

From: [Avalon Paradea](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony in opposition to agenda item D-4
Date: Thursday, November 7, 2024 10:00:50 AM

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

My name is Avalon Paradea and I strongly OPPOSE the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

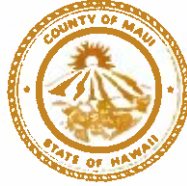
Sincerely,

Avalon Paradea

Waikōloa, Hawai'i

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAI'I 96793
www.mauicounty.gov

November 7, 2024

Dawn N.S. Chang, Chairperson
State of Hawai'i
Board of Land and Natural Resources
Commission on Water Resource Management
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Aloha Chair Chang,

It is with humility and respect that the County of Maui strongly opposes holding a contested case hearing on agenda item D-4, before giving the parties the full opportunity to resolve the issue amicably. As you now know, those talks have already begun.

Yesterday, the first director of the newly created East Maui Water Authority ("EMWA") was sworn in before a standing room only crowd at a ceremony held in the Mayor's conference room here in Wailuku, Maui. Sixty-four percent of Maui's voters requested the EMWA be formed so that Maui's residents would finally have a seat at the table, and a voice in the decision of how our East Maui water shed is cared for and its water equitably distributed. We are mindful of our rich history of farmers of taro and other agricultural products who have had to beg and battle for this water resource.

Therefore, you can imagine how puzzled and extremely disappointed we are on Maui to see that the matter of the recommendation to hold a contested case hearing over the disposition of the East Maui Water License has been rescheduled for the November 8, 2024 BLNR meeting, especially since we were never informed that this item was going to resurface

Dawn N.S. Chang, Chairperson

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so quickly, and after you had already agreed to remove the same item from the September 27, 2024 BLNR agenda in order to give the County time to negotiate a long-term solution regarding the use of this water resource.

There is absolutely no legitimate reason for this item to have been rescheduled given our mutual understanding that the County would be provided the opportunity to explore long-term solutions and partnerships to address the entire communities' water needs. The County relied on your previous removal of this item from consideration by the Board and has been working towards achieving solutions to this issue in the meantime. We deserve this opportunity as we are the ones directly impacted by these decisions.

We strongly disagree with the statement contained in your staff report that some parties are refusing to negotiate. You have not given the affected parties the necessary time to negotiate, especially the EMWA director, who was only sworn in yesterday. Your decision to reschedule this item so quickly jeopardizes our efforts to negotiate a community-wide solution.

Moreover, no one has requested or suggested that a contested case hearing be scheduled other than you. While it is true that the BLNR's administrative rules allow a contested case to be scheduled on the Board's own motion, the rule also provides that this be done when "required by law". HAR Section 13-1-28. Here, there is no legal requirement that currently justifies the Board's own initiation of a contested case. In fact, on October 23, 2024, the Intermediate Court of Appeals issued a stay, at BLNR's request, of the Sierra Club's request for a contested case hearing on the matter of the issuance of the revocable permits for 2023. It is ironic that the DLNR would ask the courts to stay a contested case hearing from 2023 only to rush a contested case hearing that no one has requested.

The "due process" we are seeking is the opportunity to engage in meaningful discussions and to exhaust all attempts to reach a mutual agreement without the distractions, deadlines, expense, and pressures of a contested case. That would truly be a waste of time, energy, money, and resources.

You know that we already agreed to maintain the status quo on the delivery and allocation of water from East Maui for another year in order to avoid interruption of services while we negotiate a solution. Therefore, there is no reason to rush this issue by the end of this calendar year.

In my previous correspondence to you, dated September 26, 2024, I asked you, on behalf of the citizens of Maui, to reconsider your decision to place this item on the September 26, 2024, agenda. You agreed with me then, and I do not see any reason why you should

Dawn N.S. Chang, Chairperson

November 7, 2024

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change your decision now. This is not the way the state should be deciding how best to manage our water resources on a long-term basis on Maui. This decision, and its outcomes, should be left to us here on our island to control and resolve, and all I am again asking you for is time, nothing more.

Me ka ha'aha'a,



Richard T. Bissen, Jr.
Mayor, County of Maui

RTBJ/dl

cc: Governor Josh Green, M.D.

