

**From:** [Kealahou Alike](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] FEIS  
**Date:** Tuesday, September 21, 2021 1:14:50 PM

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Aloha Chair Suzanne Case.

My name is Kealahou Alike. I am a retired pastor, having served Keawala'i Congregational Church in Makena for 29 years.

I was born and raised in Kona on the island of Hawai'i but Maui has been my home since 1991. Since that time, I have seen tremendous changes throughout all of Maui including the closing of the last sugar mill at Pu'unēnē and the subsequent acquisition of the former sugar fields by Mahi Pono.

I am writing in support of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nāhiku, Ke'anae, Honomanū and Huelo License Areas (FEIS). I urge the Department of Land & Natural Resources to receive the statement and to issue a long-term lease on water usage.

Much may be said about what Mahi Pono has been able to do as far as returning agricultural production to Central and Upcountry Maui. But what is important is the commitment of Mahi Pono has made to the efficient use of water while increasing food production for Hawai'i.

I had an opportunity to tour the fields in Central Maui with four other residents last month. We learned of Mahi Pono's commitment to integrating modern technology to better manage and improve the efficiency of its irrigation systems by reducing its water usage by 50%. We were able to see first-hand the investment Mahi Pono has made for weed mat installations that reduce water needs by retaining moisture in the soil while reducing the need for the use of herbicides.

We learned that Mahi Pono is also committed to honor the long-term protection and sustainability not only of Maui's water resources but also of the native traditional and cultural practices of the Kanaka 'Ōiwi and the natural habitat of Maui's streams. Please accept the "corrected" FEIS report.

Mahalo piha.

'O wau nō me ka ha'aha'a,

Rev. Kealahou C. Alike, Retired

**From:** [Anne A](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] A&B EIS for East Maui Streams  
**Date:** Wednesday, September 22, 2021 4:56:31 PM

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**A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.

**The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.

Please put policies in place that protect our waters, land and cultural heritage for perpetuity. Now is the time to make pono decisions!!!

Sincerely,

Anne Allison, resident of Maui

Members of the DLNR Board,

For generations, the EMI system has provided both agricultural and domestic water for the people of Maui County.

Environmental groups have been clamoring for a comprehensive EIS for the justification for the use of this water.

No business or farm can hope to exist long term without a dependable source of water. Throughout the State, Country and World, dependable water sources and service has been one of the cornerstones of that structure.

Since leaving office, I have been trying to reinstate and expand production on our 36-acre farm that our family has had since the 1950's. (We are 4 generations of farmers.) I would also like to utilize my cousin's 60 acres, that are adjacent to my farm, but lack of water is a severe limiting factor. I currently have over 400 fruit trees of various types growing on my farm and would like to add a minimum of another 600 fruit trees. Without a dependable water source, that is not feasible. Even our nearby Kula Agricultural Park farmers are in jeopardy. Please allow this process to continue.

This EIS is very comprehensive and about as complete as any EIS you will receive. No document is 100% perfect since as the world around us is constantly changing during the collection of information. It is imperative that a long-term water lease is issued to provide long term security for domestic and agricultural producers. The courts want you to issue a long-term lease, and not a one year at a time lease. Pass the EIS and let's get on with the bidding for the long-term lease.

Mahalo for allowing me to testify.

Alan Arakawa, Former Mayor of Maui County

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Brendan Balthazar, owner of Diamond B Ranch, LLC, asking that the Board accept the EIS submitted by A&B.

Everybody needs the water. I live Upcountry and I depend on that water coming up out of my pipe, so does my animals, so does my lifestyle. I'm retired from the fire department, ranch. I'm also on the board of the Farm Bureau and the Cattleman's Association.

Over the years, I have seen water used for ag converted to other uses. I understand that in the past 60% of the water was used for ag, now it is 40. Productive lands lie fallow. Everyone says grow local.. increase locally grown. That means those fallow land need to come back in production. Where is the water? We need to make sure there is adequate water to do what the people want .. more locally grown.

Cattle drink 15 to 20 gallons per day, that's 20,000 gallons on a thousand acre pasture. Having adequate access to forage is key. During droughts, access to locally grown grass or silage from irrigated fields would greatly help the industry. Such options need to be considered in the EIS. I expect that the submitted EIS address these options but your acceptance and subsequent review is important to move this process forward. I urge your acceptance of the EIS.

Thank you.

Brendan Balthazar  
Diamond B Ranch

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Chris Baucus, resident and strong supporter of agriculture in Upcountry Maui. I request your acceptance of the EIS as part of the long process to provide water to the district.

Upcountry has strong agricultural roots. As the former principal at Kula Elementary School, I have seen our youth disinterested in farming and ranching as they associate ag with hard work. There are many new technologies that can give ag a future as envisioned by many who live in the district. Several volunteers are working on a project to reintroduce agriculture as a career choice at the former Keokea School site. But ag as a future in Upcountry will need water. There are vast lands of farms lying idle. We need water to restore those lands into the production they once had. The EIS should address the potential of ag vs. what is happening during these dry times.

I support the acceptance of the EIS so review to ensure adequate water deliveries can proceed.

Chris Baucus

**From:** [Bill or Bobbie Best](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] FEIS East Maui Irrigation 30-year water lease  
**Date:** Wednesday, September 22, 2021 8:30:09 AM

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The Final EIS is inadequate and should be rejected.

It needs to address environmental and cultural impacts of moving water across aquifers, more detailed discussion of decreasing waste and seepage , watershed restorations, leaving more water in streams, mitigation plans when setbacks like climate change occur, and repair of the system over the next thirty years.

Mahalo for considering our input.

Mr. and Mrs. Bill Best  
280 Hauoli  
Wailuku  
808-242-9119

**From:** [Bobbie Best](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 4:40:10 PM

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I support Sierra Club's talking points. They've studied this issue and I agree with their viewpoints.  
Mahalo

Bobbie Best  
280 Hauoli  
Wailuku  
242-9119

**From:** [Bo Breda](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Tuesday, September 21, 2021 7:48:33 AM

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Aloha,  
Please accept my comments below:

**A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.

**A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.

**A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.

**We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.

**The length of the lease, should it be granted, must be much shorter than 30 years.** It is difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.

**The EIS should discuss how each diversion structure on public land harms native species,** fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Mahalo,  
Yours truly,  
Bo Breda  
Pahoa, HI 96778



Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

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Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

September 21, 2021

Suzanne D. Case, Chairperson  
Board of Land and Natural Resources  
1151 Punchbowl Street, Room 130  
Honolulu, HI 96813

Dear Chair Case and Board Members:

**SUBJECT: ENVIRONMENTAL IMPACT STATEMENT FOR PROPOSED A&B  
WATER LEASE**

I write in support of acceptance of the Final Environmental Impact Statement filed by East Maui Irrigation Company and Alexander & Baldwin. In my district of Upcountry, our community has long maintained a rural, largely agricultural makeup. Access to adequate water from East Maui is critical to continuing agriculture Upcountry.

Current and future housing Upcountry are also tied to access to water from East Maui. Expanded housing, including Department of Hawaiian Home Lands developments, is a critical component of the FEIS. Completion and approval of the FEIS is vital to these future housing projects that are dependent on the EMI system. Increased plantings by Mahi Pono are also a key element of the FEIS and benefit from its completion and approval. Increased agricultural production is essential to Maui County's efforts to achieve more food sustainability.

For these highly important reasons, I strongly urge the acceptance of the Final Environmental Impact Statement. We all play a part in responsibly using our water resources. The County is continuously searching for new water sources and taking steps to eliminate waste in our system. This will take time. The EMI system is vital in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Yuki Lei Sugimura".

YUKI LEI SUGIMURA  
Councilmember

Honorable Michael P. Victorino  
Mayor, County of Maui  
September 21, 2021  
Page 2

August 24, 2021

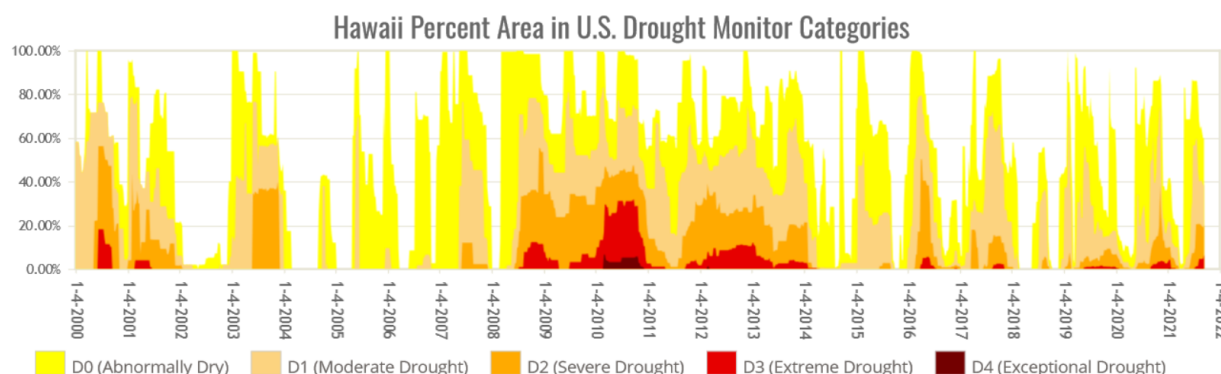
Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: D7: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board:

My name is Kyle Caires, an independent rancher and President of Maui County Farm Bureau. I speak today as a rancher in support of the BLNR accepting the EIS submitted by A&B for the East Maui Water System.

Over the past few decades, Maui has experienced some of the longest continuous drought periods in history, in addition to many droughts of shorter durations, that hamper agricultural production. Historical data (below) clearly supports the notion that Hawai'i has been under some level of drought condition for the majority of past 20 years (that includes upcountry Maui), a trend that is expected to persist into the future.



Without question, drought conditions have contributed to the decline of agricultural production, one of many reasons why surface water (and its availability) is such a precious and important resource. Various plans prepared by Maui County all reference the importance of agriculture. The public wants local agriculture to succeed. Taken together it's really simple: without water, there's no agricultural progress or food production!

Please accept the EIS and begin the next steps of the review process to ensure that this important issue is addressed. With the water sources available in Maui, I feel a balance can be struck between protecting the environment while meeting the needs of agriculture and human consumption that will allow for our local community to flourish; we just need to work together.

Thank you for this opportunity.

**From:** [Ellen Caringer](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda item D7  
**Date:** Wednesday, September 22, 2021 10:47:05 AM

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TO: Suzanne Case  
Chair, Board of Land and Natural Resources

RE: Testimony in support of the Final Environmental Impact Statement  
Agenda Item D7

Dear Chair Case and members of the Board of Land and Natural Resources,

I am writing to support the corrected final Environmental Impact Statement for the Proposed (Water Lease) for Nāhiku, Kea'anae, Honomanū and Huelo License Areas (FEIS). I am a child psychologist and neuropsychologist practicing on the island of Maui. I had the opportunity to tour Mahi Pono farms and learn about their efforts to develop responsible farming strategies, reducing wasteful water usage, and providing farming plots for others in the community.

I would ask that the Department of Land & Natural Resources to accept this statement and issue a long-term lease on water usage. Mahi Pono is making significant efforts to reduce water usage by improving the efficiency of their irrigations systems and have substantially reduced water usage relative to the previous owners. More than any other previous owners of this land, Mahi Pono has made marked efforts to be good neighbors and community minded in their decisions. During the COVID pandemic they provided substantial food assistance to needy families. They have reached out to work with other farmers in our community. They are ecologically minded in their farming practices, and are pursuing ways to help Maui be more food independent in the years to come. They have provided scholarships at Maui College, and are able to add jobs to our economy. They were one of the few organizations who added jobs to our economy during the pandemic.

I also have concerns that if they are not able to access water and they fail, central Maui is again at increased risk for fires. I have clear memories of being unable to reach my home in Kihei in the previous year's major fires. It is crucial that we have good stewards of the land to reduce that risk. Their success also positively impacts the water that is available to the county. Mahi Pono has already invested a lot into our community and exhibits the long-term commitment to continue to do so. Their requests for water are worth the investment in that it they will provide us with considerable added economic, social and environmental benefits.

Please accept the "corrected" FEIS report.

Mahalo nui loa,

Ellen R. Caringer, Ph.D.



September 24, 2021

Suzanne D. Case, Chairperson  
and Members of the Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813  
Email: [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

**DATE: SEPTEMBER 24, 2021**  
**TIME: 9:00 A.M.**  
**LOCATION: Online via ZOOM, Livestream via YouTube**

**RE: D. Land Division. Item 7. Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License**

Aloha Chair Case and Members of the Board:

Mahalo for the opportunity to testify in support of the East Maui Water Lease Final EIS before the Board of Land and Natural Resources.

The Chamber is Hawaii's leading statewide business advocacy organization, representing approximately 2,000+ businesses statewide. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The disposition of public resources such as water has become a contentious and volatile process. There is a need to keep the process open and competitive while at the same time balancing the need to reduce risks and provide certainty as the State encourage the growth of new and existing agribusinesses and farmers, and residents.

Maui is in the process of a significant transition and if there is to be any chance of an agricultural future for Central Maui, providing new agricultural job opportunities, new economic activity for the island of Maui, and preserving Maui's rural quality of life, access to the state's East Maui waters will need to be sustained over a long term.

Your support and approval are huge steps toward much needed long-term certainty of water for agricultural and domestic use in Central Maui, Upcountry Maui, and Nahiku, and provides the BLNR with the needed tools to allow the collection and use of state water to



Chamber *of* Commerce HAWAII  
*The Voice of Business*

continue, on Maui and elsewhere, to users who have relied upon the waters in the past and made investments based on those waters, while a lease renewal process is being pursued.

Mahalo for your consideration of my testimony in support of the East Maui Water Lease Final EIS before the Board of Land and Natural Resources.

Sincerely,

/s/ Myoung Oh

Myoung Oh  
AVP of Business Advocacy & Development  
Chamber of Commerce Hawaii

**From:** [Kamakani Clarion](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] D7  
**Date:** Wednesday, September 22, 2021 11:26:29 AM

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Dear Chair Case and Members of the Board of Land and Natural Resources,  
I'm born and raised on Maui. It's exciting to see Former sugar cane land to diversified agriculture.  
The FEIS shows that taking no action and not issuing a long-term lease, results in less crops in Central Maui, more dry land, increased likelihood of fires and less water to fight them, less jobs, and possibly no water to the County - everyone on Maui will be negatively impacted without the lease being issued.  
Please accept the FEIS so our island can move forward with diversified agriculture  
Mahalo  
Kamakanimakekai Clarion

Sent from my iPhone

**From:** [Carol Collins](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Tuesday, September 21, 2021 5:13:08 AM

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1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species,** fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Thank you for allowing me to comment,  
Carol L Collins

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**From:** [lalaurie.c@gmail.com](mailto:lalaurie.c@gmail.com)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Water Lease/FEIS  
**Date:** Wednesday, September 22, 2021 11:34:32 AM

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Dear Chair Case and Members of the Board of Land and Natural Resources,

This letter is in support in acceptance of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nahiku, Ke`anae, Honomanu, and Huelo License Areas (FEIS).

The FEIS shows the alternatives that people have been vocal about the use of reclaimed water, building more reservoirs, or using desalination are simply not practical and in some cases like desalination would have a more harmful effect to our environment.

Mahi Pono's produce donations during the COVID pandemic provided much-needed assistance to families that were particularly hard-hit by the lack of tourism and the consequent economic downturn. As someone who actively works in the agriculture industry, a renewed lease would be very beneficial for the community.

Please accept the FEIS so our island can move forward.

Thank you,

Laurie Cordero

Sent from my iPhone

Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Gabe Johnson  
Kelly Takaya King  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

**COUNTY COUNCIL**  
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[www.MauiCounty.us](http://www.MauiCounty.us)

September 23, 2021

Suzanne Case, Chair and Members  
Board of Land and Natural Resources  
Kalanimoku Building  
1151 Punchbowl Street  
Honolulu, HI 96813

SUBJECT: Agenda item 7: Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S7264, (Tax Map Keys: (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

Aloha Chair Case and Members,

My name is Shane Sinenci and I am the Maui Councilmember representing East Maui and the Chair of the Agriculture and Public Trust Committee. I am writing today to request that several points of information be further addressed in the FEIS prior to your accepting it as complete. As it stands right now, it is an inadequate document that does not provide the required environmental information and considerations needed for the state to make an educated decision on the granting of a long-term water lease for our waters.

As a County of Maui Councilmember elected to protect the people of Maui, I am concerned about the continued availability of water for Upcountry domestic and agricultural users. In the FEIS the Applicant states that if they do not receive the long-term water lease they may not provide water to the County of Maui. A recent court decision stated that the County of Maui is entitled to this water. The document does not include this information. The document also lacks information on the existing and future water agreement with the County of Maui and any information on or representations made of this continued agreement. It is also unclear as to who the lease will be administered by and who will run the system as A&B Properties is a Real Estate Investment Trust. It seems extremely difficult to evaluate the effects of the lease holder's future actions on the County of Maui Upcountry domestic and agricultural water users without this information. Additional information is needed for the BLNR to understand potential water conflict issues in its lease evaluation and to potentially establishment lease conditions to mitigate these conflicts.

As the Chairman of the Agriculture and Public Trust committee I work hard to ensure that the County upholds the public trust doctrine. Water is a public resource and the state has an obligation to protect it for the benefit of its people. In order for the state to fulfill this obligation, the state must ensure the proper management of the leaseholder's water transport system. Water is a valuable resource that under the current system is being grossly mismanaged through system disrepair and leaks. The document states there are no system losses prior to the Kamaole treatment plant. This information does not appear to be accurate. The ditches are unlined and system pipes are extremely old. The plan states that system losses after Kamaole Weir treatment plant are more than 20% and these losses are beneficial because they recharge the Central Aquifer. Evidence of the environmental benefits of water loss to this degree are not presented and contradict industry best management practices. A 20% system loss has been established by other jurisdictions and by CWRM as unsustainable. In the recent Na Wai Eha contested case ruling a 5% loss was established. The Hawaii Supreme Court has opined that decisions involving the use of stream water "must include provisions that encourage system repairs and limit losses." The draft Maui County Water Use and Development Plan (WUDP) currently under review states the need for improved water system management and efficiency and that operating systems need to minimize the sources of water loss system through actions such as lining ditches, repairing broken piping, annual comprehensive water audits, and increased stream gauge use. The WUDP also stresses the need for irrigation management and efficiency. The FEIS needs information on the Applicant's implementation of water system and irrigation best management practices. To properly evaluate the water lease application, BLNR will need to evaluate these practices to ensure the water is being used in a manner consistent with the public trust doctrine and with industry standards. Additionally, more information on the long-term effects on the scale of this type of water waste on the environment is needed to ensure that the state is acting in accordance with their mandated responsibilities.

The document also fails to address the public trust doctrine by providing information on necessary stream flow standards needed for aquifer recharge and to ensure that this resource not only remains viable over the terms of the lease, but for generations to come. With proper management the aquifer can be recharged and grow to support all our current and future needs. Instead, the study states that all water saved through conservation or better farming practices will be used by Mahi Pono to plant more acreage. The possibility of leaving more in the streams is not considered. The connection between kuleana and cultural use and stream restoration is not identified nor considered. The document lacks the necessary information about watershed health and required amounts of stream flow to sustain that health of the Ko'olau aquifer sector area. Furthermore, in stating that extra water will be transported out of the region to Mahi Pono fields, an environmental impact is created, requiring mitigation measures which are not included in the document.

The importance of stream restoration and cultural uses are so important, that in my committee's review of the WUDP, the following two policies were recently adopted:

- When applicable, the Department of Water Supply will advocate for mauka to makai connectivity when testifying before state and federal agencies.

- The County shall advocate for public water trust uses, including kuleana use, cultural usage, stream restoration when providing testimony to federal and state and federal agencies in addition to supporting domestic uses.

The document also fails to consider stream restoration as an alternative and its impact on cultural uses. Kuleana users have special rights under state law. Kuleana and cultural uses and mauka makai connectivity through stream restoration are important considerations for any water use evaluation. Currently there are streams in the Haiku aquifer sector and 12 streams in the Ko'olau aquifer sector that have no stream gauges. I ask that you consider the importance of these uses when making your decision on the water lease and that requires having information on those uses in the FEIS. If stream restoration is not an alternate consideration your Board lacks the information necessary to consider it in your decision making.

The draft Maui County Water Use and Development Plan strategies include "expanding watershed protection to incorporate the ahupua'a as a whole and utilize ahupua'a resource management practices." (page 234) The Maui Island Plan supports water management and sufficiency within each ahupua'a. The FEIS fails to acknowledge Maui County's policies to address the environmental and cultural impacts of moving and using water across aquifers and ahupua'a. It also fails to provide consideration for actions the Applicant could seek to create more water self-sufficiency within the aquifers and ahupua'a where agricultural crops are grown. The document is incomplete without the information relating to and consideration of Maui County policies.

The document is also now incorrect in its statement that the Maui County Council has not considered the Board of Water Supply Temporary Investigative Group report outlining options to protect the public's interest in regards to the water system. My committee has reviewed the report in two different committee meetings and at a recent meeting voted to include the report and its recommendation in the WUDP.

In summary, the Office of Environmental Quality Control established administrative rules that mandate an FEIS disclose all potential impacts and give full consideration to all alternatives to the proposed action (HAR Title 11 Chapter 200.1) The Applicant's FEIS does not satisfy these rules. Even with the voluminous length of the document, basic environmental information about watershed protection, as well as consideration of basic alternatives is not included. As such, it is not possible for the BLNR to make decisions that adhere to Maui County established policies, state Supreme Court rulings, and the state's fulfillment of the public trust doctrine. Additional information and considerations are needed to ensure that the future water lease decision is based upon a complete and accurate document to ensure that the action meets all county policies and state's responsibility and obligations are upheld.

Mahalo,

  
Shane M. Sinenci, Councilmember  
East Maui District

**DAVID Y. IGE**  
Governor

**JOSH GREEN**  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**PHYLLIS SHIMABUKURO-GEISER**  
Chairperson, Board of Agriculture

**MORRIS M. ATTA**  
Deputy to the Chairperson

**TESTIMONY OF  
PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**Before the  
BOARD OF LAND AND NATURAL RESOURCES**

**Friday, September 24, 2021  
9:00 AM**

**In Consideration of  
BOARD ITEM D-7**

Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S-7264, (Tax Map Keys: (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

Chairperson Case and Members of the Board:

Thank you for the opportunity to testify on agenda item D-7 that requests the acceptance of the Final EIS for the above subject. We understand that this step is necessary prior to the BLNR issuing a long-term water lease for the State's East Maui stream water via public auction. The Department of Agriculture supports the approval of this request.

Achieving food self-sufficiency by increasing local food production is a top priority for the Administration. Continued access to agricultural irrigation water is fundamental to achieving this priority. Collectively, these systems currently provide irrigation water for 30,000 acres of diversified agricultural production in Central Maui as well as small



farmers in Kula. These prime agricultural lands are expected to support pasture for beef cattle, diversified crops, bio-energy crops, and a new County agricultural park, in addition to other uses. The Hawaii Department of Agriculture believes that once established, these agricultural uses will substantially move the County and State goals towards increased food self-sufficiency.

Thank you for the opportunity to provide testimony on this item.

**From:** [MIKE DONAHOO](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] D7  
**Date:** Wednesday, September 22, 2021 11:40:40 AM

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Aloha

My name is Mike Donahoo manage labor operations at Mahi Pono. We currently employ around 250 jobs and as the farm grows we expect to hire over 600 at full build out. Our island is finally starting to look green again. Please accept the FEIS so our island can move forward with diversified ag.

Mahalo

Mike

Sent from my iPhone

**From:** [MJ Duberstein](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] The Final EIS for the EMI Lease is Inadequate and Needs to Be Rejected  
**Date:** Monday, September 20, 2021 8:50:56 PM

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Aloha

My name is MJ Duberstein.

I live at 34 Iliwai Loop in South Kihei. I am a retired economist who spent the final 25 years of my professional career serving as Director of Research for the National Football League Players Association (AFL-CIO).

I strongly urge you to reject this FEIS!

We moved to Maui in 2005 after my retirement. I did my graduate studies in the mid-Sixties at UCLA as a Ford Foundation Fellowship in International Development awarded returning Peace Corps Volunteers. That was a comparable period of ultra-low airfares from the West Coast, But I'd never been to Hawai'i until 1982. That occurred when as an NFLPA staff member, the Players Association held its annual meeting at the former Sheraton resort on the western tip of Moloka'i; We also held other post-season meetings on O'ahu, Kauai, The Big Island and in Wailea. For players and their families, these were all expensive-paid trips since the union wasn't able to directly pay the player representatives for their invaluable work.

In 1987 we purchased our home on Iliwai Loop and rented it long term to local residents until we made the 2005 move.

We were invited and joined the Rotary Club of Kihei-Wailea. I served as Chair of District Eleven (South Maui) of the Hawai'i Democratic Party for seven years, I have been a board member of Akaku Maui Community Media since 2007, and have been on the boards of the Maui Group of the Sierra Club, Art Maui and The Maui Tomorrow Foundation.

I had a weekly kuleana maintaining the South Maui Heritage Trail from 2007 through late 2012 until an accident led to doctor's recommendation that I curtail certain physical activities.

A highlight soon after we settled here was course at the then-Maui College in which we learned about Hawaiian Culture and Language, something I highly recommend for anyone intending to be a part of community life.

That course taught me a number of reasons why I urge you to reject the FEIS:

Malama aina;

Ua Mau ke Ea o ka 'Aina I ka Pono; and,

I ola 'oukou, I ola makos

But you already know that.

For me, though, glancing over the entire FEIS—and okay, I admit I didn't read and absorb every one of its confusing pages with all those (necessary?) changes and corrections (?)—



I know I got the drift.

And wasn't impressed.

Neither should you.

We know it deals with East and Central potential leases.

But, it skates by Maui Nui. and, for me, that's a critical oversight.

Let me explain:

During his September 10 "Real Time" HBO show, Bill Maher had a segment both dramatically—and comically—pointing out how the Mainland these days is really and neatly split into two distinct sections: The Eastern states that have too much water versus the West, which suffers from extreme droughts. Mr Maher suggests that a huge pipeline system be built between the two.

And I realized watching him that's just like Maui Island. East and Central and West Maui seemily have a wealth of finite water resources while South Maui seems to be suffering a continuing drought.

I mean, a simple trip down Pi'ilani Highway shows it vividly; makai, community after community with lush lawns and greenery, mauka, a desert stretching up to green slopes of upcountry Haleakala.

I know that had not water lines from Central Maui been laid decades ago that South Maui would have remained a mostly uninhabited strip of a few houses here and there along a dirt road and there'd be no Kihei, Wailea and Makena as we know them today.

I'm painfully aware I live in what essentially is reclaimed desert. Indeed, during the week starting September 12, we on Iliwai Loop experienced the first rain lasting more than five minutes this year—while just a mile away at Lipoa Street, I was told that not a drop fell. Some of our nearby streets dip down into gulches which are overwhelmed after major downpours upcountry while our streets remain dry..

As the government agency entrusted with our aina, you already realize how precious and finite water is for every inch of our state.

It's limited, hardly self-sustaining, and therefore, every and all of your vital decisions should take into account Hawsi'i Nui—or specifically, Maui Nui.

This FEIS doesn't do that.

For now, and for the future.

And should be rejected.

There's another factor I believe involved here.

\$100-million of taxpayers funds.

That's how much was poured down the drain because the fabled Superferry wasted our precious funds.

I attended months of trial days in Judge Joseph Cardoza's courtroom during the hearings in the suit brought by Maui Tomorrow Foundation against the State after Linda Lingle illegally attempted to muscle through the ferry service without either an EA or an EIS.

And, in the end, the Hawai'i Supreme Court twice unanimously ruled against the State

Administration's blatant desire to impose the Superferry without adequate environmental clearances.

Indeed, I compiled a 120-page report on the EA and/or EIS around the globe pertaining to similar ferry systems. Not one ever began running without a formal approved environmental study.

Will the fate of this FEIS parallel the fate of the Superferry?

How lacking is this document?

For instance, what's so magical about thirty years?

Why not five? or 10? or 12.5?

Where's any upkeep plans?

It fails to address environmental and cultural impacts of moving and using water across aquifers and ahupua'a. The 2012 Maui Island Plan supports water management and sufficiency within each ahupua'a. But this FEIS offers no consideration to ways EMI could seek more water self-sufficiency within the aquifers and ahupua'a where Mahi Pono crops are grown.

Why aren't you offered detailed discussion of lower waste and seepage as water is transported and stored. The FEIS specifically is required to discuss mitigation measures to reduce impacts timing for such mitigations.

The Hawaii Supreme Court has issued an opinion that decisions involving the use of stream water "must include provisions that encourage system repairs and limit losses." Our Maui Island Plan set policies calling for reservoirs and water lines to be efficient and not waste our public trust waters. Not here.

Remember that Water Commission June 2021 decision restricting Mahi Pono and Wailuku Water Company systems from losing more than five percent of the water diverted from the Nā Wai 'Ehā streams. Where is a comparable goal in the FEIS rather than assuming over vague 20% system losses.

Why?

The FEIS does not discuss what more needs to be done to reverse nearly a century of the East Maui watershed being overrun by invasive plants. You need to see real plans for watershed restoration.

The FEIS assumes all discussion about watershed restoration plans can be done AFTER a thirty year lease is issued.

That's ironic. It'll lead to some vague applicant plan to improve the watershed, and you, as key decision makers probably will fail to know if the leases will result in good stewardship of public trust resources.

Why must—or should—all water saved through conservation or better farming practices be allocated to and then used by Mahi Pono to plant more acreage. That can result in severely restricted flows in streams utilized by traditional Upcountry or East Maui farmers along the traditional 12 streams where no flows were restored and are not even considered.

These factors just skim the surface of why you must reject the FEIS.

I firmly believe it's too full of holes to achieve anything useful.

Mahalo.

Malama pono.

MJ Duberstein

34 Iliwai Loop

Kihei Hawai'i 96753

808-214-3320

mjd; sent from my iPhone

September 21, 2021

Mr. Earl Matsukawa, Project Manager  
Wilson Okamoto Corporation  
1907 South Beretania Street, Suite  
400 Honolulu, Hawaii 96826

**Re: FEIS for A&B/Mahi Pono proposed lease**

Aloha Mr. Matsukawa,

Mahalo for your response to my questions on the DEIS for A&B/Mahi Pono proposed lease. I recommend that the lease be denied or at the least be deferred for further review. It's unreasonable to think that the BLNR or the public would have sufficient time to review the 6000 plus pages of the FEIS. This proposed lease is a very hot topic for Maui residents and the review period is not adequate of a time, especially when the responses to many of the questions is not answered. The applicants failed to come up with a sustainable farm plan and it continuously fails to address why the need for 85 mgd of water when their current usage indicates they use 20 mgd. The applicant has not shown any interest in communicating with the general public. There have been numerous attempts for them to engage with their community members but no response. There's an underlying feeling that the FEIS was purposely long winded and redundant. Many of the responses claim that the question is "out of the scope of this report". Nothing should be "out of scope" for such a contentious issue. Other than the issues I stated above, there's also the question of legal ownership of the aqueduct system.

For historical purposes, the 1938 Agreement between A&B and the Territory of Hawai'i is mentioned in this FEIS but this all started before that. In 1876, King Kalākaua, enacted, **An Act to Aid The Development Of the Resources of The Kingdom**. This Act, in part, allowed the successful bidder "***the lease of the proposed Water course for a term not to exceed thirty years***" it also states, "***The same with all its improvements to revert to the Government at the expiration of the term granted...***".

The FEIS also fails to recognize the **Master Water Agreement By and Between East Maui Irrigation Company, Limited and Hawaiian Commercial & Sugar Company, Limited And The Board of Water Supply of the County of Maui dated December 22, 1961**. This Agreement states that "***the Board of Water Supply of the County of Maui, a Board duly created and existing under the laws of the State of Hawaii, in the name of and on behalf of the County of Maui...***" it further states "***all easements and rights granted to the Vendee hereunder shall be extinguished at the end of the term hereof, or at such time as any or all of the easements and rights granted to EMI are extinguished under that certain agreement dated March 18, 1938 by and between the Territory of Hawaii and EMI...***"

The FEIS succeeds in mentioning important historical facts when it feels that it'll benefit the applicant but there's no mention of the General Lease No's. 3349, 3505, 3578 and 3695 which all state "***all improvements now or hereafter erected upon the Licensed Area, including the whole of such aqueduct system and all extensions thereof and improvements made thereto, but excluding such improvements***

***as are provided for in the next succeeding paragraph, shall revert to and become the sole property of the Licensor..."***

There is reasonable doubt that questions who's the rightful owner of the aqueduct system. There're numerous documents stating that at the end of the lease, license, agreement term, all improvements will revert to the Kingdom, Territory or Government. I don't believe that issue was sufficiently addressed in the FEIS. It fails to recognize the intent of these documents and its authors. The aqueduct system was always meant to revert to the government. Whether it be the Kingdom, the Republic or the Territory. Water is a public trust which shouldn't be held as a private commodity. The water belongs to the people of Maui and more research should be done before making such a crucial decision. I hope the Board will make the right decision and reject this FEIS.

Mahalo,  
Toni Eaton  
159 Moolu Circle  
Wailuku, HI 96793

From: Aja Eyre  
3539 Burns Pl  
Makawao, HI 96768

RE: BLNR Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key (2) 1-1-001:044), S-7264 (Tax Map Keys (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017) and S-7265 (Tax Map Key (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

<https://dlnr.hawaii.gov/ld/ab-emi-feis-for-the-proposed-lease-for-the-nahiku-keanae-honomanu-and-huelo-license-area/>

Aloha,

My name is Aja Eyre, and I am a private citizen residing in Makawao, Maui, Hawai'i. Makawao is considered a part of Upcountry Maui, and my home relies on water from the EMI water system.

I am submitting this testimony recommending that the BLNR reject the FEIS in its current state. While I have read only 900 pages of the FEIS so far, there are adequate **discrepancies** and lack of analysis in those first 900 pages to justify non-acceptance.

One of my major concerns, and the one I would like to focus on, is the failure to fully analyze the Farm Plan regarding waste and water seepage and waste. There are major discrepancies here where A&B's Final EIS contradicts itself.

The following sections were added to this FEIS discussing waste and seepage (all quotes in red are supposed to be new to the FEIS from the DEIS):

*EMI submits quarterly reports that summarize water usage for that particular quarter, including the distribution of that water on the Central Maui agricultural fields by crop type, location and acreage, and additional information that includes (but is not limited to) the following:*

- 1. That EMI is in compliance with the June 20, 2018 order of CWRM establishing the IIFS for East Maui.*
- 2. That no water is wasted, and if the BLNR finds that a use of water is not reasonable and beneficial and does not comply with the permitted uses, such water uses shall be ceased within a timeframe determined by the DLNR. (1-14)*

The FEIS generally and specifically touts that the EMI system does not, in its current state, have significant seepage or loss of water, and that the *net* loss through the system is *zero*:

*The EMI Aqueduct System is highly efficient. A 2012 United States Geological Survey (USGS) study, entitled "Measurements of Seepage Losses and Gains, East Maui*

*Irrigation Diversion System, Maui, Hawai'i", that was prepared in cooperation with the CWRM and cited in the 2018 CWRM D&O, concluded that it was unclear whether net seepage losses even occur in the EMI Aqueduct system, due to the large amount of tunnel in the system, as well as the seepage gains that enter the system. CWRM D&O, FOF 715, 723. (2-11)*

Unless the entire system is piped, and not ditched, this is simply not a reality. Furthermore, net loss is not an adequate gauge, as loss reports should be specific to each portion of the lease area, movement system, storage (reservoirs), and farm area. Loss and seepage is significant for some portions of the system, but insignificant in others. For example, the loss/seepage looks at specifically loss in the movement through the ditches and pipes. But, it almost ignores the loss and seepage in the reservoirs. And although the FEIS claims that the Mahi Pono Farm Plan will only take water needed at any specific time, it also plans to continue to use the reservoirs. It is unclear why so much storage is needed if the EMI system and farm plan is planning on drawing water as-needed. This is very confusing and unclear.

To add to the discrepancies and confusion in the FEIS, further on in the document, the significant loss of water in the Central Valley becomes apparent as EMI discusses the importance of its Central Valley brackish wells:

*Brackish wells will also be an important source of water for the Mahi Pono farm plan. (2-25).*

This section goes on to note the many ways Mahi Pono will decrease waste and water seepage in the system. However, it notes that repairing existing reservoirs is not cost efficient, and reports that the reservoirs currently are major sources of water loss and seepage. In addition, fixing the reservoirs could decrease the efficacy of their brackish wells:

*Improving existing reservoirs in the Central Maui fields would lessen the amount of water that seeps into the ground at these reservoirs, as well as improve the efficiency of the overall system. However, it should be noted that the seepage water is not necessarily lost. The seepage occurring at the reservoirs helps to recharge the Central Maui Aquifer through infiltration. This seepage historically allowed HC&S to sustain pumping of the aquifers significantly greater than the SY for the aquifer set by CWRM. Due to the lessened amount of diverted water available to Mahi Pono compared to the previous amounts of water that HC&S was using, the recharge to the Central Maui Aquifer will be substantially lessened. It can be stated that seepage at the reservoirs is not deemed as a waste of water due to its contribution to recharging the aquifer. (3-12)*

It seems realistic to expect any Environmental Impact Statement to focus on the impact to the environment. However, EMI addresses water loss and seepage as an internal issue. In other words, once EMI has control of the water, they can treat it like a line item in a budget ledger: as long as the figures at the bottom equal zero, then their water accounting is sound. But this is not sound reasoning, for they are majorly disrupting environmental balance. EMI's plan removes water from one aquifer/ahapua'a and lets it seep into the ground and recharge another aquifer, which then also feeds the wells of the system in that area. This does not meet the requirements of the BLNR that water not be wasted in the movement, and depletes the original

aquifer unnecessarily through seepage and loss at the end of the system. EMI claims that there is no net loss since they are able to pump the lost water through wells, but this does not meet environmental impact statement standards nor the standards set by BLNR.

Furthermore, where are the numbers on seepage and loss from reservoirs noted? According to table 2-3 on page 2-30, 12.6 mgd is used for reservoir/fire protection/system losses/dust control/hydroelectric. These should be divided out, as these are very different uses, but especially because reservoir and system losses need to be reported quarterly by Mahi Pono to BLNR. In addition, there is anecdotal evidence of EMI/A&B actually emptying water out of reservoirs into the ground to allow them to take their “mgd” allowance into the reservoirs so they could prove consistency in water use. This is unreported and undiscussed in the FEIS.

