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COMMISSION ON WATER RESOURCE MANAGEMENT

April 19, 2022
Honolulu, Hawai'i

Approve Temporary Relief for a Period of 60 Days from the
Interim Instream Flow Standard for Kaua'ula Stream, Kaua'ula Stream, Lahaina, Maui,
To Provide for the Continued Diversion of 300,000 Gallons Per Day During
Low-Flow Conditions to Kuleana Users and Kamehameha Schools' Tenants
Whose Sole Source of Water is Kaua'ula Stream

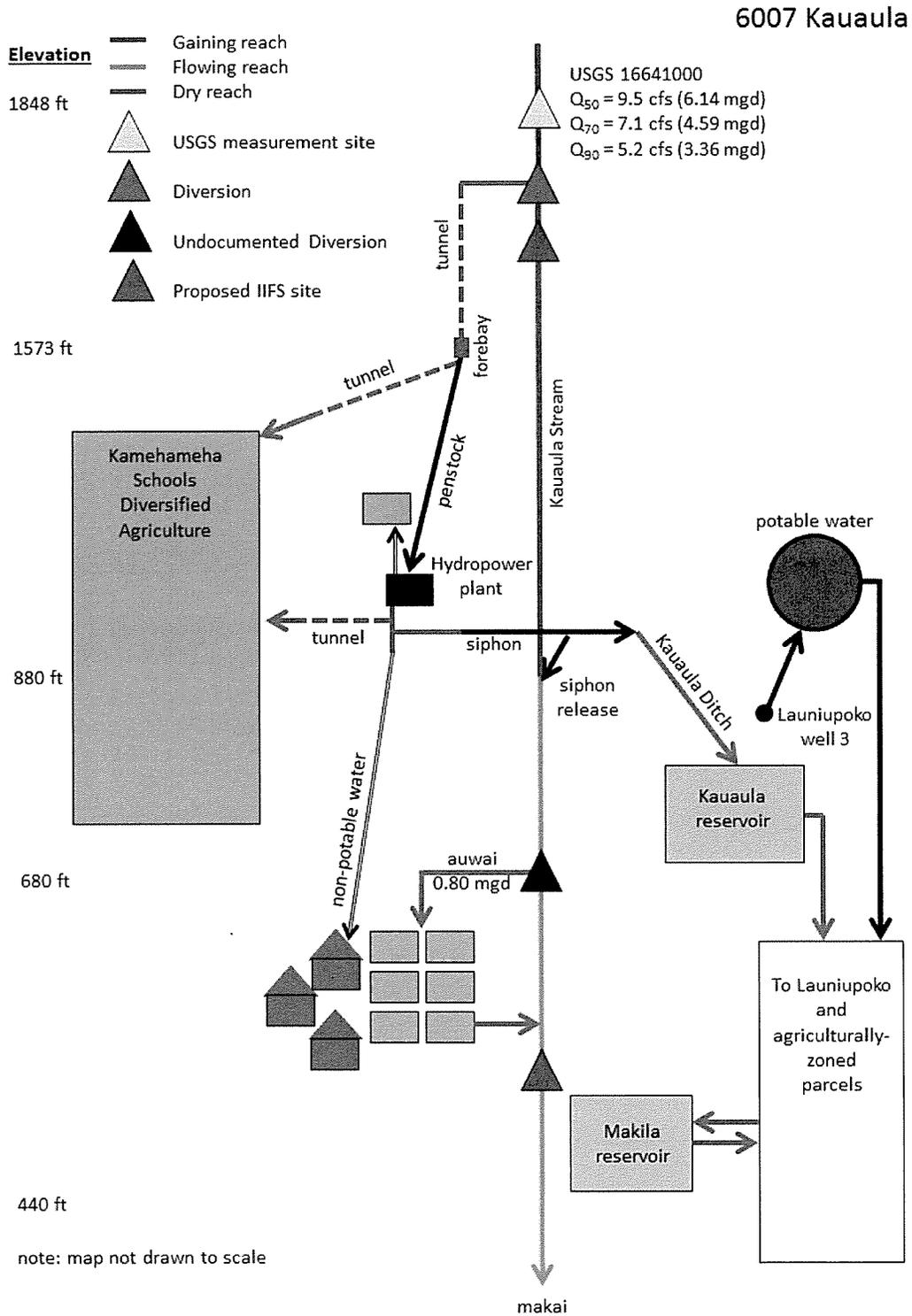
SUMMARY OF REQUEST

Staff is requesting that the Commission on Water Resource Management (Commission) approve the temporary relief of interim instream flow standards (interim IFS) on Kaua'ula Stream at Diversion 957 to ensure the continued use of 300,000 gallons per day of water to meet the immediate needs of public trust uses of Kuleana tenants, including water for traditional and customary practices (150,000 gallons per day) and domestic uses (50,000 gallons per day), and the reasonable irrigation use for agricultural and cultural education purposes of Kamehameha Schools' tenants with no alternative water sources (100,000 gallons per day), for a period of 60 days, so that staff can reassess the balance of water for public trust uses during drought conditions.

LEGAL AUTHORITY

Under the State Water Code (Code), the Commission shall have jurisdiction statewide to hear any dispute regarding water resource protection, water permits, or constitutionally protected water interests, or where there is insufficient water to meet competing needs for water, whether or not the area involved has been designated as a water management area under this chapter. The final decision on any matter shall be made by the Commission. HRS § 174C-10.

Figure 1: Simplified schematic diagram for the hydrologic unit of Kaua'ula (6007).



BACKGROUND

On March 20, 2018, the Commission approved amendment of the interim instream flow standard (interim IFS) for the hydrologic unit of Kaua'ula (ID: 6007), as follows:.

Interim IFS A: The interim IFS below the main diversion (REG.957.6), near an altitude of 1,540 feet, shall be established at an estimated flow of 5.2 cubic feet per second (3.36 million gallons per day) based on U.S. Geological Survey (USGS) estimates of total flow Q_{90} . This interim IFS is designed to provide habitat and maintain a wetted pathway between the diversion and the siphon release point. Due to the uncertainty of existing hydrogeologic conditions of Kaua'ula Stream, this interim IFS will be subject to a conditional release of water and monitoring by Commission staff. Should an estimated flow of 5.2 cubic feet per second not be sufficient, the interim IFS may be revised by a future Commission action.

Interim IFS B: The interim IFS below the Kuleana users near an altitude of 270 feet, shall be established at an estimated flow of 6.35 cubic feet per second (4.1 million gallons per day) based on USGS estimates of total flow Q_{70} and seepage losses. This interim IFS is designed to provide habitat and maintain a wetted pathway between the siphon release point and the ocean while providing for Kuleana water needs downstream of the siphon. Due to the uncertainty of existing hydrogeologic conditions of Kaua'ula Stream, this interim IFS will be subject to a conditional release of water and monitoring by Commission staff. Should an estimated flow of 6.35 cubic feet per second not be sufficient, the interim IFS may be revised by a future Commission action. This interim IFS allows Launiupoko Irrigation Company to meet the 0.4 mgd agricultural demand for Kamehameha Schools 100-percent of the time and when combined with water diverted from Launiupoko Stream, allows Launiupoko Irrigation Company to meet their 0.303 mgd agricultural water demand 100-percent of the time.

On October 18, 2018 Commission staff updated the Commission on the implementation of the interim IFS for Kaua'ula Stream, documenting the measured flow values diverted at Diversion 957, returned to the stream below Diversion 957, and transmitted to Kaua'ula Reservoir.

On September 28, 2021, the Commission sent a letter (Exhibit 1) to Mr. Glenn Tremble, of Launiupoko Irrigation Company (LIC), which sought implementation of required follow-up actions including modification of LIC's main diversion (No. 957) and monitoring and reporting of water use for the amount of water distributed to Maui Ku'ia Estate Chocolate Inc. (KEC), the Kaua'ula Valley homes, Kaua'ula Reservoir, and returned to the stream at the siphon.

On November 4, 2021 and December 2, 2021, the Commission received response letters from LIC (Exhibits 2 and 3, respectively), that commencement of the diversion modification would be conditioned on LIC's receipt of a revised temporary rate increase from the Hawai'i Public Utilities Commission (PUC) "providing LIC with the funds required to fund pumping costs and to meet other operating expenses..."

On November 19, 2022, at Maui County Councilmember Tamara Paltin's request, Commission staff coordinated a meeting with KEC and Ku'ia Agricultural Education Center (KAEC) to discuss the impacts of water curtailment by LIC on their irrigation needs.

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

On March 31, 2022, the Commission issued a Notice of Alleged Violation (NOAV) that LIC continued to be in violation of the two interim IFS established on Kaua'ula Stream (Exhibit 4). This Notice was forwarded to the PUC on April 8, 2022, as Additional Information to Request for Public Comment in Docket No. 2020-0089.

On April 3, Mr. Gunars Valkirs, of KEC, sent an email to Commission staff indicating that he had been made aware of the NOAV issued to LIC and that the Commission actions "may cause LIC to greatly reduce or eliminate altogether the diverted stream water that is the sole source of water for Ku'ia and the kuleana families."

On April 4, 2022, Mr. Tremble responded that the March 31, 2022 NOAV was received and that the release valves adjacent to the main diversion on Kaua'ula Stream were set at approximately 2,150 to 2,350 gpm, to comply with the interim IFS of 3.36 mgd.

On April 10, 2022, Mr. Valkirs forwarded a Water Update, dated April 8, 2022, sent from LIC to all of its paying customers. The Update indicated that "Unfortunately, as a result, we expect there will be many days of little to no irrigation water available. If there's anything that might prompt action by the PUC, it's the personalized requests of LIC's consumers to grant LIC's temporary rate increase that will facilitate supplementing the lack of surface water with pumped ground water. We urge you to write or email the PUC at the email address below with your support for LIC's Temporary Rate Case that, if approved as requested by LIC, will help replace the surface water that is no longer available from Kauaula Stream due to the IIFS."

On April 13, 2022, Mr. Valkirs notified Commission staff via email that he "warned that LIC was setting the stage to take this action and now they have. Today there is no water in the diversion and all water has been directed into the stream. Kamehameha Schools land has been cut off so that Maui Ku'ia Estate Chocolate and Ku'ia Agricultural Education Center have no water. The Kuleana users have no water. There is no water in the diversion.

"If this is what CWRM hopes to accomplish with its Notice of Alleged Violation then you have succeeded. If not then something must be done IMMEDIATELY to get water back into the diversion. In one week I will lose the rest of this year's harvest of cacao. In 2-3 weeks the trees will be irreparably damaged and the farm will be lost."

On April 14, 2022, Mr. Tremble further explained that LIC took the following actions: 1) LIC staff visited the intake seven (7) times and adjusted the release to 2,200 gpm (3.17 mgd) to try and meet the interim IFS exactly, while allowing remaining water to enter the Kaua'ula Ditch; 2) the second release at the siphon was adjusted to 400 to 700 gpm to achieve the 4.1 mgd below).

On April 14, the Commission also notified Mr. Valkirs that the Commission staff was working on a staff submittal to seek temporary relief for a period of 60 days from the interim IFS for Kaua'ula Stream to provide for the continued diversion of 300,000 gallons per day during low-flow conditions to kuleana users and Kamehameha Schools tenants whose sole source of water is Kaua'ula Stream.

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

On April 14, the Commission staff received an email from Maui County Councilmember Tamara Paltin, with a forwarded message from Rita Lei Medina, Family Services and Administrative Assistant with The Salvation Army Lahaina Lighthouse Corps. Ms. Medina's email states the following:

"Aloha Councilmember Paltin,

"This morning I received a visit from a Kaua'ula Valley resident who shared with me that effective today there will be no water available for her home. She alleges that Peter Martin will be denying water access to the ohana's in the valley. Additionally, she claims that there will likely be no access to the reservoir, which she says is always full, but is now depleted to almost empty.

"She is a young mother of 5.....all of whom are under the age of 8. She is now forced to exercise her options. One of which is to leave the valley until there is water accessibility again. She is currently applying for entry into the Homeless shelter. I am not sure if that will be available to her family as they are not actually "homeless", but we will see. At her request, I am sharing the resident's name and contact number should your office care to reach out to her. I believe she is hoping your office may be able to shed some light on this situation."

On April 14, the Commission was notified by Attorney Bianca Isaki that, on behalf of Kuleana tenants, a lawsuit was filed against LIC with 1) A complaint; 2) A motion for preliminary injunction; and 3) An Ex Parte motion for a ten day stay and to advance hearing on motion for preliminary injunction.

ANALYSIS

Kaua'ula Stream is gaining in the uppermost reaches in the watershed but in the reach immediately above the diversion, from about 1850 ft in elevation to the partial-record gaging station (USGS station number 205239156372101) at 1,560 ft in elevation, the stream was losing flow in 2008. One-hundred percent of the low-flows are diverted at the diversion at 1,560 and the stream has been dry until water is released at the Kaua'ula Ditch siphon at 940 ft in elevation. The stream then loses flow at about 1.1 cfs mi⁻¹ in the channel down to the 'auwai diversion.

In 2014, USGS published low-flow duration statistics for Kaua'ula Stream above Diversion 957 (Table 1). These statistics were consistent with the monthly reported amount of water diverted from Kaua'ula Stream via Kaua'ula Ditch provided by LIC: mean diverted flow from 2009-2015 was 4.162 mgd. However, they represent larger estimated flows than what Hatton (1976) reported as the Q₅₀ and Q₉₀ flows of 6.92 cfs (4.47 mgd) and 4.56 cfs (2.95 mgd), respectively.

