

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Engineering Division  
Honolulu, Hawaii 96813**

October 27, 2023

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Request Authorization for the Chairperson to Set New Schedules and  
Make a Finding of Violation Sufficient to Support Specified Fines and Issue Fines on the  
Owner if Deadlines are Missed for the Removal or Rehabilitation of the  
Ukumehame Reservoirs (MA-0140), Waikapu, Maui.  
Tax Map Keys (2) 4-8-002:015, (2) 4-8-002:017,  
(2) 4-8-002:027, (2) 4-8-002:064, (2) 4-8-002:118

**Summary**

The Department of Land and Natural Resources (“Department”) requests the Board of Land and Natural Resources (“Board”) authorize the Chairperson to set new schedules and associated fines for the owner of the Ukumehame Reservoirs (MA-0140), the Ukumehame Homeowners Association, Inc. (“Owner”), to remove or rehabilitate their structure. The Owner took ownership of the dam in May 2023 from the previous owner, West Maui Investors, LLC, and is requesting a 12-month extension to complete the dam removal that was previously initiated by the prior owner. The Owner plans to use the additional time requested to rebid the construction contract and to investigate the feasibility of rehabilitating the dam for future use. The dam is classified as a high hazard structure and is in unsatisfactory condition. The dam remains out of service in an abandoned state since 2008.

The Department recommends authorizing the Chairperson to set a new schedule for the removal or rehabilitation of the dam with automatic penalties for missing deadlines. The Department also recommends the Board delegate the Chairperson to administer future schedule amendments and penalties associated with the ongoing removal and rehabilitation of the dam.

**Background**

Built in the early 1900s, the Ukumehame Reservoirs are comprised of two interconnected rock lined reservoirs, Ukumehame No. 2 and Ukumehame No. 3, located at the downstream end of the Ukumehame Gulch watershed on the west side of the Island of Maui. The water from the reservoirs have historically been used for irrigation.

In 2008, the Department issued a Notice of Deficiency (NOD) to the previous owner, because of a large seepage (leak) flowing out of the main embankment. The previous owner was ordered to immediately drain the dam to reduce the risk of failure. Since then, the dam has been kept out of service and in an abandoned state.

In October 2017, the Board approved issuance of Dam Safety Permit No. 77 to the previous owner to remove the dam structure. In February 2023, the Chairperson extended the Dam

Safety Permit expiration date to November 13, 2023. However, to date the Owner has not initiated construction to remove the dam.

In May 2023, the previous owner notified the Department ownership of the dam was transferred to the current owner, the Ukumehame Homeowners Association, Inc.

The following is a summary of the Ukumehame Reservoirs dam structure:

Hazard Potential:	HIGH HAZARD potential dam <sup>1</sup>
Population at Risk:	Uncertain
Structures at Risk:	Two existing structures are in the direct flow path of a dam failure; also in the flow path are multiple parcels, planned for future development; 0.35 miles of the Honoapiilani Highway, which is a major thoroughfare for West Maui.
Overall Condition:	UNSATISFACTORY
DLNR Restriction:	Reservoirs are kept EMPTY, since May 14, 2021
Dam Embankment:	Earthen
Dam Ht / length:	29 feet / 770 feet
Maximum Storage:	14.3 million gallons
Drainage Area:	4 square miles

### **Safety Issues**

The Ukumehame Reservoirs have an UNSATISFACTORY overall condition rating, which is the lowest rating possible, which indicates the dam requires immediate remediation action. The major issues contributing to the UNSATISFACTORY rating, which continue to persist, are as follows:

1. A significant seepage on the main embankment, which could progress to an internal erosion failure.
2. The spillways in both reservoirs are undersized and could result in an overtopping failure during a significant storm event.
3. The outlet works pipe on the makai reservoir (Reservoir 3) is restricted with silt and access to the outlet works operator was inaccessible, which prevents being able to draw down the reservoir.

### **Enforcement Actions**

The Department issued the previous dam owner NOD letters in 2008, 2017, 2020, and the Board has also approved multiple fines as follows:

- In 2021, the previous owner was fined and paid a total of \$10,000 for not installing a water level monitoring system and failing to submit monthly monitoring reports (See Exhibit 1);
- In 2022, the previous owner was fined and paid \$5,000 for not starting construction to remove the reservoirs by August 30, 2022; and
- In July 2023, the current owner was fined and paid \$10,000 for not starting construction by March 31, 2023.

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<sup>1</sup> High Hazard means a dam's or reservoir's failure will result in probable loss of human life (HRS §179D-3)

**Discussion**

The Owner has not started construction because they claim they still have not obtained a Maui County grading permit to begin construction. It is the Department's understanding that the permit application was submitted by the previous owner in September 2021 and is still pending approval. The Owner claims the County is reviewing the grading permit application, with all County Departments having already provided comments and approvals except for the County Planning Department.

On July 28, 2023, the Owner requested from the Department an eight-month extension to complete construction by April 2024. On September 11, 2023, the Owner submitted an amended extension request, requesting a total of 12 months to complete construction (see Exhibit 2). The 12 months would start from the date of the Board's decision on the matter.

Between now and when the County grading permit is issued, the Owner plans to rebid its construction contract and secure a more cost-effective construction contractor. The Owner also intends to examine the feasibility of rehabilitating the dam for future use as a water storage resource. During this time, however, the dam remains a risk to the community. Even though the reservoir is abandoned and empty, the potential exists for a major storm to fill the reservoirs and trigger a catastrophic failure. Accordingly, further delays to remove or rehabilitate the dam to address its deficiencies could result in serious consequences.

**Recommendation**

1. The Board authorize the Chairperson to set the following schedule to remove the Ukumehame Reservoirs (MA-0140) and authorize the Chairperson to make a finding of violation and to issue automatic penalties for any missed milestones:

**Schedule for Removal of the Ukumehame Reservoirs:**

<b>Milestone</b>	<b>Deliverable to Department</b>	<b>Due Date</b>	<b>Penalty of missed milestone</b>
<b>1</b>	Status update on the Owner's grading permit application pending with the County of Maui and any correspondence or other documents demonstrating the Owner's efforts to communicate the urgency of the situation to the County and to expeditiously process the Owner's permit application.	12/1/23	\$10,000
<b>2</b>	A letter to BLNR Chairperson confirming the Owner's decision to either remove the dam by November 1, 2024, <u>or</u> to pursue a plan to rehabilitate the dam. If the Owner chooses to rehabilitate the dam, their new schedule will be as discussed in item 2 below.	4/1/24	\$15,000
<b>3</b>	Start construction on the Ukumehame Reservoirs removal as described in Dam Safety Permit No. 77. The start of construction is defined as performing grading and excavation work on site.	6/1/24	\$20,000

4	Complete construction on the Ukumehame Reservoirs removal as described in Dam Safety Permit No. 77. Completion of construction will be satisfied when the Owner's construction engineer issues a Notice of Substantial Completion to the Department, stating the permitted removal of the dam is functionally complete and the project's final construction inspection can occur.	11/1/24	\$20,000
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2. The Board authorize the Chairperson to set the following schedule to rehabilitate the Ukumehame Reservoir (MA-0140) in lieu of removal and to authorize the Chairperson to make a finding of violation and to issue automatic penalties for any missed milestones:

**Schedule for Rehabilitation of the Ukumehame Reservoirs:**

Milestone	Deliverable to Department	Due Date	Penalty of missed milestone
3	Conceptual plan to rehabilitate the dam, which will include a grading plan, site plan, and cost estimate.	6/1/24	\$20,000
4	Submit a dam safety permit application to rehabilitate the dam, including a permit application fee of 2% of the total cost to rehabilitate the dam.	Six (6) months after completing milestone 3	\$20,000

3. The Board authorize the Chairperson to issue all fines for missed schedule milestones and require that the Owner pay all fines issued by the Chairperson within 30 calendar days of the fine being issued. In the event the Owner fails to pay fines within the time allotted, the Owner shall be fined an additional \$5,000 per day until the ordered fine amount is paid.
4. The Board authorize the Chairperson to administer future removal or rehabilitation schedule amendments/penalties associated with Ukumehame Reservoirs (MA-0140).

Respectfully submitted,



CARTY S. CHANG  
 Chief Engineer

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson  
 Board of Land and Natural Resources

- Exhibits: 1. Board order from 5/14/21 issuing fines and a remediation schedule.  
 2. Ukumehame Homeowners Association letter requesting extension (9/11/23).

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
ENGINEERING DIVISION  
DAM SAFETY PROGRAM  
Honolulu, Hawaii**

Approved by the Board of  
Land & Natural Resources  
At the meeting held on

May 14, 2021

05/14/21

**Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**Regarding:** Dam Safety Enforcement Action on Ukumehame Reservoirs (MA-0140) for Failure to Comply with Notice of Deficiency, February 18, 2020

**Dam Owner:** West Maui Investors, LLC (Faraz Daneshgar)  
c/o 3D Investments, LLC  
468 N. Camden Drive, #100  
Beverly Hills, CA 90210

**Location:** Waikapu, Maui County

**Tax Map Key:** (2) 4-8-002:066, (2) 4-8-002:015, (2) 4-8-002:017, (2) 4-8-002:027,  
(2) 4-8-002:064, (2) 4-8-002:118

**Re-Submittal of Enforcement Action**

At the April 9, 2021 Board meeting, the owner of the Ukumehame Reservoirs, the West Maui Investors, LLC (Owner), requested a contested case hearing. On April 14, 2021, the Owner withdrew their request by email (see Attachment A). Accordingly, the matter will be discussed at the May 14, 2021 Board meeting.

**Background of Dam**

Ukumehame Reservoirs are comprised of two interconnected rock lined reservoirs, Ukumehame No. 2 and Ukumehame No. 3, located at the downstream end of the Ukumehame Gulch watershed on the south side of the Island of Maui (see Figures 1 and 2). These reservoirs are regulated as one structure as they are operated as a twin reservoir facility. The original date of construction is unknown, however is believed to have been constructed in support of the sugar industry in the early 1900s. Ukumehame Reservoir No 1 is a small unregulated pond further up in the gulch from Reservoir No. 2. Residential dwellings are situated downstream of Reservoir No. 2 & 3, which prompts classifying these structures as a high hazard potential dam (as the dam's failure could result in a probable loss of human life).

The Ukumehame reservoirs 1, 2 and 3 have historically been utilized for storage of a small portion of the flow diverted from Ukumehame Gulch and distributed to farms and

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other uses including water supply to residential areas. Attachment B describes the diversions into the reservoirs.

Ukumehame Reservoir Nos. 2 and 3 physical data:

Construction:	Earthen embankment dams with rock lined reservoir
Dam No. 2 Height:	21 ft high
Volume:	18 acre-ft (6 million gallons)
Dam No. 3 Height:	29 ft high
Volume:	26 acre-ft (8.9 million gallons)

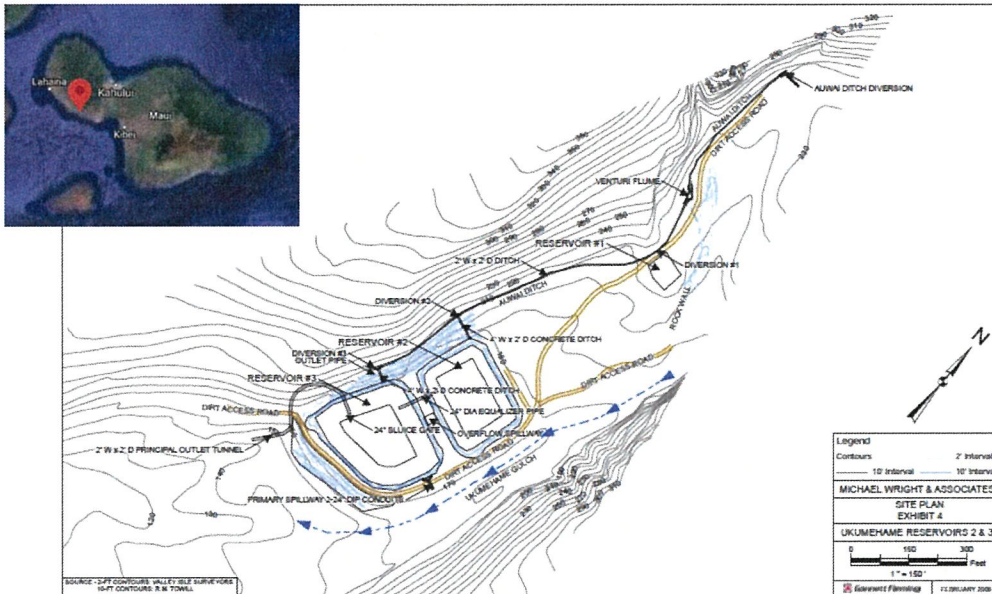


Figure 1. Map and aerial view of the Ukumehame Reservoirs.