But to make this FEIS analysis even more incomplete, this “we’ll catch that water that is seeped and lost out the aging reservoirs through brackish wells” is **not** a reality in a post-sugar cane Central Valley:

*Higher salinity water could be used to irrigate sugarcane but it cannot be used for many other crops. As discussed in Section 2.1.4, the Mahi Pono farm plan includes food crops that are not as salt tolerant as sugarcane is. Hence, there is a limit as to how much these brackish water wells can viably supplement the water needs of the Mahi Pono farm plan. (4-76, page 272 of pdf)*

*Because so little is known about the relationship between system losses and irrigation return water and how much could be reused as groundwater, a definite statement about impacts on groundwater cannot be made. However, the use of East Maui surface water to irrigate the Central Maui agricultural fields has long supplemented the underlying aquifers, and a similar relationship will continue under the Proposed Action, essentially constituting a beneficial impact to the Central Maui aquifers, particularly the Pā‘ia and Kahului aquifers, albeit at a smaller scale than when sugarcane was being cultivated. (4-76, page 272 of pdf)*

So while EMI’s “water accounting” claims net zero, this is fuzzy math. In this paragraph of the FEIS, they justify dumping water into the ground in the Central Valley because it supplements the ground water there, even though in the previous paragraph EMI noted that Mahi Pono’s farm plan will not use much or any of the Central Valley wells. Even if the BLNR deems it appropriate for an FEIS to ignore the environmental impacts of removing water from one aquifer/ahapua’a and letting it be wasted into the groundwater of another, the net zero waste of the system is not accurate if the water is not even pumped from the Central Valley wells.

While significant changes were made to the DEIS to meet the concerns and comments of the public, this FEIS still avoids some of the most pressing concerns that should be addressed in any EIS. The math is fuzzy, and there are significant holes in the responses to concerns about the DEIS. I also agree with the Staff Report that there should be more analysis of the Farm Plan, and that more analysis should be done concerning options of other lengths rather than 30 years. I would add my serious concerns about water seepage and loss, moving water between aquifers, and inaccurate water accounting. The FEIS does not comply with



applicable law and does not adequately disclose the environmental impacts of the proposed issuance of a long-term water lease. I do not support acceptance of the FEIS as it is presently inadequate.

Thank you,  
Aja Eyre  
808-495-1425



# FEED MY SHEEP

Sept. 21, 2021

Subject: Agenda item D7

Dear Chair Case and Members of the Board of Land and Natural Resources;

I am writing this letter in support of the acceptance of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nahiku, Ke'anae, Honomanu, and Huelo License Areas (FEIS).

I sympathize with both sides of this issue but believe that Mahi Pono may have answers to make this a win-win for all of Maui Island. They have goals to return agricultural production to Central Maui by growing sustainably food crops for our community. This will reduce Hawaii's dependence on imports, preserve open spaces as well as create jobs and opportunities for our residents. They are committed to the efficient use of water by selecting crops that will result in a significant decrease in water use compared to sugar cane by integrating modern technology to better manage and improve the efficiency of irrigation systems. They estimate that diversified agricultural operations will use 50% less water on the same 41,000 acres that was previously used for sugar can.

Mahi Pono is committed to using the lands for sustainable agriculture, exploring regenerative and traditional Native Hawaiian farming practices while preserving green, open space in Central Maui. To be able to meet these goals they need the assurance of an adequate supply of water.

I would also like to point out that Maui Pono is a very generous, community minded company. They donate produce that provides much-needed assistance to Maui families. When we were hard-hit by the lack of tourism and the subsequent consequences of the economic downturn they were quick to show their support and provided and continue to provide fresh Maui produce to countless people.

Feed My Sheep (FMS) currently occupies approximately four acres of land owned by Mahi Pono. They provide this land rent free. The FMS future plans for this land is to plant crops so that Feed My Sheep can be sustainable by growing fresh produce so as not to be as dependent on donations for the people of Maui, who, without the help of Feed My Sheep are unable to afford to purchase this food for themselves.

Thank you for your consideration,

Joyce Kawakami, Founder  
Feed My Sheep, Inc.

**From:** [Suzanne Fields](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Support for Agenda Item D7 - Final EIS for Mahi Pono  
**Date:** Tuesday, September 21, 2021 3:34:35 PM

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To Whom it May Concern:

As a long time Maui resident, I've witnessed many years of mono cropping on our island, the harm to the land, and the subsequent barren land once HC&S ceased operations of sugar cane production.

Now that the land is being filled with a variety of planted crops and trees (cover crops to restore the soil, crops for on-island consumption, and crops for export), I am happy to see the land being put back into productive use. It makes my heart sing to see so much productive agriculture in place of bare, dry land.

While not everyone can agree on what Mahi Pono does and how they roll out plantings per their farm plan, one thing is clear is that water is needed to support this agricultural investment in the community. And, importantly, with the perspective of balance in water use for all the communities of interest.

My understanding is that Mahi Pono has worked to correct the final submitted EIS (FEIS) for the proposed water lease for Nahiku, Ke'anea, Honomanu, and Huelo License Areas.

While I am no expert, it is clear that we need to have productive agriculture on our island home. We need opportunities for Maui residents to have productive work. We need to stop importing the vast majority of our produce. We need to use the land to its fullest purpose in all types of agricultural endeavors. We need to plant food, not houses.

I share my support for the acceptance of the FEIS so that Maui can move forward to develop a more diverse economy and be less dependent on tourism.

I support Mahi Pono's goal to return agricultural production to Central Maui, sustainably grow food crops for our community, reduce Hawaii's dependence on imports, preserve open spaces, and create jobs and opportunities for our residents. I have faith in their commitment to efficient use of natural resources by adhering to using only the allocated MGDs (millions gallons per day) and to honoring the IIFS decision that establishes long-term protection of Maui's water resources, native Hawaiian traditional and cultural practices, and the natural habitat of Maui's streams. As the saying goes, without water, there is no life. Without water, there will be inadequate productive agriculture.

I am speaking as a citizen but I am also a volunteer member of the Maui Nui Food Alliance (MNFA); a community coalition dedicated to bringing together diverse community interests from Maui, Molokai, and Lana'i to support and promote a healthy food system for our future, while honoring the Native Hawaiian traditions of Maui Nui's past.

I believe that the work that Mahi Pono is doing supports the mission of the MNFA and with their continued success and opportunity to "grow", the community and our coalition can help to bring balance to all the communities of Maui Nui.

Thank you for the opportunity to share my support for the Final EIS for Mahi Pono; I urge your acceptance of the FEIS.

Suzanne Fields  
Haiku, Maui

**From:** [Serafina Gajate](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Tuesday, September 21, 2021 4:31:40 PM

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Aloha,

I am writing to submit comments on the proposed A&B Water Lease, and to ask that you vote NO on extending this lease. In brief, A&B has had more than their fair share of water, it's time to allow small farmers and forest gatherers to use this water as it was meant to be used, flowing in the native streams and giving life to the entire forest and the community that depends on it, not just one corporation.

In detail:

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this "unacceptable." The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public's health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Mahalo,  
Serafina Gajate

Sent from my iPhone

**From:** [Camille Gilbert](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 4:16:09 PM

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Dear BLNR

No diverting east Maui streams for the next three decades! Below are 6 reasons why this EIS is environmentally destructive and indefensible.

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Sincerely,

Camille Gilbert  
Santa Barbara, CA

**AKAHI**  
300 W. Wakea Ave.  
Kahului, HI 96732  
808-877-0544

**ELUA**  
200 Hina Ave.  
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**EKOLU**  
717 Makaala Dr.  
Wailuku, HI 96793  
808-242-4377

**EHA**  
1057 Makawao Ave.  
Makawao, HI 96768  
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**ELIMA**  
11 Mahaolu St.  
Kahului, HI 96732  
808-893-0002

**EONO**  
810 Kelaweia St.  
Lahaina, HI 96761  
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**EHIKU**  
56 Ehiku St.  
Kihei, HI 96753  
808-891-8588

**EWALU**  
88 Ohia Ku St.  
Pukalani, HI 96768  
808-573-5500

**HOME PUMEHANA**  
P.O. Box 100  
Kaunakakai, HI 96748  
808-555-5788

**HALE KUPUNA O LANAI**  
P.O. Box 630418  
Lanai City, HI 96763  
808-565-6615

**LOKENANI HALE**  
1889 Loke St.  
Wailuku, HI 96793  
808-243-9272

**KAHULUI LANI**  
65 School St.  
Kahului, HI 96732  
808-868-0180

**LAHAINA SURF**  
1037 Wainee St.  
Lahaina, HI 96761  
808-661-3771

**LUANA GARDENS**  
615 W. Papa Ave.  
Kahului, HI 96732  
808-871-9009

**KOMOHANA HALE**  
120 Leoleo St.  
Lahaina, HI 96761  
808-661-5957

**KULAMALU HALE**  
65 Ohia Ku St.  
Pukalani, HI 96768  
808-868-4148

**HULIAU**  
145 Wahinepio Ave.  
Kahului, HI 96732  
808-868-2229

**CHSP/MEALS PROGRAM**  
200 Hina Ave.  
Kahului, HI 96732  
808-872-4170

**HOMEOWNERSHIP/  
HOUSING COUNSELING**  
200 Hina Ave.  
Kahului, HI 96732  
808-242-7027

**PERSONAL CARE/  
HOMEMAKER/CHORE**  
11 Mahaolu St. Ste. A  
Kahului, HI 96732  
808-873-0521



**HALE MAHAOLU**  
WHERE ALOHA LIVES

September 21, 2021

Chairperson Suzanne D. Case  
Board of Land and Natural Resources

P. O. Box 621  
Honolulu, Hawaii 96809

VIA email: [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

RE: Item D(7) – Acceptance of Final Environmental Impact Statement (FEIS) for Proposed Issuance of Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas

Dear Chairperson Case and Board Members:

I am writing for the purpose of expressing my support for the Final Environmental Impact Statement (FEIS) for the proposed issuance of the long-term lease of various lands which provide water supply and service to the Upcountry Maui area.

Hale Mahaolu is a provider of affordable senior citizen and family rental housing throughout Maui County. We currently provide over 1,200 units on 17 different housing sites throughout the islands of Maui, Molokai, and Lanai. Three (3) of our properties are situated in the Upcountry Maui area and are reliant for water service upon the East Maui water delivery system which is the subject of the Final Environmental Impact Statement before you on your September 24, 2021 agenda.

I understand that the acceptance of this document will situate the Board of Land and Natural Resources to proceed with the process which would accommodate for the leasing of the crucial lands which provide for continued water supply and service to the Upcountry Maui area. This critical infrastructure is necessary in order to provide for ongoing service for thousands of Upcountry residents and farmers.

Thank you very much for your kind consideration of this matter.

Sincerely yours,

GRANT Y. M. CHUN  
Executive Director



September 22, 2021

Board of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, HI 96813

Subject: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

I am a fourth generation farmer growing persimmons. Persimmons are one of the heritage crops of Upcountry Maui and one of only 8 farmers growing them. Some of my trees are over 100 years old, surviving the many droughts over the years. Trees take many years to grow and bear fruit. If these trees do not survive, no farmer will try to replace them in these times of hardships, just to make ends meet.

Throughout the years, I've seen many farmers retire and their sons and daughters were unwilling to take over their farms because of the hard work involved and the many hoops they have to jump through just to survive. Water has always been an issue. For example, our last sugar cane plantation closed up and now Mahi Pono is doing their best to grow sustainable agriculture. How will they do it with the lack of water?

At one time, Upcountry provided most of the agricultural products for Maui and most of the State for that matter. It seems ironic that as there is a demand for more local agricultural products, we are losing the farmers that could provide that demand. Uncertainty about providing adequate water for all farmers and residents does not help. The EIS is required by law to move to the next step to support the system that delivers our water. I request support of the EIS to move to the next step.

Aloha,  


Clark Hashimoto  
Hashimoto Persimmon Products, LLC

**From:** [Joan Heartfield](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Wednesday, September 22, 2021 12:39:24 PM

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Aloha Blessings,

I am writing to give testimony on the EIS for the proposed A&B water lease

**The EIS is inadequate and should not be accepted.**

**There are multiple problems with the EIS. I will address a few of them**

**I have lived on Maui since 1970 and have been seeing the extensive degradation of the streams and the explosion of invasive plants in and along the streams.**

**Streams that used to run with water and harbor fish and other native species are dry much of the time, or stagnant—mosquito breeding nightmares.**

**12 streams in the Huelo area where i live are dry, and need to be restored. People out here rely on the streams for taro and other farming, and they are struggling to have enough water for their farming.**

**Climate change is changing the amount of rain we are getting, and so water from the streams for local farming is more important than ever.**

**Please, prioritize the hard working local people of Maui rather than A&B this time around.**

**Thank you for your consideration.**

**Joan Heartfield, PhD  
232 Door of Faith Rd  
Haiku, HI 96708**



August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Heidi Watanabe. Together with my mother, operate Watanabe Produce Processing and Mountain View Bounty. I support accepting the EIS submitted by A&B.

We provide value added vegetables and fruits to schools, airlines and restaurants. As Mountain View Bounty we also provide locally grown eggs. Working with the Department of Education System, airlines and restaurants means contracts that must be filled on a regular basis. You need to deliver. We want to use locally grown as much as possible. Local produce supplies are especially erratic during drought times, forcing us to use imported products. It is critical that the EIS address the need adequate and affordable water to keep farmers in production to meet the State mandate for locally grown.

I respectfully request acceptance of the EIS with provisions for water for agriculture to increase levels of self sufficiency.

*Heidi Watanabe*

Heidi Watanabe  
Watanabe Produce Processing  
Mountain View Bounty.

**From:** [Cheryl Hendrickson](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] The Final EIS for the EMI Lease is Inadequate and Needs to Be Rejected  
**Date:** Wednesday, September 22, 2021 9:10:29 AM

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## Aloha Board of Land and Natural Resources-

Please deny the final EIS for the 30 year EMI lease. It does not address the full impacts of diverting the stream water to central Maui. The EIS does not address mitigations or plans to adjust EMI water demand due to major setbacks that could occur over time. Changes to farming, climate change impacts, increasing droughts and other environmental changes are likely to occur during the proposed 30 year time frame. Affecting the watershed environment and the surrounding communities.

The EIS does not address or give a time table or plans for repairs that will be needed. Accumulated debris that builds up in these dry streams beds will clog bridges and culverts when storms hit forcing water to wash out roads and properties. As is what happened last March in Haiku. Costing tax payers millions in repair costs. Not to mention the punitive damages by not being able to access homes, businesses and properties.

Please do not give EMI exclusive rights to these waters. There is no consideration to the needs of other farmers Upcountry or in East Maui. The FEIS is not specific enough and needs to be denied.

Many Mahalos,

Cheryl Hendrickson  
Haiku Resident

September 22, 2021

Aloha Chair Suzanne Case and Members of the Board of Land and Natural Resources:

My name is Shay Chan Hodges and I request that you do **NOT** accept A&B's Final-EIS document.

From 2016 to 2021, I served on the Maui County Board of Water Supply. From 2019-2021, I was Chair of the BWS and in late 2019, I was Vice Chair of a three-member Temporary Investigative Group (TIG) that explored the feasibility of purchasing and maintaining the EMI water delivery system and examining other alternatives for ensuring that the people of Maui County have authority over the delivery of water, which is a public trust. The subsequent 85-page report outlined concerns related to water needs of East Maui residents and taro farmers, and upcountry domestic and agricultural water users.

The DLNR Staff Report on the FEIS states that the objective of the FEIS is to provide information to BLNR when it considers whether to issue a long-term water lease to allow continued operation of the EMI Aqueduct System -- and that one of the purposes of this continued operation is to deliver water to the Maui County Dept of Water Supply for domestic and agricultural water needs in Upcountry Maui, including the agricultural users at the Kula Agricultural Park (KAP) and KAP expansion. The report also states that the existing water delivery agreements with the DWS are contingent upon the water lease being issued, therefore, if no water lease is issued, it is assumed that the delivery of water to the DWS would terminate for Upcountry Maui and Nahiku.

The threat to municipal water was the primary reason why the Maui County Board of Water Supply approved the convening of the Temporary Investigative Group, which stated on page 9 of its report that, "because Mahi Pono has not committed to working with the County of Maui to ensure affordable access to water for Upcountry Maui residents if a revocable permit or lease is not approved and given that the public trust continues to be tethered to legal decisions made regarding EMI, A&B, and Mahi Pono, TIG members believe that it is a public health imperative for the County Council and Mayor to explore all facets for self-determination with regard to access to water as soon as possible."

On December 19, 2019, the Board of Water Supply unanimously approved the TIG report with minor amendments. The two immediate recommendations included in the report were that "Maui County should immediately apply for a long-term (Water Lease) for the Nāhiku, Ke'anae, Honomanū, and Huelo License Areas" and that "Maui County should immediately re-negotiate a new contract with EMI/Mahi Pono that does not require that EMI/Mahi Pono obtain a Revocable Permit or Lease in order for the Kamole Treatment Plant to access Wailoa Ditch waters." When he was a Hawaii State Senator, now-Congressman Kai Kahele also recommended that Maui County apply for a long-term lease.

In the near-term, the TIG report noted that "the financial incentive structure of a private equity-controlled water delivery system is misaligned with the long-term public interest," and "the TIG recommends that the County of Maui exercise its powers of eminent domain as soon as possible to begin the process of supporting acquisition of the system."

In November 2019, I submitted comments on the A&B/EMI Draft EIS along with the 85-page Temporary Investigative Group report that was issued in October 2019. While Wilson Okamoto did not respond satisfactorily to my comments, ignoring much of the subject matter of the TIG report and in fact making false statements about some of the content, I am hopeful that the members of this body had time to review the Maui County Board of Water Supply members' research and analysis since, like you, we are all volunteers who invested a great deal of time and energy in understanding the EMI system and its impacts.

**I have outlined my issues with the Wilson Okamoto responses in the attached document, but will highlight two incorrect assertions here:**

*First, that the County has yet to deliberate on the TIG report.*

The TIG Report, including a presentation by all members of the Temporary Investigative Group was presented to the Maui County Council Agriculture and Public Trust Committee on **August 30, 2021**. The Committee approved including the full TIG report in the Maui County Water Use and Development Plan (WUDP), which is currently being modified prior to submission to the Commission on Water Resource Management (CWRM). The purpose of the WUDP, which is referenced numerous times in the FEIS, is to provide a plan for the protection, management and use of water resources on Maui by all water users over a 20-year period. **Thus, the County has begun deliberation of the TIG Report, and will likely continue to do so, as it has been deferred for further discussion.**

*Second, that the TIG report does not make clear justification for how a potential change in ownership to Maui County would impact adverse environmental effects associated with the Proposed Action.*

The report provides several examples of positive environmental impacts of a public ownership. For example, as stated on page 61, increased sources of environmental funding that are available to public entities provide more options for a publicly-owned entity to enhance environmental quality that a privately owned entity does not have access to:

“For example, grants and loans are available through the US Department of Agriculture, Rural Development agency for water and environmental programs. These grants are focused on populations of 10,000 or less so they could possibly apply to East Maui. The USDA’s Rural Utilities Service (RUS) provides much-needed infrastructure or infrastructure improvements to rural communities. These include water and waste treatment, electric power and telecommunications services. The US Bureau of Reclamation also provides funding for large scale water management, efficiency, and development.”

On Page 62 and 63 of the TIG Report, under “Risks of Leaving Access to the Public Trust in Private Hands,” the report addresses documented environmental risks associated with a private equity-managed water delivery system controlled by a Canadian Pension Fund, and providing as an example Trinitas’s almond growing:

‘As climate change creates more uncertainty and extreme impacts on residents, based on statements made in the DEIS and the record of Mahi Pono’s parent company Trinitas in California during the California drought in 2015, it is imprudent to assume that Mahi Pono will be a responsible community citizen, if extreme weather reduces water availability and/or if community groups request more investment in sustainable farming and/or water conservation practices.’

Please find attached concerns related to the responses to my comments both mailed and emailed to me by Wilson Okamoto Corporation on September 3, 2021.

Please feel free to contact me if you have any questions or concerns about my oral or written testimony, or about the Maui County Board of Water Supply’s Temporary Investigative Group Report.

--Shay Chan Hodges  
[Shay.chanhodges@gmail.com](mailto:Shay.chanhodges@gmail.com)  
(808) 250-6160

**Comments on Responses in 10238-4  
September 3, 2021 Letter to Ms. Shay Chan Hodges  
from Wilson Okamoto Corporation**

**Note:** There is no statement in the email or letter from Wilson Okamoto Corporation declaring that Wilson Okamoto is responding on behalf – or with authorization from – Alexander & Baldwin, East Maui Irrigation Company, or Mahi Pono. (Though the physical attached cover letter is copied to “A&B/EMI Applicant”)

Given the legal implications of some of the responses to my comments, it would be helpful to understand whether the responses constitute statements from any or all of those companies.

**In all response quotations below, bold is added to indicate problematic aspects of responses.**

**Response #1:**

Incorrect Characterizations of the Maui County Board of Water Supply TIG Report:

*“We acknowledge that you are submitting comments to the subject Draft EIS in your individual capacity, and that your primary concern regarding the subject Draft EIS is the change in ownership alternative, discussed in Section 3.1.2. and also briefly summarized in the Draft EIS Executive Summary.*

*“We are aware of the County Board of Water Supply (BWS) Temporary Investigative Group (TIG) Report, which was published after the Draft EIS, on the potential acquisition of the EMI Aqueduct System by the County, speaks directly to the “ownership change” alternative referenced in your comment. To provide further context, on July 19, 2019, the Maui County BWS formed the TIG to explore options for ensuring public access to water, including the feasibility of purchasing and maintaining the EMI Aqueduct System.*

*“...As of the postmarked date of your comment letter (November 6, 2019) BWS had not yet deliberated on the findings of the TIG Report, or issued any such guidance in response to its findings. **However, our understanding is that on December 19, 2010, the BWS approved the TIG Report.** However, based upon the information obtained to date, the County’s acquisition of the EMI Aqueduct System still remains speculative. **The BWS has not yet deliberated on the findings of the TIG Report, nor issued any guidance in response to its finding.***

*“We acknowledge the receipt of the TIG Report attached to your comment letter. **The existence of the TIG report and its findings have been included in Section 3.1.2 of the Final EIS as shown on pages 3-19 to 3-20.**”*

**Although Response #1 acknowledges that the Maui County Board of Water Supply approved the TIG Report on December 19, 2019, there are a number of errors in this section:**

- 1.) The date listed should of course be December 19, 2019, not 2010.
- 2.) This statement is FALSE: **“BWS has not yet deliberated on the findings of the TIG Report, nor issued any guidance in response to its finding.”**

On December 19, 2019, the BWS deliberated at length about various aspects of the findings, ranging from how to evaluate the system to the purpose of the report to the recommendations in the report. This



discussion is reflected in eight pages of publicly-available minutes of that meeting, which can be accessed through the Board of Water Supply website.<sup>1</sup>

In addition to deliberating on the findings of the TIG, the BWS issued guidance by unanimously approving the report and its recommendations (a synonym for “guidance,”) with two amendments:

- Obtain a formal appraisal as soon as possible by an MAI
- Add partnership as an option in addition to ownership.

Furthermore, at the same December 19, 2019 meeting, the BWS further approved transmitting a copy of the report to the Maui County Office of the Mayor and County Council, which was done on January 3, 2020.

Recommendations (guidance) included:

**Recommended Immediate Actions (P. 81-82)**

- County Application for a Long-Term Lease
- Re-negotiate Current Contracts with EMI/Mahi Pono

**Recommended Near-Term Actions (P. 82):**

The TIG recommends that the County of Maui exercise its powers of eminent domain as soon as possible to begin the process of supporting acquisition of the system.

**The inclusion of the December 19, 2019 Approved TIG Report in the Final EIS with its specific recommendations (guidance), which were submitted to the County Council and the Mayor, combined with the fact that those recommendations are responded to by Wilson Okamoto Corporation in Responses #4, #12, #13, #14 contradicts the assertions made in Response #1.**

**Incorrect Assessment of Whether the BWS TIG Report’s Recommendations  
Meet Applicant Goals & Objectives:**

***“Our understanding is such action by the County of Maui is subject to conjecture and is largely speculative. Such a course of action would not meet the Applicant’s objectives and goals outlined for the Proposed Action within this EIS, and is a course of action that the applicant could not even unilaterally pursue making it irrelevant to the scope of assessment within this EIS process. Even were this EIS able to entertain the evaluation of that action, it would be incredibly difficult to demonstrate that it could materially avoid, reduce, and or minimize the adverse environmental effects, costs or risks associated to a degree of marked improvement of the Proposed Action. Please note that HAR §11-200-17(f) requires an analysis of alternatives to the proposed action “which could attain the objectives of the action.” The objectives of the Water Lease (i.e., the Proposed Action), as stated in Section 1.2 of Draft EIS, are to:***

- i) *preserve and maintain the EMI Aqueduct System, including its access roads;*
- ii) *continue to meet domestic and agricultural water demands in Upcountry Maui;*
- iii) *continue to provide water for agricultural purposes in Central Maui (specifically, to transition fields previously used for sugar cane cultivation into new, diversified agricultural uses); and*
- iv) *continue to serve community water demands in Nāhiku.”*

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<sup>1</sup> <https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/26920>

There are many statements in this section that rely on assumptions and conjecture that do not reflect the actual content of the TIG Report:

- 1.) There is no reason to believe that the course of action would not meet the Goals & Objectives outlined for the Proposed Action, since there are no statements in the report that indicate otherwise, and there are many statements that do support the objectives, both specifically and generally.
- 2.) Furthermore, specific considerations of the report relate to avoiding, reducing, or minimizing adverse environmental effects, costs or risks.
- 3.) And finally, the statement that “Such a course of action...is a course of action that the applicant could not even unilaterally pursue,” is disingenuous because it is not necessary for the applicant to unilaterally pursue the course of action. **An option presented in the TIG Report is that the County of Maui and Mahi Pono pursue a partnership for joint ownership, which is ignored in the responses.**

**From Page 80 of the TIG Report:**

As noted in the Scope of the Temporary Investigating Group, the primary objective of this body was to determine how best to ensure that the people of Maui have authority over the delivery of water, which is a public trust.

In making this determination, TIG members examined:

- **Needs of East Maui residents and taro farmers** (similar to proposed action iv.: *continue to serve community water demands in Nāhiku*)
- **Needs of upcountry domestic and agricultural water users** (similar to proposed action ii.: *continue to meet domestic and agricultural water demands in Upcountry Maui*)

The TIG also considered short-term needs as well as long-term impacts of climate change, including ensuring maximum availability of water within the context of the realities of climate crisis impacts in the next 5, 10, 15, 20 years and longer; and how those impacts would affect water supply and the safety of residents, thereby affecting **the public’s access to water in the future, specifically:**

1. Watershed Protection
2. General storage, wastewater, and other conservation options
3. Renewable Energy and battery storage, including solar, wind, and hydro (including wastewater use)
4. Improved maintenance of water systems to reduce and eliminate water loss
5. Integration of the above with agricultural recommendations that support food security and soil regeneration (with labor and affordable housing considerations)

(#2 and #4 are similar to proposed action i.: *preserve and maintain the EMI Aqueduct System, including its access road*)

***Other Considerations Re: Serving the People of Maui:***

- Environmental Considerations Not Directly Related to Water Security
- Native Hawaiian Land and Water Rights
- Support of Beneficial Agriculture
- Community Control of Where the Water Goes
- Maintaining a Reasonable Cost of Delivered Water
- Support of Economic Development for Residents

(Bullet point 3 is similar to proposed action iii.: *continue to provide water for agricultural purposes in Central Maui (specifically, to transition fields previously used for sugar cane cultivation into new, diversified agricultural uses)*)

## **Response #2:**

### **Same Risks Associated with County Purchasing EMI System Are Associated with Mahi Pono Owning System**

*“Pursuant to the findings of the TIG report, **there is marked level of risk associated with any plan to acquire the subject EMI Aqueduct System.** Although consideration has been given to such an acquisition, to the knowledge of the applicant, no formal offer or negotiated proposal has been made. **Furthermore, BWS has not yet deliberated on the findings of the TIG Report, nor issued any guidance in response to its finding** Consequently, for the purposes of the EIS, the potential change in ownership of the EMI Aqueduct System is very much speculative in nature.*

“Based upon information available in relation to findings and conclusions of the TIG report, it is our assessment that the County’s potential acquisition of the EMI Aqueduct System remains speculative. **Furthermore, much of the institutional knowledge needed to properly operate the EMI Aqueduct System would be lost under any change in ownership scenario.** This could reduce the efficacy of the system, the new owner may not have the expertise needed to properly maintain it, and possibly lead to additional and unforeseen environmental impacts. Moreover, as discussed in Response #1 above, a change in ownership would presumably directly contradict the objectives of the Proposed Action as outlined within the EIS. **It is noted that the TIG report's proposal for water rates for the Central Maui agricultural fields is nearly ten times that of what is being charged to the Agricultural Park and Upcountry agricultural users, thus rendering the economic viability of agriculture on the Central Maui fields unfeasible.”**

**This section repeats many of the misstatements in Response #1, makes statements about ownership that are contradicted by Mahi Pono’s own experience, and finally misrepresents the nature of the recommendations in the TIG Report, ignoring the TIG Report’s recommendations for long-term research:**

- 1.) This statement about risk associated with a plan to acquire the system applies to Mahi Pono’s acquisition of the system as well. (Mahi Pono currently only owns half the system.)
- 2.) The statement about BWS not deliberating on the findings of the TIG Report, nor issuing guidance is false and has been thoroughly addressed in Response #1.
- 3.) The statement about lost institutional knowledge due to a change in ownership is disingenuous since that knowledge was not lost with Mahi Pono’s purchase.
- 4.) **The final statement about water rates is untrue:**
  - The water rate structure scenario presented in the TIG Report was **not a proposal, but simply an example**, as stated on Page 75: “the example below is NOT a recommendation on how revenues should be collected, but instead one example of how the purchase and operation costs could be recouped.”
  - For the purposes of presenting a simple scenario, it was assumed that this Public Trust Water System would continue to contract with the Maui County Department of Water Supply to deliver water from the Kamole Treatment plant/Wailoa Ditch **at the same rates estimated by EMI in the DEIS: “2030 water service fee rate is estimated to be \$0.10**, which has been calculated based on the ratio of operational cost to the MDWS service fee for 2008 to 2013.”
  - For the purpose of keeping the scenario simple, it was **assumed that KAP and agricultural users would continue to be charged the same rates currently charged by the County Dept of Water Supply: \$1.10 per thousand gallons.**

- The rate for central Maui agricultural users in the proposed scenario was actually a slightly **reduced rate, compared to that paid by other agricultural users**: 95 cents per thousand gallons.
- Such a dramatic increase in the water rates for Mahi Pono would definitely have economic and fiscal impacts for the entity whose sole investor is the Canadian Pension Fund PSP, but it is speculative to state that agriculture in central Maui would be unfeasible. It would, however, potentially have positive economic and social impacts countywide. Included in the Long-Term Recommendations of the TIG Report are for the County to research forward-thinking revenue and expense models, specifically to:
  - ◇ Contract additional studies that build on current research regarding the measurable impact of watershed restoration on increased availability of water;
  - ◇ Develop models and estimates regarding potential costs of installation of renewable energy systems to support treatment facilities, uphill transmission, and/or well pumping, along with energy savings;
  - ◇ Develop models and estimates of hydro-pumped energy creation and storage utilizing water and wastewater;
  - ◇ Determine the water rate fee structure that allows a reasonable rate of return to the investors, estimates of fees collected from the Department of Water Supply, Mahi Pono, A&B, residents, farms, and other commercial users. (If the structure created is regulated by the Public Utility Commission (PUC), the PUC will approve a fee structure that allows a reasonable rate of return to the investors to recover the capital expenses of acquisition and modernization, plus operating costs, and watershed restoration.)
  - ◇ Develop a risk management plan that addresses liabilities that a new owner will assume when the various grandfather clause exemptions currently enjoyed by EMI are no longer in effect.
  - ◇ Work with the East Maui community to create models for community stewardship and educational programs that operate the EMI system in the long-term.

### **Response #3:**

#### **A Change in Ownership Will Clearly Affect Environmental Impacts**

*“The subject TIG report does not make clear reference or justification for how any potential change in ownership of the EMI Aqueduct System would materially avoid, reduce, and or minimize the adverse environmental effects, costs or risks associated with the Proposed Action.*

*“...Virtually all the same issues raised in the EIS would still remain and apply under Public Ownership. Thus, we still believe that the following statement is adequate:*

*“A change in the ownership of the EMI Aqueduct System will not enhance environmental quality or avoid, reduce, or minimize all or even some adverse environmental effects, costs, or risks of the Proposed Action.”*

**Much of what is written in this section repeats what was written in Response #1 and ignores sections of the TIG Report that explain how public ownership affects environmental impacts:**

- 1.) As stated on page 61 of the TIG Report, increased sources of environmental funding that are available to public entities provide more options for a publicly-owned entity to enhance environmental quality that a privately owned entity does not have access to: “For example, grants and loans are available through the US Department of Agriculture, Rural Development agency for water and environmental programs. These grants are focused on populations of 10,000 or less so they could possibly apply to East Maui. The USDA’s

Rural Utilities Service (RUS) provides much-needed infrastructure or infrastructure improvements to rural communities. These include water and waste treatment, electric power and telecommunications services. The US Bureau of Reclamation also provides funding for large scale water management, efficiency, and development. There are other federal revolving loan funds with favorable terms that are designed to finance these types of water projects. And as noted in the table above, the State of Hawaii can be a source of funding, as it was in the \$11.2 million CIP Waikamoi flume replacement project. There are also a number of charitable foundations that have an interest in funding feasibility studies for municipal bond financing of environmentally beneficial projects.”

- 2.) The risks associated with a private equity firm controlled by a Canadian Pension Fund to the environment are described in Page 62 and 63, under “Risks of Leaving Access to the Public Trust in Private Hands,” and include environmental risks:

‘As climate change creates more uncertainty and extreme impacts on residents, based on statements made in the DEIS and the record of Mahi Pono’s parent company Trinitas in California during the California drought in 2015, it is imprudent to assume that Mahi Pono will be a responsible community citizen, if extreme weather reduces water availability and/or if community groups request more investment in sustainable farming and/or water conservation practices.’

‘As the climate crisis creates more uncertainty and extreme impacts on residents, it would be imprudent to assume that a private equity firm such as Mahi Pono with a financial incentive structure which is not aligned with the long-term public interest will take responsibility for addressing potential infrastructure damage and resource losses which will have significant impact on Maui. The DEIS makes it clear that if Mahi Pono does not receive all the public resources to which it believes that it is entitled, it may cut some or all of its water allocation to upcountry residents “which could pose long-term risks to health” (DEIS 7-5) as well as abandon agricultural fields (DEIS 6-4) and the EMI Aqueduct System. “Under such a scenario, the aqueduct system’s historic resources may be found at risk for neglect from reduced or lack of maintenance, and/or possible demolition.”’

#### **Response #4:**

Wilson Okamoto Corporation spends three and a half pages describing why the planning and engineering company believes that pursuing an imminent domain acquisition would be unsuccessful. Given the legal nature of such an acquisition, and statements made by Wilson Okamoto about valuation and legal land rights, it’s unclear whether Wilson Okamoto consulted with attorneys and whether the planning and engineering company is responding on the record for Alexander & Baldwin, East Maui Irrigation, and/or Mahi Pono.

#### **Response #5:**

This response primarily repeats previous responses. Given the issues raised regarding incorrect information and misrepresentations in the first three responses, as with the Draft EIS, the Final EIS does not adequately address the alternative proposed by the Temporary Investigative Group (TIG) Report: Feasibility of Purchasing and Maintaining the EMI Water Delivery System, nor the numerous issues raised therein.

#### **Response #6:**

Similar to Response #4, it’s unclear whether Wilson Okamoto Corporation is issuing a legal opinion about whether the County would need to submit an independent EIS:

*“However, we agree that the public acquisition of the subject EMI Aqueduct System would warrant further evaluation, and should be subject to its own, independent HRS 343 EIS process.”*

**Response #7:**

The ability of the County to mitigate environmental risks through the use of bond financing to be able to steward the public trust is disregarded in this Response.

*“We agree that the calculations of debt service payments contained within the TIG report are mathematically accurate, but largely irrelevant under the scope of assessment of the Proposed Action within the subject EIS.”*

**Response #8:**

**Monetization of Water as an Investment Strategy is Not Refuted**

*“As described above, following conventional appraisal methodology, the \$62 million dollar rebate obligation serves as more of a tangible estimation of the value of the system on the cost basis / comparison approach. **Theoretically, the potentially valuation of the system could be exponentially higher if appraisal follows the income approach.** Clearly, the true value of the productivity of the Central Maui Agricultural fields critically relies on the conveyance of water by the subject EMI Aqueduct System – **consequently, it is fairly clear that any realistic valuation of the system would far exceed the value cited in the subject TIG report.**”*

**The section above does not refute my Comment #8, noting that the value of the Central Maui fields relies on the EMI water:** “If Mahi Pono is able to obtain a 30-year lease, the company will likely try to argue that the EMI aqueduct system has a higher value with a long-term lease than its purchase price of \$5.4 million”

However, Wilson Okamoto does state that \$62 million is the fair value of the system prior to conveyance of the water, far more than what Mahi Pono paid to Alexander & Baldwin, a publicly-traded company. It’s unclear whether Wilson Okamoto consulted with attorneys and whether the planning and engineering company is responding on the record for Alexander & Baldwin, East Maui Irrigation, and/or Mahi Pono.

**Response #9:**

Unclear what Response #9 has to do with Comment #9.

**Response #10:**

**Current lease rate of \$238,361.64 per year is far below what ag users on Maui pay:**

*“The calculations cited in the TIG report under reference by your comment are mathematically accurate.”*

Wilson Okamoto does not refute my calculations, nor the implications. Assuming that BLNR would triple Mahi Pono’s lease if the company were allowed to access 65 mgd, rather than the current 25 mgd, Mahi Pono would pay approximately \$715,000 per year. Maui farmers, on the other hand, who pay \$1.10 per thousand gallons, would pay \$26 million for the same amount of water.

### **Response #11:**

#### **Relevance of Maui County Board of Water Supply TIG Report to Proposed Action:**

*“Our understanding is that the purpose of the TIG and TIG Report is to inform the County as a **fact-finding, context building exercise**. The acquisition of the subject EMI Aqueduct System **is tangential and largely irrelevant** under the context of the Proposed Action (issuance of a lease to A&B/Mahi Pono). Moreover, to our current understanding, **the County has yet to deliberate on the TIG Report.**”*

#### **As in previous statements, this section misrepresents the TIG report and its recommendations:**

- 1.) As clearly articulated in the report, the purpose of the TIG and its report were not to inform the County as “a context building exercise.” The stated purpose of the Temporary Investigative Group was to “Explore the Feasibility of Purchasing and Maintaining the EMI Water Delivery System and Examine Other Alternatives for Ensuring That The People of Maui County Have Authority Over the Delivery of Water, Which is A Public Trust.”

The last paragraph of the Section 1: TIG Investigation Background makes the purpose very clear, stating:

“Because Mahi Pono has not committed to working with the County of Maui to ensure affordable access to water for Upcountry Maui residents if a revocable permit or lease is not approved and given that the public trust continues to be tethered to legal decisions made regarding EMI, A&B, and Mahi Pono, **TIG members believe that it is a public health imperative for the County Council and Mayor to explore all facets for self-determination with regard to access to water as soon as possible.**”

- 2.) Furthermore, the TIG Report, including a presentation by all members of the Temporary Investigative Group was presented to the Maui County Council Agriculture and Public Trust Committee on August 30, 2021. The Committee approved including the TIG report in the Maui County Water Use and Development Plan (WUDP), which is currently being modified prior to submission to the Commission on Water Resource Management (CWRM). The purpose of the WUDP, which is referenced numerous times in the FEIS, is to provide a **plan for the protection, management and use of water resources on Maui by all water users over a 20-year period. Thus, the County has begun deliberation of the TIG Report, which has been deferred for further discussion.**
- 3.) The statement that the *“acquisition of the subject EMI Aqueduct System **is tangential and largely irrelevant**” is therefore erroneous and as stated in Comment 11, “the EIS needs to address the issues raised under “Recommendations and Conclusion” on Page 81.”*

### **Response #12**

Repeat of Response #6.

