111.220 acres, more or less which parcel is hereinafter referred to as the "Premises."

THIS PERMIT IS GRANTED UNDER THE FOLLOWING CONDITIONS:

A. The Permittee shall:

1. Occupy and use the premises for the following specified purposes only:

Right, privilege, and authority for the development, diversion, and use of water from the "Nahiku License" area, pursuant to the terms and conditions in now expired General Lease No. L-3505.

2. Pay, at the office of the Department of Land and Natural Resources, Honolulu, Oahu, or at the office of its land agent on the island where the Premises are located, the sum of ONE THOUSAND FOUR HUNDRED TWENTY-SIX AND 88/100 DOLLARS (\$1,426.88) being the rental due and payable on the first day of each and every month commencing July 1, 2000 and expiring on June 30, 2001.

The interest rate on any unpaid or delinquent rentals shall be at one per cent (1%) per month plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) per month for each month of delinquency.



3. Upon execution of this Permit, deposit with the Board of Land and Natural Resources, hereinafter called the "Board," in an amount equal to two times the monthly rental then payable, as security for the faithful performance of all of these terms and conditions. The deposit will be returned to the Permittee upon termination of this Permit, but only after all of the terms and conditions of this Permit have been observed and performed to the satisfaction of an authorized representative of the Department of Land and Natural Resources.
4. At the Permittee's own cost and expense, keep the government-owned improvements located on the Premises insured against loss by fire and other hazards, casualties, and contingencies, for the full insurable value of those improvements. The policies shall name the State of Hawaii as an additional insured and shall be filed with the Board. In the event of loss, damage, or destruction of those improvements, the Board shall retain from the proceeds of the policies those amounts it deems necessary to cover the loss, damage, or destruction of the government-owned improvements and the balance of those proceeds, if any, shall be delivered to the Permittee.
5. Give the Board twenty-five (25) calendar days notice, in writing, before vacating the Premises.
6. If a holdover permittee or licensee, pay all real property taxes, which shall be assessed against the Premises from the effective date of this Permit. In addition, a Permittee, not a holdover permittee or licensee, who has occupied the Premises for commercial purposes for a continued period of one year or more, shall pay the real property taxes assessed against the Premises after the first year of the Permit as provided in section 246-36(1)(D), Hawaii Revised Statutes.
7. Observe and comply with all laws, ordinances, rules, and regulations of the federal, state, municipal, or county governments affecting the Premises or improvements.
8. Repair and maintain all buildings or other improvements now or hereafter on the Premises.
9. Obtain the prior written consent of the Board before making any major improvements.
10. Keep the Premises and improvements in a clean, sanitary, and orderly condition.
11. Pay, when due, all payments for water and other utilities, and whatever



charges for the collection of garbage as may be levied.

12. Not make, permit, or suffer, any waste, strip, spoil, nuisance or unlawful, improper, or offensive use of the Premises.
13. At all times with respect to the Premises, use due care for public safety and agree to indemnify, defend, and hold harmless the State of Hawaii, its officers, agents, and employees from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefor, arising out of or resulting from the acts or omissions of the Permittee or the Permittee's employees, agents, or officers under this Permit. The provisions of this paragraph shall remain in full force and effect not withstanding the expiration or termination of this Permit.
14. Procure, at its own cost and expense, and maintain during the entire period of this Permit, a policy or policies of commercial general liability insurance, in an amount acceptable to the Chairperson, insuring the State of Hawaii and the Permittee against all claims for personal injury, death, and property damage. The policy or policies shall cover the entire Premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the Premises in the control or use of the Permittee. The Permittee shall furnish the State with a certificate showing the policy to be initially in force and shall furnish a like certificate upon each renewal of the policy, each certificate to contain or be accompanied by an assurance of the insurer to notify the State of any intention to cancel any policy at least sixty (60) calendar days prior to actual cancellation. The procuring of this policy shall not release or relieve the Permittee of its responsibilities under this Permit as set forth herein or limit the amount of its liability under this Permit.
15. In case the State shall, without any fault on its part, be made a party to any litigation commenced by or against the Permittee (other than condemnation proceedings), the Permittee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the State; furthermore, the Permittee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the State in enforcing the covenants and agreements of this Permit, in recovering possession of the Premises, or in the collection of delinquent rental, taxes, and any and all other charges.

B. Additional Conditions:

1. The Board may revoke this Permit for any reason whatsoever, upon written notice to the Permittee at least thirty (30) calendar days prior to



the revocation; provided, however, that in the event payment of rental is delinquent for a period of ten (10) calendar days or more, this Permit may be revoked upon written notice to the Permittee at least five (5) business days prior to the revocation.

2. If the Permittee does not vacate the Premises upon the revocation of the Permit by the Board, the Permittee shall pay to the State liquidated damages at the daily rate of \$3.00 or twenty percent (20%) of the monthly rent, whichever is greater, for each day, or portion thereof, the Permittee remains on the Premises after the date of revocation. The payment is in addition to any other rights or remedies the Board may be entitled to pursue for breach of contract, or for illegal occupancy, including the right to evict the Permittee without court action, and the cost thereof to be paid by the Permittee.
3. If the Permittee fails to vacate the Premises upon the revocation of the Permit, the Board by its agents, or representatives may enter upon the Premises and remove and dispose of at Permittee's cost and expense, all vehicles, equipment, materials, or any personal property remaining on the Premises, and the Permittee agrees to pay for all costs and expenses of removal and disposition.
4. The Board may at any time increase or decrease the monthly rental by written notice at least thirty (30) business days prior to the date of change of rent.
5. Any major improvements, including but not limited to buildings and fences, erected on or moved onto the Premises by the Permittee shall remain the property of the Permittee and the Permittee shall have the right, prior to the termination of this Permit, or within an additional period the Board in its discretion may allow, to remove the improvements from the Premises; provided, however, that in the event the Permittee shall fail to remove the improvements within thirty (30) calendar days, after written notice to remove has been sent, the Board may elect to retain the improvements or may remove the same and charge the cost of removal and storage, if any, to the Permittee.
6. The Board reserves the right for its agents, or representatives to enter or cross any portion of the Premises at any time in the performance of its duties.
7. This Permit or any rights hereunder shall not be sold, assigned, conveyed, leased, mortgaged, or otherwise transferred or disposed of.
8. It is understood that the Permittee has inspected the Premises and knows



the conditions thereof and fully assumes all risks incident to its use.

