

From: [Osa Maiyanne Adaján](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:48:38 PM

Dear Chair Chang and Members of the Land Board,

My name is Dr. Osa Maiyanne Adaján and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,

Osa Maiyanne Adaján, Ph.D.
University of Hawai'i at Mānoa
Richardson School of Law
osa@hawaii.edu

From: [Angelique Kalani Axelrode](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 11:33:41 PM

Dear Chair Chang and Members of the Land Board,

My name is Angelique Kalani Axelrode and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Time is up- a reckoning is here and we have to LISTEN to the people and 'āina before it's too late for our keiki. WHAT WILL IT TAKE??

Mahalo nui,

Angelique "Ang" Kalani Axelrode (they/them/'o ia)

multimedia artist/filmmaker, co-founder, postdoc research fellow @ nyu tisch

[personal website](#) | [aka productions](#)

From: [Lauren Ballesteros](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 8:55:51 AM

Dear Chair Chang and Members of the Land Board,

My name is Lauren and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Lauren Ballesteros-Watanabe

From: [Patricia Blair](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-15
Date: Wednesday, December 10, 2025 6:53:19 PM

No to the staffs critically flawed recommendations on Agenda item D-15. No to PSP investments and Mahi Pono and East Maui irrigation to take more water from East Maui streams. A standing court order specifically prohibits the Board doing so. Patricia Blair, Kailua

From: [Boisvert-Jorgensen](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:05:35 PM

If 60 is the new 40; then Maki Pono and East Maui Irrigation are the new Big Five.

For centuries Hawaii's environment and ecosystems have been ruined by corporate greed; and East Maui's stream water continues to be unnecessarily diverted and senselessly wasted.

It is time to say NO to giving them more water; and time to say YES to abide by the Environmental Court's standing order.

Denise Boisvert

Honolulu (one doesn't need to live on Maui to know that taking most of the stream water from East Maui's residents is wrong)

P.S. Please confirm receipt of this testimony. Mahalo!

From: [Bo Breda](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 5:48:07 PM

Dear Chair Chang and Members of the Land Board,

My name is Dear Chair Chang and Members of the Land Board,

My name is Bo Breda and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Bo Breda

From: [meredith](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 10:11:56 PM

Dear Chair Chang and Members of the Land Board,

My name is Meredith Buck and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui loa,

Meredith Buck

From: [Olioli Buika](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 4:36:58 PM

Dear Chair Chang and Members of the Land Board,

My name is Olioli Buika and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered to be restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so. In this era of unprecedented climate change and global warming, it is critical we place measures to protect and preserve East Maui's streams instead of continuing to allow diversions that place more stress on our island's water resources. I agree that making water available for diversified agriculture can support the goal of food sustainability and food security for Hawai'i, but that is only true when the food being produced actually feeds our local community. I cannot live off of just lemons and limes, can you? Mahi Pono's crops of watermelon, citrus, and macadamia nut trees will not provide real food security for the people of Maui nor our people across Hawai'i pae 'aina.

Mahalo nui,
Olioli Buika



December 11, 2025

**MEETING OF THE BOARD OF LAND
AND NATURAL RESOURCES
Agenda Item D-15**

December 12, 2025, 9:00 a.m.

DLNR Boardroom, Kalanimoku Building
1151 Punchbowl St., Room 132

Re: TESTIMONY IN STRONG OPPOSITION TO ISSUANCE OF REVOCABLE PERMIT TO MAHI PONO, LLC AND EAST MAUI IRRIGATION COMPANY, LLC FOR THE DEVELOPMENT, DIVERSION, AND USE OF SURFACE WATER FOR DIVERSIFIED AGRICULTURE, CURRENTLY EXISTING HISTORICAL INDUSTRIAL AND NON-AGRICULTURAL USES, RESERVOIR, FIRE PROTECTION, HYDROELECTRIC, AND COUNTY OF MAUI DEPARTMENT OF WATER SUPPLY AND KULA AGRICULTURAL PARK PURPOSES ON THE ISLAND OF MAUI; TAX MAP KEYS: (2) 1-1-001:044 AND 050, 1-1-002:002 (POR.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017. (ITEM D-15)

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

Please accept these comments submitted by the Center for Biological Diversity (Center) in **STRONG OPPOSITION of Agenda item D-15**, the proposed revocable permit for Mahi Pono, LLC and East Maui Irrigation Company, LLC. I also support the request for a contested case hearing.

The Center is a non-profit 501(c)(3) membership corporation dedicated to the protection of native, threatened, and endangered species and the habitats they depend on to survive. Through science, policy, and environmental law, the Center is actively involved in the protection of Hawaiian wildlife and wild spaces. The Center has more than 88,000 members throughout the United States, including Hawai'i, with a direct interest in ensuring the protection of Hawaiian species and the habitat they depend upon to survive.

The legal landscape here is not murky. It is straightforward.

Both the First Circuit Court and the Hawai'i Supreme Court have already determined that no additional surface water can be authorized from East Maui streams until the **Commission on Water Resource Management's Interim Instream Flow**

Standards are properly carried out. Those rulings set a clear boundary for this board: until the standards are met in practice and instream uses are protected, authorizing greater diversions violates the state's public trust obligations. The staff submittal glosses over this limit and treats it as something the board may choose to observe rather than something the board **must**.

This error reappears in how the submittal handles water use figures. What matters for compliance is how much water is **removed from the streams**, not how much water remains after mixing with groundwater or other sources. The submittal's reliance on "use" figures obscures the actual impact on streamflows.

What is happening in East Maui's streams is not hypothetical.

Years of diversions have reshaped stream channels, dried out stretches of riverbeds, and destabilized some of the most unique freshwater ecosystems on the planet. When flows have been restored, native species return. When flows are withheld, they disappear. That pattern is well established in the Division of Aquatic Resources' own monitoring records and in independent scientific work conducted over the years. Hawai'i's streams support native snails, shrimp, damselflies, and gobies found nowhere else. Many are already perilously close to extinction. These organisms depend on continuous flow, clean water, and intact habitat. Reduced flows fragment their habitat, affect migration, and alter water chemistry in ways that these species simply cannot survive. Healthy streamflow is also essential to downstream estuaries, which support juvenile marine species that play major roles in coastal ecosystems.

Threatened and endangered species protections apply here.

State and federal endangered species laws require the board to ensure that any permitted activity will not harm listed species or their habitat. East Maui's high-elevation plant communities and stream-dependent fauna are heavily influenced by hydrology, and any action that reduces water delivery to these ecosystems must undergo a rigorous, science-based analysis. The current submittal does not include that level of review.

The impacts to Native Hawaiian cultural practice are direct and ongoing.

Flows support kalo cultivation, nearshore fishing, and other traditional practices that rely on living, functioning streams. Many practitioners have described the loss of these practices as flows were diverted. Without reliable and adequate water, kalo patches dry out and customary rights that depend on healthy aquatic resources cannot be exercised. The board's trust duties extend to these cultural uses, and those duties require affirmative protection, not after-the-fact mitigation.

The submittal's monitoring framework is not sufficient.

If the board contemplates any permit, it must at minimum insist on clear, enforceable monitoring that captures actual daily diversions from each stream, continuous flow data, and ecological indicators. The current submittal relies on generalized reporting that will not allow the board, the public, or the courts to assess whether diversions comply with legal requirements or protect ecological and cultural resources.

Conclusion

The state's public trust responsibilities demand that decisions about East Maui's streams be made with full transparency, full scientific grounding, and full respect for court orders. The proposal before you falls short in every one of those areas. For these reasons, the Center for Biological Diversity respectfully urges the board to:

1. **Grant a contested case hearing.**
2. **Cap diversions at no more than 23 million gallons per day**, averaged monthly, which reflects the 2025 diversion baseline.
3. **Require enforceable monitoring and restoration measures** that actually protect instream uses, native species, and cultural practices.

Mahalo,

/s/ Maxx Phillips

Maxx Phillips, Esq.

Hawai'i and Pacific Islands Director, Staff Attorney

Center for Biological Diversity

1188 Bishop Street, Suite 2001

Honolulu, Hawai'i 96813

(808) 284-0007

MPhillips@biologicaldiversity.org

From: [Jade Chihara](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 8:17:01 PM

Aloha Chair Chang and Members of the Board,

My name is Jade Chihara and I am writing to submit my concerns for item D-14.

Too often, when farming operations are supported by an “endless budget,” there is a natural blockage in developing the true resourceful traits as a farmer. This is basic stock-flow dynamic: when the financial inputs are deep, there is little incentive to conserve or need to innovate. It becomes easy to maintain outdated or wasteful irrigation practices simply because the cost burden is absorbed by investors while the ecological cost is paid in painful identity erasure of generational mahi‘ai and their cultural, biological, and spiritual fabric that flows within stream ecosystems.

Today, there is an urgent need for resource stewardship in industrial agriculture, especially for Mahi Pono who is financially supported by PSP Investors. With financial capacity, they have the ability and kuleana to explore and adopt low-irrigation agricultural practices, water-reuse irrigation, and championing water-efficient technologies.

If Mahi Pono intends to frame themselves as champions of local food supply, they must put their money where their mouth is and demonstrate responsible large-scale farming that does not depend on over extraction of public trust waters.

Challenge them to exemplify what true resource stewardship looks like in Hawai‘i by modernizing their operations to match a 21st-century water reality.

At the November 14, 2025 BLNR meeting, Chair Chang offered powerful mana‘o to the applicants of items K-1 and K-2. I want to uplift those words and ask that the Chair’s mana‘o be applied to the East Maui community as well. Chair Chang reminded the applicants that Puna is a rural community, and that with rural places comes a heightened responsibility to be good stewards. Her message was clear that stewardship is a standard, and applicants must honor the character of place in every decision they make.

The same truth applies to East Maui. The very essence of the landscape, nature, and cultural fabric has always been its wai. East Maui waters shape identity, sustain ecosystems, and carry generational knowledge shown in their community well being. In that same spirit of stewardship articulated by the Chair, I ask the Board to remember that the existing and proposed water permits have already altered the nature and character of East Maui’s landscape beyond what it can withstand and have negatively impacted generations of kalo farmers of this rural place. Please guide future decisions to reflect a commitment to restore and protect what remains.

Mahalo for your time reading my testimony, I truly appreciate your continued commitment to protecting Hawai‘i’s public trust resources.

Humbly,

Jade Chihara

From: [Glenn Choy](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-15
Date: Thursday, December 11, 2025 10:47:54 AM

My name is **Glenn Choy**. I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Thank you.