DLNR Land Division

DLNR Division of Forestry and Wildlife

Commission on Water Resource Management

John Stufflebean, P.E., Director, County of Maui Department of Water Supply

Jonathan Likeke Scheuer, Chair, East Maui Regional Community Board

Shan Tsutsui, Mahi Pono

Riley Smith, Hawai'i Island Member

Doreen Nāpua Canto, Maui Nui Member

Karen Ono, Kaua'i Member

Aimee Keli'i Barnes, O'ahu Member

Vernon Char, At Large

Wesley "Kaiwi" Yoon, At Large

From: [Olivia Caron](#)
To: [DLNR, BLNR, Testimony](#)
Subject: [EXTERNAL] 4-D Agenda Item
Date: Thursday, November 7, 2024 2:22:45 PM

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

My name is Olivia Caron and I strongly **OPPOSE** the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented; **ignores** the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Pushing this proposal during the election feels like an attempt to dodge scrutiny, which means you know what the opinion on this is, and you are still moving forward, but let's not ignore the legal red flags here. The **Waiāhole Ditch** decision made it crystal clear: Hawai'i's water is a public trust resource, not a commodity for corporate profit. Approving this plan would violate the public trust doctrine by putting private interests above the rights of our communities and ecosystems. It also disregards the precautionary principle, rushing into long-term commitments without addressing existing issues like water waste and unfulfilled instream flow standards. The state has a constitutional duty to protect our streams—not sell them off.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,

Olivia Caron

[East Maui](#)

From: [Rachel Chojnacki](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] STRONGLY OPPOSE ITEM D-4
Date: Thursday, November 7, 2024 11:46:07 AM

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

My name is Rachel Chojnacki Juri and I strongly OPPOSE the recommendation in agenda item D-4. Maui has suffered abuse and water mismanagement for far too long- are you looking to recreate August 2023 on the other side of the island now?

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,

Rachel Chojnacki Juri

Concerned citizen and UHMC Certified Master Gardener

From: savingthecosmostuesday.com
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Oppose the agenda Item D-4
Date: Thursday, November 7, 2024 9:45:40 AM

Aloha Chair Chang and Members of the BLNR,

My name is James Loomis and I strongly OPPOSE the recommendation in agenda item D-4.

My family property of 54 yrs borders Ho'olawa stream in East Maui where the river bed was dry for more than a century except during large rain events. My kids were raised in Ho'olawa Valley and spent time in lots of the rivers and streams for many years growing up. They know these valleys and streams by heart. Even my grandchildren and now great grandchildren were born there. A most beautiful place. Especially when the streams are alive with flowing water... compared to the dry river beds that was the status quo for more than a century.

Through the years, I have witnessed the continued degradation of the watershed due to the mismanagement by EMI. This cannot be allowed to continue.

When will those diversions be modified to return, at least the minimum required flow to the streams? When?

The charter amendment that established the EMWA (East Maui Watershed Authority) was voted into law with massive public support from the residents of Maui to make sure and protect the watershed first and foremost. To prevent the taking of too much water like had happened for over 100 years.. The people of Maui spoke! They want a water authority that is involved in the management process at every level of the East Maui Watershed. Not disregarded by the BLNR and CWRM.

This lease must not be allowed to happen before EMWA can fully participate in the process, as they are the voice of the people defending the water shed that serves them.

Be aware that the paper pushers and administrators in the offices on Oahu,

just doing their jobs, have no clue as to the significance of these flowing rivers and their importance to the community of Maui and the world. For example, some years back EMI had reported to CWRM that the stream where Twin Falls is located was “insignificant” when an actuality it is the second largest tourist attraction on Maui. Had Sierra Club not caught that bold faced lie in the report, the decision-makers in the offices on Oahu would not have known.

Just imagine if a cruise ship company applied to build a large break wall across the whole of Waikiki to dock their large boats. Blocking the waves and creating stagnant water. And in their report to the decision-makers, pushing the papers located elsewhere, they said that Waikiki was a small insignificant beach. That’s what I’m talking about. Big decisions like this about our watershed need to involve by Maui’s own water authority playing a major role.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui’s water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission’s amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui’s streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the ‘Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina’s streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public’s interests in their control over Maui’s water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code – including the Water Commission’s still-outstanding orders – while wasting potentially millions of gallons of water per day with no consequence.

We must malama the East Maui watershed’s public trust resource of water

to benefit present and future generations. That is in our State constitution. The BLNR, CWRM and EMWA are responsible to uphold those precepts. Not hand over the control of the water and watershed to private and foreign development corporations

Mahalo nui for your consideration of this testimony.

