

**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



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December 12, 2024

The Board of Land and Natural Resources  
Honorable Dawn N. S. Chang, Chair  
Honorable members of the Board of Land of Natural Resources

To Whom It May Concern:

The County of Maui respectfully submits this testimony to support the renewal of the Revocable Permit for one year to Alexander & Baldwin, Inc. and East Maui Irrigation Company, LLC. The renewal of this permit is vital to supporting the County's agricultural, municipal, and emergency needs, while aligning with our shared goals of promoting food security, economic sustainability, and community well-being.

The County of Maui has been working with the newly formed East Maui Water Authority, Mahi Pono and East Maui Irrigation Company to address this issue in the long term, and initial discussions have been productive. A one year extension of this revocable permit will allow all stakeholders to continue working toward a long term, mutually beneficial agreement, and we remain committed to working collaboratively with all stakeholders to ensure that water use is managed sustainably and equitably.

Additionally, the County of Maui will support the scheduling and organizing of the interim committee meetings monthly to assist in discussions in these areas.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Richard T. Bissen, Jr." in a cursive style.

RICHARD T. BISSEN, JR.  
Mayor

**From:** [Glenn Choy](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony re agenda item D-9  
**Date:** Thursday, December 12, 2024 2:36:39 PM

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My name is Glenn Choy, from Honolulu. I urge you to not allocate one more drop of water to Maui Pono. Allocate it for the people for life, not for a corporation's bank account and your own personal advantage. Thank you.  
Sent from my iPhone

December 12, 2024

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

Mahalo for the opportunity to testify on agenda item D-9 regarding the issuance of a revocable water permit. My name is Sadie Green, and I'm a Haiku resident and a neighbor to land with an intermittent stream owned by East Maui Irrigation (EMI). I am testifying today as a concerned community member to urge this board to prioritize the protection of our water resources, ensure compliance with Supreme Court directives and decisions by the Commission on Water Resource Management (CWRM), and hold companies accountable for responsible water management and harm reduction.

### **I. The Staff Submittal Allocates Excessive Water to A&B/EMI**

The current staff submittal allocates far too much water to A&B/EMI, failing to recognize the availability of unused water allocated to the County and the sustainable use of groundwater for irrigation. Condition 17 should be revised to reflect Maui County's informed recommendations, which would significantly reduce waste. The CWRM's 2018 decision and subsequent 2022 report confirm that groundwater—such as the 4.5 million gallons per day (mgd) available from the Paia aquifer system—is a viable resource for irrigation.

A&B's own Environmental Impact Statement (EIS) and Mahi Pono's quarterly reports demonstrate that groundwater can be sustainably pumped without adverse impacts. Ignoring these findings and continuing to over allocate surface water is arbitrary and capricious. By reducing the water allocated to A&B/EMI by at least 7.2 mgd this board can encourage better water management practices, such as reservoir lining, which will make more water available for all uses while minimizing waste. Community groups have already offered their support in helping Mahi Pono implement such measures, ensuring sustainable water use for agriculture and ecological restoration.

### **II. System Losses Must Be Addressed**

The staff submittal inadequately addresses the issue of system losses, allowing excessive waste that undermines public trust purposes. CWRM's guidelines for Nā Wai 'Ehā require system losses to be limited to less than five percent, yet the current proposal permits losses up to four times greater in the same region. This is unacceptable.

First, the definition of "system loss" must be clarified, and the calculation methodology should accurately reflect water lost, including the millions of gallons wasted daily. Measurements of water taken should be made at Honopou for precision. Second, this board must require A&B/EMI to line their reservoirs to reduce leakage. Doing so will not only conserve water but also ensure more equitable access for diverse uses, including native habitat restoration and cultural practices. Community groups have expressed willingness to collaborate with the companies to implement these upgrades.

### **III. Stream Protections Are Insufficient**

The continued degradation of East Maui streams is a critical failure of the current staff submittal. CWRM's 2018 and 2022 orders emphasize the necessity of modifying stream diversions to protect riparian, recreational, cultural, and biological values. These orders explicitly require additional flow in streams such as Ho'olawa, Waipi'o, Hānawana, Nailiilihale, 'O'opuola, and Kailua.

None of the mandated modifications have been implemented. Instead, the staff submittal allows A&B/EMI to continue diverting water from these streams, exacerbating harm to downstream users and ecosystems. This directly contradicts CWRM orders and the Supreme Court's public trust doctrine. This board must act decisively to reduce diversions, ensure modifications are implemented, and prioritize instream uses over private agricultural expansion.

### **IV. Stakeholder Meetings Must Be Enhanced**

Stakeholder engagement is crucial for equitable water management, yet the current process is flawed. Allowing A&B to set the agenda and take minutes undermines transparency and accountability. The language governing these meetings must be revised to ensure fair representation of all stakeholders, with independent facilitation and accurate documentation. Additionally, meetings with agenda items that have significant consequences for water on the island of Maui should take place on the island of Maui to ensure accessibility and inclusivity for affected communities. Lastly, without the option of a contested case hearing, the current procedures risk disallowing the thorough examination of facts, testimony under oath, and cross-examination, which are essential tools for resolving complex disputes comprehensively, such as water allocations and the role of groundwater.

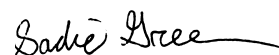
### **Conclusion**

The Board of Land and Natural Resources has a critical responsibility to manage Hawaii's water resources in accordance with the public trust doctrine and established legal precedents. By approving a revocable permit with conditions that address excessive allocations, reduce system losses, protect streams, and enhance stakeholder engagement, this board can ensure equitable and sustainable water management. Mahi Pono will still receive the water they need for agriculture, but with measures like reservoir lining, there will be more water available for everyone.