Figure 2. Ukumehame Reservoirs No. 2 (left) and No. 3 (right). (2021)

Since 2008, four visual site inspections and a Phase 1 condition assessment have been conducted on the Ukumehame Reservoirs:

- DLNR visual inspections in 2008, 2011, 2013, and 2015.
- Gannett Fleming (Owner's Consultant) – Phase 1 Condition Assessment in 2009.

### **Primary Safety Issues**

Two primary safety issues exist at the dam facility:

1. A large flowing seep (estimated 30-50 gallons per minute), on the downstream slope of the dam from Reservoir 3 (figure 3). If allowed to persist, the seep could develop into a more serious problem and eventually cause a piping failure of the dam.
2. The spillways for both Reservoir Nos. 2 and 3 are undersized to handle a Probable Maximum Flood (PMF) of 15,161 cfs from Ukumehame Gulch. The Reservoirs would be overtopped during a PMF storm event.



Figure 3. Seepage at the downstream face of Reservoir 3.

### **Enforcement Actions & Owner's Response**

June 20, 2008, DNLR sent a letter directing the owner to immediately reduce the water level in Reservoir No.3 until the seep on the downstream slope stopped. The owner lowered the water level in the reservoir, and in a letter (April 13, 2009) notified the DLNR that Gannett Fleming had been retained to study the seepage and provide recommendations. In the April 2009 Condition Assessment Report performed by

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 Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
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Gannett Fleming, it was determined that Ukumehame Reservoirs would be overtopped by 0.1 feet during a 100 Year Storm event and “overwhelmed” by a PMF event.

DLNR worked with the owner and their consultant on the approval of a dam safety permit to remove the structure. A dam safety permit was approved by the DLNR Land Board and issued on November 14, 2017. (See the approved Dam Safety Permit No. 77 in Attachment C.) Subsequent to the issuing the permit, DLNR dam safety staff is not aware of any further action to initiate the construction of the removal work.

On February 18, 2020, the DLNR issued a Notice of Deficiency (NOD) (see Attachment D) to the Owner indicating the dam was in POOR overall condition and a threat to public safety due to one or more physical / operational conditions and deficiencies. As a HIGH Hazard Potential structure, the facility is required to pass the Full PMF with adequate freeboard as defined in HAR §13-190.1. The NOD required the Owner to comply with the remediation schedule summarized in Table 1, below.

To date, DLNR has not received a response to the 2020 NOD. However, in a meeting with DLNR staff on December 21, 2020, the Owner indicated their intent to send a letter to the DLNR on the Owner’s plans and situation and to officially respond to the 2020 NOD. The Owner also expressed a willingness to install a water level monitoring system and to begin submitting monthly monitoring reports. The Owner requested contact information from the USGS, who installs and maintains such systems. (See the meeting notes in Attachment E.) DLNR has not received any new information from the Owner since the December 21, 2020 meeting.

A summary and status of the NOD action items is provided in Table 1.

No.	Deadline	Item	Current Status
1	4/01/2020	Contract with a Consultant to complete engineering evaluation of deficiencies.	Completed. The Owner contracted Gannett Fleming to complete the necessary studies and designs to submit a permit application package in 2016.
2	5/30/2020	Install Water Level Monitoring System.	The Owner has failed to install a level monitoring system.
3	8/30/2020	Submit Technical Studies.	Completed. Design report prepared by Gannett Fleming submitted to DLNR.
4	8/30/2021	Submit Dam Safety Permit Application.	Dam Safety Permit No. 77 for removal issued on 11/14/2017.



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 Failure to Comply with Notice of Deficiency, February 18, 2020

			Alterations to this permit scope or new design application submittal due.
5	8/30/2022	Start Construction.	Construction not started.
6	Monthly	Keep and maintain the reservoir empty under normal conditions.  Submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage and other pertinent information to the Department.	The Owner has kept the reservoirs empty but has failed to submit monthly monitoring reports.

Table 1. Summary and status of the action items from the February 18, 2020 NOD.

**Staff Recommendations**

DLNR has informed the Owner of the deficiencies and the regulatory requirements in multiple reports and notices dating back to 2008. However, the Owner has not followed through on permanent resolution of the dam safety issues, they have not installed a water level monitoring system, and has failed to keep the Department informed of any status of the facility as requested. Accordingly, DLNR is recommending enforcement action by issuing fines as discussed below and summarized in Attachment F.

Pursuant to Hawaii Revised Statutes (HRS) §179D and Hawaii Administrative Rules (HAR) §13-190.1, the DLNR staff recommends the Board of Land and Natural Resources find the Owner of the Ukumehame Reservoirs (MA-0140), the West Maui Investors, LLC, in violation of HRS §179D-6(b)(17) for failing to adopt remedial measures as ordered by in the February 18, 2020 Notice of Deficiency Letter and subject to the following enforcement actions/penalties:

1. The West Maui Investors, LLC is fined \$5,000 for failing to install a water level monitoring system on the reservoir by DLNR deadline of 5/30/2020, pursuant to HRS §179D-6(b)(17).
2. The West Maui Investors, LLC is fined \$5,000 for failing to submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage, and other pertinent information to the DLNR on a monthly basis, pursuant to HRS §179D-6(b)(17).
3. The West Maui Investors, LLC shall pay all fines (total \$10,000) within sixty (60) days of the date of the Board's action.

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4. In the event the West Maui Investors, LLC fails to comply with the Board order to pay fines within the time allotted, the West Maui Investors, LLC shall be fined an additional \$5,000 per day until the ordered fine amount is paid.

Pursuant to HRS §179D-6(b)(17), the West Maui Investors, LLC shall be required to comply with the following actions by the deadlines shown:

Within ninety (90) calendar days of the date of the Board's action:  
Install Water Level Monitoring System - a fully functional, real-time reservoir water level gage with the readings accessible on the internet.

Within thirty (30) calendar days of the date of the Board's action:  
Submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage, and other pertinent information to the DLNR by email at [dlnr.en.fcds@hawaii.gov](mailto:dlnr.en.fcds@hawaii.gov).

By August 30, 2021, the West Maui Investors, LLC shall submit an application for a new design or alterations to the previously issued Dam Safety Permit No. 77 to remove the dam; or shall provide DLNR with a project schedule to complete the construction as approved in Dam Safety Permit No. 77. The project schedule shall include deadlines for submittal of proof of construction award and a notice to proceed with construction.

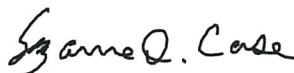
By August 30, 2022, the West Maui Investors, LLC shall start construction on the dam safety improvements (as stated in the 2020 Notice of Deficiency) and shall complete construction by November 14, 2022 (as required in Dam Safety Permit No. 77 general conditions).

Respectfully submitted,



CARTY S. CHANG  
Chief Engineer

Approved for Submittal:



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

ATTACHMENTS:

- A Email from Daniel Byron, dated April 14, 2021, withdrawing Contested Case Hearing request from April 9, 2021 for Ukumehame Reservoirs
- B Flow Diversions from the Ukumehame Gulch into Ukumehame Reservoirs 1, 2, and 3
- C Approved Dam Safety Permit No. 77, issued November 14, 2017 Ukumehame Reservoirs (MA-0140) Dam Removal, Maui, Hawaii
- D Notice of Dam Safety Deficiency, issued February 18, 2020
- E Meeting Notes for Meeting on December 21, 2020 Between Ukumehame Reservoirs' Owners and DLNR Staff
- F Ukumehame Summary Sheet and Scorecard

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

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**ATTACHMENT A**

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Email from Daniel Byron, dated April 14, 2021, withdrawing Contested Case Hearing  
request from April 9, 2021 for Ukumehame Reservoirs (MA-0140)

**Subject:** [EXTERNAL] Ukumehame (West Maui Investors, LLC) - DLNR Board Meeting on April 9, 2021

**Date:** Wednesday, April 14, 2021 at 8:15:26 AM Hawaii-Aleutian Standard Time

**From:** Daniel Byron

**To:** Koyamatsu, Tony

**CC:** Mark Lane, Keoni Fursse

Tony,

On behalf of West Maui Investors, LLC, I would like to withdraw the contested case request that I made during the DLNR Board Meeting on April 9, 2021. I would like our issue originally on the April 9, 2021 agenda to be placed on the agenda for the DLNR Board Meeting in May 2021.

Please let me know if you have any questions or concerns.

**Thank you,**

**Daniel F. Byron II**

Director of Asset Management

3D Investments, LLC

468 N. Camden Drive, Suite 300

Beverly Hills, CA 90210

TEL: (310) 276-1290 x110 *office*

TEL: (323) 528-6493 *cell*

Email: [dbyron@3dinvestments.com](mailto:dbyron@3dinvestments.com)

CalBRE: #01414248

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

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**ATTACHMENT B**

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Flow Diversions from the Ukumehame Gulch into Ukumehame Reservoirs 1, 2, and 3

## Flow Diversion

The following describes how a portion of the Ukumehame Gulch flow is diverted to the Ukumehame Reservoirs, as shown in Figure 5 below.

1. A portion of the Ukumehame Gulch flow is intercepted and captured by a concrete diversion structure 1,000 feet north of Reservoir No. 2. A gate valve controls the flow into a narrow earthen ditch along the west side of the Ukumehame Gulch valley. The ditch passes through a flow measuring Venturi flume 380 feet south of the diversion structure.
2. The first diversion from this ditch is 525 feet south of the diversion structure. It diverts a portion of the flow to Reservoir No. 1 through a 16-inch pipe. A concrete block in the ditch divides the flow into Reservoir No.1 and flow into the downstream irrigation ditch conveying flow to Reservoirs No. 2 and 3.
3. The second diversion from the irrigation ditch sends flow into the northwest corner of Reservoir No. 2. This is accomplished through the use of stop logs in front of a rectangular concrete flume.
4. The third diversion from the irrigation ditch similarly sends flow into the northwest corner of Reservoir No. 3. This is also accomplished through the use of stop logs in front of a rectangular concrete flume.
5. An 8-inch outlet pipe takes remaining flow (that has not been diverted into Reservoir Nos. 1, 2 and 3) south to provide usable water for showers and other uses for the residential property south of Reservoir No. 3.