Sincerely,

Diana Loomis Dahl

From: [Mike Donohoe](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] East Maui Water... COME ON
Date: Thursday, November 7, 2024 12:40:20 PM

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

My name is Michael Donohoe and I strongly OPPOSE the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,

mike donohoe



November 6, 2024

Chairperson Dawn Chang
Commission on Water Resource Management
Department of Land and Natural Resources
1151 Punchbowl St, Room 227
Honolulu, HI 96813

Subject: Testimony Opposing Agenda item D-4

Dear Chairperson Chang,

I am writing to strongly oppose the recommendation in agenda item D-4. This proposed disposition is incompatible with Hawai'i's public trust doctrine and the State Water Code, which prioritize protection of water resources for public benefit over private commercial gains. I have many concerns about the attached exhibit E. One of the issues with this action described in the exhibit is your decision to hold a contested case hearing before anyone contests the issuance of a water license. The language used in the sample water license conveys a sense of pretentiousness on your part. It seems like it was crafted to fit the needs of just one company. It does not take into consideration the East Maui Water Authority which was created by a county charter amendment and approved by 64% of Maui residents on the 2022 ballot. This authority has a vested interest in this issue. Their kupuna fought for a seat at the table and now you are preempting the sole purpose of the water authority by initiating this process of issuing a water license.

I also have an issue with the Land Division requesting and holding this contested case. You lack the statutory authority to take action on this matter because it is beyond the scope of the Land Division. This kuleana lies within the Commission on Water Resource Management (CWRM). You are no longer issuing land leases; the agenda item is for a water license. It has been decided in statutory authority, constitutional sources, and case law that CWRM has the authority to protect the public interest in water resources. The State Water Code, §174C-2 (a) Declaration of policy states "It is recognized that the waters of the State are held for the benefit of the citizens of the State. It is declared that the people of the State are beneficiaries and have a right to have the waters protected for their use." It further states that "There is a need for a program of comprehensive water resources planning to address the problems of supply and conservation of water."

Under Article XII, Section 7 of the Hawai'i Constitution, the State has an affirmative duty to protect traditional and customary Native Hawaiian rights to water resources. How can this agency, in good faith, let the people of upcountry Maui live in an environment that they face the constant threat of water shortages while a foreign, for profit corporation drain the East Maui streams dry to support their diversified agriculture endeavors. I am not anti-agriculture or anti-Mahi Pono; I am in support of responsible agriculture that will provide the island of Maui with food security. But I do have a problem with the crops that Mahi Pono is growing. They are producing non-consumptive food items. How can this agency or any one for that matter, sit there with a clear conscience and justify the use of 85 mgd of our precious resource on the production

of lemons, limes, coffee, onions and watermelons. The water is more valuable to the people of Maui than these products. Maui does not need 41,000 acres of this kind of diversified agriculture. You need to fulfill your constitutionally mandated duty, you need to prioritize Native Hawaiian water rights, not commercial interests.

The Water Code imposes an obligation on the Commission to critically scrutinize commercial water uses and ensure that they do not infringe upon public trust resources. In light of the established public trust principles, the issuance of a water license that allocates 85 mgd for the purpose of diversified agriculture would constitute an unwarranted commercialization of a public resource, undermining both the spirit and letter of Hawai'i's water law.

Haw. Rev. Stat. § 174C-54 requires the Commission to prioritize applications that best serve the public interest when faced with competing demands for a limited water supply and prioritize higher-priority public interests, including critical domestic needs, environmental conservation, and protection of traditional Hawaiian practices.

Numerous case law has recognized water as a public trust in Hawai'i. The Supreme Court of Hawai'i, in *In re Surface Water Use Permit Applications*, 154 Haw. 309, 550 P.3d 1167 (2024) established that water resources are protected under the public trust doctrine for four essential uses: maintaining water in its natural state, domestic uses (particularly drinking water), traditional and customary Native Hawaiian rights, and reservations as enumerated in the Water Code (154 Haw. 309, 550 P.3d 1167). These purposes reflect the fundamental responsibilities of the state to preserve water resources for the public, not private commercial use, which is explicitly excluded from protection under the public trust.

Per Haw. Rev. Stat. § 174C-49(a), applicants bear the burden of demonstrating that any proposed water use (1) can be accommodated within available resources, (2) qualifies as reasonable-beneficial, (3) does not interfere with existing legal water use, (4) aligns with the public interest, and (5) is consistent with land use plans and policies. The proposed usage of 85 mgd fails to meet all of these criteria, particularly those concerning public interest and reasonable-beneficial use.

I respectfully urge the Commission to reject this agenda item and to protect Hawai'i's water resources for future generations and uphold the principles embedded in our public trust doctrine.

Thank you for your consideration of this testimony.

Mahalo,
Toni Eaton
808-269-7337
Toni7041@yahoo.com

From: [Cory Ferris](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony in opposition to agenda item D-4
Date: Thursday, November 7, 2024 9:16:32 AM

Aloha members of the board,

I Cory Lau Ferris strongly OPPOSE the recommendation in agenda item D-4.

I believe it will hurt us. There is no need to do this.
Please give 'Aha Wai o Maui Hikina time to work.

