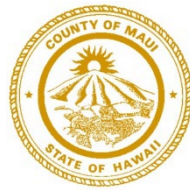


RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

GINA M. YOUNG
Director



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

April 6, 2026

Ryan Kanaka'ole, Acting Chair
And Honorable Members
State of Hawai'i Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawai'i 96813

**RE: TESTIMONY REGARDING APRIL 10, 2026 AGENDA ITEM D-1:
INFORMATION BRIEFING ON THE COUNTY OF MAUI, DEPARTMENT OF
THE EAST MAUI WATER AUTHORITY'S OPERATIONAL CAPACITY AND
PLANNING RELATED TO THE EAST MAUI IRRIGATION SYSTEM,
KOOLAU FOREST RESERVE, ISLAND OF MAUI, HAWAII**

Aloha e Acting Chair Kanaka'ole and Members,

Mahalo for scheduling an informational update from the County of Maui, Department of the East Maui Water Authority (EMWA). We appreciate the patience of the Board of Land and Natural Resources as the EMWA has been established as a County department. Attached to this letter, please find a report on the County of Maui's operational capacity and planning to assume responsibility for management of the East Maui water system.

We welcome the opportunity to continue working collaboratively with the Department of Land and Natural Resources and Board of Land and Natural Resources on a path forward. We respectfully request your partnership in supporting a County's request for an executive order to allow for the collection of water emanating from State lands and the assignment of the State's perpetual rights to the transmission system as provided by the agreement dated March 18, 1938 between the Territory of Hawai'i and the East Maui Irrigation Company.

We believe this approach supports the broader public interest by enabling long-term support for agriculture, continued service to Upcountry residents, access to County capital improvement funding and grant opportunities, economic benefits to watershed communities, and enhanced

protection of our natural resources. We respectfully ask that the County's request for an executive order be given full consideration as part of your review process, prior to any decision regarding the issuance of a long-term water license to a private entity through public auction.

Prioritization of the County's Request

Based on prior public representations and testimony, it is our understanding that County management would receive priority consideration before initiating a competitive process for private allocation. Discussions with DLNR regarding the assignment of state rights began in 2021. During the November 16, 2021 County Council Agriculture and Public Trust Committee meeting, DLNR representative Ian Hirokawa noted the importance of addressing County interest prior to moving forward with a public auction process. Similarly, testimony before the House Water and Land Committee on February 12, 2026 further affirmed that a set-aside is generally the first option when counties seek access to water resources from state lands, and that this process is often more efficient than pursuing a water license. We share these references to reflect our understanding of the State's longstanding approach and to support continued alignment moving forward.

Process Considerations

With respect to process, it is our understanding that a set-aside of a public utility through executive order does not require a public auction and therefore may not necessitate a contested case hearing. By contrast, contested case hearings are typically associated with the disposition of water licenses to private entities through public auction under HRS §171-58. Actions taken under HRS §§171-95 and 171-11, including executive orders for public utility purposes, have historically followed a different process. We welcome continued discussion to ensure a shared understanding as we move forward.

We are unaware of any specific statutory qualifications required of the County as part of the executive order process, and our review of other executive order set-asides and applications for surface water system management did not identify requirements. However, we have provided detailed responses to the questions raised in your letter in the attached report in the spirit of transparency and to support your review.

Litigation Context and Path Forward

We recognize the importance of resolving longstanding concerns related to revocable permits and ongoing litigation. Our intent is to support a path forward that provides clarity and stability while remaining consistent with court guidance. As reflected in prior court decisions, their focus has been on ensuring that appropriate processes are followed when authorizing water diversions, including the protection of instream flow standards and traditional and customary Native Hawaiian rights. We believe that County management through an executive order offers a constructive path that can help address these concerns while advancing responsible stewardship.

Public Interest and County Stewardship

The County believes that local governmental management of water delivery systems and watershed programs supports long-term water availability for residents and agriculture, strengthens watershed protection, and provides economic benefits to local communities. This approach aligns with ongoing efforts to move toward locally governed, publicly accountable

systems that are consistent with Commission on Water Resource Management orders, instream flow standards, and Native Hawaiian rights (including the traditional and customary rights exercised in East Maui as well as the rights to water of the Department of Hawaiian Home Lands), while continuing to support agricultural use. Local governance also enables more proactive management and system improvements through access to County capital improvement funding and grant opportunities.

We also recognize the critical importance of a strong agricultural sector to Maui's food security, economic resilience, and wildfire risk reduction. Productive Central Maui agriculture plays an important role in sustaining our local economy and stewarding lands in ways that reduce fire risk and protect surrounding communities. Ensuring long-term, reliable, and affordable access to water is essential for Mahi Pono and any future operators to continue fulfilling this role.

Our shared goal is to support the continued viability of agriculture in Central Maui for generations to come, while preserving Important Agricultural Lands as a foundation for food production and economic opportunity. Under the County's proposed approach, delivery of water for agricultural purposes, including to Mahi Pono, would continue through a water delivery agreement with the County. Water service to Upcountry communities would also continue as it does today.

Request for Maui-Based Engagement

Finally, we respectfully request that future Board discussions related to East Maui water be held on Maui, to ensure accessibility for the communities most directly connected to these resources and decisions.

We appreciate your continued partnership and look forward to working together on the development of an executive order. Please let us know a convenient time to continue these discussions.

