



WAILUKU WATER CO.

WAIKAPU IAO WAIEHU WAIHEE

Na Wai Eha

Agenda Item B.1
South Waikapu Auwai
Na Wai Eha Surface Water Management Area

Wailuku Water Company, LLC
February 11, 2022

Chairperson Case and Commissioners,

In the agenda published for its February 15, 2022 meeting, the Commission listed “Clarify the Distribution Points for South Waikapu Auwai as Part of the Implementation of the Final Decision and Order for CCH-MA15-01 and Order Wailuku Water Company and Waikapu Properties, Inc. [sic] to Implement Certain Actions to Initiate Delivery of Water to the South Waikapu Auwai, Na Wai Eha Surface Water Management Area, Waikapu, Maui.” CWRM February 15, 2022 Agenda, Item B.1, page 2. The staff report was not posted on this agenda item as of the time that this submittal was prepared. If a staff report is provided before the meeting, Company reserves the right to comment on the staff report.

First, Company wishes to thank staff for placing this item on the agenda for action. As understood by Company, the action proposed by staff will be to change the delivery point from the location that existed on the date of the Decision & Order to the sand filter station that exists just makai of Reservoir #1. The proposed delivery point is the point at which Company delivers water to Waikapu Properties, LLC. As Company is directed to deliver a set amount of water to the South Waikapu Auwai at the delivery point that existed on the date of the Commission’s Decision & Order, the Company believes an amendment of the Decision & Order is necessary to reflect the change in delivery point and should also reflect a change in the amount to be delivered at the new location to reflect the total deliveries for the South Waikapu Auwai and Waikapu Properties, LLC.

While Company will propose an amendment to the Decision and Order, Company initially raises the issue of whether the Commission can amend the Decision and Order. The Decision and Order was appealed. As such, it would be prudent for the Commission to confirm from its legal advisor that it retains the ability to amend the Decision and Order while the appeal is pending.

Assuming the Commission determines it has the ability to amend the Decision & Order, Company suggests that the Commission amend the Decision & Order as follows:

Decision & Order III.B.39.b.2.vi. is amended to read:

“South Waikapū `Auwai and Waikapu Properties existing use permit of 1,838 gpd shall be at the sand filter station makai of Reservoir #1”

Decision & Order III.B.39.c.6. is amended to read:

“South Waikapū `Auwai and Waikapu Properties – 0.267 mgd.”

Additionally, Company suggests that the Commission amend the Decision & Order to include a new paragraph in Decision & Order III.B.141 to the following:

“e. Waikapu Properties shall ensure that the following quantity of water is delivered to the South Waikapū `Auwai 0.265 mgd. The delivery point shall be just mauka of the delivery point for SWUPA 2155 – Clayton Suzuki. The amount shall be provided at all times unless identified in Tables 1-3, *supra*, or determined by the Commission to be an emergency. Waikapu Properties is required to gage and continuously monitor with a Commission staff approved water meter at the delivery point and report the amounts delivered monthly to the Commission.”

Should you have any questions please feel to contact me.


Avery B. Chumbley
President, Wailuku Water Company LLC



Cc: Paul R. Mancini & Jim W. Geiger

From: [Dawna](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] agenda item b1 testimony
Date: Monday, February 14, 2022 12:14:50 PM

February 14, 2022
State of Hawaii - Commission on Water Resource Management
P.O. Box 621 Honolulu Hawaii 96809
Via email: raeann.p.hyatt@hawaii.gov

Re: South Waikapu Kuleana 'Auwai WUPA Permittees

Dear Commission and Staff,


Further to our plea's of October 19, 2021, please be advised that as of this date, the kuleana appurtenant rights of kalo farmer's have not yet been enforced; nor restored; and we are still without water as of today.

We, as a collective ohana, continue to ask that this commission support our request to exercise our traditional and customary rights to access the original South Waikapu Kuleana 'Auwai for use on our kuleana lands as it once did before. We have made a formal request to the land steward, Mr. Avery Chumbley. Your support in our petitioning for kokua is appreciated.

Mahalo,

Crystal Smythe, Trustee
John Minamina Brown Trust

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From: [Olivia Alves](#)
To: [Hyatt, RaeAnn P;](#) [DLNR.CW.DLNR.CWRM](#)
Subject: [EXTERNAL] Written Testimony toward 2/15/22 meeting item B1
Date: Monday, February 14, 2022 7:13:57 PM

Testimony regarding:

Item B1: Clarify the Distribution Points for South Waikapū ‘Auwai as Part of the Implementation of the Final Decision and Order for CCH-MA15-01 and Order Wailuku Water Company and Waikapu Properties, Inc. to Implement Certain Actions to Initiate Delivery of Water to the South Waikapū ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area, Waikapū, Maui

Aloha e Commission on Water Resource Management

On behalf of Kuleana water users ‘Ohana Alves, we are appreciative of the recent efforts by Waikapū Properties- Mike Atherton and your commission to transfer allocated water through the newly designed piping system.

Unfortunately, these efforts have been disrupted by the recent actions of Avery Chumbley and we still have no water. After reading the recently forwarded emails between Mr. Chumbley and Mr. Atherton, it again appears that Mr. Chumbley is attempting to halt the decisions of the commission and the rights of kuleana water use. This is a chance for you as a commission to make it very clear what authority you have. We ask that you utilize this authority against unjust water ownership mindsets and make a clear message that when action is agreed upon it will actually happen. Our lack of hope that the water allocations will actually be withheld has gone on long enough. Just when we thought the lo’i would again feel river water and breathe back life, we encountered another roadblock. With urgency we ask that you make it clear to all parties that the release of water into the ready pipes will happen now and not later.

Also, in hopes of eliminating future challenges and moving forward with a long term plan we urge you to support our request to exercise our traditional and customary rights to access the original South Waikapū Kuleana ‘Auwai. We have made a formal request to landowners, Mr. & Mrs. Avery Chumbley, and are awaiting a response as to whether they will grant us access to restore

the traditional kuleana 'auwai so that we no longer need to rely on the former plantation system managed by Wailuku Water Co. We want to manage our own water course similar to that of the North Waikapū Kuleana 'Auwai Water Use Permittees and kalo farmers. Please do whatever is in your power to allow for the restoration of the water's path toward the health of Hawai'i and back to its original kuleana direction.

Mahalo nui

Ho'okahi Alves and 'Ohana