Mahalo and
Fair weather

Cory Lau Ferris

From: [Nalani Freitas](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Fwd: East Maui water
Date: Thursday, November 7, 2024 12:18:50 PM

----- Forwarded message -----

From: **Nalani Freitas** <nalanifreitas@gmail.com>
Date: Thu, Sep 26, 2024 at 3:26 PM
Subject: Fwd: East Maui water
To: <blnr.testimony@hawaii.gov>

----- Forwarded message -----

From: **Nalani Freitas** <nalanifreitas@gmail.com>
Date: Wed, Sep 25, 2024 at 5:32 PM
Subject: East Maui water
To: <board.EMRCB@mauicounty.govtalking.points>

Aloha,

I would like to give testimony for my ohana and Kupuna that are local farmers of Keanae and Wailuanui taro patches. I am a descendant of the Kaauamo Ohana that go generations back to farming and depends on the natural flow of stream water to sustain our community to survive. We depend on the water for food that we gather in the rivers like opai, hihiwai, prawns, watercress and also the fish that feeds where the fresh water meets the ocean. Removing these Waters would change our environment and affect our way of living which makes it more difficult to be sustainable. Stores are far from our reach and we depend on being able to go to the stream to gather food and also depend on the water to feed our plants. Please consider allowing us to hold on to the water that is needed for our community. Mahalo for putting the people first before big corporation.

Nalani Freitas

From: [Ronnie Inagaki](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony in opposition to agenda item D-4
Date: Thursday, November 7, 2024 1:49:35 PM

My name is Ronnie Inagaki, and I strongly OPPOSE the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented. It ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries.

Furthermore, this proposal turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs. It also fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code, including the Water Commission's still-outstanding orders, while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,
Ronnie Inagaki

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAI'I 96793
www.mauicounty.gov

November 7, 2024

Dawn N.S. Chang, Chairperson
State of Hawai'i
Board of Land and Natural Resources
Commission on Water Resource Management
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Aloha Chair Chang,

It is with humility and respect that the County of Maui strongly opposes holding a contested case hearing on agenda item D-4, before giving the parties the full opportunity to resolve the issue amicably. As you now know, those talks have already begun.

Yesterday, the first director of the newly created East Maui Water Authority ("EMWA") was sworn in before a standing room only crowd at a ceremony held in the Mayor's conference room here in Wailuku, Maui. Sixty-four percent of Maui's voters requested the EMWA be formed so that Maui's residents would finally have a seat at the table, and a voice in the decision of how our East Maui water shed is cared for and its water equitably distributed. We are mindful of our rich history of farmers of taro and other agricultural products who have had to beg and battle for this water resource.

Therefore, you can imagine how puzzled and extremely disappointed we are on Maui to see that the matter of the recommendation to hold a contested case hearing over the disposition of the East Maui Water License has been rescheduled for the November 8, 2024 BLNR meeting, especially since we were never informed that this item was going to resurface

Dawn N.S. Chang, Chairperson

November 7, 2024

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so quickly, and after you had already agreed to remove the same item from the September 27, 2024 BLNR agenda in order to give the County time to negotiate a long-term solution regarding the use of this water resource.

There is absolutely no legitimate reason for this item to have been rescheduled given our mutual understanding that the County would be provided the opportunity to explore long-term solutions and partnerships to address the entire communities' water needs. The County relied on your previous removal of this item from consideration by the Board and has been working towards achieving solutions to this issue in the meantime. We deserve this opportunity as we are the ones directly impacted by these decisions.

We strongly disagree with the statement contained in your staff report that some parties are refusing to negotiate. You have not given the affected parties the necessary time to negotiate, especially the EMWA director, who was only sworn in yesterday. Your decision to reschedule this item so quickly jeopardizes our efforts to negotiate a community-wide solution.

Moreover, no one has requested or suggested that a contested case hearing be scheduled other than you. While it is true that the BLNR's administrative rules allow a contested case to be scheduled on the Board's own motion, the rule also provides that this be done when "required by law". HAR Section 13-1-28. Here, there is no legal requirement that currently justifies the Board's own initiation of a contested case. In fact, on October 23, 2024, the Intermediate Court of Appeals issued a stay, at BLNR's request, of the Sierra Club's request for a contested case hearing on the matter of the issuance of the revocable permits for 2023. It is ironic that the DLNR would ask the courts to stay a contested case hearing from 2023 only to rush a contested case hearing that no one has requested.

The "due process" we are seeking is the opportunity to engage in meaningful discussions and to exhaust all attempts to reach a mutual agreement without the distractions, deadlines, expense, and pressures of a contested case. That would truly be a waste of time, energy, money, and resources.

