



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
P.O. BOX 621  
HONOLULU, HAWAII 96809

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COMMISSION ON WATER RESOURCE MANAGEMENT

May 18, 2021  
Honolulu, O'ahu

Approve Surface Water Reservation of 2.00 Million Gallons per Day  
For the Department of Hawaiian Home Lands and  
Amend Interim Instream Flow Standards for Honokōhau and Kaluanui Streams  
in the Surface Water Hydrologic Unit of Honokōhau (6014) and  
Honolua Stream in the Surface Water Hydrologic Unit of Honolua (6013), West Maui

SUMMARY OF REQUEST

Staff is requesting that the Commission on Water Resource Management (Commission) consider the recommendations to:

1. Approve the request for a surface water reservation of 2.00 million gallons per day (mgd) for the Department of Hawaiian Home Lands (DHHL) to meet their foreseeable future non-potable water needs in Honokōwai serviced by the Honokōhau Ditch from the Honokōhau Stream; and
2. Amend the interim instream flow standards (interim IFS) for two streams in the Honokōhau surface water hydrologic unit and one stream in the Honolua surface water hydrologic unit, in West Maui:

HONOKŌHAU HYDROLOGIC UNIT (6014): Honokōhau Stream  
HONOKŌHAU HYDROLOGIC UNIT (6014): Kaluanui Stream  
HONOLUA HYDROLOGIC UNIT (6013): Honolua Stream

LOCATION MAP See Figure 1

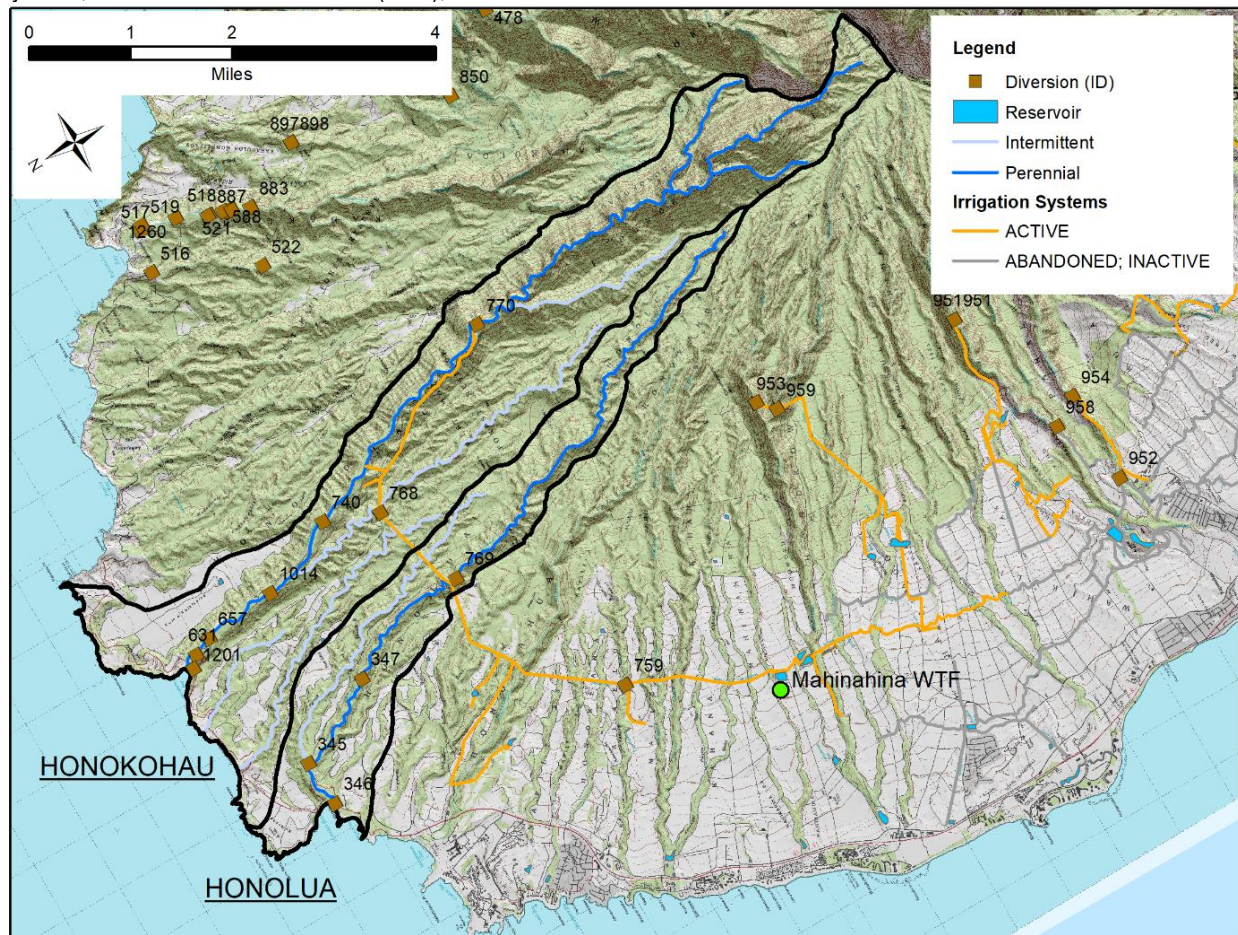
DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

In 2019, staff from DHHL and the Commission started discussing the non-potable water reservation for DHHL for future DHHL land uses in Honokōwai. In 2020, DHHL staff indicated that they were updating their West Maui Regional Plan following the development of the Villages of Leiali‘i, in consultation with their beneficiaries, and that revised non-potable water demand estimates were forthcoming. The revised acreage, use, and water duties are provided in Table 1. Following this consultation, DHHL determined their non-potable reservation to be 2.00 mgd. The breakdown for this reservation is provided in Table 1.

**Table 1.** Acreage, water demand rate (gallons per acre per day, gpad) and total water demand (gallons per day) by land use for the DHHL water reservation.

Land Use	Type	Area (acre)	Rate (gpad)	Water Demand (gpd)
Subsistence Agriculture	Private Homestead	347	4849	1,682,602
Supplemental Agriculture	Private Homestead	14	4849	67,886
Communal Agriculture	Community Use	17	4849	82,433
Parks	Community Use	30	4849	145,470
Total =				1,978,392

**Figure 1.** The Honolua and Honokōhau hydrologic units, perennial and intermittent streams, registered diversions and irrigation systems, and water treatment facilities (WTF), West Maui.



## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

In 2003, the U.S. Geological Survey (USGS), in cooperation with the Office of Hawaiian Affairs, produced a Scientific Investigations Report (SIR 2003-4060) which provided flow-duration estimates and detailed characterization of the distribution and availability of base flows in lower Honokōhau Stream. The analysis also showed groundwater gains between the USGS long-term continuous gaging station 16620000 at the 870 foot elevation time and Diversion 770 at the 825 foot elevation, as well as gains and losses of surface water downstream to the ocean. Following the publication of USGS Scientific Investigations Report 2014-5087, Commission staff began analyzing historic and current data in support of the production of the Instream Flow Assessment Report (IFSAR) for each hydrologic unit in West Maui.

