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Plaintiff, pro se

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

SYDNEY ROSS SINGER )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MALAMA O PUNA; DEPARTMENT OF )  
 LAND AND NATURAL RESOURCES )  
 OFFICE OF CONSERVATION AND )  
 COASTAL LANDS (DLNR/OCCL); )  
 COUNTY OF HAWAII; U.S. DEPARTMENT )  
 OF FISH AND WILDLIFE; BIG ISLAND )  
 INVASIVE SPECIES COMMITTEE; )  
 HAWAII TOURISM AUTHORITY; DOE )  
 CORPORATIONS 1-100; DOE )  
 PARTNERSHIPS 1-100; DOE ENTITIES )  
 1-100; DOE INDIVIDUALS 1-100 )  
  
 Defendants.

CIVIL NO. 10-1-0036  
  
(Other Civil Action)  
  
AMENDED COMPLAINT AND PETITION  
FOR PRELIMINARY INJUNCTION AND  
PERMANENT INJUNCTION  
  
NO TRIAL DATE SET  
  
(Motion Filed February 16, 2010)  
  
JUDGE: HONORABLE GLEN S. HARA

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AMENDED COMPLAINT AND PETITION FOR

PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

Plaintiff, for a cause of action against the above-named Defendants, avers and alleges that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by a resident of the State of Hawaii and County of Hawaii as a private attorney general, and with the protection of the Hawaii Constitution Article XI Section 9 concerning Environmental Rights, and with the encouragement of HRS 344-10 promoting public involvement in the environmental decision making, to enjoin the Defendants from engaging in certain acts or practices in violation of Hawaii Rev. Stat. §§ 343 and Hawaii Administrative Rules (HAR) Chapter 11-200, relating to Hawaii's environmental protection laws, violating HRS 195D relating to endangered species protection, violating HAR, Sections 11-54-1.1 and 11-54-3 relating to water quality standards, violating HRS 149A relating to the Hawaii Pesticide Law, and to obtain other and additional relief.
2. This court has subject matter jurisdiction over this case pursuant to Hawaii Rev. Stat. §§ 480-21 and 603-21.5.
3. Defendant Malama of Puna, hereinafter referred to as MOP, is a private non-profit organization registered in Hawaii and operating in the County of Hawaii.
4. Big Island Invasive Species Committee, hereinafter referred to as BIISC, is a voluntary partnership of numerous Federal, State and County governmental departments and private interests, and has partnered with MOP and has been paid by MOP to assist in these actions.

5. All reference hereinafter to actions by MOP shall by implication also include BIISC.
6. All Doe Defendants are yet to be ascertained and may include corporations, partnerships, entities or individuals or their agents or representatives where-ever situated and shall be revealed to other named Defendants as their identities are discovered by Plaintiff.
7. MOP is currently poisoning mangroves at several sites on the Island of Hawaii and leaving the poisoned trees to rot and decay in place as an eradication project against mangrove trees.
8. In early 2009, MOP conducted a mangrove eradication project at Wai 'Opae Marine Life Conservation District (MLCD) using herbicide to poison and kill approximately 20 acres of mangrove trees and leave them to rot in place.
9. The eradication by using poison at Wai 'Opae MLCD was a test for the use of herbicide to kill mangroves at other sites on the Big Island.
10. The other sites to be poisoned by MOP are Honokohau harbor, approximately 4.5 mi. north of Kailua-Kona on west coast of the Big Island of Hawaii (Kona district), with approximately 1 acre of mangroves; Onekahakaha, 4 miles southeast of Hilo and is in an area managed by the County of Hawaii as a beach park (Hilo District), and has 4 acres of mangroves; Paki Bay, 17 miles southeast of Hilo and 9 miles east of Keaau, HI (Puna District), with 3 acres of mangroves; and Poho'iki (Isaac Hale Beach Park), located approximately 26 miles southeast of Hilo and 7 miles east of Pahoia (Puna District), with 7 acres of mangroves.
11. To date, all the mangroves at Paki Bay has been poisoned and are rotting in place. One to two acres of mangroves at Pohoiki have also already been poisoned.
12. The sites being poisoned by MOP are all shoreline land as defined by HRS 205A . (See Exhibits A,B and C)