### **Response #13**

Similar to Response #6.

#### **Response #14**

Response #14 does not address the misalignment of interests referred to in the comment, but instead only repeats Response #4, which is not relevant.

Comment #14: As outlined under “Governance Structures” and described in more detail previously, because the financial incentive structure of a private equity-controlled water delivery system is misaligned with the long-term public interest, it would be imprudent to assume that the “Primary” and “Other Considerations” described above [on Page 80] will be addressed by Mahi Pono.

As noted in the TIG Report on page 62, ‘the County also needs to consider the risks of an outside private equity firm with a “2 and 20” compensation structure and whose institutional funding source is seeking a net annualized return in excess of 10% controlling a significant amount of Maui water supply for 30 years.’

#### **Response #15:**

Repeats Response #4.

#### **Response #16:**

While Wilson Okamoto Corporation states that the Maui County Board of Water Supply TIG Report is included in the Final EIS, the responses to the comments indicate that the report was not read thoroughly as there are numerous errors and misrepresentations in the previous 15 responses, including instances where the intention of the comments which are based on the content of the TIG report, were ignored.

Taken separately and together, the responses do not represent adequate or satisfactory refutation of the issues raised in the TIG report and my comments.



**From:** [Emily Holmberg](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Tower Development, INC  
**Date:** Tuesday, September 21, 2021 3:39:01 PM

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I am writing to voice my opposition to Tower Development, Inc getting the lease for stolen Hawaiians lands. Hawaiian lands belong in Hawaiian hands, not to foreign (American) developers.

Mahalo,  
Emily Holmberg

**From:** [Lorna Holmes](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 7:11:35 PM

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Aloha BLNR,

Please note the deficiencies in the EIS for this lease, as outlined below.

**#1, A lease should not be issued without first addressing the outrageous waste of valuable public trust water resources** by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.

2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **There needs to be well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Mahalo for addressing these issues.

Dr. Lorna Holmes

Honolulu 96817



# FEED MY SHEEP

Sept. 22, 2021

Subject: Agenda item D7

Dear Chair Case and Members of the Board of Land and Natural Resources;

I am writing this letter in support of the acceptance of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nahiku, Ke'anae, Honomanu, and Huelo License Areas (FEIS).

I have served with Feed My Sheep in Puunene for 13 years and have witnessed the transformation of the land since the closure of HC&S. I watched with great concern as the sugar plantation ended operations. Many feared that this property would be developed in ways that would harm Maui's culture, environment and livability.

I was further concerned as the fallow land died and became fuel for terrifying wildfires. The 2019 wildfire in particular came very near to land that Feed My Sheep had occupied only 1 week earlier. Our organization was at great risk during worsening wildfire seasons. We were anxious for someone to do something with this land and were cautiously optimistic when Mahi Pono began operations and released plans for the area.

First, I will disclose that Feed My Sheep has benefited from donations of food from Mahi Pono and have rights to farm on 4 acres of property owned by that company. At the same time, we are a diverse group of staff and volunteers serving a diverse group of people in need and supported by a diverse group of donors. I have listened to many opinions about Mahi Pono and take into careful consideration that this is a corporation with intent and motives that we can only prove and test by close observation.

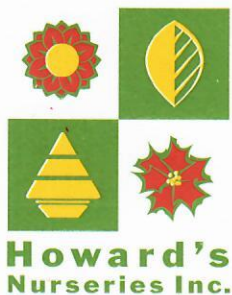
But having observed closely I see that Mahi Pono is demonstrating a clear effort to keep central Maui an agricultural environment and add a stable, responsible and beneficial industry to our island. I witness that our corporate neighbor has put great effort into protecting the land from fire, erosion and waste replacing the fallow land with green once again.

The plans and operations of Mahi Pono clearly require significant volumes of water. However, any use of this land other than letting it continue to burn would easily require as much or more water and most other uses would damage our environment. Farming enhances this area is the highest use I can envision for this land. I am happy to support Mahi Pono's efforts to do so. My observation and understanding is that it is in Mahi Pono's best interest to farm this land in an efficient way and leverage this water resource for the benefit of the community in food security, natural spaces and responsible stewardship.

Thank you for your consideration,

Scott Hopkins

Executive Director  
Feed My Sheep, Inc.  
[www.feedmysheepmaui.com](http://www.feedmysheepmaui.com)



September 20, 2021

To: Chairwoman Case  
DLNR Board Members

From: Howard and Sandy Takishita

**RE: Support FEIS 2021**

Our hope is that you accept the Corrected FEIS before you this week to at least begin the process of bringing water to Central Maui, Upcountry residents and farms. The genesis of our endorsement is found in our solid commitment to the restoration of the Central Maui Plain (CMP) and our promise to 6 generations of our Maui family to remain responsible custodians of this land.

For 148 years, all of "us" kamaaina thought the beautiful green Central Maui Plain (CMP) would always be there, like the ocean and mountains. We were dead wrong and feel devastated just looking at the desolation. Without the reestablishment of crops, we can face permanent desolation.

Our family has been in the plant and tree business for 70 years, providing shade and cover for Maui's highways, resorts, homes and parks. When the opportunity presented for us to grow the starter trees for Mahi Pono, it was exciting to know that even today, with profit always the primary motive, SOMEONE was interested in the long term investment of reestablishing crops on our Central Maui Plain (CMP).

"Greening" or re-establishing of the CMP is:

- Crucial to the restoration of our way of life and the beauty of our home.
- Critical to lowering our CO2 levels
- Key to cooling our island by at least 10%
- A pivotal factor in providing more food locally
- An opportunity to introduce more jobs to our people

None of us will live to see the true impact these millions of trees will have on life on Maui but at the least, it will continue the culture of agriculture for another 100 years. It's our kuleana to do the right thing for our children and generations to come and keep agriculture sustainable and thriving.

**From:** [Wendy Hudson](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] EMI EIS on agenda for tomorrow  
**Date:** Tuesday, September 21, 2021 10:42:20 AM

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## **THE EIS FAILS TO MEET LEGAL REQUIREMENTS TO CONSIDER IMPACTS AND ALTERNATIVES.**

EIS rules state that an FEIS must disclose all potential impacts. EMI's FEIS as it stands now does not satisfy these rules and does not disclose the impacts fully. It is up to the BLNR and the community to hold EMI accountable and ask them to provide BLNR with correct and complete information before a decision can be made.

--

Wendy Hudson  
Hudson Law LLC  
44 N. Market St.  
Wailuku, HI 96793  
808-242-1999 phone  
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808-244-5698 fax

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**From:** [Lehua](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] The Final EIS for the EMI Lease is Inadequate and Needs to Be Rejected  
**Date:** Wednesday, September 22, 2021 5:28:38 PM  
**Attachments:** [image001.png](#)

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Aloha,

Please reject the EIS for the EMI lease. The Final EIS is greatly inadequate and should not be accepted.

As the accountant for a water quality NGO for the past 10 plus years, born and raised on Maui who has seen the drastic changes and effects and lack of proper water regulation and control, I would like to register my opposition to the FEIS for Maui's EMI. The FEIS does not address the drastic changes we can all expect with the unprecedented Global Warming. It would set a horrible precedent for the State to be allowing such a short sited FEIS, who's goal is a 30 year lease. There are many outlined points to address the inadequacies :

- **MOVING WATER:** FEIS needs to address the environmental and cultural impacts of moving and using water across aquifers and ahupua'a.
- **WASTE AND SEEPAGE IN THE SYSTEM:** FEIS needs more detailed discussion of decreasing waste and seepage as the water is transported and stored.
- **WATERSHED RESTORATION:** The FEIS does not discuss what more needs to be done to achieve watershed restoration.
- **30 YEARS:** The proposed lease would be for 30 years, but the FEIS does not address the mitigation and plans to address possible major setbacks, changes to farming, climate change, increasing droughts, other environmental changes, and repair needs of the system over the next 30 years.
- **NOT SHARING:** The FEIS states that all water saved through conservation or better farming practices will be used by Mahi Pono to plant more acreage. The possibility of leaving more in the streams is not considered.

Please reject the EIS for the EMI lease. The Final EIS is greatly inadequate and should not be accepted.

Mahalo,

\*\*\*\*\*

Safia Lehua Slater  
Grants Manager  
Hui o Ko'olaupoko



111 Hekili St. Ste A 510, Kailua, HI 96734  
(808) 366-0645  
[www.huihawaii.org](http://www.huihawaii.org)

Please help support our organization and environmental efforts  
[smile.amazon.com/ch/26-1760086](https://smile.amazon.com/ch/26-1760086)

<https://www.huihawaii.org/support.html>

**From:** [Mark Hyde](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] 9/24/21: REJECT East Maui Irrigation Final EIS for 30 Year EMI Lease  
**Date:** Monday, September 20, 2021 6:27:45 PM

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Please reject the proposed Final EMI EIS.

Simply stated, my concerns, which I voiced to the applicant and its consultant during the review and comment process (without satisfactory response), are

- the 30 year lease is too long given rapid climate and social changes affecting Maui;
- the lease is without performance goals by the lessee during its 30 year term (such as timely system maintenance and repair and avoidance of water waste and leakage); and
- there is no provision triggering review in the event of a material change in circumstances justifying review, such as severe drought and other effects of climate change, natural disasters, etc. which could present very different circumstances than those present today.

The past 30 years have produced dramatic and rapid social, environmental and political change. The rate of change is accelerating. The next thirty years will no doubt be just as dynamic, requiring a dynamic lease, not an open ended blind commitment dedicating public trust water to a third party for commercial benefit.

To allay these concerns a few reasonable changes in the terms and conditions of the lease should be added - which would not jeopardize its expected 30 year term while providing the BLNR and the public with tools for review should substantial cause justify such. I'd leave the crafting of these conditions to further negotiation.

Mark Hyde  
4320 E. Waiola Loop  
Kihei, Hawaii 96753  
(808) 874-3839



**From:** [jana@janaireijo.com](mailto:jana@janaireijo.com)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Wednesday, September 22, 2021 3:42:27 AM

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To whom it may concern,

I grew up on Maui, and I am writing to voice my opinion against the proposed diversion (and lease) of east Maui streams to A & B.

It is wasteful, short sighted, and will negatively impact our environment for generations to come. It would negatively impact residents, our ecosystem, and could leave to even more costly problems in the future.

Sincerely,

Jana Ireijo

Jana Ireijo

Founder, Mural Ethos: Vanishing Murals

"Let the murals vanish, so our endangered species do not. This is the moral of our painted story."

[www.muraletethos.com](http://www.muraletethos.com)

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**From:** [Carmen Jimenez](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] FEIS should not be accepted  
**Date:** Wednesday, September 22, 2021 10:14:41 PM

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Aloha,

The Final Environmental Impact Statement is inadequate and should not be accepted.

My name is Carmen Jimenez -Schellhammer.

My husband Scott and I own the property of 36 East Waipio Rd. Our property crosses the East Waipio stream. I already have many concerns for the East Waipio Stream right now due to the Zipline business that runs along a portion of it and concerns for the bathrooms by the stream. However, a 30-year lease of East Waipio Stream worries me even more.

There are several issues that need further attention for a 30-year lease.

It is unclear about the mitigation or plans to address setbacks, changes to farming, climate change environmental impact.

The bottom line, the FEIS is inadequate and should not be accepted.

Mahalo for your time and consideration,

Carmen Jimenez -Schellhammer











**From:** [jag@urmaui.com](mailto:jag@urmaui.com)  
**To:** [Ferreira, Darlene S](#)  
**Subject:** [EXTERNAL] Final Environmental Statement  
**Date:** Tuesday, September 21, 2021 6:01:05 PM

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Aloha Chair Case and Members of the BLNR.

My name is James A Gomes or known as Jimmy. I was a fellow Board Member for eight years and my term expired June 30, 2021. During my years on the Board this issue with East Maui Irrigation, Mahi Pono, HC&S or A&B has come before the Board in which A&B was told to do and EIS among other requirements. I have recused my self from voting or sitting in the meeting when they came before the Board because being in conflict with my employer Ulupalakua Ranch Inc.. URI was involve with HC&S and their Kulolio Ranch in which we supplied cattle to their operation. I was told that I had to recuse myself from the Board of Ethics, Attorney General Bill Wynhoff, Kimo Frankel and Chair Case. EMI manages the water flow from East Maui to the County water lines that supply upcountry water besides URI having and interest with their cattle operation. I have sat in public hearings here in Maui concerning this long standing issue of who gets and not gets water. This has been going on for over a decade and now with the EIS done by A&B, I STRONGLY SUPPORT THE ACCEPTANCE OF THE ENVIROMENTAL IMPACT STATEMENT SUBMITTED BY A&B.

With the Sugar industry gone and new owner Mahi Pono which is developing the fallow lands into crops, fruit trees, coffee and cattle grazing, water is very important for this operation to survive. We need to be sustainable and supply as much as we can to the people of Maui and throughout the islands . As we know 90% of our goods are imported, so lets see what we need to do on our part and also the Governor's initiative on supporting agriculture , alternative energy and less depended on fossil fuel.

I am sorry but I don't know what the agenda item that I can refer to as this was brought to my attention that it was coming before the Board 9/24/2021.

Mahalo Nui Loa,  
Jimmy Gomes



**From:** [Kyle Kajihiro](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Tuesday, September 21, 2021 11:14:28 AM

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Dear Chair and Members of the Board

My name is Kyle Kajihiro. I am a lecturer in Geography and Environment and in Ethnic Studies at UH Mānoa. And I work with Hawai'i Peace and Justice and other groups concerned about environmental justice issues in Hawai'i.

I am concerned that the EIS fails to address a number of key issues. First of all, water as a public trust resource demands the highest level of care and protection. The existing water diversion system is old and leaking. The EIS fails to address the problem of water waste through leakage.

Industrial uses, such as cement mixing is an inappropriate use of diverted stream water and must be prohibited.

Water diversion has decimated stream flow in many of the affected streams. This has a cascading negative effect on native stream biota as well as downstream species that depend on freshwater inputs. How will the petitioner restore water to the distressed streams?

The EIS requires a more comprehensive and adequately funded invasive species mitigation plan. And it must include a more in-depth study of how diversion structures may adversely affect native ecosystems by creating standing water which could increase mosquito breeding.

The term of the lease should be 15 years or less to allow for a more iterative process of water management. This would allow the state to make necessary adjustments to plans if initial estimates of environmental impacts were off.

THank you for this opportunity to testify.

Sincerely,

Kyle Kajihiro

--

Kyle Kajihiro, Ph.D. (he/him/his)  
Lecturer, Department of Geography and Environment  
Lecturer, Department of Ethnic Studies  
University of Hawai'i at Mānoa  
[kkajihir@hawaii.edu](mailto:kkajihir@hawaii.edu)

**From:** [Chanelle Kalama Oliveira](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] East Maui stream water  
**Date:** Thursday, September 23, 2021 7:08:20 AM

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To whom it may concern,

I am writing a testimony because a foreign entity should have no access to our public trust. We, the people of the land here in Hawai'i, need more water (wai) for cultural purposes such as growing Kalo to survive.

Hawai'i cannot be Hawai'i without its people, and its people need water to survive. The east side of our island Maui is one of the last places where the Hawaiian culture thrives. By taking away or diverting its primary source, which is water, you are stripping our people of our lifestyle, culture, and daily practices.

I urge you to keep East Maui Stream at home where it is meant to be and not transporting it out of the district.

Ola ka wai, Ola ka 'ohana. Water is life, family is life.

Mahalo,  
Chanelle Kalama-Oliveira

**From:** [Kaniloa Kamaunu](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony F-EIS  
**Date:** Thursday, September 23, 2021 7:02:47 AM

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Aloha BLNR Members,

My name is Kaniloa Kamaunu of Mokupuni 'O Maui, Moku'O Wailuku, Ahupua'a Waihee Valley. I am submitting a written testimony on F-EIS which is on your agenda for Friday September 24th, 2021.

F-EIS submittal is incomplete needing more information on why the State BLNR will allow a foreign entity access to our finite resource. We as kanaka maoli have vested water rights which is superior to the BLNR State of Hawaii. The BLNR State of Hawaii has an obligation to protect our kanaka maoli water rights according to it's 1978 Constitution Article 12 section 7 also HRS 1-1, 7-1 and 172(c). The BLNR State of Hawaii's number 1 priority is to the owners of the resources which we the kanaka maoli are. The BLNR State of Hawaii is obligated and must consult with all kanaka maoli parties with vested interest especially those who continue to rely on the wai for everyday sustainable living. The BLNR State of Hawaii is obligated to search out and find the kuleana those kanaka who are heirs still living on their ancestral lands and continue their customary traditional use water use needs to be protected and upheld by the BLNR State of Hawaii.

As a Kanaka Maoli and recognized Kuleana Heir cannot support the BLNR's pursuing F-EIS in it's current state. I demand the BLNR retract it's proposal.

Kaniloa Kamaunu  
Sovereign Kanaka Maoli  
of Ko Hawaii Pae Aina  
and Kuleana Heir

**From:** [carol lee kamekona](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony for 9/24/21 meeting  
**Date:** Thursday, September 23, 2021 8:58:16 AM

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Aloha,

My name is Carol Lee Kamekona and I live in Kahului, Maui but am from Keaukaha Homestead, Moku o Keawe.

I am testifying against allowing water to be given to Wailuku Water Company/Mahi Pono. For many years our kalo and kuleana farmers/landowners have been impacted with no resolution.

I am also against allowing any private owners to purchase crown lands. I believe this is item D4 and D5 on your agenda. Especially this entity (Tower) who is in default on one loan, trying to evict tenants on another property and then trying to purchase more shoreline property. 'A'ole!

Mahalo for receiving my testimony.  
Carol Lee Kamekona

Sent from my iPhone

**From:** [Liam Keanini](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony  
**Date:** Thursday, September 23, 2021 4:08:18 AM

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Regarding meeting on 9/24/21 @ 9AM via ZOOM: Agenda Items D4 and D5  
SELECTION OF PROPOSAL SUBMITTED BY TOWER DEVELOPMENT, INC. IN  
RESPONSE TO REQUEST FOR QUALIFICATIONS / REQUEST FOR PROPOSALS FOR  
THE REPAIR, RENOVATION, AND OPERATION OF THE FORMER COUNTRY CLUB  
CONDOMINIUM HOTEL, HILO, ISLAND OF HAWAII  
AND  
SELECTION OF PROPOSAL SUBMITTED BY TOWER DEVELOPMENT, INC. IN  
RESPONSE TO REQUEST FOR QUALIFICATIONS / REQUEST FOR PROPOSALS FOR  
THE: DEMOLITION / PARTIAL DEMOLITION AND / OR REPAIR / RENOVATION;  
AND (2) OPERATION OF THE FORMER UNCLE BILLY'S HILO BAY HOTEL, HILO,  
ISLAND OF HAWAII

September 23, 2021

Aloha e Chairperson Suzanne Case; State of Hawai'i Board of Land and Natural Resources; et al.

I, Liam Keanini, a resident of Puako, and a Native Hawaiian beneficiary OPPOSE plans to redevelop the former Uncle Billy's Hilo Bay Hotel AND the former Country Club Condominium Hotel in Hilo, Hawai'i.

This action would effectively alienate public and "ceded" lands from a trust established to, among other express purposes, serve Native Hawaiian beneficiaries; not divest them of historical land claims, drain their land trust inventory, and diminish the revenue otherwise available to better their conditions—all of which would happen if these properties were utilized for hotel developments and transient accommodation housing. These reasons alone counsel against supporting this measure.

The State has long been complicit in efforts to transfer certain parcels of "ceded" lands to third parties for the purpose of facilitating private, commercial development, and all too often to the detriment of Native Hawaiians. The trust vested in the Department of Land and Natural Resources (DLNR) to manage and administer the "ceded" lands subject to the trust obligations articulated in section 5(f) of the Admission Act—among them, "for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended"—is no less fulsome in 2021 than it was in 1959. The fact that approximately 30,000 native Hawaiians have been languishing on the Department of Hawaiian Home Lands (DHHL) waitlist for decades evidence unmet trust obligations deserving of more meaningful consideration with respect to the State's disposition of "ceded" lands.

In addition, the stark fact that a competing offer was submitted for an affordable housing development for kūpuna, and not considered for selection, proves again that the State fails the duties they are entrusted with as managers and administrators of "ceded" lands.

So long as native Hawaiian claims to ownership of the "ceded" lands remain outstanding and unresolved, and so long as there remains manifold evidence of the State's failure to meet its

trust obligations to Native Hawaiians, prudence demands that the State's management and administration of the "ceded" lands trust inventory manifest, at all times, its fiduciary duties of due diligence and undivided loyalty to its beneficiaries. The plans in consideration here fail to accomplish that and underestimates the will and determination of the Native Hawaiian community to preserve, develop, and transmit to future generations their ancestral territory.

**From:** [Diane Kent](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Lease Concerns  
**Date:** Thursday, September 23, 2021 7:37:11 AM

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1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Diane Kent

**From:** [Angela Kay Kepler](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] The Final EIS for the EMI Lease is Inadequate and Needs to Be Rejected  
**Date:** Thursday, September 23, 2021 8:44:32 AM

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Aloha,

My name is Dr. Angela Kay Kepler, a well-known biologist, conservationist, and author of natural history, food sustainability, and cultural books in Hawaii since the 1970s. I live on East Waipio Road and have been concerned with water issues in this area for decades.

The present FEIS regarding the 30-year lease for East Maui watersheds is totally inadequate. I strongly vote that it not be passed.

Please take heed of Maui Tomorrow and the Sierra Club's recommendations.

Mahalo nui loa,

Angela



August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

I am writing today in support of the acceptance of the EIS for the water lease for East Maui.

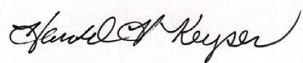
I am the retired administrator of the University of Hawaii Cooperative Extension Service on Maui. I have worked in diversified agricultural research and extension throughout my career. In retirement I am assisting my son in his operations at Native Nursery LLC. They are the largest supplier of native Hawaiian plants to DLNR for reforestation and conservation plantings statewide including the Natural Area Reserves System, and their upcountry nursery is dependent on water delivered by EMI.

Access to water and threats of droughts have increasingly become an issue for Upcountry Maui. Plant and livestock water requirements do not change. The ability of farmers and ranchers to provide water to meet plant and livestock needs is the challenge. Rainfall in this district as well as Central Maui is not only undependable but occurs at increasingly random and sporadic times and locations. Irrigation is critical for sustainability.

I expect that the EIS addresses the needs during the dry periods. Plants and animals cannot survive on "average" water assumptions that do not occur in reality. Reality is that there are periods with very high amounts with long periods of low amounts that threaten the viability of crops and livestock. The EIS needs to address how agricultural needs during the low periods are met. This is critical if sustainable production is the goal. The recent large-scale production of diversified crops including citrus, coffee, watermelon, potatoes, papaya and grass finished beef is a significant step toward sustainable local food production on Maui, for which reliable water supply is essential.

I support the acceptance of the EIS with adequate consideration for agriculture during dry periods.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harold H. Keyser".

Harold H. Keyser, PhD.  
Kula, HI 96790

**From:** [Dave Kisor](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 10:20:26 PM

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Aloha BLNR

They picked a bad time for this, as there are drought conditions on parts of Maui that could use some of that water that's under threat of diversion. Mahi Pono is supposed to grow all those crops in that chart on page x. Are they familiar with water conservation and drip irrigation? A&B operations have a long history of wasting water. If they were to switch drip irrigation, which works very well in a desert, they wouldn't require so much water and that could be diverted to where it is needed by the general population and flora and fauna, as axis deer are having difficulty finding food. For increasing the food capacity of Hawai'i, what will they charge? Who has money to buy expensive produce? This isn't being done to be nice. While this is said to be for our state, how do we know some foreign buyer won't swoop down and buy it all?

Call me nit picky, but a bunch of letters thrown together haphazardly do not make acronyms. An acronym spells a word in the lexicon. For example, Simultaneous Temporal Uniformly Preventable Identifiable Delineations would be STUPID. The idea is to find the word you want and force the letters to fit in the right place. There isn't a single acronym in the list.

This is a very technical document and everything should be 100% correct. "This page left intentionally blank" on pages 8, 20, 112, 532, 732, 782 and 796, could give one cause for concern as to whether the 798 page tome was actually read by a qualified proof reader. Then there were other blank pages without the disclaimer.

Mahalo,  
Dave Kisor

**From:** [Danette Kong](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda item D7: IN SUPPORT OF ACCEPTING CORRECTED FEIS for PROPOSED WATER LEASE  
**Date:** Thursday, September 23, 2021 4:23:23 AM

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Aloha, Chair Case and Members of the Board of Land and Natural Resources,

Please add my voice in support of accepting the Corrected Final Environmental Impact Statement (FEIS) for the Proposed (Water Lease) for Nahiku, Ke`anae, Honomanu, and Huelo License Areas (FEIS). As a Maui resident who deeply cares about protecting the future of our Island's ecological AND economic well-being, I realize the balance of these priorities entails a lot of study and sometimes difficult choices. I believe the comprehensive conclusions of the FEIS support the use of East Maui water for diversified agriculture in Central Maui.

Over the past six years from my home on the slopes of Haleakalā I observed, first – enormous, planned sugar cane-burning fires which emitted gigantic clouds resembling those resulting from atomic bombings. Those clouds dropped huge flecks of ash on my car windshield as I drove to work, and the car would be covered with ash when I left my office at the close of those days. But after the conclusion of operations at Pu`unēnē Mill, I witnessed an increasingly frightening number of fires begun by arsonists in areas of remaining fallow ground. The frequency and intensity of those fires grew, threatening residences (and even, the Humane Society), creating extreme danger for firefighters, and massive plumes of smoke and ash. The planning and work of Mahi Pono has resulted in a welcomed, significant reduction of these fires, while providing an agricultural center for Maui which is even more diverse and environmentally sound than we could have imagined upon the cessation of sugar production.

A few months ago, I was able to tour Mahi Pono's farm and see firsthand the efforts they put into careful management of their resources. The consumption of our precious supply of water has been more than halved from the amounts previously exhausted by Alexander & Baldwin. The use of herbicides has been greatly diminished by the implementation of better irrigation techniques, soil moisture sensors, and the installation of weed mats to retain moisture. For some environmentalists, even these changes in water use are not enough. But we cannot expect Mahi Pono to have made these changes immediately, and we most certainly cannot expect it to continue its operations without the availability of water to sustain crops.

I was born in Wahiawā on the island of O`ahu, spending my first five years surrounded by sugar cane and pineapple fields before we moved to Honolulu. My memories predate the development of Mililani Town and the destruction of farmlands, making way for the H-1 freeway and the building of Aloha Stadium. My family lineage in Hawai'i reaches back to at least 1883, when one of my paternal great-grandfathers emigrated from China as a plantation laborer, and eventually became caretaker for the Bond estate in Kohala on Hawai'i Island. On my maternal side, I visited my grandparents in Mississippi throughout my childhood. They had a farm where they raised cattle, corn, and eventually, alfalfa. Farming was hard work, and my grandfather died young while out in the fields with his cattle one day. But I learned from observation how important water is to maintaining crops and livestock, and how you cannot provide a sustainable future for any farm – no matter what size – without it. How can we aim for our state to become agriculturally self-sustaining without giving the very people who can make that happen the resources they need to reach that goal?

As the end of sugar cane on Maui was announced, whenever I talked story with any acquaintance, friend, colleague, and family member, there was an overriding anxiousness about the future of former sugar cane land. Our greatest fear has been anticipating the "kidnapping" of this land by unscrupulous developers. We could envision a nightmare: developers turning the former sight of cane stalks waving in the wind into enclaves of expensive homes in gated communities, benefitting the deep pockets of foreign investors. Our fears are not unfounded, given the way we are witnessing development in our tourist-driven economy. If Mahi Pono is not given the opportunity to succeed with this investment in our future, we are at tremendous risk of falling victim to our long-entrenched patterns of handing over our `āina to foreign investors who have an acquired taste for development devoid of sensitivity to our culture and our people.

The investment we make in Mahi Pono at this crucial juncture is with our water. Please hear me: while I believe we should allow Mahi Pono access to the water they are requesting, it would also be reasonable to plan continued oversight as to how the leaders of Mahi Pono live up to their promises and care for the resources with which we are entrusting them. I have witnessed firsthand how they have worked hard to be good neighbors to our Maui community, how they have tried very hard to incorporate ecologically sound methods in their farming, how they are being fair in the wages they provide to their employees, and how they are committed to create a model of sustainability and diversity which demonstrates Hawaiian values. They deserve the opportunity to live out the very meaning of Mahi Pono: *to grow or cultivate properly*. They deserve a fighting chance to work toward achieving the success we all wish for them – and that success would certainly be OURS, as well.

Mahalo nui for this opportunity to share my support for Mahi Pono's efforts with you.

Sincerely,

(Rev.) Danette Kong, retired health care and hospice chaplain  
Kula, Maui  
Ph: 808-497-3644

**From:** [Danette Kong](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda item D7: IN SUPPORT OF ACCEPTING CORRECTED FEIS for PROPOSED WATER LEASE  
**Date:** Thursday, September 23, 2021 4:23:23 AM

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Aloha, Chair Case and Members of the Board of Land and Natural Resources,

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Sincerely,

(Rev.) Danette Kong, retired health care and hospice chaplain  
Kula, Maui  
Ph: 808-497-3644

**From:** [Vala Kuma](#)  
**To:** [DLNR.BLNR.Testimony](#); [Vala Kuma](#); [Maui Tomorrow Foundation](#); [Aiai 7/18/19](#); [Nadine Aquino](#); [nettie kuwamura](#); [Tova Ramos](#); [Cecilio Rosaga](#); [Donna Sterling](#)  
**Subject:** [EXTERNAL] The Final EIS for the EMI Lease is Inadequate and Needs to Be Rejected  
**Date:** Tuesday, September 21, 2021 12:48:23 PM

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Sept. 21, 2021

EMT LEASE

I am a birth living heir of our MAUI NA WAI EHA STREAMS. I will be 60 next Feb. 2022.

The final EIS is INADEQUATE and needs to be Rejected.

I would like to have a say to see what really is best for our next 7 God Govern Generations on our VALLEY ISLAND OF MAUI NUI.

Thank you for all you do to bring Peace and Harmony to our STREAM WATERS AND THE RESPECT TO OUR ANCESTORS OF MAUI, whom Lived it... Breath it... Suffered it and now we are their Survivors.

Blessings your way, until we meet, a hui kakou

Princeslehuanani Kumaewakainakaleomomona  
808-359-1848  
[valakuma@yahoo.com](mailto:valakuma@yahoo.com)  
Maui living Birth Heir...

[Sent from Yahoo Mail for iPhone](#)

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

I am writing today in support of the acceptance of the EIS for the water lease for East Maui.

My name is Amy Lam, and with my husband Thomas, proprietor and operators of Maui Best growing sweet potatoes on 500 acres of land leased from A&B and now Mahi Pono.

Our operation is totally dependent on waters from East Maui via the ditch system operated by Mahi Pono. The dry weather conditions attracted us to relocate our operations from the wet Hilo Coast to Maui. Dry conditions with controlled application of water increase our ability to grow and process good quality potatoes for export.

However we are totally dependent on water from East Maui and will fail without consistent supplies.

I respectfully request your acceptance of the EIS so we can continue our operations.





**Via E-Mail**  
[blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

September 20, 2021

The Honorable Suzanne D. Case, Chairperson  
And Members of the Board of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawaii 96809

**Comments in Support of Agenda Item D.7. – Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Ke‘anae, Honomanu, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S-7264 (Tax Map Keys: (2) 1-1-001:050, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.**

**Friday, September 24, 2021, 9:00 a.m., Online via ZOOM, Livestream via You Tube**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF’s mission is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

LURF submits that there are ample facts and evidence to **support passage of Agenda Item D.7. to accept the determination that the FEIS complies with applicable law and adequately discloses the environmental impacts of the Proposed Water Lease for the Nahiku, Ke‘anae, Honomanu, and Huelo license areas**, to enable this Board to issue a long-term water lease for the State’s East Maui stream waters at public auction (winning

bidder to be determined). The lease is required to continue to provide water for agricultural and domestic purposes to Central Maui, Upcountry Maui, and Nahiku.

LURF's comments are based on information regarding and underlying the FEIS, the Department of Land and Natural Resources (DLNR) staff report and recommendations, the critical significance of the issuance of a long-term water lease to allow continued diversion of East Maui stream waters for such agricultural and domestic purposes, as well as laws and principles relating to land use, water, and the public trust doctrine.

### **Factual Background**

Alexander and Baldwin, Inc. (A&B), and East Maui Irrigation Company, Limited (EMI) have been pursuing a long-term lease in lieu of year-to-year revocable permits from the State for the East Maui stream waters since 2001. The lease process, however, has been impeded and delayed by numerous legal and regulatory challenges.

While the process for issuance of a long-term water lease requires completion of several complex, time-consuming regulatory processes,<sup>1</sup> a key precedent to the issuance of a water lease by the State is the preparation and acceptance of an Environmental Impact Statement (EIS), the timeline for which in this case has been as follows:

- 2016 - Preparation of the EIS.
- February 2017 - Two voluntary public scoping meetings held on Maui to solicit public input and comments.
- Required studies and assessments (nine total) initiated; a number of the studies were held in abeyance pending the State Commission on Water Resource Management's (CWRM's) East Maui Interim Instream Flow Standards (IIFS) decision in order to proceed to completion (CWRM's IIFS decision issued in June 2018).
- September 2019 - Draft EIS was issued; 400 comment letters received.

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<sup>1</sup> Today, the process for issuing a long-term State water lease could include several important, potentially time-consuming regulatory processes, which were likely not contemplated by the drafters of Hawaii Revised Statutes, Chapter 171. Prior to the issuance of a water lease, required steps may include all of the following:

- An environmental assessment or environmental impact statement (compliance with HRS Chapter 343).
- The amendment of interim instream flow standards.
- An appraisal.
- Contested case hearing proceedings and other litigation.
- Conduct of the sale of the lease at public auction.

- Draft EIS updated to respond to comments received; point-by-point responses developed for the 400 comment letters, some of which were very detailed and lengthy.
- July 20, 2021 – Final EIS submitted to the State Office of Planning & Sustainable Development (OPSD) (formerly Office of Environmental Quality Control) and DLNR.
- Due to production-related (printing) and typographical errors, the Final EIS was withdrawn and the FEIS was re-submitted to the OPSD and DLNR on August 26, 2021.

The Board's approval of this item is therefore now being requested in order that it may consider the issuance of a long-term water lease to allow the continuation of the diversion of East Maui stream waters, subject to the CWRM's IIFS order, to provide water for agricultural and domestic purposes to Central Maui, Upcountry Maui, and Nahiku,<sup>2</sup> including agricultural fields now being developed and farmed by Mahi Pono, LLC.<sup>3</sup>

### **LURF's Position**

#### **LURF Supports the DLNR Staff Report and Recommendation to the Board to Accept the FEIS.**

In a report dated September 24, 2021,<sup>4</sup> the DLNR Land Division confirms that its staff extensively reviewed the FEIS, concluded that the FEIS meets the minimum technical requirements, and recommends that that the Board: (1) Determine that the FEIS complies with applicable law and adequately discloses the environmental impacts of the proposed issuance of a long-term water lease by public auction; and (2) Accept the FEIS regarding the proposed issuance of a long-term water lease.

LURF supports the recommendations in the DLNR staff report and believes that issues raised in the staff report can be addressed in future proceedings.

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<sup>2</sup> All state water leases must go to public auction thus the ultimate lessee is unknown.

<sup>3</sup> In December 2018, much of the former Hawaiian Commercial & Sugar Company (HC&S) sugar cane lands were acquired by Mahi Pono, LLC.

<sup>4</sup> On or about September 17, 2021, the Department of Land and Natural Resources submitted a staff report to the Board dated September 24, 2021, relating to Agenda Item D.7. – Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Ke'anae, Honomanu, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S-7264 (Tax Map Keys: (2) 1-1-001:050, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

## **Board Approval Will Authorize Continued, Vital East Maui Stream Water for Central and Upcountry Maui.**

This Board's acceptance of the FEIS is imperative so that it may consider the issuance of a long-term water lease to continue to provide East Maui Water to Central Maui, Upcountry Maui, and Nahiku for the public's benefit. East Maui Water is vital for the preservation of agriculture and to supply the domestic water needs of residents and businesses in these areas who are deserving of long-term certainty. The water needs of the County of Maui and its 36,000 Upcountry Maui residents and small farmers, as well as 30,000 acres which had been farmed by HC&S prior to cessation of sugar operations at the end of 2016 and which are now being transitioned into a diversified agricultural model,<sup>5</sup> is of significant concern.

On the island of Maui, much of the water used for residents' domestic use and agricultural purposes in Central and Upcountry Maui would not be secured until a long-term State water lease is issued. East Maui Water is a vital water source which has enabled agriculture to thrive in Central Maui for over one hundred years and is essential to keep these lands in continued agricultural production after cessation of sugar operations. Ongoing efforts to transition Maui sugar operations to diversified agriculture (grass fed livestock, bio-energy crops, establishment of an agricultural park) are in jeopardy due to the need for an adequate and reliable supply of cost-efficient water.

This Board is requested to recognize that East Maui water is being utilized for the public's benefit. A long-term water lease is needed in order that EMI may continue to meet the following needs:

- agricultural irrigation needs for diversified agricultural production in Central Maui;
- domestic water needs for approximately 36,000 Upcountry Maui residents, public facilities, and businesses;
- agricultural irrigation needs of small farmers in Kula; and
- domestic water needs for the Nahiku community.

LURF understands that failure to issue a long-term water lease may even put the Upcountry Maui and Nahiku communities at risk, as East Maui stream water is a main source of water for those areas, and the most reliable source during times of drought.

LURF believes it would be unconscionable for this Board to stand by and ignore the potential agricultural, economic, and social consequences, as well as the health

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<sup>5</sup> Mahi Pono, LLC plans to cultivate these approximately 30,000 acres with diversified agricultural crops, the majority of which are food crops including orchards, tropical fruit crops, and row & annual crops; as well as energy crops and cattle operations.

and safety issues that could arise should it act inconsistently with the public trust doctrine and fail to timely effectuate the issuance of a long-term State water lease.

Passage of this agenda item which will support the issuance of a long-term water lease will also help enable the State of Hawaii to attain several broader, critical objectives, including the following:

- Continue to make progress towards achieving its local food production and renewable energy goals;
- Provide a reliable source of irrigation water to farmers and ranchers State-wide, which supports the long-term viability and security of local agricultural operations; allows for the local production of food; and promotes the goal of food sustainability and food security in Hawaii;
- Allow local farmers and ranchers, including those which have depended on access to East Maui stream water, to continue agricultural operations; and
- Avoid significant disruption to on-going agricultural and renewable energy projects and operations.