Based upon the best available information, as presented in the IFSAR<sup>1</sup>, testimony provided by stakeholders at the public fact gathering meeting and previously agendaized Commission meetings on this subject, and provided in the informational submittal presented to the Commission at the regularly scheduled meeting on April 20, 2021 (see Exhibit 2), staff have developed a recommendation that seeks to balance public trust uses, instream values, and reasonable and beneficial uses. Staff have provided a simplified diagram of stream and ditch flows in the Honokōhau and Honolua hydrologic units for reference in Figure 2.

At a regularly scheduled Commission meeting on November 19, 2019, Commission requested that Maui Land and Pineapple (MLP) formally apply for the abandonment of diversion 768 on Kaluanui Stream and diversion 769 on Honolua Stream. The Commission also directed MLP to upgrade diversion 770 infrastructure and monitoring such that it can be remotely operated to only divert the amount of water required to meet non-instream uses. On September 15, 2020, the Commission approved the Stream Diversion Works Permits (SDWP.5358.6 and SDWP.5359.6) for the abandonment and removal, to the extent practicable, of these stream diversions.

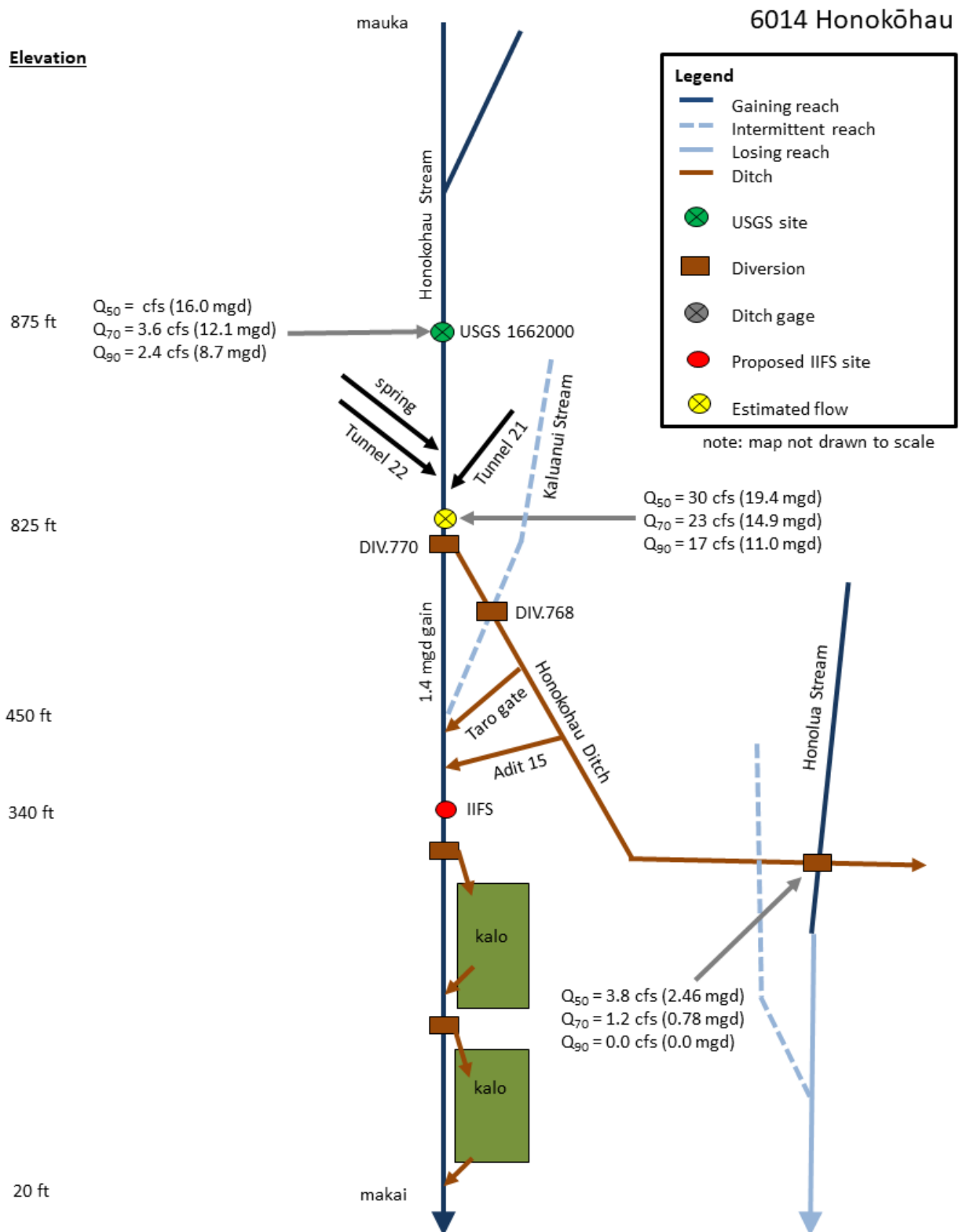
As ordered by the Commission on November 19, 2019, MLP is still required to upgrade the intake on diversion 770 to prevent high flows from entering Honokōhau Ditch, which will continue to be part of the implementation of the DHHL reservation and interim IFS proposed here.

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<sup>1</sup> <https://dlnr.hawaii.gov/cwrmsurfacewater/ifs/westmaui3/>

DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

Figure 2. Simplified schematic of streams, ditches, pipelines, reservoirs, and tunnels in Honokōhau and Honolua, Maui.



RECOMMENDATIONS

## 1. PROPOSED ACTION: RESERVATION OF WATER FOR DHHL

- Approve a reservation of surface water for the Department of Hawaiian Home Lands based on the updated medium-range demands for the Honokōwai Regional Plan, in the amount of 2.00 mgd from the Honokōhau Stream through the Honokōhau Ditch. The reservation of 2.00 mgd of non-potable water for DHHL will also provide more certainty for Maui Department of Environmental Management (Maui DEM) to invest in the infrastructure needed to blend and distribute R1 with reduced chloride levels that meet non-potable needs in the Lahaina Region.

## 2. PROPOSED ACTION: INTERIM IFS ON HONOLUA STREAM

- Staff recommends that natural flow be established for Honolua Stream below the Honokōhau Ditch diversion to maintain the habitat immediately downstream of the diversion.

## IMPLEMENTATION

- Diversion 769 was formally abandoned on September 15, 2020, so the interim IFS will take effect immediately.

## MONITORING

- Staff shall continue to monitor streamflow by maintaining a stream gaging station on Honolua Stream or coordinating with USGS as needed.