13. The areas being poisoned constitute sensitive environmental areas pursuant to HAR 11-200-08 and HAR 11-200-12.
14. These sites are used by the public and by the Plaintiff for swimming, surfing, boating, and/or other ocean activities.
15. No environmental assessment (EA) has been done for these eradications of mangroves by poisoning pursuant to Hawaii Rev. Stat. §§ 343 and 195D and Hawaii Administrative Rules (HAR) Chapter 11-200.
16. No water quality testing is being done to determine the environmental impacts of this poisoning of the mangrove trees and leaving them to rot in place.
17. According to a July, 2009 review by the Institute of Pacific Island Forestry of the mangrove poisoning performed in 2009 at Wai 'Opae Marine Life Conservation District, the poisoning of the mangroves has negatively impacted native fish populations.
18. According to their report (See Exhibit D), “Results demonstrated that mangroves provide habitat for both native and exotic fish. Eradication of mangroves reduced densities of native fish, but not exotic fish.
19. The report continues, “Furthermore, fish data from this project revealed that invasive mangroves may be providing important habitat for native fish species.”
20. Current observation conducted by the Plaintiff of the Wai 'Opae Marine Life Conservation District reveals large pieces and branches of dead mangrove trees in the shoreline water/tidepools, posing a threat to swimmers, snorkelers, and bathers in violation of County of Hawaii permit conditions and of HAR 11-54-4(a)2. (See Exhibits E1-E3.)
21. Current observation conducted by the Plaintiff of the Wai 'Opae Marine Life Conservation

District reveals water contamination in the area where mangroves have been poisoned in violation of HAR 11-54-1.1(a) and HAR 11-54-4(a)2, which poses a threat to human health, endangered species, native fish and other aquatic life, and the environment. (See Exhibit F.)

22. Current observation conducted by the Plaintiff at Paki Bay, with 3 acres poisoned in October, 2009, and at Pohoiki, where one to two acres were poisoned between December, 2009 and January, 2010, reveals that at low tide there is a stench from rotting organic matter in violation of HAR 11-54-4(a)4.
23. The conditions at Wai 'Opae are indicative of what to expect from future mangrove eradication and poisoning, since the same technique of poisoning and leaving the trees to rot is to be used at the other sites described herein.
24. Therefore, it can be expected that floating debris, scum, odors, water contamination, and reduced native fish populations are to be expected to result from the poisoning and eradication of mangroves at Paki Bay, Pohoiki, Onekahakaha, and Honokohau, causing the same violations of HAR 11-54 as cited above.
25. HAR 11-54-1.1(a) calls for the protection of water quality. "Existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."
26. In addition, HAR 11-54-1.1(c) calls for protection of water quality, stating, "Where high quality waters constitute an outstanding national resource, such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected."
27. Protecting water quality requires the pre-emption of activities that may cause harm.
28. Hence, the burden of proof rests on Defendants to show their activities will not harm the water

quality, rather than having the burden of proof on the Plaintiff to show that such activities have already caused reductions in water quality.

29. Relying on fish counts after the poisoning to ascertain the impact of the poisoning on water quality and the environment is not protective of water quality, since such post-poisoning observations are after the fact.
30. Reductions in native fish populations at Wai 'Opae following the poisoning of the mangroves demonstrates that there have been water quality changes resulting from the poisoning and eradication of mangroves, which could include chemical, bacterial, thermal, pH, bacterial, oxygenation, and other changes. These can be expected at Paki Bay, Pohoiki, Onekahakaha, and Honokohau, if the procedures used at these sites are the same as used at Wai 'Opae.
31. According to the Department of Interior National Park Service, the Honokohau shoreline is home to two candidate endangered arthropods, (the opae, *Metabetaeus lohena*, and the orangeblack damselfly, *Megalagrion xanthomelas*). (See Exhibit G)
32. It is possible that these candidate endangered arthropods are also present at Paki Bay, Onekahakaha, and Pohoiki.
33. Funding of mangrove poisoning and eradication at Wai 'Opae MLCD was provided by the Hawaii Tourism Authority.
34. Funding of mangrove poisoning and eradication at the other sites mentioned in this Complaint is provided by U.S. Fish and Wildlife.
35. Defendants have actively or passively participated in the illegal activity and/or formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of the various acts and practices described herein.