**A Long-Term Water Lease is Needed to Provide Assurance of Access to State Water for Agricultural and Domestic Purposes in Central and Upcountry Maui Which is Essential to Future Economic Development for Maui.**

It is imperative that this Board accept the subject FEIS so that it may issue a long-term water lease which will ensure that East Maui stream waters which have been used and relied upon for well over a century may continue to be collected for agricultural and domestic use in Central and Upcountry Maui. Assured access to State waters in East Maui through a long-term water lease is a critical component in keeping Central Maui in active agricultural production, which in turn, is a critical element of economic development for Maui County.

Particularly with respect to Maui County, LURF understands that with the loss of sugar, if there is to be any chance of an agricultural future for Central Maui, as well as new economic opportunity and activity for the island while preserving its rural quality of life, access to the State's East Maui waters must be sustained through a long-term water lease. Keeping Central Maui in agriculture is consistent with State and County plans which advocate for sustained agriculture rather than fractured land ownership and land uses. Since many diversified agricultural crops have low tolerance to the salinity of water from Central Maui brackish water wells, a sufficient quantity of water from East Maui streams is critical to keep Central Maui in continued agricultural production. In addition, the corona virus pandemic has significantly expanded the need for the County to diversify its economy beyond tourism and has reinforced the requirement for food self-sufficiency.

Absent a long-term water lease, the future of the East Maui irrigation system and agriculture in general in Central Maui will be at risk, with ditches, roads, and other features of the irrigation system quickly eroding and otherwise falling into disrepair. The condition of lands recently utilized for sugar production, together with farm infrastructure will also deteriorate, making the cost of rehabilitation and future farming even more costly.

LURF also understands that at any given time, only the amount of water that is actually needed is being diverted, and that the rest of the water remains in the watershed. In addition, East Maui water supports a number of wells in Central Maui that are depended upon by others, by recharging the Central Maui aquifers.

As the Board is surely well-aware, title to water resources is held in trust by the State for the benefit of the people of Hawaii, including agricultural use of water to promote and implement the underlying intent and objectives of the long-awaited Important Agricultural Lands (IAL) laws (HRS Sections 205-41 to 52), which were specifically developed and enacted to fulfill the mandate in Article XI, Section 3 of the Hawaii State Constitution, “to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.” This Board is requested to take into consideration that if water is not made available for use on lands designated as IAL, there lies a definite risk that those lands which then can no longer sustain agriculture may potentially be withdrawn from IAL and designated for use for other purposes.

**Conclusion.** Acceptance of the subject FEIS would enable this Board to consider a long-term water lease which will provide water for Upcountry Maui and Nahiku residents and farmers; and water for approximately 30,000 acres of land in Central Maui to remain in agricultural production, which are fundamentally important to the health and safety of Maui’s residents, and vitally significant to the County’s future economic development.

In view of the DLNR staff report and recommendations; above comments and considerations; and the fact that this Board’s acceptance of the subject FEIS to support issuance of a long-term water lease for the East Maui stream waters would, in LURF’s opinion, be incontrovertibly consistent with the public trust, the Board is respectfully requested to exercise its statutory authority to **find and accept that the East Maui Water FEIS Complies with Applicable Law and Adequately Discloses the Environmental Impacts of the Proposed Water Lease for the Nahiku, Ke‘anae, Honomanu, and Huelo License Areas.**

Your consideration is greatly appreciated. Thank you for the opportunity to present remarks regarding this important matter.

**From:** [wliggett@twc.com](mailto:wliggett@twc.com)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 4:55:22 PM

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## **Testimony for September 24, 9 AM, BLNR meeting, Agenda Item Land #7**

7. [Acceptance of the Final Environmental Impact Statement \(FEIS\) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 \(Tax Map Key: \(2\) 1-1-001:044\), S-7264, \(Tax Map Keys: \(2\) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017\) and S-7265 \(Tax Map Key: \(2\) 1-1-002:por. 002\) to Alexander and Baldwin, Inc., and S-7266 \(Tax Map Keys: \(2\) 1-2-004:005 & 007\) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.](#)

### **Attention Chair and members of the BLNR:**

I find the Draft FEIS (Item Land #7 deficient as follows):

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this "unacceptable." The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding are essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public's health and the environment.
6. **The FEIS should discuss how each diversion structure on**

**public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Please correct the FEIS per above before proceeding with BLNR action.

Yours truly,

Reese Liggett

*William Reese Liggett*

*Help Protect the Natural & Cultural  
Features of Wāwāmalu Beach!*

*808 732 4489r 808 222 2088c*

*4947 Maunalani Circle, Honolulu 96816*





September 23, 2021

From: Richard MacDonald, Ph.D., LMHC  
261 Kaulani Drive  
Pukalani, HI 96768  
[mcdrch@aol.com](mailto:mcdrch@aol.com) (808-281-1049)

Subject: Agenda Item D7

Dear Chair Case and Members of the Board of Land and Natural Resources

I have lived and worked on Maui as a Counselor with Disabled Veterans since 1981. During this time, I have come to know, respect and support several members on both sides of this issue. And while I understand the apprehension of the Sierra Club, Maui Tomorrow and others given Mahi Pono is owned by a Canadian Pension Fund and a California farm company versus a Maui/Hawaii firm, as well as perceived shortcomings in the EIS, I have been increasingly pleased and relieved to see so many acres of all kinds of new crops sprouting up in the former sugar cane fields.

Therefore, I needed to see for myself if and how fruitful Mahi Pono is being with our Maui lands and water? So I, and a few other members of the Pukalani Community Association, took a tour with Tiare Lawrence of the Mahi Pono field operations.

So far, they have reclaimed more than 3000 acres of land with citrus, avocados, kale, tea, water melon, sweet potato, papaya, ulua, corn lettuce, tea leaves, broccoli, mango, etc. They provided a 100-acre community Ag farm with water for use by local farmers. They have planted over 700,000 trees and are reconditioning 7400 acres to raise grass-fed cattle. They are fully "committed" to sustainable, regenerative, non-GMO, diversified agriculture targeted to enhance Maui's food security and native Hawaiian farming practices. They desire to expand their operations and hire and train 600 more workers. They seek to further upgrade Maui's water delivery systems and are using state-of-the-art irrigation, soil moisture and water efficiency practices.

From everything I can see, Mahi Pono is striving to do the right thing, or imi pono, but they cannot succeed without the water they need. And yes, we need to strike a fair water distribution balance to all concerned, but given what they have already sufficiently proven, they are not asking for more than what is the very best for all-concerned on Maui over the long run.

Therefore, we should support acceptance of the corrected Environmental Impact Statement for the proposed water lease for Mahi Pono.

One last comment, what we need most in this world today, Maui specifically, is more collaboration. Therefore, I encourage members of the Sierra Club, Maui Tomorrow, Hawaii Farmers Union United and others to take a tour of Mahi Pono. Utilize your expertise and manao

to sit down and collaborate with Mahi Pono staff. We all hold the same goals of fair water distribution and diversified regenerative agriculture, and we will most effectively achieve these goals by coming and working together. (End)

**From:** [Anne Massie](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 5:30:47 PM

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Hi,

I am writing to request that the following concerns be addressed during the hearing on September 24th, 2021 regarding the **final environmental impact statement (EIS) analyzing the impact of issuing a long-term lease to A&B/EMI/Mahi Pono** to divert east Maui streams for the next three decades.

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species,** fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Thank you.

Respectfully

Anne K. Massie  
Kapolei, HI 96707

## MAUI CATTLEMEN'S ASSOCIATION

**Maui Cattlemen's  
Association**

**PO Box 473**

**Kula, HI 96790**

**(808) 878-2660**

**Board of Directors  
and Officers**

**Brendan  
Balthazar**

**Harry Cambra**

**Alex Franco**

**Greg Friel**

**Jimmy Gomes**

**William G. Jacintho**

**Kristin Mack  
Almasin**

**Ken Miranda**

**Theresa  
Thompson**

**Sustaining  
ranching  
communities in  
Hawaii**

### TESTIMONY

September 22, 2021

Submitted via email: [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

FROM: Maui Cattlemen's Association

TO: Board of Land and Natural Resources  
Kalanimoku Building  
1151 Punchbol Street  
Honolulu, Hawaii 96813

HEARING DATE: Friday, September 24, 2021

RE : Acceptance of the Final Environmental Impact Statement of East Maui  
Water, Item D-7

The Maui Cattlemen's Association is a non-profit organization representing small and large livestock producers in Maui County.

We support the efforts that A&B has made to complete the EIS Required. In reviewing the FEIS, MCA recommends that BLNR approve the FEIS work done for the East Maui Water System. The FEIS is put together well, and should be accepted by the BLNR in order to move forward with the next steps.

We're looking forward to the next steps in that a balance can be made between the needs of the natural environment, human consumption, and agriculture requirements. With the current water sources available, we believe there can be a balance for all, provided we work together

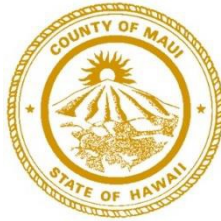
Sincerely,

William Jacintho, President

**MICHAEL P. VICTORINO**  
Mayor

**JEFFREY T. PEARSON, P.E.**  
Director

**HELENE KAU**  
Deputy Director



**DEPARTMENT OF WATER SUPPLY**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/water](http://www.mauicounty.gov/water)

September 21, 2021

**DLNR LAND BOARD**  
**SEPTEMBER 24, 2021**

**TESTIMONY ON ACCEPTANCE OF THE FINAL ENVIRONMENTAL  
IMPACT STATEMENT (FEIS) FOR PROPOSED ISSUANCE  
OF A LONG-TERM WATER LEASE VIA PUBLIC AUCTION FOR THE  
NĀHIKU, KE`ANAE, HONOMANŪ AND HUELO LICENSE AREAS  
INCLUDED IN REVOCABLE PERMITS TO EAST MAUI IRRIGATION  
COMPANY, LIMITED, AND ALEXANDER & BALDWIN FOR WATER  
USE ON THE ISLAND OF MAUI**

The County of Maui, Department of Water Supply (DWS) is in support of the DLNR, Land Board, approval of the Acceptance of the Final Environmental Impact Statement (FEIS) for the Proposed Issuance of a Long-Term Water Lease via Public Auction for the Nāhiku, Ke`anae, Honomanū, and Huelo Lease Areas, included in various Revocable Permits to East Maui Irrigation Company, Limited, and Alexander & Baldwin for Water Use on the Island of Maui.

This FEIS, in part, addresses the continued operation of the EMI Aqueduct System to deliver water to the DWS for domestic and agricultural water needs in Upcountry Maui, including the agricultural users at the Kula Agricultural Park (KAP) and KAP expansion.

DWS supports this FEIS to move closer to obtaining a long-term lease, to provide for reliable domestic uses and reasonable off-stream uses. The DWS is reliant on this precious water to provide public trust domestic water to our more than 30,000 customers, especially in times of drought, as is the situation, as this letter is written.

*By Water All Things Find Life"*

\*\*\*\*\*

Aloha Chair Suzanne Case and members of the Board of Land and Natural Resources

My name is Dick Mayer. I was a professor of economics and geography at Maui Community College for 34 years. I retired as a Professor Emeritus.

I previously served as a Maui Planning Commissioner and as the vice chair of the Upcountry Maui Community Plan, and as vice-chair of the Maui General Plan's Advisory Committee to prepare the Countywide Policy Plan and the Maui Island Plan.

I request that you do **NOT** accept A&B's Final-EIS document and I will give reasons why I believe that is your correct action.

#1 Hawaii's environmental law requires that many different impacts need to be evaluated and mitigated. One of the significant areas deals with economic and fiscal affairs. I would like to concentrate on that area specifically, because if my concerns are not adequately evaluated in the Final-EIS, and I believe they are not, then the entire structure for the Environmental Impact Statement lacks a sound foundation.

Specifically, I'm concerned with the enormous reliance of the whole document on the Mahi Pono "farm plan" for the operation and maintenance of the East Maui aqueduct system, the use of the State's water, for payments to be made to the State and the Hawaiian HomeLand Commission and Office Of Hawaiian Affairs, etc.

Mahi Pono is a brand new company. It was established by a Montreal-based Canadian pension fund, incorporated in the state of Delaware, managed through a California almond growing company, just 2 years ago.

Since Mahi Pono has **No** track record, it is important to determine whether the "farm plan" that is much touted in the Final-EIS can serve as a basis for your acceptance of this document.

The Canadian pension fund makes worldwide investments with a goal of earning funds that will be in the best interest of their clients, Canadian government workers. The state of Delaware is merely a convenient place to incorporate and shows no desire to make sure that Mahi Pono is operating in the best interest of the people and State of Hawaii. The California company, Pomona farms, has experience growing almonds, not experience in growing tropical fruits and vegetables, and according to California newspapers, it has had legal problems water.

As for Mahi Pono itself, there has been, except for the director Shan Tsutsui, a constant transition of farming and senior leadership during the first two years. Furthermore, they have constantly been changing their farm plan so that we do not know whether the farm plan mentioned continually in the Final-EIS is in fact the farm plan that they will be utilizing when they use Maui's precious water resources.

#2 My second concern. The Final-EIS states that Mahi Pono will earn \$33 million in profits each year (Volume 1, p. 4-302). Presumably, those funds will not remain in Hawaii and will be taken directly to Canada. Consequently, Maui and Hawaii will lose the considerable financial benefits that would come from those \$33 million circulating and multiplying within Hawaii's economy each year for the next 30 years.

If the agricultural operations in Central Maui would be owned and operated by a Hawaii company then there would be considerably greater benefits available. However the environmental impact statement does not consider this. The result means that Hawaii's Public Trust water will not be most beneficial to the people of Hawaii and I believe it is the obligation of the Board of Natural Resources to not accept this EIS because of the terrible impacts resulting from the loss of so much potential wealth from the State and residents of Hawaii.

#3 My third point: I submitted a long list of concerns regarding the DRAFT-EIS. They were not correctly responded to. Many of the questions were avoided, and in some cases incorrect information was provided. Because there are too many items to cite in my 3 minutes, I also submitted written testimony.

I would be pleased to answer questions about this oral testimony and about the submitted written testimony.

TO: Chair Suzanne Case and BLNR members

September 24, 2021

FROM: Dick Mayer 1111 Lower Kimo Dr. Kula, Maui

RE: **Testimony on A&B's Corrected Final-EIS - East Maui Water Licenses**

## **INTRODUCTION**

A. The following is a long list of problems that I had with the Corrected Final-EIS. Despite the fact that it is over 9,000 pages long there are still many omissions. Even more disturbing is the fact that the document is so self-serving for A&B which is "under the gun" to get a water lease for Mahi Pono. If they do not get the water lease A&B will have to pay Mahi Pono about \$62 million.

B. This whole final environmental impact statement is very one-sided. A&B and EMI have prepared a self-serving document that justifies their continued use of the waters coming from the state license areas. They have gone out of their way to discount any alternative possibilities to there becoming the sole beneficiaries at an upcoming auction. They have exaggerated the water needs of the Upcountry Maui area, and concurrently have threatened cutting off upcountry water if they do not get their way with obtaining a lease. They have exaggerated the expenses that alternatives would have, and have overestimated Mahi Pono's water needs. They have trivialized the relationship between Mahi Pono and its owners, have not even discussed the terms of the sale of both HC&S's central Maui's lands and EMI's watershed lands to the international owners of Mahi Pono.

C. So much of the environmental impact statement depends on the use of the water by Mahi Pono. Constantly, it is cited that Mahi Pono's farm plan will do this or do that, and we'll have this expenditure and that benefit. Never is it questioned whether Mahi Pono, a company with only a limited 2-year experience and with constantly changing leadership, is to be trusted to have developed a farm plan that is doable and accurate. The Final-EIS makes no claim that the farm plan was even prepared by Mahi Pono, or that their owner in Canada agrees with it.

The Environmental Impact Statement does not in any way evaluate whether all of the information contained within the Mahi Pono farm plan is to be relied upon, nor is there an estimate on how much of a range, up or down, the various estimates should be relied upon.

Furthermore, there is no statement of even a plan prepared by Mahi Pono and certified as to being their own plan. Rather the Final-EIS tells us that Mahi Pono has a plan but never indicates that Mahi Pono agrees with all of these assertions. It would be necessary for the Board of Land and Natural Resources to require Mahi Pono to certify these future plans and to indicate what are the chances that the plan will succeed, what are the problems that they will have to encounter, whether they have the leadership to carry out the plan, etc.



#### D. Summary of Introductory Comments

I've written much below, but would first like to ask:

**Does the Department and Board of Natural Resources want to take a 30-year gamble:**

- on an EIS document that is prepared by a Real Estate Investment Trust which may be willing to write anything so as to not have to pay out a \$62 million refund to Mahi Pono's owners;
- on a 2-year-old company with no track record, with a rotating leadership team, many without farming experience;
- on a farm plan that they are not declaring as their own;
- on a management team that has specialized in almond growing; and
- on an ownership that is not even in the United States and with a fiduciary responsibility to a large pool of foreign pensioners, etc.?

I hope NOT for the sake of Maui Island, its beautiful environment, and its good residents.

\*\*\*\*\*

#### **Due Process may be Threatened**

The September 24, 2021 BLNR agenda has 20 items. This does not allow for adequate discussion of the importance of accepting or not accepting the 9,000 page Final-EIS which will lead to the auctioning of the major Maui Island water supply. It puts undue pressure on the board members to not only assess the document itself and to have time to properly discuss it without making an unwise decision.

This item should have been scheduled for a separate meeting where a complete discussion could be conducted and where people testifying could be asked proper questions without the pressure of having to conclude the agenda in one day. A contested case process may have been a better method to review this Final-EIS.

#### **BLNR September 24, 2021 Agendas Item Number 7**

I am concerned with the specific wording. It appears that A&B and EMI are the only entities capable of getting the lease at the eventual auction. It ignores the fact that there will be an auction with other potential bidders.

[Acceptance of the Final Environmental Impact Statement \(FEIS\) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 \(Tax Map Key: \(2\) 1-1-001:044\), S-7264, \(Tax Map Keys: \(2\) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017\) and S-7265 \(Tax Map Key: \(2\) 1-1-002:por. 002\) to Alexander and Baldwin, Inc., and S-7266 \(Tax Map Keys: \(2\) 1-2-004:005 & 007\) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui. The Final Environmental Impact Statement is available for review through the following link:](#)

#### **All of the following refer to VOLUME 1. Executive Summary**

The reference on page iv to the "applicant" infers that there is only one applicant for the 4 leases.

The Final-EIS dismisses the **Maui County Water Board's Temporary Investigative Group** recommendations regarding a separate water authority or County administered water leases. See the last paragraph on page viii. The EIS states that these options were not discussed because the TIG report came after the Draft-EIS was written. However there was plenty of time (1 ½ years) to thoroughly analyze it in this Final-EIS, just like other testimony.

On page x, 2nd paragraph there's a clear assumption that EMI will get the permit or lease. No mention is made of a transference of that lease to any other identity including Mahi Pono. However, the December 2018 sale by A&B to Mahi Pono makes it clear that EMI and all its lands and licenses will be transferred to Mahi Pono after a lease is obtained by EMI and \$2.7 million is paid by Mahi Pono to A&B.

Mahi Pono will be the license holder and none of that is mentioned, nor are the impacts and implications of that license ownership discussed.

**Page xvi** is a good example of why it is confusing as to who is bound by the statements being made in the Final-EIS. Is it A&B? EMI? Mahi Pono? Is it some other entity such as the State that will be requiring all of this in the lease conditions?

**Page xvi** EMI commits to working with MISC, however there's no mention of that responsibility being carried forth by a future licensee. This becomes particularly important since it is in the A&B sales agreement that after a license is issued, EMI will no longer be the licensee.

**Page xvi.** An assertion is made that Mahi Pono will do many things. However, it is unclear how A&B and EMI can assert that Mahi Pono will do these things and whether it is correct to write the Mahi Pono is obligated to do the things that are stated here. The Final-EIS should make it very clear as to who will carry out the various mitigation measures which are described on page xvi and elsewhere.

**Page xix** goes into great detail about a "core working group" and what it will be doing. Elsewhere in the Final-EIS it is stated that the core working group would be established only if it is required to in the license agreement that would be written by the Department Of Land and Natural Resources. Consequently, the statements made here may hold no enforceability.

There is a strong need to clearly indicate the implications of the sale of HC&S and EMI to Mahi Pono. Many of the provisions in the December 2018 sales agreement are not discussed and need to be.

**Recommendation: The BLNR should deny acceptance of the Final-EIS at this time and provide a list of areas that will need to be cleared up before it is willing to accept a Final-EIS.** The major reason for denying at this time is to eliminate all inconsistencies and to highlight who it is that will be held responsible for conducting all of the mitigating measures that are indicated in the Final-EIS, particularly because it is not made clear who would be the applicant, what are the implications of the sale of EMI to Mahi Pono and whether Mahi Pono will be obligated to conduct all of the mitigation measures described in the Final-EIS.

**Top of page xxiii** There is a discussion of the water in the non-licensed areas (Olinda and Piipiholo) and the statement is made that those waters are not committed to the needs of UpCountry residents and farmers. The license agreement should contain a condition that will require that any water that comes from these non-licensed areas shall also be available equally with the waters coming from the license areas to the Maui Department of Water Supply, and at least 4 million gallons per day should be the minimum amount that must be provided to the Maui Department Of Water Supply at the Kamole Weir even during times of drought and before waters are allowed to continue past the treatment plant into the Central Maui agricultural fields.

**Page 1-1 Near the bottom.**

Right from the very beginning, the Final-EIS establishes a pattern of providing misleading information. For example, at the very bottom of page 1-1 there is a statement that Mahi Pono has an "affiliation" relationship to a major Canadian pension fund. This is not just an inconsequential misrepresentation, it is a significant omission of the relationship between Mahi Pono and an international investor which will be managing the East Maui license area lands and waters, making decisions on how that water will be used, negotiating with water consumers (including the County), and will be exporting its huge profits (\$33 million annually) out of Maui, Hawaii, and the United States.

The description of the sale of land to Mahi Pono and Mahi Pono's ownership is misleading. Mahi Pono is not just "affiliated" with the Canadian pension fund PSP, it is owned by them. Furthermore, it should be made clear that once the licenses are issued, they will pay A&B \$2.7 million and become the 100% owner of all of EMI's lands, rights and assets. Please see the December 2018 A&B → Mahi Pono sales agreement.

These are just some of the items that are misrepresented and undisclosed by utilizing a relatively mild term "affiliation". It is misleading and has grave implications regarding the interpretation of and impacts discussed in this whole Final-EIS document.

Consequently, I ask that the BLNR reject acceptance of this Final-EIS and ask that the preparer of the document be instructed to do a thorough analysis for Hawaii, its finances, and its public trust waters of the implications resulting from Mahi Pono's relationship to the international pension fund PSP based in Canada.

**Page 1-12 mid page**

The importance of corporate decision-making is highlighted in the Final- EIS when it states that in 2016 A&B announced that they would no longer be farming sugar, but transforming their plantation into diversified agriculture. This illustrates the significance of recognizing the importance of the motivation and decision making of the landowner, here and now a Canadian pension fund.

It can be presumed that EMI's motivation and actions would be considerably different than those of the Canadian pension fund which is governed by Canadian law and tax considerations. The implication of this very different corporate background is important and the impacts have not been discussed in the Final- EIS.

**Page 1-27 Public Trust Doctrine** The Waiahole decision is described in the middle of page 1-27. It states that, "The water resources trust also encompasses a duty to promote the reasonable and beneficial use of water resources in order to maximize their social and economic benefit to the people of this state."

It is for that reason that I raise two questions/concerns:  
Who will benefit by the use of these waters? And will the beneficial use be reduced if the profits from these waters are transferred out of the state to the benefit of Canadian pensioners rather than the people of this state?

#### **Page 2-1**

As a fiscal concern, the license may not result in the expenditure of public funds. However, it does raise the issue of revenue collection since the profits will be taken out of State and thereby may affect the fiscal revenue side of Hawaii State budget since those funds will no longer circulate within the Hawaii economy where they will not be subject to State taxation.

When examining alternative auction plans, is it possible that an auction could be conducted on each of the four lease areas? This would allow, for example, the residents of East Maui to bid for one of the lease areas to allow them to have control of the waters within that area for the benefit of the streams and farms of their area.

#### **Page 2-11 2/3 Down the Page**

The Final-EIS mentions that Mahi Pono's water use has grown from 20 MGD to 26 MGD because of the expanded farm operations of Mahi Pono. When looking at the 26 MGD, relatively little is used for farming. By far the majority is used for non-agricultural purposes: hydroelectricity, firefighting, industrial, etc. See page 2-30, Table 2.3.

#### **Page 2-13 The middle paragraph**

The F-EIS again distorts the Maui water departments dependence on the Kamole Weir water treatment plant by saying that the county receives on average 7.1 million gallons a day from the Wailoa Ditch source. 7.1 may be the absolute maximum that the plant could take, however it is far above the actual amount being delivered to the County. The County DWS reports taking about 1/3 of the amount claimed in the Final-EIS.

#### **Page 2-16 Map Is Incomplete**

Map does not show the source of the water going to the Piihola Water Treatment Plant; nor does it show the Lower Kula water line. Why is the upper line shown but not the lower line? The lower line serves the Waiohuli HHL lands.

#### **Page 2-18 2nd Para**

This paragraph is full of misleading information again repeating that 7.1 million gallons a day are taken from Kamole Weir, and then exaggerating the additional water that would be needed if approximately half of the people on the water meter list would want meters.

At present there are 10,000 plus meters in the Upcountry area using approximately 8-11 MGD. Why would an additional 900 meters suddenly need four million MGD? F-EIS is wrong.

**Page 2-19. 1st Para**

The first paragraph grossly overestimates the amount of water being delivered to the county water department. It states that it has delivered an average of 61,000 million gallons per year.

If that numbers was true, it would mean that the County is getting about 160 million gallons per day from the Wailoa Ditch!! Ridiculous exaggeration.

The actual amount being delivered each day is only between 1.9 MGD and 4 MGD during drought periods.

**Page 2-20. 2nd para up**

This paragraph states that 3.6 MGD is needed at Kamole Weir for the upcountry water system and that an additional 3.5 million gallons a day is needed for the Kula Ag Park. This is a gross exaggeration of the KAP needs which are only 0.5 MGD.

**Page 2-21. Second paragraph**

If the KAP needs only 0.5 MGD why does the Final-EIS claim it needs to deliver 3.5 MGD to its reservoir? Who is guilty of that much seepage and evaporation?

I could find no reference to the waters flowing from the East Maui lease areas into the two lowest irrigation ditches that traverse much Mahi Pono's farm areas. It is made to appear that the only choices to get water are the Wailoa ditch extension and 10 wells with brackish water. Why did the Final-EIS avoid any mention of those waters in the two lower ditches?

**Page 2-30 Second Paragraph**

Figure 2-10 is cited. However, there is no Figure 2-10

**Page 2-30 Table 2.3**

This table shows that Mahi Pono's agricultural needs are now only 11.5 MGD.

It is also pointed out that the traditional industrial uses will be reduced in future years, making more water available for farming.

**Page 3-25 Threat to the County and to Upcountry Residents and Farmers**

The Final-EIS goes out of its way multiple times to threaten that if it does not get the lease, water will be cut off to the upcountry community, residents and farmers who get water from the Olinda and Piihola water treatment plants. It fails to mention that the County could take over those sources by "eminent domain" proceedings.

Here is what is written on page 3-25

"The existing water delivery agreements with the MDWS are contingent upon the Water Lease being issued, therefore if no Water Lease is issued, it is assumed that the delivery of water to the MDWS would terminate for Upcountry Maui and Nāhiku. As a consequence, domestic and agricultural water needs in Upcountry Maui would need to be met by alternative water sources that would need to be developed by the MDWS. At this point in time, it is unknown whether

sufficient groundwater resources exist in Upcountry Maui to meet these water demands. It is anticipated that the development of alternative water-source infrastructure would be prohibitively expensive, and depending upon the specific sources, or combination of sources, could result in significant direct adverse impacts to the environment.”

That is not an idle threat!

Here is another example from Page 3-48.

**Upcountry Maui**

~~No significant impacts are anticipated.~~ Under the Reduced Water Volume alternative and the No Action alternative, there are anticipated to be adverse impacts relating to public services and facilities as it is anticipated that water service to the MDWS provided by EMI would terminate, and the Upcountry Maui region would be without sufficient water sources to meet water demands. Any activities that may or may not take place within Upcountry Maui are beyond the control and scope of the applicant.

**Page 4-263 bottom and 4-264 Social Impacts**

**EIS social consultant Earthplan met with community members in East Maui and Upcountry and concluded with a strong recommendation that there were unresolved issues and a community based “Core Working Group” needs to be established.**

“Although Mahi Pono did not cause these impacts, the company has inherited a legacy that is generational and needs to be addressed to help these East Maui communities move forward.”

“While community outreach efforts can be successful in working with some community members, expanding community outreach to the general community in a transparent and open process would help to increase the base of community influence. An Proposed Lease (Water Lease) for the Nāhiku, Draft Final Environmental Impact Statement Ke‘anae, Honomanū, and Huelo License Area 4-264 organized expansion of community outreach would help to increase community dialogue, manage overall community expectations for predictable outcomes, and continue to encourage community cohesion.”

**‘It is recommended that interest groups are equitably represented in a “Core Working Group” that would serve as a forum for exchanging ideas and collaborative efforts, as well as provide feedback and suggestions to Mahi Pono.’**

“Specifically for the Ke‘anae – Wailuānui community to move past historical impacts, there needs to be established a point of departure. Mitigation needs to go beyond the physical restoration of streams. It needs to address the social context and include apology and reconciliation.”

Unfortunately, in the Response to my concern on this matter, the Final-EIS stated that such a “Core Working Group” would only be established if **required** in the license. That does not show an attitude of wanting to work with those affected by the lessee’s activities, nor reflect a spirit of Aloha. Rather, it harkens back to the worst, paternalistic days of the plantation society a century ago!!

**Page 4-301**

The Final-EIS claims that there will be an output of 8 million pounds per year from the community farms, plus 321 million pounds per year from the orchard, plus 9 million pounds per year of tropical fruits, plus production from row crops, annual crops, and energy crops.

**However, nowhere does it indicate what amounts of water will be needed to process all of these crops. Will there be adequate water to process all that produce? Where will it come from?**

Even more significant is the fact that there is no mention at all about where and how all of those products will be processed, packaged, delivered, shipped, exported, etc. Is there even a market for all of that production? Will Maui, with its very high costs of production, be able to compete with the low-cost imports mentioned at the top of page 4-302? This is a most important matter because the whole viability of the Mahi Pono farm plan will depend on their ability to sell an enormous amount of production which in turn provides the basis and need for a 30-year lease of water.

This, in turn, raises a fundamental question about the viability of Mahi Pono and the diversified agricultural operation which is being used to justify the need for the East Maui license area waters.

In touting this whole farm plan the Final-EIS announces that it will be very profitable, earning after all expense, \$33 million per year. And then that money will flow to Canada, not circulate in Hawaii.

Many of the responses to my various concerns expressed in my comments on the Draft-EIS are dismissed as being speculative. However, the whole Mahi Pono farm plan is speculative.

What if Mahi Pono ceases operating a farm? The Final-EIS simplistically and arrogantly says that agriculture just will continue because central Maui is agricultural land.

The Final-EIS tries to make a case that if the EMI aqueduct system is taken over by a County Authority, it will be much too expensive to even consider. What is not considered in this reply is that a public authority does not need to show a profit. It is a winner when it efficiently serves to fulfill the community's needs.

Potentially, if there were a Water Authority it would operate as a nonprofit, and not have to pay out profits to its shareholders. This could potentially keep the cost to final consumers down.

There needs to be a much clearer understanding as to how will the public be protected against the failure of Mahi Pono to maintain the system, to utilize the waters as described in the Final-EIS, to monitor and limit the irrigation flows to a certain MGD level, to provide the water for the East Maui streams and to upcountry users, etc.

I asked what the effect is going to be on the Maui Water Department's obligations to upcountry and to the need to supply Hawaiian Homelands with water, if Mahi Pono were to cease agricultural operations. It may become unprofitable to operate the planned farm and Mahi Pono vanishes. Will HHL be left without water?

The response states merely that Central Maui would continue doing agriculture because it is designated agricultural land by the State Land Use Commission and it is Important Agricultural Land. This neglects to point out that land designation does not guarantee that it will be profitable to operate a farm of any kind. The death of the sugar and pineapple industries are a good reminder of the difficulties of operating a large farm.

The response to my comment 32 asking for the rates that will be paid by the various water consumers is never answered.

Nor is there any effort made to indicate whether the rates paid by each of the water consumers will be similar or very different. This is important because certain parties may have to pay considerably more than others making their continued operations impossible.

The F-EIS response to my comments 28 + 29 regarding employee housing does not get answered. Merely saying that they will be adequately paid does not consider the shortage of housing and the high cost of housing. Stating that the workers come from Maui also does not indicate how the additional workers will be housed.

Is the Final-EIS arguing that workers will be leaving the tourist industry to work in agriculture? That will create open positions in the tourist industry that will then need to be filled by other people moving here? Employee Housing needed to be discussed in the Final-EIS.



**From:** [Respiratory&EnvironmentalDisabilitiesAssocHI](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 7:01:37 PM

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I cannot say it any better than SCH:

- **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
- **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
- **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
- **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
- **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
- **The EIS should discuss how each diversion structure on public land harms native species,** fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.
- 
- Mahalo, B. A. McClintock-REDAHI



August 13, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed A&B Water Lease

Chair Case and Members of the Board

PO Box 148, Kula, HI 96790  
[mauicountyfarmbureau.org](http://mauicountyfarmbureau.org)

Maui County Farm Bureau (MCFB) on behalf of our farm and ranch families and organizations **strongly supports the acceptance of the Environmental Impact Statement to begin the review process needed for the long term lease.**

**Executive Director**  
Warren K. Watanabe

**Board of Directors:**

**President**  
Kyle Caires

**Vice President**  
Joshua Shyloh StaffordJones

**Secretary**  
Heidi Watanabe

**Treasurer**  
Tim Stevens

**Directors:**

Rodrigo Balala

Brendan Balthazar

James "Kimo" Falconer

Mario Gaggero

Teena Rasmussen

Carver Wilson

The water lease is critical to the well being of not just agriculture but families and communities on the island. Since its' inception, Farm Bureau has recognized the need for reliable and affordable water supplies. It has partnered with Federal, State and County entities for source development. In the 1970s, it was one of the primary advocates for the construction of the Piihola Reservoir and in the 1980s, the 100MG Kahakapao Reservoir. The aqueduct in discussion today was built by and for agriculture. The existence of commercial agriculture on Maui and Upcountry communities is due to the existence of the East Maui Aqueduct system.

While MCFB continues its' **quest for affordable and reliable water supplies, we continue to be challenged by forces beyond our control such as climate change and regulatory compliance to IIFS.** Since the beginning of time, earth's climate has gone through various cycles of wet and dry and it is evident that we are now in the dry cycle. We have faced record-breaking temperatures in the past few years and some of the longest periods of drought in the past three decades with no relief in site. The EIS states that the average recent ditchflows (1987 to 2006 is 146.64 mgd per day in contrast to the historical average of 165 mgd per day. (Reference pp 2-11) While these numbers clearly speak to the dry cyle in play, average numbers do not adequately portray the impact on communities that are dependent on surface waters with limited storage capacity. Averages do not portray the low numbers where flows are inadequate to meet community needs. Median numbers better portray the "average" conditions by removing the impact of extremely high or low flows. However, in addressing the needs of offstream users, it is the low periods that must be addressed. **Awareness of the number of very low ditch flows days is needed to fully appreciate the importance of continued flows in the East Maui aqueduct system as proposed in this EIS.** Sugarcane grown by HC&S was a very water stress tolerant crop.

Crops such as vegetables grown in Upcountry or perennial trees by Mahi Pono are not as forgiving. Not providing lettuce with water as needed will mean loss of a crop. Lack of adequate water during flowering and fruiting periods of perennial trees will also mean a loss of crop. You cannot tell livestock not to drink water. Lack of water supplies mean culling of herds by ranchers. Having water at the right time is critical to the viability of agriculture. Upcountry farmers regularly stop planting during the summer months as they know water will not be available. While we appreciate the County of Maui's policy to delay water restrictions by 90 days for agriculture to allow farmers to harvest their crops, farmers know that if it does not rain, regardless of County policy, no rain is no water.

**We appreciate and strongly support the dismissal of the alternatives suggested.**

- **Reduction in volume of water:** At peak diversified agriculture production on Maui, the proportion of ag to residential use of MDWS water use was 60% agriculture and 40% residential. Today, the proportions are reversed. Many ag lands are currently idle due to lack of succession and other market challenges. The Maui Plan, Countywide policy plan, community plans all reference the vision to restore ag to its' full potential. This means water is needed. A vibrant industry, meeting community needs means a wide variety of crops must be grown ... not just those that do not require significant water such as pineapple. The plan looks at increasing water needs over time, critical to the plan of having 1510 acres of production in Upcountry Maui.
- **Reduction in lease acreage** – Rainfall on Maui is increasingly sporadic. Traveling during rainfall events will demonstrate the spottiness of rainfall, with rain falling in one location and suddenly, almost as if there was a wall, the rain ceases. Similar trends in the watershed reduces can reduce the delivery of water in the aqueduct if the capture area is not maximized to allow collection from the largest area possible. Limiting the lease acreage could mean that diversions are not present in areas that are raining. The EMI aqueduct has an advantage of its' length, maximizing the opportunity for capture. The ditches associated with Piiholo and Waikamoi are much shorter, reducing capture opportunities during sporadic rainfall periods.
- **Groundwater:** HC&S had an advantage of utilizing non fossil fuel to meet its energy needs for pumping of groundwater. Pumping by MDWS will require fossil or other types of fuels, all requiring expenditure of funds. Barring the identification of a high pressure underground river, pumping can be very expensive.
- **Additional storage:** Farm Bureau has long lobbied for additional storage. The original plans for the Kahakapao reservoir included storage but was dropped due to cost. Currently, since the Koloko disaster, federal sources frown on large reservoirs that would be needed to alleviate the droughts plaguing Upcountry Maui. Time will be needed to secure funding and approvals needed for this worthwhile alternative.
- **Reclaimed water:** While providing an opportunity to increase available water supplies, it cannot be the solution. Access to reclaimed water does not

equate to increasing water demand. New source development is critical to increase actual available water for the various users.

- **Length of permit:** Some have suggested that the 30 year period be reduced. Agricultural investments cost money. Would you build a house knowing you only have a short term lease? Short term leases mean uncertainty. Since the 80s, ag was asked to invest significant capital while not having an assurance that the primary resource for viability, water, was uncertain. Major capital expenditures, mechanization to reduce labor, changing practices to increase productivity and meeting regulatory changes will be needed. The 30 year permit provides at least some certainty of water.

The EIS projects expected agricultural water demand for the license period. Various plans by the State and County all speak to increased levels of self sufficiency. Many advocate programs such as increased use of locally grown by the State including the Dept of Education.