## 3. PROPOSED ACTION: INTERIM IFS ON KALUANUI STREAM

- Staff recommends that natural flow be established for Kaluanui Stream below the Honokōhau Ditch diversion.

## IMPLEMENTATION

- Diversion 768 was formally abandoned on September 15, 2020, so the interim IFS will take effect immediately.

## 4. PROPOSED ACTION: INTERIM IFS ON HONOKŌHAU STREAM

To protect instream uses and non-instream public trust uses, staff recommends that an interim IFS be established in two phases for Honokōhau Stream:

**Phase One (pre-DHHL implementation of Regional Plan)**

The interim IFS on Honokōhau Stream at McDonald's Dam (at the 340 foot elevation), shall be a flow of 8.6 mgd. The interim IFS represents the restoration of 64% of median base flow (BFQ<sub>50</sub>) as estimated at USGS 16620000 (7.4 mgd), plus the additional 2.3 mgd of groundwater gains between USGS 16620000 and Aotaki Weir and 1.4 mgd of groundwater gains between Aotaki Weir and McDonald's Dam minus 2.5 mgd for the Maui DWS. The interim IFS is expected to be in excess of the water needs to support the

## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

existing needs of lo‘i as well as future acreage while protecting aquatic biota, recreation, and domestic uses at all elevations, and ensuring sufficient water to meet traditional and customary practices 100% of the time in Honokōhau Valley. MLP is required to meet the interim IFS 100% of the time. There should also be adequate ditch flow to meet Maui DWS needs of 2.5 mgd at the Māhinahina WTF 100% of the time. It is understood that during extreme drought ( $< Q_{90}$ ;  $< 11.0$  mgd at Aotaki Weir), 100% of the off-stream needs of non-public trust uses may not be met.

**Phase Two (upon initial DHHL implementation of Regional Plan)**

The interim IFS on Honokōhau Stream at McDonald’s Dam (at the 340 foot elevation), shall be a variable interim IFS (See Table 2 below). The interim IFS will be the restoration of 50% of total flow at USGS 16620000 plus 2.4 mgd in groundwater gained between USGS 16620000 and McDonald’s Dam. The 2.4 mgd is 50% of the estimated 4.8 mgd in total groundwater gain between USGS 16620000 and McDonald’s Dam. The interim IFS is expected to support all instream values and Honokōhau Valley domestic uses while providing for non-instream public trust uses (domestic uses provided by Maui DWS and DHHL). MLP is required to meet the interim IFS 100% of the time. There should also be adequate ditch flow to meet Maui DWS needs of 2.5 mgd at the Māhinahina WTF 100% of the time. With 2.0 mgd of non-potable agricultural water for DHHL, Maui DEM can blend 2.1 mgd of R1 water from the Lahaina Wastewater Treatment Facility at 50:50 to make available 4.2 mgd of non-potable water to meet the agricultural needs of DHHL and other agricultural uses in the Lahaina Region. It is understood that during extreme drought ( $< Q_{90}$ ;  $< 11.0$  mgd at Aotaki Weir), 100% of the off-stream needs of non-public trust uses may not be met. However, Kapalua Water Company (KWC) has plenty of capacity in its drilled wells to utilize groundwater as a backup supply for its non-potable needs when insufficient water is available in the ditch.

**IMPLEMENTATION**

- Interim IFS will be implemented within 120 days of Commission action.
- Staff shall seek to enforce the provisions of the State Water Code should any unauthorized, non-registered or non-permitted diversions be discovered in the course of its fieldwork.

**MONITORING**

- While staff relied on USGS seepage run measurements to evaluate stream gains and losses within Honokōhau, measurements were done during the 1995-1997. Additional measurements will be conducted as part of the Joint Funding Agreement with USGS approved by the Commission March 17, 2020 and as recommended by the USGS.
- Continued funding to support real-time gaging of Honokōhau Stream and ditch system to monitor the availability of water for multiple public trust purposes.

**ENFORCEMENT**

- Pursuant to HRS § 174C-15, the Commission recommends that a violation of the interim IFS be defined as when the mean daily flow measured or monitored in Honokōhau Stream at McDonald’s Dam (at an elevation of 340 feet) does not meet the interim IFS for three or more consecutive days or four days out of seven in any consecutive period.

Real-time interim IFS monitoring and mean daily flow calculations will be provided by the Commission through a publicly available cloud-based database. Real-time flow in Honokōhau Ditch at Adit 6 will also be provided by the Commission through this database.

#### EVALUATION

- Within five years from the date of Commission action, staff shall report to the Commission on the progress of implementing the interim IFS and the impacts of the interim IFS upon instream and non-instream uses.
- Based on existing hydrological data, current uses, proposed interim IFS values, and future public trust uses, estimates of water availability to meet non-instream, non-public trust uses are summarized for various flow values in Table 2.
- Staff shall assess the implementation of these strategies on an as-needed basis, as may be necessary upon consultation with the affected parties.

## DHHL Reservation and Interim IFS for Honokōhau and Honolulu Hydrologic Units

**Table 2.** Predicted mean daily flow (mdf) and low-flow duration exceedance values (in million gallons per day, mgd) for flow above Diversion 770 at Aotaki Weir and available water for non-instream uses from Honokōhau Stream in Phase One and Phase Two of the proposed interim IFS values. Note: some discrepancy due to rounding

<b>Phase One</b>	<b>Water Use</b>	<b>mdf</b>	<b>Q<sub>50</sub></b>	<b>Q<sub>70</sub></b>	<b>Q<sub>90</sub></b>
flow at USGS 1662000	instream	22.6	16.0	12.1	8.7
groundwater gains	instream	3.4	3.4	2.8	2.3
available above DIV 770	instream	26.0	19.4	14.9	11.0
groundwater gains	instream	1.4	1.4	1.4	1.4
interim IFS at McDonald's Dam	instream	<b>8.6</b>	<b>8.6</b>	<b>8.6</b>	<b>8.6</b>
amount available off stream	non-instream	18.8	12.2	7.7	3.8
<b>Uses met</b>					
	Maui DWS domestic water supply	2.5	2.5	2.5	2.5
	DHHL non-potable water demand <sup>1</sup>	0.0	0.0	0.0	0.0
	MLP non-instream uses	1.8	1.8	1.8	1.8
	<b>system loss:</b>	0.6	0.6	0.6	0.6
	<b>total off-stream demand:</b>	4.3	4.3	4.3	4.3
	<b>total off-stream demand met:</b>	4.3	4.3	4.3	3.2
	<b>unmet demand:</b>	0.0	0.0	0.0	1.1
<b>Phase Two</b>					
		<b>mdf</b>	<b>Q<sub>50</sub></b>	<b>Q<sub>70</sub></b>	<b>Q<sub>90</sub></b>
flow at USGS 1662000	instream	22.6	16.0	12.1	8.7
groundwater gains	instream	3.4	3.4	2.8	2.3
available above DIV 770	instream	26.0	19.4	14.9	11.0
groundwater gains	instream	1.4	1.4	1.4	1.4
interim IFS at McDonald's Dam	instream	<b>13.7</b>	<b>10.4</b>	<b>8.5</b>	<b>6.8</b>
amount available off stream	non-instream	16.0	12.0	9.1	6.5
<b>Uses met</b>					
	Maui DWS domestic water supply	2.5	2.5	2.5	2.5
	DHHL non-potable water demand	2.0	2.0	2.0	2.0
	MLP non-instream uses	1.8	1.8	1.8	1.8
	<b>system loss:</b>	0.6	0.6	0.6	0.6
	<b>total off-stream demand:</b>	6.3	6.3	6.3	6.3
	<b>total off-stream demand met:</b>	6.3	6.3	6.3	5.1
	<b>unmet demand:</b>	0.0	0.0	0.0	1.3

