



## HAWAII WATER SERVICE

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February 9, 2022

Mr. M. Kaleo Manuel – Deputy Director  
Commission on Water Resource Management  
Department of Land and Natural Resources  
State of Hawaii  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Manuel:

Intention to Designate the Lahaina Aquifer Sector  
as a Surface and Groundwater Management Area

Hawaii Water Service Company (Hawaii Water) has prepared this response to the Commission on Water Resource Management's (CWRM) intention to designate the Lahaina Aquifer Sector as a Surface and Groundwater Management Area. The Staff Submittal presented at the Commission's January 18, 2022 meeting provides the basis for CWRM's intention to designate.

Hawaii Water's interest in the potential designation is substantial. It is the owner and operator of the KaaNapali Water System which has nine (9) wells in the Honokowai Aquifer System. It is the owner and operator of the Kapalua Water System in the Honolua Aquifer System. It also has a contract with Maui Land & Pineapple Company to operate and maintain the Honokohau Ditch System which originates in the Honokohau Aquifer System.

Questions and Comments on the Basis of Designation as Presented in the Staff Submittal

As a general comment, information in the Staff Submittal is limited to a summary of existing and projected water use amounts. It does not provide the backup data which would allow Hawaii Water or any other interested party to be able to verify the validity of the summary numbers presented. For example, Table 2 on page 7 of the Staff Submittal. Hawaii Water would like the following information supporting the groundwater amounts in the table to be made public, including:

- Actual measurement data of the tunnel discharge rates, including how many measurements were made, the dates of these measurements, and how the time-varying rates of discharge were accounted for.





## HAWAII WATER SERVICE

- A list of wells and their respective potential uses which comprise the “entitled / authorized planned use” for each Aquifer System.
- A list of wells and uses which comprise “other permitted well capacity” and a justification of their inclusion in the comparison of each aquifer system’s existing and planned pumpage versus its sustainable yield.
- We believe that the “other permitted well capacity” is not a justifiable inclusion in the basis for designation. If it is not included, only the Honokowai Aquifer system exceeds the 90 percent criterion for designation, making designation of the other five (5) aquifer systems without an actual basis to do so.

In the Staff Submittal’s sections on the Honokowai and Launiupoko Aquifer it is stated that withdrawals from either of these aquifers “...will most likely affect neighboring aquifers.” This generalization, made without actual supporting field data, is the only justification for including the other five (5) aquifer systems that do not otherwise meet any of the criteria for designation. Please provide any actual field evidence that supports this rather broad generalization regarding the contrasting permeabilities. We are of the opinion that the extent of this possibility is a very modest impact at best.

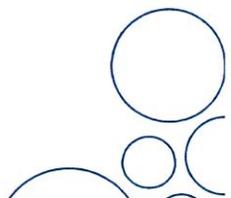
CWRM has one (1) monitor well in the Lahaina Aquifer Sector. It is the Mahinahina Deep Monitoring Well (DMW), identified as State No. 5739-003 and located in the Honokowai Aquifer System. The narrative description on page 9 of the Staff Submittal indicates that measurements since 2013 indicate that the Aquifer System has been quite stable. On Figure 6 on page 11 of the Staff Submittal, it states that the water table has risen 0.49 feet since August 2001, although it is not known if this has been corrected for sea level rise over the same period. Regardless, the actual data provided by the DMW does not portray an aquifer that has been degraded over the eight-year period since 2013. This contradicts a number of generalizations to the contrary throughout the Staff Submittal.

The time required for the designation process to be completed will delay Hawaii Water from moving forward with needed new sources of supply. This delay is also likely to translate into significant additional costs. For that reason, Hawaii Water is requesting that a complete disclosure of the basis of the summary amounts presented in the Staff Submittal be made available for review by all impacted parties prior to scheduling a public hearing or moving forward on the process for designation.

Sincerely,

Hawaii Water Service, General Manager

Email Copy: Tom Nance – TNWRE Inc.



**From:** [Koa 'Ohana](#)  
**To:** [Hyatt, RaeAnn P;](#) [cwrn.dlnr@hawaii.gov](mailto:cwrn.dlnr@hawaii.gov)  
**Subject:** [EXTERNAL] CWRM 2/15/22 agenda item B-4  
**Date:** Friday, February 11, 2022 1:17:32 PM

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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  
Email: [dlnr.cwrn@hawaii.gov](mailto:dlnr.cwrn@hawaii.gov)

**RE: Agenda Item #B4, Accept Chair's Recommendation to Designate the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area under HRS § 174C-41, and to Notice and Hold a Public Hearing**

Aloha Chair Case and Water Commissioners,

As a resident of Lāhainā, mahalo for this opportunity to testify in support of the Chair's recommendation to designate the entire Lāhainā Aquifer Sector as a surface water and ground water management area. For some time now, we have been experiencing drought and related impacts, including declines in stream flow. As we prepare for our new climate reality, we believe that dual designation, and the water use permitting that goes with it, are the best tools to address these challenges.