- Department of Agriculture statistics document that Hawaii produced 50% of fresh produce consumed into the early 60s. The rate of ag production increase was not able to keep pace with population increases. Factors such as transportation, lower cost of imports and globalization contributed to the decline in percent of locally grown. There are many challenges for increased ag production. However, without water, solving all of the other challenges will be for naught. Access to reliable and affordable water is critical
- State procurement: Increased interest for locally grown to be used in the State procurement programs means that production must be consistent. Severe penalties will be accrued if production is curtailed due to lack of water. At its' peak, Maui cornered the market for head cabbage with military contracts as well as exports to the West Coast. Today, wholesalers ask for cabbage from Upcountry Maui citing its' taste and quality. The demand is there but lack of adequate water coupled with pest challenges make consistent supplies difficult. One of the pests is the diamondback moth. Populations exponentially increase with dry, hot weather. Good water supplies can assist with the problem, but water restrictions make this difficult. Research has proven timed water applications to cause mating disruptions can reduce this problem. During a drought, this pest management alternative is not possible. Waters requested in this EIS is critical, and on the long term, reliable water supplies reducing drought periods is important for State procurement programs on Maui.

The Maui Plan and community plans see Upcountry as largely ag and seek the restoration of agricultural production on former HC&S lands. The lack of active agricultural production invites development. One can see it in Upcountry Maui with gentlemen estates on former cabbage fields, driving property values into the millions. Many do not want to see such development. Water is a key factor to keep these lands in production and returning currently fallow lands into viable operations.

MCFB understands that this EIS is a critical step to securing a long term lease. We also understand that accepting the report does not equate approval but will provide the critical step to begin the review process. We therefore **respectfully request strong support by the Board in accepting this document for review.**

Thank you for this opportunity to provide our opinion on this important matter.

Kyle Caires  
President  
Maui County Farm Bureau



August 13, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

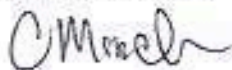
Chair Case and Members of the Board

I am a third generation farmer supporting the acceptance of the EIS prepared by A&B.

My wife and I operate Kula Country Farms and have two children in college. Our life depends on the farm. We have evolved, looking for new opportunities including a farmstand, U-pick operations and value added products. We support neighboring farmers by selling their products at our farmstand. Growing local is a popular statement but that means we need water. Support local statements must be supported with action. Assurance of water for agriculture is the kind of support needed. The EIS must provide adequate provisions of water during droughts.

I support acceptance of the EIS to review provisions to provide for the health of Upcountry ag and communities.

Chauncy Monden

A handwritten signature in dark ink, appearing to read 'CMonden', written in a cursive style.

August 13, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Shep Murray and as former proprietor of Wai Ulu Farms Inc. have worked with livestock industry throughout my career. I have seen the impact of droughts on the lives of ranchers. Severe droughts seem to have become commonplace. We need to have access to water during droughts if Upcountry ranches are to continue. Ranchers use water predominantly to provide drinking water for their herds. You cannot reduce water given to animals. It is inhumane. Please consider this in your review process of the EIS.

The EIS must address Upcountry's ability to not only survive but thrive during drought periods.





# Native Hawaiian LEGAL CORPORATION

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## BOARD OF LAND AND NATURAL RESOURCES

September 24, 2021  
Agenda Item D-7

Relating to the Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S-7264, (Tax Map Keys: (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

Aloha e Chair Case and Members of the Board:

On behalf of Nā Moku Aupuni o Ko'olau Hui, Lurlyn Scott, Sanford Kekahuna, and other farmers, fishermen and women, and gatherers of native plants and stream animals in the East Maui region, the Native Hawaiian Legal Corporation submits the following testimony regarding the FEIS submitted by Alexander & Baldwin, Inc. and East Maui Irrigation Co. Ltd (collectively, "applicants") for their proposed water lease.

At the outset, we acknowledge and appreciate the applicants' detailed responses to a number of our comments on the Draft Environmental Impact Statement ("DEIS") and related revisions that appear in the FEIS. However, concerns remain whether this informational document meant to inform the Board of Land and Natural Resources' decision-making on the proposed water lease in fact provides the level of information required for the Board to uphold its duties under the public trust.<sup>1</sup> We urge the Board to consider these issues as it analyzes impacts of the proposed 30-year commitment of East Maui's precious water resources on, among other things, the public trust and Native Hawaiian traditional and customary rights.

**I. The FEIS' flawed premise that the proposed action is "a continued impact to the environment" defies case law and makes a mockery of HRS chapter 343.**

As a foundational matter, the applicant's flawed presumption that "[t]he Proposed Action is a continued impact to the environment," Letter from Keola Cheng to NHLRC re DEIS comments

<sup>1</sup> Pursuant to HAR 11-200.1-28-17(g), the "[a]cceptability of a final EIS shall be evaluated on the basis of whether the final EIS, in its completed form, represents an informational instrument that fulfills the intent and provisions of chapter 343, HRS, and adequately discloses and describes all identifiable environmental impacts and satisfactorily responds to review comments[.]"

(dated Sept. 3, 2021) (“Response Letter”) at 10, clearly affects the entire FEIS analysis and is fundamentally inconsistent with the law. Indeed, a comprehensive review of impacts to the 33,000 acre license area cannot occur if the starting presumption fails to account for pre-diversion conditions.

Tellingly, the applicants’ attempt to distinguish relevant case law in its response to our DEIS comments ignored fundamental language directly relevant to the proposed action. In *Confederated Tribes and Bands of the Yakima Indian Nation v. Federal Energy Regulatory Commission*, 746 F.2d 466 (9<sup>th</sup> Cir. 1984)—on which our Circuit Court relied when it first ordered an EIS for the proposed lease in 2003—a county public utility applied for a new license to operate a hydroelectric dam because its 50-year license was set to expire. *See id.* at 467-69. Disagreeing with the utility’s argument that (1) no environmental review is necessary because there would be no change in the status quo (the dam had been in operation for 50 years) and (2) “the action is simply a phase in an essentially continuous activity[.]” *id.* at 475, the Ninth Circuit Court of Appeals required an EIS, holding that “[s]imply because the same resource had been committed in the past does not make relicensing a phase in a continuous activity.” *Id.* at 476-77. Similarly, here, after a century of the previous commitment of resources, this proposed water lease is “more akin to an irreversible and irretrievable commitment of a public resource than a mere continuation of the status quo.” *Id.* at 476. Thus, not only is an EIS required but the action must be analyzed as if it were the original leasing of the water in the license area. This is consistent with Hawai‘i’s EIS rules, which requires “a description of **all irreversible and irretrievable commitments of resources** that would be involved in the proposed action should it be implemented” as well as an “[i]dentification of unavoidable impacts and the extent to which the action makes use of non-renewable resources during the phases of the action, or **irreversibly curtails the range of potential uses of the environment**[.]” *See* Hawai‘i Administrative Rules (“HAR”) § 11-200.1-24(n) (emphases added); HAR § 11-200.1-27(b)(1).

The framing of the proposed water lease as no more than the next phase in a continuing operation is incorrect and frustrates a proper environmental analysis of the true impacts on the 33,000 acres of former crown lands from which the applicants have previously drawn water for over a century. The applicants rely on this status quo argument as an excuse for their inability to provide baseline data and, by extension, the most accurate assessment of environmental impacts. *See* FEIS at 4-58 (“[T]he EMI Aqueduct System has diverted water in its current configuration for nearly 100 years and baseline environmental condition studies (including the distribution and habitat of native stream animals) prior to its construction do not exist.”).<sup>2</sup> Instead, the FEIS relies on a HSHEP modeling to estimate the natural conditions at that time. However, these

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<sup>2</sup> However, that the streams in East Maui have been diverted for a century and it is not feasible to fully document impacts that took place over a century ago is not a justification for failing to do so.

manufactured conditions do not offer a true “no diversion” baseline insofar as “even under the No Action/No Water Lease scenario, some degree of diversions would continue.” FEIS at 4-58. This is opposite the EIS rules, which requires this informational document to “include a description of the environmental setting, including a description of the environment in the vicinity of the action, **as it exists before commencement of the action**, from both a local and regional perspective.” HAR § 11-200.1-24(j) (emphasis added). In order to provide the most complete and accurate assessment of impacts, it is important to evaluate the proposal against the pre-diversion environment, as it existed before the applicants constructed the ditch system and began diverting water. To ignore pre-diversion conditions in the analysis effectively rewards the applicants for the historical degradation of the watershed and stream biota that has occurred throughout the previous long-term leases and illegal revocable permits and without the benefit of environmental review.

**II. The FEIS’ failure to look at impacts on individual streams in the license area is inconsistent with HRS chapter 343.**

The FEIS does not disclose diversion amounts from individual stream sources as well as how those proposed amounts would impact the surrounding environment. This is antithetical to HRS chapter 343 and its rules, which requires an FEIS to “**fully declare the environmental implications** of the proposed action and **shall discuss all reasonably foreseeable consequences** of the action.” HAR § 11-200.1-27(a)(emphases added). It is reasonable to expect that one of the most essential terms to the proposed water lease Lease would be the amount of water planned to be diverted and where specifically those diversions would occur. *See, e.g.*, HAR § 11-200.1-24(g)(“ The . . . EIS shall contain a description of the action that shall include [ g]eneral description of the action’s technical, economic, social, cultural, and environmental characteristics[and s]ummary technical data, diagrams, and other information necessary to enable an evaluation of potential environmental impact by commenting agencies and the public[.]”); HAR § 11-200.1024(l) (“This analysis shall include consideration of all phases of the action and consideration of all consequences on the environment, including direct and indirect effects. The interrelationships and cumulative environmental impacts of the proposed action and other related actions shall be discussed in the draft EIS.”).

In response to this critique, the applicants have reiterated, consistent with the FEIS, that “the maximum amount of water proposed for diversion under the Water Lease is estimated at 87.95 mgd after the interim instream flow standard is met.” Response Letter at 33. However, the allowable total diversion amount under the proposed water lease provides little assurance that each stream’s required median flow will be met or that the Native Hawaiian traditional and customary practices and/or other public trust purposes reliant on those stream-specific diverted amounts (in part or in full) will not be adversely impacted. And even if the applicants wanted to mitigate their impacts on the resource (and resource-reliant practices), how could they if

unwilling to measure their stream-specific water consumption? Likewise, how could the Board ever meaningfully assess or be responsive to complaints about adverse or disproportionate impacts borne by certain streams if the amounts diverted from them are never ascertained by the applicants or by the Board entrusted with managing those resources?

The East Maui community has already lived through the cultural, environmental, and economic harms that resulted from the applicants' excessive resource use; a resource use that the applicants had long insisted did not require the measuring of minimum instream flow values until our state courts and eventually our state water commission ordered it. Those experiences were intended to be lessons learned. Requiring the applicants to measure the amount of water they divert from each stream for their private, commercial use serves multiple beneficial purposes, among them: setting targets and assessing resource efficiencies proactively and before water crises arise; assuring that appropriate amounts are being diverted; identifying opportunities to save water for other beneficial future or competing uses; and simply understanding how much water is even available from each stream so informed decisions concerning their present and future use can be made. Simply stated, sustained and sustainable diversions require forethought, planning, and the enforcement of common-sense stream management practices. If healthy streams are our shared kuleana, they require us, at minimum, to ascertain how much of their natural streamflows we are willing to deprive them of. This is especially true for streams in the license area which do not have the benefit of minimal IIFS protections. In other words, those streams are without protections precisely because the amount of water flowing in them remain unknown and have yet to be measured. There are more than a dozen of these streams.

The applicants theorize that it is unnecessary to know how much water will remain in each stream and postures that "what is important with respect to stream protection is the amount of water flowing in the streams, not measurement of the amount of water being diverted." *Id.* at 33. Without undercutting the value of median flows and the CWRM-ordered interim instream flow standards ("IIFS"), we disagree with the applicants' premise. The interim instream flow standards, while critically important and informative, are not the end of an environmental analysis. Because water is a valued public trust resource, protected by law and needed for all living things, it is not credible to insist that the amount of water taken from each stream is irrelevant. That dismissive tack was the catalyst for the underlying litigation that began more than two-decades ago. Of course the amount of water taken from each stream matters. It has mattered to Nā Moku for more than two decades because their community bore the brunt of the applicants' adverse impacts and know better than most the harm that flows from a continued unwillingness to measure amounts diverted from each stream; amounts that have and will continue to disproportionately impact certain individual streams and, by extension, the muliwai, coastal resources, biota, and related Native Hawaiian traditional and customary practices that depend on flowing fresh water in those streams. The amount of water that is diverted from each stream should matter to this Board too, especially where, as here, those presently unaccounted

amounts contribute to the high rates of waste occurring throughout the applicants' water delivery and irrigation systems.

The story told time and again is that the cost to deviate from the status quo are too high. It is too expensive to pursue alternate water sources, *see* FEIS at 3-5-3-8, 3-14-3-19, to cover and line reservoirs to protect against system losses, *see id.* at 3-10 – 3-11, or to install (and regularly replace) gauges on each stream to properly monitor them. *See* Response Letter at 27. Similarly, the applicants' time is too valuable to spend on accurately measuring and monitoring the streams. *See id.* ("While verifying the baseflow metric with field data is preferable, it will take years to create accurate baseflow values for every stream/tributary in the License Area."). This narrative, of course, supports the status quo, and if met with apathy by the Board, will reward the applicants' complacency to the detriment of our water resources.

The FEIS is the next chapter in the century long saga that avoids quantifying or addressing the value—monetary or otherwise—of the amount of water that could remain flowing in each stream if the applicants properly addressed these important community concerns. A&B and EMI have been using or have otherwise had access to these streams for generations and should be required to invest in the health of each and every stream from which they take water. Just as ignorance is no excuse when it comes to the public trust, so too is claiming to uphold public trust duties but doing little or nothing to demand the applicants do more than repeat the same refrain for the last two decades and counting.

### **III. The FEIS does not assuage Nā Moku's longstanding and ongoing concerns.**

After twenty years of fighting A&B's lease application, Nā Moku is not convinced that the necessary steps to protect these resources will be taken. Indeed, the short window in which to digest and respond to the multi-volume final version of the decades' overdue EIS after the years the applicants spent finishing drafting and responding to public comments only aggravates the community's distrust in the process. Understandably, Nā Moku seeks confirmation that its longstanding concerns, listed below, will be addressed going forward:

- The State and future lessees' commitment to the long-term preservation of the full-restoration streams;
- The future lessees' impact on the flows of their *other* petitioned streams;
- The viability of taking from one license area at a time and only as needed (*see, e.g.,* HAR § 11-200.1-24(p));
- The ongoing enforcement of IIFS (which requires adequate gauges, upgraded technology, upgraded systems that mitigate against waste, and self-reporting that is independently confirmed and verified by agency staff) and compliance with other conditions imposed by CWRM;

- Ongoing consultation with the community and allowance for community-based stewardship/natural resource governance;
- The clean up of industrial litter/waste, including, but not limited to, permanent modifications and/or removal of certain diversion structures;
- The removal of invasive species; and
- Adequate access and maintenance.

Although admittedly not every concern can be addressed via the EIS process alone, it is also clear that the FEIS does not provide the full picture of the impacts on the public trust purposes reliant on the water resources proposed to be recommitted to big business for another generation.

In voting whether to accept the FEIS today, we remind the Board of its high trust duties and simply ask that you carefully consider whether this document will assist you in fulfilling your kuleana to the resource and the public when the proposed water lease comes to you for decision-making in the near future.

Sincerely,

A handwritten signature in black ink, appearing to be 'S' followed by a flourish.

Ashley K. Obrey  
Summer L.H. Sylva

**From:** [MAG IMAP](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda item D7  
**Date:** Wednesday, September 22, 2021 2:42:50 PM

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Dear Chair Case and Members of the Board of Land and Natural Resources,

This letter is in support in acceptance of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nahiku, Ke`anae, Honomanu, and Huelo License Areas (FEIS).

I am a Ka Ipu Kului Fellow, born and raised second generation family business owner and citizen of our precious Maui Nui Community. Please do not blow it. Mahi Pono is obviously doing great things as seen by anyone that lives on and drives around Maui. Farming takes water.

Besides that, I am a professional architect and aware of the development history of Maui. When HC&S left, there was no longer the millions of gallons of water being deposited into the central Maui Aquifer. Almost all of the homes and businesses in central Maui including much of Kihei depend on the Iao and central island Aquifer for water.

In my humble but educated opinion, increasing our Islands food security, local farming all while getting water from where it exists naturally to where it is needed is a positive thing all around.

Thank you for keeping Maui in Ag as much as possible by allowing Mahi Pono to receive the water they need.

Aloha,  
~Peter

Peter D. Niess, AIA  
808•244•9011 [www.mauiaarch.com](http://www.mauiaarch.com)

**From:** [Mavis Oliveira-Medeiros](#)  
**To:** [DLNR.BLNR.Testimony](#); [earlemedeiros215@gmail.com](mailto:earlemedeiros215@gmail.com)  
**Subject:** [EXTERNAL] D. Land Division; #7, EIS for water lease, East Maui  
**Date:** Thursday, September 23, 2021 8:06:34 AM

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“What for, they all paid off”; is what many people say when asked to testify. “I no more time for waste my breath, what for, they already made up their minds” is what others say.

Aloha Board of Directors for BLNR:

I am writing in reference to Item D. Land Division, #7. EIS for Water Lease by A&B & EMI for rivers from Nahiku to Honomanu & beyond.

What can I say that I haven't already said. Basically, no matter what we say, the Engineers representing A&B & EMI, will find an excuse, a rebuttal to anything we say and usually, you folks will pass it right?

Why not make this the one time that you don't? Why shouldn't you pass it?

1. Above all else, the water does not belong to you, therefore, it is not yours to give.
2. The water belongs to the Hawaii Public Trust under Hawaii Constitution so until such time that you recognize this, you shouldn't be leasing out water that belongs to the people.

If you still do it,

- A. No lease should be longer than 5 years.
- B. No lease should be allowed to take more than 25% of the water.
- C. As long as there's water from above, there should be water always running to the ocean.

D. Rivers & the Sea has an eco system that rely on each other to survive.

E. People rely on the food this eco system provides.

F. From O'opu, Opae, Hihiwai, Leko (watercress), Pohole fern shoots to Kalo and fishponds that rely on the fresh water & springs from the rivers.

G. To all of the sea life we rely on from the ocean. In order for the sea life to survive, they rely on the fresh water & springs flowing into the ocean, where much sea food/life come in to spawn.

A&B & EMI has not maintained their ditch system or dams or diverted up to par. Much water is wasted because of this. Much of it should be shut down not extend the lease for. They do not have farms, Mahi Pono just started farming & they have enough water stored to farm much more than they are now. The water is not necessary for them to use. It is necessary for us to eat. A&B & EMI uses so much poison when they do try & maintain their ditches, roadways, etc., because they don't have the manpower. This use of so much chemicals ends up in the rivers, then flows down into the ocean, both sources of our food.

Some EMI employees have passed away at a younger age from cancer. Could this be from the poison they spray?

Please think seriously about this and about how much people, especially from rural, mostly Hawaiian areas like East Maui, rely on the food produced in the rivers, from the rivers & from the sea. It is our ice box.

Mahalo for your time,

Mavis Oliveira-Medeiros

Earle Medeiros, Sr.

John-Bull English

Earle Medeiros, Jr.

Megan Medeiros



Ashley Anela English  
Kamakakulani English

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

I am writing today in support of the acceptance of the EIS for the water lease for East Maui.

I am a retired agronomist from the Hawaii Agriculture Research Center and a consultant for agricultural operations in Hawaii and internationally.

My career as an agronomist was tightly entwined with HC&S, providing advice and research services for the operation. As such I am very familiar with the lands and the water needs of the area. I have also observed through the years, the decreasing water flows from the watershed and the struggles HC&S endured to grow sugarcane during severe droughts. During the worst of times, crops needed to be prematurely harvested as the water stress was severe enough to cause the death of this otherwise drought resilient crop.

Currently, Mahi Pono is planting trees and vegetables which if not provided water at critical stages can mean crop failure. I have already seen trends in Upcountry Maui where farmers avoid planting during certain times of year due to high risk of drought. Such practices are inconsistent with the State's Constitution for increased self sufficiency and support of agriculture.

The Constitution Article XI states that natural resources should be

**Section 1.** For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, **including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.**

**Section 3.** The State shall conserve and protect agricultural lands, **promote diversified agriculture, increase agricultural self-sufficiency** and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

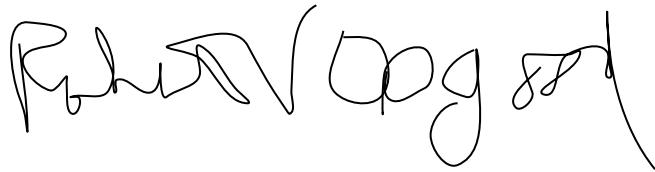
As an island state, the Constitution recognizes the importance of a level of self-sufficiency. Water is critical to achieve this goal and the EIS should include provisions to ensure adequate water in consistency with Constitutional intent.

In addition, the decreased water flows to central Maui will continue to be at least partially responsible for the high temperatures now being recorded in central Maui. When irrigated sugarcane was being grown the water evaporated from the leaves had a

evaporative cooling effect which reduced the ambient temperature. We also experienced this on Oahu when sugarcane was no longer grown resulting in a large increase in evaporation as measured in a standard 5 foot evaporation pan located atKunia. Reduced water flow into the central valley on Maui is already having a similar effect and will get worse if water flow is decreased even more.

I respectfully request your acceptance of the EIS and request to ensure that the document is consistent with Constitutional intent of use of our natural resources.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert Osgood". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Robert Osgood

Agronomist, retired



Oahu Branch  
1255 Kuala St.  
Pearl City, HI 96782  
808-455-8700

Maui Branch  
82 Pulehu Place Suite 101  
Kahului HI 96732  
808-877-5800

Hawaii Branch  
74-4701 Kamanu St.  
Kailua-Kona, HI 96740  
808-747-8100

September 20, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Ken Ota, Manager of Pacific Pipe, providing irrigation supplies and services on Maui, Hawaii Island and Oahu. I am familiar with system used by Mahi Pono to manage water.

They are utilizing the latest technologies to ensure most efficient use of water. Access to water is critical to restoring ag production to the Central Valley that is very dry. I request that the EIS be accepted to facilitate this process.

Ken Ota

A handwritten signature in black ink, appearing to be "Ken Ota", enclosed within a hand-drawn oval.

Pacific Pipe

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

I support the acceptance of the EIS submitted by A&B.

I am a third generation farmer constantly looking for market niches to continue farming. I am currently supplying colored carrots, beans, and broccoli. I am on the MDWS system providing untreated ag water to the Kula Ag Park, and so am totally dependent on ditch supplies from Mahi Pono. If the Hamakua Ditch has no water, we will have no water as we only have minimal water storage capacity. We need to keep that ditch running. I have no other source of income. Water is critical to the welfare of our family. ... Please accept the EIS.

Bryan Otani

**From:** [Tamara Paltin](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] D7  
**Date:** Wednesday, September 22, 2021 9:03:14 PM

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Aloha e Board Members,  
Mahalo for your service. In regards to the Final Environmental Impact Statement for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nāhiku, Ke‘anae, Honomanū, and Huelo License Areas to Alexander & Baldwin and East Maui Irrigation Company, Limited for Water use on the Island of Maui, (Honomaui appears to be a typo)

I request that members consider Judge Crabtree's August 2021 decision that modified EMI's water "take" from 45 MGD to 25 MGD effective immediately. Please also note that Judge Crabtree ruled that BLNR violated Sierra Club's due process rights by refusing the organizations request for a contested case hearing in November 2020 on the one year permits granted to EMI. The judge also noted in his July 30 order that BLNR "offered nothing in the way of any options, plans or specifics for how the permits can safely be modified to ensure the people of Maui continue to get the water they need pending the outcome of BLNR's contested case hearing (whether compelled by court order or on BLNR's own initiative." Nor did EMI or the County of Maui. Sierra Club was the only group that has offered the court "concrete and specific options and support for how to modify the defective permits and not leave a vacuum until BLNR conducts a contested case hearing." EMI monthly water use reports indicate that over the past 18 months before the ruling Mahi Pono used 2.4 MGD to 4.48 MGD on its fields; Maui County's Upcountry water use took .61 MGD to 2.65 MGD; Kula ag park used .35 MGD to 1.01 MGD; and industrial and other miscellaneous uses recorded 1.1 MGD. At the highest, a total of 30.10 MGD came from East Maui Streams (January 2020). At the lowest, 11.51 MGD came from the streams (October 2020). Please also note that while the FEIS describes the negative effects the diverters would experience from the alternative strategies, it does not describe the benefits East Maui residents would experience with less of their resources diverted,.

I also ask that you put conditions to reduce leakage due to seepage and evaporation and line reservoirs to reduce losses of water and grant an amount substantially less than 87.95 MGD and more in alignment with actual use; possibly modifying as actual needs are proven. Based on past performance by all entities, any lease issued needs to be revisited biennially to ensure that the lessee is in fact using the water for their farming operations and that their agricultural plans are moving forward and that they are using all of the water they are requesting for agriculture (not subleasing to private for profit entities for development) and that they are taking concrete steps to maintain the system so that water is not being wasted. I would also request a condition be added for the County of Maui Department of Water Supply to receive a minimum of 3.66 MGD from the Wailoa Ditch to secure and continue to provide its residents with access to diverted a portion of the surface water imported from state lands in East Maui via the EMI aqueduct system. In Hawaii, domestic water use is a protected "public trust purpose" and this condition needs to be put into BLNR's lease agreement as well in order to protect resident access as the FEIS under the less water scenario appears to try and affect MDWS access to the resource.

Mahalo for the opportunity to provide testimony on this critical Maui issue.  
Tamara Paltin

**From:** [Steve Paselk](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 8:14:35 PM

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An adequate baseline of water must be left in all the streams to protect the ecosystem and supply farmers in the region. Reservoirs should be created to hold high flow water during storms.

Repairs need to be made to leaking systems rather than asking for higher volumes to avoid repairs. In the future water may need to be allocated to forests suffering from drought to prevent forest fires.

adequate water needs to be allocated to re-forestation projects to sequester carbon. Adequate water should be available to homeowners to provide for trees to provide shade and sequester carbon.

Water for agricultural zoned lands that don't currently have water sources should be considered instead of hoarding water only for Mahi Pono owned land. A private water and land company should not in control of the majority of public trust water.

September 24, 2021

Submitted via email to [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

Attn: Board Members  
State of Hawai'i  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 130  
Honolulu, Hawai'i 96813

**ITEM D-7: Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in certain Revocable Permits on Maui.**

Aloha Chair Case and Members of the Board,

My name is Kai Pelayo. I have family land in East Maui.

**I fully support acceptance of this FEIS**

I respectfully request that you accept the document, as it fulfills the definitions and requirements of an EIS, adequately describes the environmental impacts of the proposed issuance of a long-term water lease, and satisfactorily responds to the comments received during the review of the statement.

I understand that the Board's decision regarding the acceptability of this FEIS is one step in the process and separate from any decisions to be made in the future regarding the issuance of a long-term water lease to continue to allow water from East Maui streams to be used for agricultural and domestic purposes in Central and Upcountry Maui, and Nahiku. This is part of the larger process to allow the fair distribution of water, while ensuring appropriate environmental stewardship.

Farmers and ranchers on Maui cannot continue to invest in agriculture without the assurance of an adequate supply of reliable, cost-efficient water. Continuing these uses supports the State's goals and is consistent with the public trust.

Thank you for the opportunity to provide testimony supporting passage of Agenda Item D-7.

Malama pono,

Kai Pelayo

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**From:** [Paula Phillips](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony For East Maui FEIS  
**Date:** Tuesday, September 21, 2021 4:26:56 PM

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Aloha BLNR,

I would like you to know that I feel that the Final EIS is extremely inadequate and should not be accepted. It does not meet the legal requirements that need to be considered. These are some of the issues with the FEIS\*:

- **MOVING WATER:** FEIS needs to address the environmental and cultural impacts of moving and using water across aquifers and ahupua'a.
- **WASTE AND SEEPAGE IN THE SYSTEM:** FEIS needs more detailed discussion of decreasing waste and seepage as the water is transported and stored.
- **WATERSHED RESTORATION:** The FEIS does not discuss what more needs to be done to achieve watershed restoration.
- **30 YEARS:** The proposed lease would be for 30 years, but the FEIS does not address the mitigation and plans to address possible major setbacks, changes to farming, climate change, increasing droughts, other environmental changes, and repair needs of the system over the next 30 years.
- **NOT SHARING:** The FEIS states that all water saved through conservation or better farming practices will be used by Mahi Pono to plant more acreage. The possibility of leaving more in the streams is not considered.

**Please consider these issues and the future generations of Maui before approving this inadequate FEIS.**

Mahalo,

Paula Phillips

28 Laupapa Place

Haiku, HI 96708

**From:** [grace pretre](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Wednesday, September 22, 2021 3:38:52 PM

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Aloha,

I am very concerned about another longterm water lease agreement being issued to A&B and the EIS has not considered some important points:

Water is precious and more than half of the water diverted is currently being wasted. This needs to be addressed prior to another lease being granted for our valuable public trust water...and these are public lands, so the public should have access to hiking & gathering on these lands.

The lease cannot be 30 years, that is way too long. Considering our changing times, the lease needs to be assessed & adjusted every year and the diversion canals also need inspecting and maintaining.

We also need to make sure that the water is used appropriately, for agriculture to support food security on our island.

A&B needs to restore the streams that have suffered dry conditions and cannot take all the water. Many farmers & gatherers depend on this water for their livelihood, this needs to be considered.

The native stream life needs to be taken into consideration, as it has an effect throughout the Ahupua'a all the way to the ocean. Locals need access to these waters, plants & stream life, which then feeds the ocean life...it's all connected and diverting the water destroys all this, allowing invasive species to take over.

So please **do not** grant another 30 year water lease to A&B and instead ask them to restore what has been harmed and reduce the amount of water diverted, as well as reduce the amount of years, if another lease is granted. This is public trust water & the lands are public. Locals need access to this land and the streams and the water,

Mahalo for your kokua,

Aloha,  
Grace Pretre



September 22, 2021

Dear Chair Case and Members of the Board of Land and Natural Resources:

The Pukalani Community Association supports the acceptance of the corrected Final Environmental Impact Statement for the proposed water lease for Nahiku, Ke'anae, Honomanu and Huelo license areas.

Pukalani Community Association recently had a meeting with Director of Water Supply, Jeff Pearson, and Tiare Lawrence from Mahi Pono to discuss upcountry water shortages, the recurring yearly droughts, and the progress on Mahi Pono planting and their future plans. This discussion brought out several realities to us:

1. Drilling wells for more water, building more reservoirs and reclaimed water systems are very expensive and only one individual said they would pay a lot more to have wells and/or reservoirs built.
2. Mahi Pono, whose lands are directly below Pukalani, is aware of water concerns and used less than 25 MGD in 2020 – far less than sugar cane growing required – and they are growing a wide variety of crops, many that help us with food sustainability. Tiare stated Mahi Pono has invested a great deal of money in irrigation technology and soil moisture sensors and Mahi Pono plans to use approximately 85 MGD for all their planned crops. It is hard to keep spending to develop a farm and all the improvements needed to farm without confidence in having enough water.
3. We are very hopeful that Mahi Pono will succeed in their plans and help us with food security. We are also looking forward to the wide variety of jobs including careers in human resources, marketing, science, mechanical repairs, and engineering that will be available in addition to farm planting, irrigation, harvesting, etc. , that come with a big plantation. With HC&S closed and Maui Land & Pineapple Company down to a very few employees, we badly need career opportunities that a big land owner and successful company can provide.

We understand that BLNR's acceptance of the corrected Final EIS is the next step before BLNR can consider issuing a long-term water lease for agricultural and even domestic purposes in Central Maui and Upcountry Maui. A long-term water lease is needed for EMI to provide irrigation for 30,000 acres of diversified agriculture in Central Maui, for our Kula farmers and for domestic water for Upcountry Maui.

We are concerned that without the assurance of a long-term water lease, Upcountry Maui will continue to be at risk for water shortages and fledgling Mahi Pono may not survive. Such an event would likely mean the central valley would be brown and dusty, there would be loss of potential jobs and food security and our rural way of life in danger.

Please approve the East Maui Water Lease corrected Final Environmental Impact Statement.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Donna J. Clayton". The signature is written in a cursive, flowing style.

Donna J. Clayton, President  
Pukalani Community Association  
[donnajclayton@hawaii.rr.com](mailto:donnajclayton@hawaii.rr.com)

**From:** [Greg Puppione](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Tuesday, September 21, 2021 11:53:09 AM

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Hello,

I share the opinion of the Sierra Club of Hawaii with regards to the A&B lease, specifically:

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Thank you for your time and consideration.

Aloha,

Greg Puppione

Honolulu, HI



Barbara J L Purdy  
PO Box 1016  
Kula, Maui, HI 96790~1016

September 21, 2021

Board of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, HI 96813

RE: FINAL ENVIRONMENTAL IMPACT STATEMENT  
PROPOSED WATER LEASE

Aloha Chair Case and Members of the Board

I am a resident of Waiohuli Hawaiian Homestead and a beneficiary of Homestead (DHHL) Lands in Kula, Maui.

I am writing today in support of the acceptance of the EIS for the water lease for East Maui. I support the provision in which the Environmental Impact Statement (EIS) provides for the future of DHHL homes utilizing East Maui Water. This is an important provision so others may enjoy a home as I am.

I respectfully request your acceptance of the EIS so plans for homestead development can *continue*.

Mahalo,

Barbara J L Purdy

Waiohuli Hawaiian Homesteader, Kula, Maui, Hawaii  
Beneficiary of Department of Hawaiian Homestead Lands



**From:** [Dylan Ramos](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 5:21:08 PM

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Aloha,

Please take the following into consideration when determining the results of this EIS. Like the Sierra Club of Hawai'i, I believe that:

1. **A lease cannot be issued without first addressing the outrageous waste of valuable public trust water** resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this "unacceptable." The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.
2. **A&B needs to discuss in detail how it will restore the 12 streams** in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.
3. **A plan and funding is essential for mitigating the harm caused by the invasive plants and animals** that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.
4. **We want well-managed public access to public hiking trails.** The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.
5. **The length of the lease, should it be granted, must be much shorter than 30 years.** Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public's health and the environment.
6. **The EIS should discuss how each diversion structure on public land harms native species**, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

Mahalo,  
Dylan Ramos  
Honolulu, HI 96816



## HOUSE OF REPRESENTATIVES

STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

September 23, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

Suzanne D. Case, Chairperson  
Christopher Yuen, Hawai'i Member  
Doreen Nāpua Canto, Maui Member

Thomas Oi, Kaua'i Member  
Samuel "'Ohu" Gon III, O'ahu Member  
Vernon Char, At-Large Member  
Wesley "Kaiwi" Yoon, At-Large Member

Re: Opposition to Agenda Item D-7, Acceptance of the Final Environmental Impact Statement (FEIS) for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License Areas included in Revocable Permits S-7263 (Tax Map Key: (2) 1-1-001:044), S-7264, (Tax Map Keys: (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017) and S-7265 (Tax Map Key: (2) 1-1-002:por. 002) to Alexander and Baldwin, Inc., and S-7266 (Tax Map Keys: (2) 1-2-004:005 & 007) to East Maui Irrigation Company, Limited for Water Use on the Island of Maui.

Aloha Chair Case and Members of the Board,

As an elected official who has taken an oath to uphold the state constitution, like you, I have a duty to protect and preserve public trust resources. With that kūleana in mind, I beseech you to deny the acceptance of the FEIS for this long-term water lease.

After an aerial tour of Haleakalā in 2019, observing DOZENS of bone-dry stream beds that look like scars on the 'aina, it is obvious what has taken place for over a century needs to be done differently. East Maui's streams have run dry for too many years. We do not have adequate streamflow standards to protect the environment for future generations. It is entirely unacceptable that this water system wastes more than half the water it diverts.

This is an enormous corporate giveaway of a public trust resource, without clearly demonstrated necessity nor public benefit. Besides the fact that this FEIS is riddled with careless spelling & punctuation errors, it is based on unachievable promises that "no water is wasted" (p. 1-14).

**Office of Representative Tina Wildberger**

*Proudly serving the 11<sup>th</sup> House District*

415 S. Beretania St. Honolulu, HI 96813, Room 327

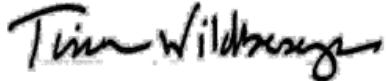
Phone: 808.586.8525 | Fax: 808.586.8529 | email: repwildberger@capitol.hawaii.gov

Hawai'i needs more diversified agriculture, but we don't need to subsidize the multi-billion dollar Canadian Retirement System whose partners planted almond trees in central California and destroyed a major water table, with Hawai'i's public trust resources. We should be moving towards smaller, restorative farming practices that don't waste resources. Mahi Pono has already outlined "no water lease" backup farm plans where they can still produce 110.5 million pounds per year of food without using public trust water for their commercial needs. Especially with the advent of modern water-reduction technologies like hydroponics, etc., they have failed to prove that it is absolutely necessary to divert so much of this public water for their private benefit. Make no mistake. This is water banking.

If a lease is granted, it should not be longer than 5-10 years maximum. Mandate repairs where water is being wasted. The State of Hawai'i has declared a Climate Emergency. In order to have any hope of pivoting to a livable future, we must act dramatically differently than we have for the last 100 years. We cannot continue to let foreign companies divert and waste our precious water.

It's time for the era of puritanical plantation patriarchy to be over. Blind giveaways don't serve our communities. I find the threats to cut off water to upcountry distasteful. These are public lands and public trust water resources. There is no good reason why IIFS have not been established for 12 streams in Huelo. It's time to stop the land and water giveaways.

Thank you for your consideration,

A handwritten signature in black ink that reads "Tina Wildberger". The signature is fluid and cursive, with the first name "Tina" being more prominent than the last name "Wildberger".

Representative Tina Wildberger  
House District 11 - South Maui  
Kīhei · Wailea · Mākena

**Office of Representative Tina Wildberger**

*Proudly serving the 11<sup>th</sup> House District*

415 S. Beretania St. Honolulu, HI 96813, Room 327

Phone: 808.586.8525 | Fax: 808.586.8529 | email: [repwildberger@capitol.hawaii.gov](mailto:repwildberger@capitol.hawaii.gov)

Ronald Rodrigues  
Commercial Tire Source Inc.  
PO Box 6199  
Kahului, Hi. 96732  
9/21/2021

Dear Members of the Board of Land and Natural Resources,

I am submitting this letter in support of the Environmental Impact Statement for the proposed (Water Lease) for Nahiku, Ke`anae, Honomanu, and Huelo License Areas of East Maui.

As this board is aware, water from East Maui has flowed to the Central Valley for generations providing a vital life sustaining resource for agriculture along with other economic, social, and environmental benefits to the residents of Maui.

The economic impact of declining a long-term lease will result in less agriculture activity in Central Maui contributing to more dry land increasing likelihood of fires and much less water to fight them.

Within the last 20 years we have seen the decline of the sugar industry take a toll on the economic and environmental health of Maui. The end of the sugar plantation era has displaced many families who have had a generational history in sugar. It has also caused devastating fires threatening residence, homes and livestock. The acquisition of former sugarcane land by Mahi Pono and its diversified agriculture approach will reverse many of the negative effects resulting from the end of the sugar era. This new approach addresses many Maui resident concerns which include water conservation, (new diverse crops consume less water) field maintenance, (lessening the likelihood of fires) employment

and providing a diversity of crops for local consumption lessening the need to import.