Aloha Board Members,

My name is Donna Clayton

I am here to support Mahi Pono's request for a 42 MGD water lease.

I live in Pukalani above the former sugar cane fields and so I have a view over the progress Mahi Pono has made. Every year more fields are planted and the brown and yellow weed fields are disappearing. We in Pukalani used to love looking over the waving green sugar cane and then when that disappeared we slowly became aware of the terrible fire danger that was proven out by the Lahaina and Kula fires.

After the fires we in Pukalani asked Mahi Pono to please clear and plant below Pukalani and they did – the clearing was done right away and the planting followed. This company is a good neighbor company.

I retired from Maui Land & Pineapple Company, another great Maui company that employed in its prime 1500 or so folks in well paid jobs with great benefits. Now we have Mahi Pono offering the same opportunities for our residents. When I call them, I am always talking to long-time Maui folks.

In agriculture there are so many variables that can destroy crops or weaken harvests and so the one thing Mahi Pono should be able to count on is water supply. They are proving they know how to farm and produce food for people and animals. They have plans to plant more and I am so grateful that they are the company overseeing so many Maui acres.

I feel over time that they have shown that we on Maui are very fortunate that Mahi Pono chose Maui to farm. I ask that you give them the reliability of a 42 MGD water lease and thus allow them to be able to plant more of their many acres with the reliable water available.

To me, no other water use is more important. Mahi Pono should be able to fill their earth reservoirs and be a water source for fire fighting efforts, to continue to plant needed and useful crops, to provide employment for Maui families and to know that we appreciate them and their efforts and are glad they chose Maui to farm.

I appreciate the time to share my comments.



**Testimony to the Board of Land and Natural Resources
Dawn Chang, Chairperson
Members of the Board**

**Friday, December 12, at 9:00 am
DLNR Boardroom, Kalanimoku Building
1151 Punchbowl Street, 1st Floor**

RE: Testimony in Support of BLNR Agenda Item 15 – Revocable Permit for Surface Water Division

Aloha e Chairperson Chang and Members of the Board,

My name is Sherry Menor, President and CEO of the Chamber of Commerce Hawaii (“The Chamber”). We respectfully submit testimony in support of Agenda Item 15, relating to the Issuance of a Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC.

Agenda item 15 directly supports the goals identified within the Chamber’s 2030 Blueprint for Hawaii: An Economic Action Plan, specifically within our 21st Century Agriculture policy pillar. Reliable water access is essential for diversified agriculture, local food production, and Maui’s economic stability.

Irrigation is the foundation of agricultural operations. Farmers cannot plan crops, grow at scale, or supply major institutions—schools, hospitals, and correctional facilities—without dependable water. Hawaii’s public schools serve over 100,000 meals a day; meeting this demand requires consistent agricultural output. When water is uncertain, farms cannot meet local needs, deepening Hawaii’s dependence on imports.

Mahi Pono helps meet these statewide priorities by:

- Expanding diversified crop production and supplying institutional and community markets;
- Supporting local jobs and agricultural career pathways, vital to Maui’s long-term recovery;
- Reinvesting in agricultural lands and irrigation infrastructure;
- Strengthening community resilience through water access critical to farming, fire protection, and hydropower.

The Chamber also supports long-term, sustainable water planning that balances environmental, cultural, and economic needs. We recognize the Board’s responsibility to weigh many interests, and we emphasize that Hawaii’s food security and economic resilience rely on a functional, predictable water management framework.

The Chamber of Commerce Hawaii is the state’s leading business advocacy organization, dedicated to improving Hawaii’s economy and securing Hawaii’s future for growth and opportunity. Our mission is to foster a vibrant economic climate. As such, we support initiatives and policies that align with the 2030 Blueprint for Hawaii that create opportunities to strengthen overall competitiveness, improve the quantity and skills of available workforce, diversify the economy, and build greater local wealth.

We respectfully ask the Board to approve Agenda Item 15. Thank you for the opportunity to testify.



To: Board of Land and Natural Resources

Subject: December 12, 2025 Testimony on Agenda Item D-15

Dear Chair Chang and Members of the Land Board,

Aloha! My name is Jonee Peters, Executive Director for Conservation Council for Hawai'i (CCH), with approximately 4,000 members. CCH is also the Hawai'i affiliate of the National Wildlife Federation with 52 Affiliates and roughly 7 million members nationwide. and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. **The wildlife, muliwai, shore birds, taro farmers and community along and below the diversions have suffered decades from loss of adequate water. This was a thriving community that fed themselves for decades before the diversions. Let them return and be that waiwai community!** Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,

Jonnetta "Jonee" Peters
Executive Director

Telephone/Fax: 224.338-6511 | **email:** info@conservehi.org

web: www.conservehawaii.org | **P.O. Box 2923, Honolulu, HI 96802**

President: Colleen Heyer | **Vice President:** Bret Nainoa Mossman | **Secretary:** Makaala Kaaumoana

Treasurer: Mashuri Waite, PhD |

Directors: Puanani Anderson-Fung, Steven Lee Montgomery, PhD, Emily Sarasa, Les Welsh, Sunshine Woodford |

Executive Director: Jonnetta "Jonee" Peters **Operations and Events Manager:** Leah Kocher

National Wildlife Federation Region 12 Director: Rachel Sprague

National Wildlife Federation Pacific Region Associate Director: Emily Martin

Kō Hawai'i leo no nā holoholona lōhiu – Hawai'i's voice for wildlife | State Affiliate of the National Wildlife Federation

From: [Roslyn Cummings](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Petition on Agenda Item D-15— prevention of: unjust enrichment, criminal intent to harm, and creation of fraud upon the public & Genocide upon Kanaka—Water is life
Date: Thursday, December 11, 2025 5:58:15 AM

Re: Opposition to Staff Recommendation / Protection of East Maui Streams

Submitted by: Roslyn Cummings

Date: 12/11/2025 on the record, for the record

I. PETITIONER

I, Roslyn Cummings (“Petitioner”), respectfully submit this Petition to the Board of Land and Natural Resources (“the Board” or “BLNR”), placing the Chairperson and all Board Members on notice of substantial legal, environmental, cultural, and procedural violations contained within the staff recommendation of the referenced agenda item.

This Petition is made in the interest of public safety, Trust Law, Na Kanaka (1839 declaration of rights— life, liberty, and property & 1840 Kanawai), Ho’oilina 1848 Great Mahele land division (Crown, Konohiki, Government) lands belonging to our people known as Ho’oilina heirs with pono e pili pa’a loa unalienable birthrights, 1849 Treaty between two separate nations by use of continuity, 1850 Kuleana Act, Clean Water Act (United States navigable waters- please prove how this is the United States by providing written law, federal law requiring the United States entity known as the state of Hawaii and its counties— clean water environmental protection), Federal Oversight in Trust duty for the protection by law of treaty and the lawful kanawai of wai water, waiwai resources under Hawaiian Kingdom Law as superior to State of Hawaii Laws-HRS 1-1, HRS 7-1, HRS 172-11, HRS 172-12, The Protection of Property for the right of usage in the Hawai‘i’s Constitution Article 10 section 9 and Safety, with usage of Hawaiian Kingdom case, law International Case law, State of Hawaii Case Law and the Water Code— based on what is Superior and what is Inferior.

II. STATEMENT OF PETITION

Petitioner hereby opposes the staff recommendation and asserts that the proposal is critically flawed and cannot proceed lawfully or ethically.

Petitioner incorporates the following statement verbatim:

“Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui’s streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water — not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.”

III. LEGAL BASIS FOR PETITION

Petitioner asserts that BLNR is bound by:

1. Hawai‘i Constitution, Article XI & XII

- Protection of natural resources- pale waiwai
- Traditional and customary practices (old law usage in new law— HRS 1-1, HRS 7-2, HRS 172-11, HRS 172-13 Hoa’aina Native Tenant Rights, Kuleana Rights, and Ho’oilina Heir Rights
- Trust obligations— name the settlor, grantor, trustee, beneficiaries, and trust

2. HRS Chapter 174C (Hawai‘i Water Code)

- Requires precaution, monitoring, enforceability, restoration
- Prohibits allocation contrary to the trust

3. Case Law Requirements

Including but not limited to:

- Waiāhole Ditch
- Kauai Springs
- East Maui Watershed (CWRM Orders 2022)
- Ahuna v. DHHL (trust duties)

4. The Standing Court Order

BLNR cannot lawfully approve actions explicitly prohibited by court injunction.

IV. GROUNDS FOR PETITION

Petitioner identifies the following grounds for the Board's required denial of the staff recommendation:

1. Violation of public trust duties by authorizing increased diversions despite documented harm.
2. Non-compliance with 2022 Water Commission orders restoring stream flows.
3. Failure of Mahi Pono/EMI to mitigate waste, including refusal to line century-old reservoirs.
4. Lack of scientific, hydrological, and cultural impact assessment for Makapipi stream.
5. Unenforceable conditions within the recommended revocable permit.
6. Direct conflict with a standing court order, rendering any approval void.
7. Cumulative harm to aina, kuleana, subsistence rights, and muliwai estuaries (all living breathing things that rely on that water source)

V. RELIEF REQUESTED

Petitioner respectfully requests that the Board:

1. Reject the staff recommendation in its entirety;
2. Deny any increase in water diversions by PSP Investments (Mahi Pono) or East Maui Irrigation;
3. Enforce the 2022 CWRM stream restoration mandate;
4. Require zero waste mitigation and infrastructure update—return to its natural state before and no consideration of diversions;
5. Conduct a full environmental and cultural impact investigation give the public data and analysis including Makapipi;
6. Comply with the standing court order prohibiting increased diversions;
7. Issue a written decision establishing findings of fact, conclusions of law, and a remedy consistent with constitutional, statutory, and trust obligations.

VI. DECLARATION

I declare under the laws, constitution, and trust of the Hawaiian Kingdom that the statements herein are true and correct to the best of my knowledge, and I submit this Petition in good faith for the protection of ‘āina, waiwai, and kanaka of Hawai‘i.

Respectfully submitted,

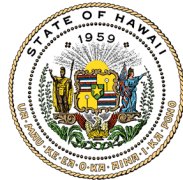
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Roslyn Cummings

Mahalo nui

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



State of Hawai'i
DEPARTMENT OF AGRICULTURE & BIOSECURITY
KA 'OIHANA MAHI'AI A KIA'I MEAOLA
1428 South King Street
Honolulu, Hawai'i 96814-2512
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SHARON HURD
Chairperson
Board of Agriculture & Biosecurity

DEAN M. MATSUKAWA
Deputy to the Chairperson

**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE AND BIOSECURITY**

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES

**FRIDAY, DECEMBER 12, 2025
9:00 AM
DLNR Boardroom, Kalanimoku Building**

AGENDA ITEM D15.

Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Chairperson Chang, First Deputy Kanaka'ole, Deputy Kahahane and Members of the Board:

The Department of Agriculture and Biosecurity's (Department) goal is to double food production, move the state to greater food security and nourish Hawai'i's future. A reliable source of water is essential for agricultural operations to commit to food production. Growing food in and for Hawaii has been the mission of Mahi Pono.

Act 175 (SLH 2021) established a goal that at least 30 percent of food served in public schools be locally sourced by 2030. Act 176 (SLH 2021) requires state departments to ensure the continued growth of local produce, support local farmers and ranchers and that by January 1, 2050, fresh and value-added agricultural products shall constitute a minimum of 50% of the total produce purchased by the department. Mahi Pono has a plan for the State to meet these "30 by 30" and "50 by 50" mandated goals – goals that require scaling up and can only be achieved with a reliable source of water.

From 2017 to 2022, the Census of Agriculture released by the USDA National Agricultural Statistics Service reported a 10% decline in the number of farms in Hawaii and a 6.9% decline nationally. The University of Colorado Boulder predicts the number of farms globally will decline by 56 percent by 2050, from 616 million to 272 million.



With the number of farms declining locally, nationally and globally, the Department has strong support for Mahi Pono and their commitment to grow more food for Hawaii.

The “sweet spot” of farms that will double food production and have the capacity to achieve “30 by 30” and “50 by 50” are larger scale operations like Mahi Pono that represent 1.1% of farms that are more than 2,000 acres in size. Hawaii’s food security relies on large farming operations to replace the produce imported into the State and become food secure.

With the global pressures facing food production today – supply chain disruptions, election tensions, trade distractions, domestic deficits, climate change impact and evidence of deglobalization and slowbalization in international agricultural economic activities, reducing food production and relying on imports to feed Hawaii is not strategic. There are 35 wars in the world today exacerbating the need to grow more food locally and replace imports is now a priority for food security. Mahi Pono having access to sufficient and affordable water is essential to making Hawaii food secure.

Thank you for the opportunity to provide testimony in support of providing water, an essential resource to grow food, to support Mahi Pono’s commitment to grow food and Nourish Hawaii’s Future.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 11, 2025

TO: The Honorable Dawn Chang
Chairperson, Board of Land & Natural Resources

FROM: Keith T. Hayashi
Superintendent

A handwritten signature in blue ink, appearing to read "Keith T. Hayashi".

SUBJECT: BLNR Meeting of December 12, 2025 (Agenda Item D-15 – Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017)

Aloha Chair Chang and Members of the Board:

The Hawai'i State Department of Education (Department) supports Agenda Item 15.

Access to locally grown food is essential to the health and well-being of our public school students, and that work begins with ensuring farmers have a reliable water supply.

The Department serves more than 100,000 meals each day. We're moving toward school menus that rely more on fresh, locally sourced ingredients to strengthen student nutrition, support learning, and build Hawai'i's food systems. To meet the volume needed for a statewide meal program, Hawai'i needs farms that can produce at a consistent scale.

Along with hospitals and correctional facilities, public schools represent one of the largest and most stable food purchasers in Hawai'i. These institutions depend on steady supply, predictable delivery, and a strong agricultural sector. Both small and large farms rely on dependable irrigation to plan planting cycles, increase production, and enter long-term supply agreements. Without secure access to water, that planning isn't possible.

Our state leaders have underscored the need to increase local food production, reduce reliance on imports, and strengthen resilience. Stable irrigation is central to those goals. Approving this permit will help ensure Hawai'i's farmers can continue providing the food that supports our students and other institutional markets statewide.

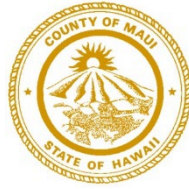
The Department respectfully supports the staff recommendation.

KTH:cm

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

GINA M. YOUNG
Director



EAST MAUI WATER AUTHORITY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

December 10, 2025

Dawn N.S, Chang, Chair
And Members of the
State of Hawai'i Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawai'i 96813

RE: BLNR AGENDA ITEM D-15 FOR DECEMBER 12, 2025: Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Aloha e Chair Chang and Members of the BLNR.

Thank you for the opportunity to provide testimony on the above-cited agenda item. The Department of East Maui Water Authority is working together with the Office of the Mayor and the Department of Water Supply and supports the issuance of an annual revocable permit to Mahi Pono, LLC and EMI for the continued development, diversion and use of surface water in East Maui. A revocable permit for 2026 provides time for the continuance of discussions between the County of Maui and Mahi Pono, LLC to move towards a mutually beneficial agreement.

We also note Permit Condition (6) of the staff submittal (pages 9 and 16) requiring the County of Maui to continue to coordinate monthly East Maui Stakeholders Interim Committee meetings. We find value in these meetings which brings all stakeholders together to build trust, discuss the monthly reports (mandated by Permit Condition no. (7)), share observations on environmental conditions in the license area, and bolster education on the water resource management and the regulatory process. Please reference the East Maui Stakeholders Interim Committee annual report for 2025, submitted separately on December 8, 2025, to the BLNR.

Eia no o kūlanihāko'i, no kakou e mālama ai!

~Here indeed is Heaven reflected on Earth, it is for all of us to Protect, Preserve and Sustain~

We will be in attendance at Friday's meeting should you have any questions.

Mahalo,



GINA YOUNG
Director, Dept. of East Maui Water Authority
County of Maui

Enclosures

cc: Richard T. Bissen, Jr., Mayor, County of Maui
Josiah K. Nishita, Managing Director, County of Maui
John Stufflebean, P.E., Director, County of Maui Department of Water Supply
Shane Sinenci, Councilmember Maui Hikina Residency Area
East Maui Stakeholders Committee Members
Jonathan Likeke Scheuer, Chair 'Aha Wai O Maui Hikina East Regional Community
Board and Members

Eia no o kūlanihāko'i, no kakou e mālama ai!

~Here indeed is Heaven reflected on Earth, it is for all of us to Protect, Preserve and Sustain~

Aloha Chair and board members,

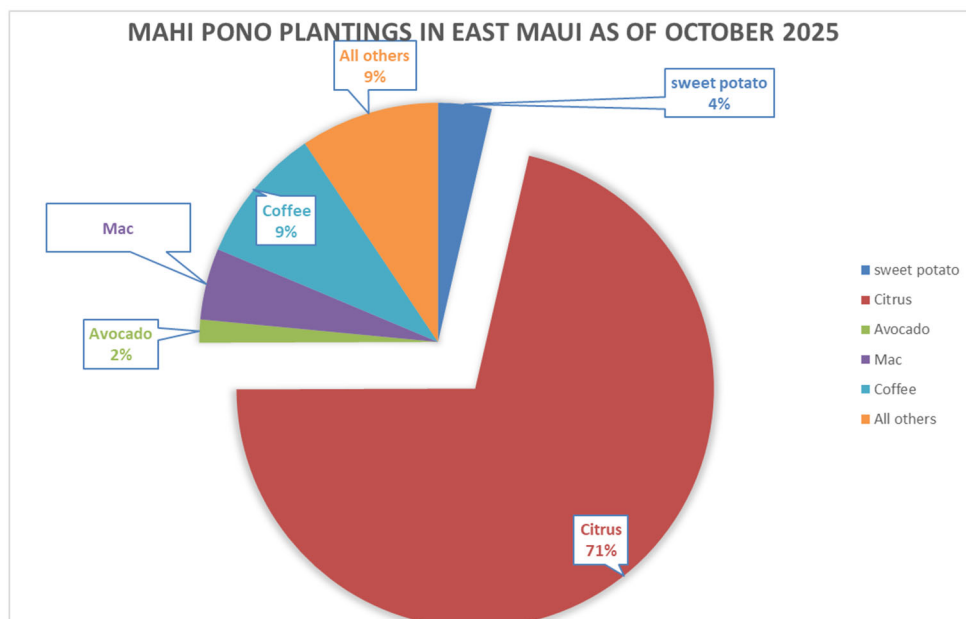
My name is Toni Eaton, and I am testifying on my own behalf. I would like to express my overwhelming opposition to agenda item D-15. I testified last month on this board's lack of both the subject matter expertise and statutory authority to issue or manage long-term water licenses, and I will be back as much times as needed to bring back the water to Maui Hikina. I read the overwhelming testimony in opposition every time this matter comes up but it seems that this board doesn't. People from all over these islands see the struggle between Native Hawaiian rights and foreign, corporate interests and they are speaking up. Year after year the staff's recommendation is to approve these RP's and year after year the people fight. As you can see from my charts below that the types of crops that Mahi Pono is cultivating is far from being sustainable and "supports the long-term viability and security of local agricultural operations..." like the staff had posits. A direct quote from the submittal, "In staff's view, making water available for diversified agriculture supports the long-term viability and security of local agricultural operations, and is both in the best interest of the State and critical to the State's compliance with the constitutional mandates of Article XI."

However, I question how dedicating 71% of the 12,734 acres planted, primarily in citrus, serves the best interest of the State of Hawai'i. These crops are not sustainable; they are extractive in nature. They require millions of gallons of water per day while our streams run dry, our wildlife declines, and our traditional and customary practices continue to be hindered due to inadequate oversight by this Board.

I understand that there is a belief that this RP is necessary to maintain water service, but the truth is that the Governor has the authority to issue an executive order to continue service until EMI meets all the standards recommended by staff, or until the Maui Water Authority is fully established—whichever occurs first.

This situation has gone on far too long. Enough already. Let the streams flow, from mauka to makai. Let our streams go.

Crops	Acres
Sweet potato (Maui Best-Tenant)	461
Citrus	9083
Avocado	198
Mac	615
Coffee	1179
All others (row crop, forage crops, pongamia)	1198
Total	12734



From: [Olan Leimomi Fisher](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:53:05 PM

Aloha e Chair Chang and Members of the Land Board,

Testifying in my personal capacity, I urge you to recognize that **the staff recommendation in this agenda item is critically flawed.**

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui for considering my testimony,

Lei Fisher

From: [Chelleigh Gambino](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 10:43:30 PM

Dear Chair Chang and Members of the Land Board,

My name is Emily Gambino and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry... Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste.... Not when we do not understand the impacts of the diversion system on Makapipi stream.... Not when the terms of the new revocable permit are unenforceable.... And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Emily Gambino

From: [Samantha Garcia](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 10:48:51 AM

Dear Chair Chang and Members of the Land Board,

My name is Sam Garcia, and I'm asking you to reject the staff recommendation in this agenda item because it is deeply and fundamentally flawed.