You know that we already agreed to maintain the status quo on the delivery and allocation of water from East Maui for another year in order to avoid interruption of services while we negotiate a solution. Therefore, there is no reason to rush this issue by the end of this calendar year.

In my previous correspondence to you, dated September 26, 2024, I asked you, on behalf of the citizens of Maui, to reconsider your decision to place this item on the September 26, 2024, agenda. You agreed with me then, and I do not see any reason why you should

Dawn N.S. Chang, Chairperson

November 7, 2024

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change your decision now. This is not the way the state should be deciding how best to manage our water resources on a long-term basis on Maui. This decision, and its outcomes, should be left to us here on our island to control and resolve, and all I am again asking you for is time, nothing more.

Me ka ha'aha'a,



Richard T. Bissen, Jr.
Mayor, County of Maui

RTBJ/dl

cc: Governor Josh Green, M.D.

DLNR Land Division

DLNR Division of Forestry and Wildlife

Commission on Water Resource Management

John Stufflebean, P.E., Director, County of Maui Department of Water Supply

Jonathan Likeke Scheuer, Chair, East Maui Regional Community Board

Shan Tsutsui, Mahi Pono

Riley Smith, Hawai'i Island Member

Doreen Nāpua Canto, Maui Nui Member

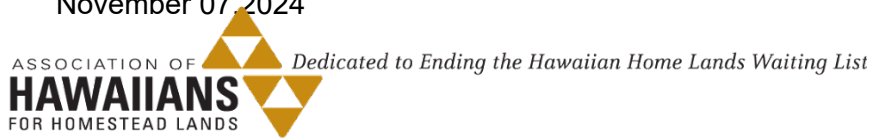
Karen Ono, Kaua'i Member

Aimee Keli'i Barnes, O'ahu Member

Vernon Char, At Large

Wesley "Kaiwi" Yoon, At Large

November 07, 2024



Chair Chang and Members of the Board of Land and Natural Resources,

My name is Kainoa Lei MacDonald Secretary/MokuHonu Director for Association of Hawaiians for Homestead Lands (AHHL)

Sovereign Council of Hawaiian Homestead Associations (SCHHA)

Maui/Lana'i MokuPuni and Beneficiary of the Hawaiian Homes Commission Act Beneficiary waitlister

As a Board Member of the AHHL I represent we are in STRONG OPPOSITION to this attempt to fast track the giveaway of public trust water resources to a private company, as you propose doing in item D4. If Alexander & Baldwin isn't able to fulfill their promise to a foreign company to secure public water, and has to pay back \$62 million by 2026, that is not your problem or the problem of the public.

The BLNR should give the voters of Maui County and the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a foreign company. Entering into a contested case will prevent the County from having good faith negotiations with you.

There are so many ways that this is premature and harmful. BLNR should not move forward with a contested case before you have an appraisal. BLNR

should not move forward with a contested case before you have reserved water for DHHL.

Ultimately, if you act on this proposal, you would be breaching your duties under the public trust doctrine to give priority to public interests and uses of the waters of this island. As a HHCA Beneficiary this simple act is to prioritize water for the beneficiaries of the Trust.

This item needs to be deferred and you need to put the public and public trust uses of water before campaign donors who are foreign corporations. We ask that you give Maui County time to prepare and not make any decisions to extend this water license.

E Ola I Ka Wai!

Association of Hawaiians for Homestead Lands Board of Directors

From: [Suzette Marlowe](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] "Testimony in Opposition to Agenda Item D-4"
Date: Thursday, November 7, 2024 1:09:38 PM

I have been a resident and voter on Maui since 1973; I landed here at the age of 26, and just celebrated my 78th birthday.

That means I have witnessed much CHANGE on the island. It has taken years of persistence on the part of the local kalo growers and sustainable food farming to get the water rights restored.

I therefore resist the idea of even MORE water going to the Mahi Pono and robbing these native local farms of access to culturally inherited rights to OUR WATER.

Thank you!
Suzette Marlowe

TO: BLNR Chair Dawn Chang and BLNR Board members November 5, 2024
FROM: Professor Richard “Dick” Mayer dickmayer@earthlink.net
RE: Nov-8--2024 BLNR MEETING -- Agenda Item D-4, East Maui Water Lease

The Upcountry Maui community has long suffered from an unreliable water supply that impacts our Hawaiian Homelands, residents, and farmers. Every summer, we face significant water restrictions due to inadequate resources.

Our water is and has been controlled by off-island private entities for over 150 years - East Maui Irrigation Company, a subsidiary of Honolulu-based, A&B (a Real Estate Investment Trust), and now Public Sector Pension Investment (PSP), a foreign pension fund.