“WATER IS THE SOURCE OF LIFE” Restricting the flow from East Maui will affect all Maui residence in more ways than just agriculture as much of this water is diverted for domestic consumption. It is my opinion that providing a long-term lease to the partitioners allowing the water to flow to Central Maui under **controlled** guidelines is essential to the future health and wellbeing of all Maui residence while preserving this precious resource for future generations.

Sincerely,

Ronald Rodrigues

Vice President

August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: D7: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board:

My name is Shyloh Stafford-Jones. As SJ AG Operations I provide crop consulting services to agricultural producers on Maui, both farmers and ranchers. I support the Board accepting the EIS submitted by A&B.

Wise use of water is part of every farmer and ranchers core principle to conserve the resource. However, conservation can only go so far. Water is needed to have crop production and raise livestock. I have seen fields go through extreme drought with major losses. I have committed my career to helping ag producers become successful. All my efforts will be for naught without water.

Access to water during dry times is critical. Farms and ranches can fail only so many times before giving up. Working with these producers I see some nearing the tipping point.

I support a balanced use of our water resources, but also look pragmatically at what is needed to have ag on Maui for future generations. That means addressing agriculture's needs during the dry seasons. The pandemic was a lesson. If ships and planes stop coming during a drought due to a pandemic and farmers have stopped planting due to drought restrictions, where will your food be? Farmers cannot provide food on demand when there are no crops in the ground. It takes time to grow crops and raise livestock. Please accept this EIS and seriously consider impacts to off stream users during the review process.

Thank you for this opportunity.



# SIERRA CLUB OF HAWAI'I

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## BOARD OF LAND AND NATURAL RESOURCES

Regular Meeting on September 24, 2021  
Agenda Item: D-7

Relating to the Final Environmental Impact Statement for the Continued Diversion  
of East Maui Streams by A&B, EMI and Mahi Pono

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Chair Case and members of the Board of Land and Natural Resources,

The Final Environmental Impact Statement (FEIS) you are considering addresses many issues. While the Sierra Club supports the comments and concerns raised by community members and fellow advocacy organizations, we decided to keep things simple here by focusing on just one issue: waste. The FEIS addresses the issue of waste only obliquely, and completely inadequately.

An EIS is required to discuss mitigation measures to reduce impacts. It requires a discussion of the timing of mitigation measures. HAR §§ 11-200-17(m).

The most important mitigation measure for a proposal like this is reducing waste. The Supreme Court has mandated that decisions involving the use of stream water “must include provisions that encourage system repairs and limit losses.” *In re Water Use Permit Applications*, 105 Hawai‘i 1, 27, 93 P.3d 643, 669 (2004). A&B must prove that its use of water is “reasonable and beneficial.” *Kauai Springs, Inc. v. Planning Comm’n of the Cnty. of Kaua‘i*, 133 Hawai‘i 141, 174-75, 324 P.3d 951, 984-85 (2014). The Maui Island Plan policy 6.3.2a calls for ensuring the efficiency of transmission lines and reservoirs. *See also* HRS § 344-4(2)(B). An FEIS that fails to address this issue is plainly inadequate.

In its 2018 decision setting instream flow standards for many (but not all) of east Maui streams, CWRM wrote:

although estimates of over **20 percent transmission system losses** may comport with current industry standards, they do not reflect best practices, will not serve the interests of future generations and **are not acceptable**. Modern agribusiness investors should not expect to build a new industry on the back of **century-old infrastructure**. Investment in **ditch systems must be made to avoid leakage and waste**, install modern ground water storage technologies, optimize use of non-potable water, and improve water capture and storage from storm events that increase total flow availability.

...

The Commission recognizes that authorizing how much water will be allowed to be diverted offstream once the instream flow standards are met is the purview of the Board of Land and Natural Resources. However, the Commission would ask the Land Board to consider the following issues for future water leases:

- **require improvements in the water delivery systems to minimize leakage and waste**, as well as to provide accurate and timely gaging and monitoring of all offstream water uses[.]

In November 2020, while approving the continuation of the revocable permits, BLNR expressed its clear intent “to deal with the question of the restoration of the non-IIFS streams **and efficiency upgrades** to the system no later than the time when the Board considers going out to auction with the final lease.”

BLNR also required A&B to submit to the Department “a plan for their proposed upgrades, including an implementation timeline, to the irrigation system intended to address CWRM’s concerns no later than June 30, 2021.” Mahi Pono’s June 2021 “plan” is one page long and does not appear to be included in the FEIS. Its plan includes no information as to the “implementation timeline” for the “future lining of reservoirs to reduce seepage loss.” It provides no information as to when the “analysis” of the operational significance of the existing reservoirs will be completed. None of this information is provided in the FEIS either.

Given CWRM’s admonishment and BLNR’s clear intent, it is surprising that the FEIS treats this issue in the most superficial manner possible. A&B ignores that portion of CWRM’s order calling for the reduction of waste, and disregards BLNR’s desire to address efficiency upgrades.

Just a few months ago, CWRM restricted Mahi Pono and Wailuku Water Company system from losing more than five percent of the water diverted from Nā Wai ‘Ehā. D&O ¶193(b). The FEIS disregards the possibility and need to significantly reduce waste.

At times, the FEIS acknowledges the value in improving the reservoirs. On page 2-21, the FEIS notes that improvements to the County’s reservoir at the Kula Agricultural Park will allow east Maui stream water “to be used more efficiently.” Footnote 6 on pages 2-26 acknowledges the possibility of “improvements to the on-farm irrigation system that could reduce the amount of system losses.” Page 3-2 briefly mentions Mahi Pono’s hopes to increase the efficiency of its infrastructure that distributes water from the Kamole-Wier to and within its fields. But the FEIS’ overall tenor is to dismiss any concern for the loss of water since the water contributes to groundwater recharge and is therefore not lost. Pages 3-12 and 5-65. The FEIS completely ignores the possibility of restoring numerous streams if significant system losses were reduced.

Page 3-10 – 3-11 discloses that it would cost between \$35-90 million to line and cover 41



reservoirs.<sup>1</sup> It fails to disclose, however, how much water could be saved, or how long it would take. It appears that more than 20 million gallons of water could be saved per day if these improvements were made – enough water to restore a dozen streams. The FEIS avoids addressing the amount of saved water that could continue to flow through our streams.

Over the last year and a half, A&B has providing BLNR with data regarding the amount of water that it uses and how much it wastes. This information does not appear in the FEIS.

Month	MGD taken from E. Maui streams	Maui County domestic use	Kula Ag Park	Mahi Pono	Industrial & miscl uses	System losses; seepage & evaporation; unaccounted for water <sup>2</sup>
January 2020	30.10	1.07	.39	2.45	1.1	25.09
February 2020	25.28	1.17	.37	2.46	1.1	20.19
March 2020	27.98	.95	.37	2.58	1.1	22.98
April 2020	25.70	.91	.35	3.58	1.1	19.77
May 2020	21.60	1.86	.39	3.62	1.1	14.63
June 2020	20.50	2.64	.51	3.73	1.1	12.53
July 2020	16.8	3.2	.45	2.6	1.1	9.47
August 2020	19.7	2.5	.46	2.5	1.1	13.20
Sept. 2020	20.1	3.4	.69	2.4	1.1	12.49
October 2020	11.51	3.81	.56	2.51	1.1	3.53
Nov. 2020	25.34	2.16	.53	3.44	1.1	18.11
Dec. 2020	28.13	2.19	.50	4.43	1.1	19.91
January 2021	28.09	1.4	.36	3.91	1.1	21.33
February 2021	25.90	.88	.38	3.93	1.1	19.61

<sup>1</sup> Mahi Pono and A&B agree that Mahi Pono's Central Maui lands are worth \$62 million more with the availability of 30 million gallons of water daily. That \$62 million should be devoted to lining and covering reservoirs to reduce waste, preserve streams, and make water available to Mahi Pono's Central Maui lands.

<sup>2</sup> A&B has attempted to disguise the system losses by creating categories of non-consumptive uses and lumping in those uses that constitute a trivial amount of the water used. First, the water that goes through the hydroelectric plant is then subsequently used for irrigating crops (so it cannot be counted as a consumptive use of water). Second, EMI's Mark Vaught testified under oath that approximately 100,000 gallons per day are used for dust control. That estimate seems quite high given that a fire tanker discharges 7,000 gallons per hour. In any case, dust control constitutes a small fraction of the water used. Third, very little water is actually used to fight fires (a fire that takes 72 hours to extinguish, using 10,000 gallons of water an hour takes less than one million gallons of water). The water that sits in the reservoirs is not actually used (and if it is used, it is recorded instead in the Mahi Pono Diversified Ag column of the Monthly Water Usage chart). Virtually all the water in the "Reservoir/Fire Protection/Evaporation/Dust Control/Hydroelectric" column is lost due to evaporation and seepage.

March 2021	23.55	.61	.40	3.01	1.1	18.44
April 2021	23.59	2.0	.59	3.98	1.1	15.91
May 2021	24.95	2.41	.60	4.48	1.1	16.37
June 2021	14.78	3.82	1.01	4.34	1.1	4.31

Except in the two months when less than 15 mgd were taken, far more than half the water taken is wasted.<sup>3</sup> The rate is far higher than the 22.7% rate of system losses that CWRM determined was reasonable. Yet, the FEIS ignores this issue.

Water is also lost in the EMI ditch itself. In 2012, USGS completed a study titled Measurements of Seepage Losses and Gains, East Maui Irrigation Diversion System, Maui, Hawai‘i. [https://pubs.usgs.gov/of/2012/1115/of2012-1115\\_full-text.pdf](https://pubs.usgs.gov/of/2012/1115/of2012-1115_full-text.pdf) The FEIS misrepresents the results of this study on pages 2-11 and 2-27:

- 11 miles of the EMI ditch system consists of unlined ditches;
- 2.5 miles are only partially lined;
- The partially-lined Ko‘olau ditch has seepage losses of 3 cubic feet per second per mile, constituting losses of up to 32.2%;
- Ko‘olau Ditch and Spreckels Ditch at Pāpa‘a‘ea generally had seepage losses; and
- Discharge measurements in the open-ditch seepage-run measurement reaches—lined and unlined—generally indicated seepage losses

A&B has long argued and assumed that because there are seepage gains in the tunnels, that the seepage in the unlined ditches do not matter. Hogwash. The seepage gains in the tunnels are irrelevant. Seepage losses can be reduced (and more water kept in our streams) by lining the unlined ditches.

The FEIS fails to adequately disclose the variety of measures that need to be talked to reduce waste. Its failure to discuss the most important mitigation measure to reduce impacts in violation of HAR §§ 11-200.1-24(p) and 11-200.1-27(b) renders it inadequate.

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<sup>3</sup> Examining the past six months, it is clear that FEIS Table 2-3 on page 2-30 is woefully inaccurate.

**From:** [Steve Slater](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony regarding the inadequacy of the EMI Lease FEIS  
**Date:** Wednesday, September 22, 2021 12:53:50 PM

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Testimony regarding the inadequacy of the EMI Lease FEIS  
Submitting to: [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov) On 09/22/21

The 30 year term of this referenced in this FEIS is absurd considering the massive Climate Changes we are already experiencing. For my 38 years as an adult full time resident, I have closely followed this issue. The year to year leases have been sufficient. The enormous public outcry against the continued entrustment of Maui's most valuable public resource to a private, politically influential, corporation, has been consistently ignored. I have attended well over a dozen public hearings on this same issue and that is probably only a third of the hearings held. Time after time major issues which this FEIS ignores or glosses over have been part of the thousands of hours of testimony given. Testimony that has overwhelmingly been against long term leases.

1. Climate Change, we are experiencing drought and risk much more severity in the near future. The crops invested in my Mahi Pono are not in tune with water conservation. They crops are geared toward commodities that require shipping, completing the loop of Maui's dependence on Matson Shipping, importing staple foods, exporting heavy specialty foods. We are giving in to unnecessary carbon waste for the benefit of the most politically influential corporate power on Maui and possible the State. Was this need to have crops dependent on shipping why Mahi Pono received an incredible cheap price, a back room, good old boy deal? I read about the contractual risk, 60+ million dollars that A & B might lose, if this long term lease does not go through.

My deed has the rights to take water from Waipio Stream on it. Waipio Stream is one of the 12 ignored streams that is still heavily impacted by EMI. My 3.8 acres must subside on water catchment, greatly limiting my agricultural options. Waipio Stream has too little flow for me to make use of my legal right. A few thousand feet downstream the ocean life, especially the opihi really suffer from the lack of fresh water. The FEIS does not sufficiently address the effect on the threatened coral and marine life in general.

I need to wind this testimony up, if it is too long it will not be read in time to have even the slightest chance of influencing any of the members who still have an open mind.

I fully agree with all of the points that Maui Tomorrow has summarized below, which testify to the failure of the FEIS.

If this shameful FEIS is accepted and a long term lease is granted, I will also be donating to the continual stream of litigation that will surely follow such a disregard of the public trust.

#### THE PROBLEMS WITH THE FEIS, IN DETAIL:

##### MOVING WATER:

- FEIS needs to address the environmental and cultural impacts of moving and using water across aquifers and ahupua'a.
- Our Maui Island Plan supports water management and sufficiency within each ahupua'a.
- EIS gives no consideration to ways EMI could seek more water self-sufficiency within the aquifers and ahupua'a where Mahi Pono crops are grown.

##### WASTE AND SEEPAGE IN THE SYSTEM:

- FEIS needs more detailed discussion of decreasing waste and seepage as the water is transported and stored.
- The EIS is required to discuss mitigation measures to reduce impacts and the timing for these mitigations to happen.
- The Hawaii Supreme Court has issued an opinion that decisions involving the use of stream water "must include provisions that encourage system repairs and limit losses." Our Maui Island Plan set policies calling for reservoirs and water lines to be efficient and not waste our public trust waters.

- The Water Commission issued a decision in June 2021 that restricted Mahi Pono and Wailuku Water Company system from losing more than five percent of the water diverted from Nā Wai ‘Ehā streams. A similar goal should have been discussed in the East Maui EIS.

- An EIS that assumes over 20% system losses is acceptable, and gives no serious discussion or timeline for improvements is not adequate.

#### WATERSHED RESTORATION:

- The FEIS does not discuss what more needs to be done to reverse nearly a century of East Maui watershed being overrun by invasive plants and work towards watershed restoration.

- The EIS assumes that all discussion of a watershed restoration plan can be done AFTER a 30 year lease is issued.

- An EIS should discuss what mitigations the applicant EMI plans to improve the watershed, so decision makers can know if the leases will result in good stewardship of public trust resources.

Maurade95&g•

#### 30-YEAR LEASE IS TOO LONG:

- The proposed lease would be for 30 years, but the FEIS just assumes conditions will be the same over that time, when they are likely to be very different.

- EIS does not address mitigations and plans to adjust EMI water demand to major setbacks that could occur over that period: changes to farming, climate change, increasing droughts and other environmental changes.

- EIS dismisses any serious review of the benefits of a shorter lease period.

- EIS does not address or give a timetable for repair needs of the system over the next 30 years.

#### NOT SHARING:

- The FEIS states that all water saved through conservation or better farming practices will be used by Mahi Pono to plant more acreage.

- The possibility of leaving more in the streams is not considered.

- The needs of Upcountry or East Maui farmers along 12 streams where no flows were restored is not considered

Steven Slater  
45 & 55 East Waipio Road  
Haiku, HI 96708

**From:** [Michael Spalding Realty, Inc.](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Cc:** [Michael Spalding](#)  
**Subject:** [EXTERNAL] Agenda Item D7  
**Date:** Tuesday, September 21, 2021 6:37:56 AM

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Dear Chair Case and Members of the Board of Land and Natural Resources:

This email is in support of acceptance of the Corrected Final Environmental Impact Statement for the Proposed (Water Lease) for Nahiku, Keanae, Honomanu and Huelo License Areas (FEIS).

Water is a scarce resource. I recently read about the shortage of water for agriculture in California and Texas. On Maui, we have lots of gravity fed water which is ideal to turn the arid Central Valley into a bread basket for Maui, the State of Hawaii and beyond.

I am asking for support of fair allocation of water for Mahi Pono's present and future water needs. Your decision will have major long term consequences on food security. I urge you to think about the need for water now and the future. Thank you for your consideration.

Aloha,

Michael S. Spalding

293 Waiale Road  
Wailuku, Maui, Hawaii 96793-2329  
Ph. (808) 242-5788  
Fax (808) 242-6912

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August 24, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: D7 Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Terry Quisenberry. I support the acceptance of the EIS for the proposed water lease of East Maui lands understanding that the EIS is a living document.

Throughout my career I have developed a deep appreciation of the lands in East Maui. The EIS requires looking at many factors. When addressing lands for water, there are many variables that need to be considered. Water flows are not static, and evolving climatic conditions cannot be predicted. The EIS should be a living document as what is proposed is based on information currently known and it can change in the future. Instream flows are called interim as it recognizes that things can change. The same can be said of the EIS. Decisions made will impact those dependent on the water from the leased lands. Balancing all of the needs is difficult and should evolve as new information is available .

Terry Quisenberry:

August 23, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, Hi 96813

RE: Final Environmental Impact Statement for Proposed Water Lease

Chair Case and Members of the Board

My name is Sylvestre Tumbaga supporting the acceptance of the EIS.

I am a long time farmer in Kula Ag Park growing a variety of vegetables. We constantly worry about having enough labor, markets, regulations. Having to worry whether we will continue to have water is another source of stress. There are comments about the need to leave more water in streams. I am already having to reduce planting due to no water. I hope EIS addresses our water needs. No water, no food.

*Sylvestre Tumbaga*

**From:** [Bruce U'u](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Cc:** [Bruce U'u](#)  
**Subject:** [EXTERNAL] Letter of support  
**Date:** Tuesday, September 21, 2021 8:15:26 AM  
**Attachments:** [image001.png](#)

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Aloha Chair Case and members of the Board of Land and Natural Resources,

I write this letter in support in acceptance of the corrected final environmental impact statement for the proposed water lease for Nahiku, Ke'anae, Honomanu, and Huelo license areas.

Maui County needs water for diversified ag, and we need water that's affordable and available, to achieve a farming practice that is useful and practical from a company  
Like Mahi Pono, to our local residents at the 100 acre community farm, to the cattle grazing in the pastures, all is needed, and more.

Lets help get back what we lost, and make it better, our once green open space, that made Maui special is now lost, but given this opportunity to farm, I feel this is the best case scenario,  
To one up it, food to table.

As a generational Maui resident, my hope is to have this navigation of sugar cane to our food source, be the best possible for outcome for our incoming generations, so I rely, on you.  
Mahalo for allowing me to share my Mana'o,

Bruce U'u



**Bruce U'u**  
*Maui Service Representative*

**HAWAII REGIONAL COUNCIL OF CARPENTERS**  
330 Hookahi Street  
Wailuku, Hawaii 96793-1449  
Phone: (808) 242-6891, Ext. 603  
Fax: (808) 242-5961  
Email: [buu@hrcc-hawaii.com](mailto:buu@hrcc-hawaii.com)



**From:** [Jennifer Valentine](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 5:42:16 PM

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A lease cannot be issued without first addressing the outrageous waste of valuable public trust water resources by this diversion system. This system wastes more than half of the water it diverts. The Water Commission deemed this “unacceptable.” The EIS does not adequately document the amount of water lost or the mitigation measures necessary to prevent water from being wasted, such as lining reservoirs and prohibiting stream water from being used for industrial purposes like cement-mixing.

A&B needs to discuss in detail how it will restore the 12 streams in the Huelo area, where people live and farm and gather. The lease would allow a dozen streams to be left bone dry 80% of the time. Those diversions decimate 85% of native stream life habitat.

A plan and funding is essential for mitigating the harm caused by the invasive plants and animals that are introduced and spread by this network of stream diversions. Invasive plants and animals in the watershed undermine the health and the functioning of the watershed ecosystem, including the underground aquifers.

We want well-managed public access to public hiking trails. The lands covered by this EIS are public lands, so the public should be able to reasonably access these areas, which is not what we have now.

The length of the lease, should it be granted, must be much shorter than 30 years. Because climate change makes it difficult to predict the future conditions of our public trust resources, leases for the private use of these resources must be 15 years or less and allow for modification in protection of the public’s health and the environment.

The EIS should discuss how each diversion structure on public land harms native species, fosters the breeding of mosquitoes, and impairs natural beauty. It should also discuss how and when these structures can be modified.

thank you  
j valentine



September 21, 2021

To: Board of Land & Natural Resources  
Re: East Maui Water Lease Final EIS Testimony

Members of the Board of land and Natural Resources:

My name is Nelson T. Okumura, President and CEO of Valley Isle Produce Inc. dba VIP Foodservice and Island Grocery Depot stores.

I support passage of Item X-X to accept the Corrected Final EIS to enable the BLNR to issue a long-term water lease for the State's East Maui stream waters at public auction (winning bidder to be determined). The lease is needed to continue to provide water for agricultural and domestic purposes to Central Maui, Upcountry Maui, and Nahiku.

BLNR's acceptance of the Corrected Final EIS is needed prior to BLNR considering the issuance of a long-term water lease to continue to provide water for agricultural and domestic purposes in Central Maui, Upcountry Maui, and Nahiku.

1. All state water leases must go to public auction thus, the ultimate lessee is unknown.
2. East Maui Water is presently being used for the public benefit—preservation of agriculture on Maui, domestic water needs for Upcountry Maui and Nahiku—these needs benefit the broader public. They deserve long-term certainty.
3. A long-term water lease is needed for EMI to continue to meet the following needs:
  - a. Agricultural irrigation needs for 30,000 acres of diversified agricultural production in Central Maui.
  - b. Domestic water needs for approximately 36,000 Upcountry Maui residents, and Upcountry public facilities and businesses.
  - c. Agricultural irrigation needs of small farmers in Kula; and the domestic water needs for the Nahiku community.

If a long-term water lease is not approved, the Upcountry Maui and Nahiku communities will be at risk, as the East Maui stream water is a main source of water for these areas and the most reliable source during times of drought.

Passage of item X-X is crucial to Maui's economy and well-being, and I humbly ask for your consideration.

Yours truly,

A handwritten signature in black ink, appearing to read "Nelson T. Okumura". The signature is written in a cursive, flowing style.

Nelson T. Okumura  
President



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Description Written Testimony in Support of BLNR Agenda Item D-7 of September 24, 2021, East Maui Water Lease Final Environmental Impact Statement

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Date/Time September 21, 2021

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Dear Chair Case and Members of the Board of Land and Natural Resources,

Thank you for the opportunity to provide written testimony on the Final Environmental Impact Statement (FEIS) of the Proposed Lease (Water Lease) for the Nāhiku, Keʻanae, Huelo, and Honomanū License Areas. I am Keola Cheng, Director of the planning department at Wilson Okamoto Corporation (WOC) and I directed the preparation of the subject FEIS, assisted by WOC lead planner, Dalton Beauprez. WOC has specialized in the preparation of Hawaiʻi environmental impact statements as far back as 1974. The purpose of this written testimony and accompanying PowerPoint is to provide the Board with a summary of the FEIS and to describe its compliance with Hawaiʻi's environmental impact statement (EIS) laws and regulations.

The matter before the Board of Land and Natural Resources (BLNR) is whether the FEIS complies with the applicable content and procedural requirements under the EIS laws and adequately discloses the environmental impacts of the "Proposed Action", which is the issuance of a State Water Lease for the identified East Maui License Area. As described below, we firmly assert that it does. We look forward to discussing the FEIS and responding to any questions that the BLNR may have at the September 24 public hearing. The text below corresponds with the enclosed PowerPoint slides. If desired by the BLNR, WOC can provide a presentation of these slides at the upcoming public hearing. We otherwise intend to provide a summary version.

**(SLIDE 1: TITLE SLIDE)**

**SLIDE 2: OVERVIEW**

The following key components of the FEIS will be elaborated on in this testimony:

- Description of the Proposed Action. This is the trigger that required the preparation of an EIS. We will cover the purpose and objectives of the Proposed Action (the issuance of a long-term water lease for the State's East Maui waters), and describe the License Area for the lease, the three geographical areas of water use, and the implications of the June 2018 Findings of Fact, Conclusions of Law, and Decision and Order (D&O) by the Commission on Water Resource Management (CWRM), which set limits on the amount of water that can be diverted from the East Maui License Area and from which streams.
- The timeline and milestones in the preparation of this FEIS.
- EIS content requirements, the technical studies undertaken, and environmental resources/factors assessed. An analysis of alternatives to the Proposed Action was also done, pursuant to EIS content requirements, as was a consistency analysis with land use plans/policies/controls consistency and an identification of unresolved issues.
- Summary of anticipated impacts and suggested mitigation measures.
- An identification of the FEIS content requirements and acceptability criteria.

**SLIDE 3: PROPOSED ACTION: PURPOSE**

The Proposed Action contemplates the issuance of a long-term (30-year) Water Lease from the BLNR for the East Maui License Area that gives the lessee the right, privilege, and authority to enter and go upon the License Area for the purpose of developing, diverting, transporting, and using government-owned waters.

**SLIDE 4: PROPOSED ACTION: OBJECTIVES**

As described in Section 1.2 of the EIS, the objectives of the proposed Water Lease are to:

- Preserve and maintain the long-standing EMI Aqueduct System, including its access roads and trails
- Continue to meet domestic and agricultural water demands in Upcountry Maui
- Continue to provide water for agricultural purposes in Central Maui (specifically, to allow for the full transition and continued cultivation of fields previously used for sugarcane cultivation into new, diversified agricultural uses)
- Continue to serve community water demands in Nāhiku

**SLIDE 5: PROPOSED ACTION: LICENSE AREA**

The term "License Area" as used in the EIS means the approximately 33,000 acres of State-owned land in East Maui. The EMI Aqueduct System spans the License Area starting at Makapipi Stream (in the Nāhiku portion of the License Area<sup>1</sup>), and extends beyond Honopou Stream which is the western boundary of the License Area. There are 36 streams within the License Area, 34 of which have historically been diverted by the EMI Aqueduct System.

The original lease request made in 2001 was for the BLNR to issue a water lease at public auction, and the area identified for the lease was the 33,000-acre License Area. This is what is assessed in the EIS. However, the EIS also notes that more recently, the water Revocable Permits (RPs) issued by the State have excluded the Hanawī Natural Area Reserve, which encompasses approximately 7,500 acres shown in the red outline on the map presented on Slide 5 [Figure 1-3 of FEIS]. No portion of the EMI Aqueduct System is within the Hanawī Natural Area Reserve and this reduction in the size of the License Area does not impact or reduce the amount of water that can be diverted. However, it does eliminate EMI's rights to access or control access to that area.

**SLIDE 6: PROPOSED ACTION: USE AREAS**

Secondarily, the Proposed Action will facilitate the continued provision of East Maui stream water to the Maui Department of Water Supply (MDWS) for its Nāhiku and Upcountry Maui Water Systems, and to the Central Maui agricultural fields.

- (1) **Nāhiku**: The Nāhiku community receives its water from MDWS. The water MDWS uses for that purpose is not surface water that would be authorized under the Water Lease. Instead, the sole source of water for the Nāhiku community is EMI's West Makapipi Tunnel 2, which is a development tunnel located on EMI land directly adjacent to the Ko'olau Ditch. However, access to this water source is premised upon EMI's continued receipt of permits or a water lease from the State per the existing agreements between EMI and MDWS. These agreements also provide that approximately 20,000 gallons per day (gpd) can be drawn from

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<sup>1</sup> In the past, the License Area was divided into the four sub-areas: Nāhiku, Ke'ānae, Honomanū, and Huelo.

this EMI water source to serve the Nāhiku community. Notwithstanding that provision, EMI has accommodated the needs of the Nāhiku community, and the amounts provided to the MDWS for Nāhiku have ranged between approximately 8,345 (2018) to 40,925 (2007) gpd on a daily basis. [Discussed in Section 2.1.3.3 of FEIS]

- (2) **Upcountry Maui:** The EMI Aqueduct System is an important source of water for domestic and agricultural purposes in Upcountry Maui, including the agricultural users at the County's Kula Agricultural Park (KAP) and the County's planned 262-acre expansion of the KAP. For the purposes of the EIS, "Upcountry Maui" refers generally to the area serviced by water from the MDWS' Upcountry Maui Water System. Approximately 7.1 mgd is conveyed to MDWS directly from the EMI Aqueduct System. Of this 7.1 mgd, approximately 3.6 mgd is conveyed to MDWS' Kamole-Weir Water Treatment Plant, while the other 3.5 mgd is conveyed to a reservoir, downstream of Kamole-Weir, to service the KAP. However, this water delivery, as well as the MDWS' use of other water sources in Upcountry Maui, are premised upon EMI's continued receipt of permits or a water lease from the State. [Discussed in Section 2.1.3.1 of FEIS]
- (3) **Central Maui:** For the purposes of the EIS, "Central Maui" refers to the approximately 30,000 acres of agricultural lands of which approximately 22,000 acres are designated as Important Agricultural Lands (IAL), that were cultivated in sugarcane for over a century. These lands are now owned by Mahi Pono and planned for diversified agricultural operations. The EMI Aqueduct System is not in Central Maui, but the EMI Aqueduct System sources Mahi Pono's Field Irrigation System, which irrigates the Central Maui agricultural fields. The EMI Aqueduct System supplies the majority of the water that is distributed by the Field Irrigation System. [Discussed in Section 2.1.4 of FEIS]

#### **SLIDE 7: 2018 CWRM D&O**

Independent of the Proposed Action, the CWRM, in its 2018 D&O, established interim instream flow standards (IIFS) for 22 of the 36 License Area streams, which IIFS must be met before any water can be diverted from the License Area. [Discussed in Section 1.3.4 of the FEIS]

The CWRM D&O restored full streamflow for 10 streams and partial flow for an additional 12 streams in the License Area. The Proposed Action is premised on compliance with the CWRM D&O. Therefore, the maximum amount of water that could be awarded through the Water Lease is only what is available after all flow standards under the CWRM D&O are met.

Compliance with the CWRM D&O restores substantial amounts of stream water to the East Maui streams in the License Area. Therefore, permitted diversions under the Proposed Action will be substantially less than the historical amounts diverted during the cultivation of sugarcane. Under the Proposed Action, after compliance with the CWRM D&O, diversions from the License Area are limited to an estimated 87.95 mgd, whereas in 2006 it is estimated that 156.69 mgd was diverted from the License Area.

#### **SLIDE 8: EIS TIMELINE**

WOC has been working on this EIS since the third quarter of 2016. However, a lot of the analytical work on the EIS—the meat of the document—could not begin until the CWRM D&O was issued in June 2018. That is because the CWRM D&O defined the ceiling for the amount of water that could be diverted from the License Area. Preparation of this EIS also included several rounds of consultation with the public.

We initiated early consultation in November 2016. We sent out packets of information about the anticipated EIS, and asked recipients to provide feedback on what they thought should be

addressed within the EIS analysis. Of the 79 requests for early consultation that we sent, we received 21 letters in response.

The EIS Preparation Notice was published in February 2017 and notification of that publication was sent to approximately 56 individuals/organizations/agencies to ensure they were aware of the start of the 30-day public comment period.

In addition, also in February 2017, we held two public scoping meetings on Maui — one in Kahului and one in Pāʻia. These scoping meetings are not required under the relevant EIS rules, but we wanted to hold these meetings in order to give the public additional opportunities to provide thoughts/feedback on the scope of the EIS. Notifications of the meetings were published in the Maui News. Each meeting had over 100 participants. In total 214 comments were received, including written comments, emailed comments, and oral comments from the public scoping meetings. All comments received during the early consultation and EIS Preparation Notice stage were responded to and are reproduced in the FEIS as Appendix M.

After review and assessment of the scoping comments, WOC and the team of technical consultants proceeded with the work that could be undertaken at that point, i.e., before the CWRM D&O was issued.

#### **SLIDE 9: EIS TIMELINE (CONTINUED)**

With the issuance of the CWRM D&O in June 2018, analysis followed to interpret the decision, estimate the amount of water that could be diverted from East Maui, and to proceed with identifying the impacts of that level of diversion across multiple disciplines/technical studies.

In December 2018, the majority of A&B's former sugarcane lands were sold to Mahi Pono. Information about Mahi Pono's planned diversified agriculture farm plan was therefore gathered and incorporated into the Draft EIS (DEIS) analysis and technical studies.

The DEIS was published in September 2019, starting the statutory 45-day public comment period. Approximately 400 comments were received on the DEIS.

The FEIS that is before you for decision making was submitted to the BLNR on August 26, 2021, thereby starting the statutory 30-day acceptance period.

#### **SLIDE 10: DEIS/FEIS CONTENT REQUIREMENTS**

Slide 10 distills two key sections of the EIS rules (Title 11, Chapter 200 Hawai'i Administrative Rules (HAR) §§ 11-200-17 and -18), that specify the content requirements for a DEIS and FEIS, and notes where within the FEIS these requirements are fulfilled.

All sections of the FEIS are important, however, as shown on Slide 10, Chapter 4 provides the main discussion of the impacts of the Proposed Action (primary impacts, secondary impacts, and cumulative impacts) and any related mitigation measures. Chapter 4 also provides a detailed discussion of the current environmental setting, which in this case is unique because the Water Lease is in many respects a continuation of stream diversions that have been taking place for the better part of a century, and the proposed uses are a continuation of what has been in place for many years. The major difference is that the amount of water to be diverted under the Water Lease will be significantly less than what was authorized prior to the issuance of the CWRM D&O and the amended IIFS.

Regarding impacts, we took seriously the requirement to analyze direct, or primary, impacts, as well as indirect, or secondary, impacts.

- Primary impacts, or direct impacts, are caused by the action (i.e., the Water Lease and occur at the same time and place (i.e., in the East Maui License Area).
- Secondary impacts, or indirect impacts, are impacts that are caused by the action ( i.e., the Water Lease), but are either later in time or farther removed in distance, but are still reasonably foreseeable. In other words, the areas where the transported water will be used.

#### **SLIDE 11 - TECHNICAL STUDIES**

WOC was charged with securing subject matter experts for this EIS to ensure the Proposed Action was thoroughly analyzed across a broad spectrum of technical areas. Each subject matter expert was chosen for their areas of expertise and asked to assess anticipated impacts and to make mitigation recommendations related to their particular subject matter expertise, as they deemed appropriate. The technical experts and their reports are listed on Slide 11.

#### **SLIDE 12 - ENVIRONMENTAL RESOURCE FACTORS**

To assess the impacts of the Proposed Action, a wide range of environmental resource factors, as noted on Slide 12, were considered. Impacts to these resources and where appropriate, proposed mitigation measures, in the License Area (East Maui), Upcountry Maui, and Central Maui, are summarized at a high level on Slides 16 through 21.

#### **SLIDE 13 – ALTERNATIVES ANALYSIS- CHAPTER 3 OF THE EIS**

Chapter 3 provides a rigorous exploration and objective evaluation of the reasonable alternatives to the Proposed Action and the relative environmental impacts of those alternatives. A reasonable alternative is one that can achieve the same objectives of the Proposed Action. Chapter 3 also analyzes the No Action alternative, meaning a scenario where no Water Lease is issued.

In addition, Chapter 3 discusses several alternatives that were suggested for analysis, but, after consideration of the various environmental effects, feasibility, and ability to achieve the objectives of the Proposed Action, were dismissed from more in-depth review. The factors considered in making those determinations are discussed in Chapter 3.

Alternatives that were considered but ultimately dismissed included a range of alternative water source options that could either replace or supplement the surface waters diverted under the Proposed Action. Also discussed is alternative ownership of the EMI Aqueduct System. Specifically, the FEIS reviewed and ultimately dismissed:

- A Groundwater alternative [Section 3.1.1.1 of FEIS];
- A Reclaimed Water alternative [Section 3.1.1.2 of FEIS];
- An Added Storage alternative [Section 3.1.1.3 of FEIS];
- A Desalination alternative [Section 3.1.1.4 of the FEIS]; and
- An EMI Aqueduct System Ownership alternative [Section 3.1.2 of the FEIS].

The FEIS included additional analysis undertaken in response to DEIS comments about these options. However, these alternatives were ultimately dismissed because none could achieve the objectives of the Proposed Action as outlined on Slide 4. Further, the first four were projected to generate more intense environmental effects than the Proposed Action.

The Alternative Ownership alternative was deemed too speculative for the stated purpose of this EIS because the EMI Aqueduct System is not for sale, and only EMI has the experience and skill to properly and efficiently run the EMI Aqueduct System.



The alternatives that were carried forward for a more comprehensive assessment and compared against the Proposed Action are:

- **Reduced Water Volume alternative:** Identifies the impacts if the Water Lease authorizes the lessee to use less surface water from the License Area than the amount assumed under the Proposed Action. [Sections 3.2.1 and 3.4 of the FEIS]
- **Alternative Lease Duration alternative:** Identifies the impacts if the Water Lease would be issued for a term shorter or longer than the requested 30 years. [Sections 3.2.2 and 3.4 of the FEIS]
- **Modified Lease Area alternative:** Identifies the impact if the 33,000-acre License Area is reduced in size to include only those lands needed to enable the same access to water sources, to properly maintain and operate the EMI Aqueduct System, and protect the safety of the public and EMI employees. The other lands would be returned to the State for its management. [Sections 3.2.2.2 and 3.4 of the FEIS]
- **The No Action alternative:** Identifies the impact if no Water Lease would be issued. This, however, does not mean that no stream water would be diverted from the License Area. Under a 1938 agreement between the Territory of Hawaii and EMI, which is provided as Appendix R of the FEIS, and a related isohyetal analysis of rainfall patterns, approximately 30% of the water that could be collected from the License Area is derived from private lands. Taking this into consideration, after compliance with the CWRM D&O, the 30% is estimated to be approximately 26.39 mgd (compared to 87.95 mgd under the Proposed Action). [Sections 3.3 and 3.4 of the FEIS].

A consolidated summary of the comparative impacts of the Proposed Action, the reasonable alternatives, and the No Action alternative was added to the FEIS as Table 3-2 (this format was requested in public comments received on the DEIS).

#### **SLIDE 14 - CONSISTENCY WITH LAND USE PLANS, POLICIES & CONTROLS - CHAPTER 5 OF THE EIS**

Chapter 5 assesses the Proposed Action's consistency with land use plans, policies and controls, as required under the EIS rules. As with the other chapters in the EIS, this analysis looks at the License Area as well as Upcountry Maui and Central Maui. Chapter 5 is approximately 200 pages and thus is difficult to summarize. Therefore, here we highlight only a few particularly relevant land use plans and policies.

The License Area is identified as Conservation District land. See FEIS Figures 5-1 and 5-2. The continued operation of the EMI Aqueduct System is a permitted nonconforming use.

The Central Maui agricultural fields are virtually all Agricultural District lands. See FEIS Figure 5-3. These lands are also zoned by the County of Maui in the Agriculture zoning district. Additionally, as shown on Slide 14, about 22,000 acres of the Central Maui land have been designated as IAL. IAL has its foundation in a constitutional mandate that says Important Agricultural Lands should be protected and supported for agricultural use for current and future generations. Successful agricultural operations are the basis for keeping lands in IAL for the long-term. The Proposed Action is supportive of this mandate.