Our Water Code requires designation when resources "may be threatened by existing or proposed withdrawals" of water. HRS § 174C-41(a). As a resident of Lāhainā, I believe that "regulation is necessary to preserve diminishing groundwater supply for future needs." HRS. § 174C-44(3).

Your well-researched staff submittal highlights many of the water challenges our community is facing, including water harm to ground water quantity and quality by saltwater intrusion, climate uncertainty due to prolonged drought and declining rainfall, as well as the connection between ground and surface water resources. More numeric IIFSs have encouraged new well construction. The County's Department of Water Supply has not notified you of the new wells they have been planning in areas of severe water conflict. In designated areas, you are better able to manage well placement to protect the long-term health of our precious ground water. And perhaps most importantly, our public trust doctrine requires preservation of Kānaka Maoli cultural practices but these practices have been harmed and will continue to be harmed without additional protective action by this Commission. The ability of Maui Komohana to maintain ancestral traditions and lifeways is at risk.

For example, there are major conflicts over water use in our community, which makes designation necessary for pono management of our resources. We cannot continue to have kalo farmers, whose water use is a protected public trust purpose, receiving their water at the mercy of plantation water systems and the developers who currently operate them. Competition over declining water resources in our area has already led to conflicts over water, and we only expect that to get worse. The Water Code proclaims that designation is appropriate where "serious disputes respecting the use of surface water resources are occurring." HRS §174C-45. Serious disputes are occurring in our community right now and we appreciate that your submittal confirms that.

Not all current uses of water are beneficial. Designation would help your Commission balance requests for water and ensure that public trust purposes, such as water for kalo, have priority. Without adequate water, our lāhui are unable to continue Kānaka Maoli practices that define who Kānaka are as a people and that made Lāhainā the "Venice of the Pacific." It is important to secure our water future now for the generations to come. We believe that State designation is the best tool to address these and other issues our community faces because without designation, the County has proven it cannot manage the wai and Maui Department of Water Supply has recently admitted to the county water board that the County is in the "position of begging" private corporations/landowners for help. Some of those private entities are culpable for water violations and have initiated aggressive conflicts with kuleana families with appurtenant water rights. This situation and the County's conflicted position is untenable.

Under the Hawai'i Supreme Court's ruling in Waiāhole, "the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation" and "where [scientific] uncertainty exists, a trustee's duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource." We do not believe uncertainty exists, but even if you do, please vote today to move forward with the designation process.

Mahalo for this opportunity to testify, for considering my concerns, and for fulfilling your kuleana as a steward of our public trust by proactively protecting our resources.

Mahalo nui loa,

Fay McFarlane  
Lahaina, HI 96761

**From:** [Uilani Kapu](#)  
**To:** [Hyatt, RaeAnn P](#); [DLNR.CW.DLNR.CWRM](#)  
**Subject:** [EXTERNAL] Agenda item#B4  
**Date:** Saturday, February 12, 2022 6:38:26 PM

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Commission on Water Resource Management State of Hawaii Department of Land and Natural Resource  
Kalanimoku Building  
1151 Punchbowl St. Room 227  
Honolulu, Hawai'i 96813

Re: Agenda item #B4, Accept, Chairs Recommendation to Designate the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area under HRS174 C-41, and to Notice and Hold A Public Hearing

Aloha Chair Case and Water Commission,

I am a resident of Lahaina and Support the Designation of Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area under HRS 174 C-41. I reside in this Designated area called Kaua'ula Valley above our sacred island Moku'ula (Mokuhinia).

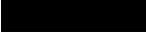
This Lahaina region has experienced steadily decreasing rainfall and stream flow in recent years. Designation and the permitting requirements that accompany it, are critical to address these and other Water availability issues brought on by climate change.

The ground and surface Water Resources are connected and should be managed together to ensure sustainability. Designation is necessary to protect and restore traditional and customary Native Hawaiian Rights and practices including Kalo cultivation and just to let you know we are kalo farmers. Our water runs through the sacred Island Mokuhinia which will never ever happen, if our Water is not managed right.

I have been to Waiahole Waikane and Na Wai Eha, so I know how beneficial it is for this Management and ask this commission to please, Designate the Lahaina Aquifer Sector.

A wise Kupuna once said liqire is for drinking and water is for fighting! Here I am standing for our Public Trust Water Use.