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

Table 1. Low-flow duration discharge statistics in cubic feet per second (cfs) and million gallons per day (mgd) for Kaua'ula Stream at 1540 ft, Maui (Source: Cheng, 2014; USGS SIR 2014-5087)

Discharge (Q) for a selected percentage (xx) discharge was equaled or exceeded										
1984-2013	Q ₅₀	Q ₅₅	Q ₆₀	Q ₆₅	Q ₇₀	Q ₇₅	Q ₈₀	Q ₈₅	Q ₉₀	Q ₉₅
cfs	9.5	8.6	8.1	7.6	7.1	6.6	6.2	5.7	5.2	4.8
mgd	6.14	5.56	5.24	4.91	4.59	4.27	4.01	3.68	3.36	3.10

On March 22, 2022, Commission staff measured 1.18 cfs (0.76 mgd) in Kaua'ula Stream at the 'auwai diversion when 1.81 cfs (1.172 mgd) was being returned to the stream at Kaua'ula siphon. On this day, 5.48 cfs (3.54 mgd) was flowing in the stream above Diversion 957 and only 0.51 cfs (0.33 mgd) was being returned below Diversion 957.

ISSUES

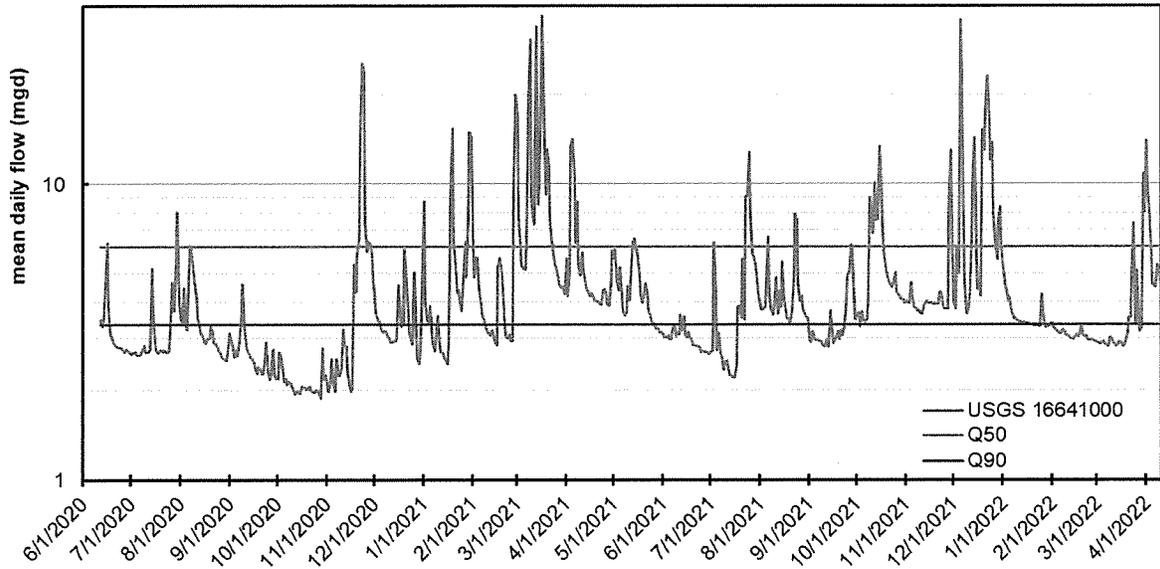
Kaua'ula Stream once supported traditional agriculture and domestic needs for a large population of Native Hawaiians in the Kaua'ula ahupua'a as well as in neighboring ahupua'a (e.g., Waine'e, Ku'ia Makila, Puehuehuiki, and others). At the time of the Māhele, there were three main 'auwai on the Lahaina (North) side of Kaua'ula Stream: Pi'ilani, Waimana, Pu'uhuliliole. At an elevation higher than the existing Diversion 957, Pi'ilani 'Auwai transported water from Kaua'ula Stream to support wetland and dryland agriculture on the plateau of Kaua'ula Valley high above the stream channel. This 'auwai was displaced when Pioneer Mill Company (Pioneer Mill) constructed the constructed Diversion 957 to collect water from Kaua'ula Stream for plantation use. Remnants of the Pi'ilani 'Auwai are visible along the pali for great distances. On the Olowalu (South) side of Kaua'ula Stream two 'auwai Pu'upapai and Muliwaikane. Descriptions of additional smaller 'auwai which fed riparian lo'i have also been noted. Pioneer Mill destroyed portions (e.g., Pi'ilani) or restricted downstream flow (e.g., Pu'upapai) of all the 'auwai and only the Waimana 'Auwai is currently in use.

Pioneer Mill Company constructed Kaua'ula Ditch to transport water from Kaua'ula Stream via the 0.8 mile Kaua'ula Tunnel to the "600" fields in sugar cane cultivation. At the tunnel exit, a forebay and penstock were built to produce power at the Makila Hydropower Plant. The penstock is connected to two pipelines which support traditional and customary practices (primarily lo'i kalo) originally dependent on the Pi'ilani 'Auwai. The return flow (approximately 80%) from the lo'i complex re-enters the ditch via a 2-inch PVC pipe (Figure 4). Below the tailrace of the hydropower plant, non-potable water is distributed to tenants of Kamehameha Schools and to Kuleana families.

On March 20, 2018, the Commission established an interim IFS of 3.32 mgd immediately below Diversion 957, representing the Q₉₀ flow. In order to ensure that sufficient water was available to meet recognized uses and enforce the interim IFS, Commission approved funding for the establishment of a real-time USGS stream gaging in August 2018. Due to delays associated with permitting and the pandemic, the stations were finally installed in June 2020 (Figure 2)

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

Figure 2. Mean daily flow above Diversion 957 at USGS 16641000 on Kaua'ula Stream at 1550 ft with estimated Q₅₀ and Q₉₀ flow duration statistics superimposed.

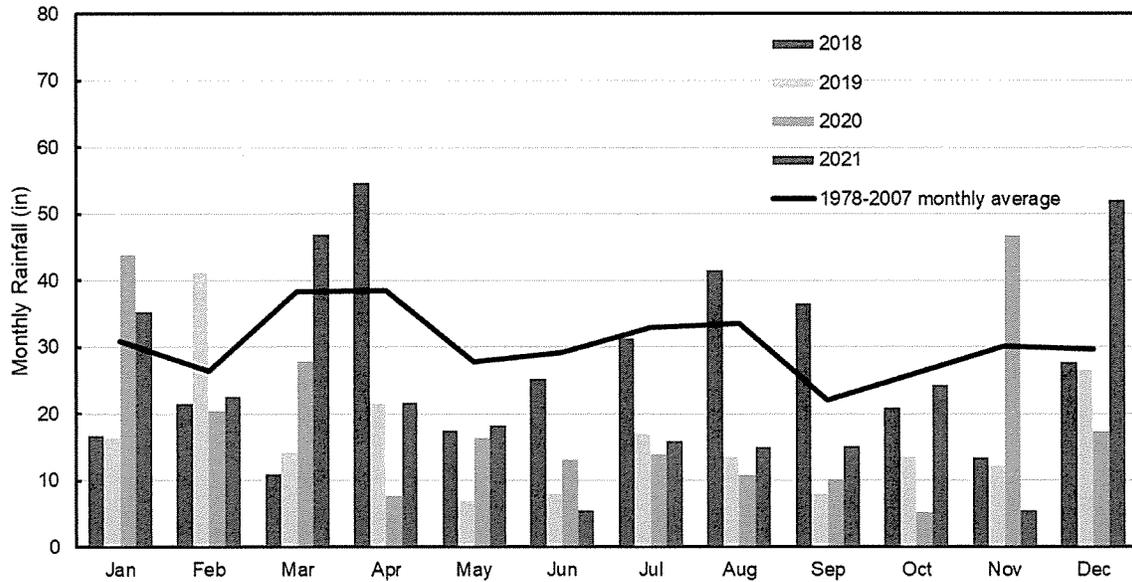


Current rainfall trends and projects predict significant declines in rainfall in leeward Maui. Following almost two years of continuous data at USGS 16641000 on Kaua'ula Stream, Maui has experienced multiple, prolonged periods of drought resulting in sustained rainfall deficits that have limited groundwater recharge and streamflow (Figure 3). Consequently, mean daily flow has been below the estimated Q₅₀ flow 86% of the time, and below the estimated Q₉₀ flow 46% of the time. This has affected the availability of water for both instream and non-instream public trust uses as well as reasonable irrigation needs of non-public trust uses.

Kamehameha Schools owns multiple parcels of land in the adjoining ahupua'a which were originally dependent on the Pi'ilani 'auwai. Kamehameha Schools has two long-term tenants conducting commercially-viable, educational, and/or cultural agricultural activities that do not have alternative sources of water readily available.

Temporary Relief from the Interim Instream Flow Standard for Kaua’ula Stream

Figure 3. Total monthly rainfall (vertical bars) from 2018-2021 and 30-year mean monthly rainfall (black line) at USGS rainfall station 25327156351102 Puu Kukui



Alternative Water Sources

Launiupoko Irrigation Company was established to distribute non-potable water to customers in three subdivisions of Launiupoko: Mahanalua Nui, Makila, and Pu’unoa. All customers in these subdivisions have access to both potable and non-potable water. Potable water is supplied by two large capacity wells: 6-5138-001 (Launiupoko 1; 12-month average pumpage of 0.363) and 6-5137-001 (Launiupoko 2; 12-month average pumpage <0.001 mgd). Non-potable water is supplied by water diverted from Launiupoko Stream and Kaua’ula Stream. Since 2004, diverted flow from Launiupoko Stream has averaged 0.41 mgd.

The Kuleana families in Kaua’ula Valley and the agricultural tenants of Kamehameha Schools do not have alternative sources of water to rely upon. Recent metered usage by these entities totals approximately 300,000 gallons per day of water for public trust uses, including water for traditional and customary practices (150,000 gallons per day) and domestic uses (50,000 gallons per day), and the reasonable irrigation use for agricultural and cultural education purposes with no alternative water sources (100,000 gallons per day).

KEC has applied for and received a well construction permit (October 2020) to develop a well for their agricultural irrigation needs knowing that reliance on stream water would be limited in the future. It is staff’s understanding that development of the well has been delayed due to COVID-19.

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

Figure 4. Kaua'ula Ditch below the hydropower tailrace. Flow of water to Kamehameha Schools tenants is indicated by the green arrow (water is conveyed in a pipeline located in the ditch, with its intake situated further upstream in the tailrace tunnel to the right), return flow from lo'i complex mauka of hydropower plant indicated in orange circle, pipeline to Kuleana families in valley is indicated by the red arrow (water is conveyed in a pipeline located in the ditch), and downstream direction of flow in ditch to siphon indicated by the blue arrow.



RECOMMENDATIONS

Staff recommends that the Commission:

- 1) Approve a temporary relief for a period of 60 days from the interim IFS for Kaua'ula Stream to provide for the continued diversion of 300,000 gallons per day (0.300 mgd; 0.46 cfs) during low-flow conditions (e.g., when flow measured at USGS 16641000 drops below 5.60 cfs (3.62 mgd)) such that the interim IFS becomes the mean daily flow minus 300,000 gallons; at all other times the interim IFS should be met.
- 2) Order Launiupoko Irrigation Company, Inc. to continue to meet the public trust water needs of Kuleana tenants at all times, including their traditional and customary and domestic uses.
- 3) Order Launiupoko Irrigation Company, Inc. to continue to meet the water needs of tenants of Kamehameha Schools for reasonable irrigation use for agricultural and cultural education purposes who currently have no other alternative source of water.

Ola i ka wai,

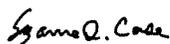


M. KALEO MANUEL
Deputy Director

Exhibits:

1. Letter from the Commission to LIC, dated September 28, 2021, Launiupoko Irrigation Company (LIC) Actions Required For Compliance with Interim Instream Flow Standards (IIFS), Kaua'ula Stream.
2. Letter from LIC to the Commission, dated October 28, 2021, Responses to the Commission letter dated September 28, 2021.
3. Letter from LIC to the Commission, dated November 29, 2021, Responses to the Commission letter dated September 28, 2021, including Diversion Modification Schematic.
4. Letter from the Commission to LIC, dated March 31, 2022, Notice of Alleged Violation, Interim Instream Flow Standard Kaua'ula Stream, Lahaina, Maui

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

DAVID Y. IGE
GOVERNOR OF HAWAII



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September 28, 2021

Ref.: CWRM.5783.6

Glenn Tremble
Launiupoko Irrigation Company
305 E. Wakea Ave, Suite 100
Kahului, Hawaii 96732

Aloha Mr. Tremble:

**Launiupoko Irrigation Company (LIC) Actions Required
For Compliance with Interim Instream Flow Standards (IIFS), Kaua'ula Stream**

On March 20, 2018, the Commission on Water Resource Management (Commission) established an interim instream flow standard (interim IFS) of 5.2 cubic feet per second (3.36 million gallons per day, mgd) on Kaua'ula Stream immediately below Diversion 957 at 1,560 feet operated by Launiupoko Irrigation Company (LIC)¹. The magnitude of the median (Q₅₀) and low (Q₉₀) flow duration values was estimated by the U.S. Geological Survey (USGS) at 9.5 cfs (6.14 mgd) and 5.2 cfs (3.36 mgd), respectively. The interim IFS was established to allow the continued use of 0.400 mgd of water to meet the diversified agricultural needs of Kamehameha School's lessee Ku'ia Estate Chocolate (KEC), 0.303 mgd of various diversified agricultural entities within the LIC Service Area, as well as the unknown off-stream needs of kuleana families in Kaua'ula Valley. Because surface water availability is highly dependent on rainfall, the interim IFS was established with the understanding that uncertainty in actual daily streamflow would result in zero flow available for off-stream usage approximately 10% of the time.

