

**From:** [Maria](#)  
**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 10:08:56 AM

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Dear Representatives,

Aloha! I am stating my concerns that the final EIS for the EMI lease is inadequate and needs to be rejected. Below are the reason why I want to see rejected.

#### 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.

At Last the 30-YEAR LEASE IS TOO LONG

Mahalo Nui Loa,  
Patricia L. Gardner

800A East Kuiaha Road  
Haiku, Maui, HI 96708  
808.280.2042  
[love@lightweavingjoy.com](mailto:love@lightweavingjoy.com)

September 23, 2021

Ms. 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)

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 submit testimony in support of the East Maui Water Lease Final EIS before the Board of Land and Natural Resources. The Hawaii Agricultural Foundation is a statewide nonprofit organization with a mission of promoting our local agricultural industry in Hawaii.

Central Maui is in significant transition as it moves from sugar plantation to diversified agriculture. If we are serious as a state in moving the needle on agricultural production, we need to support the long-term availability of water for Central Maui. With large acreage in Central Maui dedicated to agriculture, Central Maui has the capacity to provide much greater local food production not only for Maui, but for the entire state. Furthermore, success of the transition will also create new agricultural jobs and economic activities for Maui.

For these reasons, Hawaii Agricultural Foundation supports acceptance of final EIS for Proposed Issuance of a Long-Term Water Lease Via Public Auction for the Nahiku, Keanae, Honomau, and Huelo License.

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,



Denise Hayashi Yamaguchi  
Executive Director





1050 Bishop St. PMB 235 | Honolulu, HI 96813  
P: 808-533-1292 | e: [info@hawaiiifood.com](mailto:info@hawaiiifood.com)

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 Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

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 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,

Lauren Zirbel  
Executive Director  
Hawaii Food Industry Association  
1050 Bishop Street, PMB 235  
Honolulu, HI 96813  
(808) 533-1292  
laurenzirbel@hawaiiifood.com

**TESTIMONY OF JEROME KEKIWI, JR.  
PRESIDENT, NA MOKU AUPUNI O KO`OLAU HUI**

**RE:**

**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.

before the Board of Land & Natural Resources  
September 24, 2021

Aloha. My name is Jerome Kekiwi Jr. and I am the President of Na Moku Aupuni o Ko`olau Hui. Our members are the lineal descendants and current residents of Ke`anae-Wailuanui in East Maui. We grow taro, fish, hunt and gather to feed our families as a way of life. We are the lead plaintiffs in the East Maui water cases. I would like to thank this board for its June, 2018 decision that restored East Maui streams.

Our attorneys at Native Hawaiian Legal Corporation have submitted written testimony and we would like to incorporate their comments by reference. We have the following additional comments as well.

Does this board really want to turn over control of this critical public trust resource to a foreign-based pension investment fund whose business model includes acquisition of water rights, both here and abroad, for profit?

As fiduciaries, policy and decision-makers obligated to act foremostly in the best interest of your public trust beneficiaries, this question should give you pause.

We have no quarrel with company operatives on the ground and our community currently has a good relationship with Mark Vaught, who has kept us informed on the company's progress in dismantling ditch infrastructure as required by CWRM. Although that work is not yet completed due to covid, dangerous landslide mauka conditions and permitting requirements, we are satisfied that Mahi Pono is doing its best to follow through with the lengthy list of CWRM requirements as well as the recommendations of the Departments of Fish & Wildlife and Aquatics.

But our community suffered great injury under Mark's and your predecessors as well, and there is no guarantee that his or your successors will be as conscientious. What needs to change is systemic, not personal. It's bad enough that a public trust resource has been controlled by a private corporation for over a century, during which the state trustee's lack of oversight and enforcement resulted in decades' long injury to native tenants and severe degradation of native forests and stream biota. Now this board is poised to approve a long-term water lease not only to a private corporation, but one based in a foreign country.