<sup>1</sup>assumes DDHL demand only during Phase Two



## FORMAL COMPLAINT

- The interim IFS proposed will protect instream public trust uses including water in its natural state, domestic uses, and water for traditional and customary practices in the Honokōhau and Honolulu hydrologic units while providing for non-instream public trust uses of water. These interim IFS also provide for off-stream uses of water that are reasonable and beneficial uses in the public interest, including making water available for agriculture and providing a source of water to be blended with the available R1 recycled water, therefore helping to protect nearshore coral reef ecosystems.
- The actions proposed in this submittal will improve instream flows, upgrade the infrastructure to improve the management of the irrigation system and provide protections for public trust uses of water.
- Commission actions to address other portions of the complaint related to waste will be addressed by a future Commission action following additional research.

Ola i ka wai,



M. KALEO MANUEL  
Deputy Director

Note: Exhibits 1 to 4 are available from the Commission website and are incorporated by reference. Links are provided below.

- |           |   |
|-----------|---|
| Exhibit 1 | Instream Flow Standard Assessment Report for Honolulu Hydrologic Unit 6013, PR-2019-02<br><a href="https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201902-6013-Honolulu.pdf">https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201902-6013-Honolulu.pdf</a>   |
| Exhibit 2 | Instream Flow Standard Assessment Report for Honokōhau Hydrologic Unit 6014, PR-2019-03<br><a href="https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201903-6014-Honokohau.pdf">https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201903-6014-Honokohau.pdf</a>  |
| Exhibit 3 | Compilation of Public Review Comments, Hydrologic Units of Honolulu (6013) and Honokōhau (6014), PR-2019-04<br><a href="https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201904.pdf">https://files.hawaii.gov/dlnr/cwrn/ifsar/PR201904.pdf</a>  |
| Exhibit 4 | Staff Submittal, April 20, 2021, Item C5, Status of Request for Surface Water Reservation of 2.00 Million Gallons per Day for the Department of Hawaiian Home Lands and Draft Interim Instream Flow Standards for Honokōhau and Kaluanui Streams in the Surface Water Hydrologic Unit of Honokōhau (6014) and Honolulu Stream in the Surface Water Hydrologic Unit of Honolulu (6013), West Maui<br><a href="https://files.hawaii.gov/dlnr/cwrn/submittal/2021/sb20210420C5.pdf">https://files.hawaii.gov/dlnr/cwrn/submittal/2021/sb20210420C5.pdf</a> |

Exhibit 5 CDR.5095.6 Complaint/Dispute Resolution Filing Form, Ka Malu o Kahalawai & West Maui Preservation Association, 4/23/2019

Exhibit 6 CDR.5095.6 Complaint/Dispute Resolution Response Form, Maui Land and Pineapple Company, Inc, 10/15/2019

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

SUZANNE D. CASE  
Chairperson



**State of Hawaii**  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
**Department of Land and Natural Resources**

**COMPLAINT / DISPUTE RESOLUTION**  
**FILING FORM**

For Official Use Only:  
**RECEIVED**  
2019 APR 23 PM 12:14  
DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII  
Complaint File No: C

**Instructions:** Please print in ink or type and send completed form with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. For further information and updates to this application form, visit <http://dlnr.hawaii.gov/cwrm/>.

1. Name: Ka Malu o Kahalawai & West Maui Preservation Association Date: 4/23/2019

Address: c/o Law Office of Lance D. Collins

P.O. Box 179336, Honolulu, HI 96817

Daytime Phone No.: (808) 243-9292 Fax No. \_\_\_\_\_

2. Location of the violation or water problem: Water diverted from Honokōhau stream overflows the Honokōhau ditch in areas extending south to Wahikuli and makai to Hanakao'o.  
(2) 4-5-021:005, 4-4-002:012; 4-4-002:013; 4-4-002:014; 4-4-005:035; 4-6-018:011, 4-4-004:013; and  
Tax Map Key: others.

Landowner's Name: Dep't of Land and Natural Resources, Maui Land & Pine, Kaanapali Land Mgmt Corp. (lessee)

DLNR: 1151 Punchbowl St., Honolulu, HI 96813

Landowner's Address: MLP: 200 Village Rd, Lahaina, HI 96761

DLNR: (808) 587-0400

Landowner's Phone No.: MLP: (808) 665-5480

3. The party I have a complaint about or dispute with is: (if more than one party, please attach additional sheets)  
Maui Land & Pine Company, Inc. (MLP); Kapalua Water Company (KWC); and Kaanapali Land Mgmt Corp.  
Name: (KLMC)

Address: KLMC: (Gary Nickele), 275 Lahainaluna Road, Lahaina Hawai'i 96761

KWC: (Tim Esaki, CFO) 200 Village Rd, Lahaina, HI 96761/ tesaki@kapalua.com

MLP: (Warren Haruki, Tim Esaki, P. Subrata) 200 Village Rd, Lahaina, HI 96761

KLMC: (808) 661-9652

KWC: (808) 681-9311

Phone No.: MLP (808) 665-5480

If the party is not the landowner listed in Section 2 above, please describe the party's relationship to the TMK parcel described in Section 2.

The intake from Honokōhau stream into Honokōhau ditch is located on MLP lands. Kapalua Water Company (KWC) is a wholly owned subsidiary of MLP. Upon information and belief, Aqua Engineers, Inc. operates the KWC and took over supervisory responsibility for Honokōhau and Honolulu ditch management. MLP is diverting water from Honokōhau stream and into the Honolulu and Honokōhau ditches, which runs across MLP lands and lands held by other entities, including KLMC.

KLMC holds a revocable permit from DLNR to use lands underlying the Honokōhau ditch at several locations of the water wasting practices, running south towards Lahaina. KLMC has sought to obtain a long term lease for these lands.