## COUNT I

### FAILURE TO CONDUCT AN ENVIRONMENTAL ASSESSMENT

36. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 35 as though fully set forth herein.
37. Defendants have failed to conduct an Environmental Assessment for this use of poisons for the eradication of mangroves from these sensitive shoreline conservation sites in violation of HRS 343 and HAR 11-200.
38. According to Hawaii Revised Statutes (HRS) 343-5(a), “Except as otherwise provided, an environmental assessment shall be required for actions that: (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies; provided further that an environmental assessment for proposed uses under section 205-2(d)(11) or 205-4.5(a)(13) shall only be required pursuant to section 205-5(b); (2) Propose any use within any land classified as a conservation district by the state land use commission under chapter 205; (3) Propose any use within a shoreline area as defined in section 205A-41.
39. These projects are on state lands. Wai 'Opae mangrove eradication was funded with state money. These projects are all being done on conservation land. They are being done within shoreline areas. These are all triggers for an EA.
40. The Defendant DLNR/OCCL fallaciously issued an exemption from the Environmental Assessment process for MOP to do these poisonings at Paki Bay, Pohoiki, Onekahakaha, Honokohau or Wai 'Opae, violating HRS 343-5, HRS 152, HAR 11-200-8(b), HAR 13-5-22,

and HAR 4-68, subtitle 6.

41. The DLNR OCCL erroneously did not require a permit for these projects citing HAR 13-5-22, Identified Land Uses in the Protective Subzone, P4 LANDSCAPING, REMOVAL OF NOXIOUS PLANTS, (A-I), “Removal of noxious plants for maintenance purposes without the use of power tools that does not result in significant ground disturbance, (e.g., weeding). Noxious plants are defined in Chapter 152 HRS, and chapter 4-68, subtitle 6.”
42. According to HRS 152-1, "Noxious weed" means any plant species which is, or which may be likely to become, injurious, harmful, or deleterious to the agricultural, horticultural, aquacultural, or livestock industry of the State and to forest and recreational areas and conservation districts of the State, as determined and designated by the department from time to time.
43. "Department" means the department of agriculture.
44. However, according to Chapter 4-68, subtitle 6, the Hawaii Department of Agriculture's Noxious Weed List, the mangrove is not listed as a noxious weed.
45. Hence the exemption from the need for a permit was unjustified for these projects.
46. The lack of need for a permit from the DLNR OCCL was used by the DNLR OCCL to justify not requiring an Environmental Assessment to be prepared by Malama o Puna for mangrove eradication at the sites.
47. Since the exemption for needing a permit was unjustified, therefore the exemption from needing an Environmental Assessment based on this erroneous conclusion was also unjustified. It is also in violation of HRS 343-5 and HAR 11-200.
48. The Hawaii County Department of Parks and Recreation also erroneously exempted MOP from



doing an Environmental Assessment, based on the HAR 11-200-8(a), which defines exemptions from environmental assessments. They concluded these projects are exempted under Exemption Class 4(1), “Minor Alterations in the Conditions of Land, Water or Vegetation; Landscaping within existing parks.”

49. However, HAR 11-200-8(b) states that, “(I)f an exempt action is proposed in a particularly sensitive environment or if successive exempt actions could have a cumulative significant impact, the exempt status of the action would be invalid. Environmentally sensitive areas include, flood plains, wetlands, beaches and coastal areas, erosion-prone areas,...”

50. Therefore, the Hawaii County Department of Parks and Recreation erroneously exempted this project from an Environmental Assessment, in violation of HRS 343 and HAR 11-200.

51. Defendant U.S. Fish and Wildlife granted a retroactive categorical exclusion on or around January 26, 2010, exempting MOP from requiring an Environmental Assessment. This exclusion was based on the erroneous exemptions to an Environmental Assessment made by the DLNR OCCL and County of Hawaii. Hence, this categorical exclusion is also erroneous.

## COUNT II

### CREATING ADVERSE IMPACTS ON WATER QUALITY AND PUBLIC HEALTH AND SAFETY

52. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 51 as though fully set forth herein.