9. The acceptance of rent by the Board shall not be deemed a waiver of any breach by the Permittee of any term, covenant, or condition of this Permit nor of the Board's right to declare and enforce a forfeiture for any breach, and the failure of the Board to insist upon strict performance of any term, covenant, or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option of this Permit.
10. This month-to-month permit is effective for a period of one year from the commencement date. It may be extended by action of the Board for additional one-year periods. Any such extension shall have the same terms and conditions as this permit, except for the commencement date and any amendments to the terms, as reflected in the minutes of the meeting at which the Board acts. Permittee agrees to be bound by the terms and conditions of this permit and any amendments to this permit so long as Permittee continues to hold a permit for the Premises or continues to occupy or use the Premises.
11. The use and enjoyment of the Premises shall not be in support of any policy which discriminates upon any basis or in any manner that is prohibited by any applicable federal, state, or county law.
12. Any and all disputes or questions arising under this Permit shall be referred to the Chairperson of the Board and his determination of these disputes or questions shall be final and binding on the parties.
13. Permittee shall not cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. Permittee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of Permittee's business, and then only after written notice is given to the Board of the identity of such materials and upon the Board's consent which consent may be withheld at the Board's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Permittee, then the Permittee shall be responsible for the costs thereof. In addition, Permittee shall execute affidavits, representations and the like from time to time at the Board's request concerning the Permittee's best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by Permittee.



Permittee agrees to indemnify, defend, and hold the State of Hawaii, the Board, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefor, arising out of or resulting from and use or release of hazardous materials on the premises occurring while Permittee is in possession, or elsewhere if caused by Permittee or persons acting under Permittee. These covenants shall survive the expiration or earlier termination of the permit.

For the purpose of this permit "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

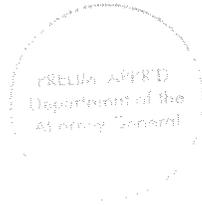
14. At any time during the term or upon termination of this permit, the Chairperson, for good cause, may require the Permittee to conduct at Permittee's own cost, a Level One (1) Hazardous Waste Evaluation and a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources. Termination of this permit will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed where required.
15. This revocable permit shall cease and be void if the Board issues a water license pursuant to public auction of the right to collect water from the subject premises in accordance with section 171-58, Hawaii Revised Statutes, as amended.
16. The State reserves the right, subject to not less than thirty (30) days written notice, to withdraw water from this revocable permit to meet the following requirements as the State in its sole discretion may determine: Constitutionally protected water rights, instream flow standards, reservations needed to meet the Department of Hawaiian Home Lands rights under section 221 of the Hawaiian Homes Commission Act as well as other statutorily or judicially recognized interests relating to the right to withdraw water for the purposes of and in accordance with the provisions of section 171-58(d), Hawaii Revised Statutes.
17. The Permittee shall have full responsibility for the maintenance of roads



used within the water license area.

18. The State reserves all hunting rights. In the event the State should declare the whole or any portion of the Premises as a public shooting grounds, the State reserves the right and privilege to issue written permits to hunters, subject to rules and regulations issued by the Department of Land and Natural Resources; provided, however, that open season shall be coordinated with the activities of the Permittee on the Premises.
19. The Permittee shall comply with all requirements of the State Water Code, section 174C, Hawaii Revised Statutes, and other laws governing water in Hawaii.

Unless the text indicates otherwise, the use of any gender shall include all genders and, if the Permittee includes more than one person, the singular shall signify the plural and this Permit shall bind the persons, and each of them jointly and severally.



IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

By *[Signature]*
Chairperson and Member
Board of Land and Natural Resources *[initials]*

Approved by the Board of
Land and Natural Resources
at its meeting held on
05/26/00, D-16. *[initials]*

PERMITTEE
EAST MAUI IRRIGATION COMPANY, LIMITED,
a Hawaii Corporation

By *[Signature]*
JOHN W. NOXIE, JR.

Its SENIOR VICE PRESIDENT

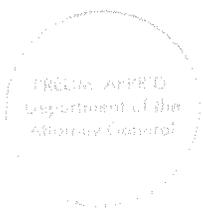
And By *[Signature]*
GARRET W.C. HEW

Its ASST. SECRETARY

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

Dated: 5/16/01



STATE OF HAWAII)
) SS.
COUNTY OF *Maui*)

On this 21st day of May, 2001,
before me personally appeared JOHN W. HOXTA, JR. and
GARRET W.C. HEW, to me personally known, who,
being by me duly sworn or affirmed, did say that such person(s) executed the foregoing
instrument as the free act and deed of such person(s), and if applicable in the capacity
shown, having been duly authorized to execute such instrument in such capacity.

L.S.

Valerie L. Nakashima
Notary Public, State of Hawaii

Valerie L. Nakashima

My commission expires: 5/25/04