The proposal to let Mahi Pono and East Maui Irrigation take even more water than they did last year—while East Maui's streams still aren't flowing as required—is unacceptable. The Board should not increase water access for these companies when:

- Streams ordered restored in 2022 continue to be drained.
- Mahi Pono still refuses to line outdated reservoirs that waste enormous amounts of water.
- We still lack clear data on the impacts to Makapipi Stream.
- The terms of the new revocable permit cannot be meaningfully enforced.
- And a standing court order directly prohibits issuing this increased authorization.

Please uphold both the law and the integrity of East Maui's watersheds.

Mahalo nui,

Sam Garcia

From: [Giuliano Geronymo](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 2:11:45 PM

Dear Chair Chang and Members of the Land Board,

My name is Giuliano Geronymo and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

With love,
Giuliano Geronymo

Certified DHARMI® Method Facilitator

Wellness Extraordinaire, Shamanic Sound Healer & Ocean Lover

www.GiulianoGeronymo.com



From: [Hannah Hartmann](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 11:38:47 AM

Dear Chair Chang and Members of the Land Board,

My name is Hannah Hartmann testifying on behalf of myself on Agenda Item D-15. I am a Sustainable Agriculture Instructor at Kūlani Correctional Facility, and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Ola i ka wai.

Mahalo nui,

--

Hannah Hartmann

Bioremediation Ecologist

Executive Director, EarthRM 501(c)3

Sustainable Agriculture Instructor, Kūlani Correctional Facility (HCC)



Submitted via e-mail to blnr.testimony@hawaii.gov

HEARING BEFORE THE BOARD OF LAND AND NATURAL RESOURCES

December 12, 2025, 9:00 a.m.

Re: Testimony on Agenda item D15, Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2)1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Aloha Chair Chang and Members of the Board,

The Hawaii Cattlemen's Council is writing to strongly support the continuation of a revocable permit to Mahi Pono and East Maui Irrigation Company.

Water is a valuable resource, and while there are many needs for water on Maui, it is essential to producing food and ensuring agricultural land can stay in agricultural production. The continued supply of sufficient irrigation water to this parcel is crucial to Mahi Pono's continue operations. If the State truly supports local food production, it must also support the water needs required to survive, especially during this time of extreme drought.

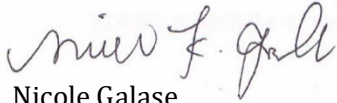
If farming and ranching operations are unable to operate and go out of business, it's difficult to fill the gap that is left. In this case, this is a large, active agricultural land providing crops, livestock production, and livestock processing – providing food while stewarding the land. Recently, livestock harvest labor issues have arisen and left many ranchers without a place to process their cattle – a crucial part of the supply chain. While labor and other issues are worked out, Maui Cattle Company, part of Mahi Pono, has stepped up to process as many additional cattle as they can, which has helped ease this issue for the time being. They are able to do this because of their diversified operations, all which require access to affordable, reliable water.

Continuing this temporary permit until long-term leases are completed supports the State's goals and is consistent with the public trust.



Thank you for the opportunity to provide testimony strongly supporting passage of Agenda Item D-15.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nicole Galase".

Nicole Galase
Hawaii Cattlemen's Council
Managing Director



HAWAII CROP IMPROVEMENT ASSOCIATION

Date: Friday, December 12, 2025

Time: 9 AM

Place: Board of Land and Natural Resources Boardroom; Kalanimoku Building

RE: Agenda item D15, Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2)1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Aloha Chair Chang and Members of the Board:

The Hawaii Crop Improvement Association (HCIA) appreciates the opportunity to provide testimony **in support of agenda item D15** for the continuation of the revocable permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC.

HCIA understands and respects that this is a difficult issue with a complex history. Our support is for the reliable access to water this permit provides as a foundational requirement to meet the state's diversified agriculture goals. In order to increase local food production and support the agriculture workforce, there must be dependable water access. Without it, agricultural operations would face significant uncertainty that could threaten both food security and rural economic stability. As policymakers and residents seek a more sustainable future with greater amounts of homegrown food sources, it is imperative that farmers maintain access to the water their crops depend upon.

For these reasons, we support the continuation of the revocable permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC and appreciate your consideration.

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.

From: [Colleen Heyer](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 8:49:57 PM

Dear Chair Chang and Members of the Land Board,

A‘ole! I am **against** giving Mahi Pono more water. East Maui streams have run dry for too long. Native Hawaiian communities have suffered for too long.

Auwe! Why would you reward this company when they haven’t even complied with the 2022 water commission order to restore streams. And they refuse to line their reservoirs, an easy, low cost way to save water for all. Not very pono of them after all.

Onipa‘a! Do the right thing for the people of Hawai‘i.

Mahalo,
Mary Heyer, Honolulu

From: [cassidy.hollenbeck](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 2:44:15 PM

Dear Chair Chang and Members of the Land Board,

My name is Cassidy Hollenbeck, and I urge you to recognize that the staff recommendation in this agenda item is fundamentally flawed.

Among the many concerns raised by this item, the most alarming is the proposal to permit Mahi Pono and East Maui Irrigation to take even more water than was extracted from East Maui's streams last year. This board should not authorize additional water diversions—not when streams the Water Commission ordered restored in 2022 continue to run dry; not when Mahi Pono still declines to line its century-old reservoirs despite decades of waste; not when the impacts of the diversion system on Makapipi Stream remain unknown; not when the terms of the new revocable permit cannot be effectively enforced; and not when a standing court order expressly prohibits such action.

Mahalo nui,

Cassidy



Friday, July 18, 2025

Board of Land and Natural Resources

Agenda Item D-3

Position: Oppose

Me ke Aloha, Chair and Members of the Board of Land Natural Resources

The Land Division seems confused about the nature of both the public trust and the nature of a contested case, and to have taken the narrowest and most self-interested possible view regarding property and resource interests of the petitioners. Rather, it is plain that the backward approach of the Land Board reverses the rights to natural resources. The lease of state lands clearly intends to preempt use of natural stream flow downstream of diversions, guaranteeing the diversion of available amounts to the detriment of downstream users.

The Commission on Water Resource Management (Water Commission) has adopted interim instream flow standards based on long-term averages, which militate against low-flow and drought conditions. The lease of State lands assumes automatic diversions based on infrastructural capacity, not on flows available only after downstream public trust uses are met. These conditions invert the meaning and violate the purpose of the public trust: diversions reduce the value of public trust resources in order to guarantee benefit to off-stream commercial uses. A proper basis for understanding the public trust interest in stream flows is the optimum flow for all downstream uses as a first-order consideration. Diversions are a second-order consideration. The Water Commission has not determined optimum flows for public trust uses, which presumably could include the interruption of all diversions under low flow conditions to assure downstream public trust uses.

Petitioners' standing to request a contested case does not depend on past participation in decision-making regarding other processes. Rather, they are activated by the instant decision being proposed. The conditions of stream flow diversions place a different challenge upon the public trust uses of stream flow, as noted above. Public trust uses are not being observed if low flow conditions mean that diversions for commercial purposes leave no downstream flow. This violation of the public trust harms petitioners, entitling them to seek redress through a challenge to diversions for commercial purpose, even as it may reduce State lease revenues.

While it is constitutionally appropriate for the Land Board to lease State lands, it's determination of the value and use of available water resources is impertinent. That is the province of the Commission on Water Resource Management, which has the unenviable task of determining necessary but unpredictably varying stream flows to serve public trust uses. To date, it has only determined interim minimum flows, not optimum flows to the benefit of these public trust lands and their potential reasonable and beneficial purposes, including traditional Hawaiian values in the 'āina.

The lease value of the land in this case is entirely confined to the amount of water to be diverted from it to other, non-public trust, private lands. In other words, it is a completely improper valuation of land

and an abandonment of public trust resources to divert these resources to private commercial lands in detriment of public trust purposes.

Commercial use of such water is subject to higher scrutiny than the public trust uses outlined by the Supreme Court, and the undermining, rather than benefiting, of public trust lands values in order to boost the commercial value of private lands is yet to be adjudicated. The land value to the community – “the State” – is in the use of the land itself, largely based upon its ecological conditions, given all natural resources it contains, pre-eminently the value of the land as served by undiverted natural flowing streams, including the natural and public, legal and economic value to nearshore waters and their habitats. Hence the value of the proposed lease is entirely dependent upon what the Water Commission may deem available for use other than in the watershed. Until those natural, economic, and legal values are established, the only appropriate current action by the Land Board is a determination of the value of these lands in their natural undiverted state. The fact that diversions of public resources were appropriated by colonial usurpers has no historical preeminence over the current public trust of the people of Hawaii.

We should bear in mind that, unlike previous cases only considering the appropriate use of water among counter-claimants in the public trust versus commercial use, this case involves the lease of lands.

Where is the appropriate analysis of the value of those lands with their natural flow of water – not only in monetary terms, but in public trust terms?

This purview and responsibility for the Land Board has not ripened. Prior responsibility lies with the Water Commission. In due time, the lease of these lands must be evaluated on the basis of their diminished value with proposed water diversions.

Mahalo for the opportunity to address this issue,

/s/ Charley Ice, Hoa'āina

Hydrologist, Commission on Water Resource Management 25 years (retired)

Planner, Hawaiian Home Lands (10 years), Hawaiian rights specialist and Chair's liaison to the Water Commission

From: [Jana Ireijo](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 1:39:16 PM

Dear Chair Chang and Members of the Land Board,

My name is Jana Ireijo, and I'm writing to ask you to reconsider the staff recommendation in this agenda item. I believe it contains serious issues that deeply affect the health of East Maui's streams and the communities connected to them.