I strongly urge you to negotiate and facilitate the transfer of the East Maui watershed lease(s) to the East Maui Community Water Authority. This would place control of our vital water resources with a local, public entity guided by the Public Trust doctrine rather than by private, foreign profit motives. The East Maui Water Authority, as an agency of Maui County, will partner with the Maui Department of Water Supply to:

1. Help assist in implementing and enforcing CWRM “stream flow requirements”.
2. Ensure adequate water is diverted from the transmission system
3. Provide the required water for the Central Maui (Mahi Pono) agricultural operations
4. Treat water at Kamole Weir and deliver a dependable supply to the Upcountry District
5. Reserve and supply the necessary water for the upcountry and central Maui HHL lands
6. Manage and upgrade the State’s Koolau Watershed

Chair Chang, the DLNR, and the BLNR have the power to facilitate this transfer and work with the County. **A public auction, before first negotiating with Maui's Water Authority, would be premature.**

Please respect our Maui County voters, residents, and farmers, who voted overwhelmingly to establish the Water Authority to manage the East Maui water source. Our community's future depends on sustainable, locally controlled water resources.

We look forward to your timely response on this pressing issue.

Mahalo,
Prof. Richard D. Mayer

CC Governor Josh Green
Chair, Jonathan Scheuer and members, East Maui Regional Community Board
Director Gina Young, East Maui Regional Community Board
Director John Stufflebean, P.E., Maui DWS
Maui County Mayor Richard Bissen
Councilmember Shane Sinenci
Councilmember Yuki Lei Sugimura
Chair Donna Sterling, Maui Board of Water Supply

From: [Ali Miller](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] OPPOSE the recommendation in agenda item D-4
Date: Thursday, November 7, 2024 12:23:39 PM

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

My name is Ali Miller and I strongly OPPOSE the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui's water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission's amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,

Ali Miller

From: [Patrick Pasamonte](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Item D4
Date: Thursday, November 7, 2024 11:09:13 AM

Aloha Board Members,

My name is Patrick Pasamonte, born and raised in Maui, and I now have the opportunity to contribute to our islands food sustainability through agriculture. I respectfully request that the Board of Land and Natural Resources issue a long-term water lease or at least begin the conversation so that Maui can move forward in supporting agriculture. Growing up here, I've witnessed many changes, and it's vital to me and my community to see a more sustainable future that includes growing local food and supporting our islands's self-sufficiency.

Mahalo for your time.
Patrick Pasamonte

[Sent from Yahoo Mail for iPhone](#)

From: [Paula Phillips](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony in Opposition to Agenda Item D-4
Date: Thursday, November 7, 2024 1:54:00 PM

Aloha BLNR *Chair Chang and Members,*

My name is Paula Phillips and I live in Haiku, Maui. I strongly OPPOSE the recommendation in agenda item D-4.

Please give EMWA a chance to implement its plans and policies effectively. EMWA is a new agency just getting started. Initiating a contested case now is premature; it would be more responsible to wait until EMWA is fully up and running. There's no valid reason to rush this process.

The current proposal requests more water than stream flow standards allow, making it unsuitable at this stage. No long-term water disposition should be issued until the Commission on Water Resource Management's (CWRM) stream flow standards are met. Modifications ordered in 2018 and 2022 to East Maui stream diversions have not been completed, which impacts cultural and ecological values.

BLNR must negotiate with the County Water Authority before considering any agreements with private entities. Public access to water is protected by law and holds priority over private interests.

An appraisal of the water resources is legally required and should occur before any discussions on a 30-year water license begin to ensure transparency and informed decision-making.

Key terms related to watershed management and stream monitoring must be disclosed before any BLNR action. No behind-closed-doors negotiations should occur for public resources.

The proposed license fails to address excessive water losses in the diversion system. CWRM has recommended infrastructure improvements to prevent these losses, which must be prioritized.

The proposed allocation for irrigation is excessive and should reflect the actual needs of Mahi Pono's crops. Additionally, existing groundwater resources should be used to reduce the demand for stream water.

The proposed allocation to the County exceeds historical usage, leading to potential wastage. Any allocations should be based on actual, demonstrated need.

Please do what is pono and do not allow this recommendation to move forward. This would allow private corporate entities to continue to flaunt the public trust and state water code –while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui loa for your consideration of this testimony.

Paula Phillips

Haiku, HI



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From: [Ali Marie Poe](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-4
Date: Thursday, November 7, 2024 11:44:42 AM

Hello,

My name is Ali Poe and I am an East Maui resident. I am writing to let you know that I **strongly OPPOSE** the recommendation in agenda item D-4. This proposal ignores the need to implement flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui's streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public's interests in their control over Maui's water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission's still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,

Ali Poe

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From: [Jill Richards](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Opposing Agenda Item D-4
Date: Thursday, November 7, 2024 9:14:52 AM

Aloha Chair Chang and Members of the board, Department of Land and Natural Resources,

My name is Jill Richards, and I strongly OPPOSE the recommendation in agenda item D-4.