Hawai'i's public trust resources should be controlled by Hawai'i. It is dangerous to surrender this trust obligation to a foreign for-profit corporation. Our disadvantaged position relative to the global market is readily apparent with our housing crisis. Foreign investors with unlimited cash are literally pricing local people out of their homes. The decision you make on this matter will empower or further disenfranchise us.

We believe a preferred alternative is community partnership, management and stewardship. It's been three years since streams were restored in our moku and we have endeavored to do all within our power and means to be good stewards. This is not a business proposition for us, but one of kuleana, and our community has been diligently exploring various models and viable alternatives.

Our community's mission is to be good stewards of the land and its resources. Whatever happens today, we would like to have a stronger and more cooperative relationship with all the stakeholders, to work together to take good care of the land and water. In the past, efforts at this have been blocked. We remain open to working with all stakeholders to move forward in a pono way.

Thank you for this opportunity to testify.

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Chair Case and BLNR Members

Subject: Agenda Item D7

September 23, 2021

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

This letter is in support of acceptance of the Corrected Final EIS for the Proposed Water Lease for Nahiku, Keanae, Honomanu, and Huelo License Areas.

As part of Mahi Pono's team, one of my roles is to help ensure that we follow through on our commitment to responsible farming. It is not easy to find oneself in a position working for a company in the world, let alone in Hawaii, that was founded on principals of responsible business. Our foundation to operate responsibly is not just marketing fluff, our investors require us to manage a company that follows ESG (Environmental, Social, and Governance) best practices. This is also commonly known as corporate social responsibility (CSR), sustainable business, or triple-bottom-line sustainability.

Through the lens of ESG and responsible farming, our goal is to be a responsible corporate citizen that is committed to practicing sustainable agriculture, to growing food for local consumption, to responsible use of the natural resources entrusted to us, and to providing high quality agricultural employment for generations to come. This approach is not something we take lightly as it was baked into our DNA at our founding and is not something added on top of an existing business.

I feel privileged to work for a company that will grow food for the Maui community in a responsible manner and provide the types of jobs and relationships that will diversify and strengthen our economy. I am lucky to be part of something that will build a better Maui and Hawaii for my children.

Mahalo nui,

Kainoa Casco  
Project Manager – Farming and Sustainability

**From:** [Greggory Cambra](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Final Environmental Impact Statement  
**Date:** Thursday, September 23, 2021 3:28:03 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). The FEIS is truly comprehensive and supports the use of East Maui water for the County and for diversified agriculture in Central Maui and proves that any impacts from the use of East Maui water is offset by the considerable economic, social, and environmental benefits to the residents of Maui. 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. We urge you to accept the FEIS so that Maui can move forward to develop a more diverse economy and be less dependent on tourism.

Sincerely,



**Greggory Cambra**

Water Resources Farm Manager | Mahi Pono, LLC

**P:** 808-357-8585

**E:** [greggory.cambra@mahipono.com](mailto:greggory.cambra@mahipono.com)

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**From:** [Martha E. Martin](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Thursday, September 23, 2021 10:43:02 AM

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Thank you for accepting comments on the proposed A & B water lease. Because the weather can change abruptly, the lease length should include the suspension of the lease if extreme changes occur, and the length of the lease should be 10 years or less. Thirty years is far too long.

The lease should include describing how all the streams will have water flow restored. Allowing some stream beds to remain dry is harmful to fauna, flora, and the watershed. The A&B lease should not allow the withdrawal of water to permanently harm life in that section of Maui.

As a resident of Maui for 58 years, I value the assets Maui has now. I respect the stewardship that has preserved it in the past. It is a function of the state that it protect water and see that it is used responsibly in the future.

Ms. Martha E. Martin  
40 Kunihi Lane #226  
Kahului, HI 96732

**From:** [Dan Ligienza](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Support for FEIS Acceptance  
**Date:** Thursday, September 23, 2021 2:56:12 PM

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

This letter is in support of 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 is truly comprehensive and supports the use of East Maui water for the County and for diversified agriculture in Central Maui and proves that any impacts from the use of East Maui water is offset by the considerable economic, social, and environmental benefits to the residents of Maui.