53. The poisoning of the mangroves produces foliage shed as all the leaves fall off after poisoning.

54. Within a week following poisoning, there would be a large influx of decaying material into the water creating a sludge and this degradation could lead to the potential degradation of water quality in violation of HAR 11-54-1.1(a) and HAR 11-54-4(a)1.

55. Mangroves are scientifically known to absorb agricultural pollutants and heavy metals which can be released back into the water upon the destruction of the mangroves or the disturbance of the soil beneath the mangroves violating HAR 11-54-4(a)4.
56. The herbicide poison used, called “Habitat”, is known from its label to be slightly toxic to aquatic life and to have the potential to result in water conditions that may result in fish kills and the growth of bacteria that favor low oxygen conditions in violation of HAR 11-54-4(a)5.
57. Since no environmental assessment has been prepared for this poisoning of mangroves and leaving the trees to rot, there has been no scientific evaluation of the potential impacts of poisoning numerous acres of trees along the shoreline, including the primary impacts from the herbicide itself, as well as the secondary impacts on the environment and water quality arising from the decay products and possibly released heavy metals and other absorbed pollutants, in violation of HAR 11-54-4(a) and 11-54-4(b).
58. The Hawaii Department of Health has expressed concerns about water quality from this mangrove poisoning. (See Exhibit H )
59. The Department of Interior National Park Service (DOI NPS) has opposed this use of poisons to kill mangroves out of concern for the impact on water quality and its impact on two candidate endangered arthropods. (See Exhibit G )
60. The Hawaii DLNR Department of Aquatic Resources had requested that herbicide poisons not be used at Wai 'Opae MLCD for mangrove eradication. Poisons were used, anyway.
61. Defendants have not performed and have no plans to perform any water quality testing either before or after the poisoning of the mangroves to determine the degree to which water has been polluted.

62. Defendants have not provided the Hawaii Department of Health with a requested antidegradation analyses for all of the mangrove removal project locations to demonstrate compliance with HAR, Section 11-54-1.1.
63. Large pieces and branches of dead mangrove trees can fall off and enter the ocean, posing a threat to swimmers, surfers, and boaters, and is in violation of HAR 11-54-4(a)2.
64. Since the mangroves were poisoned and left to rot in place, it is only a matter of time until pieces of dead mangrove trees break off and enter the water. This is already happening at Wai 'Opae, and creates a liability and threat to property and human health.
65. The use of herbicides or pesticides along the shoreline has been determined to be in violation of the Clean Water Act, according to a April 9, 2009 Sixth Circuit Decision in *National Cotton Council, et al, v. EPA*, and will require as of April 9, 2011 a *National Pollutant Discharge Elimination System (NPDES)* permit for pesticides applied directly to water to control pests and/or applied to control pests that are present in or over, including near waters. (See Exhibit H)
66. Therefore, while this poisoning does not require an NPDES permit at this time, the law states that such a permit will be required next year. Prudent environmental protection, consistent with HRS 344, would demand that such use of poisons along sensitive shoreline conservation lands obey the intent of the law and be proven compliant with NPDES permit guidelines.

## COUNT III

### THREATENING ENDANGERED SPECIES

67. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 66 as though fully set forth herein.
68. According to the DOI NPS, they are gravely concerned about and opposed to the proposed use of pesticides in the aquatic environment where there are two candidate endangered arthropods, (the opae, *Metabetaeus lohena* and the orangeblack damselfly, *Megalagrion xanthomelas*), and the potential adverse effects of leaving the dead trees in place. (See Exhibit G)
69. The label for the herbicide used, Habitat, states, “Treatment of aquatic weeds may result in oxygen depletion or loss due to decomposition of dead plants. This oxygen loss may cause the suffocation of some aquatic organisms.”
70. This use of Habitat may, therefore, threaten the candidate endangered arthropods which are known to exist at Honokohau and may also be at the other sites referred to in this Complaint.
71. Without an environmental assessment, there has been no analysis of the potential impact of the poisoning of the mangroves on endangered species, in violation of the Federal Endangered Species Act and HRS 195D. There has also been no exhaustive scientific analysis of all the endangered or threatened species in the proposed mangrove eradication sites to be poisoned.
72. The Environmental Protection Agency was not consulted on this project and no agency has done an assessment of potential impacts on endangered species known to be in areas being poisoned, including sea turtles, Hawaiian hawk, Hawaiian stilt, Hawaiian coot, Hawaiian duck, monk seal, and other aquatic organisms.