CDR-FILE Form (02/28/2007)

FILE ID: CDR.5095.6

4. Describe the complaint or reason for the dispute:  
(Attach a sketch or photograph if that will help explain the problem.)  
*See Addendum to Complaint/Dispute Resolution Form, Response to Question No. 4.*
5. Describe how your water usage or water rights are specifically affected by the other party, if at all:  
Ka Malu o Kahalawai members include kalo farmers who farm on lands adjacent to Honokōhau stream and who require the water that is otherwise diverted into the Honokōhau ditch. For many years, these members have sought restoration of Honokōhau stream water to support traditional lo'i kalo growing.  
  
Members also include those who conduct traditional and customary practices of fishing, surfing, canoe paddling, and diving in nearshore areas where the wasted water meets the ocean. The wasted water is warmer and its periodic intrusion may interfere with reef and other nearshore ecosystems and water quality, both of which are necessary for cultural resources for members' traditional and customary practices and recreation.  
  
West Maui Preservation Association also has members who conduct traditional and customary practices that depend on Honokōhau stream water and healthy nearshore coastal resources along West Maui's coasts.
6. Date the problem was first noticed: Several decades ago, with several large wasting events observed in late 2018.
7. If this complaint or dispute is related to a water source, was the water source previously declared with the Commission on Water Resource Management?  
 Yes     No     Don't Know  
  
If yes, what was the name and tax map key of the source?  
  
Honokōhau ditch TMKs: (2) 4-4-002:012; (2) 4-4-002:013; (2) 4-4-002:014; (2) 4-4-005:035; (2) 4-5-021:005; (2) 4-6-018:011, and others.  
MLP Honokōhau ditch intake: (2) 4-1-001:017  
Honokōhau Taro Gate: (2) 4-1-001:009
8. Have you had any communication with the party/parties described in Section 3 above?  
 Yes     No  
  
If yes, list the communications and dates: (Attach copies if written communications were made)  
  
*See Addendum to Complaint/Dispute Resolution Form, Response to Question No. 8.*
9. Have you sought resolution of this matter with any other entity?  
(e.g., government agency, judicial body, or private entity)  
  
Yes, each of the communications listed under Response to Question No. 8 constituted attempts to have the water wasting stopped.  
  
If so, with whom and what was the outcome?  
(Please provide copies of any documentation of this process)  
  
No responses have been forthcoming. Please see responses to Response Question No. 8.

10. Describe what you believe a successful and fair remedy might be:

Petitioners seek to prevent wastage by restoring to Honokōhau stream surface water in amounts equal to that wasted. Petitioners seek to require upgrades to MLP/KWC's diversion intake works from Honokōhau stream to Honokōhau/ Honolulu ditch to better regulate the amounts removed from Honokōhau stream to avoid waste in areas including lands used by KLMC through which the Honokōhau ditch runs. Upgrades and better maintenance and regulation of the Taro Gate would also allow more water to be restored to Honokōhau stream, instead of contributing to wasting events in offstream areas, including agricultural fields further south towards Wahikuli. KLMC should be prevented from allowing ditch water to run into fields and roads adjoining the ditch. KLMC's wastage facilitates MLP/KWC's ability to ignore the need to upgrade its intake/ diversion works and better regulation and maintenance of the taro gate.

MLP/KWC's intake should be upgraded such that it can be closed during periods of high water flow. This may mean better monitoring so that the Aotaki gate can be closed during high flow (or during times that less water is needed in the Honokōhau ditch) and thereby result in that surface water remaining in the Honokōhau stream. Another solution might lie in investing in sealing the current diversion and installing a gate with remote control capacity (to avoid difficulties and inconvenience with accessing the intake). Petitioners note that Kamehameha Schools has installed a remote control valve to control gate above Kahoma stream that can be controlled via a computer.

I request that the Commission on Water Resource Management assist in resolving the matter described herein.



\_\_\_\_\_  
Signature



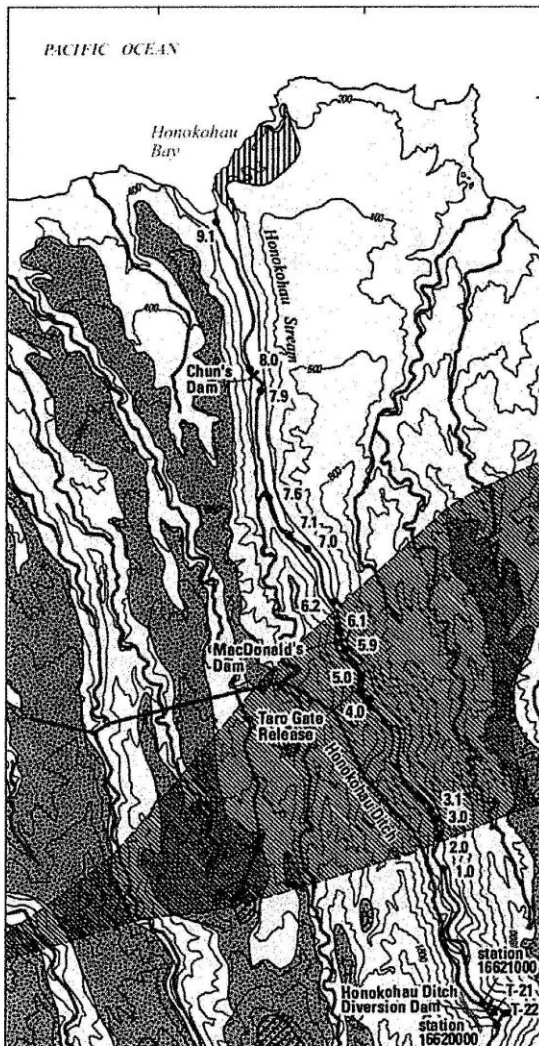
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Date

**Addendum to COMPLAINT / DISPUTE RESOLUTION FILING FORM**

*Response to Question No. 4: Describe the complaint or reason for the dispute.*

Petitioners' reasons for the dispute.

Petitioners' members rely on Honokōhau stream water for lo'i kalo, other agriculture, and domestic purposes. Members have a long history of complaints against MLP's failure to properly regulate its diversion of Honokōhau stream waters into the Honolulu/ Honokōhau ditch and, conversely, to return water to the stream via the Taro Gate, which is downstream from the Honokōhau ditch intake. Members have concerns about ecological impacts on cultural resources consequent to periodic flows of ditch water running through Hahakea/ Wahikuli gulches to the coast.