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.

Mahi Pono is committed to the efficient use of water while working towards increasing local food production for Hawaii. We have selected crops that will result in a significant decrease in water use on the farm compared to sugar cane. Without the assurance of enough water it is hard for any farming operation to commit to spending the resources to develop a farm: access roads, conservation plans, irrigation layouts for particular crops, agricultural accessory buildings and just clearing of weeds on the land after long periods of non-use.

I urge you to accept the FEIS so that Maui can move forward to develop a more diverse economy and be less dependent on tourism.

Sincerely,

Dan Ligienza  
Maui Cattle Company

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# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

## Board of Land and Natural Resources

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  
September 24, 2021

Dear Chairperson Case and Members of the Board,

We strongly support acceptance of item D-7 the FEIS for Proposed Issuance of a Long-Term Water Lease to Alexander & Baldwin and East Maui Irrigation Company.

The Chamber understands that water is important to life, the environment, industry health and growth, and new and needed developments such as affordable/attainable housing and rentals. We embrace the quadruple bottom line—economy, environment, social wellbeing, and culture—and recognize how important water is to each of these elements, seeking to find balance for the use of this precious resource to serve those needs and understanding the importance of examining priorities and addressing transmission line issues.

There is widespread community agreement among residents for a more sustainable and resilient Maui that grows more local produce. From our Annual Made in Maui County Festival, we also see a manufacturing renaissance—with many new value-added and niche products—growing small businesses and creating new jobs. In addition, we are strong advocates for building affordable/attainable housing and rentals, economic diversification, attraction of appropriate new industries, and addressing required environmental protections – all of which will require more water. And, knowing the availability of water long-term is paramount to future planning, development and expanded use.

Therefore, we urge you to accept the Final EIS, which we understand is needed prior to the Board 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. Without a long-term water lease, residents and affordable/attainable housing and rentals could suffer, along with the future of agriculture in Central Maui, and related and new industries. The impact of which could be great.

Mahalo for the opportunity to provide testimony.

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

**From:** [paulnrg@aol.com](mailto:paulnrg@aol.com)  
**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 2:00:55 PM

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## FINAL EIS FOR EMI WATER LEASE IS INADEQUATE

From Paul Deslauriers  
Resident Kihei Maui  
9/23/21

EMI'S Final EIS should not be accepted. It does not fully disclose the potential negative impacts of the 30-year lease. There are significant flaws that were being hidden by the massive number of pages written.

I'm especially concerned that the FEIS does not mention anywhere the cultural and environmental impacts of moving water from one ahapua'a and aquifer to another (in this case, across a half a dozen different systems).

Also, the majority of seepage and loss is in the central valley in their current reservoirs there, so those aquifers are being recharged by spillage? It seems the evaporation numbers were not considered, is it truly recharging?

The environmental impact to the area where water was taken from was not adequately addressed, nor was the aquifers that are having water taken.

Furthermore, there is no provision for water increase for residential water, or drought mitigation for current residential needs. Since EMI takes the water from what would normally supply water to Upcountry residences through its private land in Upcountry (i.e. Maliko gulch), the County would have to drill expensive wells to try to meet Upcountry water needs. To increase the problem that ground water would not be recharged because the water in the Upcountry streams is already taken by EMI.

This is a public community resource; the citizens are against having a foreign corporation control our water. The simple fact that those who control the water control development of the County. The citizens are taking action to manage this precious resource much better than these corporate entities who's main mission is profits for their Canadian investors.

Allow Maui County to make a bid on this lease.