Follow-up Actions Required

1. Modification of Diversion

In its March 20, 2018 Decision, the Commission also ordered LIC to modify the intake in order to provide for continual mauka to makai flow. Based on subsequent site visits, this has not occurred (Table 2). The current setup ensures that 100-percent of the stream is diverted and then a small portion is returned. Staff are requesting that LIC provide a timeline for diversion modifications that will ensure mauka to makai streamflow at diversion 957 within 30 days from the date of this letter. Modifications to the sluice gate need to be made to divert only flows in

¹ Commission on Water Resource Management. (March 20, 2018) Amended Interim Instream Flow Standards For the Surface Water Hydrologic Units of Ukumehame (6004), Olowalu (6005), Launiupoko (600), and Kaua'ula (6007), Maui. <https://files.hawaii.gov/dlnr/cwrm/submittal/2018/sb20180320B1.pdf>

Launiupoko Irrigation Company
September 28, 2021

excess of the interim IFS. Commission staff will continue working with LIC to implement an improved system to monitor resources, as well as seek to improve system efficiencies while enforcing the State Water Code. Upon submission of your proposed diversion modifications, the Commission staff will make a determination if a Stream Diversion Works Permit will be required.

2. Monitoring of Water Use

Commission staff is requesting that LIC begin to report the amount of water distributed to KEC, the Kaua'ula Valley homes, Kaua'ula Reservoir, and returned to the stream at the siphon immediately. Based on previous fieldwork, the flow to KEC and Kaua'ula Valley homes is metered and LIC needs to report the metered flow at whatever interval the meter is already read. Staff is requesting that LIC install appropriate measuring devices (e.g., rated flume, weir with staff plate) to monitor the amount of water flowing to Kaua'ula Reservoir above the siphon (see photos C and D in Table 3) within 90 days.

Implementation and Monitoring of the Kaua'ula Interim IFS

Following the March 20, 2018 Decision, Commission staff worked with LIC to implement the interim IFS given the logistical challenges of modifying a 100-year old plantation system. Further, it was understood that the cross-connections to meet the non-potable demands of LIC customers with potable water would take time. Additional delivery costs associated with pumping groundwater could not be recovered until the Public Utilities Commission approved a modification to the LIC rate structure.

While in 2019, Commission staff observed improvements to instream flow and mauka to makai streamflow. Follow-up site visits were limited in 2020 and 2021 due to the ongoing pandemic and restrictions in interisland travel limiting fieldwork. Further, Commission staff and LIC staff were awaiting the installation of real-time streamflow monitoring by US Geological Survey (USGS) on Kaua'ula Stream above and below the diversion in order to better understand the natural variability and availability in flow. In June 2020, USGS was able to complete the installation of the real-time monitoring stations and all stakeholders now have access to the available data.²

On Wednesday, July 1, 2020, Commission staff had a phone call with representatives from West Maui Land Co. and discussed the following, in summary:

1. Any stream water being diverted is delivered only to the KEC and to Kaua'ula Valley families; no surface water is being delivered to the Launiupoko area subdivisions.
2. The interim IFS could not be met while still delivering water to KEC or the Kaua'ula Valley families
3. USGS stream gaging needs additional calibration measurements before the rating curve is complete; but that the real-time data should assist with all water management.

² <https://waterdata.usgs.gov/hi/nwis/current/?type=flow>

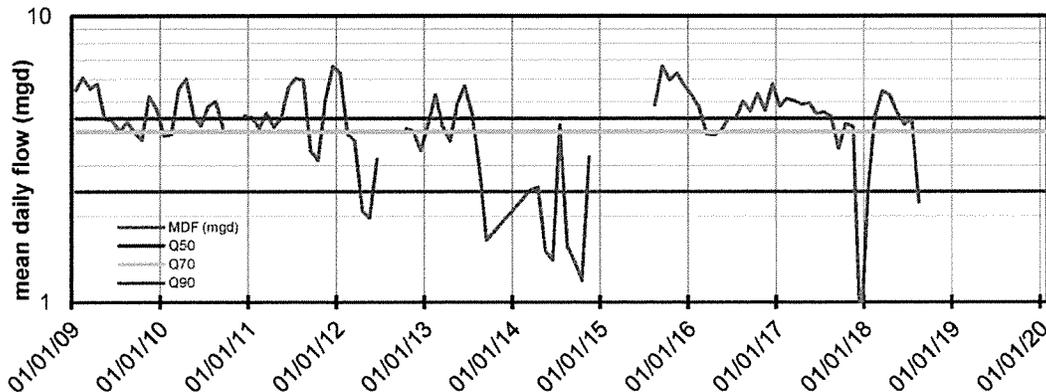
Launiupoko Irrigation Company
September 28, 2021

4. Since the adoption of the interim IFS, LIC has had to pump groundwater from its wells to make up for the deficit of water which has added cost to the utility that cannot be reclaimed until their PUC docket is revised and a rate increase can be adopted. The PUC docket is vague about delivery water to the Kaua'ula Valley families, but that they are not in the defined service area (i.e., the families should continue to receive water but not be charged).
5. Various management scenarios were discussed, but no way forward to meet the interim IFS and water delivery requirements while being in compliance with the PUC was clear.

On Thursday, August 26, 2021, Commission staff received informal complaints regarding a lack of streamflow in Kaua'ula Stream.

In this communication, Commission staff is following up with the diversion operator and other beneficiaries of surface water from Kaua'ula Stream to better understand the situation. In a conversation with KEC, their water use has varied from 60,000 gallons per day in winter months to 100,000 gallons per day in summer months. An unknown amount of water is delivered to the Kaua'ula Valley families.

Figure 1. Reported diverted mean flow (in million gallons per day, mgd) from Kaua'ula Stream at Kaua'ula Tunnel (CWRM gage 6-21) by Launiupoko Irrigation System from 2009 to 2019 and estimated long-term natural Q_{50} , Q_{70} , and Q_{90} from Cheng (2016).



Unfortunately, since prior to the adoption of an amended interim IFS by the Commission, West Maui (including Kaua'ula Stream) has experienced an unprecedented period of drought.

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

Launiupoko Irrigation Company
 September 28, 2021

Figure 2. (A) Mean daily streamflow (in million gallons per day, mgd) at US Geological Survey (USGS) station 16641000 on Kaua'ula Stream above the Launiupoko Irrigation System diversion (diversion 957) and at USGS 16643100 below diversion 957 with estimated long-term natural Q_{50} , Q_{70} , and Q_{90} from Cheng (2016³) for the period June 12, 2020 to August 31, 2021; (B) Mean daily streamflow (mgd) at USGS station 16620000 on Honokōhau Stream with estimated long-term natural Q_{50} , Q_{70} , and Q_{90} from Cheng (2016) for the concurrent period.

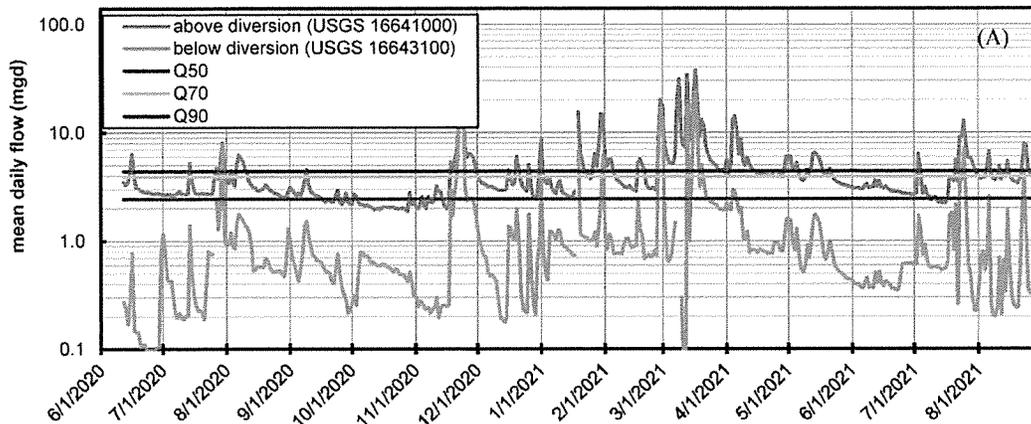
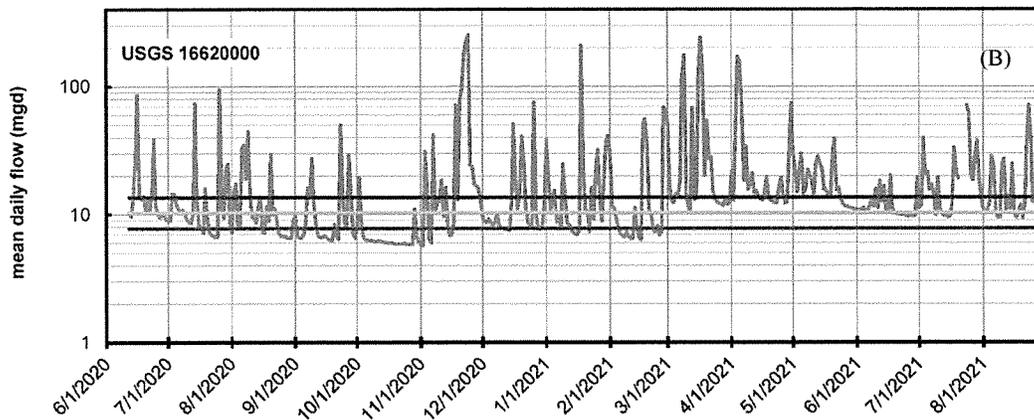


Figure 3. Mean daily streamflow (in million gallons per day, mgd) at US Geological Survey (USGS) station 16620000 on Honokōhau Stream



We understand that the current (2021) and recent (2018-2021) rainfall conditions in West Maui has led to a dramatic decline in runoff and groundwater recharge, resulting in reduced streamflow in Kaua'ula and other streams. Based on total monthly rainfall measured on Pu'u Kukui at SKN 380 (USGS station 205327156351102) from January 2018 to September 2021, West Maui has a cumulative rainfall deficit of 422.14 inches (Figure 4). In other words, since January 2018, there have been 422.14 inches fewer rainfall on Pu'u Kukui compared to the long-term average (Figure 5).

³ Cheng, C.L. (2016) Low-Flow characteristics for Streams on the Islands of Kaua'i, O'ahu, Moloka'i, Maui, and Hawai'i, State of Hawai'i. Scientific Investigations Report 2016-5103.

Launiupoko Irrigation Company
 September 28, 2021

Table 1. Flow duration characteristics (in million gallons per day, mgd) for Kaua'ula Stream at USGS 16641000 above diversion 957, USGS 16643100 below diversion 957, and an index station at USGS 16620000 on Honokōhau Stream for the period June 12, 2020 to August 31, 2021.

	USGS 16641000		USGS 16643100	USGS 16620000	
	2020-2021	1984-2013 ¹	2020-2021	2020-2021	1984-2013 ¹
Q ₅₀	3.34	6.14	0.66	11.25	13.57
Q ₇₀	2.82	4.59	0.47	9.11	10.34
Q ₉₀	2.28	3.36	0.23	6.59	7.76
Q ₉₅	2.07	3.10	0.19	6.15	7.11

¹from Cheng (2016)

Figure 4. Total monthly rainfall (inches, in) from January 2018 to September 2021 (bars) with long-term mean monthly rainfall (black line) measured at Pu'u Kukui (SKN 380) by US Geological Survey (station 205327156351102) at 5,771 feet, Maui.

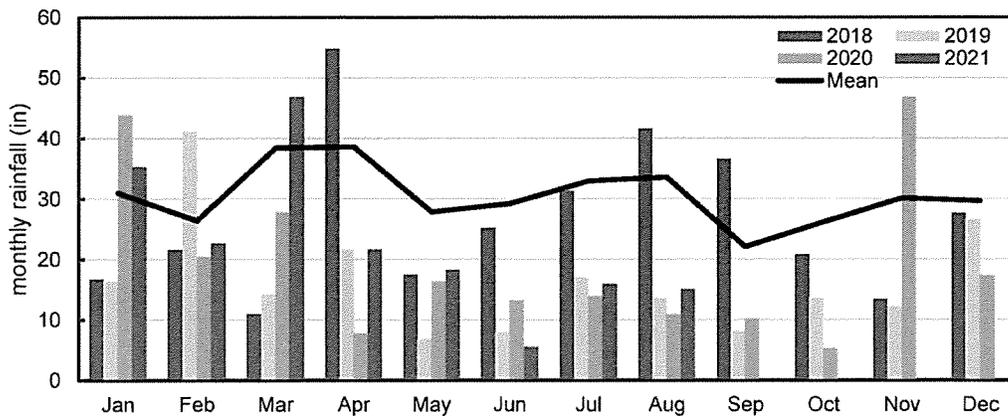
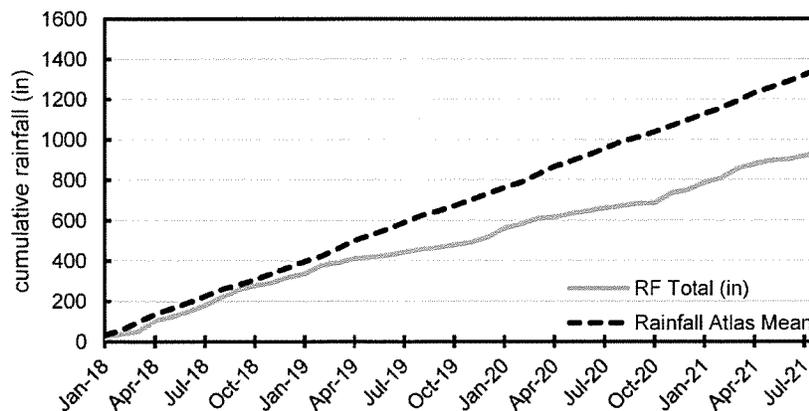