*Fig. 1. Streamflow measurement sites and location of intake and Taro Gate. From Richard A. Fontaine, U.S. Geological Survey, "Availability and Distribution of Base Flow of Honokohau Stream, Island of Maui, Hawaii," Water-Resources Investigations Rpt. No. 03-4060, at 9 (Honolulu, 2003).*

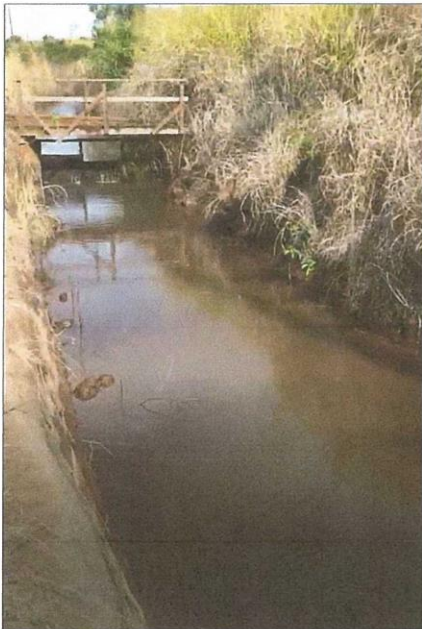
Wasting events

Diverted water is warmed while traveling through the Honokōhau ditch. For at least several decades, Petitioners observed periodic flows of warmed ditch water entering Hanakao‘o and nearby coastal waters from Honokōwai stream, Hahakea gulch, and sometimes Honolulu stream. The warmed water flows are observed several times a year and have been going on for decades.

In September 2018, Hurricane Olivia caused significant flooding and damage in Honokōhau valley. Thereafter, on October 5, 2018, Petitioners hiked to the intake and observed a new “stream” running around the diversion instead of remaining within Honokōhau stream. The Taro Gate was closed by excessive debris and therefore the extra water resulting from the storm went to the Honokōhau ditch, where it was spilled into fields and wasted.

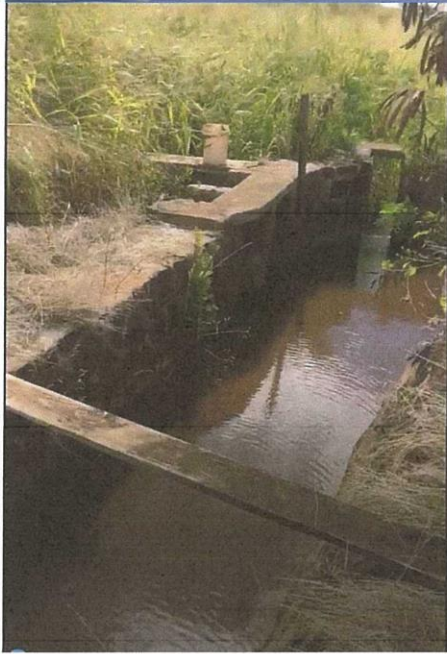
On November 24, 2018, Wood emailed Roy Silva of Aqua Engineers, Inc., which is believed to be a managing entity for Honokōhau ditch, to make these ditch managers aware that Honokōhau stream was diminished while a new stream running around the Honokōhau diversion works had appeared.

On December 4, 2018, Petitioners observed water from Honokōhau ditch freely exiting the Honokōhau ditch through a gate and spilling into the fields and entering the Wahikuli Gulch at the northern end of the Wahikuli Flume. From there, the water spilled into agricultural fields and over cane haul roads into Wahikuli gulch. Also around this time, Petitioners observed water constantly flowing from Hahakea gulch (into which merges Wahikuli stream) into the ocean by Hanakao‘o (Canoes beach). West Maui skies were clear and sunny when these wasted water flows were observed. *See Fig. 2-6.*



*Fig. 2. Honokōhau ditch portion adjacent to Wahikuli flume. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*





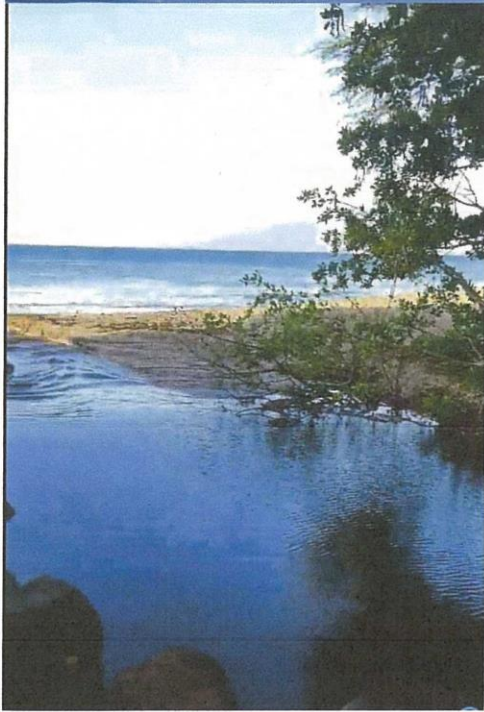
*Fig. 3 (left) Water leaving Honokōhau ditch via Wahikuli flume. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*

*Fig. 4 (right) Water from Wahikuli flume crossing cane haul road. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*



*Fig. 5 (left) Water from fields makai of cane haul road flowing into Wahikuli gulch. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*





*Fig. 6. Honokōhau stream water flowing from Hahakea/ Wahikuli gulch through Hanakao'o beach. Screenshot of video taken by Kai Keahi (approx. Dec. 9, 2018).*

On or about December 9, 2018, Petitioner-member Kai Keahi observed that Honokōhau ditch water was flowing out to the ocean at Hanakao'o. At that time, Honokōhau stream was low - about ten inches to a foot lower than usual, and the Taro gate (installed for Honokōhau stream taro growers) was closed.

Also on December 9, 2018, Keahi called Roy Silva, who he believed to be working for MLP, to instruct him to restore water to Honokōhau stream instead of dumping into Wahikuli/ Hahakea gulches. Keahi was informed that water was being "turned off" at Mahinahina and Honokōwai, where several reservoirs exist, and pushed south towards Lahaina. Honokōhau ditch water was being dumped into fields near Wahikuli and Hahakea gulch and flowing to the ocean.

*Response to Question No. 8: Have you had any communication with the party/parties described in Section 3 above?*

Around ten years ago, Petitioner-member Kai Keahi called Jeffery Pearson of MLP. Keahi, Pearson, and Kimo Kapalehua discussed the issue of Honokōhau stream water being wasted from the Honokōhau ditch. MLP did not provide answers or plans for remediation.

In September 2018, Hurricane Olivia caused significant flooding and damage in Honokōhau valley. Prior to this time, the Honokōhau ditch system was reportedly managed by Steven Nikaido of Hoa 'Āina Farm Services, LLC. However, Nikaido passed away roughly one week prior to Hurricane Olivia events and Hoa 'Āina Farm Services has apparently transferred management of the ditch to Aqua Engineers.

On October 5, 2018, Petitioners noticed water wasting from Honokōhau stream. Petitioner-member Wili Wood contacted Paul Subrata from Kapalua Water Co. (which obtains water via Honokōhau tunnel) and Pōmaika'i Crozier, manager of the Pu'u Kukui Watershed partnership. Both referred Petitioners to Roy Silva of Aqua Engineers, Inc., who denied a contractual responsibility to "take care of the ditch," but also apparently coordinates use of the Honokōhau ditch waters. Silva stated he would open the taro gate to alleviate the low flow in Honokōhau stream by January 15, 2019. *See* Exh. 01 (Emails between Wili Wood, Petitioner-member, and Paulus Subrata, MLP (Oct. 2018)).