Mahalo,



GINA YOUNG

Enclosures:

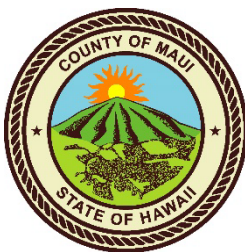
Report on Maui County's Capacity to Manage East Maui Water System

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

James Landgraf, Deputy Director Department of Water Supply

Josiah K. Nishita, Managing Director, County of Maui

Dr. Jonathan Likeke Scheuer, Chair, the 'Aha Wai O Maui Hikina, East Maui Regional Community and Board Members



Report on County of Maui Capacity to Manage East Maui Water System

Maui County can operate the East Maui water system through a State Executive Order. The Department of Water Supply (DWS) will operate, maintain and improve the system. The EMWA is entering into an intragovernmental agreement with DWS to specify roles and responsibilities. An operational plan is being developed in anticipation of beginning operations by the end of the year. The EMWA is establishing a watershed planning division to implement watershed programs to increase aquifer recharge. Its work to steward East Maui water resources centers on environmentally sustainable practices, local expertise and Hawaiian cultural and generational knowledge. This integrated system of water resource management provides a long-term approach to asset management and watershed protection to ensure water availability for Maui County residents and our agricultural sector for generations to come.

Maui County organizational capacity. DWS currently operates four surface water systems in Maui: Waikamoi, Kahakapao, Pi‘iholo and Lahaina. The Department has 240 positions overall, including 170 personnel assigned to operations for water systems. Those consist of pipefitters, equipment operators, pump mechanics, construction mechanics, construction personnel, laborers, water meter technicians, electricians, electronic technicians, laboratory personnel, welders, distribution system operators, surface water treatment operators, valve control technicians and several other personnel for support of the Departments water systems. In addition, 10 positions are being created in anticipation of County acquisition of additional water systems. The County is also in discussions with Mahi Pono and East Maui irrigation about contracting services as an additional option.

Budget and funding, including current funding sources, anticipated capital and operational costs, and any identified funding gaps. For fiscal year 2026, the County of Maui has a \$1.56 billion dollar budget and a AA+ bond rating providing significant access to financial markets for capital program funding. Acquisition of local water systems and the protection of natural resources are top priorities for the County. In this fiscal year, DWS has a capital improvement program to manage over \$68 million dollars in funding. As a government entity, the County is required to manage assets for the long-term and has committed over \$563 million dollars of water improvement projects funding over the next six years. Funding gaps for capital improvements are not anticipated. The County uses a six-year funding program that incorporates public transparency and community input to establish priorities as part of our municipal budget process. Maui County also anticipates additional funding will be available through its strategic water conservation efforts and other grant funding opportunities.

Integrated Water Resource Management. The County of Maui is able to operate and upgrade the system, provide watershed management programs in the lower and middle areas, and provide benefits to the communities of Maui Hikina to mitigate community impacts of water removal from the area. This integrated approach seeks to not only ensure long-term water availability for the island of Maui but also improve the health of the watershed areas and communities. Long-term water removal from the area has resulted in negative consequences to these communities. The County of Maui through the work of the EMWA seeks to restore health and balance to the area through the reintegration of cultural values and practices, the active transfer of knowledge to generations that will shoulder the responsibilities and impacts of climate change, and economic employment opportunities to bring families back home.

Other operational and legal considerations. Most of the water collected by the East Maui water system emanates from State land, and most of the East Maui water system is located on State land. An executive order from the State can be granted to Maui County allowing the use of water emanating from State lands and for any and all interests the State holds in the East Maui water system.

In addition, Maui County has clear statutory authority to own and control property within its boundaries. HRS § 46-1.5(16) authorizes the County to acquire and hold real and personal property. The County also has explicit authority over water infrastructure. Under HRS § 46-1.5(19)(A)(B), Maui County may acquire, operate, manage, and maintain waterworks systems, including reservoirs, wells, pipelines, and related facilities used to distribute, regulate, and control water for public use. In addition, HRS § 46-1.5(23)(F) authorizes the County to assume control from the State of existing waterworks systems, including water rights, pipelines, and related appurtenances, to enlarge, develop, and improve those systems.

County use of State lands to collect water and for operation of the system will also provide for the continued provision of revenues to the Department of Hawaiian Home Lands (DHHL) and the Office of Hawaiian Affairs (OHA). This ensures that income generated from Crown lands transferred to the state to be held as a public trust continue to be used for the betterment of Native Hawaiians. Under the 2026 revocable permit fee, 30% is transferred to DHHL and 20% to OHA. In addition, revocable permit fees or in-kind services are also used for watershed management by the DLNR Division of Forestry and Wildlife. Memorandums of understanding will be used to ensure continued funding and support to DHHL, OHA and DoFAW.

To support Central Valley agriculture, a revised water delivery agreement between the County of Maui and Mahi Pono will be made to ensure water for crops. In addition, Maui County will coordinate with Mahi Pono for access and/or ownership rights to the portion of the Wailoa ditch between Honopou Gulch and the Kamole treatment plant. This portion of the ditch is utilized by both the Department of Water Supply and Mahi Pono to bring water to Kamole Treatment plant and Central Valley agricultural fields. No adjustments to the gravity fed system are required for the continued flow of water for domestic water to Upcountry residents.