It's especially concerning that the proposal would allow PSP Investments (Mahi Pono) and East Maui Irrigation to take even more water than last year. This shouldn't move forward while streams the Water Commission ordered restored in 2022 are still running dry. Mahi Pono has yet to line its century-old reservoirs, where so much water continues to be wasted. We also still lack a clear understanding of how the diversion system impacts Makapipi Stream. **The terms of the new revocable permit are not enforceable, and a standing court order prohibits the Board from approving this.**

Mahalo,
Jana

Artist & Environmental Storyteller
Creator of Vanishing Murals with Wildfire Charcoal, Earth & Ocean
Bridging Art, Ecology & Emerging Tech

www.vanishingmurals.com | IG: @janaireijo

From: [Bianca Isaki](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 6:14:36 PM

Dear Chair Chang and Members of the Land Board,

I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,

Bianca Isaki

--

Bianca Isaki, Ph.D., Esq.
Law Office of Bianca Isaki
1720 Huna St. 401B
Honolulu, Hawai'i 96817
mobile 808.927.5606

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From: [Rebecca Ward](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 7:40:16 AM

Dear Chair Chang and Members of the Land Board,

My name is Bec Jimenez and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Bec Jimenez

From: [Waikiki - Hawaii Condo](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:21:09 PM

Dear Chair Chang and Land Board members,

I am writing to strongly oppose issuing another revocable permit to PSP Investments/Mahi Pono and East Maui Irrigation. They already waste the tremendous amount of water they have been given, and don't even try to conserve such a precious resource by lining their reservoirs.

The streams that were ordered to be restored by the Water Commission in 2022 continue to be drained dry. Please follow the Environmental Court's standing order to not allow more water to be taken from East Maui.

Mahi Pono is NOT pono.

Mahalo,
Mr. Kim Jorgensen
Oahu

From: [Kaimi Ross](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 5:02:51 PM

My name is Ka'imi Kaleleiki I am testifying on item D-15 and would also like to testify on zoom.

Considering the issuance of another one-year revocable permit for Mahi Pono to diver East Maui's streams goes against the state water code and obligations.

Allowing Mahi Pono any corporate control over East Maui's water would not be in the best interest of residence, or conservation efforts. The rivers are running dry. Millions of gallons of East Maui's water are being diverted. DLNR failed to initiate a court-ordered evidentiary hearing over the immediate impacts of a short-term, one-year revocable permit for the continued diversion of East Maui streams by Mahi Pono. BLNR has NOT considered the Mauka to Makai impacts of Mahi Pono's stream diversion and therefore is not capable of making an informed decision in the best interest of its people.

State Water Code 174C-2 section "a": "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." The people of East Maui depend on consistent stream flow for survival. They depend on the ecological well being of those streams and right now Mahi Pono, a Canadian company completely foreign to Hawaii, is sucking them dry. Any decision by BLNR that would continue to allow them to take water from those streams would be negligent to your duties as board member.

State Water Code 174C-2 section "C": "adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty" Allowing Mahi Pono to continue to divert water would do nothing of the sort and would directly go against this. You'd know this if you took a look at the streams in East Maui or did a proper EIS.

State Water Code 174C-2 section "B": "There is a need for a program of comprehensive water resources planning to address the problems of supply and conservation of water." When rivers run dry not only do the people, wild life, and plant life suffer. When rivers run dry eventually the area can no longer draw in moisture or draws in significantly less. this means aquifers cannot be re-charged. BLNR is tasked with caring for and protecting Hawaii's natural resources, that means conserving water. Allowing Mahi Pono to divert water leads to rivers running dry, meaning the land can no longer draw in water. The exact opposite of water conservation.

I am highly opposed to the issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for any purpose.
Mahalo,
Ka'imi

From: [Kaua Kama](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 12:09:26 PM

Dear Chair Chang and Members of the Land Board,

My name is Kaulililinoe Kama, I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Kaulililinoe Kama

From: kihalaupoe@native.zone
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 4:30:27 PM

Dear Chair Chang and Members of the Land Board,

My name is Hina Kneubuhl and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

How is it that there is no monitoring or oversight to make sure that the streams that were ordered restored actually have flow? And that base flow is being maintained? And ON TOP of this there is a request for more water?!!!! It's absolutely preposterous. Please do not be part of perpetuating FURTHER HEWA on Maui, it's streams, the stream life, the ocean, the people and their ways of life. Stand up for Hawai'i and Hawaiians. DO NOT cave to the requests of a foreign entity who we know JUST WANTS TO DEVELOP THE LAND. So don't give them the water to do it because WE need the water for stream and ocean life, for traditional farming practices and affordable housing for LOCAL RESIDENTS. I don't know how many times and in how many languages we can keep asking for the same things.

Mahalo nui,
Hina

From: [Kupuna Moopuna](#)
To: [DLNR.BLNR.Testimony](#)
Cc: [Kupuna Moopuna](#)
Subject: [EXTERNAL] Mtg. December 12, 2025 - Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 5:37:40 AM

Kūpuna for the Mo'opuna

committed to the well-being of Hawai'i for the next generations to come

kupuna4moopuna@gmail.com

DATE: December 12, 2025

TIME: 9:00 a.m.

PLACE: DLNR Boardroom, Kalanimoku Bldg

"Testimony on Agenda Item D-15"

REJECT the staff's recommendation on Agenda Item D-15

Aloha Chair Chang and Members of the Land Board,

We, Kūpuna for the Mo'opuna, a hui of Hawaiian Homes Commission Act kūpuna beneficiary farmers from Pana'ewa, Hawai'i, urge the Board of Land and Natural Resources to REJECT the staff's critically flawed recommendation on agenda item D-15.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

We ask that the Land Board heed the public trust in wai and to take meaningful steps to better protect the public interest in East Maui's streams, now and for the next generations to come.

Mahalo,
~Kūpuna for the Mo'opuna
Pana'ewa Hawai'i

From: [Linda Lyerly](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony for D-15
Date: Wednesday, December 10, 2025 6:30:38 PM

To: blnr.testimony@hawaii.gov

Subject: Testimony on Agenda Item D-15

Message: (be sure to include a request to testify via Zoom, if you wish to testify verbally as well):

Dear Chair Chang and Members of the Land Board,

My name is **Linda Lyerly**. I urge you to please recognize that the staff recommendation in this agenda item is critically flawed!

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo for considering this important information.

Mahalo nui,
Linda Lyerly



EAST MAUI IRRIGATION COMPANY, LLC

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December 11, 2025

The Honorable Dawn N. S. Chang
Chair and Members of the State Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809
Via email: blnr.testimony@hawaii.gov

RE: BLNR Agenda December 12, 2025, Item D-15: Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:44

Dear Chair Chang and Members of the Board:

This testimony is being submitted on behalf of Mahi Pono LLC (“Mahi Pono”) and East Maui Irrigation Company, LLC (“EMI”) (together, “Applicants”), the applicants for the subject revocable permit (“RP”). As you know, over the past seven years, Mahi Pono has been transitioning more than 20,000 acres of fallow, former sugarcane lands, into an active and diversified farm. Our crops include citrus varieties, watermelon, avocado, coffee, livestock feed crops like corn and alfalfa, and many others. Mahi Pono is also a majority partner of Maui Cattle Company, a thriving cattle ranching operation located along Maui’s north shore.

Our mission is to grow food locally to improve Hawaii’s food sustainability and resiliency, while also creating local jobs, supporting agricultural education, and developing viable economic opportunities for Maui and the State. Mahi Pono’s ability to continue these efforts—like any other agricultural venture—is entirely dependent upon access to an adequate, reliable, and cost-effective source of irrigation water. For this reason, Applicants submitted their request to the Board for a revocable permit for calendar year 2026 under the same terms and conditions as imposed on the 2025 revocable permit (“2025 RP”).

As noted in the Staff Submittal, Applicants have remained compliant with the terms of the 2025 RP. Applicants’ diversion of water pursuant to the 2025 RP complied with the interim instream flow standards (“IIFS”) set by the Commission on Water Resource Management (“CWRM”), and the system loss rate from January 2025 through October 2025 was approximately



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5.4%—significantly below the 22.7% system loss rate limit set by the Board and deemed reasonable by CWRM. Applicants have also been working in good faith to obtain the numerous regulatory approvals required for the stream diversion modifications ordered by CWRM in its 2018 and 2022 IIFS decisions. In fact, Applicants have submitted all work permit requests and are awaiting approvals of the same. Applicants will continue to work diligently and expeditiously with CWRM to complete this process.

We appreciate the time and effort the Board puts into considering these temporary, revocable permits each year. While we hope that 2026 will bring progress toward a long-term disposition, until then, these one-year revocable permits remain vital to our ability to continue maintaining and developing our diversified farming operation.

Annual average – We thank the Department staff for their effort in preparing the Staff Submittal. The recommendation to keep the water allocation as an annual average (as opposed to a monthly average) is crucial to managing the uncertainty inherent in any farming operation. The availability of water and the needs of the crops are dictated by constantly changing variables such as rainfall, wind, and temperature. An annual average provides the flexibility to, during times when surface water is abundant, (a) increase irrigation to offset dry periods and leach groundwater salts from the soils to offset the long-term effects of salt accumulation on crops; and (b) allow for additional storage for use when surface water is less available.

The County of Maui’s (“County”) usage in 2025 illustrates this point. The Board imposed a 5.25 MGD cap, based on a monthly average, on the County’s usage for the 2025 RP. Through October 2025, the County’s usage remained below that cap, except in September when the County consumed 6.09 MGD. For that one month, the County exceeded the 5.25 MGD monthly average cap imposed by the Board. However, if the County’s allocation had been based on an annual average, the County would have remained compliant because its average usage for the year was still below 5.25 MGD. This shows how an annual average for all users would afford more flexibility to accommodate fluctuating needs.

Groundwater – We also appreciate the Staff Submittal recommendation to **not** reduce the surface water allocation to account for groundwater, following CWRM’s expert guidance that, “From both a scientific and policy standpoint, it would be unsound to limit the use of well-monitored surface water while encouraging increased reliance on less-understood groundwater resources.” We agree with CWRM’s opinion that “while Mahi Pono can supplement its irrigation needs with ground water, **this should be resorted to only when there is insufficient surface water available above the amount needed to maintain the IIFS.**” It is for this reason, CWRM stated that it “does not support a decision that effectively forces Mahi Pono to substitute ground water for surface water when adequate surface water flows are available above the IIFS.”



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Concerns regarding Staff Submittal recommendations

We would like to raise concerns with a few of the Staff's recommendations:

Diversified agriculture allocation – The Staff Submittal recommends an allocation of 35.22 MGD averaged annually for uses other than the County's uses. This number "is based on the average amount of water used from January through October of 2025 for diversified agriculture, historical and industrial uses, and other uses including system losses, but excluding any water that is not used by the County of Maui (36.82 mgd), minus an additional 1.60 mgd" and is "based on the current planted acreage of 12,734 acres." In other words, the Staff recommendation is to strictly limit the amount of water for 2026 to the amount of water used for a portion of 2025. There would be no water allocation in 2026 for increased crop need resulting from increased crop maturity, and there would be no water in 2026 for any additional plantings. Put simply, the Staff recommendation would freeze in place all farming operations as of October 2025 based solely on Sierra Club's subjective opinion "that Mahi Pono is planting too many acres." Such a recommendation not only lacks any principled factual basis, but also contrary to the Board's constitutional obligation to "conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands," Haw. Const. art. XI, § 3, and statutory duty to protect lands designated as Important Agricultural Land ("IAL"), Haw. Rev. Stat. ("HRS") § 205-42(b)(2) (requiring the State to "[e]stablish incentives that promote: (A) Agricultural viability; (B) Sustained growth of the agriculture industry; and (C) The long-term agricultural use and protection of these productive agricultural lands"). More than 22,000 acres of Mahi Pono's central Maui land is designated IAL, yet the Staff recommendation would provide water for less than 13,000 acres. With respect, the limitation does not make sense.