On November 24, 2018, Wood emailed Silva to make him aware that Honokōhau stream was diminished while a new stream running around the Honokōhau diversion works had formed. *See* Exh. 02 (Emails between Wili Wood, Petitioner-member, and Roy Silva, Aqua Engineers (Nov. 24, 2018 to Dec. 18, 2018)).

On December 9, 2018, Petitioner Keahi called Roy Silva to complain about water dumping from Honokōhau ditch into Hahakea gulch.

On January 15, 2019, Wood received a phone call from Silva, who stated that the taro gate would not be opened until the end of February after the entire ditch system was cleaned from the intake in Honokōhau stream to the powerhouse siphon in Honokahua. That was the last Petitioners heard from Silva and no restoration of stream water has occurred.

Petitioners had also met and talked to Ayron Strauch of CWRM to discuss KLMC's proposal to lease lands underlying Honokōhau ditch and informed him of the location of water spillage in Kā'anapali areas. After meeting with Strauch, Wood researched the proposed lease for Honokōhau water and identified the area where water was being wasted from Honokōhau ditch on a map. *See* Exh. 02 (map with water wasting location highlighted in red). Wood forwarded the highlighted map and other KLMC documents to Kapule Eubank, who has a home in Honokōhau valley. Strauch was installing a stream flow meter next to Eubank's home.

On or about February 10, 2019, Eubank shared Wood's map and papers with Strauch. Strauch confirmed with Eubank that water was being wasted from the ditch and shared Petitioners' concerns about long-term leasing to KLMC without first modifying the Honokōhau ditch system.

Strauch, however, noted that while he could make recommendations, he had restricted enforcement powers concerning proper water usage.

To the knowledge of petitioners, no further actions have been taken to remediate water wasting from the Honokōhau ditch or to upgrade diversion works at Honokōhau stream.

**From:** Paul Subrata <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
**Date:** October 16, 2018 at 9:11:14 AM HST  
**To:** Roy Silva <[rsilva@aguaengineers.com](mailto:rsilva@aguaengineers.com)>, "[woodwili100@gmail.com](mailto:woodwili100@gmail.com)" <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>  
**Subject:** Fwd: Honokohau

Hi Wili, thank you for talking to me this morning. Cc'd on this email is Roy Silva whose team been working on the ditch as of late. His number is (808) 681-9311.

Hi Roy, I spoke to Wili Wood earlier and he was Stephen Nikaido eyes and ears up in Honokohau and have worked closely in the past. Wili and the community does farming in the area and would like to get updates on the situation at the intake. I'm providing you his contact information so we can keep in constant communication with him. His number is 808-870-0552 or 808-669-3038.

Thanks,

Paul  
808-757-2666  
Sent from my iPhone

Begin forwarded message:

**From:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Date:** October 15, 2018 at 8:42:02 PM HST  
**To:** [psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)  
**Cc:** Elle Cochran <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>, Kekai Keahi <[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, Pomaikai Kaniaupio-Crozier <[maunahalawai2@gmail.com](mailto:maunahalawai2@gmail.com)>  
**Subject:** Re: Honokohau

Aloha Paul,  
Please see the message below I had forwarded to Pōmaika'i Crozier. He has put me in contact with you. Please let me know when you are able to meet. I look forward to your reply.

Mahalo Nui,  
Wili Wood

On Thu, Oct 11, 2018 at 10:33 AM Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)> wrote:

Aloha mai e Council member Elle, Wili & Kekai

Mahalo for your email and raising your concerns, my role of taking care of Pu'u Kukui Watershed Preserve is to protect the native biodiversity up ma uka and keep that

**EXHIBIT 01**

natural native sponge intact which benefits water recharge and retention and ecosystem function as whole healthy. However, I have nothing to do with water transmission or ditch related issues. I am putting you in contact via this email with Paul Subrata who is in charge of water for ML&P. Aloha

**From:** [ellekcochran@gmail.com](mailto:ellekcochran@gmail.com) <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>  
**Sent:** Tuesday, October 9, 2018 10:02 PM  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>; [kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)  
**Subject:** Re: Honokohau

Per Jeff Pearson Chair for CWRM  
MLP would need to get permit to do such work. Cwrmm would allow it then.

Sent from my iPhone

On Oct 9, 2018, at 5:10 PM, Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)> wrote:

Aloha Pomaika'i

As you are probably aware, the Honokohau water diversion has been compromised. A few others and I personally walked the stream on Friday October 5th to investigate debris in the upper valley and made it to the diversion. We found that the storm water from Olivia has cut a new stream right around the Honokohau diversion. Please see attached video. It is to the best of my knowledge that this can not be fixed by hand tools. Being that we are downstream users of this water source, we request to be notified of the plans in moving forward. Can you please put us in contact with the appropriate parties?

Mahalo nui for your time,  
Wili Wood

Sent from my iPhone

Begin forwarded message:

**EXHIBIT 01**

**From:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Date:** October 8, 2018 at 9:32:34 PM HST  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>

<IMG\_2330.MOV>

Sent from my iPhone

**EXHIBIT 01**

**From:** Roy Silva <[rsilva@aquengineers.com](mailto:rsilva@aquengineers.com)>  
**Date:** December 18, 2018 at 6:53:05 AM HST  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>, "ayron.m.strauch@hawaii.gov" <[ayron.m.strauch@hawaii.gov](mailto:ayron.m.strauch@hawaii.gov)>, Dean U <[dean.d.uyeno@hawaii.gov](mailto:dean.d.uyeno@hawaii.gov)>, Kekai Keahi <[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, Paul Subrata <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
**Subject:** Re: Honokohau Stream Flow Issues Nov 2018

Morning,

What about tomorrow morning at 10:00 at our KWC office ?

Sent from my iPhone

On Dec 17, 2018, at 7:50 PM, Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)> wrote:

Aloha Roy,  
When is best for you? I can make myself available as needed. I look forward to meeting with you. Mahalo

Wili Wood

On Dec 17, 2018, at 1:50 PM, Roy Silva <[rsilva@aquengineers.com](mailto:rsilva@aquengineers.com)> wrote:

Aloha Wili,

When can we meet to discuss Honokohau ditch ?

Thanks

*"The less we talk the more we hear"*

**Roy J Silva**  
Island Operations Manager  
Aqua Engineers, Inc.  
200 Village Rd, Lahaina HI 96761

Mobile: 808 - 681-9311  
Email: [rsilva@aquengineers.com](mailto:rsilva@aquengineers.com)  
<image001.png>

CONFIDENTIALITY NOTICE: This message and any attachments to it may contain privileged and confidential information. This information shall not be forwarded, distributed, or disclosed to anyone. If you have received this message in error or are not the intended recipient, please do not retain, distribute, disclose, or use any of this information; destroy the e-mail and any attachments and copies immediately; and call (808) 681-9311 to report the error.