73. The Defendants actions are not consistent with the environmental policies and guidelines established in HRS 344 and threatens the conservation of threatened and endangered species, in violation of HRS 195D.

#### COUNT IV

#### VIOLATION OF HAWAII PESTICIDE LAW

74. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 73 as though fully set forth herein.

75. The label for Habitat does not specifically list mangroves as an aquatic species that can be controlled with this product. Therefore, using Habitat to poison mangroves is use of this pesticide in a manner inconsistent with its label. (See Exhibit I)

76. The Hawaii Pesticides Law, HRS 149A-31(1)B, states the following: “Prohibited acts. No person shall: (1) Use any pesticide in a manner inconsistent with its label, except that it shall not be unlawful to: (B) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling.”

77. The label for Habitat does allow applications in wetland sites.

78. However, the sites relevant to this Complaint are not just wetlands. They are sensitive shoreline conservation areas, and these particular areas also contain, or are near, endangered species.

79. Hawaii statutes treat sensitive areas, such as shoreline and beaches, differently than non-sensitive areas, thereby acknowledging a legal difference between them.

80. The label does not indicate that this herbicide is licensed for application to sensitive shoreline conservation sites. Hence, use of this product to kill mangroves along sensitive shoreline conservation areas is inconsistent with the label.

81. In addition, since this use of Habitat is experimental, being used for a species not listed on the label, and being used in a way never before tried, i.e., to poison numerous acres of mangroves in sensitive shoreline conservation areas and leave the poisoned trees to rot in place, this use of Habitat falls under guidelines for experimental pesticide use, and requires an Experimental Pesticide Use Permit from the Hawaii Department of Agriculture, as required by HAR 4-66-45, which states, “Experimental use permits may be issued for the intrastate shipment, delivery or use of a pesticide product which is to be tested further to determine the scope and limitations of its usefulness and the effect of its use on humans and the environment.”
82. No such permit was ever applied for or obtained by Defendants.
83. Therefore, the use of this product, Habitat, to poison mangroves is in violation of HRS 149A-31(1)B and FIFRA, the Federal Insecticide, Fungicide and Rodenticide Act.

#### INJUNCTIVE RELIEF

84. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 83 as though fully set forth herein.
85. Defendants have expressed a determination to continue poisoning mangroves and will continue to do so despite opposition and concern from Plaintiff and other members of the concerned public and Hawaii Department of Health, irrevocably and irreparably harming the environment and placing public health and safety, water quality, marine species, birds, shoreline lands, conservation lands, state lands, and endangered species at risk.
86. Loss of mangrove trees is an irrevocable and irreparable harm to the environment, since mangroves are shown to be beneficial to native and exotic fish, provide protection for the

shoreline from tsunamis, storm surge, and other wave action, protect the coral reefs from excessive sunlight and storm runoff and siltation, and comprise a unique environment which is filling an open niche along Hawaii's evolving shoreline.

87. Dead trees will take years to decay and will continually pose a threat to human health and safety, as the rotting trees release toxins and drop dead, decaying matter into the water creating a polluted environment, including the production of bacteria that may pose a risk to human health, a concern shared by the Hawaii Department of Health.
88. The sight of acres of dead, decaying trees left to rot in place for years along these sensitive shoreline conservation lands is an irrevocable and irreparable harm to the aesthetics of these poisoned sites, similar to the ugliness of the outcome of a toxic chemical spill.
89. Since the dead trees are being left to rot in place, dead tree parts will break away and float in the water posing a threat to boaters and surfers, including a threat to myself and my family which frequent these shoreline areas. Getting hit on the head by floating dead mangrove branches while swimming, snorkeling, or surfing could cause a drowning, and could damage a boat or other water vehicle, causing irreparable harm and creating a liability for Defendants.
90. Using poison to kill the mangroves threatens the two candidate endangered arthropods, described in #28 and #62 above, especially since the label for Habitat states, "Treatment of aquatic weeds may result in oxygen depletion or loss due to decomposition of dead plants. This oxygen loss may cause the suffocation of some aquatic organisms." This could cause irrevocable and irreparable harm to aquatic life and the possible extinction of these candidate endangered arthropods as well as other endangered and native species that may be in the area.
91. Invasive species of plants may replace the killed mangroves, further degrading and causing

irreparable harm to the environment.