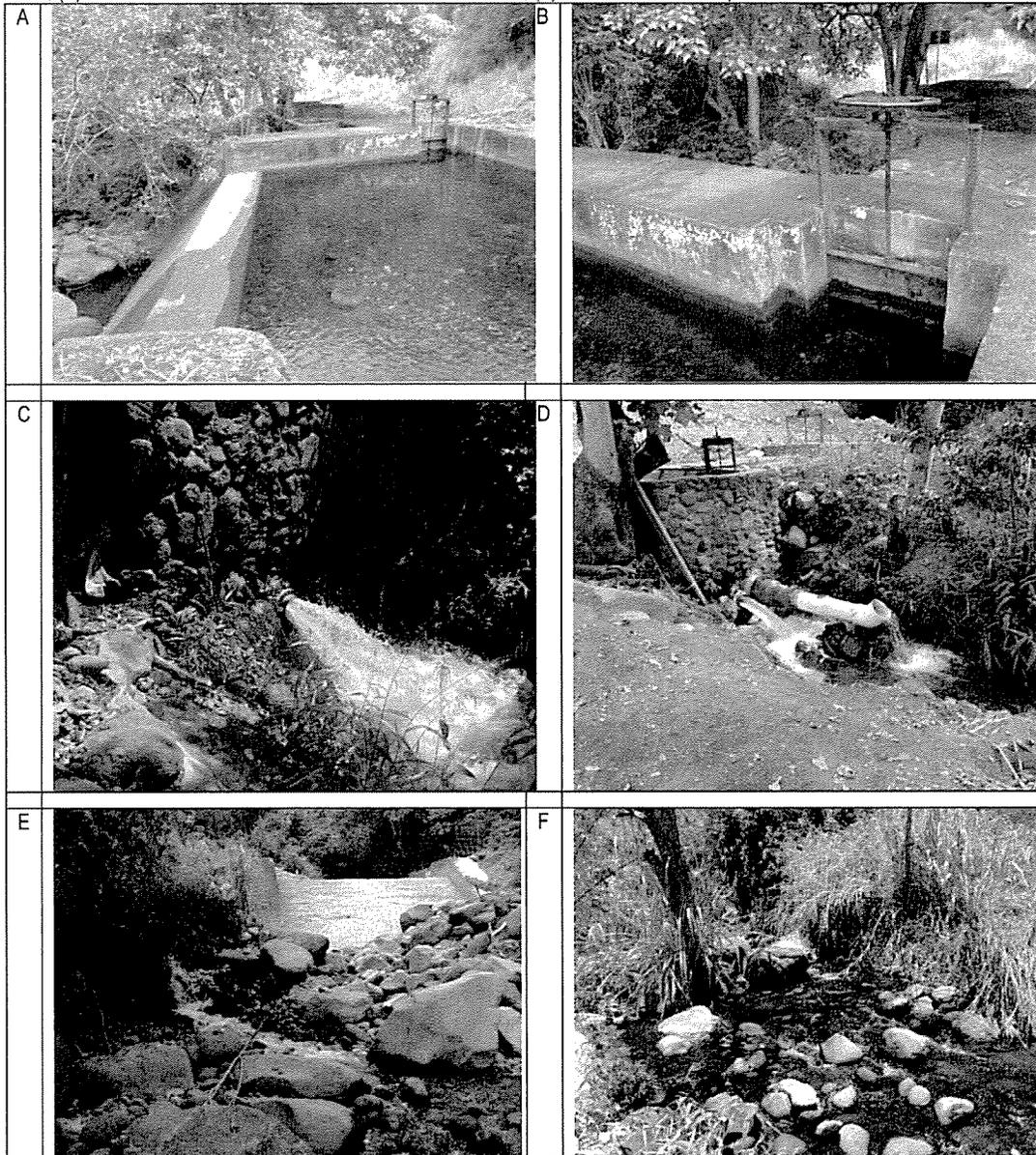
Figure 5. Cumulative rainfall measured at Pu'u Kukui (SKN 380) by US Geological Survey (station 205327156351102) relative to the 1978-2007 base period mean monthly rainfall.



Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

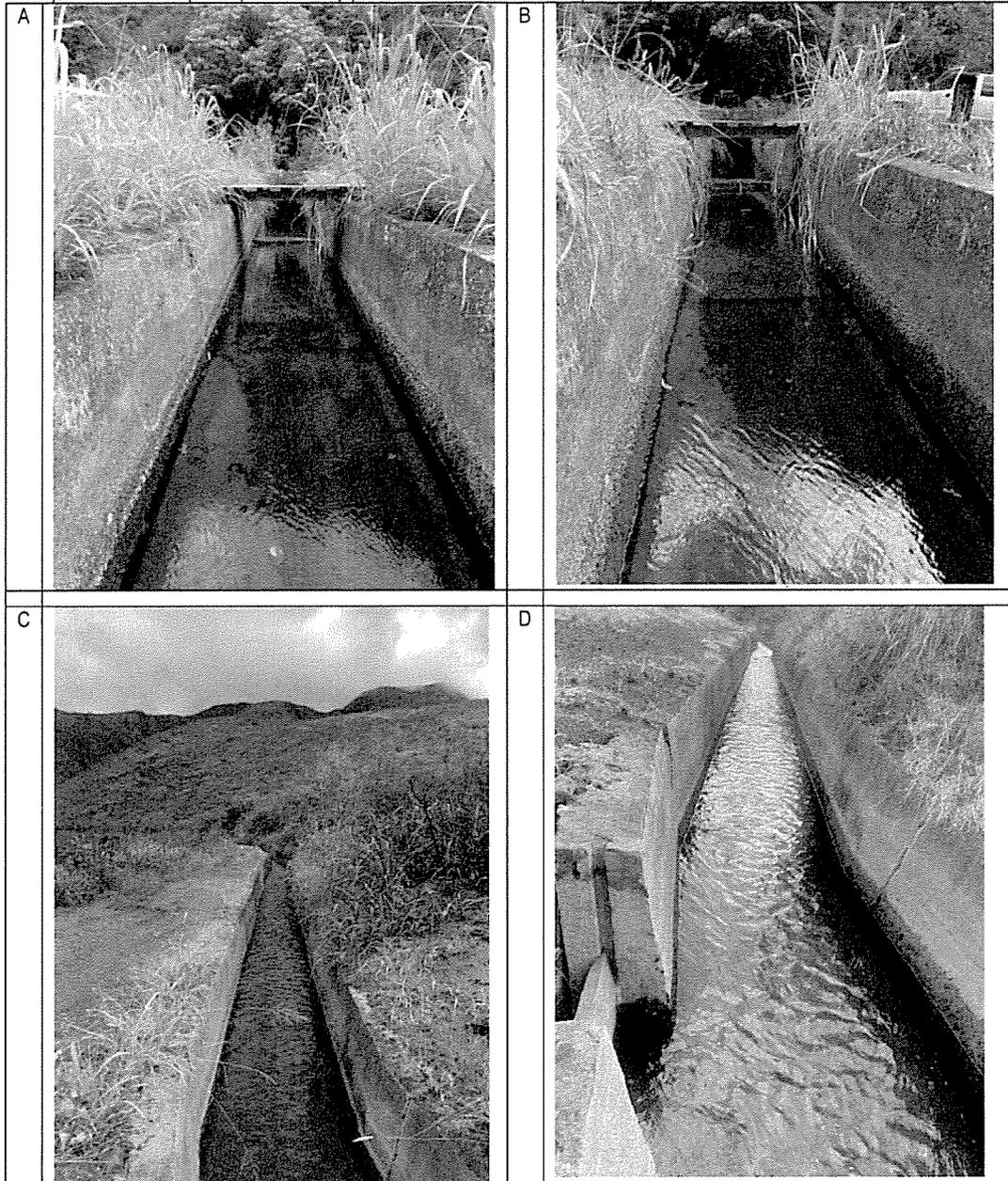
Launiupoko Irrigation Company
September 28, 2021

Table 2. Representative photos of (A) Diversion 957 dam across Kaua'ula Stream with intake gate on right bank; (B) close up of intake control gate on right bank; (C) outflow at original sluice basin pre-modification; (D) additional outflow at original sluice basin; (E) returned flow below diversion 957 on Kaua'ula Stream; (F) returned flow from siphon.



Launiupoko Irrigation Company
September 28, 2021

Table 3. Representative photos of Kaua'ula Ditch below intake at diversion 957 from Kaua'ula Stream at 1,560 ft elevation (A and B); Kaua'ula Ditch past siphon above pipeline to Kaua'ula Reservoir (C and D).



Staff Submittal
Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

April 19, 2022

Launiupoko Irrigation Company
September 28, 2021

We appreciate your attention to this matter and the follow-up actions required. Should you have any questions, please contact Dr. Ayrton Strauch of the Commission staff via email at ayron.m.strauch@hawaii.gov.

Ola i ka wai,



M. KALEO MANUEL
Deputy Director

cc: West Maui Land Co, LLC, Mr. Peter Martin

April 19, 2022

Launiupoko Irrigation Company, Inc.

305 E. Wakea Ave., Suite 100
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

October 28, 2021

BY EMAIL AND U.S. MAIL

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street, Suite 227
Honolulu, HI 96813

RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
2021 NOV -4 AM 11:00

Dear Mr. Manuel:

Please see our responses below to your letter dated September 28, 2021 Ref.: CWRM. 5783.6 requiring modifications to the Kaua'ula Stream diversion to comply with the IIFS.

1. *Staff are requesting that LIC provide a timeline for diversion modifications that will ensure mauka to makai streamflow at diversion 957 within 30 days from the date of this letter.*
 - a. LIC intends to submit conceptual plans for the modifications requested within 30 days of the date of this letter and will commence implementing the proposed diversion modifications within 30 days of CWRM's approval of said modifications.
 - b. Commencement of these modifications will be conditioned on LIC's receipt of a revised temporary rate increase from the PUC providing LIC with the funds required to fund pumping costs and to meet other operating expenses not objected to by the Consumer Advocate and to remove the condition to discontinue rationing in drought conditions.
 - c. The timeframe for completion will be subject to any permitting required and the sourcing of any specialized equipment required and the receipt of all governmental and other approvals required for the modifications.

2. *Commission staff is requesting that LIC begin to report the amount of water distributed to KEC, the Kaua'ula Valley homes, Kaua'ula Reservoir, and returned to the stream at the siphon immediately.*
 - a. Presently, LIC monitors the volume of stream water distributed to each of the above end-users and the amount of water returned to the stream at the siphon through flow meters, with the exception of Kaua'ula Reservoir. In response to CWRM's request, LIC will be working to design a way to remotely meter the flow of stream water into the Kaua'ula Reservoir.

EXHIBIT 2

Deputy Director Manuel
October 28, 2021
Page 2

- b. Please find attached the past 8 months of flow meter reports from water delivery to KEC, valley homes, and siphon release. Please clarify how future reporting is to be made. LIC currently provides diversion data to CWRM electronically but without the ability to specify the report format and content.
 - c. LIC expects that releasing water to meet the Interim Instream Flow Standards mandated by CWRM will likely result in all users of LIC's system to be without water 40% of the time.
3. *Staff is requesting that LIC install appropriate measuring devices (e.g., rated flume, weir with staff plate) to monitor the amount of water flowing to Kaua 'ula Reservoir above the siphon (see photos C and D in Table 3) within 90 days.*
 - a. Please clarify the location that CWRM is requesting to be monitored. The attached photos C & D to your letter show locations after the siphon rather than "above the siphon".
 - b. LIC is evaluating alternative locations and devices that will allow remote metering of stream water that flows into Kaua'ula Reservoir. LIC will provide a recommendation to CWRM for comment within 60 days with the intent of implementing such metering within 90 days, subject to CWRM's approval, the receipt of all governmental and other required approvals and the sourcing time for devices.
4. *Commission staff will continue working with LIC to implement an improved system to monitor resources, as well as seek to improve system efficiencies while enforcing the State Water Code.*

LIC is grateful for CWRM's cooperation in working to improve the monitoring of the Kaua'ula Stream water resource while allowing LIC to provide a limited allocation of surface water to its users.

Should you have any questions or comments, please feel free to contact the undersigned at (808) 877-4202 or via email at glenn@westmauiland.com.

Sincerely,


Glenn Tremble

CC: Dr. Ayron Strauch, via email ayron.m.strauch@hawaii.gov

Attachment

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

RETURNED to
STREAM

Siphon	
	7,837,569
	48,376,400
	57,715,000
	54,807,000
	45,810,000
	41,340,000
	42,210,000

MONTHLY USAGE (LIC, North Side of Stream)

Lower Valley Homes*	Kapu 1"	Kapu 1.5"	TOTAL KAPU
*see below			
1,763,102	337,677	2,737,980	3,075,657
1,763,102	124,944	839,060	964,004
1,763,102	231,176	765,060	996,236
1,763,102	356,060	3,010,070	3,366,130
1,763,102	171,471	1,386,860	1,558,331
1,763,102	269,807	1,540,510	1,810,317
1,763,102	253,283	1,667,754	1,921,037
1,763,102	145,745	1,049,746	1,195,491

KEC-GUNNERS
2,039,400
1,772,500
2,657,800
3,259,800
2,902,100
2,378,700
3,075,700
1,840,800

READ DATE

3/1/2021
4/1/2021
5/1/2021
6/1/2021
7/1/2021
8/1/2021
9/1/2021
10/1/2021

*Valley Homes (meter is not read monthly)

10/1/21 READ	12,993,600.00
3/1/21 READ	651,883.00
7 MOS	12,341,717.00
AVERAGE MONTHLY USAGE	1,763,102.43
DAILY	58,770.08
GPH	2,448.75
GPM	40.81

April 19, 2022

Launiupoko Irrigation Company, Inc.