For the 2025 RP, the Board set a limit of 3,263 gallons per acre per day ("gad") multiplied by the actual number of cultivated acres less 1 MGD. That allocation is more than the amount recommended in the Staff Submittal, yet is still less than the stated need in water studies. For example, the State Department of Agriculture has consistently found that at least 3,900 GPAD averaged annually is needed to properly farm an area that is 50% planted. With Mahi Pono's farming operations, we are looking at areas that are 100% planted. It is also important to note that the water duties calculated by the State Department of Agriculture are based on an annual average.

While Mahi Pono believes that the science and available data support a higher water allocation than allowed for in the 2025 RP, given the temporary and limited nature of the 2026 RP, Mahi Pono is willing to accept the allocation set for the 2025 RP: 3,263 gad x number of cultivated acres – 1 MGD.



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Reservoir lining – The Staff Submittal also recommends a condition requiring Applicants to “provide a plan, including timeline and cost estimates, for lining all reservoirs that store water diverted under the revocable permit” no later than March 31, 2026. The issue of lining reservoirs has been the topic of litigation for many years. As stated on numerous occasions, unlined reservoirs are a source of recharge for the groundwater aquifers in central Maui. It is not “waste” or “non-use” as others may characterize. In fact, even with reservoir seepage, Applicants’ system losses were 5.4%—significantly lower than the 22.7% rate deemed acceptable by CWRM. The lining of all of Mahi Pono’s reservoirs would completely eliminate this beneficial source of recharge. Coupled with the Staff recommendation to reduce the surface water allocation, this would reduce recharge while simultaneously increasing withdrawals from the aquifer. As CWRM notes in its comments, this is unsound from both a policy and scientific standpoint.

Applicants’ use remains compliant with the IIFS and their system loss rate is well-below the rate CWRM determined to be acceptable. If the Board is seeking information on the cost of lining, Applicants do provide the Board with information on the cost of lining one reservoir in their quarterly reports (approximately \$4.45 million for a 10-acre reservoir). The cost is significant, making it difficult to justify the lining of even one reservoir under a one-year revocable permit terminable upon 30-days’ notice. It is difficult to initiate an analysis of lining any reservoirs, let alone all reservoirs, under such a short-term commitment, particularly where there is no demonstrated need to do so.

Comments on Sierra Club’s written testimony

Sierra Club submitted written testimony on December 9, 2025, addressing the recommendations in the Staff Submittal. In general, Sierra Club’s comments are not supported by the science or the facts and, if adopted, would have significant adverse impacts on the future of diversified agriculture in central Maui. While we will not address every single issue with Sierra Club’s testimony, we will address the most glaring areas of concern.

22.41 MGD cap – Sierra Club demands that the Board limit the amount of water that may be diverted pursuant to the RP to 22.41 MGD on a monthly average¹, which is the average amount of water that was diverted from the areas covered by the RP from January to October 2025.² If we take out a conservative 5 MGD for the County’s water uses, that would leave only 17.41 MGD

¹ For the reasons stated above, a monthly average should not be applied to the RP.

² Notwithstanding Sierra Club’s assertion that the Staff Submittal authorizes more water to be diverted than in 2025, as explained above, the recommendation in the Staff Submittal is to allow less water than the allocation allowed under the 2025 RP.



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available for Mahi Pono’s diversified agriculture crops. In each month of 2024 and 2025 (through October), Mahi Pono’s diversified agriculture crops consumed well above 17.41 MGD:

Diversified Agriculture Use (in MGD)

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.
2024	22.32	29.93	31.36	28.59	27.33	31.08	36.05	33.19	27.09	35.57	39.13	35.78
2025	34.64	24.09	31.20	34.17	39.26	40.77	44.89	32.81	33.54	29.56		

Slashing the amount of surface water that may be used to irrigate Mahi Pono’s diversified agriculture crops in this way would significantly impair Mahi Pono’s farming operations. It is almost certain that Mahi Pono would need to cease irrigation for some of its existing crops and layoff some of its staff as this level of water cannot support the existing farming operations. And without an adequate water supply, Mahi Pono would need to consider de-designating some of its IAL designated lands. “[I]f a sufficient supply of water is no longer available to allow profitable farming of the land due to governmental actions,” a landowner may “petition the land use commission to remove the [IAL] designation” from its lands. HRS § 205-50(g).

Arbitrarily restricting water in this way would be contrary to the State’s constitutional obligation to “conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands,” Haw. Const. art. XI, § 3, and statutory duty to protect lands designated as IAL, HRS § 205-42(b)(2), and would not be maximizing the reasonable and beneficial use of the public trust resource. Cutting the water allocation as urged by Sierra Club would also be a significant blow to the revitalization of agriculture in central Maui and would be a step backward in the effort to diversify Maui’s economy and increase food self-sufficiency and resiliency.

Sierra Club asserts that the Board should take this drastic measure because Judge Cataldo purportedly ordered it. Contrary to that assertion, Judge Cataldo specifically acknowledged the concerns of the Board and A&B/EMI that the ruling amounted to a mandatory injunction or conditions that BLNR would be required to impose on the RP and explained that the ruling was “not too inflexible” and “d[id] not amount to ‘broad, sweeping pronouncements on fact- and case-specific issues.’” In short, while Judge Cataldo’s order provided guidance to the Board, it did not mandate specific action or require certain conditions be imposed on future revocable permits.

The water needs of Mahi Pono’s diversified agriculture crops – Sierra Club argues that, even if the Board were to consider the needs of Mahi Pono’s diversified agriculture crops, those crops do not require more than 2,500 gad, a number that is taken from the Waiāhole case. In that case, however, the water duty applied to farms with ***rotating crops***, meaning “at any one point, the maximum [the farmers] have in actual crop on ground is one-third (1/3) of their land, while the other two-thirds (2/3) is in various stages of harvest, plow down and arid aeration to disrupt insect

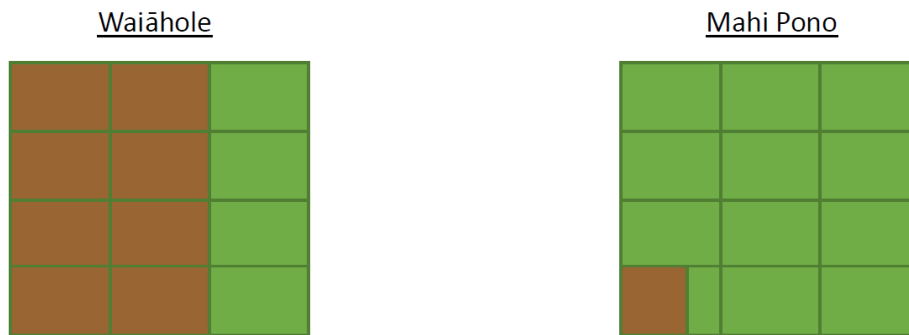


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buildup.”³ Because it was difficult to specify what a particular parcel’s water needs were as a result of the rotation among fields, CWRM “decided an average water use of acreage under *cultivation* was the most appropriate method to use,” and adopted the 2,500 gad standard to issue water use permits to each farmer.

The practical effect of applying a lower water duty to all “cultivated” land including the two-thirds of that land that did not have any crops in the ground at the time, is that the Waiāhole farmers had three times, or 7,500 gad, available for the one-third of their land that actually had crops in the ground. It is improper to graft that 2,500 gad number onto Mahi Pono’s crops which are largely permanent crops (*i.e.*, trees that are not dug up and replanted), not rotating crops. Assuming that at least 90% of Mahi Pono’s crops are permanent crops, applying the 2,500 gad water duty utilized in Waiāhole would mean that Mahi Pono would need to irrigate nearly three times more crops with the same amount of water that was available to the farmers in Waiāhole. This is illustrated by the graphic below (Note: Each green square is a planted acre and each brown square is an unplanted/cultivated acre) that depicts the number of acres that would need to be irrigated with the same amount of water:



It is for this reason that the State of Hawai‘i Department of Agriculture’s (“HDOA”) “Agricultural Water Use and Development Plan” (“AWUDP”) accounts for the amount of “cultivated” acres, stating that a daily water allocation of 3,900 gallons per cultivated acre is needed if 50% of the cultivated area is planted. This results in a similar amount of water being available per “planted” acre as the Waiāhole case.

Lining reservoirs – As discussed above, requiring the lining of reservoirs would reduce recharge of the ground water aquifer, something that CWRM cautioned against particularly where surface water is available. Also as discussed above, requiring Mahi Pono to line even one reservoir, let alone all reservoirs, in the context of a temporary, one-year revocable permit terminable upon 30-days’ notice is unreasonable and impracticable. The temporary nature of the authorization being

³ *In re Water Use Permit Applications*, 94 Hawai‘i 97, 162, 9 P.3d 409, 474 (2000) (hereinafter “*Waiāhole I*”) (quoting CWRM D&O).



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granted under the RP does not justify the time and expense (millions of dollars) required. Moreover, it is likely that with all of the permitting requirements, the project could not be completed within a year.

Sierra Club points to the ‘Iao case and CWRM’s 2018 IIFS decision as examples of where reservoir lining was required. Both of those cases involved long-term dispositions; ‘Iao involved water use permits which last until the water management area designation is removed, and CWRM’s comments quoted by Sierra Club were made directed to the Board to consider “for future *water leases*,” not temporary revocable permits. Sierra Club has not pointed to a single decision in which a court or an agency has required the lining of a reservoir in the context of a temporary, one-year revocable permit terminable upon 30-days’ notice.