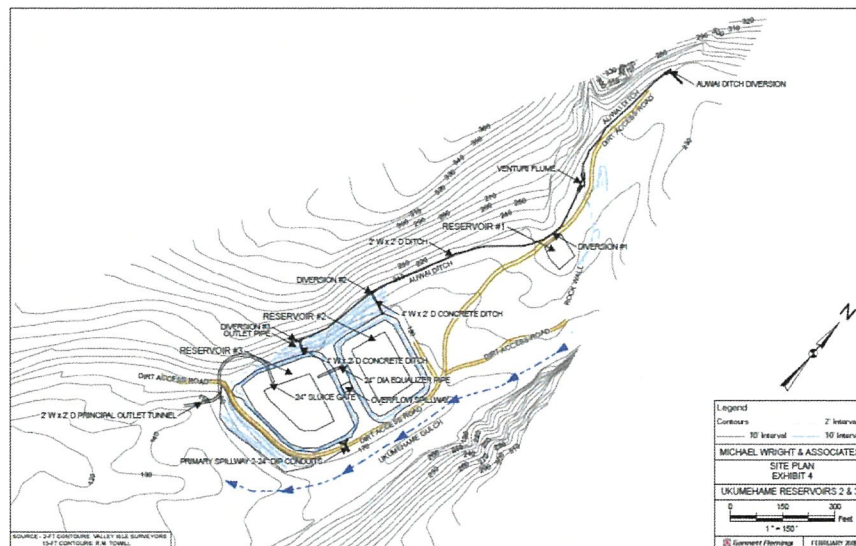


Figure 5. Plot plan. Source: Gannett Fleming Condition Assessment Report, April 2009.

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

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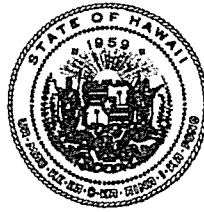
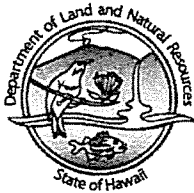
**ATTACHMENT C**

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Approved Dam Safety Permit No. 77, issued November 14, 2017  
Ukumehame Reservoirs (MA-0140) Dam Removal, Maui, Hawaii



DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**NOV 14 2017**

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Mr. Matthew S. Balven  
Gannett Fleming, Inc.  
3838 N. Central Ave., Suite 1900  
Phoenix, Arizona 85012

Dear Mr. Balven:

**UKUMEHAME RESERVOIR (MA-0140)**  
**DAM SAFETY PERMIT NO. 77**  
**DAM REMOVAL, MAUI, HAWAII**

Your permit application submitted, on January 19, 2016, for the Ukumehame Reservoir (MA-0140) – Dam Removal, has been examined and approved subject to the attached dam safety permit general conditions and the following special conditions:

1. The dam shall be removed in accordance with the approved plans and specifications as indicated on the following chart:

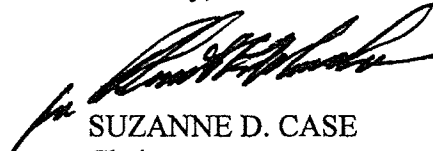
Plan Sheet(s)	Plan Date	Revision Date
Ukumehame Reservoirs Nos. 2 & 3 Dam Removal and Grading Plan Sheets G-01 to G-04, V-01, D-01, C-01, C-02, EC-01, EC-02	October 2017	N/A

2. Gannett Fleming Inc., or the owner's representative will ensure photos are submitted to the State Historic Preservation Division (SHPD) documenting the installation of the temporary protective measures (fencing) along the archaeological preservation buffers; identified as Buffer Areas 5 and 6 (as recorded in final plan, Subdivision file No. 4.876) prior to initiating other construction activities (Reference: SHPD log No. 2016.01884 and Doc No. 1710SL01).
3. The Department of Land and Natural Resources (Department) reserves the right to suspend or revoke this permit approval upon, either a finding of violation of any of the stipulated conditions or a determination of a threat to public health and safety from factors which may arise in the future.

4. The owner shall operate and maintain the dam and reservoir in accordance with Hawaii Revised Statutes, Chapter 179D, until the dam removal work is complete and receives final release from the Department.
5. The issuance of this permit does not create any liability on the part of the Department, its officers or any employee thereof for any damage that results from reliance on this permit.

If you have any questions, please call Mr. Carty Chang, Chief Engineer of the Engineering Division, at (808)587-0230.

Sincerely,



SUZANNE D. CASE  
Chairperson

Attachments

c: Mr. Mark Lane, Owner  
Mr. Stewart Vaghti, Gannett Fleming Inc.

## DAM SAFETY PERMIT GENERAL CONDITIONS

### APPROVAL OF PLANS AND SPECIFICATIONS FOR DAM AND RESERVOIR CONSTRUCTION, ENLARGEMENT, REPAIR, ALTERATION OR REMOVAL

The following General Conditions shall be adhered to for all Dam Safety permits unless otherwise authorized in writing.

1. Actual construction, enlargement, repair, alteration or removal shall be completed within 5 years of issuance of the permit application approval unless an extension authorized in writing by the Board is issued.
2. Prior to the start of work the owner or applicant shall provide a construction engineer to ensure compliance with the approved plans and specifications and who shall have ultimate responsibility for the supervision of all inspection tasks. The construction engineer may assign some inspection tasks to a duly authorized agent under the construction engineer's supervision. The engineer shall be licensed in the State of Hawaii.
3. The construction engineer shall maintain a record of construction that at a minimum, shall include, daily activity, and progress reports, all test results pertaining to construction; photographs sufficient to provide a record of foundation conditions and various stages of the construction through completion, all geologic information obtained; and construction problems and remedies.
4. A construction quality assurance plan shall be prepared and submitted to the Department for approval prior to the start of construction, which details the minimum requirements of the construction engineer's observation of construction.
5. A construction schedule, which includes the notice to proceed date and estimated project duration and a construction emergency action plan shall be submitted prior to the preconstruction meeting.
6. A preconstruction meeting shall be held subsequent to submitting the quality assurance plan, construction schedule and construction emergency action plan, but not later than 14 days prior to the start of construction. All parties actively involved in the construction should be requested to attend, such as the dam owner, the design engineer, the construction engineer, the contractor and the Department.
7. The Department shall be notified 5 calendar days prior to the commencement of construction.
8. Any changes from the approved plans and specifications shall be approved by the design engineer and a change order, including details and supporting calculations, must be provided to the Department. Major changes must be submitted in writing with supporting documentation and approved in writing by the Department. No work shall be initiated until the approval by the Department or Board is received. Minor changes may be transmitted verbally and approved by the Department verbally provided that documentation of the change is provided to the Department within 10 days of the approval.

9. For new dam construction and for dams and reservoirs that have lowered the water level or have been drained to facilitate construction, the construction engineer shall file and obtain approval of a filling plan with the Department. The applicant/owner shall not proceed with the filling of the reservoir until it receives permission from the Department. The construction engineer shall provide documentation of monitoring during the filling operation.
10. Prior to the filling of the reservoir, the construction engineer shall submit one copy each of the approved Operations Manual and the approved Emergency Action Plan for the facility upon completion of the project as applicable.
11. The construction engineer shall give the Department at least ten days advanced notice of initial materials placement of the dam's foundation, in the cutoff trench, outlet backfill, outlet foundation, and any appurtenance requested by the Department in the approval of the plan for construction observation, to allow for observation by the Department.
12. Notice of substantial completion shall be issued by the construction engineer to the Department stating that the permitted improvements are functionally complete such that filling of the reservoir can be initiated with an approved filling plan.
13. The construction engineer shall give the Department fifteen (15) calendar days advance written notice prior to the project's final construction inspection. The construction engineer shall coordinate with the Department to conduct this inspection in the presence of the Department's dam safety personnel.
14. The construction engineer shall provide notice at least ten (10) days prior to initiating filling the reservoir, unless agreed at the final inspection.
15. If conditions are revealed which will not permit the construction, enlargement, repair, alteration, or removal of a safe dam or reservoir, the application for approval for construction, enlargement, repair, alteration, or removal shall be revoked.
16. A topographic survey of completed work including all monuments, inverts, crest alignment, spillways, and significant appurtenant features, when required by the Department shall be completed.
17. The applicant/owner shall utilize appropriate erosion control best management practice measures during construction to minimize turbidity (such as scheduling of work during period of low stream flow) and prevent debris and construction materials, including concrete, petroleum products, and other pollutants from enter the waters of the State. Construction related water and debris should be properly disposed of in a legal and environmentally safe manner and in accordance with the Department of Health and other Federal regulations.
18. The applicant/owner shall submit a copy of the dam safety application and the plans and specifications of the proposed improvements to the County Engineer of the County for which the dam resides for compliance with County codes.
19. Within fifteen (15) calendar days of completing the project, the applicant/owner or its representative shall provide the Department with a confirmation letter of compliance, signed and stamped by the construction engineer, indicating that the construction

was completed in accordance to approved plans and specifications including any field changes. The construction engineer shall submit the remaining construction completion documents which may include, but not be limited to, as-constructed drawing, final construction report, topographic survey, record of the location of permanent monuments, log of recorded water levels and other readings from the refilling operation, long-term instrumentation monitoring plan, and affidavit showing the actual cost of construction including engineering costs, within 60 calendar days of the submittal of the final construction inspection.

20. Construction completion documents and the construction engineer's certification shall be provided to the Department within 60 days of the final construction inspection. The Department will review the submitted items and furnish acceptance or denial within 60 days of receipt of satisfactorily completed construction completion documents and close out the dam safety permit.
21. This permit does not relieve the applicant/owner of their obligations to comply with all applicable Federal, State, and County regulations.
22. In the event that historic resources; including human skeletal remains, structural remains, cultural deposits, or sand deposits are identified during construction activities, cease work in the vicinity of the find, protect the find from any disturbance, and contact the State Historic Preservation Division at (808) 243-1285.
23. Compliance with Hawaii Revised Statutes 179D, and Hawaii Administrative Rules 13-190.1.

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Engineering Division  
Honolulu, Hawaii 96813

October 27, 2017

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**APPROVE ISSUANCE OF A DLNR DAM SAFETY PERMIT AND AUTHORIZE  
REMOVAL OF DAM FROM DLNR REGULATORY OVERSIGHT  
PERMIT NO. 77 – UKUMEHAME RESERVOIRS (MA-0140)  
DAM REMOVAL, MAUI, HAWAII**

The Department of Land and Natural Resources (Department), Engineering Division (Division) hereby submits an application for your approval and authorization for the Chairperson and Department to stipulate conditions and issue a Dam Safety Permit for the subject application, "Ukumehame Reservoirs (MA-0140) - Dam Removal", pursuant to Chapter 179D Hawaii Revised Statutes and Administrative Rules, Chapter 13-190.1.

APPLICANT:

Mr. Matthew S. Balven  
Gannett Fleming  
3838 N. Central Ave., Suite 1900  
Phoenix, AZ 85012

OWNER CONTACT:

Mr. Mark Lane  
Uka, LLC (West Maui Investors)  
468 N. Camden Drive, Suite 300  
Beverly Hills, CA 90210

**Approved by the Board of  
Land & Natural Resources  
at the meeting held on  
OCT 27 2017**

SUMMARY OF REQUEST:

Dam Safety Permit Application for the removal of the Ukumehame Reservoirs, Maui, Hawaii, See Exhibit 1.

LOCATION: Maui, Hawaii, TMK: (2) 4-8-002: 015, 017, 027, 064, 066, 118 See Exhibit 2.

BACKGROUND:

Ukumehame Reservoirs consists of 2 reservoirs. Ukumehame Reservoirs Nos. 2 & 3 are earthen embankment reservoirs constructed along the west side of Ukumehame Gulch on the island of Maui, Hawaii. The total storage capacity of the reservoirs is 35 acre-feet (11.4 million gallons). The reservoirs have not been utilized for water supply to downstream users for many years. The dams are believed to have been constructed from onsite excavated material; however, details about the date of construction and materials used are not available. Reservoir Nos. 2 & 3 are separated by an approximately 30-foot wide earthen embankment. Reservoir No. 2 discharges into Reservoir No.