305 E. Wakea Ave., Suite 100
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

November 29, 2021

BY EMAIL AND U.S. MAIL

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street, Suite 227
Honolulu, HI 96813
Manuel, Kaleo L <kaleo.l.manuel@hawaii.gov>

RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
2021 DEC -2 AM 10:59

Subject: Kaua'ula Stream IIFS
Diversion Modification Schematic
Ref.: CWRM. 5783.6

Dear Mr. Manuel:

In response to your letter dated September 28, 2021 Ref.: CWRM. 5783.6 requiring modifications to the Kaua'ula Stream diversion to comply with the IIFS and in accordance 1.a. of our Oct. 28, 2021 reply LIC is hereby submitting conceptual plans for the modifications to the diversion to ensure the IIFS of 5.2 cfs (or 3.36 mgd) remains in the stream. Both letters are attached for your reference.

The proposed design modifications include:

- 1) Removing an approximately 5 foot wide by 4 foot deep section or notch from the top of the diversion ("Diversion Notch").
- 2) Installing a steel plate that covers approximately 5 feet x 3 feet 6 inches of the new Diversion Notch that will provide gap of 6 +/- inches at the bottom to allow 5.2 cfs (or 3.36 mgd) to flow into the stream first before any water may be diverted into the ditch. Note that the ditch and diversion Elevations and C Factor for the Weir Flow are to be field verified. Adjustments to the gap between the steel plate and bottom of the Diversion Notch will be made to ensure the IIFS of 5.2 cfs is met.
- 3) A clean-out mechanism will need to be designed and installed to keep the gap free of debris.

EXHIBIT 3

Deputy Director Manuel
November 29, 2021
Page 2

Please see attached plan and profile of the proposed modifications for your review and comment. Please advise if additional information, permits or other approvals will be required for CWRM's approval for the work to begin.

As stated in the Oct. 28, 2021 letter:

- a. Commencement of these modifications will be conditioned on LIC's receipt of a revised temporary rate increase from the PUC providing LIC with the funds required to fund pumping costs and to meet other operating expenses not objected to by the Consumer Advocate and to remove the condition to discontinue rationing in drought conditions.
- b. The timeframe for completion will be subject to any permitting required and the sourcing of any specialized equipment required and the receipt of all governmental and other approvals required for the modifications.

Once these permanent modifications are made, no water will be diverted until the IIFS is met. Using the USGS data over a 473 day period between June 2020 and Sept. 2021, stream flows were at or below the IIFS of 5.2 cfs for 245 days during the 15 month period. Using this period as an example, zero water will be diverted about 51% of the time

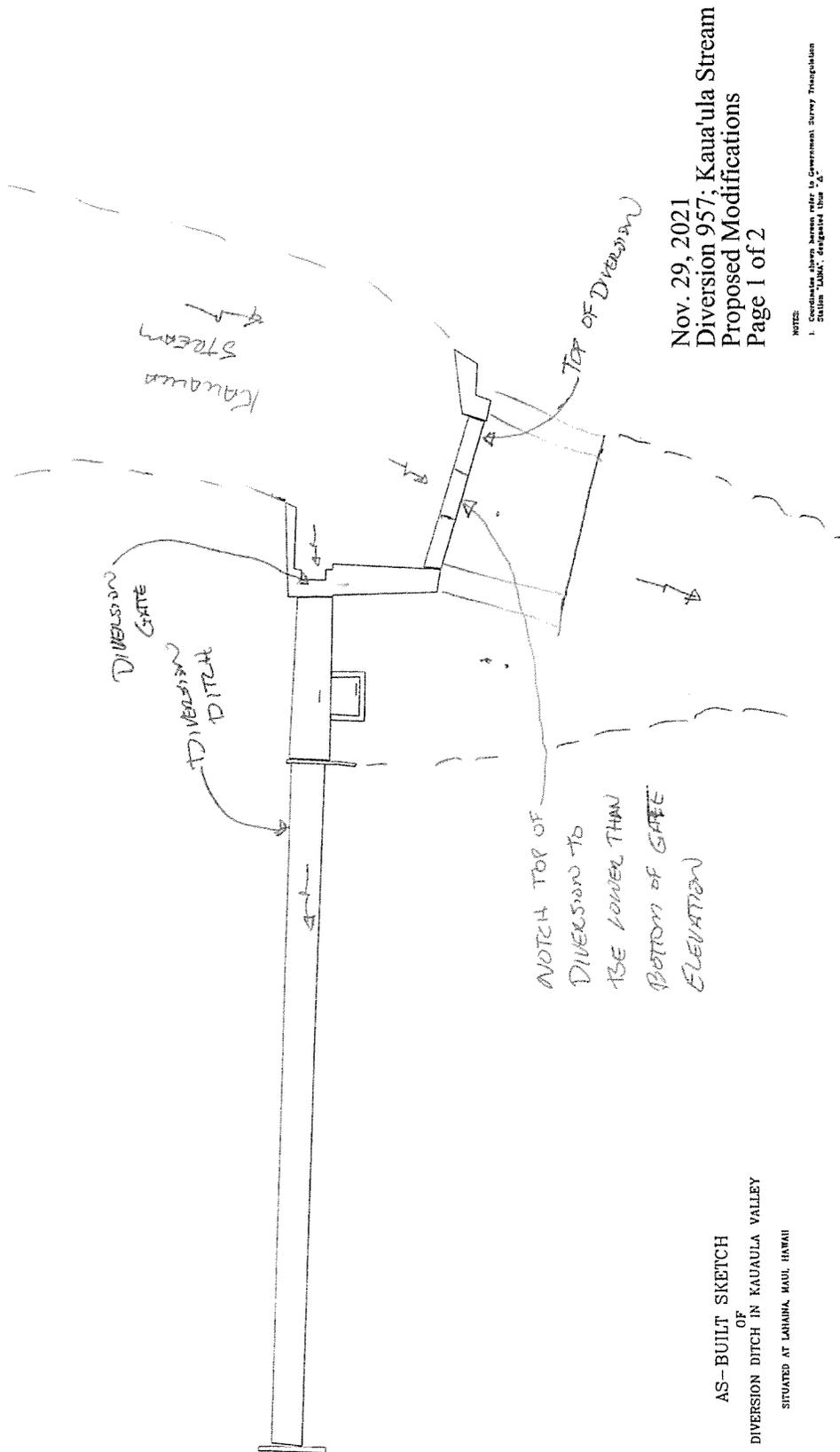
Should you have any questions or comments, please feel free to contact the undersigned at (808) 877-4202 or via email at glenn@westmauiland.com.

Sincerely,

Glenn Tremble

CC: Dr. Ayron Strauch, via email ayron.m.strauch@hawaii.gov
Dean Uyeno, via email dean.d.uyeno@hawaii.gov

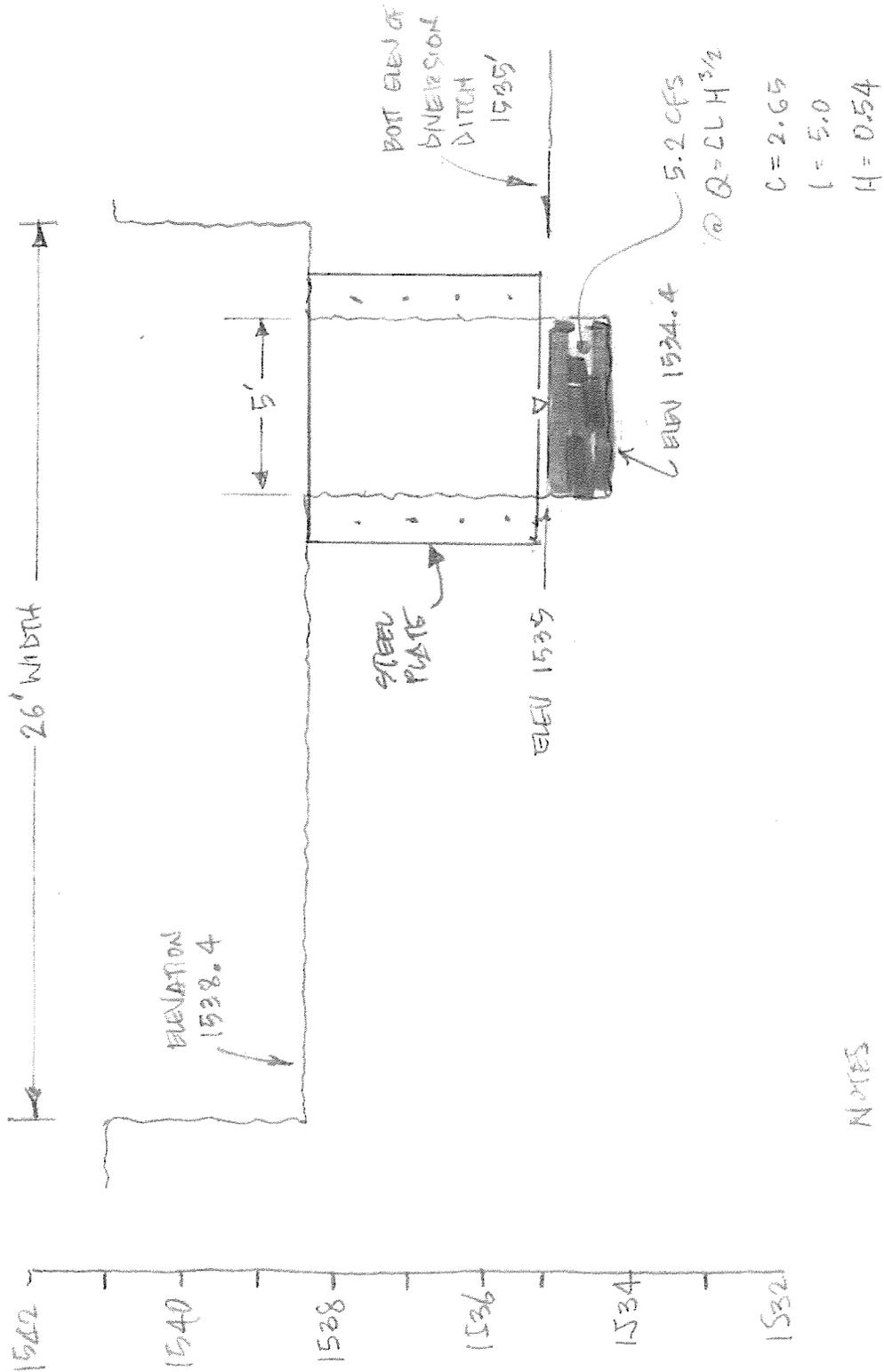
Attachments



Nov. 29, 2021
 Diversion 957; Kaua'ula Stream
 Proposed Modifications
 Page 1 of 2

NOTES:
 1. Coordinates shown herein refer to Government Survey Triangulation Station "Uluu", delegate that "d".

AS-BUILT SKETCH
 OF
 DIVERSION DITCH IN KAUAULA VALLEY
 SITUATED AT LAHUNA, MAUI, HAWAII



Nov. 29, 2021
 Diversion 957; Kaua'ula Stream
 Proposed Modifications
 Page 2 of 2

Staff Submittal
Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

April 19, 2022

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON

MICHAEL G. BUCK
ELIZABETH A. CHAR, M.D.
NEIL J. HANNAHS
AURORA KAGAWA-VIVIANI, PH.D.
WAYNE K. KATAYAMA
PAUL J. MEYER

M. KALEO MANUEL
DEPUTY DIRECTOR

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

March 31, 2022

Ref.: CWRM.5783.6

CERTIFIED COPY MAIL IS FORTHCOMING
RETURN RECEIPT REQUESTED

Glenn Tremble
Launiupoko Irrigation Company, LLC
305 East Wakea Ave., Suite 100
Kahului, HI 96732

Aloha Mr. Tremble:

NOTICE OF ALLEGED VIOLATION
Interim Instream Flow Standard
Kaua'ula Stream, Lahaina, Maui

Notice is hereby given by the Commission on Water Resource Management (Commission) that Launiupoko Irrigation Company, LLC (LIC) may be in violation of the following:

1. The measurable interim instream flow standard for Kaua'ula Stream, below the main diversion (REG.957.6) near an altitude of 1,540 feet, established by the Commission on March 20, 2018, in the amount of 5.2 cubic feet per second (3.36 million gallons per day) based on U.S. Geological Survey (USGS) estimates of total flow Q_{90} .
2. The measurable interim instream flow standard for Kaua'ula Stream, below the kuleana users near an altitude of 270 feet, established by the Commission on March 20, 2018, in the amount of 6.35 cubic feet per second (4.1 million gallons per day) based on USGS estimates of total flow Q_{70} and seepage losses.

Hawaii Revised Statutes §174C-71(2) and Hawaii Administrative Rules §13-169-30(b) directs the Commission to establish instream flow standards on a stream-by-stream basis whenever necessary to protect the public interest in waters of the State. The staff of the Commission monitors and regulates these established instream flow standards to ensure the protection of instream uses and adequate sharing of this limited resource for non-instream purposes.

According to HRS §174C-15, HAR §13-168-3, and Administrative and Civil Penalty Guideline (G14-01), any person who violates any provision of this chapter, or any rule adopted pursuant to this chapter, may be subject to a fine imposed by the Commission. Such fine shall not exceed \$5,000 per violation. For a continuing offense, each day's continuance is a separate violation.