Mahalo

Paul Deslauriers

Director Maui Pono Network



Testimony of Sylvia Hussey, Ed.D.  
Ka Pouhana, Chief Executive Officer

Board of Land and Natural Resources  
Agenda Item D-7

ACCEPTANCE OF THE FINALE 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 [TMK (2) 1-1-001:044], S-7264 [TMKs (2) 1-1-001:050, 2-9-014:001, 005, 011, 012 & 017], AND S-7265 [TMK (2) 1-1-002: POR. 002] TO ALEXANDER AND BALDWIN, INC., AND S-7266 [TMK (2) 1-2-004:005 & 007] TO EAST MAUI IRRIGATION COMPANY, LIMITED FOR WATER USE ON THE ISLAND OF MAUI

Kepakemapa 24, 2021

9:00 a.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) **OPPOSES** the proposed acceptance of the Final Environmental Impact Statement (FEIS) for issuance of a long-term water lease via public auction over various TMK parcels in East Maui to Alexander & Baldwin and East Maui Irrigation Company, LLC (collectively hereinafter “applicants”) for farming and domestic purposes. **OHA has reviewed the FEIS prepared by Wilson Okamoto Corporation on behalf of the applicants, and believes there are significant insufficiencies that counsel further analysis and consultation before this document can be approved.**

The sought water lease would be a long-term, 30-year lease from the Department of Land and Natural Resources (DLNR) and Board of Land and Natural Resources (BLNR), for the diversion, transport, and use of public trust waters in the License Area via the existing East Maui Irrigation (EMI) Aqueduct System. Currently, it is expected that 65.88 million gallons per day (mgd) of water will be utilized from surface water sources, while 16.47 mgd will be utilized from ground water sources. OHA has numerous concerns regarding the FEIS, including but not limited to its: 1) Failure to address water waste as part of the proposed action; 2) Failure to propose more moderate alternatives; and 3) Seemingly selective and insufficient assessments of all impacts that could occur under the proposed actions and alternatives.

### **1) Failure to address water waste as part of the proposed action.**

While the Draft EIS for this project was released in September 2019, it has since been revealed that an unacceptably high amount of water waste is occurring at various reservoirs and ditches; this was brought to the BLNR’s attention in the most recent holdover submittal in November 2020 to the BLNR for revocable permits S-7263, S-7264, and S-7266. For example, of the 30.10 MGD that was extracted from East Maui Streams in January 2020, 25.09 MGD was recorded as being wasted due to “system losses.” This trend, amounting to an over 80% loss of water, appears to have continued throughout

most of 2020 and into 2021. The submittal then noted that the Commission on Water Resources Management (CWRM) required improvements to minimize any such leakage and waste, yet the applicants provided no concrete solutions or timelines to implement any kind of upgrades to prevent system losses. OHA did provide testimony to the BLNR, dated November 13, 2020, recommending that this unacceptable level of waste be addressed, and that water meters be installed with additional monitoring mechanisms to find and eliminate points of water waste; these recommendations were not adopted.

Had OHA known about the water waste issue at the time of the 2019 DEIS release, we would have brought it up as part of our formal DEIS comments provided to the applicants on November 6, 2019. Despite the FEIS mentioning the need for access road and trail related maintenance repairs, there is no mention of any kind of maintenance or monitoring of existing operations to identify and eliminate water waste. As the issue is known to the applicant and the BLNR at the courtesy of the 2020 holdover submittal, it would seem minimally negligent for the BLNR to not require a discussion on the topic and the development of proposed actions associated to mitigate water leakage in an environmental impact statement. Per the Hawai'i Administrative Rules (HAR) 11-200.1-24, the contents of an EIS "shall fully declare the environmental implications of the proposed actions and discuss all reasonably foreseeable consequences of the action"; it appears to OHA that omission about the water leakage, related environmental impacts, and possible maintenance measures should disqualify the FEIS for acceptance by the BLNR.