3 by way of both an uncontrolled concrete emergency spillway and a 24-in equalizer pipe within this embankment. The Reservoir No. 3 emergency spillway is located along the eastern edge of Reservoir No. 3 and discharges uncontrolled into Ukumehame Gulch. The Reservoir No. 3 principal outlet is located along the western edge of the reservoir and is a 24-in x 24-in box conduit, which is controlled at the upstream end by a sluice gate that is currently not operational. Inflow into Reservoir Nos. 2 & 3 comes primarily from the Auwai Ditch, which diverts flow from Ukumehame Gulch approximately 1,000 feet north of Reservoir No. 2. This diversion is controlled by a manually operated gate valve. Auwai Ditch is an earthen and concrete-lined ditch approximately 24-in x 24-in. Each of the two Ukumehame Reservoirs has an independent diversion from Auwai Ditch to control inflows and small contributing watersheds to the north and northwest. In June 2008, an inspection of the dam revealed a high velocity seepage flow, estimated to be greater than 100 gallons per minute (gpm) above the toe on the south side of Reservoir #3. DLNR ordered the owner to lower the reservoir to such a level that seepage from the lower embankment has ceased or is flowing below 20 gpm. Since then, Reservoir #2 was drained and Reservoir #3 was kept at approximately 8 foot level (gage height), which is 10 feet below the normal water level.

PROJECT DESCRIPTION:

The reservoirs will be removed by the removal of the embankment with a bottom width of 20 feet and a side slope of 2H:1V. This will result in a 200-foot-long channel spanning the distance from the original reservoir bottom to the natural gulch downstream. This “new” channel will be lined with grouted riprap to provide erosion control. The completion of this repair will result in lowering the effective height and volume capacity of the dam such that it will fall below the requirements that satisfy the definition of a dam, pursuant to Hawaii Revised Statutes Chapter 179D. The owner of the development will be responsible for the maintenance of the structure after the removal of the embankments. See Exhibit 3

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The project is entirely on privately owned lands and does not trigger the requirement for completion of an environmental assessment. See Exhibit 4 for evaluation

HAWAII REVISED STATUTES CHAPTER 6E-8 HISTORIC PRESERVATION REVIEW

The Division consulted with the State Historic Preservation Division (SHPD) for compliance with the Chapter 6E-8 requirements. A review of SHPD records indicates that the only historic property identified within the current project area is Site 50-50-0804438, an irrigation ditch slated for preservation, but still in operational use by residents living the Ukumehame Gulch. The dam removal proposal follows protective measures as stipulated in the preservation plan, which will include installation of orange construction fencing to identify a 10-foot buffer zone from the ditch. Based on available information, SHPD’s determination is **no historic properties affected** for the proposed project. SHPD stipulates the following:

- (1) Gannett Fleming Inc., will ensure photos are submitted to SHPD documenting the installation of the temporary protective measures (fencing) along the archaeological preservation buffers identified as Buffer Area 5 and 6 (as recorded in final plan, Subdivision file No. 4.876) prior to initiating other construction activities. Also, the requirement will be added to the plans or specifications (**This is in the construction specification Sheet G-04 under General Notes #23**);
- (2) DLNR Dam Safety includes stipulation #1 in the permit conditions (**Stipulation #1 will be in the special conditions in the Dam Safety Permit**); and

- (3) The following is attached to the permit: *In the event that historic resources; including human skeletal remains, structural remains, cultural deposits, or sand deposits are identified during construction activities, cease work in the vicinity of the find, protect the find from any disturbance, and contact the State Historic Preservation Division at (808) 243-1285. (This note is in the Dam Safety Permit General Conditions note #22)*  
See Exhibit 5 and 7.

AGENCY CONSULTATION:

The Division sent out notices to various agencies for their comments on this application. A compilation of the comments from the agencies are posted on Exhibit 6.

REMARKS:

The applicant has completed a basis of design, plans and specification and requests for the approval of a dam safety permit. The Department and its engineering consultant, Kleinfelder West, Inc. has reviewed the documents and concluded that it is sufficient for its intended purposes. The subject reservoirs are off stream, fed by a diversion ditch. The reservoir storage was used to irrigate sugar and pineapple fields and since the closing of sugar and pineapple plantation, water storage in the reservoir has not been used for many years and the ditch was modified by the owner replacing it with an 8-inch HDPE pipe diverting the water directly to current downstream users. /This modified feed satisfies the need of downstream users without the use of stored water from the reservoirs. A 2-inch HDPE line tees off from the 8-inch pipe to supply water to the taro patch situated upstream of the reservoirs. The hydrologic analysis provided by the design engineer, Gannett Fleming, shows the peak inflows during the 100-year, 24-hour storm into Reservoir Nos. 2 & 3 are 62.3 cfs. and 104.5 cfs., respectively. The peak 100-year, 24-hour flow within Ukumehame Gulch is 7,696 cfs. Under existing conditions, this entire flow is contained within the gulch and does not overtop into the reservoirs. The breach is designed to discharge into Ukumehame Gulch at the southeastern corner of Reservoir No. 3. This location and geometry of the breach are designed to reduce diverse impacts to the downstream channel and properties. The design accomplishes this because it maintains historic flow patterns by discharging directly into the gulch and directs discharges away from the downstream residence. Staff recommends approval of this permit application.

SPECIAL CONDITONS:

1. Gannett Fleming Inc. or the owner's representative will ensure photos are submitted to SHPD documenting the installation of the temporary protective measures (fencing) along the archaeological preservation buffers identified as Buffer Area 5 and 6 (as recorded in final plan, Subdivision file No. 4.876) prior to initiating other construction activities

RECOMMENDATIONS:

That the Board:

1. Approve and authorize the issuance of the Dam Safety permit for this project.
2. Authorize the Chairperson to issue a Dam Safety Permit for the Ukumehame Reservoirs (MA-0140), removal (DLNR Dam Safety Permit No. 77) subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

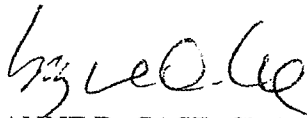


3. Authorize the Department to oversee performance of the permitted work and take appropriate action including but not limited to selecting and procuring testing or professional services to verify the integrity of the construction work, approval of minor revisions and changes, issuance of fines and/or revocation of the permit, if necessary.
4. Authorize the Department to remove this dam from dam safety regulatory oversight and the requirements of Hawaii Revised Statutes Chapter 179D, upon satisfactory completion of the construction project and Dam Safety Permit Conditions.

Respectfully submitted,

  
CARTY S. CHANG  
Chief Engineer

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson  
Department of Land and Natural Resources

- Exhibit(s):
1. Owner Permit Application
  2. Location Maps
  3. Construction Drawing pages
  4. Chapter 343 Environmental Assessment Review
  5. HRS Chapter 6E-8 Review
  6. Agency Consultation
  7. General permit conditions

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES  
Department of Land and Natural Resources  
Engineering Division

DAM SAFETY PERMIT  
APPLICATION FOR APPROVAL OF PLANS AND SPECIFICATIONS FOR CONSTRUCTION,  
ENLARGEMENT, REPAIR, ALTERATION, OR REMOVAL OF A DAM

Date of Application: 1/19/2016

Applicant:  
Contact Name: Matthew S. Balven Firm / Company: Gannett Fleming

Mailing Address 3838 N. Central Ave., Suite 1900, Phoenix, AZ 85012

Telephone: 602-553-8817 Fax: 602-553-8816 Email: mbalven@gfnet.com

The Applicant hereby applies to the Board of Land and Natural Resources for the approval of the attached plans and specification for the Ukumehame Reservoir Removal (construction, etc.) in accordance with Chapter 179D HRS (as amended by Act 262, SLH 2006), and subject to the provisions, conditions, and limitations of the current Hawaii Administrative Rules and various DLNR dam safety guidelines.

Accompanying this application are:

(please check)

- |   |                   |
|---|-------------------|
| 1. Filing fee equal to 2% of the Detailed Cost Estimate + Eng costs w/ calculation (to be submitted by owner) | <u>X</u>          |
| 2. Two (2) copies of the Detailed Cost Estimate   | <u>X</u>          |
| 3. Two (2) copies of the Final Design Report  | <u>X</u>          |
| 4. Two (2) copies of the Plans  | <u>X</u>          |
| 5. Two (2) copies of the Specifications   | <u>(on Plans)</u> |
| 6. Proposed Construction Schedule   | <u>X</u>          |
| 7. Supporting documents:  | <u>X</u>          |
| 8. One (1) electronic copy of all the above   | <u>X</u>          |
| _____   | _____             |
| _____   | _____             |
| _____   | _____             |

NAME OF STRUCTURE: Ukumehame Reservoir Nos. 2 & 3 Removal, NatID HI00140 (StateID MA-0140)

DAM OR RESERVOIR LOCATION: Latitude: -156.5871, Longitude: 20.8099

Island: Maui Tax Map Key: (2) 4-8-002: 015, 017, 027, 064, 066, 118

Attach USGS topographic map (scale 1" = 2000') and property tax map (showing location access to site, proposed work)

State Land Use District: X Agriculture      Urban      Rural      Conservation

BRIEF DESCRIPTION OF WORK TO BE PERFORMED

Removal of Ukumehame Reservoirs 2 & 3 by breaching.

TECHNICAL INFORMATION:

1. Drainage Area 0.024 sq. miles or 15.4 acres
2. Classification of Dam (Hazard/Size) High Hazard
3. Type of Structure Earthen Embankment
4. Elevation-Area-Capacity Data:

	Elevation	Surface Area (acres)	Total Storage Volume (acre-feet)
Natural Streambed	NA	NA	NA
Primary Spillway	171.7 ft	~2	35
Secondary Spillway	NA	NA	NA
Top of Dam	174.0 ft	2.3	44
Design Water Level	Unknown		
Invert of Drain	Unknown		
5. Spillway Details (Type, Dimensions, Material) (for Ukumehame Res. 3)  
Primary: Ungated concrete structure, 4 cells, 5' wide x 2.5' high (total 20' x 2.5')  
Secondary: NA
6. Purpose of Structure Irrigation  
(water supply, irrigation, recreation, real estate development, etc.)
7. Attach rainfall and stream flow records, and flood-flow records and estimates (as accurately as may be readily obtained)

ADDITIONAL INFORMATION

1. Primary Owner Contact (if different from applicant) Mark Lane  
Owner Company or Entity: Uka, LLC (West Maui Investors)  
Mailing Address 468 N. Camden Dr., Ste 300, Beverly Hills, CA 90210  
Telephone: 310-276-1290 Fax: \_\_\_\_\_ Email: \_\_\_\_\_
2. Registered Hawaii Professional Engineer who prepared the plan Stewart Vaghti, PE  
Mailing Address 3838 N. Central Ave, Suite 1900, Phoenix, AZ 85012  
Registration No. \_\_\_\_\_  
Telephone: 602-553-8817 Fax: 602-553-8816 Email: svaghti@gfnet.com
3. Registered Professional Engineer to be responsible for inspection during construction \_\_\_\_\_  
Stewart Vaghti, PE
4. Contractor (If known) Unknown  
Mailing Address \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_
5. List all other permits applications submitted to other governmental agencies:  
\_\_\_\_\_  
\_\_\_\_\_
6. Anticipated effect of proposed structure on natural environment: Limited effect expected,  
small drainage area previously impounded will now flow into Ukumehame Gulch.