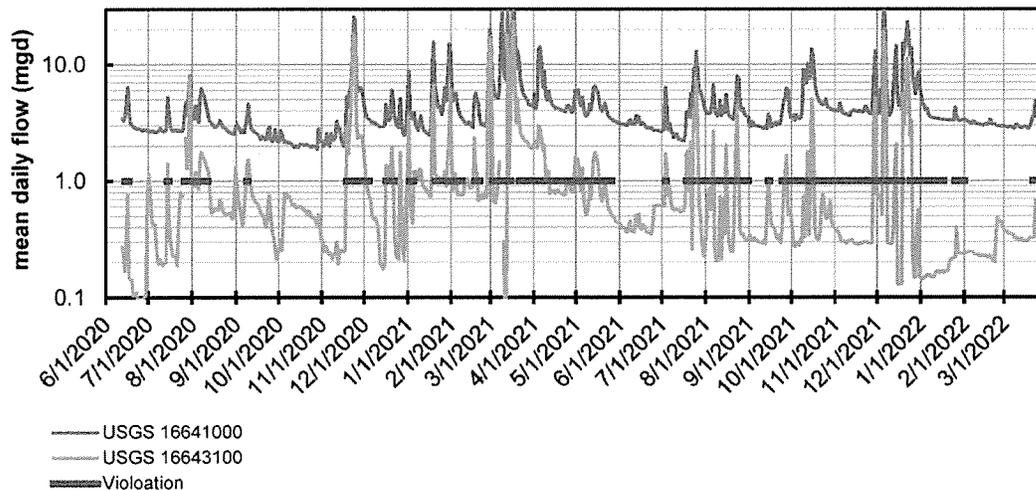
EXHIBIT 4

Temporary Relief from the Interim Instream Flow Standard for Kaua'ula Stream

Mr. Glenn Tremble
 March 31, 2022
 Page 2

Our records indicate that from June 12, 2020 to March 23, 2022 (650 days), Kaua'ula Stream had a mean daily flow of 4.55 mgd and that only below Diversion 957. There were 315 days (48.5%) where the mean daily flow at USGS 16643100 below Diversion 957 violated the interim IFS while there was sufficient flow above Diversion 957 at USGS 16641000. On days when there was insufficient flow above Diversion 957 at USGS 16641000 to meet the interim IFS, an average of 2.33 mgd continued to be diverted. For the period from June 12, 2020 to March 23, 2022, an average of 3.46 mgd (interquartile range: 2.44 – 3.66 mgd) was diverted from Kaua'ula Stream at Diversion 957.

Figure 1. Mean daily flow (million gallons per day, mgd) above diversion 957 at USGS 16641000 and below diversion 957 at USGS 16643100 with dates where flow at USGS 16643100 was below the interim IFS of 3.36 mgd and the flow at USGS 16641000 was above the interim IFS.



On September 28, 2021, Commission staff contacted LIC via letter (*CWRM.5783.6*) and reminded LIC of its obligation to comply with the interim IFS, requested LIC to submit a proposal of the stream diversion modification within 30 days the date of the letter, requested LIC to begin reporting the amount of water distributed to Ku'ia Estate Chocolate (KEC), the Kaua'ula valley homes, Kaua'ula Reservoir, and returned to the stream at the siphon immediately, and requested LIC to install appropriate measuring devices (e.g., rated flume, weir with staff plate) to monitor the amount of water flowing to Kaua'ula Reservoir above the siphon within 90 days.

On October 28, 2021, LIC responded via letter stating LIC will submit conceptional plans for the stream diversion modification within 30 days and commencement of these modifications LIC conditions on the receipt of a temporary rate increase by the Public Utilities Commission (PUC). LIC also submitted data on the amount of water distributed to KEC, the Kaua'ula valley homes, Kaua'ula Reservoir, and returned to the stream at the siphon and stated that LIC will provide a recommendation to the Commission within 60 days for the installation of a measuring device to monitor streamflow into Kaua'ula reservoir.

Temporary Relief from the Interim Instream Flow Standard for Kaua’ula Stream

Mr. Glenn Tremble
 March 31, 2022
 Page 3

On November 29, 2021, LIC submitted conceptual plans for the stream diversion modification and repeated LIC’s condition on a revised temporary rate increase. LIC also stated that “[u]sing USGS data over a 473 day period between June 2020 and Sept. 2021, streams flows were at or below the IIFS of 5.2 cfs for 245 days during the 15 month period.”

Based on data submitted by LIC, in letter dated October 28, 2021, and recreated in Table 1, there is a substantial amount of diverted flow that continues to be used by LIC, even during drought periods. Follow up site visits to the LIC service area have documented the continued use of water for landscape irrigation, particularly the watering of lawns during the mid-day with full sun. Such usage of water while violating the interim IFS constitutes clear waste of limited water resources.

Table 1. Daily mean diverted flow (gallons) at Diversion 957, metered usage by KEC, valley homes, Kapu homestead, return flow from Kapu homestead (80%), and release from the siphon back to Kaua’ula Stream.

Month	Diverted Flow	Mauī Kuia Estate Chocolate Farm	Valley Homes	Kapu homestead	Kapu return (80%)	Siphon release	Balance
March 2021	6,999,846	65,787	50,374	99,215	79,372	1,583,204	5,280,637
April 2021	4,282,599	59,083	50,374	32,133	25,707	1,753,133	2,413,582
May 2021	3,505,865	85,735	50,374	32,137	25,709	1,861,774	1,501,553
June 2021	2,561,071	108,660	50,374	112,204	89,763	1,826,900	552,696
July 2021	3,077,639	93,616	50,374	50,269	40,215	1,477,742	1,445,853
August 2021	3,579,043	76,732	50,374	58,397	46,718	1,333,548	2,106,708
September 2021	2,973,195	102,523	50,374	64,035	51,228	1,407,000	1,400,491
October 2021	4,892,908	59,381	50,374	38,564	30,851	1,481,484	3,293,956

Based on the information and analysis above, we expect LIC to immediately comply with the IIFS on Kaua’ula Stream. The Commission staff is of the opinion that the PUC’s order granting LIC’s temporary rate relief request, Order No. 37872 in PUC Docket No. 2020-0089, is sufficient for LIC to implement the requested stream diversion modifications and installation of a measuring device at Kaua’ula reservoir.

We welcome LIC to provide a response within thirty (30) days of the date of this letter, as we intend to schedule this case before the Commission for final disposition. You will be notified at that time concerning the meeting time and place.

We appreciate your attention to this matter. Should you have any questions, please contact Dr. Ayron Strauch of the Commission staff at (808) 587-0265, or via email at ayron.m.strauch@hawaii.gov.

Ola i ka wai,



M. KALEO MANUEL
 Deputy Director

From: [bobfreimuth](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Launiupoko water
Date: Saturday, April 16, 2022 10:30:09 AM

Hi Raeann, My name is Bob Freimuth and I live in Launiupoko at [REDACTED] I would ask that you include Launiupoko in allowing the water from the Kaulaua stream to be used for our ag purposes. Also please allow LIC to have their rate increase. Thank you, Bob

Chairman
Commission for Water Resource Management
PO Box 621
Honolulu, Hawaii 96809

April 16, 2022

Aloha Mr. Chairman,

On behalf of the over 1000 farmers, nurserymen and residents in the Launiupoko area, I urge the Commission to grant relief from the Interim Instream Flow Standard for Kaua'ula Stream, for the entire Launiupoko area and the current customers of *Launiupoko Irrigation Company*. The Commission's decision on March 20, 2018 regarding Kaua'lua stream flows has been devastating to us, who make Launiupoko our home and livelihoods.

My name is Dominic Pistillo and I have owned a small farm in Launiupoko for the past 19 years. I have a great deal of experience with water matters in this area because I was (but not currently) on the Board, and an Officer on the *Mabanalua Nui HOA Board - MNHLA*, the largest HOA in this area. I was also on the *MNHLA Water Committee*, had many problem-solving meetings with *Launiupoko Irrigation Company - LIC* in that capacity, and toured LIC's entire water system, together with its engineers, three years ago.

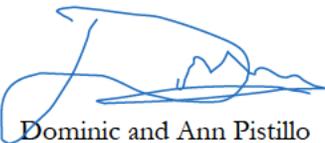
As you know, Launiupoko is an agricultural area (where agriculture and Farm Plans are required by Maui County) that is very challenging to farm due to its hot climate, high winds, lack of regular rainfall, and rocky and porous (fast draining) soil. The promotion of agriculture, along with the provision of agricultural (non-potable, surface) water to this area over the past 20 years has transformed it from a barren, inhospitable hillside to a green and productive community – even with its aforementioned challenges.

In 2018 the *Commission for Water Resource Management* effectively removed the primary source of this irrigation water, Kaua'ula Stream, from the system by ordering the majority of the stream flow to the ocean. This action placed a huge burden on the approximately 1000 farmers, nurserymen, and residents in Launiupoko, but also on *LIC* to supply water that was now flowing to the ocean. This situation was not only a burden on these constituents but also caused a great wildfire risk, virtually eliminating the water necessary to provide “wildfire defensible spaces,” as well as the water to fight any fires that did break out. This risk was brought into stark reality during the devastating wildfires fanned by Hurricane Lane in the summer of 2018. This situation has only gotten worse with a State-wide drought and little action by the *Public Utilities Commission* to provide rate relief to *Launiupoko Irrigation*, so that it may have the resources to develop and pump ground water to replace the now-diverted surface water from Kaua'lua Stream. It should be noted that the coexisting potable water system in the area (run by *Launiupoko Water Company*) does not have the infrastructure or capacity to sustain the agricultural irrigation demands in this area. Future developed ground water sources will have to be pumped up to the irrigation reservoirs where it would be delivered using the existing gravity-fed agricultural system.

As it stands now, with the drought and no stream flow available, farms and nurseries are drying up, farmers are losing their livelihoods, and the risk of a devastating impending fire season is just on the horizon.

Given these facts, I implore the Commission to immediately grant relief from the Interim Instream Flow Standard for Kaua'ula Stream until such time that the Public Utilities Commission grants rate relief to *Launiupoko Irrigation Company* so that it may complete its transition to a primarily ground-water system. It is with respect and aloha that we ask for your consideration. We are all good, honest, hard-working people who want the best for Maui.

Mahalo,



Dominic and Ann Pistillo
MauiMist Gardens

[REDACTED]
Lahaina, Maui, HI 96761

To: Commission on Water Resource Management

From: Dr Charmaine Marie Gallagher

██████████ Lahaina, Hawaii 96761

Date: 17 April 2022

Kia Ora,

I am writing this letter as a submission for testimony.

Water is essential, and surface water from Kaua'ula Stream that is legitimately required for Kaua'ula Stream Kuleana Users and Kamehemeha School Tenants, should rightly be directed to these users. Below is my submission from 5 May 2018 supporting clear running surface water in Kaua'ula Stream as well as clean water for food production.

Please understand, however, that the Private Individual who owns allocation rights, water and irrigation companies may also be seeking relief for future development opportunities through the Launiupoko Irrigation Company.

Natural Resources such as water should fall under State or County jurisdictions. I fear that the individual owning West Maui Water Company may be using State requirements and State Utilities as a shroud for negligence regarding water requirements.

I encourage the CWRM to work with the State PUC for a more holistic approach to precious water management in Maui.

Charmaine Marie Gallagher

Sent as testimony May 2018

Dr. Charmaine Marie Gallagher 59 Kumu Niu
Lahaina, Hawaii 96761

To: Commission on Water Resource Management

Date: 5 May 2018.

This letter is in support of the Mahanalua Nui Board, the Launiupoko Irrigation Company and Maui Water Company who have been diligent in pursuing a rational approach to a transition from a dual water system to an uncertain future. I wish to be clear that we are committed to a Maui County Approved Farm Plan and are under requirements to complete this plan. We have re-installed water saving measures with drip irrigation and filtration for optimal and minimal water use.

Mahanalua Nui has been identified as a community requiring 50% of the existing non potable water toward the Kaua' ula streambed according to the Commission on Water Resource Management (CWRM). I do not oppose the long-term improvement of fresh water reaching the sea but have **SERIOUS CONCERNS** over:

IMPLEMENTATION WATER QUALITY

1) Implementation of this Proposal lacks professionalism.

I have serious concerns on the approach by CWRM for IMMEDIATE changes to non potable water without allowing time for consultation to make adjustments in Maui County required farm irrigation systems.

This process has forced the Launiupoko Water Company to set up EMERGENCY systems and applications to prioritize neighbors. This will set neighbor against neighbor and create undue adverse effects on this community.

This approach is similar to a “takings” given that ALL landowners purchased with the title that includes potable and non-potable water sources.

The State Department of Land and Natural Resources (DLNR) has provided no direction with respect to the Maui County requirements for Farm Plan Development and Implementation prior to Building Consent and improvements. Substantial applications, infrastructure and costs paid to Maui County to ensure compliance in order to improve/upgrade aging and (in my case) an abandoned and dilapidated property and irrigation system that requires improvement and replacement.

The staff presentation 20 March 2018 to amend the flow standards indicates that the Launiupoko freshwater is combined with Kaua’ula non potable water supplied by Launiupoko Irrigation Company. As I understand it the diversion of the Kaua’ula Stream is proposed and expected to meet the Launiupoko Irrigation Company’s

agriculture demand 100% of the time with Launiupoko Stream Water (0.24 million gallons per day).

The proposal has not stated the specific purpose for these changes (perhaps the purpose is twofold).

One Document describes future needs of population growth in West Maui and future needs for potable water. Indicating the need to make water available for future development. **Citation**

The Launiupoko Instream Flow Standards Document (CWRM, 2017) describes needs of amphimorphous species. However, no native species were identified although Launiupoko Stream was chosen as a project site. **Citation**

The Staff presentation suggests short term (1 year) and long term (3 year) actions with Launiupoko Stream status quo but the Kaua’ula stream allow return flow at diversion. Long term would expect surveys and re-evaluation of instream flow standards.