Makapipi stream – Sierra Club states that although CWRM “fully restored” Makapipi stream, Sierra Club is not satisfied with CWRM’s actions because “it did not prevent EMI from taking as much water as it wanted from the development tunnels built near Makapipi stream.” Sierra Club asserts that the Board must now take the action that CWRM did not, and prevent EMI from taking any water originating in the Makapipi hydrologic unit. If Sierra Club is dissatisfied with CWRM’s decision, it could have and should have appealed that decision, or, at the least, addressed its concerns with CWRM. It is inappropriate to ask the Board to regulate stream flow and amend the IIFS set by CWRM.

Conclusion

In sum, Mahi Pono’s agricultural operation furthers numerous state policies and mandates, and provides significant public benefits, and thus is deserving of the support of the State through a reasonable 2026 RP. This is particularly true given the delay in proceeding with a long-term license. This is a time when diverse sources of new economic activity on Maui need to be developed, especially sources that enhance the food security and sustainability of Maui and are untethered to the tourism industry. We believe Mahi Pono’s farm plan is one of the most significant developments in this regard. Please consider our comments above, as they are essential to maintaining the momentum Mahi Pono has achieved over the past years in investing in a new economic activity on Maui. We respectfully urge the Board in its decision today to support continued progress of this farm plan.



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Sincerely,

Shan S. Tsutsui

Chief Operating Officer

From: [Malia Marquez](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Written testimony on agenda D15
Date: Thursday, December 11, 2025 2:12:48 PM

Dear Chair Chang and Members of the Land Board,

My name is Malia Lum-Kawaihoa Marquez and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Please take a stand and 'a'ole Mahi Pono. Mahalo for your time on this vital matter.

Me ka ha'aha'a,
Malia L.K. Marquez



MAUI COUNTY FARM BUREAU

PO Box 148, Kula, HI 96790
mauicountyfarmbureau.org

December 12, 2025

Testimony Re: Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui

Aloha Chairperson Chang and Members of the Board,

I am Warren K. Watanabe, executive director of the Maui County Farm Bureau. The Maui County Farm Bureau supports the issuance of the revocable permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC.

The surface water is critical for our farmers and ranchers in the upcountry area resulting in food, floral, and nursery products for our residents and visitors. Many of these farms and ranches have been in production for generations and look towards continuing into the future. The state has mandated increasing local production for food security and to provide for the school lunch program. Water availability and affordability is a critical resource in meeting the state's goals which will not be met if water is limited for the farmers and ranchers.

Maui and the State have seen many years of drought due to climate change. Weather patterns and rainfall have changed dramatically over the years and will continue to do so. The County of Maui Ag Park and the Omaopio area have had very little rain and so the farmers must irrigate to produce their crops. The drought this year has been very severe, and we were in an unusual situation where the water department imposed a Stage 3 shortage for the upcountry area. The department has since downgraded the shortage to Stage 1. The upcountry area of Maui has a long history in agriculture that needs to be preserved and continue to prosper. The benefits to the County and the State are well worth the investment.

In closing, the Maui County Farm Bureau cordially requests the issuance of the revocable permit. Thank you.

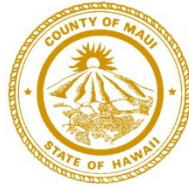
Warren K. Watanabe
Executive Director
Maui County Farm Bureau

RICHARD T. BISSEN, JR.

Mayor

JOSIAH NISHITA

Managing Director



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

December 11, 2025

Ms. Dawn N.S. Chang, Chairperson
State of Hawai'i Board of Land and Natural Resources
Kalanimoku Bldg.
1151 Punchbowl St.
Honolulu, Hawaii 96813

RE: BLNR AGENDA ITEM D-15 FOR DECEMBER 12, 2025: Issuance of Revocable Permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Aloha e Chair Chang and Members of the Board,

Thank you for the opportunity to provide testimony on Agenda Item D-15. I offer this testimony in strong support of the issuance of a one-year revocable permit to Mahi Pono, LLC and East Maui Irrigation Company, LLC (EMI) for the continued development, diversion, and use of surface water in East Maui.

In addition, I support staff's recommendations, subject to an additional water allocation request, as noted in DWS's testimony.

As reflected in the detailed testimony submitted by the County of Maui Department of Water Supply (DWS) and the Department of East Maui Water Authority (EMWA), the County's priority is to secure a stable, reliable, and affordable supply of water for the Upcountry community and for agricultural needs while ensuring that water resource management is conducted responsibly and transparently. Their analyses outline the operational realities, legal mandates, and infrastructure requirements essential to meeting both current and projected demand on the Upcountry system.

Our departments' testimonies together underscore several shared priorities:

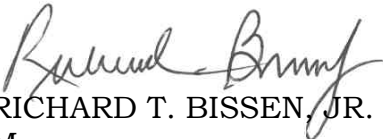
- **Ensuring reliable municipal water supply for Upcountry residents.**
The County must maintain consistent access to surface water conveyed through the EMI system to meet community needs, particularly during drought periods and peak demand.
- **Advancing long-term water security consistent with State and County plans.**
The Maui Island Water Use and Development Plan and community plan policies call for expanded municipal withdrawals from the lowest-cost, most reliable sources. This revocable permit supports that framework.
- **Supporting agriculture and local food security.**
The allocation of water to the Kula Agricultural Park and the planned expansion of the Park remains a critical component of sustaining diversified agriculture in Maui County.
- **Strengthening cross-sector coordination.**
The continued convening of the East Maui Stakeholders Interim Committee, as noted in Condition (6) of the submittal, has proven valuable in fostering transparency, collaboration, and education around water resource management. I support the County's ongoing participation in and leadership of this process.
- **Maintaining operational continuity while long-term agreements are negotiated.**
The revocable permit provides essential time and stability for the County, Mahi Pono, and EMI to work toward a mutually beneficial long-term agreement that reflects community values, supports agriculture, and safeguards public trust resources.

I want to express my sincere appreciation for the efforts of DWS, EMWA, EMI and Mahi Pono, LLC. for their continued willingness to engage in good-faith negotiations, and in providing thorough technically detailed testimony. This collaborative effort reflects the depth and importance of the work underway to improve system capacity, expand treatment and storage, and modernize infrastructure to meet future needs. These collective efforts are central to ensuring that our communities—particularly Upcountry residents—receive the water reliability they deserve.

Mahalo for your consideration of Maui County's aligned position. We respectfully urge the Board to approve the issuance of the revocable permit for 2026. Department of Water Supply Deputy Director Landgraf and East Maui Water Authority Director Young will be available at Friday's meeting should you have any questions.

Mahalo for your consideration.

Sincerely,


RICHARD T. BISSEN, JR.
Mayor

From: [Elizabeth McDermott](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 10:57:55 PM

Dear Chair Chang and Members of the Land Board,

I write urging you to protect the public interest in East Maui's streams, our wai. I stand with the Sierra Club's testimony, urging you to recognize that the staff recommendation in this agenda item is critically flawed.

It's unconscionable that you would consider allowing Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams. The Water Commission in 2022 ordered that the streams be restored. Those who have shown they cannot responsibly manage our wai should not be given more access and control.

Please do the right thing.

Mahalo,

Beth McDermott
Hawaii resident since 1969

From: [kk McEvilly](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 7:06:11 AM

Dear Chair Chang and Members of the Land Board,

My name is Ke'ili McEvilly, and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Ke'ili

From: [Jennifer Mitchell](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-15
Date: Thursday, December 11, 2025 12:14:49 PM

My name is Jennifer Mitchell and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

E Ola i ka Wai!!
Mahalo nui,
Jennifer Mitchell

From: [Reiki Master Marco](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 9:23:26 PM

Dear Chair Chang and Members of the Land Board,

My name is Marco Muhlbach and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Allowing further desecration of our water ways will have lasting impacts on the lives of our children. Not just due to the environmental impact, but in our failure to uphold the agreements and standards decided upon by the people.

Mahalo nui,

Marco Muhlbach

From: [Noreen Nakaoka](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 9:45:48 PM

Dear Chair Chang and Members of the Land Board,

My name is Noreen Nakaoka and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Noreen Nakaoka

From: [Skyla Oneil](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 11:08:55 AM

Dear Chair Chang and Members of the Land Board,

My name is Skyla Oneil and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Skyla Oneil

From: [Martina Osicka](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 9:04:46 AM

Dear Chair Chang and Members of the Land Board,

My name is Martina Osicka resident of South Maui and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Lastly, it disturbs me that I drive past Mahi Pono farms and see fruits rotting on the trees. This has me believe their food production system is flawed, over consumptive and not deserving of additional resources at this time until they can manage better what they have.

Mahalo nui,

[your

From: [Pua'ala Pascua](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:49:27 PM

Dear Chair Chang and Members of the Land Board,

My name is Pua'ala Pascua and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Pua'ala Pascua

From: [Michael Peterson](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 9:44:26 AM

Dear Chair Chang and Members of the Land Board,

My name is Michael and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahi Pono should not be allowed to divert water to the point to where natural stream beds are dry.

Mahalo nui,

Michael Peterson

From: davidsher@juno.com
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 10:02:28 PM

Aloha Chair Chang and Members of the Land Board,

I am writing in strong opposition to the recommendations made by staff toward the approval of a revocable permit to Mahi Pono and East Maui Irrigation, (Agenda Item D-15). I strongly disagree with their conclusion that issuing this permit would be in the best interests of the State as it is NOT consistent with the public trust doctrine, despite their assertions. If what the staff submitted is approved, ongoing water waste and the complete dewatering of streams would be allowed to continue. This Board should not be giving Mahi Pono and East Maui Irrigation more water. Mahi Pono has been negligent in their operations, as they still refuse to line their reservoirs after decades of water waste.

I urge you to not accept the staff's flawed recommendation for this agenda item.

Mahalo for the opportunity to provide testimony,
Sherry Pollack

From: [Nalu C.](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony regarding Agenda Item D-15
Date: Thursday, December 11, 2025 12:54:29 PM

Dear Chair Chang and members of the Land Board,

My name is Nalou Chalifoux Reis, resident of Haiku and land/watershed restoration steward of Honomanū ahupu'a(most frequently).

As a community member, I urge you to recognize that the staff recommendation in this agenda item is critically flawed and deeply concerning. Many community members have consistently attended meetings regarding water management and are far more qualified to speak at length on these complex, multidirectional, and systemic issues. Even so, the purpose of my written testimony is to express my wholehearted respect and support for the interests of East Maui stakeholders, particularly those with ancestral ties to Hawaii who possess extensive knowledge and experience in these matters. Community members are eager to protect the long-term health and well-being of our ecosystems, which is literally essential for the continuation of human life. This crucial point seems to be continually overlooked within political and bureaucratic arenas.