DLNR-Dam Safety-Sheet 3

7. List all other parties that have ownership or other interest on the parcels where the dam and reservoir are located and identify their interest in the property. The Owners herein listed below concur with the work proposed within this application by the applicant and by his/her signing hereto, the owner of the land extends to the Board of Land and Natural Resources, and its designated representatives, a right-of-entry onto the project site to conduct any investigations or inspections required in compliance with the provisions of Chapter 13-190.1, Hawaii Administrative Rules. (Submit additional copies of this sheet should there be more owners)

<u>Joseph Daneshgar, Manager</u> (Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)
(Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)
(Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)
(Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)
(Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)
(Printed Name & Signature of Owner)	_____
_____	(Address / TMK/Interest in Dam or Reservoir)

I, Matthew S. Balven, the applicant, hereby certify that the information herein is true and factual to the best of my knowledge. Signing below indicates that the applicant understands that, if the permit requested is granted by the Board of Land and Natural Resources, the proposed work is to be initiated and completed within five (5) years of the approval date, unless specifically permitted in the approved permit terms and conditions.

  
(Signature of Applicant & Title)                      Date: January 19, 2016



Ukumehame Reservoirs

Parcel: 480021180000 Acres: 55.64

Name:	UKA LLC	Land Value	\$779,000.00
Site:	0 UKUMEHAME	Building Value	\$0.00
Sale:	488 N CAMDEN DR STE 300	Misc Value	\$0.00
Mail:	BEVERLY HILLS CA 90210	Just Value	\$0.00
		Assessed Value	\$779,000.00
		Exempt Value	\$0.00
		Taxable Value	\$779,000.00

The Maui County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER MAUI COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS. —THIS IS NOT A SURVEY.—

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

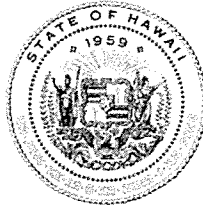
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**ATTACHMENT D**

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Notice of Dam Safety Deficiency, issued February 18, 2020

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Feb 18, 2020

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Faraz & Joseph Daneshgar  
West Maui Investors, LLC  
c/o 3D Instruments, LLC  
468 N. Camden Drive #100  
Beverly Hills, CA 90210

Ms. Janie Kramer  
Property Manager  
Commercial Properties of Maui Management, Inc.  
1962B Wells Street  
Wailuku, HI 96793

**Certified Mail**

Dear Messrs. Daneshgar & Ms. Kramer:

**UKUMEHAME RESERVOIRS (MA-0140), MAUI, HAWAII  
NOTICE OF DAM SAFETY DEFICIENCY**

The subject regulated dam/reservoir has been classified to be in a poor overall condition and a threat to public safety due to one or more physical / operational conditions and deficiencies identified by the Department of Land and Natural Resources (Department). This Notice of Dam Safety Deficiency supersedes the conditions stipulated in previously issued notice of deficiencies.

The subject facility is classified as a High Hazard Potential dam, as failure could jeopardize the lives of the downstream public. As a High Hazard Potential structure, the facility is required to pass the Full PMF (Probable Maximum Flood) with adequate freeboard as defined by HAR Chapter 13-190.1. The April 2009 Condition Assessment Report performed by your consultant Gannett Fleming, determined that Ukumehame Reservoirs would be overtopped by 0.1 feet during the 100 Year Storm event and "overwhelmed" by the PMF event.

Pursuant to Hawaii Revised Statutes (HRS) 179D-6, you are required to take the following remediation, and maintenance and monitoring actions, by the deadlines indicated:

1. **Remediation Schedule:**

**By 4/1/2020:**

- a. **Contract with Consultant:** Engage the services of a qualified consultant in dam-related work to complete an engineering evaluation of the deficiencies at the subject facility. Provide the consultant name, contact phone number and firm name to the Department by this date.

**By 5/30/2020:**

- b. **Install Water Level Monitoring System:** Install a real-time reservoir water level gage with the readings accessible on the internet.

**By 8/30/2020:**

- c. **Submit Technical Studies:** Submit reports to document compliance with HAR §13-190.1-4. Submit topography map, Hydrologic/Hydraulic studies, stability analysis and/or other applicable reports required to support the proposed improvements.

**By 8/30/2021:**

- d. **Submit Dam Safety Permit Application:** Submit a complete dam safety permit application package (HAR §13-190.1-20) to bring your facility into compliance with HAR §13-190.1-4

**By 8/30/2022:**

- e. **Start Construction:** Start any required Construction of the Dam Safety Permit improvements.

2. **Owner Maintenance and Monitoring:**

- f. Keep and maintain the reservoir empty under normal conditions.  
g. Submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage and other pertinent information to the Department's Dam Safety Program via email. Monthly reports shall be due by the first week of the next month. The initial report is due the first month following receipt of this notice.

Email reports to: [dlr.en.fcfs@hawaii.gov](mailto:dlr.en.fcfs@hawaii.gov)

Failure to comply with the Remediation and Maintenance and Monitoring actions by the indicated deadlines may result in penalties and other actions by the Board of Land and Natural Resources pursuant to HRS § 179D-6 and 8 and HAR § 13-190.1-5. Please contact Jesse Colandrea of my Engineering Division staff at (808) 587-0277 should you have any questions regarding this matter.

Sincerely,



SUZANNE CASE  
Chairperson



Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

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**ATTACHMENT E**

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Meeting Notes for Meeting on December 21, 2020  
Between Ukumehame Reservoirs' Owners and DLNR Staff



# MEETING NOTES

## Ukumehame Reservoir Status Update Meeting

Date: Monday, December 21, 2020

Time: 10:00-11:00 am

Meeting Coordinator: Tony Koyamatsu, DLNR

Attendees: Daniel Byron, Ukumehame Water Association  
 Mark Lane, Ukumehame Water Association  
 Keoni Fursse, Kokua Realty  
 Edwin Matsuda, DLNR  
 Kristen Akamine, DLNR  
 Tony Koyamatsu, DLNR

Conference Bridge: 808-451-0217, ID 612419

### Agenda

- |   |  |  |
|---|--|--|
| 1 | Status for dam relative to DLNR Notice-of-Deficiency (NOD) Letter of 2/18/20 | <ul style="list-style-type: none"> <li>• Current plan for dam</li> <li>• Water level gage</li> <li>• Engineering studies</li> <li>• Permit application timeline</li> <li>• Construction timeline</li> <li>• Monthly reports</li> </ul> |
|---|--|--|

- |   |             |
|---|-------------|
| 2 | Other items |
|---|-------------|

### Discussion

1. Current Plans for the Dam.
  - a. The Ukumehame Water Association (UWA) took over as the formal owner for the Ukumehame Reservoir from the former owner, West Maui Investors. Pending funding availability, UWA plans to modify the Ukumehame Reservoir and reduce its capacity to bring it to a non-jurisdictional size dam. A permit was approved by the BLNR in Oct 2017 to remove the dam by lowering the effective height and volume capacity. However, UWA currently lacks the financial resources to proceed with construction, and has concerns that this is the only source of water for the downstream agriculture community. UWA acknowledged that the approved permit requires that construction be initiated within 5 years



of permit approval. UWA is seeking federal and state grants to fund their dam and well projects. DLNR will investigate and inform UWA of grant opportunities. (DLNR recommends that UWA reach out to the DLNR Commission on Water Resource Management (CWRM) – Drought Mitigation Program)

- b. UWA discussed a past CWRM ruling that reduced its ability to draw water from the Ukumehame Stream from 1.8 mgd to 45,000 gal/day, which has impacted their ability to develop a majority of their 46 lots. Accordingly, UWA has contracted consultant Tom Nance to assist with water resource plans. UWA wants to install new water supply wells as an alternate water source for its land users, but UWA also does not have sufficient funds for the wells.
  - c. The Ukumehame Reservoir lower reservoir currently remains empty and the upper reservoir is close empty at the 2-3 ft level. Ongoing seepage conditions prevents the reservoirs from retaining more than current levels, as stipulated in last DLNR Notice of Deficiency.
2. Engineering Studies. UWA has not conducted any engineering studies since Gannett Fleming was contracted to prepare the permit package approved in 2017.
  3. Water Level Gage. DLNR described a water level monitoring system used by other dam owners, which communicates real-time water level via satellite for on-line accessible data. The system is battery powered and recharged by photovoltaic panels. UWA is open to installing such a system and requested more information. DLNR will email UWA a contact at the USGS who installs and maintains such a system.
  4. Permit Application and Construction Timelines. See item 1.a. above.
  5. Response to NOD Letter. By 12/31/20, UWA will prepare a letter formally responding to the DLNR NOD letter from 2/18/20. UWA will also affirm the ownership change from West Maui Investors and provide new contact information for the dam.
  6. Monthly Reports required by the NOD were not discussed. (DLNR will email UWA to remind UWA of the requirement to submit monthly reports via email to [dlnr.en.fcds@hawaii.gov](mailto:dlnr.en.fcds@hawaii.gov)).

**Action Items**

No.	Item	Owner	Status
1.	Provide USGS contact information to UWA for installation of water level monitoring systems.	DLNR	Completed, 1/7/21.
2.	By 12/31/20, send letter to DLNR, responding to NOD letter from 2/18/20. The letter will also affirm the ownership change and provide new contact information.	UWA	
3.	Submit future monthly reports via email to <a href="mailto:dlnr.en.fcds@hawaii.gov">dlnr.en.fcds@hawaii.gov</a> .	UWA	

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

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**ATTACHMENT F**

Ukumehame Summary Sheet and Scorecard





# UKUMEHAME HOMEOWNERS ASSOCIATION, INC.

September 11, 2023

Mr. Tony Koyamatsu  
Flood & Dam Safety  
Department of Land and Natural Resources  
State of Hawaii

Subject: Ukumehame Reservoirs (MA-0140)  
Dam Safety Construction/Alteration Permit No. 77  
Ukumehame, Maui, Hawaii  
Tax Map Key: (2) 4-8-002: 015, 017,027, 064, 118

Dear Mr. Koyamatsu:

On behalf of Ukumehame Homeowners Association, Inc. (the "HOA"), I write to amend our extension request letter dated July 28, 2023, which responds to Chair Chang's letter dated July 18, 2023. I enclose those letters for your reference. Before I amend our extension request, I explain our understanding of the Ukumehame Reservoirs.

Ukumehame 2 and Ukumehame 3 (together, the "Ukumehame Reservoirs") are connected rock lined reservoirs that were built in the early 1990s. At some point, West Maui Investors, LLC, a California-based company, acquired the Ukumehame Reservoirs dam structure. West Maui Investors, LLC relied on a property management company on Maui to operate and maintain the dam. Despite the property management company's efforts to operate and maintain the dam, the dam structure fell into disrepair and was, on a date unknown, assessed as being "High Hazard." On another date unknown, the Ukumehame Reservoirs were issued an "Unsatisfactory" overall condition rating, which indicated that the dam required immediate remediation action.

On October 27, 2017, the BLNR approved the issuance of Dam Safety Permit No. 77 to West Maui Investors, LLC to remove the dam structure. West Maui Investors, LLC did not remove the dam.

On May 14, 2021, the BLNR fined West Maui Investors, LLC for failing to install a water level monitoring system and submit monthly monitoring reports. The BLNR also ordered West Maui Investors, LLC to keep the Ukumehame Reservoirs empty and start and complete removal of the dam by August 30, 2022 and November 14, 2022, respectively. West Maui Investors, LLC paid the fines and installed the water level monitoring system, but it did not initiate removal of the dam.

In September 2021, West Maui Investors, LLC submitted its application for a grading permit for the dam's removal.

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C/O KOKUA REALTY  
161 WAILEA IKE PLACE, STE. B-101  
WAILEA, HI 96753

On October 28, 2022, West Maui Investors, LLC explained to BLNR that it had yet to obtain the requisite grading permit from the County. West Maui Investors, LLC represented that it would start and complete construction to remove the dam by March 31, 2023 and July 31, 2023, respectively. BLNR approved of the new deadlines, issued a fine for failing to start construction by August 30, 2022, and authorized the Chairperson to make a finding of violation and issue automatic penalties of \$10,000 for each missed new deadline.