Short Term Measures presented by LWC to the Community 12 April 2018 has potential cause severe Competition/Prioritisation for the available potable water to protect farming/landscaping. This is DANGEROUS GROUND as neighbourhoods will be adversely affected with uncertainty as to who will win in the short term and who will loose. This is a band-aid effort that will create uncessesary stressors and infrastructure changes just to accommodate the POOR IMPLEMENTATION of the Project.

In a presentation to the Mahananui Community LWC stated that Maui County has no interest in participating with this issue. This makes NO sense given that Maui County requires the application, design, implementation of a Farm Plan over 1.8 acres (in my case). Maui County must step up and show leadership by supporting their own planning policies.

The Mahananui Board is seeking a long term solution of groundwater sourcing that can accommodate the existing and future needs of this designed community

2) Water Quality and Fish Habitat has not been considered.

Fish habitat and water quality

I hold a PhD in Fisheries and Wildlife with experience in aquaculture. Therefore, water quality is paramount in any habitat restoration for aquatic organisms. The plan for immediate discharge to the Launiupoko Streambed will result in a substantial quantity of sediment and horse manure into the ocean. One of the farming activities is a commercial horseback riding venture from Makakila crossing tributaries feeding into the Launiupoko Stream. The proposal shows NO planning for abatement or migitation of undue adverse effects from trail disruption and horse urine and faeces.

Just placing surface water onto the streambed of Launiupoko and Kau'ula streams will not create fish habitat. At present both streambeds are subject to damage from horsebackriding use. The short term effects from stream bed topping will create conditions adverse to nearshore

coral and the very juvenile fish habitat that the proposal wishes to enhance.

The Maui Nui Marine Resource Council completes water quality assessments that supplement and compare to Hawaii Department of Health water quality monitoring for the Island of Maui. Please consider the efforts of the community to support better juvenile fish habitat. In addition, the Department of Land and Natural Resources (DLNR) Annual Coral Reef and Fish Monitoring Report. Supplement of state of the coral reef in Maui acknowledges declining trends in water quality.

Please consider a rational timeframe and stepwise approach to allow for systematic improvement of habitat while the Mahanalua Nui Community develop long term solutions for water and irrigation.

Citations:

Commission on Water Management 2017 Instream Flow Standard Assessment, Island of Maui Hydrologic Unit 6006 Launiupoko – January 2018. State of Hawaii, Department of Land and Natural Resources. 102p.

Cheng, C.L., 2014, Low-flow characteristics of streams in the Lahaina District, West

Maui, Hawai'i: U.S. Geological Survey Scientific Investigations Report 2014–5087, 58 p.

Sent to PUC 10 January 2021

Dr Charmaine Marie Gallagher 59 Kumu Niu (Launiupoko) Lahaina,
Hawaii 96761

10 January 2021

RE: Application of Launiupoko Irrigation Co. Inc. (LIC) for Temporary
Rate Increase

Kia Ora,

These are my initial concerns regarding the Application of the LIC
and their application for a rate increase:

1) As an, owner, resident, farm plan initiator and presently
installer, I rely on the irrigation water in support of the agricultural
aspect of this neighborhood. In addition to native and Maui
County approved species, some level of reforestation and
landscape will assist with both fire suppression and work toward
the historical capture of rain (now lost) in the West Maui Mountain
Watershed. ATTACHMENTS 1-3

2) I fully understand the impact from the Department of Land and
Natural Resources (DLNR) Instream Flow Requirements for
Launiupoko and Kau'ula Streams. ATTACHMENT 4. The result of
this requirement has created havoc on the irrigation delivery and
consistency as LIC has worked toward achieving the standards
at at the expense of the existing residents and farmers. The result
has been severe damage to our irrigation systems as pressure
has fluctuated on a daily basis from 95 PSI to 0 PSI. We have
installed pressure reducers and now pressure pumps to ensure
the irrigation systems will function. We continue to buffer our
systems from the inconsistent availability of irrigation water. The
LIC has encouraged residents to create switchovers (at residents
expense) and to just give up on Irrigation water. I am not
convinced that this is in the best interest of farms, Kuleana and
farmers in the area.

3) I am uncertain how LIC wants to transition from a semi Public Utility to a future development without completing their obligations as a public utility to the existing residents and farms. It appears LIC and West Maui Land Company have a plan for urban development and are negligent on their expectation as an operating semi public utility. Will LIC continue to have inconsistent delivery in order to transition residents and farmers away from the irrigation water system?

4) I encourage the Hawaii Public Utilities Commission to ensure that IF the Application is successful and LIC continue to act as a public utility that there be specific conditions, requirements and commitments to ensure that legitimate farm plans, owners and farmers receive quality irrigation water.

April 18, 2022

Commission on Water Resource Management
State of Hawai'i Department of Land and Natural Resources
1151 Punchbowl Street, Room 227
Honolulu, Hawai'i 96813
Via Email: raeann.p.hyatt@hawaii.gov

RE: ITEM C.4. Approve Temporary Relief for a Period of 60 days from the Interim Instream Flow Standard for Kaua`ula Stream, Kaua`ula Stream, Lahaina, Maui, to Provide for the Continued Diversion of 300,000 Gallons Per Day During Low-Flow Conditions to Kuleana Users and Kamehameha School Tenants Whose Sole Source of Water is Kaua`ula Stream

Aloha Chair Case and Members:

My name is Gunars Valkirs and I am submitting this written testimony in support of this proposed action of a temporary suspension of the Interim Instream Flow Standard (IIFS) for Kaua`ula Stream. The temporary relief offered in Item C.4 seems to be a step in the right direction but the details are unclear to me. My farm on Kamehameha Schools land along with the Ku'ia Agricultural Education Center and a number of kuleana users are currently entirely dependent on diverted Kaua`ula Stream water and the delivery of that water by the Launiupoko Irrigation Company (LIC).

In addition to the proposed action, I am requesting that you further direct your staff over the next sixty days to identify an approach to adaptive management of the stream flow that will:

- a) Propose needed changes to the diversion structures;
- b) Consider the current drought;
- c) Align with my imminent securing of an alternate water source, and
- d) Propose a mechanism for extension of the suspension as might be necessary until an adaptive management approach can be implemented.

These additional actions are necessary so that users that are solely dependent on diverted stream water will not lose that water for periods of time that will result in significant and potentially fatal damage to agricultural operations and misery for the families that rely on that water for their domestic use.

I appreciate that in your efforts to protect public trust uses of water across Hawai'i, in West Maui in general, and here in Kaua`ula, you face multiple challenges. I also understand that in considering a proposal to temporarily suspend an IIFS, concerns may be raised regarding precedent. I hope my testimony will provide you sufficient information necessary to

understand the unique set of circumstances we face and how that may distinguish this situation from others.

I will begin with sharing with you a description of our business operations, followed by a review of the efforts we have made to secure alternate sources of water in case Kaua`ula Stream water is unavailable. I will then describe for you how I understand that implementation the current IIFS along with other circumstances could lead to insurmountable challenges for my farm.

About Maui Ku`ia Estate Chocolate, Inc.

Along with twenty employees, I will be directly impacted by any proposed action you take today. I am the CEO of Maui Ku`ia Estate Chocolate, Inc. I own and operate a cacao farm on the Kamehameha Schools land referenced in this action item, and also have built a chocolate factory in Lahaina that makes chocolate from cacao grown on the farm. The cacao farm and the factory employ 14 people directly and another half dozen work for the Maui Chocolate Tour, a separate company, that exclusively operates tours from our chocolate factory in Lahaina to the cacao farm.

Our company has a mission few other commercial agricultural operations in Hawai`i have. While I have invested more than \$10 million in the past 8 years building the farm and the factory, our mission is to give 100% of the net profits back to the nonprofit community on Maui.

I am also proud to share that our cacao farm has won a [Cocoa of Excellence Award in 2021](#), the Gold Award for the Asia Pacific region, recognizing it as producing some of the finest cacao in the world. Chocolate made at our factory in Lahaina has won in the dark chocolate category of this year's [Good Food Awards](#). No company has ever won both of those awards before.

I believe these operations are excellent examples of how added value can make agricultural operations economically viable, can make productive use of Kamehameha Schools trust lands, create `āina based employment opportunities, and be a reasonable and beneficial user of water.

Our attempts to identify and develop alternate water sources

We recognize that as a non-public trust use of water, we have a duty to try and identify all practicable alternative sources of water in addition to showing that our proposed uses are reasonable and beneficial. When I heard about the proposed IIFS, I attended the meeting on March 20, 2018 that approved the IIFS. I also immediately explored every possible source of water other than diverted stream water because I understood that an IIFS based on the Q₉₀ amount could mean that 10% of the time I would not be getting water if the full IIFS was implemented.

Based on my research I identified only two options that were physically possible and economically supportable by our operations: construction of a well and pumping from an existing well. The existing well I could connect to is located in Wainē'e and is 2000' from the closest connection point on my farm and 200' lower in elevation. I constructed a 4" pipeline and placed a pump in the well at a cost of \$120,000, with the approval of the owner. This was intended for emergency use only and was tested briefly on a monthly basis to check if the pump could deliver water at minimum pressures needed to the cacao farm. It did so and was never used for any significant time but was there if needed. However, approximately six months ago, the pump was removed by the owner of the well. My understanding is that there is a dispute about whether there is a valid pumping permit for that well, but I have no further details, only that I lost my only emergency water source.

I also succeeded in obtaining a well construction permit (Ku'ia Estate Well, Well No. 6-5239-001) on October 27, 2020. I had fully intended to have had completed construction, testing and pump installation of this well by this time, and truly wish that had been possible. However, as you may understand, the financial impact of the COVID-19 pandemic on my company has been significant. I have been unable to finance the \$800,000 cost until just recently. Drilling starts on Monday, April 18, and it is estimated that the well should be operational in early July.

Until such time that I am successful at development of this alternate source, however, the recent management of diversions on Kaua'ula Stream presents a serious risk to the survival of the cacao farm, the factory, and the Maui Chocolate Tour.

How implementation the current IIFS along with other circumstances could lead to insurmountable challenges for my farm

Respectfully, I believe there are flaws in the approach that has been taken in the management of stream flows from Kaua'ula Stream. I believe it that was implemented without consideration of potential droughts like we are currently experiencing and the design of the diversion structures, and hence is inadequate to guide the management of the available water in the current situation.

Our current drought

The reality of the past few weeks seems to indicate that the current IIFS of 3.36 mgd cannot be met and still provide diverted stream water to Kamehameha Schools agricultural land and to the kuleana users in the valley. By contrast, the March 20, 2018, staff submittal, which CWRM approved in setting the IIFS for Kaua'ula Stream, it was stated that "This interim IFS allows Launiupoko Irrigation Company to meet the 0.4 mgd agricultural demand for Kamehameha Schools 100-percent of the time ...". The IIFS was based on the Q₉₀ from USGS historical data.

That statement may be true if it refers to the average available water over the course of a year but it appears to not be true during the current drought, and it will not be true during this summer and fall when the drought will most likely be worse. Farms do not operate based on average water availability unless they have enormous reservoirs to store weeks of water and that is not economically feasible or practical and wastes water that is evaporated from the reservoir.

If the drought becomes worse this summer and fall, the IIFS standard of 3.36 mgd may not be met even if all of the water is put back into the stream and the diversion is abandoned. The abandonment of the diversion is what LIC is contemplating and has indicated it may do should CWRM continue to demand that they meet a standard that cannot be met. Abandonment of the diversion would guarantee there is no supply of water to kuleana users and lessees of Kamehameha Schools

Current diversion structures

These matters are also complicated by the design of the diversion structures that are in place now. Despite the assurances of the staff submittal, there are times in which diversion is occurring but no water is diverted to our farm and the other Kamehameha Schools tenants.

My farm would be severely damaged by lack of water for more than a week because the fruit currently on the trees would have to be dropped in order to eliminate the stress on the trees from having to mature the fruit with inadequate water. We are in the middle of the harvest season and most of this year's harvest would be lost if that happened. The trees would be irreparably damaged if water were not available for more than 2-3 weeks, which is less than the time between two regularly scheduled CWRM meetings. This estimate is based on the expert opinion of my Vice President of Chocolate Operations, Dan O'Doherty, who is an internationally recognized expert in cacao farm operations.

Conclusion

Based on the forgoing, I urge you to temporarily suspend the IIFS as described in the motion and move toward an adaptive management approach toward the Kaua'ula Stream water that will:

- a) Propose needed changes to the diversion structures;
- b) Consider the current drought;
- c) Align with my imminent securing of an alternate water source, and
- d) Propose a mechanism for extension of the suspension as might be necessary until an adaptive management approach can be implemented.

I appreciate your continued service to Hawai'i and thank you for consideration of this testimony.

Gunars Valkirs

CEO, Maui Ku'ia Estate Chocolate, Inc.

From: [Ed Mark](#)
To: [Hyatt, RaeAnn P;](#) [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] April 19, 2022 Hearing Item #4
Date: Monday, April 18, 2022 8:45:32 AM

RE: April 19, 2022 Hearing Item #4 and Docket No:2020-0089 Application for Temporary Rate Relief

We reside in Launiupoko and desperately need Ag water for irrigation. Our properties are zoned agriculture, we have planted orchards to comply with zoning regulations. Now our plants are dying from lack of water.

We urge you to please approve the rate increase and restore ag water to the residents of Launiupoko immediately.

Thank you,

Ed Mark

[REDACTED]

Lahaina, HI 96761

[REDACTED]

From: [MARK ALBERS](#)
To: [DLNR.CW.DLNRWORM](#)
Subject: [EXTERNAL] No water in Launiupoko
Date: Monday, April 18, 2022 10:25:35 AM

To Whom it May Concern,

We are writing to express our dismay over the fact that our Ag water has been permanently turned off even without any prior warning.

We were cut back from 2 days a week to nothing.

