



**Department of Land and Natural Resources
Aha Moku Advisory Committee
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Hawaii State Aha Moku Testimony
To the Board of Land and Natural Resources (Land Board)

October 13, 2023
Honolulu, Hawaii

Agenda Item L-1: Authorizes the Approval and Issuance of Dam Safety Permit P90 to Remove the Hawi No.5 Reservoir (HA-0051), North Kohala, Hawaii, Tax Map Key: (3) 5-5-007:005 & 5-5-007:010.

Aloha Chairperson Chang and Honorable Members of the Land Board,

On behalf of the Hawaii State Aha Moku, Moku O Keawe, Moku O Kohala, participants and members of Native Hawaiian generational families of the Hawi Ahupua'a, we stand in strong support of Agenda Item L-1 which authorizes the approval and issuance of Dam Safety Permit P90 to remove the Hawi No.5 Reservoir in North Kohala, Hawaii.

As we advise the Chairperson of BLNR and the Land Board members on issues that impact natural and cultural resources, we have worked with the DLNR Engineering Division in addressing the Kapa'akai Analysis as it pertains to the Hawi Reservoir removal.

Kapa'akai O Ka Aina¹ Analysis

The Kapa'akai Analysis may be used in determining whether traditional and customary practices would be impacted by the activities of the University of Hawaii, present and in the future.

Findings of Fact and Conclusions of Law of the Kapa'akai Case

- Identification and scope of “valued cultural, historical, or natural resources” in petition or impacted area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- The extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed actions;
- The feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

The petition area in this case is the Hawi Reservoir in North Kohala.

¹ Ka Pa'akai O Ka Aina v. Land Use Commission, State of Hawai'i, 2000, Supreme Court of Hawai'i

Aha Moku Recommendations to the Land Board

The DLNR Engineering Division worked with the following to address issues which may impact this project:

- Studied the Environmental Assessment done by the Hawaii State Department of Agriculture which concluded a Finding of No Significant Impact (FONSI) on the environment;
- Consulted with the Hawaii State Historic Preservation Division (SHPD) who had reviewed the Archaeological Inventory Survey (AIS) and Reconnaissance Level Survey (RLS) and concluded that the project may continue;
- In consultation with DLNR Division of Forestry & Wildlife (DOFAW), the habits of the *Ope'ape'a* (Hawaiian Hoary Bat), *Ae'o* (Hawaiian stilt), *'Alae ke'oke'o* (Hawaiian coot) and the *Nene* (Hawaiian Goose), the *Io* (Hawaiian hawk) and *Pu'eo* (Hawaiian owl) were discussed as well and if these native Hawaiian endemic species would be impacted. The analysis was no.,
 - Further, Aha Moku agrees with DOFAW that should landscaping be done in the project area, that only endemic and indigenous plants and trees particular to this area be planted with absolutely NO invasive flora be planted.

Aha Moku supports the approval and issuance of Dam Safety Permit No. P90 for the Removal of the Hawi Reservoir as it will not adversely impact any native Hawaiian cultural or traditional practices in the project area. We agree with and support the DLNR Engineering Division recommendation to:

1. Authorize the approval and issuance of Dam Safety Permit No. P90 for the removal of the Hawi No. 5 Reservoir.
2. Authorize the Chairperson to issue a Dam Safety Permit for the Hawi No. 5 Reservoir, subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Department to oversee performance of the permitted work and take appropriate action including, but not limited to, amending the permit, issuance of fines and/or revocation of the permit, if necessary.

Mahalo nui loa for the opportunity to testify and offer our recommendations pertaining to the Hawi Reservoir. It is deeply appreciated.

Respectfully and humbly yours,

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October 6, 2023

Board of Land and Natural Resources

My name is Bahman Sadeghi and I am the owner of Hualua Farm where half of Dam No. 5 is situated as well as the manager of Kohala Dairy, lessee of Department of Agriculture where the other half of the Dam is situated.

I acquired this parcel from Parker Ranch in July 2021 and prior to my ownership Dam No. 5 was deemed to be in poor condition and required remediation or decommissioning. Additionally, the source of water for this reservoir was from the Kohala Ditch which is no longer available.

In consultation with the Department of Agriculture and DLNR dam safety, the decision was made to pursue the decommissioning option.

I hereby request the board's approval for the decommissioning of this Dam.

Respectfully,

Bahman Sadeghi, Manager

Hualua Farm, LLC