#### **SLIDE 15 - UNRESOLVED ISSUES - CHAPTER 8 OF THE EIS**

The EIS rules require a summary of unresolved issues and a discussion of how those issues will be resolved prior to commencement of the action, or what overriding reasons there are for proceeding without resolving the issues.

The unresolved issues are identified in Chapter 8, and noted on Slide 15:

- The timing of CWRM's approval of the DHHL reservation and DHHL's use of the reservation;
- Specifics of a watershed management plan (to be developed by the winning bidder of the Water Lease with the State) as required by law for all State Water Leases; and
- The terms and conditions of the Water Lease.

These unresolved issues are expected to be resolved prior to or in conjunction with the issuance of the Water Lease.

It should be noted that A&B was a founding member of the East Maui Watershed Partnership, the first watershed partnership in the State. A&B, on its own and through EMI, has actively participated in watershed partnership activities through monetary contributions and in-kind services.

#### **SLIDE 16 - SUMMARY OF IMPACTS AND MITIGATION MEASURES IN EAST MAUI**

Under the Proposed Action, many environmental resources, i.e., the categories/items listed on Slide 12, are not expected to experience any significant impact in East Maui. These are noted in Slide 16, along with those resources that are expected to experience impacts as well as some resources that the public projected would experience impacts, but our technical consultants concluded otherwise. Highlights of Slide 16 are:

##### **Stream Habitat Impacts [Section 4.2.1 of the FEIS]**

Trutta Environmental Solutions' Stream Habitat study (Appendix A of the FEIS) looked at all of the streams in the License Area (i.e., looked at both the IIFS-petitioned streams and the non-petitioned streams). Using the Hawai'i Stream Habitat Evaluation Procedure (HSHEP) model, the study projects a maximum number of Habitat Units (HU) for native amphidromous species that could exist under various scenarios.

The upper and lower boundaries of that range are (a) if there were zero diversions (this is a theoretical 'ceiling' that was provided for the purposes of analysis); and (b) if diversions were at the rate permitted during sugarcane cultivation, that is to say, a "Full Diversion" condition (which is comparable to the historical rate of diversions under sugarcane cultivation, and sets the 'floor').

The HSHEP model also analyzed the effects on HU under the Proposed Action (meaning diversions in compliance with the CWRM D&O IIFS requirements), and the effects of the no Water Lease scenario. Under the HSHEP model analysis, the range of potential HU in the License Area runs from a floor of approximately 876,000 HU to a ceiling/theoretical max of approximately 1,747,000 HU. Under the Proposed Action, the HSHEP model projected that there would be approximately 1,117,000 HU available. Trutta Environmental Solutions also concluded that the CWRM D&O did a good job at improving instream habitat regionally over a wide range of streams in the License Area.

It should be noted that the HSHEP model also analyzed HU for mosquitos and native damselflies. The conclusion is that mosquito HU would decrease from sugarcane diversion conditions and native damselfly species HU would increase.

#### **Recommended Mitigation for Stream Habitat Impacts**

Because the HSHEP model calculations are diversion-dependent, specific mitigation recommendations are impossible due to the huge number of possible variations. However, Trutta Environmental Solutions offered the following guiding concepts:

- The greater amount of stream flow diverted, the less HU available for species.
- Diversions made at higher elevations have less impact on HU and species than diversions made at lower elevations.
- A single diversion can have a lesser impact on HU and species than multiple diversions, even when the total amount of water taken is the same under both scenarios.
- Improvements in diversion passage results in more HU at most flow levels. However, for streams with lower flows, modifications to diversions to improve passage bring about a more beneficial result than similar modifications made streams with greater flows.

#### **No Significant Impact to Coastal Waters [Section 4.2.3 of the FEIS]**

Contrary to the expectations of some public commenters, our technical experts Marine Research Consultants, Inc. and Sea Engineering, Inc., determined that stream diversions will have little to no effect on coastal waters in East Maui. The prevailing conditions of extreme mixing by physical force (i.e., intense wave energy) is the most important factor in diminishing the influence of the relatively low amount of stream water from East Maui in the marine setting. Intense wave energy at the nearshore areas make those areas unsuitable for coral reef communities and associated marine species. And the rapid and intense mixing of stream water into the ocean means the influence of stream water is minimal. The experts concluded that these mixing processes should not be affected by changes in stream flow related to seasonal variation or diversions.

#### **No Significant Impact to Estuaries [Section 4.2.3 of the FEIS]**

Some comments on the DEIS called for more information about impacts on estuaries. As explained in the FEIS, the majority of East Maui streams that have estuarine reaches have already been ordered for flow restoration under the CWRM D&O. Therefore, the Proposed Action is not anticipated to have any significant effect on that environment.

#### **No Significant Impacts to Flora & Fauna Resources [Section 4.4 of the FEIS]**

No significant impacts to flora are expected as EMI's routine repair and maintenance activities are expected to be limited to the same types of activities that EMI has undertaken for decades and those activities are expected to take place within the same general areas that have been accessed over the years. These areas have long been influenced by non-native plant species. Similarly, the Proposed Action is not projected to have any significant impact on fauna species in East Maui - the occasional disruption to species from EMI's maintenance activities should have a negligible effect on wildlife.

However, SWCA's report (Appendix C) noted that the native forest habitat within the License Area becomes progressively more extensive and of higher ecological integrity as one moves eastward through the License Area, particularly east of the Pi'ina'au watershed. Taking all this into account, plus comments received from the U.S. Fish &

Wildlife Service, SWCA made protective recommendations to the extent EMI undertakes activities in pristine areas, such as on cliffsides or near waterfalls.

#### **Protective Measures for Flora & Fauna**

In summary, mitigation measures include having qualified and trained personnel available to identify special-status species and to follow appropriate protocol if they are present; making sure that all construction materials, equipment, vehicles and personnel/gear arriving from outside of the License Area, are properly cleaned and inspected prior to use in sensitive areas; as well as requiring inspection of trees and vegetation to be removed/felled/trimmed to avoid harm to native species.

The FEIS also addresses the fact that under Hawai'i Revised Statutes (HRS) § 171-58(e), any new Water Lease must have a covenant that requires the lessee and the DLNR to jointly develop and implement a watershed management plan. The DLNR's criteria for a watershed management plan are discussed in Section 2.1 of the FEIS.

#### **No Significant Impacts to Historic Resources [Section 4.5 of the FEIS]**

The Proposed Action maintains existing conditions, including the operation and maintenance of the EMI Aqueduct System. Therefore, the conclusions under the Historic Structure Assessment and the Archaeological Literature Review and Field Inspection Report are that no significant impacts on historic or archeological resources are anticipated.

The State Historic Preservation Division (SHPD) understood that the Water Lease itself would not involve significant related ground disturbance, and would not result in changes in water flows greater than natural stream freshets. Therefore, SHPD determined that no archeological inventory survey was required for the proposed Water Lease.

#### **Protective Measure Recommended for Historic Resources**

No significant ground disturbance is planned in East Maui under the Proposed Action. However, as a protective measure, Cultural Surveys Hawai'i (CSH) recommends that if changes and ground disturbance subject to County, State, and/or Federal permits is required in connection with the Water Lease, the lessee should consult with SHPD to determine historic preservation requirements.

#### **Impacts to Cultural Resources & Practices [Section 4.6 of the FEIS]**

Consultation for the Cultural Impact Assessment (CIA) identified several traditional and customary practices and resources that may impacted under the Proposed Action within the License Area and downstream from the License Area, including impacts to the overall regional environment, taro farming, freshwater ecosystems, cultural sites, and access for cultural practitioners. The various traditional and customary practices and resources that were identified in the License Area through these interviews and declarations are discussed in Section 4.6 of the FEIS. This information was also incorporated into the FEIS in tabular form for easier reading. See Tables 4-13 through 4-15.

#### **Mitigation Measures for Cultural Resources & Practices**

CSH concluded that the CWRM D&O could serve to reduce, mitigate, and potentially eliminate many of the cultural impacts anticipated in the East Maui region, especially those related to taro farming.

However, to address remaining impacts, in addition to the recommendations provided by the other technical studies conducted as part of the FEIS (i.e., stream survey, flora and fauna, and Social Impact Assessment (SIA)), CSH recommends that the Proposed Action include a continuation of the monitoring and reporting of stream flow volumes as required under the CWRM D&O. Specifically, CSH recommends that EMI's system of optical encoders with float tape and data loggers within the EMI Aqueduct System, and EMI's monthly reporting to CWRM be maintained and upgraded as needed in order to report accurate information on stream flow and diversion amounts to the community.

To address unidentified cultural sites, CSH recommends that any entrants into the License Area be made aware of the protocol/procedure for dealing with any potential discovery of undocumented historic properties or skeletal remains they may find.

To address cultural access, CSH recommends that the State and the lessee under the Water Lease establish a procedure to handle cultural access and consider signage that encourages cultural use pursuant to the State of Hawai'i Constitution, Article XII. The access policy could be similar to the process EMI uses now for hiking groups and/or via a consultation list of willing practitioners.

#### **Mixed Social Impacts [Section 4.7.2 of the FEIS]**

Many participants in consultation that took place for the SIA had mixed perceptions of the Proposed Action. Some vowed to oppose the Water Lease no matter what. Others recognized the benefits of the flow restoration under the CWRM D&O. Some expressed dissatisfaction with what they perceived as limited access to the License Area. (EMI has controlled public access due to concerns about liability, and safety concerns that could arise if the public attempts to access the EMI Aqueduct System). Some reported a desire to observe and monitor the EMI Aqueduct System handling of water. Some East Maui residents viewed the Proposed Action as a continuation of taking East Maui water to support a private for-profit company, which some viewed as an extension of past wrongs. The SIA concluded that there is perceived a fundamental need to rectify social, cultural and emotional impacts that have developed for over 100 years.

#### **Social Impact Mitigation Measures**

To mitigate these social impacts, it is recommended that stakeholder groups be formed to serve as a forum for exchanging ideas and collaborative efforts, as well as to provide feedback and suggestions to the Water Lease lessee.

In addition, for the Ke'ānae – Wailuanui community to move past historical impacts, the SIA recommended that there needs to be apology and reconciliation done within a cultural foundation that binds the community together.

#### **Beneficial Economic & Fiscal Impacts [Section 4.7.3 of the FEIS]**

The East Maui community of Nāhiku will experience beneficial impacts under the Proposed Action because EMI would continue to allow MDWS to access water to serve that community.

Although not exclusive to East Maui, the Water Lease would also benefit the Office of Hawaiian Affairs (OHA) and Department of Hawaiian Home Lands (DHHL) because 20% of the lessee's payment of the Water Lease rent goes to OHA and 30% goes to DHHL.

Under the Proposed Action, EMI is expected to employ a staff of 17 people with a payroll of \$0.8 million. Total direct and indirect jobs are projected at 24, with an associated

payroll of \$1.1 million. The direct and indirect jobs associated with EMI operations would support an estimated 54 residents.

**No Significant Impact to East Maui Agricultural Resources [Section 4.7.4 of the FEIS]**

The amount of farming that is projected to take place in East Maui in the future would not be impacted by the Proposed Action. The projected acreage for taro and truck crops was revised upward between the DEIS and the FEIS, in response to comments on the DEIS, to include acreage that was cited by East Maui participants in the CWRM proceedings, but that CWRM had not accepted. Notwithstanding, the impacts of the Proposed Action are negligible because the East Maui areas that are suitable for farming are in proximity to the streams ordered for full restoration (i.e., streams that will not be diverted under the Proposed Action).

**Potential Limited Impacts to Recreational & Visual Resources [Section 4.8 and 4.9 of the FEIS]**

Some of the diverted streams have recreational potential. Over time, as diversions increase to support the increased cultivated acreage in Central Maui, it is possible that there will be a decrease in the beneficial visual impacts as the currently higher stream flows lessen.

With respect to access to the License Area for recreational uses, under the Proposed Action that is expected to continue in the manner that EMI has in place now. However, if the State were to reduce the size of the License Area as contemplated under the Modified Lease Area alternative, additional lands would return to State control and the State would have to determine the manner and type of public access it would allow.

**No Significant Impacts to Air, Noise, Hazardous Materials [Section 4.10, 4.11, and 4.12 of the FEIS]**

No significant impacts are anticipated. The EMI Aqueduct System has been in place for over 100 years and is a gravity operated system, with no motors. No significant changes to the system are planned as part of the Proposed Action.

EMI will continue to use all herbicides and pesticides in full compliance with all regulations. Additionally, as of January 2020 EMI committed to no further use of Round-Up.

**SLIDE 17 - SUMMARY OF IMPACTS IN UPCOUNTRY MAUI**

No significant impacts to environmental resources in Upcountry Maui are anticipated under the Proposed Action as the Proposed Action would maintain the status quo. The Applicant is not proposing any activities in Upcountry Maui. Nevertheless, it is expected the Proposed Action would be beneficial to Upcountry Maui because it would allow for the continued supply of water to MDWS and the Upcountry Maui community. However, even with the continued supply of this water to MDWS, it is projected that in the future MDWS will need to develop additional water sources to support increased population and satisfy the Upcountry Maui water meter list.

Under the status quo EMI delivers up to 7.1 mgd to MDWS, and that amount will be maintained under the Proposed Action. MDWS uses that water within the Upcountry Maui Water System (which supplies homes, businesses, schools, Kula Hospital, water fountains, parks, etc.). MDWS also uses that water for irrigation purposes at the KAP, and it is expected that the County would also use this water in the 262 acres that it purchased to expand the KAP.

A continued water supply to Upcountry Maui under the Proposed Action provides agricultural, economic, and fiscal benefits. Beneficial impacts (crops, jobs, rents at KAP, taxes) due to farming enabled by EMI deliveries to MDWS will allow for irrigation of approximately 1,510 acres of farmland by 2030, generating approximately 15.1 million lbs./year in crops and approximately \$31.8 million/year in direct and indirect sales. Rents paid to the County by farmers at the KAP are projected to be \$900,000/year. Farming jobs reliant on the Proposed Action water supply are estimated at 150 (100 direct + 50 indirect), which are projected to support about 300 residents and 130 homes on Maui [Section 4.7.4 of the FEIS].

Participants in the SIA raised concerns about the need for a continued reliable source of water for Upcountry Maui and concerns about increased water rates should the EMI source be discontinued. Notwithstanding these concerns, SIA participants also expressed a desire to not withhold water from other groups. Similar to the recommendations for East Maui, the SIA recommends that if the Proposed Action goes forward, a stakeholder group should be established to provide a forum for different groups to reach consensus on their own needs, concerns, opportunities and possible solutions [Section 4.7.2 of the FEIS].

**SLIDE 18 – SUMMARY OF IMPACTS IN CENTRAL MAUI-- MAHI PONO FARM PLAN [Section 2.1.4 of the FEIS]**

To allow for the identification and analysis of reasonably foreseeable consequences of the Proposed Action in Central Maui, the FEIS incorporated the Mahi Pono farm plan, which is projected to reach full implementation and operation in 2030, and analyzed the anticipated impacts from the fully-implemented farm plan. Where appropriate, mitigation measures were recommended.

Slide 18 depicts the projected agricultural uses of the Central Maui agricultural fields and provides an estimate of how much surface water and groundwater would be needed for each identified type of agricultural use. This plan assumes the brackish groundwater can be used to meet approximately 20% (i.e., 16.47 mgd) of the total irrigation need. Of course, the mix and acreage of the crops will need to remain flexible and allow the farmer to adjust to unforeseen circumstances and ever-changing agricultural market demands, but diversified agriculture will be pursued.

The farm plan assessed in this EIS includes approximately 14,650 acres of food crops; 13,800 acres of pasture land, of which 4,700 acres will be irrigated; 800 acres for a community farm, available to other farmers; 500 acres for energy related crops; and 250 acres for renewable energy. The unirrigated acreage is less than 10,000 acres, which helps ensure that that the entire area devoted to pasture will remain productive. Of course, the farm plan is not and should not be static. Over time there may be changes to the types and acreages for particular crops, and changes related to timing, market conditions, weather, new pests, disease, transportation disruptions, and rising costs.

The total amount of surface water assumed to be available for irrigation of the Central Maui agricultural lands is roughly 66 mgd.<sup>2</sup>

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<sup>2</sup> That figure is based upon several factors:

- The total amount of East Maui surface water that can be diverted from the License Area while remaining in compliance with the CWRM D&O (this amount is estimated at approximately 88 mgd);
- Plus the estimated amount of surface water that could be diverted from the private lands outside of the License Area (estimated to be a little over 4 mgd);
  - Reduced by the amount of surface water proposed to be provided to MDWS (which is 7.1 mgd)

The EIS also includes the best available information at this time on Mahi Pono's production timeline (full build out of the farm plan is expected by 2030) and general operating practices, such as:

- Only diverting the amount of water needed to implement the farm plan;
- Implementing and causing its lessees to implement best management practices (BMPs) related to the use of chemicals, and controlling dust, erosion, and runoff associated with farming activities;
- Ceasing the use of Round-Up and other glyphosate based pesticides; and
- Implementing soil-beneficial water saving strategies, such as:
  - Planting windbreaks in the fields.
  - Incorporating significant uses of weed mat along plant lines, which will reduce evapotranspiration and erosion.
  - Mowing rather than plowing inter-rows to preserve organic matter and keep cover to prevent soil erosion.
  - Operating within the terms of a Conservation Plan from NRCS, which includes swales and diversions for erosion protection.
  - Practicing rotational grazing of livestock.
  - Planting permanent tree crops that will develop canopies that will assist with soil moisture retention and reduce evapotranspiration.

[See, e.g., Sections 2.1 (Proposed Action); 4.1.2 (Soils), 4.12 (Hazardous Materials)]

Many of the comments received on the DEIS showed a general misunderstanding regarding the term "system losses" in the EIS. It appears commenters assumed "system losses" were associated with losses or inefficiencies within the EMI Aqueduct System, but that assumption is wrong. The EMI Aqueduct System is considered highly efficient and not subject to losses. The estimated 22.7% system loss figure used in the EIS refers to water uses and losses/seepage within the Central Maui Field Irrigation System that Mahi Pono operates within its Central Maui agricultural fields. It should be noted that the 22.7% figure also includes other water uses, such as water used for reservoirs, fire protection, dust control, and hydroelectric uses.

Additionally, as explained in the FEIS, the loss/seepage estimate is based upon historical numbers. It does not take into account the \$20 million of improvements that Mahi Pono will be making to its Central Maui Field Irrigation System. Under the Proposed Action, Mahi Pono's irrigation engineering team would implement high-efficiency irrigation systems that will reduce water usage by:

- (1) using automatic, real-time irrigation sensors to deliver precise amounts of water efficiently;
- (2) recycling and re-using all water used in Mahi Pono's processing plants; and
- (3) integrating various live technology feeds to constantly monitor plant, soil, and tree health, thereby making more sustainable use of the water resource.

- 
- Further reduced by seepage and other water losses within the Central Maui Field Irrigation System, which has been estimated at 22.7% based on historical data.

- Leaving a net total of approximately 66 mgd of surface water for irrigation purposes in Central Maui.



**SLIDE 19 - SUMMARY OF IMPACTS IN CENTRAL MAUI—PROPOSED ACTION VS. NO LEASE**

Impacts arising from diversified agriculture in Central Maui are expected to be beneficial under the Proposed Action. Slide 19 contrasts the expected farming, food production, and related economic and fiscal impacts of the Proposed Action as compared to the No Action scenario, where no Water Lease is issued.

Mahi Pono prepared a conceptual No Action, i.e., no Water Lease, farm plan that would provide significantly less irrigated farm land, and therefore significantly fewer crops [Section 3.4.14 of the FEIS]. The differences between the two farm plans are significant. For example, at full operations the No Action alternative farm plan would have only 300 acres for community farms, whereas the farm plan under the Proposed Action includes 800 acres of community farms. The land used for unirrigated pasture is far greater under the No Action alternative than under the Proposed Action (20,670 acres compared to 9,100 acres). The total irrigated farm land if no Water Lease is issued is estimated at 9,080 acres, whereas the farm plan under the Proposed Action would have 20,650 acres of irrigated farm land, and provide far greater food production. At full implementation under the Proposed Action, the Mahi Pono farm plan is projected to generate more than 338 million pounds per year of crops, generating approximately \$155.9 million per year in food sales, and \$329.5 million per year in combined direct and indirect sales. In contrast, the farm plan under the No Action alternative is projected to generate 110.5 million pounds per year in crops, generating approximately \$51.3 million per year in food sales, and \$123.5 million per year in combined direct and indirect sales.

Under the Proposed Action, the Mahi Pono farm plan is anticipated to create some 790 jobs on-site (approximately 160 more than provided by sugar operations in 2006) and another 350 indirect jobs, for a total payroll of \$45.3 million per year. This is projected to support 2,550 Maui residents and generate \$4.5 million per year in State tax revenues. In contrast, under the No Action farm plan only 270 direct and 120 indirect jobs are projected, for a total payroll of \$15.6 million per year. This lesser employment figure is projected to support only 880 Maui residents and generate \$1.7 million per year in State tax revenues.

**SLIDE 20 - SUMMARY OF OTHER IMPACTS AND MITIGATION MEASURES IN CENTRAL MAUI**

In addition to the considerable benefits to agricultural production and the preservation of IAL, there are other generally beneficial impacts in Central Maui, along with some suggested measures to mitigate potentially non-beneficial impacts.

**Beneficial Impacts to Soils [Section 4.1.2 of the FEIS]**

In summary, implementation of the Mahi Pono farm plan should have beneficial impacts to the Central Maui soils, including but not limited to the application of micronutrients and organic matter, removal of plastic, planting of tree crops that will develop canopies to assist with soil moisture retention, planting of windbreaks, and implementation of measures to prevent soil erosion.

**Beneficial Impacts to Central Maui Aquifers [Section 4.2.2 of the FEIS]**

The application of East Maui surface water to the Central Maui agricultural fields has a beneficial impact to the Central Aquifer Sector as the application of surface water replenishes the Central Maui groundwater supply. Historically, the ability of pump groundwater in Central Maui has been greater than the sustainable yield established by CWRM because the seepage from the Central Maui Field Irrigation System has replenished the underlying aquifer resulting in greater levels of groundwater supply than if no surface water were applied to the Central Maui agricultural fields. That replenishment of groundwater in Central Maui would continue under the Proposed

Action, but the amount of replenishment would be less than historically due to the reduction in the amount of water that can be diverted from East Maui and imported to Central Maui as a result of the CWRM D&O.

**Beneficial Impacts to Coastal Waters [Section 4.2.3 of the FEIS]**

In addition to farming contributing to the prevention of wind-blown erosion, Mahi Pono has committed to complying with best management practices (BMP) approved by State Department of Health (DOH), National Resources Conservation Service (NRCS), Environmental Protection Agency (EPA), and other agencies.

**Potentially Beneficial Impacts to Flora & Fauna [Section 4.4 of the FEIS]**

Increased diversity in croplands could result in increased floral diversity. The orchards planned as part of Mahi Pono's farm plan may create habitat for the Hawaiian hoary bat. Increased diversity of croplands under the farm plan could lead to increased diversity of flora.

**Recommended Mitigation for Flora & Fauna**

In summary, mitigation measures include training staff to identify special-status species, as well as requiring inspection, clearing of vegetation, construction, and felling and trimming of trees during specific periods to avoid harm to native species, and avoiding the use of barbwire fencing. Specific mitigation measures for seabirds include restricting construction activity to daylight hours, using shielded lights and automatic sensors so that lights are off when not needed.

**Beneficial Visual Resource Impacts [Section 4.9 of the FEIS]**

Beneficial visual impacts are anticipated as the Central Maui agricultural fields would be in cultivation (green) rather than fallow. This was also cited by some who participated in the SIA process.

**Limited But Beneficial Impacts to Public Services and Facilities [Section 4.14 of the FEIS]**

There will be beneficial impacts as water is provided for fire protection and energy generation. Water from the EMI Aqueduct System is used to support fire suppression needs in and around the Pu'unēnē mill area and adjacent properties and general fire suppression needs in Central Maui. Two hydroelectric facilities utilize water derived from the EMI Aqueduct System to generate power for agricultural fields. Mahi Pono's planned solar farm may provide energy for Mahi Pono farm operations or to the Maui Electric Company grid.

**No Significant Impacts to Historic and Cultural Resources [Sections 4.5 and 4.6 of the FEIS]**

Central Maui has been in commercial large scale agricultural production for over 100 years. Suggestions from DEIS comments that the Papanene Heiau was located within the Central Maui agricultural fields were determined to be inaccurate. No historic sites will be impacted. However, should the agricultural activities extend beyond the long-established plow zone, consultation with SHPD is recommended.

No cultural sites or practices were identified. One participant in the CIA expressed concerns about potential for impacts to the Hawaiian Hoary bat. The mitigation recommendations previously discussed should address those potential impacts.

**No Significant Impacts to Air, Noise, And Hazardous Materials [Sections 4.10, 4.11, and 4.12 of the FEIS]**

Regarding air quality, the Mahi Pono farm plan will be subject to the requirements to avoid fugitive dust. Mitigation includes keeping fallow land to a minimum, using cover crops to minimize exposed soil, and limiting vehicular speed during plowing activities and while traveling onsite. Additionally, Mahi Pono and its lessees will follow BMPs approved by the DOH, NRCS, the EPA, and other governmental agencies in controlling dust and erosion associated with agricultural activities.

Noise impacts are projected to be limited due to the expansive nature of the Central Maui agricultural fields. However, to reduce the chances of impacts, diversified agricultural activities conducted near residential areas will be confined to regular working days and during daylight hours.

Regarding hazardous materials, Mahi Pono has confirmed that all agricultural chemicals will be used in compliance with all regulations, including regulatory oversight from the Department of Agriculture Pesticide Branch. Additionally, Mahi Pono has stopped the use of all glyphosate products, including Round-Up, since January 2020.

**No significant impacts related to Climate Change and Greenhouse Gases (GHG) [Section 4.3.1 of the FEIS]**

Agricultural activities would result in GHG emissions, including exportation of crops. However, the new crops produced by Mahi Pono and its lessees for the local market would reduce reliance on imported crops, thereby reducing GHG emissions from importation.

It should also be noted that while GHG emissions are unavoidable, Mahi Pono's farm plan incorporates renewable energy. It includes utility scale solar farms to supply power to the public power grid, and will also use power from two existing hydro-electric facilities to provide power to pumps and wells, and other infrastructure.

**No Significant Impacts to Visual, Traffic, Wastewater [Sections 4.9, 4.13 and 4.15.2 of the FEIS]**

The EIS also analyzes the impacts of the potential building space that Mahi Pono may need for its related agricultural operations, such as washing and packing facilities and storage (estimated to be approximately 319,000 square feet). The processing facilities may be located within a half-mile from the former HC&S Sugar Mill in an area that is already developed for accessory agricultural and related industrial uses and will comply with the County regulatory requirements. [See, e.g., Section 4.9 (Visual Resources) of the FEIS]

No significant impacts to traffic are anticipated as the majority of traffic generated from the Mahi Pono farm plan will be within the internal roadways in Central Maui. Should traffic issues on public roadways arise in the future, such concerns can be addressed by measures such as signal timing adjustments.

No significant impacts to wastewater systems are anticipated as there are currently no wastewater disposal facilities in the Central Maui agricultural fields. Most workers in the Central Maui agricultural fields use porta potties and this is expected to continue through full implementation of the Mahi Pono farm plan. No water from the EMI Aqueduct System will be used for wastewater purposes. Any limited need for water for restroom

facilities associated with future development of ag-related buildings by Mahi Pono could be served by new or existing transmission lines to the County wastewater system.

**Mixed Perceptions on Social Impacts [Section 4.7.2 of the FEIS]**

Overall, those interviewed wanted Mahi Pono to succeed. Diversified agriculture is consistent with recognized public policies, and will increase food self-sufficiency, which is seen as beneficial. Returning the Central Maui fields to cultivation and greenery is also seen as beneficial and desirable. Some spoke of an interest in regenerative agriculture to improve soil health. Others expressed an interest in learning more about the Community Farms planned by Mahi Pono. Some expressed concerns about the potential for GHG emissions from agriculture to contribute to climate change. Concerns were also expressed about the availability of farm employees at economically feasible rates and where those employees would live. There was a desire for Mahi Pono to implement the watershed management plan to outline improvements to the EMI Aqueduct System, including brush fire prevention and to relate water needs to specific crops.

**Recommended Mitigation for Social Impacts**

Similar to East Maui and Upcountry Maui, the SIA recommends the establishment of a stakeholder group, to include geographic communities, environmental, agriculture and business interests, and public agencies to mitigate social impacts. Each group would be encouraged to reach consensus on their own needs, concerns, opportunities and possible solutions. These interest groups should be represented in a "Core Working Group" to provide feedback to Mahi Pono, while Mahi Pono should be open about its intent, plans, and activities to encourage and earn trust.

**SLIDE 21 - PRIMARY, SECONDARY, AND CUMULATIVE IMPACTS [Sections 4.17 and 4.18 of the FEIS]**

The terms "primary impact", "primary effect", "direct impact" and "direct effect" are all defined to mean the same thing under HAR § 11-200-2. That is "effects which are caused by the action and occur at the same time and place."

The terms "secondary impact", "secondary effect", "indirect impact" and "indirect effect" are all defined to mean the same thing under HAR § 11-200-2. Those being "effects which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems."

The difference between primary impacts and secondary impacts are that primary impacts relate to impacts caused by the Water Lease and occur at the same time and place, i.e., in the License Area. For example, impacts to those who would otherwise use the water from the License Area streams for other purposes. Secondary impacts are those impacts that are caused by the Water Lease but are outside of the License Area, i.e., take place in Nāhiku, Upcountry Maui, and Central Maui. Both primary and secondary impacts have been fully assessed within the EIS.

EIS rules also require an evaluation of cumulative impacts, defined under HAR § 11-200-2 as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time."

The cumulative impact of the Proposed Action can be regarded as an additive impact overlaid on more than 100 years of history during which the EMI Aqueduct System was used to provide water for the development of a sugar industry in Central Maui, as well as for the later development of Upcountry Maui.

These past activities are especially well considered within the Archaeological Literature Review and Field Inspection Report and the CIA, as well as within the SIA, but also within the other studies in that they too take into account the effects of the past and the projected impacts from the Water Lease in the context of those past effects.

#### **SLIDE 22 - FEIS CONTENT REQUIREMENTS & ACCEPTABILITY STANDARDS**

The FEIS content requirements and acceptability criteria are shown on Slide 22. An EIS content checklist was added at the beginning of the EIS to easily identify the sections of the FEIS that address the various content requirements under the EIS laws.

Approximately 400 comments were received in response to the DEIS and copies of all comments and responses to those comments are provided in Appendix N.<sup>3</sup> Appendix N runs some 3,780 pages and comprises Volume IV of the FEIS.

Some commenters made specific requests for information to expand upon what was in the DEIS. All comments were reviewed and where appropriate shared with the technical subject matter experts so that the text of the DEIS could be revised to incorporate those substantive comments. For example, the expanded discussion in the FEIS on the alternatives that were considered but ultimately dismissed from further study was prepared in response to some DEIS comments requesting more information on the extent to which alternative water sources could be used to supplement the East Maui stream water. [Sections 3.1.1 - 3.1.1.4 of the FEIS] Clarified information from the MDWS addressing certain public comments regarding the Upcountry Maui Water System and water service to Nāhiku was added to the FEIS. [Sections 2.1.3.1 and 2.1.3.3 of the FEIS and Appendix P]

Many DEIS comments were directed at the impacts to stream habitat, and the FEIS includes an expanded discussion about the impacts of diversions on stream habitat [Section 4.2.1 of the FEIS]. Similarly, some commenters raised questions about impacts to estuaries due to changes in stream diversions. In response a more detailed discussion was provided in the FEIS. [Section 4.2.3 of the FEIS]. Appendices to the stream habitat study (Appendix A of the FEIS) were provided, and mathematical corrections were made to the FEIS text to reflect a greater number of HU under the Proposed Action than were initially presented.

Public comments demonstrated a misunderstanding about sources of water that Mahi Pono can access outside of the proposed Water Lease, so information on that topic was expanded and clarified in the FEIS [Chapter 2 of the FEIS]. Public comments also raised questions about the public trust, and text was added to the FEIS to address that subject [Section 1.5 of the FEIS].

The flora, fauna and invertebrate sections [Section 4.4.1 and 4.4.2 of the FEIS] were expanded in response to public comments and to bring into the FEIS text information that was within the flora & fauna study (Appendix C of the FEIS).

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<sup>3</sup> Of note, this EIS was prepared in accordance with the EIS rules found in Title 11, Chapter 200 HAR — the “old rules”. It was not prepared under the newer EIS rules that went into effect in August 2019, HAR Chapter 11-200.1, as this EIS process started prior to the enactment of the “new rules.” The new EIS rules would have allowed for a much simpler and less cumbersome response to comment letter process, but we have complied with the more demanding old rules.

Public comments questioned the East Maui farming acreage estimates used in the DEIS. Those numbers were based upon the findings in the CWRM D&O. However, in response to these comments, additional analysis was done to determine the potential for East Maui farming [Section 4.7.4 of the FEIS].

Other edits to the FEIS were to address misunderstandings. For example, several commenters did not understand that the City and County of Honolulu derives tax revenues from economic activity on Maui because some of the indirect sales are final sales on O'ahu. Although this 0.5% excise-tax surcharge for the City & County of Honolulu went into effect in 2007, many commenters were confused by the fact that fiscal impacts related to the Proposed Action would generate general excise tax for Honolulu [Section 4.7.3 of the FEIS].

Background information to explain certain assumptions in the EIS was added to the FEIS, such as the 1938 Agreement and numerous public filings that had been made in the CWRM proceedings. [Section 3.3 of the FEIS and Appendix R through R-5]. Information related to Mahi Pono's current water use that had been submitted to the BLNR in connection with the Revocable Permit requests post DEIS-publication was also added to the FEIS. [Section 2.1.4 of the FEIS and Appendix S]. Similarly, updated information regarding the content requirements for watershed management plans and the status of DHHL's water reservation process was added to the FEIS. [Sections 2.1 and 2.1.1 of the FEIS and Appendix O, O-1].

As required under HAR § 11-200-22, the responses we sent to commenters provide a (1) Point-by-point discussion of the validity, significance, and relevance of comments; and (2) Discussion as to how each comment was evaluated and considered in planning the Proposed Action.

As required, when issues were raised that were at variance with the Proposed Action, those comments were addressed in detail, with reasons why specific comments and suggestions were not accepted, and/or with factors of overriding importance warranting an override of the suggestions.

The result of all of this consultation (starting back in 2016), studies, public comments, and revisions, is a 5 volume report, including 9 technical studies, that is "an informational document" which was prepared in compliance with the EIS rules, and consistent with the legal definition of an EIS under HRS § 343-2 "*discloses the environmental effects of [the] Proposed Action, effects of [the] Proposed Action on the economic welfare, social welfare, and cultural practices of the community and State, effects of the economic activities arising out of the Proposed Action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.*"

#### **SLIDE 23 - FEIS SUMMARY**

The FEIS analyzes the probable adverse environmental impacts under the Proposed Action. Together with the alternatives analysis, the EIS covers a wide range, including the maximum impacts anticipated under the Proposed Action (i.e., diverting all water allowed under the CWRM D&O), a water lease that allows diversions less than what is authorized under the CWRM D&O, through to the no Water Lease alternative, as well as a water lease with a shorter or longer term than the requested 30 years, and a water lease with a reduced lease area.

The alternatives analysis also considered alternative water sources, such as the use of reclaimed water, more groundwater, and desalinization. All of this information is in the FEIS to allow BLNR to determine, when the time comes, whether the proposed Water Lease should be issued and under what terms and conditions.

This FEIS contains a wealth of information that took several years and studies to develop, and includes the use of the established HSEEP model by Trutta Environmental Solutions, which provides a method for determining the number of habitat units of aquatic species in the License

Area, as well as an estimate of the HU available under the Proposed Action. The FEIS also includes recommendations from the technical experts for mitigation measures to avoid or minimize adverse impacts.

The Proposed Action will continue to support important, reasonable and beneficial uses of water resources, satisfying the public trust doctrine and the State constitution, including continuation of water service of to MDWS to support agricultural and domestic water uses in Upcountry Maui, continued water delivery to the Nāhiku community via the Nāhiku Tunnel, and water to allow Mahi Pono to continue to transition the Central Maui agricultural fields into diversified agriculture, which is supportive of the constitutional mandate of preserving Important Agricultural Lands.

We have prepared this EIS in good faith. As the Board is aware, you are not being asked to approve a long-term water lease at this point in time. Furthermore, acceptance of the FEIS is not an approval of a water lease. The only decision before you is to determine whether the FEIS has met all required criteria for acceptability. For the reasons described above, our position is that the FEIS does satisfactorily meet the required criteria.

We therefore respectfully ask that the Board accept this FEIS.

Sincerely,

A handwritten signature in cursive script that reads "Keola Cheng".

Keola Cheng  
Director of Planning

Enclosures

Prepared by:



WILSON OKAMOTO CORPORATION

for

Alexander & Baldwin, Inc.  
East Maui Irrigation Company, Ltd.

# Proposed Lease (Water Lease) for the Nāhiku, Ke‘anae, Huelo, and Honomanū License Areas

Final Environmental Impact Statement



# Overview

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- ▶ Description of the Proposed Action
- ▶ EIS timeline
- ▶ EIS contents, studies, impact assessments
  - ▶ Alternatives assessed
  - ▶ Consistency with policies and plans
  - ▶ Unresolved issues
- ▶ Summary of anticipated impacts and suggested mitigation measures
- ▶ FEIS content requirements and acceptability criteria



# Proposed Action: Purpose

- ▶ Issuance of a long-term (30-year) Water Lease from the Board of Land and Natural Resources that grants the lessee the *"right, privilege, and authority to enter and go upon"* the License Area for the *"purpose of developing, diverting, transporting, and using government owned waters"* through the existing EMI Aqueduct System which supplies water to domestic and agricultural water users.
- ▶ The subject Water Lease, to be awarded by public auction, will enable the lessee to enter upon the License Area in order to maintain and repair existing access roads and trails used as part of the EMI Aqueduct System.