As the current revocable permits indicate that a substantial majority of diverted water is being lost as a result of their issuance, **acceptance of the FEIS without consideration of existing water leakage would suggest that the BLNR finds it acceptable for 80% of diverted water to be wasted and unchecked for the next three decades.**

**2) Failure to propose more moderate alternatives that can meaningfully mitigate environmental impacts.**

In OHA's November 2019 DEIS comment letter, we cited concerns regarding dismissed alternatives that seemed to rely on unrealistic or extreme demands. For example, the DEIS had indicated that the utilization of water wells to replace the need of all surface water usage would require the installation of 53 new wells. There was no explanation for why such a seemingly large amount of wells were needed to reduce the amount of surface water demand. It seemed counter-intuitive to OHA for the DEIS to arbitrarily include such an extreme alternative to replace all surface water demand with well water.

In response to our comment, Wilson Okamoto Corporation argued that a "robust discussion and assessment" on water source alternatives were included in the DEIS and that the discussion had been supplemented in the FEIS. While the DEIS may have

discussed water source alternatives, the response seems dismissive of our concern about the lack of more moderate alternatives to meet demands instead of seemingly extreme scenarios (i.e., 53 water wells to replace all surface water).

In the case of the ground water alternative, the supplemental language in the FEIS explains that many aquifers have a sustainable yield that would only allow for a 1 MGD draw of water per well. Hence, a large number of wells were proposed in the DEIS. The ground water alternative was further dismissed as infeasible due to the cost of possible land acquisitions and well related development. However, the FEIS appears to continue to avoid a good-faith exploration of more moderate alternative action proposals, which could combine partial system upgrades for high-waste reservoirs and ditch segments with a moderate contribution from new and existing groundwater sources to ultimately reduce the amount of water diverted from East Maui's streams, and mitigate the impacts of dewatering streams while still meeting Central Maui's diversified agriculture needs.

The selection and development of other "alternatives" considered in the FEIS raise similar concerns, which should also be addressed through additional analysis and consultation prior to the acceptance of this document.

### **3) Seemingly selective and insufficient assessments of all impacts that could occur under the proposed actions and alternatives.**

Another area of significant concern includes the inadequate and/or selective analysis of impacts from the proposed action and considered alternatives. These inadequacies and biased analyses further counsel rejecting the FEIS, and requiring further and fuller analysis and consultation.

For example, OHA observes that the proposed action would allow all stream water not subject to the recent East Maui interim instream flow standards (IIFS) to be diverted, yet the assessment of impacts to the environment does not take into account the drastic, landscape-level impacts that may result from this potential scenario. Given that such a scenario is possible, it seems that the FEIS would be inadequate under recent Hawai'i Supreme Court case law.<sup>1</sup> Unless there are conditions within the proposed water lease to provide additional protections against the complete diversion of waters not protected under the updated IIFS – including the 12 streams not subject to any IIFS protection whatsoever – any associated environmental impacts for such a max diversion scenario would need to be explored as part of the FEIS.

In another example, one of the alternatives to explore a modified lease area was rejected because negative impacts were anticipated from projected public access that would in turn cause trampling of native vegetation and bring in invasive species. While

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<sup>1</sup> See Umberger v. Dep't of Land & Natural Resources, 140 Hawai'i 500 (2017).

OHA believes that an increase in trampling is highly speculative, there is also no discussion on the clear benefits of restored stream flow from such a modified lease area, nor is there a comparison with the impacts of completely dewatering certain streams as may otherwise occur – impacts that would include the disruption of native ecosystems and the potential colonization of these areas by invasive species, to a much farther extent than a speculative hiker. Arguably, the discussion is pitched in a way to favor the preferred alternative and ignore any possible benefits of others. Particularly in light of the amount of water waste that is occurring, a much fuller reassessment of the environmental benefits of this and other alternatives, including more moderate and comprehensive alternatives than those described in the FEIS, should be conducted. Notably, a fuller assessment of beneficial and adverse impacts could in itself also result in the development of additional reasonable and practical alternatives.