By letter dated July 18, 2023, Chair Chang issued a \$10,000 fine for failure to start construction to remove the dam by March 31, 2023. Payment is due by September 18, 2023. Questions regarding the order are to be directed to you.

Since receiving Chair Chang's letter, we have been actively communicating with you to address the dam. In our letter dated July 28, 2023, we explained that until recently, the HOA had been controlled by the developer of the subdivision. Those individuals resigned, and owners were appointed as directors.

Our new Board investigated and learned that a consultant had been hired to prepare and submit plans to the County, including grading plans, to start the decommissioning process. Our new Board also learned that the grading permit application remained under review with all departments having provided comments/approvals, except for the County Planning Department. Because we remained without a grading permit and could not complete removal by the July 31, 2023, deadline, we requested an eight month extension to March 31, 2024 to complete the work.

Following further conversations with you, by e-mail dated August 30, 2023, the Engineering Division agreed to put our extension request on the BLNR agenda. Our extension request is set to be heard at the October 13, 2023, BLNR meeting.

We continued to pursue the grading permit application, but because the County Planning Department has not submitted its comments/approvals, the permit has yet to issue. Any comments that the County Planning Department may have will need to be addressed, which could mean more time before the permit is issued. Due to the delay in obtaining the permit, the current HOA Board of Directors has informed the contractor that had been previously assisting with acquiring the permit that we will be putting the work out to bid to obtain the most cost-effective contractor based on current material and labor costs. This will also add time before work can commence.

Recognizing that the new Board are not the actors who failed to meet the deadlines and that our control over the issuance of the grading permit is limited, we respectfully request that we be given an extension of twelve months from the time of the BLNR hearing date. The Ukumehame Reservoirs have been and will remain empty.

While our request is pending before the BLNR and during the extension period if granted, we are considering addressing the dam by rehabilitating it rather than removing it. The recent fires have highlighted the need for stored water for fire prevention, suppression and control. We will continue



to evaluate whether rehabilitation is feasible as we continue to pursue the grading permit for the decommissioning of the dam. We will provide updates as our evaluation progresses.

Our new Board is committed to addressing the dam, whether by removal or rehabilitation, as expeditiously as possible. We have reviewed the project history with our 45 homeowners to discuss and determine how the HOA will fund the work. It is a significant financial undertaking for our 45 homeowners, but we recognize the importance and urgency of the issue and will push towards resolution.

We are grateful for your assistance. Should you have any questions or require additional information, please contact Mark Matsuda at (808) 871-8424.



Peter Martin  
President  
Ukumehame Homeowners Association

Enclosures

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

Jul 18, 2023

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

LAURA H.E. KAAKUA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**VIA CERTIFIED MAIL**

**John Makhani**

TMKs: See Enclosure  
A.V. Foothills, LLC  
c/o Paradise Holdings, LLC  
22160 Ventura Boulevard  
Los Angeles, CA 91364

**Angelo Canella Meagan Perkins**

TMK: 4-8-002-089-0000  
4550 Wieuca Road Northeast  
Atlanta, GA 30342

**Benny Martin**

TMK: 4-8-002-094-0000  
TCB Hawaii Personal Property Protection Trust  
139 Ponohu Lane #2  
Lahaina, Hawaii 96761

**Christopher &  
Ashly Ferreira Morales**  
TMK: 4-8-002-108-0000  
433 Lihi Street  
Kahului, Hawaii 96732

**Danny Pakravan**  
TMK: 4-8-002-101-0000  
3131 Antelo Road  
Los Angeles, CA 90077

**Heidi Helen & Christopher Howe**  
TMK: 4-8-002-097-0000  
383 Pohaku Aeko Street  
Lahaina, Hawaii 96761

**Terry Lewison**  
TMK: 4-8-002-084-0000  
Highlands Group, LLC  
5095 Napili Hau St. #130  
Lahaina, Hawaii 96761

**Howard Kihune**  
TMK: 4-8-002-092-0000  
620 Ehehene Street  
Lahaina, Hawaii 96761

**David York**  
TMKs: See Enclosure  
Kona Crown Holdings  
17350 W Sunset Blvd #303C  
Pacific Palisades, CA 90272

**Mehran Shayefar**  
TMK: 4-8-002-083-0000  
10880 Wilshire Blvd #1101  
Los Angeles, CA 90024

**Mehrdad Shayefar**  
TMK: 4-8-002-104-0000  
10880 Wilshire Blvd #1101  
Los Angeles, CA 90024

**Nikolaus Nielsen**  
TMK: 4-8-002-091-0000  
2450 S. Kihei Road #401  
Kihei, Hawaii 96753

**Kevin Peterson**  
TMK: 4-8-002-105-0000  
Northpoint Commercial Credit  
100 Washington Ave. S,  
Ste 1530  
Minneapolis, MN 55401

**Rosie Ochoa**  
TMK: 4-8-002-086-0000  
Sacre Blu, LLC  
1110 N. Brand Blvd #101  
Glendale, CA 91202

**Joseph Daneshgar**  
TMK: See Enclosure  
Samuka, LLC  
468 North Camden Drive  
Beverly Hills, CA 90210

**Sandra & John  
Duvauchelle**  
TMK: 4-8-002-078-0000  
P.O. Box 1169  
Wailuku, Hawaii 96793

**Stephen/Lucinda Fisher  
Joint Trust**  
TMK: 4-8-002-079-0000  
1903 Koae Place  
Wailuku, Hawaii 96793

**Peter Martin**  
TMK: See Enclosure  
Ukumehame Holding, LLC  
305 East Wakea Ave, Ste 100  
Kahului, Hawaii 96732

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Ukumehame Homeowners Association  
Jul 18, 2023  
Page Two of Two

**Zuhair Tamimi**  
TMK: 4-8-002-117-0000  
P.O. Box 792142  
Paia, Hawaii 96779

Dear Madams and Sirs:

Ukumehame Reservoirs (MA-0140), Maui  
Notice of Dam Safety Enforcement Action  
Penalty for Missing Construction Start Deadline

In accordance with HRS §179D-6(b)(17), on October 28, 2022, under agenda item L-2, the Board of Land and Natural Resources ("Board") approved an extension request for the dam owner of the Ukumehame Reservoirs (MA-0140), which included new deadlines to start and complete construction work to remove the dam, as well as fines for missing the deadlines (see Enclosure 1). The remediation schedule required the dam owner to start construction to remediate the dam on March 31, 2023. As of the date of this letter, construction to remove the Ukumehame Reservoirs has not started.

Accordingly, a fine of \$10,000.00 is being issued to the dam owner, Ukumehame Homeowners Association, and is due within sixty (60) days of the date of this letter. Payment can be made in the form of a check, payable to the "State of Hawaii" and mailed to the following address:

State of Hawaii  
Dept of Land and Natural Resources  
Engineering Division  
Attention: K. Akamine  
P.O. Box 373  
Honolulu, HI 96809

Enclosure 2, for reference, is a list of the members of the Ukumehame Homeowners Association and the property tax map key parcel numbers for each member.

Should there be any questions, please contact Mr. Tony Koyamatsu of the Engineering Division staff at [tony.koyamatsu@hawaii.gov](mailto:tony.koyamatsu@hawaii.gov) should you have questions regarding this matter.

Sincerely,



DAWN N.S. CHANG  
Chairperson

Enclosures

**ENCLOSURE 1**

10/28/22

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Engineering Division  
Honolulu, Hawaii 96813

October 28, 2022

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**REQUEST AUTHORIZATION FOR THE CHAIRPERSON TO ISSUE FINES, TO  
EXTEND THE NOTICE OF DEFICIENCY DEADLINES, AND MAKE A FINDING OF  
VIOLATIONS SUFFICIENT TO SUPPORT SPECIFIED FINES ON THE OWNERS IF  
EXTENDED DEADLINES ARE MISSED FOR  
UKUMEHAME RESERVOIRS (MA-0140) REMOVAL  
WAIKAPU, MAUI**

**Tax Map Keys (2) 4-8-002:066, (2) 4-8-002:015, (2) 4-8-002:017,  
(2) 4-8-002:027, (2) 4-8-002:064, (2) 4-8-002:118**

SUMMARY

The Department of Land and Natural Resources (“Department”) requests the Board of Land and Natural Resources (“Board”) fine the West Maui Investors, LLC (“Owner”) \$5,000 for failing to start construction to remove the Ukumehame Reservoirs (MA-0140) by the Board ordered deadline of August 30, 2022. Further, the Department recommends the Board authorize the Chairperson to extend the deadlines to start and complete construction to remove the Ukumehame Reservoirs and to make a finding of violation sufficient to support additional fines in the event the Owner misses the new deadlines.

BACKGROUND

Built in the early 1900s, the Ukumehame Reservoirs are comprised of two interconnected rock lined reservoirs, Ukumehame No. 2 and Ukumehame No. 3, located at the downstream end of the Ukumehame Gulch watershed on the south side of the Island of Maui. The water from the reservoirs have historically been used for irrigation. The dam structures are owned by West Maui Investors, LLC, who is based in California. They rely on a property management company on Maui to operate and maintain the dam. The following is a summary of the Ukumehame Reservoirs dam structure:

Hazard Potential:	High Hazard potential dam.
Population at Risk:	Uncertain.
Structures at Risk:	Two existing structures are in the direct flow path of a dam failure; also in the flow path are multiple parcels, planned for future development; 0.35 miles of the Honoapiiilani Highway, which is a major thoroughfare for West Maui; see the Pacific Disaster Center

inundation map (Figure 1) for the reservoirs.

Overall Condition: Poor.  
DLNR Restriction: The reservoirs are to be kept EMPTY from May 14, 2021.  
Dam Embankment: Earthen.  
Dam Height: 29 feet.  
Dam Length: 770 feet.  
Maximum Storage: 14.3 million gallons.

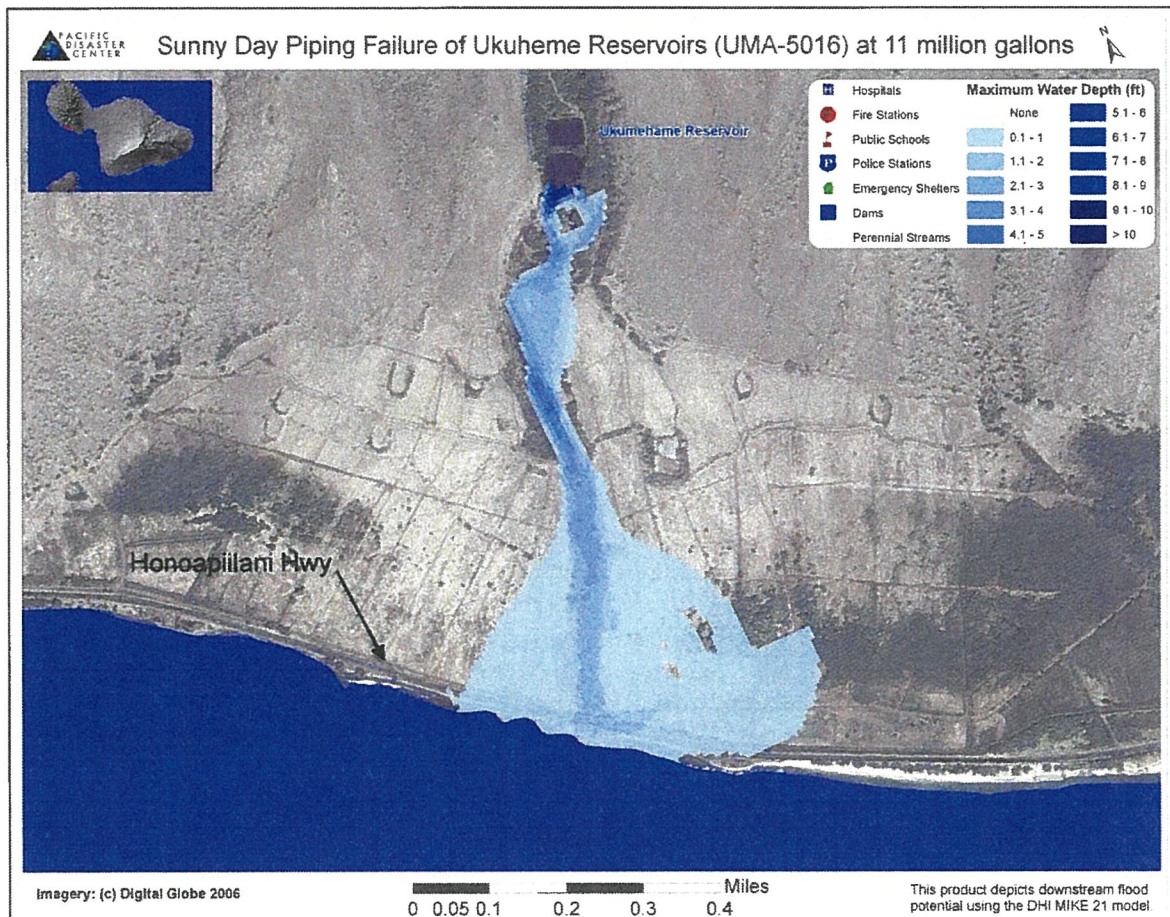


Figure 1. Ukumehame Reservoirs inundation map from the Pacific Disaster Center (2011).