Mahalo for your consideration of these recommendations. I urge you to take bold action to uphold your kuleana to Maui's people, environment, and future generations.

Sincerely,

Sadie Green



Haiku, Maui

**From:** [Jana-Nicole Laborte](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony re: agenda item D-9  
**Date:** Thursday, December 12, 2024 7:26:44 PM

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

My name is Jana-Nicole Laborte and I am a resident of Lahaina, Maui.

The proposed diversion amount under the 2025 revocable permit exceeds what both the diverters and the county can use on any given day. Allocating more water than is needed continues to perpetuate waste and take much needed water from native stream and coastal ecosystems and downstream users, including farmers and residents that rely on stream flows for traditional agriculture and subsistence and cultural practices.

Further, water usage data clearly show that millions of gallons of diverted stream water continue to leak from Mahi Pono's unlined reservoirs every day. Millions of gallons of water that should have remained in East Maui's streams, watersheds, aquifers, and estuaries will be lost every day to leakage under the 2025 revocable permit. Allowing these leaks to persist while continuing to take water from East Maui streams is unacceptable, especially as we face ongoing drought conditions and the impacts of climate destabilization.

Fighting for water has been an ongoing issue not only in East Maui, but West Maui as well. There have been many kalo farmers that have passed without seeing their lo'i flow with the water needed to sustain them. There have been wins along the way as well, we cannot forget that. But, to allow more diversion of water to A&B and Mahi Pono will negatively affect the lives of our people, our sustenance, and culture. Wai is the most important source to life itself.

I urge the Board to take the following actions:

Reduce the allocated diversion amount to align with actual water usage data, ensuring no more water is diverted than is truly needed.

Require the diverters to use lined reservoirs to prevent further waste.

Thank you for your consideration.

Me ke aloha,  
Jana-Nicole Laborte

**From:** [nihipalim001@hawaii.rr.com](mailto:nihipalim001@hawaii.rr.com)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] RE: Item D-9  
**Date:** Thursday, December 12, 2024 3:51:51 PM

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

My name is Michele Nihipali and I am a resident of Hauula, HI.

The proposed diversion amount under the 2025 revocable permit exceeds what both the diverters and the county can use on any given day. Allocating more water than is needed continues to perpetuate waste and take much needed water from native stream and coastal ecosystems and downstream users, including farmers and residents that rely on stream flows for traditional agriculture and subsistence and cultural practices.

Further, water usage data clearly show that millions of gallons of diverted stream water continue to leak from Mahi Pono's unlined reservoirs every day. Millions of gallons of water that should have remained in East Maui's streams, watersheds, aquifers, and estuaries will be lost every day to leakage under the 2025 revocable permit. Allowing these leaks to persist while continuing to take water from East Maui streams is unacceptable, especially as we face ongoing drought conditions and the impacts of climate destabilization.

I urge the Board to take the following actions:

- Reduce the allocated diversion amount to align with actual water usage data, ensuring no more water is diverted than is truly needed.
- Require the diverters to use lined reservoirs to prevent further waste.

Thank you for your consideration.

Sincerely,

Michele Nihipali

**From:** [X-RAY X-RAY](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Maui Hikina streams permit for Mahi pono  
**Date:** Thursday, December 12, 2024 5:48:52 PM

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

My name is Paleka and I am a resident of Hilo, Moku O Keawe. I was born and raised on Maui in Waihee/Waiehu/Wailuku.

The proposed diversion amount under the 2025 revocable permit exceeds what both the diverters and the county can use on any given day. Allocating more water than is needed continues to perpetuate waste and take much needed water from native stream and coastal ecosystems and downstream users, including farmers and residents that rely on stream flows for traditional agriculture and subsistence and cultural practices.

Further, water usage data clearly show that millions of gallons of diverted stream water continue to leak from Mahi Pono's unlined reservoirs every day. Millions of gallons of water that should have remained in East Maui's streams, watersheds, aquifers, and estuaries will be lost every day to leakage under the 2025 revocable permit. Allowing these leaks to persist while continuing to take water from East Maui streams is unacceptable, especially as we face ongoing drought conditions and the impacts of climate destabilization.

This is not natural and will have consequences such as loss of habitat for native fish such as O'opu and may also cause more issue that have not been foreseen if approved.

I urge the Board to take the following actions:

- Reduce the allocated diversion amount to align with actual water usage data, ensuring no more water is diverted than is truly needed.

- Require the diverters to use lined reservoirs to prevent further waste.

Thank you for your consideration.

Paleka

**From:** [scott.werden](mailto:scott.werden)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Testimony for BLNR Meeting of December 12, 2024, Item D-9  
**Date:** Friday, December 13, 2024 5:28:45 AM

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Aloha Chairperson Chang and board members,

I would like to request the following modifications to the permit, as per staff recommendations, for item D-9 on the agenda for the December 12, 2024 meeting of the Land Board.

- 1) The staff recommendation is that the Permittee is required to submit quarterly reports to the DLNR. We request that the quarterly report also be provided to all eight members of the committee listed in condition (6) on page seven of the recommendation.
  
- 2) We request an additional requirement of the aforementioned quarterly report: The Permittee must list changes in diversion settings made by the Permittee that affected in-stream flow for streams that have an IIFS set by the CWRM, made during the reporting period. For streams that did have a change in diverted water during the quarter, Permittee must also state the method they used to verify that IIFS amounts set for the stream were adhered to when the diversion setting was changed, and the value of their reading that verified the in-stream flow was sufficient.

Mahalo for your time and consideration,

Scott Werden  
Ha'iku, HI  
[scott.werden@gmail.com](mailto:scott.werden@gmail.com)