The studies have been done and the people have shared, Climate Change is Here!

Mahalo nui  
Uilani Kapu  


Sent from my iPhone

**From:** [Ke'eaumoku Kapu](#)  
**To:** [Hyatt, RaeAnn P](#)  
**Subject:** [EXTERNAL] Surface and ground water designation. Agenda Item #B-4  
**Date:** Sunday, February 13, 2022 10:29:28 PM

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Commission on Water Resource Management  
State of Hawaii Department of Land and Natural Resources.  
Kalanimoku Building  
1151 Punchbowl Street Rm 227  
Honolulu Hawaii 96813

Re: Agenda Item #B-4 Accept Chairs Recommendation to Designate the Lahaina Aquifer Sector, Maui as a surface Water and groundwater management area under HRS 174-C-42, and to Noticeand hold a public meeting.

Aloha Chair Case and water commission.

My Name is Ke'eaumoku Kapu and i am a resident of Lahaina and resides in the valley of Kaua'ula on Kuleana parcels LCA 6507 Royal patent 3457 apana 1 and LCA 4878-O RP 2664 apanas 1, 2, and 3. LCA 581 RP 8933 apana 3. LCA 6931 RP 1856. LCA 4878 Q RP 1775 within TMK 4-6-21: parcels 004, 005, 006, 012, 015 and 016.

Exactly what is before you today. To accept the chair's recommendations to designate the aquatic Sector. Maui as a surface and groundwater management area under HRS 174-C-42,

We have waited 20 plus years to hear this recommendation. It took our ohana over 20 plus years to prove in court they did not own any of those lands they are using for collateral damages.

I remember 20 plus years ago we went to Earth Justice and met Kapua Sprout for the first time to do a site visit with us kuleana up Kaua'ula valley thinking maybe can kokua with our water challenges? Nope because Lahaina was not a water management area and couldn't do anything for us kuleana. (Never knew what that meant until today).

To try and find a balance of an old water system on the verge of total collapse and to oversee a true management on how water should be evenly distributed and to oversee how our public resources are being misused. Deals have been struck with foreign investments for shady developments, even our county government should support this recommendation instead coping deals thru crooked municipalities. We've seen too many market rated Luxury homes and gated communities get rubber stamped and are allowed exemptions to lay miles and miles of pipeline so they can divert our precious resources to proposed ranch lots?

I remember we fought long and hard for the IFFS thought it was god's gift to the aina. Got plenty of resistance from these same land companies. Still get pilikia not getting the recommended In stream required by law. Still diverting %100 We know! We live right next to the hydro plant. They spent millions to try and self-serve their pumps and it never worked. This designation needs to happen.

I would like to ask if the commission was given notice of a potential well soon to be drilled by the county water department below our valley lower Kaua'ula about 100 yards less away from

our stream. escorted by LIC/LWC the engineers who will be doing this well and we were only given notice the day before the site visit which also was in the planning since early January.

For too long we have to sit idle for anything to be done about our livelihood and need for water sometimes with no water for days to bathe our babies in buckets. The biggest nightmare is our kalo getting pocket rot because no intake management and cleanup sometimes for months. We clean when we need to as we always have for generations during my great kupunas and to my fathers time then me to my son now getting threatened that we are tampering with their system? since when our public trust became theirs. (the PUC). They should be glad to get us kuleana that knows this system way before they even purchased this intake. So we no longer touch for fear of more complaints against my ohana now we call there water manager to get their asses up here and fix it. funny if the rate payers are not grumbling then no need to worry but we got to wait.

By way of this designation our community, True farmers, Kuleana and Kalo growers has a chance to thrive. We suffered enough. Please Pass agenda item #B-4

Mahalo for allowing me to testify.

Ke'eaumoku Kapu (pelekekena)

Na'aikane o Maui Inc.

[REDACTED]

Lahaina Hawaii 96761

Ph. (808) [REDACTED]

**VIA EMAIL TRANSMITTAL**

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  
Email: [dlnr.cwrm@hawaii.gov](mailto:dlnr.cwrm@hawaii.gov)

**Re: Agenda Item B4, Designation of the Lahaina Aquifer Sector,  
Maui as a Surface Water and Ground Water Management Area**

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

Mahalo nui for the opportunity to testify in strong support of designation of the Lahaina Aquifer as a Surface Water and Ground Water Management Area under Hawai‘i Revised Statutes § 174C-41. My name is MJ Palau-McDonald, and I’ve had the great privilege of working with community members from Lahaina who are directly impacted by your decision.