92. Native species of fish have already been shown to be harmed by the poisoning and eradication of the mangroves at Wai 'Opae MLCD, and these native fish are being replaced by exotic fish that are better able to withstand the changed water conditions. Further poisoning may cause irrevocable and irreparable harm to the native fish populations in these poisoned sites.
93. It is in the public interest to require an Environmental Assessment for the eradication of mangroves from the Big Island, since the benefits of mangroves to the environment is recognized worldwide, including by the United Nations and the US Environmental Protection Agency, and especially since the method uses a poison, Habitat, not labeled for poisoning mangroves and used experimentally in these sensitive shoreline conservation lands. An Environmental Assessment will not be done without an order for injunctive relief, since the DLNR OCCL and the County of Hawaii erroneously excluded the need for an Environmental Assessment.
94. An Environmental Assessment would give the public the opportunity to comment on these mangrove eradications and the methods used, thereby exercising their Constitutional Environmental Rights, and in compliance with the spirit of HRS 344-4(10), which encourages public participation in environmental management, and states: “Citizen participation.(A) Encourage all individuals in the State to adopt a moral ethic to respect the natural environment; to reduce waste and excessive consumption; and to fulfill the responsibility as trustees of the environment for the present and succeeding generations; and (B) Provide for expanding citizen participation in the decision making process so it continually embraces more citizens and more issues.”
95. There is substantial likelihood of success on the merits of the case, as set forth above.



96. The balance of harm weighs in favor of the Plaintiff. Injunctive relief would stop the poisoning and destruction of the mangroves and prevent the irrevocable harm to these public lands, the environment, endangered species, water quality, aesthetics, human health and safety, and give time for the needed Environmental Assessment to be performed, as well as time for the EPA to develop the NPDES permit process for shoreline herbicide applications, as described in #59, to ensure this use of poison is in compliance with the Clean Water Act, as well as ensuring compliance with the Hawaii Pesticide Law. Once these requirements are met, and if approved after the Environmental Assessment and required permits are obtained, Defendants may continue their projects. Therefore, Defendants suffer only the harm of waiting if an Injunction is ordered, while Plaintiff, and the public, suffer irrevocable loss and irreparable harm as described above.

WHEREFORE, Plaintiff prays that this court:

1. Find, order, adjudge and declare that Defendant's conduct, as alleged herein, violates the statutory provisions set forth above.
2. Issue a preliminary injunction and permanent injunction enjoining the Defendants, their agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from any of the following:
  - a. Controlling or eradicating mangroves by cutting, poisoning, or any other means until an Environmental Assessment, and Environmental Impact Statement, if required, can be completed;
  - b. Using herbicides, such as Habitat or Aquamaster, or any other herbicide, on shoreline

land for the control or eradication of mangroves until after the EPA issues its new regulations and NPDES permit requirements, due April 9, 2011, or anytime thereafter if the date is extended by the EPA;

c. Failing to regularly test and monitor water quality at sites where mangroves have already been poisoned or will be poisoned, including monitoring of bacterial counts, heavy metals, pH, and other indices as determined by the EPA and Hawaii Department of Health Water Quality Branch;

d. Issuing any further permits or failing to cancel existing permits or providing any funding or failing to cancel any funding already approved for mangrove control or eradication until an Environmental Assessment and Environmental Impact Statement, if required, are completed; and

e. Failing to post signage warning the public that the area has been poisoned and may pose a health risk.

3. Award Plaintiff fees and costs of bringing this action.

4. Award Plaintiff damages to the full extent of the law.

5. Award Plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Hilo, Hawaii, February 16, 2010.

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Sydney Ross Singer

Plaintiff, pro se