When we were REQUIRED to implement a FARM plan in 2012 on our one acre parcel, we never expected this problem.

It is unfair, outrageous and totally not PONO.

There must be a way towards a compromise If this is about greed or ego.

People are not opposed to a reasonable rate increase but 400% is not fair.

Hopefully, with this water shortage, more housing developments will NOT be allowed in Launiupoko or Makila.

Thanks,

Permanent full time residents on Pua Niu Way

Sent from my iPad

From: [Richard Hoehn](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Commission on Water Resource Management Meeting April 19, 2022
Date: Monday, April 18, 2022 2:52:09 PM

Regarding Action Item #4 request to approve temporary relief from the IIFS for Kauaula Stream for 60 days for SELECT USERS.

I own and live on a 17 acre parcel in the launiupoko ag. subdivision. I have an extensive ag business here which consists of mostly hybrid puree mangos. They are starting to drop fruit for the lack of water, this situation has been ongoing for the past 17 days. My only source of water here now is a 5/8" potable water meter which delivers approx. 9 gallons per minute. I have 42 separate drip water stations for irrigating my trees which is the most efficient irrigation system I could install. My source for that system was the 1 1/2 " ag water meter which had its source from the Kauaula Stream. I have 11 years of my hard work from daylight to dark invested into this project plus all the money I have. There is no way I can maintain my mango trees without this ag water.

Will you please consider including the Launiupoko property owners in your 60 day temporary relief from the IIFS.

King regards Richard Hoehn, Lot 2, Makila



Virus-free. www.avast.com



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April 18, 2022

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Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Re: Meeting of the Commission on Water Resource
Management ("CWRM")
Date: April 19, 2022
Time: 9:00 a.m.

Testimony from HOA non-potable water customers
concerning request for temporary relief from the
Interim Instream Flow Standard for Kaua'ula Stream,
Lahaina, Maui ("Request for Temporary Relief")

Dear Honorable Commissioners:

This office represents the Mahanalua Nui Homeowners Association, Inc., Pu'unoa Homeowners Association, Inc., and Makila Plantation Homeowners Association, Inc. who represent the interests of nearly 400 paying non-potable water customers within Launiupoko Irrigation Company, Inc.'s ("LIC") service area in West Maui, comprising the vast majority of LIC's entire paying customer base for its non-potable water service, and who have been granted Intervenor status in the ongoing rate proceeding before the Public Utilities Commission of the State of Hawaii in Docket No. 2020-0089 (collectively, the "HOA Intervenors").

With regard to the Request for Temporary Relief that we were just apprised of, the HOA Intervenor respectfully object to the request **to the extent it does not allow for released stream water to be used to provide non-potable water to the HOA Intervenor for reasonable irrigation for agricultural purposes.** Moreover, the HOA Intervenor believe that the basis for CWRM's decision to exclude the HOA Intervenor from having access to the released water is based upon an incorrect assumption that HOA Intervenor have access to alternative sources of water to accommodate their mandated agricultural uses on their property through potable water. This is not the case.

At page 8 of the Staff Submittal dated April 19, 2022 in support of the Request for Temporary Relief in a section entitled "Alternative [sic] Water Sources," CWRM states: "Launiupoko Irrigation Company was established to distribute non-potable water to customers in three subdivisions of Launiupoko: Mahanalua Nui, Makila, and Pu'unoa. All customers in the subdivisions have access to both potable and non-potable water. . . ." Then, at page 10 of the Staff Submittal, in recommending the suspension of the imposed stream standards, the document included recommendation number 3 which states that LIC must "continue to meet the water needs of tenants of Kamehameha Schools for reasonable irrigation use for agricultural and education purposes **who currently have no other alternative source of water.**" (emphasis added).

As LIC noted in its Response to Order No. 3744 filed on December 24, 2020 in Docket No. 2020-89, LIC explained that the HOA Intervenor's purported "alternative" source of potable water, ceased as a viable alternative for non-potable water as of **November 9, 2020** because the additional pumping was creating a safety hazard:

In order to make up a portion of the lost stream water while waiting for the improvements to the non-potable system to come on line, water has been supplied to the non-potable reservoirs from potable wells at Launiupoko. However, the additional pumping from the potable wells not only increased operating costs (and losses), **it has resulted in an unacceptable increase in the chloride content of water from the potable wells making that interim alternative no longer a viable source to replace the lost stream water even on an interim basis. As a result, the use of potable water sources to provide irrigation water to Applicant's customers has been discontinued as of November 9, 2020.**

Id. at 5 (emphasis added).

Indeed, the HOA Intervenors have been patiently participating in the ongoing rate proceeding since 2020, and have been waiting for months for Commission action on LIC's pending motion for reconsideration of the previous grant of temporary rate relief – that LIC has challenged for not being sufficient to provide non-potable water service to its customers. In the meantime, with drought conditions worsening, not only is the current water rationing wreaking havoc on the HOA Intervenors' members' ability to perform their governmentally-mandated agricultural activities on their land, but now, the threat of wildfire is becoming increasingly prevalent and dangerous with the drying out of the members' property and landscaping on adjacent areas caused by said rationing. As such, contrary to the Staff Submittal's incorrect belief, the HOA Intervenors do **not** possess alternative sources of non-potable water to support their mandatory agricultural activity on their property.

Accordingly, the HOA Intervenors respectfully object to the proposed concept of excluding LIC's paying customers from using any released stream water, and submit that any such relaxing of standards be performed in a manner to allow HOA Intervenors and their members to use the released stream water for "reasonable irrigation for agricultural purposes;" just as CWRM is intending to treat LIC's other classes of customers in the aforementioned Request for Temporary Relief. See Request for Temporary Relief at p. 10.

Thank you for your consideration.

Very truly yours,



BRUCE NAKAMURA

for

KOBAYASHI, SUGITA & GODA, LLP
Attorneys for HOA Intervenors

Launiupoko Irrigation Company, Inc.

305 E. Wakea Ave., Suite 100
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

April 18, 2022

VIA EMAIL

kaleo.l.manuel@hawaii.gov

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: [Item C-4] Launiupoko Irrigation Co.'s Request to Revise the Recommendation to Approve Temporary Relief for a Period of 60 Days from the Interim Instream Flow Standard for Kaua'ula Stream for All Users (Kuleana Tenants, Kamehameha Schools' tenants and LIC's 400+ Customers) and Adopt Adaptive Management Strategy During Such Period

Dear Deputy Director Manuel:

My name is Glenn Trimble. I write on behalf of Launiupoko Irrigation Co. ("**LIC**").

Commission Agenda Item C-4 recommends "a temporary relief for a period of 60 days from the interim IFS for Kaua'ula Stream to provide for the continued diversion of 300,000 gpd during low-flow conditions such that the interim IFS becomes the mean daily flow minus 300,000 gallons; at all other times the interim IFS should be met." Staff Submittal C-4 at 10.

LIC agrees with the proposal to provide temporary relief from the interim IFS for Kaua'ula Stream to Kuleana tenants and Kamehameha Schools' tenants. With respect, however, implementing the recommendation by diverting the specified amount of 300,000 gpd to targeted users and returning any excess to the Stream daily is unfair to the other users and impracticable.

Due to varying conditions that impact Stream flow, the intake would need to be continuously modified on a trial-and-error basis in an attempt to meet the proposed continued diversion amount of 300,000 gpd during low-flow conditions while avoiding excessive diversion.

Similarly, due to varying conditions that impact Stream flow and the amount actually diverted from the Stream, the return of any water in excess of 300,000 gpd would require continuous modifications to the siphon release on a trial-and-error basis.

Access to the intake and siphon release requires a three-hour round trip drive in a 4x4 vehicle over rugged terrain. LIC would need to devote considerable manpower chargeable to its 400+ customers to make the continuous modifications that would be necessary to attempt to comply with the proposed suspension of the interim IFS. These efforts would be made to assist specific users (Kuleana tenants and Kamehameha Schools' tenants), would not be certain to result in

additional diversions and recaptures as intended and would certainly not benefit the customers who would be forced to pay for the efforts. Putting aside the technical and logistical challenges with the proposed suspension of the interim IFS, fundamental fairness requires that certain customers should not bear the expense of the suspension of the interim IFS without the potential to benefit from the suspension of the interim IFS.

Instead, additional water should be delivered to Kuleana tenants (public trust use) and Kamehameha Schools' tenants (non-public trust use) and LIC's 400+ customers, who are also in desperate need of water, through a balanced system that is capable of consistent implementation. Specifically, LIC requests that the Commission temporarily suspend the interim IFS and approve the adaptive management strategy that was in place in the early implementation phase of the interim IFS. Under this approach, (1) LIC would release to the Stream 1 mgd at the intake and 1.2 mgd to the Stream at the siphon; (2) given the layout of the system, the needs of Kuleana tenants and Kamehameha Schools' tenants would first be met; (3) LIC's customers would be able to use excess water and (4) during high-flow conditions, it may be possible to store water for a couple of days for use after the temporary relief period.

We understand the critical nature of the situation. LIC staff recently found that the 6-inch valve located outside of the hydropower plant had been closed. LIC staff also found that large rocks had been piled inside the tunnel between the intake gate and release box, which throttled down the release and increased the flow through the tunnel. We notified Commission staff of the unlawful interference.

LIC believes that temporary relief for everyone following the methodology that was in place in the early phases of the interim IFS will ease competition for water, reduce the potential for further interference with the system and mitigate the current emergency. We are all in this together.

Thank you for your time and consideration. I will be available at the Commission hearing to answer any questions.

Respectfully,

Glenn Tremble
Launiupoko Irrigation Co.

To the members of the Water Commission,

I am requesting that the IIFS be re-examined and deferred until the commission can do a full transparent documented study on the total effects of the IIFS.

The 60 days temp relief for select users is very biased and discriminatory. How can a commission that is supposed to look out for the welfare on the proper use of this resource limit who can and cannot use the water while the primary land owner cannot? This decision is based on what criteria?

Launiupoko Irrigation Company and its customers have followed all the rules and design criteria from state to county regulations. LIC has the only legal diversion and if the kuleana are to receive water they will need to get it from the stream and not the system that LIC owns. This makes no sense and is unfair to the water company that continues to maintain and repair the distribution system. As mentioned in a previous testimony, there was going to be unintended consequences should the IIFS be implemented.

If the commission cannot allow the water to be shared for all then it should continue with its mission and let the water potentially flow to the ocean. After which the commission can follow the laws of the land and have the people apply for stream diversion permits and treat all equally in the process.

The other question is did the Federal flood control program get changed so that the improvements at the bottom near Puamana allow the water to flow to the ocean?

We need to be fair and look at the fact that we all have a need for some of the water. Some people have purchased land and invested legally and some people are living in areas that no county or state service is willing to enforce living and regulatory codes. But the people in these areas are the LOUD minority that the commission is willing to help and discriminate against everyone else. Our government agencies need to step to the plate and help those in NEED but not ignore those that do abide by all the laws of the Hawaii and the United States of America.

Mahalo,

Dave Minami



Jade Chihara
[REDACTED]
Lahaina, HI 96761
[REDACTED]

Commission on Water Resource Management
State of Hawai'i Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street, Room 227
Honolulu, Hawai'i 96813
dlmr.cwrmm@hawaii.gov

RE: Agenda Item #C4, Approve Temporary Relief for a Period of 60 Days from the Interim Instream Flow Standard for Kaua'ula Stream, Kaua'ula Stream, Lahaina, Maui, To Provide for the Continued Diversion of 300,000 Gallons Per Day During Low-Flow Conditions to Kuleana Users and Kamehameha Schools' Tenants Whose Sole Source of Water is Kaua'ula Stream

Aloha Chair Case and Members of the Commission on Water Resource Management:

My name is Jade Chihara and I am in support of Agenda Item C4, Approve Temporary Relief for a Period of 60 Days from the Interim Instream Flow Standard for Kaua'ula Stream, Kaua'ula Stream, Lahaina, Maui, To Provide for the Continued Diversion of 300,000 Gallons Per Day During Low-Flow Conditions to Kuleana Users and Kamehameha Schools' Tenants Whose Sole Source of Water is Kaua'ula Stream. I am testifying as a resident of Lahaina firstly concerned for the rights of kuleana 'ohana that are dependent on LIC infrastructure to receive surface water as well as the work in regenerative agriculture in the ahupua'a of Ku'ia. As a resident and steward in this area I am in support of a more strategic release by LIC that provides kuleana families water for their domestic and agricultural use and for Ku'ia Agricultural Education Center to use this wai to fulfill its mission to provide 'āina based education programs to our public schools and Kaiapuni and to restore Ka Malu 'Ulu o Lele, the historic food forest of Lahaina. Unfortunately, water has been shut off for the past week and I ask for a timely decision to restore water to kuleana and Ku'ia users.

Mahalo for the opportunity to submit testimony and for the time and commitment this commission makes to protect and manage these water resources.

All the best,
Jade Chihara

From: [Donna Poseley](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Kaua'ula Stream
Date: Tuesday, April 19, 2022 10:35:34 AM

This is a plea to allow Launiupoko Irrigation Water to set a rate increase for non-potable water..
As everyone knows, when the decision was made to allow the water to flow to the ocean (instead of helping the residents who are trying in vain to farm for our families and for revenue) we now have limited water resources.

I am afraid we will all start using potable water to irrigate in order to keep their investments alive. This would limit the water for domestic use and fire protection.

My home was seriously threatened with the fire of 2018. My husband and I stayed behind and saved our house and property. If it weren't for disobeying the authorities, we would have lost our home. My husband is now deceased and I know I wouldn't have the tenacity to stay and fight a fire.

Please keep in mind that we are trying to be good stewards of the land and doing our part to sustain our island.

Aloha,
Donna Poseley