Please do not allow this recommendation to move forward, which would allow private corporate entities to make a defiant display of the state water code and public trust - including the Water Commissioners' still outstanding orders- while wasting potentially millions of gallons of water per day with no consequences.

Mahalo for your consideration of this testimony,

May the life of the land be perpetuated through righteousness.

Sincerely,

Jill Richards

From: [Gail Simmons](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony: Opposition to Agenda Item D-4
Date: Thursday, November 7, 2024 11:37:07 AM
Attachments: [Screen Shot 2018-05-22 at 10.04.11 AM.png](#)

To:
Chair Chang and Members of the BLNR

My name is Gail Simmons and I strongly oppose the recommendation in this agenda item D-4.

The PEOPLE VOTED for the EMWA agency and we are clear in that they need time to implement it's plans and policies so that
THEY CAN EFFECTIVELY PROTECT OUR WATER RIGHTS AND USEAGE.

The effort to quickly glean more water usage by private Corporations has been non stop. The point of the EMWA is to make sure that we restore a level of fairness and preservation to our county water rights.

For gosh sakes, OPPOSE THIS ITEM. Everyone can wait!

Thank you for listening to the people of our community. In this day and age, we NEED to be listened to!

Mahalo nui loa,
Gail Simmons

Gail Simmons, ASID
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
P.O. BOX 621
HONOLULU, HAWAII 96809

November 7, 2024

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

My name is Jade Alohalani Smith and I OPPOSE this attempt to fast track the giveaway of public trust water resources to a private company, as you previously tried to propose in item D4. Please put the public and public trust uses of water in its right place in our County of Maui and its people. The BLNR should give the voters of Maui County and the 'Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina's streams, before launching a contested case hearing over a potential water license to a foreign company. Entering into a contested case will prevent the County from having good faith negotiations with you.

If Alexander & Baldwin isn't able to fulfill their promise to a foreign company to secure public water, and has to pay back \$62 million by 2026, that is not your problem or the problem of the public. Don't mahaio into that private sector's financial business. That private control contradicts the Public Trust of the 'Aha Wai O Maui Hikina / East Maui Regional Community Board to fulfill the wishes of over 60% of the voters of Maui and our Indigenous/Kuleana rights.

There are so many ways that this is premature and harmful. Here is just two:

1. BLNR should not move forward with a contested case before you have an appraisal.
2. BLNR should not move forward with a contested case before you have reserved water for DHHL. I am a Beneficiary of the HHC Act/Trust exercising my right of the Trust under Section 219 - Water:
 - Provide access to water and enforce superior water rights.

We do have Hawaiian Home Lands in Keanae and Hana. Our Prince Kuhio's Trust of 1920-21 was established before Statehood in 1959 and has its priority for "superior" water rights to its Beneficiary and their lands. This isn't a thought or a guess, it is a legal fact.

Ultimately, if you act on this proposal, you would be breaching your duties under the public trust doctrine to give priority to public interests and uses of the waters of this island.

This item needs to be deferred and you need to put the public and public trust uses of water before campaign donors who are a foreign corporation and who are making money for their investments off of our water rights. It should remain in our hands from our lands. A solution for this proposed disposition of a water license is to give it back to the public under the Aha Wai O Maui Hikina. Then, Alexander & Baldwin, East Maui Irrigation and Mahi Pono **work with** the Aha Wai O Maui Hikina / East Maui Regional Community Board because now, you have more than 60% of the Public engaged in our own investment of water. Keep our money, water and land in the people of Maui's future for prosperity.

Thank you for this time to share.

Jade Alohalani Smith

(Electronic signature)

33275 Pi'ilani Highway, Hana, HI 96713

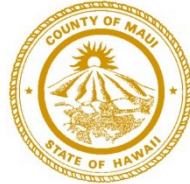
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RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

JOHN STUFFLEBEAN, P.E.
Director

JAMES A. LANDGRAF
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
<http://www.mauicounty.gov/water>

BOARD OF LAND AND NATURAL RESOURCES

November 8, 2024

Testimony on D-4: Recommendation to hold a contested case hearing over the proposed disposition of a water license by public auction or by direct negotiation to the County of Maui covering the diversion of public surface water not to exceed an amount of 85.23 million gallons per day from Koolau Forest Reserve, Island of Maui, Hawai'i