In conclusion, although this testimony does not reflect a comprehensive assessment of all the inadequacies and concerns with the instant FEIS, the above reasons alone counsel the rejection of the FEIS by the BLNR today. OHA accordingly urges the BLNR to **REJECT** the FEIS, and require further analyses and consultation as necessary to fulfill the applicants' and the BLNR's own responsibilities under the law.

Mahalo for the opportunity to testify on this matter.

**From:** [vivien.lee](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Comments on the Corrected Final EIS for Proposed A&B Water Lease  
**Date:** Thursday, September 23, 2021 3:02:28 PM

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My comments are identical to those of the Sierra Club. This is a very important issue with consequences for the whole state. Stream ecosystems, including nearshore estuarine systems are part of the public trust, and with climate change are even more important than ever.  
Charles Reppun.

**From:** [Jenna](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda Item D7  
**Date:** Thursday, September 23, 2021 12:53:54 PM

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

This letter is in support of 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 is truly comprehensive and supports the use of East Maui water for the County and for diversified agriculture in Central Maui and proves that any impacts from the use of East Maui water is offset by the considerable economic, social, and environmental benefits to the residents of Maui. 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. Mahi Pono is committed 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. Mahi Pono is creating lifelong careers in agriculture and making meaningful impacts in the community. I am looking forward to the transformation of the central valley and seeing Maui green again.

We urge you to accept the FEIS so that Maui can move forward to develop a more diverse economy and be less dependent on tourism.

Sincerely,  
Jenna Shibano

Aloha 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 is truly comprehensive and supports the use of East Maui water for the County and for diversified agriculture in Central Maui and proves that any impacts from the use of East Maui water is offset by the considerable economic, social, and environmental benefits to the residents of Maui.

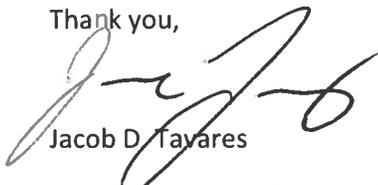
As a state, one thing we can agree on is the importance of developing a more resilient, and diverse economic portfolio. The ongoing global pandemic has highlighted how fragile our state's reliance on tourism truly is. Time and time again, officials point to agriculture and renewable energy as the two sectors that can lead an economic diversification effort for Hawaii. Mahi Pono has a unique opportunity to steward one of the most agronomically valuable, contiguous pieces of agricultural land that we have in the state. Not only have they made the necessary investments in the highest quality equipment, technology, consultants, and plant material, but they have also trained their local workforce to utilize these tools. These sort of investment, both in capital expenditures and in people, are exactly what Hawaii's agricultural sector needs if it is going to move the needle even slightly, with regards to displacing imported food that can be grown locally.

If you drive along Haleakala, Hana, Kuihelani or Mokulele highway, you will see the evidence of thoughtful, responsible agricultural activity. When you enter local grocery stores, you see produce like potatoes, papaya, kale, watermelon, onions, and beef, being sold to local families and visitors, grown by the farmers of Mahi Pono. Mahi Pono has shown that they have the ability and resources to convert fallow agricultural land, grow food, and steward natural resources at a large scale. If you drive through every other island in the state, you will see fallow, former sugarcane and pineapple fields, surrounded by (in many cases) economically depressed former plantation communities. Transition to diversified agriculture as a replacement for sugar and pineapple never happened, and these communities continue to suffer.

Mahi Pono and East Maui Irrigation have shown that they will honor the IIFS, and truly respect the importance of supporting the traditional and cultural practices of East Maui farmers, who rely on a healthy mauka to makai streamflow. The deployment of state of the art on-farm irrigation technology further shows a commitment to thoughtful, responsible water use.

Converting nearly 13,000 acres of fallow land into actively managed agricultural land is significant. Mahi Pono has shown that they are legitimate farmers and beef producers. They have taken the necessary steps to show that they value a both food production and minimizing negative impacts on the natural environment. For these reasons, I ask that you accept the FEIS.

Thank you,



Jacob D. Tavares

Hawaii Cattlemen's Council, Inc.  
Chair - Government Affairs