On October 27, 2017, the Board approved issuance of Dam Safety Permit No. 77 to the Owner to remove the dam structure. However, since being issued the permit, the Owner has not initiated construction to remove the dam.

### PRIMARY SAFETY ISSUES

The Ukumehame Reservoirs have an UNSATISFACTORY overall condition rating, which is the lowest rating possible and indicates the dam requires immediate remediation action. The major issues contributing to the UNSATISFACTORY rating, which continue to persist, are as follows:

1. A significant seepage area on the downstream slope and crest, which could progress to an internal erosion failure.

2. The spillways in both reservoirs are undersized and could result in an overtopping failure in a significant storm event.
3. The outlet works pipe on Reservoir 3 was restricted with silt and access to the outlet works operator was inaccessible, creating risk of not being able to draw down the reservoir.

### RECENT BOARD ACTION

On May 14, 2021, the Board fined the Owner \$5,000 for failing to install a water level monitoring system and \$5,000 for failing to submit monthly monitoring reports. (See Enclosure 1.). The Board also ordered the Owner to start and complete construction to remove the dam by August 30, 2022 and November 14, 2022, respectively. The Owner paid the fines and installed a water level monitoring system by the due date, but has not started construction by the August 30, 2022 deadline.

### DISCUSSION

The Owner has not started construction because they failed to obtain the necessary County grading permit to begin construction. The Owner claims the County has had the Owner's permit application for more than a year, which was submitted in September 2021 to the County, but issues with the County's new electronic permitting system has delayed the permit processing and issuance.

The Owner proposes starting construction in March 2023 and completing construction in June 2023 but does not provide a basis for the timeline. That is, the Owner has not provided a timeline for when they expect to receive the necessary County permits and approvals to allow construction to begin.

The Department believes the Owner is ultimately responsible for obtaining necessary permits to start construction on-schedule. Accordingly, Department believes the Owner should be held accountable for the missed deadlines and the consequences.

### RECOMMENDATION

1. The Department recommends the Board issue a \$5,000 fine to the Owner for failing to start construction to remove the Ukumehame Reservoirs (MA-0140) by the Board ordered deadline of August 30, 2022.
2. The Department further recommends the Board authorize the Chairperson to extend the Owner's deadlines for construction as follows:
  - a. By March 31, 2023, the Owner shall start construction on the Ukumehame Reservoirs removal as described in Dam Safety Permit No. 77. The start of construction is defined as performing grading and excavation work on site.
  - b. By July 31, 2023, the Owner shall complete construction on the dam removal. As required in the Dam Safety Permit General Conditions, completion of the project shall be documented with a confirmation letter of compliance, signed, and stamped by the

construction engineer, indicating that construction was completed in accordance with the approved plans and specifications. The confirmation letter shall be issued by the July 31, 2023 due date.

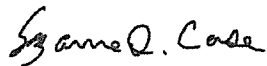
3. In the event the Owner fails to meet the deadlines in item 2 to start and complete construction, the Department recommends the Board authorize the Chairperson to make a finding of violation and to issue automatic penalties in the amount of \$10,000 for each missed deadline.
4. Owner will pay all fines issued by the Chairperson within 60 calendar days of the fine being issued. In the event the Owner fails to pay fines within the time allotted, the Owner shall be fined an additional \$5,000 per day until the ordered fine amount is paid.

Respectfully submitted,



CARTY S. CHANG  
Chief Engineer

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Enclosure 1

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
ENGINEERING DIVISION  
DAM SAFETY PROGRAM  
Honolulu, Hawaii

Approved by the Board of  
Land & Natural Resources  
At the meeting held on

May 14, 2021

05/14/21

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**Regarding:** Dam Safety Enforcement Action on Ukumehame Reservoirs (MA-0140) for Failure to Comply with Notice of Deficiency, February 18, 2020

**Dam Owner:** West Maui Investors, LLC (Faraz Daneshgar)  
c/o 3D Investments, LLC  
468 N. Camden Drive, #100  
Beverly Hills, CA 90210

**Location:** Waikapu, Maui County  
**Tax Map Key:** (2) 4-8-002:066, (2) 4-8-002:015, (2) 4-8-002:017, (2) 4-8-002:027,  
(2) 4-8-002:064, (2) 4-8-002:118

**Re-Submittal of Enforcement Action**

At the April 9, 2021 Board meeting, the owner of the Ukumehame Reservoirs, the West Maui Investors, LLC (Owner), requested a contested case hearing. On April 14, 2021, the Owner withdrew their request by email (see Attachment A). Accordingly, the matter will be discussed at the May 14, 2021 Board meeting.

**Background of Dam**

Ukumehame Reservoirs are comprised of two interconnected rock lined reservoirs, Ukumehame No. 2 and Ukumehame No. 3, located at the downstream end of the Ukumehame Gulch watershed on the south side of the Island of Maui (see Figures 1 and 2). These reservoirs are regulated as one structure as they are operated as a twin reservoir facility. The original date of construction is unknown, however is believed to have been constructed in support of the sugar industry in the early 1900s.

Ukumehame Reservoir No 1 is a small unregulated pond further up in the gulch from Reservoir No. 2. Residential dwellings are situated downstream of Reservoir No. 2 & 3, which prompts classifying these structures as a high hazard potential dam (as the dam's failure could result in a probable loss of human life).

The Ukumehame reservoirs 1, 2 and 3 have historically been utilized for storage of a small portion of the flow diverted from Ukumehame Gulch and distributed to farms and



Board of Land and Natural Resources  
 Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
 Failure to Comply with Notice of Deficiency, February 18, 2020

other uses including water supply to residential areas. Attachment B describes the diversions into the reservoirs.

Ukumehame Reservoir Nos. 2 and 3 physical data:

Construction:	Earthen embankment dams with rock lined reservoir
Dam No. 2 Height:	21 ft high
Volume:	18 acre-ft (6 million gallons)
Dam No. 3 Height:	29 ft high
Volume:	26 acre-ft (8.9 million gallons)

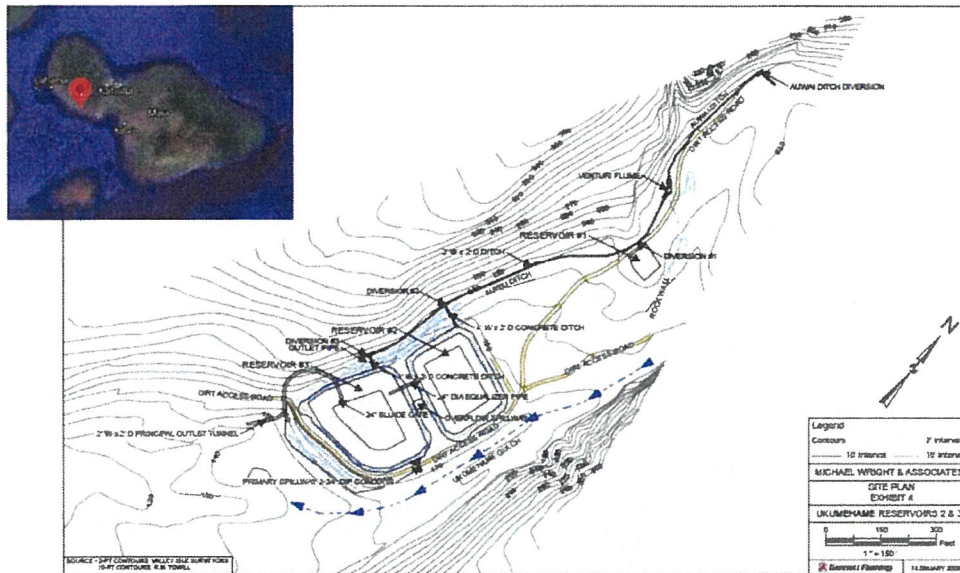


Figure 1. Map and aerial view of the Ukumehame Reservoirs.



Figure 2. Ukumehame Reservoirs No. 2 (left) and No. 3 (right). (2021)

Since 2008, four visual site inspections and a Phase 1 condition assessment have been conducted on the Ukumehame Reservoirs:

- DLNR visual inspections in 2008, 2011, 2013, and 2015.
- Gannett Fleming (Owner's Consultant) – Phase 1 Condition Assessment in 2009.

### **Primary Safety Issues**

Two primary safety issues exist at the dam facility:

1. A large flowing seep (estimated 30-50 gallons per minute), on the downstream slope of the dam from Reservoir 3 (figure 3). If allowed to persist, the seep could develop into a more serious problem and eventually cause a piping failure of the dam.
2. The spillways for both Reservoir Nos. 2 and 3 are undersized to handle a Probable Maximum Flood (PMF) of 15,161 cfs from Ukumehame Gulch. The Reservoirs would be overtopped during a PMF storm event.



Figure 3. Seepage at the downstream face of Reservoir 3.

### **Enforcement Actions & Owner's Response**

June 20, 2008, DNLR sent a letter directing the owner to immediately reduce the water level in Reservoir No.3 until the seep on the downstream slope stopped. The owner lowered the water level in the reservoir, and in a letter (April 13, 2009) notified the DLNR that Gannett Fleming had been retained to study the seepage and provide recommendations. In the April 2009 Condition Assessment Report performed by

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

Gannett Fleming, it was determined that Ukumehame Reservoirs would be overtopped by 0.1 feet during a 100 Year Storm event and "overwhelmed" by a PMF event.

DLNR worked with the owner and their consultant on the approval of a dam safety permit to remove the structure. A dam safety permit was approved by the DLNR Land Board and issued on November 14, 2017. (See the approved Dam Safety Permit No. 77 in Attachment C.) Subsequent to the issuing the permit, DLNR dam safety staff is not aware of any further action to initiate the construction of the removal work.

On February 18, 2020, the DLNR issued a Notice of Deficiency (NOD) (see Attachment D) to the Owner indicating the dam was in POOR overall condition and a threat to public safety due to one or more physical / operational conditions and deficiencies. As a HIGH Hazard Potential structure, the facility is required to pass the Full PMF with adequate freeboard as defined in HAR §13-190.1. The NOD required the Owner to comply with the remediation schedule summarized in Table 1, below.