**EXHIBIT 02**

**From:** Pōmaika'i Kaniaupio-Crozier [mailto:pkaniaupio-crozier@kapalua.com]  
**Sent:** Monday, December 17, 2018 11:14 AM  
**To:** Wili Wood <woodwili100@gmail.com>  
**Cc:** ayron.m.strauch@hawaii.gov; Dean U <dean.d.uyeno@hawaii.gov>; Kekai Keahi <kekaikeahi@gmail.com>; Roy Silva <rsilva@aguaengineers.com>; Paul Subrata <psubrata@mlpmaui.com>  
**Subject:** Re: Honokohau Stream Flow Issues Nov 2018

Aloha e Wili

Mahalo for your hard work, observations and for reaching out. As mentioned in previous emails Paul Subrata of ML&P is the person in charge and has put Roy Silva of Aqua Engineering at the helm. Therefore, I am including them in this correspondence.

There have been on going efforts to mitigate the unprecedented damage in the aftermath from Tropical Storm Olivia and work is ongoing as you were present with CWRM in the reconnaissance.

After we spoke on Thursday, I flew into Honokohau with a crew to clear debris up ma uka and attempted to access taro gate but was unsuccessful due to time available and landslides along ditch trail. Please reach out to Paul and Roy to discuss or let me know if you need my assistance to set up a meeting.

The health of entire watersheds are a priority and mahalo for your support and all that you do to keep Honokohau ahupua'a intact. Aloha

---

**From:** Wili Wood <woodwili100@gmail.com>  
**Sent:** Saturday, December 15, 2018 8:36 PM  
**To:** Pōmaika'i Kaniaupio-Crozier  
**Cc:** ayron.m.strauch@hawaii.gov; Dean U; Kekai Keahi  
**Subject:** Fwd: Honokohau Stream Flow Issues Nov 2018

Aloha Pomaika'i

I want to thank you for answering my phone call this past Thursday to speak about the low flow of water we have been seeing in Honokohau stream since around mid November. We believe this is due to the taro gate being closed with debris. We would like to open a dialogue with the operator of this ditch system but are having a hard time finding the responsible party. The lack of adequate flow brings concerns regarding the health of the aquatic life and the maintaining of traditional and customary practices of downstream users. Mahalo for your time and I look forward to your reply.

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

From: **Wili Wood** <woodwili100@gmail.com>

## EXHIBIT 02



Date: Wed, Nov 28, 2018 at 9:24 PM  
Subject: Fwd: Honokohau Stream Flow Issues Nov 2018  
To: <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
Cc: Kekai Keahi <[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>, <[ayron.m.strauch@hawaii.gov](mailto:ayron.m.strauch@hawaii.gov)>, Elle Cochran <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>, <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)>, Lance D. Collins, Ph.D <[lawyer@maui.net](mailto:lawyer@maui.net)>, <[dean.d.uyeno@hawaii.gov](mailto:dean.d.uyeno@hawaii.gov)>, <[rebecca.r.alakai@hawaii.gov](mailto:rebecca.r.alakai@hawaii.gov)>, <[tamara@tamarapaltin.com](mailto:tamara@tamarapaltin.com)>, Skippy Hau <[skippy.hau@hawaii.gov](mailto:skippy.hau@hawaii.gov)>, <[kainoawilson@yahoo.com](mailto:kainoawilson@yahoo.com)>

Aloha Paul,

I reached out to Roy Silva as you recommended. Please see email below. I also reached out to CWRM and we were told that currently MLP does not have an operator for the Honokohau diversion. The stream has been very low for two weeks and this is very concerning considering that a big majority of the stream flow is being dumped into the dry gulch of Mahinahina. I am requesting a meeting to discuss solutions to this issue moving forward. I look forward to your reply.

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

From: **Wili Wood** <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
Date: Sat, Nov 24, 2018 at 9:19 PM  
Subject: Honokohau Stream Flow Issues Nov 2018  
To: <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)>

Aloha Roy,

As of last week, the water flow in the Honokohau stream has been diminished due to the new stream running around the Honokohau diversion. Naturally this stream changes with each high water and there is now less flow being directed around the diversion and feeding the downstream users.

To correct this issue, we are asking that you implement Taro gate once again. If too much water is leaving the Honokohau water shed it can be regulated at Taro gate to make sure Honokohau stream users are not left with inadequate flow. This is also a good solution because when too much water leaves the valley, it simply overflows into the concrete channelized stream of Honokowai, preventing much-needed aquifer recharge.

Mahalo for taking the time to listen to our concerns and I look forward to your reply.

Sent from my iPhone

**EXHIBIT 02**





**State of Hawaii**  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
**Department of Land and Natural Resources**

**COMPLAINT / DISPUTE RESOLUTION**  
**RESPONSE FORM**

For Official Use Only:

Complaint File No: C

**Instructions:** Please print in ink or type and send completed form with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. For further information and updates to this application form, visit <http://dlnr.hawaii.gov/cwrm/>.

*Please answer any applicable questions to the best of your knowledge. This is a standard form and some questions may not pertain to your specific situation.*

1. Name: Tim T. Esaki Date: 10/17/19

Address: 200 Village Road  
Lahaina, HI 96761

Daytime Phone No.: (808) 665-5480 Fax No. (808) 665-0641

2. Were you aware of the problem prior to this complaint?  Yes  No

3. Tax Map Key:  
*If you are not the owner, please provide the landowner's information below.*

Landowner's Name: Mavi Land & Pineapple Company, Inc.

Landowner's Address: 200 Village Road, Lahaina, HI 96761

Landowner's Phone No.: (808) 665-5480

4. If this complaint or dispute is related to a water source on your property, was the water source previously declared with the Commission on Water Resource Management?

Yes  No  Don't know

If yes, what is the name and tax map key of the source?

Honokohau Stream

TMK: 4-1-001-017

5. Attach a sketch or photograph that will give additional details of the situation described by the complainant.

6. Have you had any communication with the complainant(s)?

Yes  No

If yes, list the communications and dates: (Attach copies if written communications were made)

7. Do you know if resolution of this matter has been sought with any other entity? (e.g., government agency, judicial body, or private entity)


Yes  No  Don't Know

If so, with whom and what was the outcome? Please provide copies of any documentation of this process.

8. Describe what you believe a successful and fair remedy might be:

MLP is in the process of repairing damage to intakes and the ditch from Hurricane Olivia in September 2018 and securing a maintenance contractor for the ditch.

I attest that the information given is accurate and complete, to the best of my knowledge.

  
\_\_\_\_\_  
Signature

10/17/19  
\_\_\_\_\_  
Date