# Proposed Action: Objectives

- ▶ Preserve and maintain the EMI Aqueduct System, including its access roads and trails
- ▶ Continue to meet domestic and agricultural water demands in Upcountry Maui
- ▶ Continue to provide water for agricultural purposes in Central Maui—enable the transition of former sugar lands to viable, new, diversified agricultural farm
- ▶ Continue to serve Nāhiku community



# Proposed Action: License Area

- ▶ Approximately 33,000 acres of State land and 36 streams
  - ▶ Four sub(RP)-areas: Nāhiku, Ke'anae, Honomanū, and Huelo
- ▶ Recent Revocable Permits (2020 and 2021) removed Hanawā Natural Area Reserve from License Area
  - ▶ Encompasses approximately 7,500 acres of License Area

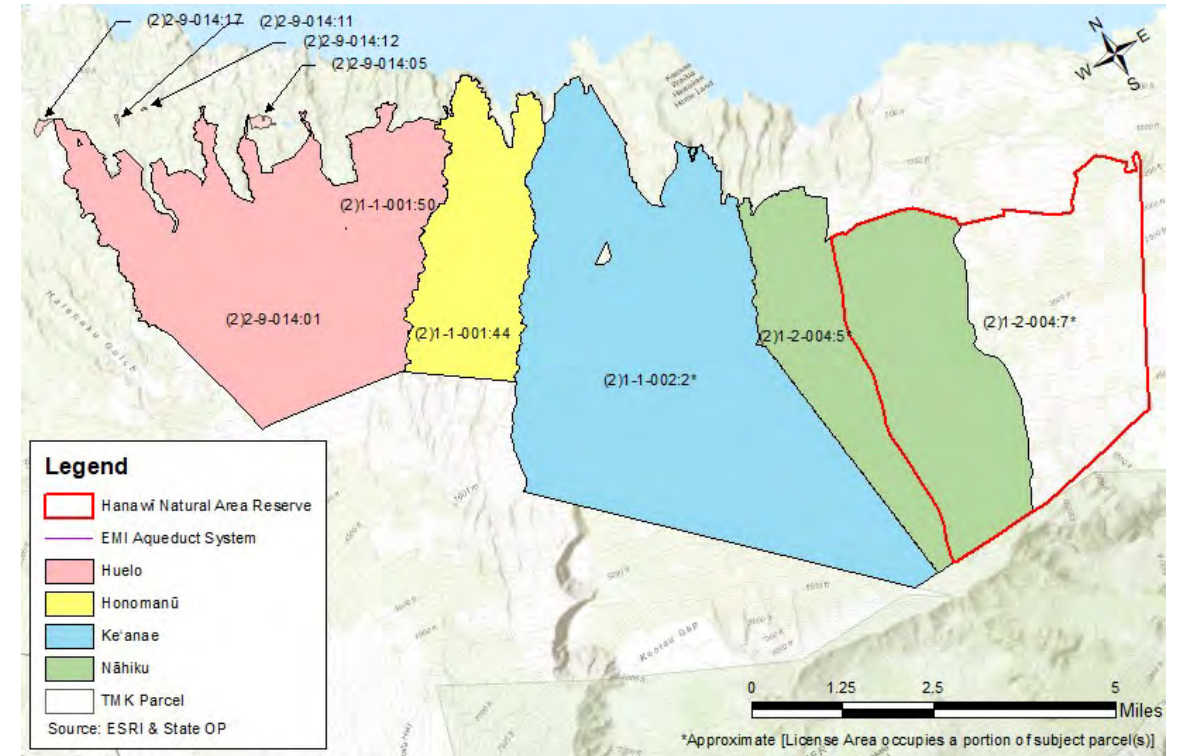


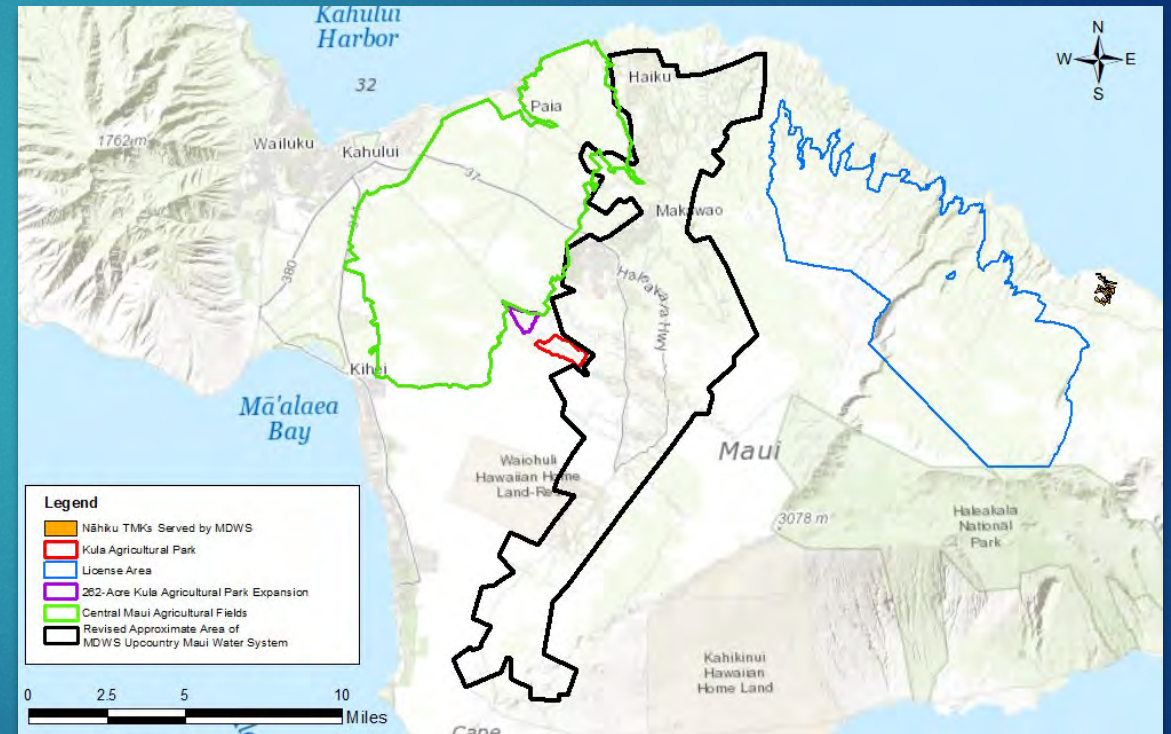
Figure 1-3 of Final EIS



# Proposed Action: Use Areas

## ► Three use areas:

- Nāhiku - Sole source of water to MDWS from EMI's West Makapipi Tunnel
- Upcountry Maui - Water provided to MDWS for domestic and agricultural water needs (35,000 residents, businesses, public facilities, County's KAP + planned 262-acre KAP expansion).
- Central Maui – Water for 30,000 acres of agricultural lands (formerly in sugarcane), including 22,000 acres of IAL





# Proposed Action: 2018 CWRM D&O

7

- ▶ Proposed Action must comply with the CWRM D&O—defines amount of water that can be diverted
- ▶ D&O restored water for 22 of the 36 streams in License Area
  - ▶ Kalo / Community Use Streams – Fully Restored (10 streams)
  - ▶ Habitat Streams – restored 64% of median base flow (5 streams)
  - ▶ Connectivity Streams – restored 20% of instream flow (7 streams)
- ▶ Allowable diversions reduced by nearly 69 MGD (or 44%)

See EIS Section 1.3.4

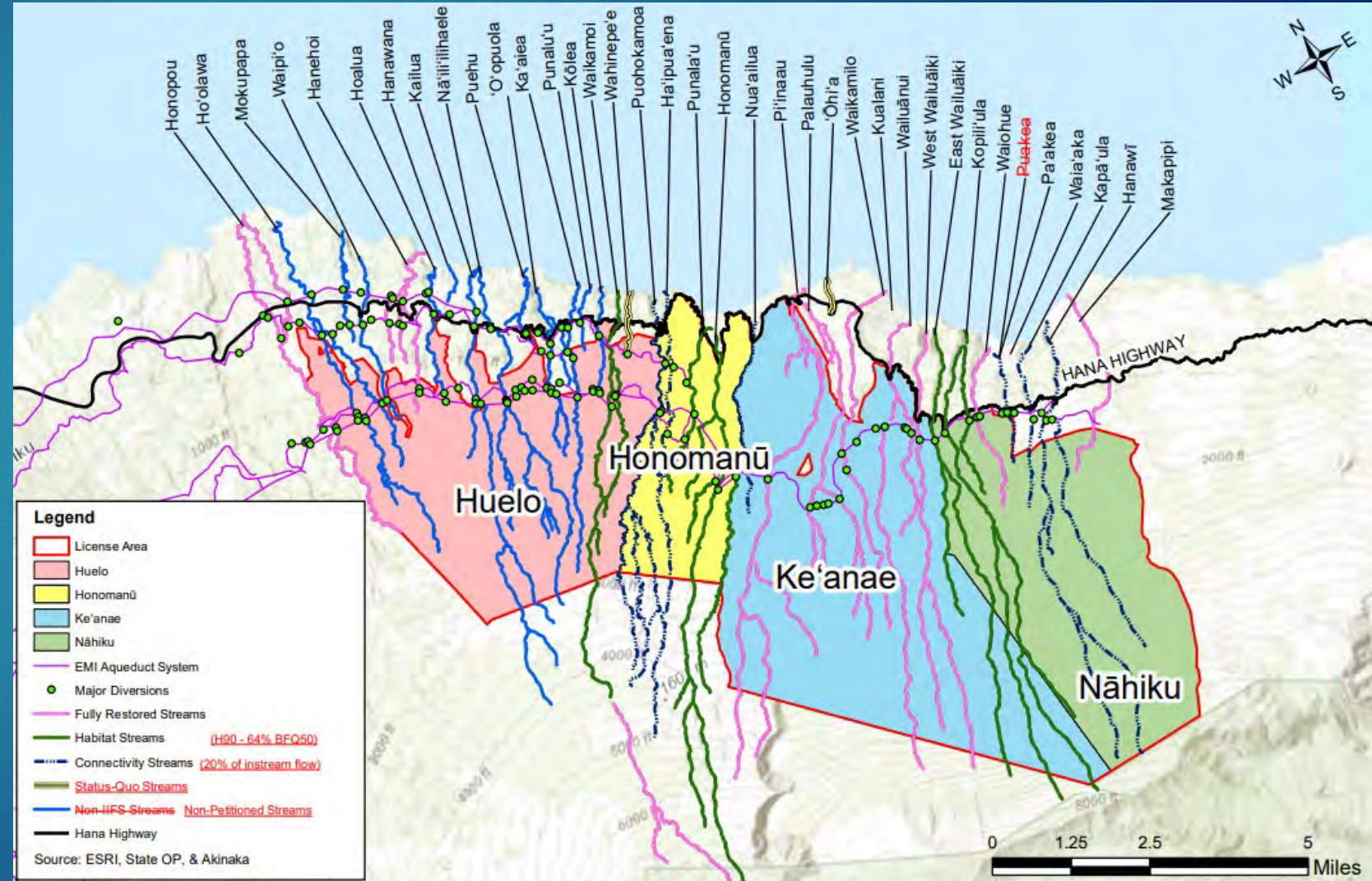
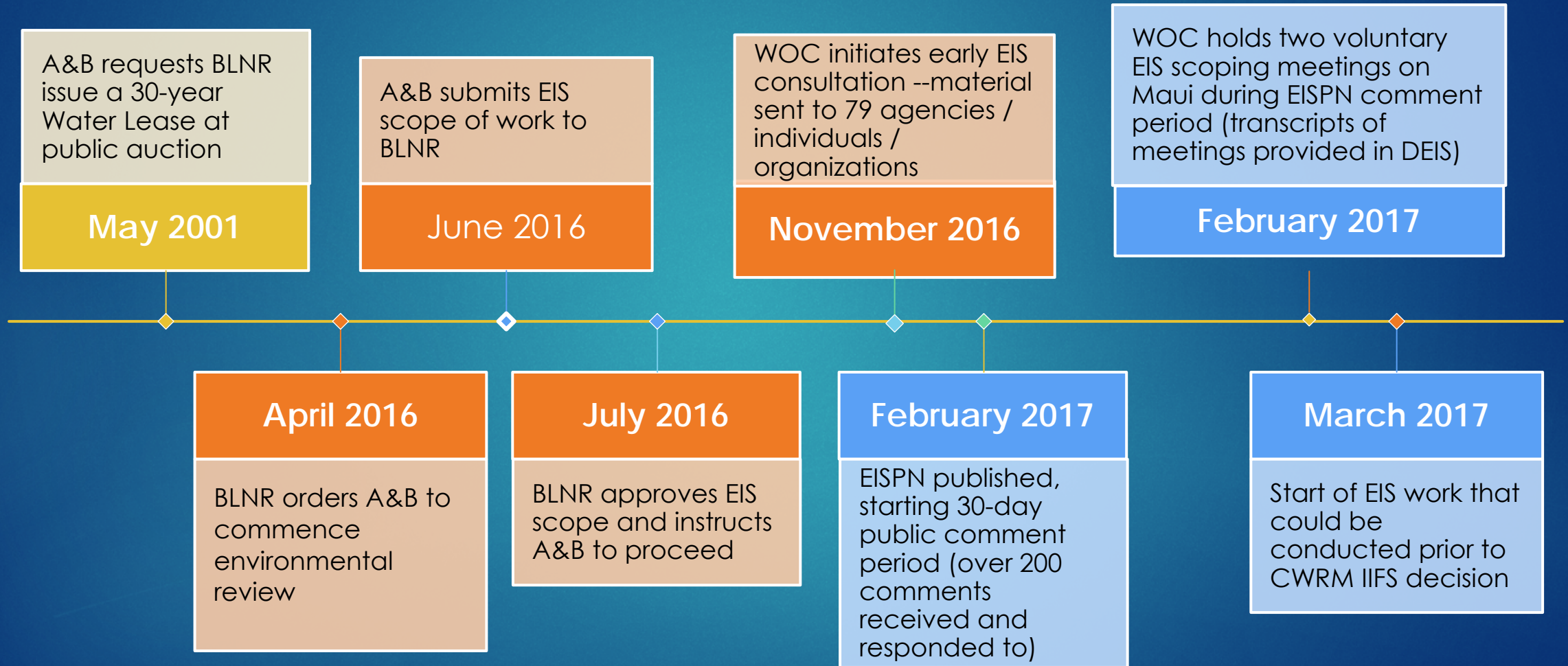


Figure 1-4 of Final EIS



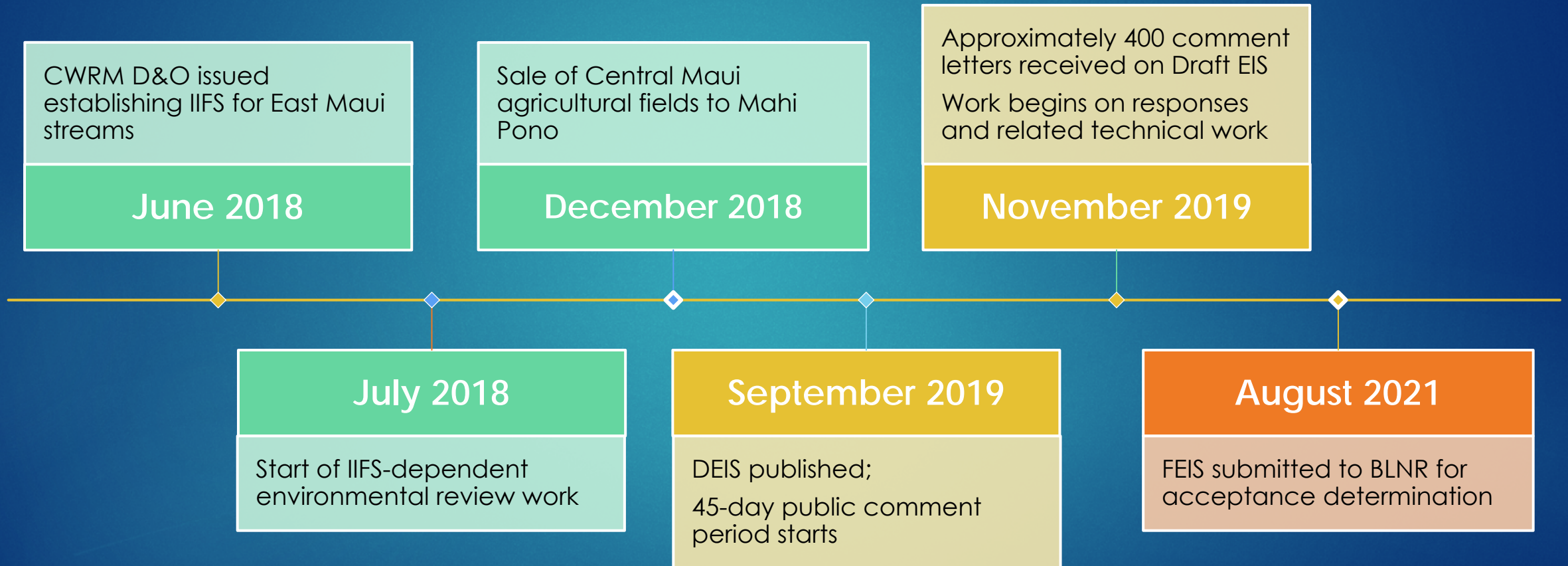
# EIS Timeline

8



# EIS Timeline (Continued)

9





# DEIS/FEIS Content Requirements:

## HAR §§ 11-200-17 and -18

10

- ▶ Summary Sheet (Executive Summary)
- ▶ Table of Contents (Table of Contents)
- ▶ Statement of Purpose/Need (Section 1.1)
- ▶ Project Description (Chapter 2)
- ▶ Alternatives to the Proposed Action (Chapter 3)
- ▶ Existing Environmental Setting (Chapter 4)
- ▶ Probable Impacts—primary and secondary (Chapter 4)
- ▶ Mitigation Measures (Chapter 4)
- ▶ Secondary and Cumulative Impacts (Chapter 4)
- ▶ Relationship to land use plans/policies/controls; list of necessary approvals (Chapter 5)
- ▶ Irreversible/irretrievable Commitments of Resources (Chapter 6)
- ▶ Unavoidable Probable Adverse Environmental Effects (Section 6.4)
- ▶ Relationship between Short-term Uses of Environment and Long-term Productivity (Chapter 7)
- ▶ Unresolved Issues (Chapter 8)
- ▶ Consulted Parties (Chapter 9)
- ▶ All EISPN comments and responses (Appendix M)
- ▶ All DEIS comments and responses (Appendix N)



# Technical Studies

11

- ▶ East Maui Stream Habitat Study (Appendix A) – Dr. James Parham of Trutta Environmental Solutions
- ▶ Assessment of Streams and Ocean Water Chemistry (Appendix B) – Dr. Steve Dollar of Marine Research Consultants
- ▶ Terrestrial Flora and Fauna Report (Appendix C) – Mr. Jaap Eizjenga and Ms. Amanda Ehrenkranz of SWCA Consultants
- ▶ Historical Structure Assessment (Appendix D) – Ms. Polly Tice of Mason Architects
- ▶ Archaeological Literature Review and Field Inspection Report (Appendix E) – Mr. Trevor Yucha and Dr. Hal Hammatt of Cultural Surveys Hawaii
- ▶ Cultural Impact Assessment (Appendix F) – Mr. Trevor Yucha and Dr. Hal Hammatt of Cultural Surveys Hawaii
- ▶ Social Impact Assessment (Appendix G) – Ms. Berna Senelly of Earthplan
- ▶ Economic and Fiscal Impact Study (Appendix H) – Ms. Tessa Munekiyo Ng and Ms. Yukino Uchiyama of Munekiyo Hiraga
- ▶ Agricultural and Related Economic Impacts Report (Appendix I) – Dr. Bruce Plasch of Plasch Econ Pacific
- ▶ Akinaka & Associates – Hydrology (EIS text) – Mr. Ken Kawahara, P.E. and Mr. Scott Kunioka, P.E.



# Environmental Resource Factors - Chp 4

12

- ▶ Physiography
  - ▶ Geology and Topography
  - ▶ Soils
- ▶ Hydrology
  - ▶ Surface Waters
  - ▶ Groundwater
  - ▶ Coastal Waters
  - ▶ Drainage
- ▶ Natural Hazards
  - ▶ Climate/Climate Change
  - ▶ Sea Level Rise
  - ▶ Flood/Tsunami Hazard
  - ▶ Hurricanes/Wind Hazard
  - ▶ Seismic Hazard
- ▶ Natural Environment
  - ▶ Flora
  - ▶ Fauna/Invertebrates
- ▶ Historic and Archaeological Resources
- ▶ Cultural Resources and Practices
- ▶ Socio Economic Characteristics
  - ▶ Population/Demographics
  - ▶ Social Characteristics
  - ▶ Economic/Fiscal
  - ▶ Agricultural Economy
- ▶ Recreational Uses and Park Facilities
- ▶ Visual Resources
- ▶ Air Quality
- ▶ Noise
- ▶ Hazardous Materials
- ▶ Traffic
- ▶ Public Services and Facilities
- ▶ Infrastructure and Utilities



# Alternatives Analysis - Chapter 3

13

## Alternatives Considered But Dismissed

- ▶ Groundwater Alternative
  - ▶ New groundwater wells
- ▶ Reclaimed Water Alternative
  - ▶ Use of R-2 water from WWRF
- ▶ Added Storage Alternative
  - ▶ Additional reservoirs
- ▶ Desalination Alternative
  - ▶ Drill new groundwater wells for desalinization
- ▶ Aqueduct Ownership Alternative
  - ▶ Another party owns and operates the EMI Aqueduct System

## Alternatives Assessed

- ▶ Reduced Water Volume Alternative
  - ▶ Less than allowed under CWRM D&O
- ▶ Alternative Lease Duration
  - ▶ Shorter Water Lease term
- ▶ Modified Lease Area
  - ▶ Smaller License Area footprint
- ▶ No Action Alternative (No Water Lease issued)
  - ▶ 30% of License Area water still diverted – approximately 26 mgd



# Consistency With Land Use Plans, Policies, and Controls - Chapter 5

14

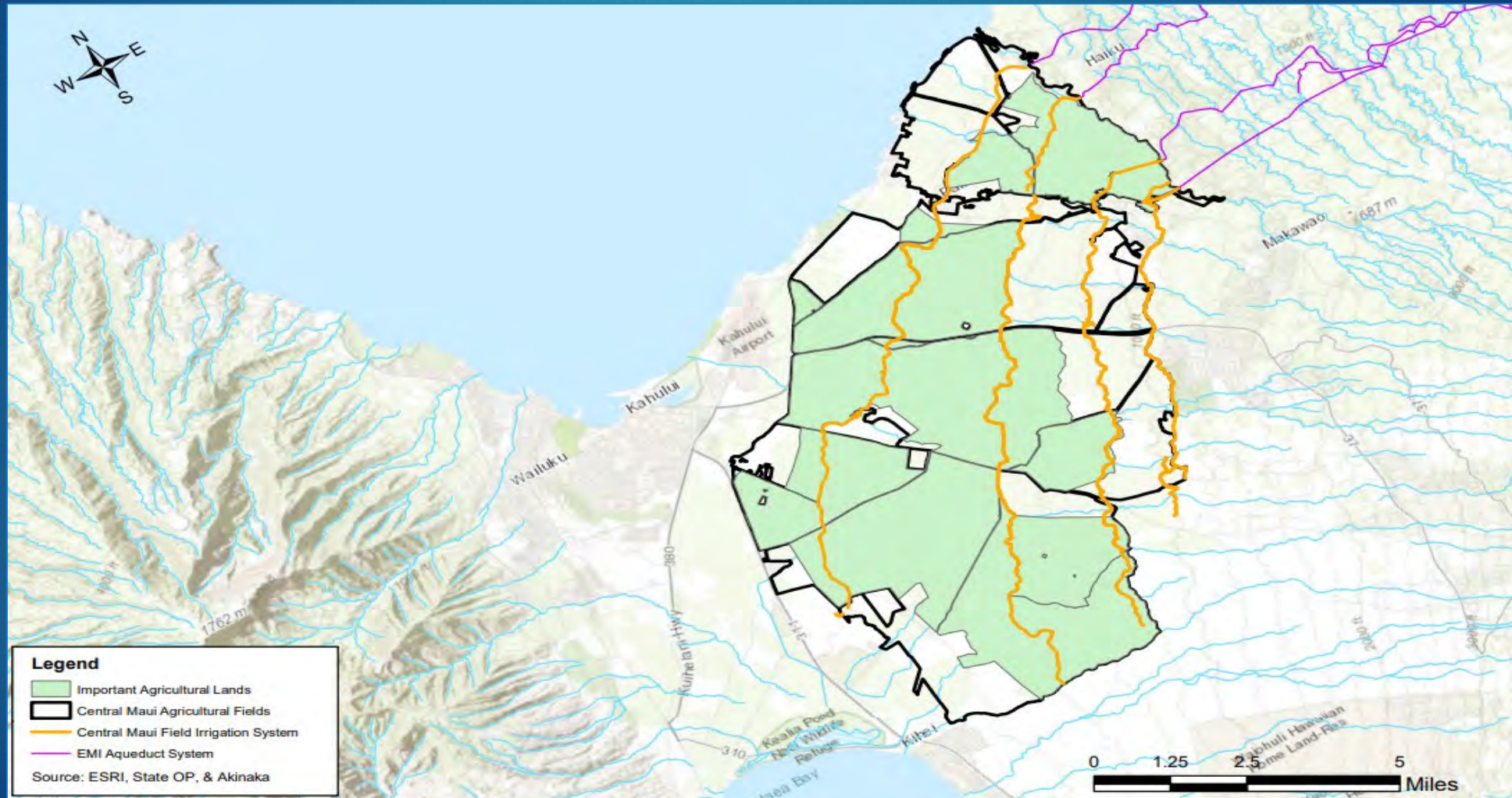


Figure 5-5 of Final EIS



# Unresolved Issues - Chapter 8

15

- ▶ Anticipated DHHL Water Reservation of 11,455,510 gpd
  - ▶ Timing of CWRM approval of DHHL reservation/DHHL use of reservation not yet known
- ▶ Watershed Management Plan Specifics
  - ▶ BLNR approved general WMP guidelines for water leases
  - ▶ Specifics for East Maui water lease to be determined by/worked out with State
- ▶ Terms and Conditions of Water Lease (e.g. rental rate, lessee, amount of water authorized for lease, etc.)



# Impacts & Mitigation: East Maui

16

- ▶ Stream Habitat

- ▶ Potential Impacts (-)

	Natural Conditions (Theoretical—No Div)	Proposed Action (CWRM D&O)	No Action (No Lease)
% Available HU's	100%	63.9%	79.8%

- ▶ Coastal Waters/Estuaries

- ▶ No significant impacts

- ▶ Flora/Fauna Resources

- ▶ No significant impacts

- ▶ Avoidance measures suggested

- ▶ Historic Resources

- ▶ No significant impacts

- ▶ Traditional & Customary Practices and Resources

- ▶ Potential impacts (-)

- ▶ Mitigation suggested

- ▶ Social Impacts

- ▶ Mixed perceptions of the Proposed Action per SIA ( + and - )

- ▶ Mitigation suggested

- ▶ Economic and Fiscal impacts

- ▶ Continuation of water to the Nāhiku community served by the MDWS (+)

- ▶ Water Lease provides proceeds to OHA and DHHL (+)

- ▶ East Maui Agricultural Resources

- ▶ No significant impacts

- ▶ Recreational and Visual Resources

- ▶ Potential/limited impacts (-)

- ▶ Air Quality, Noise, or from Hazardous Materials

- ▶ No significant impacts



# Impacts and Mitigation : Upcountry Maui

17

- ▶ No significant impacts to environmental resources
- ▶ Beneficial Economic, Fiscal, and Agricultural impacts
  - ▶ Proposed Action maintains existing water supply to MDWS for Upcountry Maui communities (+)
  - ▶ Water supply to Upcountry Maui water users (homes, businesses, schools, farmers, Kula Hospital, recreational centers, parks, etc.) (+)
  - ▶ Water supply to County's Kula Ag Park and proposed 262-acre expansion of KAP, as well as farmers on the MDWS Upcountry Maui Water System (+)
- ▶ Mixed perception ( + and - ) of the Proposed Action, per the SIA
  - ▶ Proposed Action avoids new costs to the County to develop replacement water source(s)
  - ▶ Mitigation suggested



# Impacts and Mitigation: Central Maui

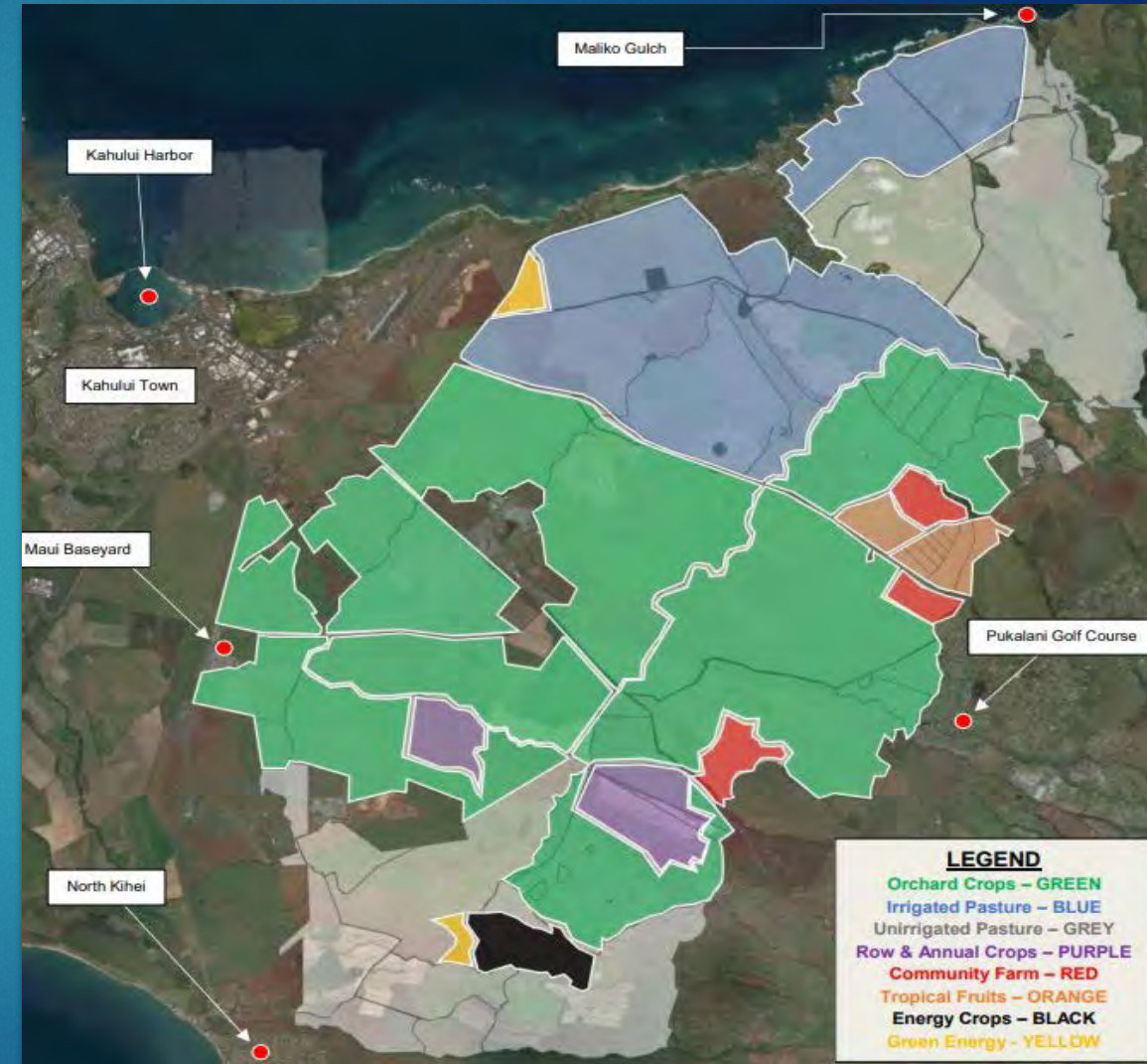
## Mahi Pono Farm Plan in Year 2030

18

Mahi Pono Farm Plan							
Proposed Use	Acres	Gallon Per Acre a Day	Surface MGD	Ground water MGD	Total MGD (rounded)	Annual MGD	% of Total
Community Farm	800	3,392	1.89	0.82	2.71	989	3.28%
Orchards (citrus, mac nuts, beverage crops)	12,850	5,089	53.36	12.03	65.39	23,866	79.48 %
Tropical Fruits	600	4,999	2.13	0.87	3.00	1,485	3.57%
Row and Annual Crops	1,200	3,392	3.12	0.95	4.07	1,491	4.96%
Energy Crops	500	3,392	1.18	0.53	1.70	622	2.07%
Pasture, irrigated	4,700	1,161	4.20	1.27	5.46	1,997	6.63%
Pasture, unirrigated	9,100	0	0	0	0.00	0	0.00%
Green Energy	250	0	0	0	0.00	0	0.00%
<b>TOTAL</b>	<b>30,000</b>	<b>N/A</b>	<b>65.88</b>	<b>16.47</b>	<b>82.34</b>	<b>30,054</b>	<b>100.00 %</b>

- Assumes approx. 80% surface water, approx. 20% groundwater (brackish)
- Crop mix/acreages will likely change over time

See EIS Section 2.1.4





# Impacts and Mitigation: Central Maui

## Proposed Action vs. No Water Lease

19

Mahi Pono Farm Plan Water Lease vs. No Water Lease						
Proposed Use	Acres		GPAD		Surface MGD	
	Water Lease	No Water Lease	Water Lease	No Water Lease	Water Lease	No Water Lease
Community Farm	800	300	3,392	3,392	1.89	0.70
Orchards (citrus, mac nuts, beverage crops)	12,850	4,180	5,089	5,089	53.36	17.36
Tropical Fruits	600	200	4,999	4,999	2.13	0.69
Row and Annual Crops	1,200	400	3,392	3,392	3.12	1.15
Energy Crops	500	200	3,392	3,392	1.18	0.47
Pasture, irrigated	4,700	3,800	1,161	1,161	4.20	3.40
Pasture, unirrigated	9,100	20,670	0	0	0	0
Green Energy	250	250	0	0	0	0
TOTAL	30,000	30,000	2,745	991	65.88	23.77

Mahi Pono Farm Plan At Full-buildout and Operation		
Economic and Fiscal Impact Categories	Proposed Action (Issuance of Water Lease)	No Action (No Water Lease)
Food Production	338 million pounds/year	110.5 million pound/year
Annual Food Sales	\$155.9 million/year	\$51.3 million/year
Cattle Revenue	\$4.8 million/year	\$6.3 million/year
Solar Farm Revenue	\$8.2 million/year	\$8.2 million/year
Indirect Sales/year	\$160.7 million/year	\$57.7 million/year
Total Direct and Indirect Sales	\$329.5 million/year	\$123.5 million/year
Direct Jobs	790	270
Indirect Jobs	350	120
Payroll (Direct and Indirect)	\$45.3 million/year	\$15.6 million/year
Number of Maui Residents Supported	2,550	880
State Taxes Collected	\$4.5 million/year	\$1.7 million/year
City and County Taxes Collected	\$140,000/year	\$50,000/year
County of Maui Property Tax	\$800,000/year	\$650,000



# Impacts & Mitigation: Central Maui

## Other

20

- ▶ Beneficial impacts to:
  - ▶ Soils: Due to Mahi Pono soil management activities
  - ▶ Aquifers: Seepage from C. Maui field distribution system recharges aquifers
  - ▶ Coastal Water: Field cultivation results in less wind-blown erosion
  - ▶ Flora: Diversity in croplands could result in diversity in flora
  - ▶ Fauna: Planned orchards may create breeding habitat for Hawaiian Hoary bat (mitigation suggested).
  - ▶ Visual Resources: From expanded agricultural activities (green, open space)
  - ▶ Public Service and Facilities (fire suppression, renewable energy)
- ▶ No significant impacts to:
  - ▶ Historic/Cultural Resources
  - ▶ Air Quality/Noise/Hazardous materials—mitigation suggested
  - ▶ Climate Change - Continued reliance upon water from the gravity-fed EMI Aqueduct System and related hydroelectric plants avoids use of fossil fuels
  - ▶ Agricultural activities both generate and avoid production of greenhouse gas emissions
  - ▶ Visual
  - ▶ Traffic/wastewater
- ▶ Mixed perceptions of the Proposed Action as documented by the SIA ( + and - )
  - ▶ Mitigation suggested



# Primary, Secondary, and Cumulative Impacts

- ▶ "Primary impact" or "primary effect" or "direct impact" or "direct effect": Effects which are caused by the action and occur at the **same time and place**.
- ▶ "Secondary impact" or "secondary effect" or "indirect impact" or "indirect effect": Effects which are caused by the action and are **later in time or farther removed in distance**, but are still **reasonably foreseeable**. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.
- ▶ "Cumulative impact": The impact on the environment which results from the incremental impact of the action when **added to other past, present, and reasonably foreseeable future actions** regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.



# FEIS Content Requirements & Acceptability Standards

22

## **HAR § 11-200-18, FEIS includes:**

- ▶ The DEIS revised to address substantive comments received during the consultation and review processes
- ▶ Reproductions of all letters received containing substantive questions, comments, or recommendations (Appendix J to Appendix N)
- ▶ Applicant's responses to each substantive question, comment, or recommendation received in the review and consultation processes (Appendix J to Appendix N)
- ▶ A list of person, organizations, and public agencies commenting on the DEIS Table 9-3 in Chapter 9)
- ▶ FEIS presented in a format to allow the reader to easily distinguish changes made to the text of the DEIS

## **HAR § 11-200-23, FEIS Acceptability:**

- ▶ An EIS, in its completed form, represents an informational instrument which fulfills the definition of an EIS and adequately discloses and describes all identifiable environmental impacts and satisfactorily responds to review comments.
- ▶ A statement shall be deemed to be an acceptable document by the accepting authority or approving agency only if all of the following criteria are satisfied:
  - (1) The procedures for assessment, consultation process, review, and the preparation and submission of the statement, have all been completed satisfactorily as specified in this chapter;
  - (2) The content requirements described in this chapter have been satisfied; and
  - (3) Comments submitted during the review process have received responses satisfactory to the accepting authority, or approving agency, and have been incorporated in the statement (Appendix J through N).



# EIS Summary

23

- ▶ The EIS meets the HAR acceptability requirements (see HAR § 11-200-23)
- ▶ The EIS analyzes the probable adverse environmental impacts under the Proposed Action and reasonable alternatives to the Proposed Action
- ▶ The Proposed Action will comply with the CWRM D&O and HRS § 171-58(e)
- ▶ The EIS includes recommended mitigation measures
- ▶ The Proposed Action will continue to support important reasonable and beneficial uses satisfying the public trust doctrine and the State constitution (i.e., continuation of water service of to MDWS to support ag and domestic water uses in Upcountry Maui, continued water delivery to the Nāhiku community, and water to transition the Central Maui agricultural fields into diversified agriculture, which is supportive of the constitutional mandate of preserving IAL)
- ▶ The EIS provides a method for comparing habitat availability, based on the estimated number of habitat units under the Proposed Action and other scenarios



Thank You!



**From:** [Alfred Wolf](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Monday, September 20, 2021 10:03:51 PM

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With climate change happening faster than expected, making a long term commitment on available water could lead to a tragic situation. Do not commit for more than 10 years, and then look again at the situation.

Alfred Wolf

**From:** [Genesis Young](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Attn Board Members  
**Date:** Wednesday, September 22, 2021 9:37:19 PM

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Aloha,

we must prioritize keeping the Maui streams alive by keeping their flow robust and not allow private interest to take our natural resources and we must prioritize having water for the cultural users for the historic Hawaiian uses for Kalo growing.

Renewal of a 30 year lease is not good planning. Frankly any lease is too long given the major environmental changes we see yearly.

Ideally the leases would be limited in the amount of water harvested to much less than is being taken now and renewed based on conditions yearly.

The EIS is incomplete.

Mahalo,

Genesis Young MD resident of Maui