To date, DLNR has not received a response to the 2020 NOD. However, in a meeting with DLNR staff on December 21, 2020, the Owner indicated their intent to send a letter to the DLNR on the Owner's plans and situation and to officially respond to the 2020 NOD. The Owner also expressed a willingness to install a water level monitoring system and to begin submitting monthly monitoring reports. The Owner requested contact information from the USGS, who installs and maintains such systems. (See the meeting notes in Attachment E.) DLNR has not received any new information from the Owner since the December 21, 2020 meeting.

A summary and status of the NOD action items is provided in Table 1.

No.	Deadline	Item	Current Status
1	4/01/2020	Contract with a Consultant to complete engineering evaluation of deficiencies.	Completed. The Owner contracted Gannett Fleming to complete the necessary studies and designs to submit a permit application package in 2016.
2	5/30/2020	Install Water Level Monitoring System.	The Owner has failed to install a level monitoring system.
3	8/30/2020	Submit Technical Studies.	Completed. Design report prepared by Gannett Fleming submitted to DLNR.
4	8/30/2021	Submit Dam Safety Permit Application.	Dam Safety Permit No. 77 for removal issued on 11/14/2017.

Board of Land and Natural Resources  
 Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
 Failure to Comply with Notice of Deficiency, February 18, 2020

			Alterations to this permit scope or new design application submittal due.
5	8/30/2022	Start Construction.	Construction not started.
6	Monthly	Keep and maintain the reservoir empty under normal conditions.  Submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage and other pertinent information to the Department.	The Owner has kept the reservoirs empty but has failed to submit monthly monitoring reports.

Table 1. Summary and status of the action items from the February 18, 2020 NOD.

**Staff Recommendations**

DLNR has informed the Owner of the deficiencies and the regulatory requirements in multiple reports and notices dating back to 2008. However, the Owner has not followed through on permanent resolution of the dam safety issues, they have not installed a water level monitoring system, and has failed to keep the Department informed of any status of the facility as requested. Accordingly, DLNR is recommending enforcement action by issuing fines as discussed below and summarized in Attachment F.

Pursuant to Hawaii Revised Statutes (HRS) §179D and Hawaii Administrative Rules (HAR) §13-190.1, the DLNR staff recommends the Board of Land and Natural Resources find the Owner of the Ukumehame Reservoirs (MA-0140), the West Maui Investors, LLC, in violation of HRS §179D-6(b)(17) for failing to adopt remedial measures as ordered by in the February 18, 2020 Notice of Deficiency Letter and subject to the following enforcement actions/penalties:

1. The West Maui Investors, LLC is fined \$5,000 for failing to install a water level monitoring system on the reservoir by DLNR deadline of 5/30/2020, pursuant to HRS §179D-6(b)(17).
2. The West Maui Investors, LLC is fined \$5,000 for failing to submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage, and other pertinent information to the DLNR on a monthly basis, pursuant to HRS §179D-6(b)(17).
3. The West Maui Investors, LLC shall pay all fines (total \$10,000) within sixty (60) days of the date of the Board's action.

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

4. In the event the West Maui Investors, LLC fails to comply with the Board order to pay fines within the time allotted, the West Maui Investors, LLC shall be fined an additional \$5,000 per day until the ordered fine amount is paid.

Pursuant to HRS §179D-6(b)(17), the West Maui Investors, LLC shall be required to comply with the following actions by the deadlines shown:

Within ninety (90) calendar days of the date of the Board's action:  
Install Water Level Monitoring System - a fully functional, real-time reservoir water level gage with the readings accessible on the internet.

Within thirty (30) calendar days of the date of the Board's action:  
Submit monthly monitoring reports including reservoir water level, photos of the water level at the staff gage, and other pertinent information to the DLNR by email at [dlnr.en.fcads@hawaii.gov](mailto:dlnr.en.fcads@hawaii.gov).

By August 30, 2021, the West Maui Investors, LLC shall submit an application for a new design or alterations to the previously issued Dam Safety Permit No. 77 to remove the dam; or shall provide DLNR with a project schedule to complete the construction as approved in Dam Safety Permit No. 77. The project schedule shall include deadlines for submittal of proof of construction award and a notice to proceed with construction.

By August 30, 2022, the West Maui Investors, LLC shall start construction on the dam safety improvements (as stated in the 2020 Notice of Deficiency) and shall complete construction by November 14, 2022 (as required in Dam Safety Permit No. 77 general conditions).

Respectfully submitted,



CARTY S. CHANG  
Chief Engineer

Approved for Submittal:



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Board of Land and Natural Resources  
Enforcement Action on Ukumehame Reservoirs (MA-0140) for  
Failure to Comply with Notice of Deficiency, February 18, 2020

ATTACHMENTS:

- A Email from Daniel Byron, dated April 14, 2021, withdrawing Contested Case Hearing request from April 9, 2021 for Ukumehame Reservoirs
- B Flow Diversions from the Ukumehame Gulch into Ukumehame Reservoirs 1, 2, and 3
- C Approved Dam Safety Permit No. 77, issued November 14, 2017 Ukumehame Reservoirs (MA-0140) Dam Removal, Maui, Hawaii
- D Notice of Dam Safety Deficiency, issued February 18, 2020
- E Meeting Notes for Meeting on December 21, 2020 Between Ukumehame Reservoirs' Owners and DLNR Staff
- F Ukumehame Summary Sheet and Scorecard

## UKUMEHAME HOMEOWNERS ASSOCIATION MEMBERS LIST

Unit	Owner/Company	POC	Address	Parcel TMK #
35	A. V. Foothills, LLC c/o Paradise Holdings, LLC	John Makhani	22160 Ventura Boulevard, Los Angeles, CA, 91364	4-8-002-107-0000
09	A. V. Foothills, LLC C/O Paradise Holdings, LLC	John Makhani	22160 Ventura Boulevard, Los Angeles, CA, 91364	4-8-002-081-0000
17	Angelo Canella Meagan Perkins		4550 Wieuca Road Northeast, Atlanta, GA, 30342	4-8-002-089-0000
22	Benny Martin TCB Hawaii Personal Property Protection Trust		139 Ponohu Lane #2, Lahiana, HI, 96761	4-8-002-094-0000
36	Christopher & Ashly Ferreira Morales		433 Lihl Street, KAHULUI, HI, 96732	4-8-002-108-0000
29	Danny Pakravan		3131 Antelo Rd, Los Angeles, CA, 90077	4-8-002-101-0000
25	Heidi Helen & Christopher Howe		383 Pohaku Aeko Street, Lahaina, HI, 96761	4-8-002-097-0000
12	Highlands Group, LLC	Terry Lewison	5095 Napilihau St #130, Lahaina, HI, 96761	4-8-002-084-0000
20	Howard Kihune		620 Ehehene Street, Lahaina, HI, 96761	4-8-002-092-0000
05	Kona Crown Holdings	David York	17350 W Sunset Blvd #303C, Pacific Palisades, CA, 90272	4-8-002-077-0000
10	Kona Crown Holdings	David York	17350 W Sunset Blvd #303C, Pacific Palisades, CA, 90272	4-8-002-082-0000
18	Kona Crown Holdings	David York	17350 W Sunset Blvd #303C, Pacific Palisades, CA, 90272	4-8-002-090-0000
11	Mehran Shayefar		10880 Wilshire Blvd #1101, Los Angeles, CA, 90024	4-8-002-083-0000
32	Mehrdad Shayefar		10880 Wilshire Blvd #1101, Los Angeles, CA, 90024	4-8-002-104-0000
19	Nikolaus Nielsen		2450 S. Kihei Road #401, Kihei, HI, 96753	4-8-002-091-0000
33	Northpoint Commercial Credit	Kevin Peterson	100 Washington Ave. S, Suite 1530, Minneapolis, MN, 55401 1110 N.	4-8-002-105-0000
14	Sacre Blu, LLC	Rosie Ochoa	Brand Blvd #101, Glendale, CA, 91202	4-8-002-086-0000
08	Samuka, LLC	Joseph Daneshgar	468 North Camden Drive, Beverly Hills, CA, 90210	4-8-002-080-0000
15	Samuka, LLC	Joseph Daneshgar	468 North Camden Drive, Beverly Hills, CA, 90210	4-8-002-087-0000
06	Sandra and John Duvauchelle		P.O. Box 1169, Wailuku, HI, 96793	4-8-002-078-0000
07	Stephen/Lucinda Fisher Joint Trust		1903 Koae Place, Wailuku, HI, 96793	4-8-002-079-0000
38	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-110-0000
39	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-111-0000
40	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-112-0000
01	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-009-0000
02	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-074-0000
03	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-075-0000
04	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-076-0000
13	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-085-0000

**UKUMEHAME HOMEOWNERS ASSOCIATION  
MEMBERS LIST**

Unit	Owner/Company	POC	Address	Parcel TMK#
16	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-088-0000
21	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-093-0000
23	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-095-0000
24	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-096-0000
26	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-098-0000
27	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-099-0000
28	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-100-0000
30	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-102-0000
31	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-103-0000
34	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-106-0000
37	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-109-0000
41	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-113-0000
42	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-114-0000
43	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-115-0000
44	Ukumehame Holding, LLC	Peter Martin	305 East Wakea Avenue, Suite 100, Kahului, HI, 96732	4-8-002-116-0000
45	Zuhair Tamimi		PO Box 792142, Paia, HI, 96779	4-8-002-117-0000



# UKUMEHAME HOMEOWNERS ASSOCIATION, INC.

July 28, 2023

Mr. Tony Koyamatsu  
Flood & Dam Safety  
Department of Land and Natural Resources  
State of Hawaii

Subject: Ukumehame Reservoir (MA-0140)  
Dam Safety Construction/Alteration Permit No. 77  
Ukumehame, Maui, Hawaii  
Tax Map Key: (2) 4-8-002: 015, 017,027, 064, 118

Dear Mr. Koyamatsu:

Thank you for speaking with Mark Matsuda about the challenges facing the Ukumehame Homeowners Association (HOA) in addressing the above dam. Until recently the HOA was controlled by the developer of the subdivision; when the developer's people resigned from the Board earlier this year, I and some other owners were appointed as directors. We've been working diligently to address many issues on which the developer dropped the ball. One of those issues is the above dam.

While we are still trying to put all the pieces together, we now understand that the HOA was to have started construction on March 31 and to have completed construction by July 31. That information was a big surprise to those of us who were recently appointed to the Board. It is obvious to us, and hopefully obvious to you, that we will not meet either of those deadlines as the permits needed to do the work haven't been issued by the County of Maui. We were able to determine that a consultant was hired to prepare and submit plans to the County, including grading plans, to start the decommissioning process. We also were able to confirm that the grading permit application is under review, with all Departments having provided comments / approvals except for the Maui County Planning Department.

Since we will not be able to meet the deadlines for construction, I'm writing to ask for a reasonable extension of the time needed to complete the Ukumehame Reservoir decommission project. We would greatly appreciate an eight month extension to complete the work. We believe that the additional time will allow our Board to review the project history with all owners, to discuss and determine how the HOA will fund the work, and to explore whether more cost effective options for addressing the condition of the reservoirs are available. I'm sure that you recognize this will be a huge financial undertaking for the homeowners of the subdivision. During the period of any extension, the HOA will keep the reservoirs out of service and unused.

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C/O KOKUA REALTY  
161 WAILEA IKE PLACE, STE. B-101  
WAILEA, HI 96753

We appreciate your consideration on the matter. Please let me know if you have any questions and whether we will be able to get an extension.

Thank you in advance for any courtesies that you can extend to our HOA.

A handwritten signature in blue ink, appearing to read "Peter Martin".

Peter Martin  
President  
Ukumehame Homeowners Association

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C/O KOKUA REALTY  
161 WAILEA IKE PLACE, STE. B-101  
WAILEA, HI 96753