Meanwhile, Mahipono's interests, carelessness, and poor choices/actions directly oppose community health and survival by wasting, contaminating, and depleting the critical resources necessary for sustaining human life. Their neglect to line the reservoirs and repair/address all defective components of the water extraction/diversion system is egregious, and as you very well know, has resulted in the daily waste of millions of gallons of water. At the same time, residents and farmers struggle through droughts, water restrictions, and rapidly worsening global warming conditions. This reflects short-sighted and antisocial corporate decision-making. They have proven time and time again that they are the least qualified group/entity to be granted the honor and responsibility of controlling and managing such vital resources, let alone having continued contractual dominion over them, with little to no oversight and consequences.

It does not require a specialist to understand the facts and evidence available to the community and the Land Board, which have been reiterated in every possible format. Respectfully, ignoring crucial issues such as these and the relentless community input reflects either willful ignorance or cognitive dissonance. I urge board members to consider the needs of your passionate, devoted, and concerned constituents and vote in favor of long-term water/land protection, NOT for the interests of Mahipono and other blatantly unqualified entities. We are not meant to own or hoard natural resources; we must protect, care for, and share them. These principles are not only values, but they are also legally required.

Mahalo nui loa for your time, kuleana, and aloha.
Nalu (Nalou Chalifoux Reis)

John L. Reppun
PO Box 5491
Kane'ohe, HI 96744
jreppun@gmail.com

State Dept. of Land & Natural Resources/Land Board
Chair Dawn N.S. Chang blnr.testimony@hawaii.gov

Subject: Testimony on Agenda Item D-15, Board of Land & Natural Resources Meeting of Friday, December 12, 2025

Aloha Chair Chang, Members of the Land Board,

Mahalo for the opportunity to provide testimony on the subject item referenced above. I am writing, as a lifelong resident of Ko'olaupoko, in strong support of the testimony and position taken by the Sierra Club of Hawaii. Their position is based on a long history of increasingly sophisticated and well-founded input on water allocation issues throughout our island state. They and so many others who are fighting for restoration of stream flows and support for traditional and cultural uses in ahupua'a on every island, in every moku, consistently advocate for recognition of basic public trust laws relating to water use: the assertion of common-sense policy that discourages unwarranted diversion from watersheds, adheres to the stance that use should never be to the detriment of downstream users, calls for proof that all reasonable and practicable alternatives have been exhausted.

I stand with the Sierra Club in their assertion that the "staff recommendation in this agenda item is critically flawed" *and* that the "staff submittal includes egregious errors and fails to comply with court mandates." I urge the Board to: reject the subject request, follow the Environmental Court's instructions, insist that the Commission on Water Resource Management first complete its mandated tasks relating to establishment and implementation of robust streamflow standards *and* grant the Sierra Club's request for a *Contested Case Hearing* in order to properly address the issues raised.

John L. Reppun, Waiahole resident and farmer
(808)277-8686

From: [Terani Richmond](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony
Date: Thursday, December 11, 2025 12:26:17 PM

Dear Chair Chang and Members of the Land Board,

My name is Terani Richmond and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Terani Richmond

From: [Saya Shibata](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 9:29:49 AM

Dear Chair Chang and Members of the Land Board,

My name is Saya and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,
Saya Shibata

Sent from my iPhone

From: [Paul Solomon](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 1:48:28 PM

Dear Chair Chang and Members of the Land Board, My name is Paul Solomon. The staff recommendation in agenda item D-15 is critically flawed. Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so. Mahalo nui,

Paul Solomon, LCSW
808-633-3009
PSolomonLCSW@gmail.com

From: [Marie Tennyson](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 10:12:14 AM

Dear Chair Chang and Members of the Land Board,

My name is Marie Tennyson, and I have lived on Maui for ten years. I am the owner of Indigo & Amethyst Esthetics, a small, community-rooted spa where I work hands-on with local people every day — helping them heal, supporting their wellbeing, and listening to their stories. This island has shaped me, embraced me, and given me a home. I feel a deep responsibility to stand up for the people who live here and for the land and water that sustain all of us.

Because of that, I am urging you to protect Hawai‘i’s natural resources rather than allowing them to be further controlled or extracted by corporate interests based in Canada.

The consequences of these decisions are not abstract. We lived through the fires. Our community is still dealing with poisoned water. Families are still suffering. At a time when fresh, clean water is more vital than ever, it is heartbreaking to see resources diverted away from the very people who call this island home.

Maui once thrived on local agriculture. Our food lands and crops — the same lands that supported generations — have been taken over by outside corporations. What used to provide real income, stability, and identity for local families has been reduced to a system where tourism is the only thing left. Meanwhile, our water and land, the very foundation of life here, continue to be sold off and extracted for profit elsewhere.

We cannot keep giving away the last of what sustains us. If we want Maui to heal, rebuild, and stand on its own again, our people need access to clean water and land — not corporations that have neglected and abandoned this community time and time again.

I respectfully urge the Board to reject any proposal that allows further diversion of water to outside entities. Protecting the people of Hawai'i means protecting the resources that belong to this place and its future. I request zoom.

Mahalo nui loa,

Marie Tennyson

from my iPhone

From: [evolved](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 8:34:10 PM

Dear Chair Chang and Members of the Land Board,

My name is Susan Veno and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono, after years of enjoying public trust water, still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

**Mahalo nui,
Susan M. Veno**

From: [Diane Ware](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-15
Date: Wednesday, December 10, 2025 6:56:13 PM

Dear Chair Chang and Members of the Land Board,

My name is **Diane Ware** and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This Board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Mahalo nui,

Diane Ware
808-967-8642
P. O. Box 698
99-7815 Kapoha
Volcano HI 96785

From: [Liz Wiggans](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Wednesday, December 10, 2025 7:42:08 PM

Dear Chair Chang and Members of the Land Board,

My name is Liz Wiggans and I share the concerns of many other residents. I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Like other writers, I find many issues with this agenda item. Perhaps the most egregious is the proposal to allow PSP Investments (dba Mahi Pono) and East Maui Irrigation to increase its allocations over previous years -- during a drought -- without essential baseline hydrologic data. This Board should not be giving Mahi Pono and East Maui Irrigation more water when the streams that had been ordered by the Water Commission in 2022 to be restored yet continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the Board from doing so.

Sincerely,
Liz Wiggans

From: [M](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 5:47:30 AM

Dear Chair Chang and Members of the Land Board,

My name is Mary Wutz, and while I am not native to this land, I have come to understand something fundamental: we are all accountable for how we care for the places we call home. Living here has taught me that true stewardship means speaking for that which cannot speak for itself—the streams, the forests, the aquifers that sustain all life on this island.

As you know, the word "pono" translates into words like balance, righteousness, doing what is morally right. Yet you are being asked to grant even more water to a company called Mahi Pono—a company that has demonstrated, year after year, that it does not understand what it means to operate in balance with this land. They have been given responsibility over a massive portion of this island, and they have failed to honor that privilege. They waste water through unlined reservoirs while streams run dry. They take more than they need while refusing to implement basic conservation. They operate with the mindset of extraction, not stewardship.

Why are you allowing an entity that has proven itself incapable of responsible stewardship to control such a large percentage of this island's lifeblood when they have already shown they do not deserve that privilege?

When tourists come to Maui, we teach them. We ask them to respect the reefs, to stay on marked trails, to tread lightly on this fragile ecosystem. We explain that what seems abundant is actually precious—that their actions have consequences that will echo long after they leave.

Mahi Pono is a visitor here too. They arrived with mainland money and mainland methods, but they have not learned what it means to be part of this place. Like tourists who don't understand that walking on coral kills it, Mahi Pono doesn't seem to grasp that you cannot take and take from an island's water without destroying the very thing that sustains life here.

The staff recommendation before you today would allow Mahi Pono and East Maui Irrigation to take even *more* water than they took last year. More water, when the streams you ordered restored in 2022 still run dry. More water, while they refuse to line century-old reservoirs that have hemorrhaged precious water for decades—the equivalent of leaving the tap running while the house burns down. More water, when we don't even understand what the diversion system is doing to Makapipi stream.

I've seen this story before. California's Central Valley—Bakersfield, Fresno—was once fertile land. Industrial agriculture promised prosperity. Instead, they created a dust bowl. Aquifers depleted. Land subsiding. Communities left with poisoned water and barren earth. The same unsustainable practices that turned California's heartland

into a wasteland are now being applied here, by people who learned nothing from that disaster.

But Maui is not California. This is an island. We cannot import water from the Colorado River when ours runs out. We cannot drill deeper wells indefinitely. When these streams die, they take the forests, the ecosystems, the food security, and the future of everyone who lives here with them.

Mahi Pono needs to be educated, just like any visitor who doesn't understand island ecology. Education requires consequences, yet this recommendation would reward decades of waste and refusal to implement basic conservation measures with *more* of our most precious resource.

The streams cannot speak for themselves. The aquifers cannot defend themselves. The land cannot vote. But you can speak for them. You have the power—right now, in this moment—to say that this island's water, its streams, its ecological balance matter more than corporate agriculture's bottom line. To say that unenforceable terms and decades of waste are not acceptable. To say that anyone operating on this land—whether they arrive for a week or buy thousands of acres—must demonstrate they can be responsible stewards before being granted more.

To honor the court order that already prohibits what is being proposed.

I urge you to reject this recommendation and stand with the land that sustains us all.

With Appreciation,

Mary Wutz

Mary Wutz

PO BOX 901404

Kula, HI 96790

From: [Princeton Yamaguchi](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on agenda D -15
Date: Wednesday, December 10, 2025 10:26:59 PM

Dear Chair Chang and Members of the Land Board,

My name is Princeton Yamaguchi and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Princeton Yamaguchi

East MauiDecember 2025

From: [Nicoletta Yeutter](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-15
Date: Thursday, December 11, 2025 1:33:53 PM

Dear Chair Chang and Members of the Land Board,

My name is Nicoletta Yeutter and I urge you to recognize that the staff recommendation in this agenda item is critically flawed.

Of the many issues with this agenda item, perhaps the most egregious is the proposal to allow Mahi Pono and East Maui Irrigation to take even more water than was taken from East Maui's streams last year. This board should not be giving Mahi Pono and East Maui Irrigation even more water - not when streams ordered restored by the Water Commission in 2022 continue to be drained dry. Not when Mahi Pono still refuses to line its century-old reservoirs after decades of water waste. Not when we do not understand the impacts of the diversion system on Makapipi stream. Not when the terms of the new revocable permit are unenforceable. And not when a standing court order specifically prohibits the board from doing so.

Mahalo nui,

Nicoletta Yeutter