The Kamole water treatment facility has a current treatment capacity of 6 mgd. The Maui Department of Water Supply (DWS) has commissioned installation of higher capacity membrane filters at the Kamole water treatment facility to improve production capacity by an additional 4 mgd at a cost of approximately \$5M. We anticipate that the filter improvements will be taken into production by summer of 2025. We have secured funds and commenced design of raw water reservoirs at Kamole. Additional storage will increase efficient use of the treatment facility, allowing withdrawals from storage at times when high turbidity precludes direct intake from the Wailoa Ditch. These investments will significantly improve reliable supply in droughts and allow us to offer water meters to applicants waiting on the Upcountry meter priority list. Improving capacity at Kamole by 4 mgd and develop raw water storage are both key strategies in the 2022 Maui Island Water Use & Development Plan (WUDP). The WUDP was unanimously adopted by Maui County Council and approved by the Commission on Water Resource Management. This additional supply is crucial to meet projected demand of public trust uses on the Upcountry water system.

In October 2024, average production at Kamole was 3.7 mgd. Production exceeded 4 mgd on 25 days, or 81% of the time. Additional water is diverted to the Kamole forebay to maintain sufficient pressurization for water to enter the plant and to prevent taking in debris. The forebay is owned and maintained by the East Maui Irrigation Company (EMI). DWS has proposed that EMI explore reducing the forebay capacity to mitigate the amount diverted but not utilized by the treatment plant. DWS notifies EMI of

“By Water All Things Find Life”

anticipated draw from Wailoa Ditch to assist in managing diversions efficiently for the Upcountry System, Kula Agricultural Park and the EMI field system.

The Department of Agriculture should be consulted to ensure the needs at the Kula Agricultural Park are fully considered under a long-term license.

Whether disposition of the long-term license will occur by public auction or direct negotiation, we respectfully ask that the full anticipated public trust needs of the Upcountry community are properly accounted for:

1. Accommodate 10 mgd for treatment at the Kamole Water Treatment Facility on an average monthly basis;
2. Accommodate 1 mgd currently needed at the Kamole forebay to maintain sufficient pressurization of water and prevent debris from entering the treatment plant; until any modifications, if feasible, can be completed.
3. Accommodate the needs at the Kula Agricultural Park to allow for sufficient supply in peak summer months and projected demand for the park expansion.

We provided testimony to the Board on September 5, 2024, requesting that the Board defer disposition of the license, to ensure that our sister agency, the East Maui Water Authority be provided sufficient time to meet obligations towards DWS.

Mahalo for your consideration.

Sincerely,

John Stufflebean, P.E., Director

From: [Jeanna Teixeira](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Support for Long-Term Water Lease to Mahi Pono
Date: Thursday, November 7, 2024 9:50:19 AM

Aloha Members of the Board of Land and Natural Resources,

My name is Jeanna Teixeira, and I was born and raised in Upcountry Maui, where I have dedicated my life to farming. As a farmer and steward of the land, I experience firsthand the unique challenges of agricultural sustainability and success here in Hawaii.

I am writing to strongly support the recommendation to advance with the lease agreement process and urge the state to issue a long-term water lease to Mahi Pono. Over the years, Mahi Pono has shown a genuine commitment to local food production and has become an essential part of our agricultural community. In addition, EMI has made significant strides in water resource management, ensuring reliable water delivery to the county and improving infrastructure over the past five years.

A long-term lease would provide the stability needed for continued investment in sustainable food production, which is crucial for local food security and the preservation of farming in Maui.

Thank you for considering this vital step for the future of agriculture in Hawaii.

Mahalo,
Jeanna Teixeira

November 7, 2024

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

My name is Lili‘u Tomasello and I strongly OPPOSE the recommendation in agenda item D-4.

The proposed long-term disposition in this agenda item is premature and threatens to only create more conflict and uncertainty over Maui’s water resources. The proposal would authorize more water to be diverted than would be available after the Water Commission’s amended interim instream flow standards are implemented; ignores the still-unfulfilled need to implement these flow standards, which are critical to stopping the ongoing harm being inflicted on East Maui’s streams, watersheds, and estuaries; turns a blind eye to the significant and ongoing waste of public trust water, including from leaky unlined reservoirs; and fails to give the ‘Aha Wai o Maui Hikina a fair chance at negotiating for the disposition of Maui Hikina’s streams, before launching a contested case hearing over a potential water license to a real estate investment trust and Canadian pension fund with no duty to uphold the public trust or the public’s interests in their control over Maui’s water resources.

Please do not allow this recommendation to move forward, which would allow private corporate entities to continue to flaunt the public trust and state water code - including the Water Commission’s still-outstanding orders - while wasting potentially millions of gallons of water per day with no consequence.

Mahalo nui for your consideration of this testimony.

Sincerely,
Lili‘u Tomasello