As a Native Hawaiian, I’m grateful that the people of Hawai‘i chose to steward our freshwater resources as a Public Trust for present and future generations and empowered your Commission with tools—like water management area designation—to do so. As a law student, however, I’m disheartened when county agencies, such as the Maui Department of Water Supply (“MDWS”), forget basic trust principles under Article XI, Sections 1 and 7 of Hawai‘i’s Constitution. Specifically, MDWS’ disregard for the precautionary principle is deeply concerning.

As you know, the Hawai‘i Supreme Court in *In re Waiāhole Ditch Combined Contested Case* (“*Waiāhole*”), 94 Hawai‘i 97, 154–55, 9 P.3d 409, 446–67 (2000), adopted the precautionary principle as a corollary to the Public Trust, which your Commission and MDWS manage as trustees. At bottom, the precautionary principle mandates that “where [scientific] uncertainty exists, a trustee’s duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.” *Id.* at 154, 9 P.3d at 466. In other words, if the science is unclear, the trustee must favor resource protection. The court further explained that, “at minimum, the absence of firm scientific proof should not tie the Commission’s hands in adopting reasonable measures designed to further the public interest.” *Id.* at 155, 9 P.3d at 467. Put simply, your Commission *does not* have to produce data affirmatively showing harm to freshwater resources to designate.

Notwithstanding these basic principles, MDWS argued in its written and oral testimony at the January 18, 2022 Commission Meeting that the absence of scientific certainty regarding whether pumpage from the Honokōwai aquifer sector would exceed the sustainable yield rendered designation premature. This belies the precautionary principle. The law is clear: a

trustee cannot hide behind scientific uncertainty, and doing so is an unconstitutional violation of Hawai‘i’s Public Trust. Designating the Lahaina Aquifer sector as a Surface Water and Ground Water Management Area is not only consistent with, but also likely required by, the precautionary principle and other Public Trust provisions given your Commission’s findings.

MDWS’ argument that it can address and remediate disputes over current and planned water uses by itself is similarly without merit. If MDWS has the power to protect and preserve Maui’s freshwater resources, why has it not yet done so? In truth, only your Commission has the power to set and enforce interim instream flow standards and sustainable yields. Though MDWS claims that its newly promulgated Maui Island Water Use and Development Plan (“WUDP”) incorporates Native Hawaiian perspectives, it fails to operationalize these perspectives in practice. Instead, the WUDP cloaks status quo subjugation of traditional and customary Native Hawaiian rights and biocultural resources in flowery—but legally unenforceable—policy statements. Native Hawaiian community members throughout Maui Komohana remain cut off from freshwater resources, despite the fact that their traditional and customary practices, appurtenant rights, and domestic water uses are protected Public Trust purposes. *See Waiāhole*, 94 Hawai‘i at 136–38, 142, 9 P.3d at 448–50, 454. Meanwhile, corporate developers, agribusiness, and MDWS continue to reap the benefits of the status quo, despite their non-instream commercial and municipal uses incurring no heightened protections under Hawai‘i law.

At the 1978 Constitutional Convention, the framers of Hawai‘i’s Public Trust envisioned your agency having “not only the power to protect the resources but the *responsibility to do so long before any crisis develops.*” Standing Comm. Rep. No. 77, in 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 688 (1980) (emphasis added). We’re quickly approaching a crisis. As USGS researchers presented at the January 18th Commission Meeting, Maui Komohana’s freshwater resources will only grow scarcer as climate impacts worsen, creating a dire situation if proactive steps are not taken now. Designation provides for an integrated approach to surface- and groundwater management that will more equitably distribute freshwater resources and enable your Commission to proactively plan for the future.

In pursuing designation, you’re not only fulfilling your fiduciary duty under our Public Trust, but also embodying your role as ke Kahuwai Pono. Please vote to designate today.

Mahalo,

MJ Palau-McDonald

E: [REDACTED]

Pā'anaakalā Tanaka  
[REDACTED]  
Lahaina, Hawai'i 96761  
email: [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  
Email: dlnc.cwrn@hawaii.gov

**RE: Agenda Item #B4, Accept Chair's Recommendation to Designate the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area under HRS § 174C-41, and to Notice and Hold a Public Hearing**

Ke aloha nō e Chair Case and Water Commissioners:

As a resident of Lahaina and one of the 'ohana that are restoring lo'i kalo on kuleana land, mahalo for this opportunity to testify in support of the Chair's recommendation to designate the Lahaina Aquifer Sector as a surface water and ground water management area. For some time now, we have been experiencing drought and related impacts, including declines in stream flow. As we prepare for our new climate reality, we believe that designation, and the water use permitting that goes with it, are the best tools to address these challenges.

Our Water Code requires designation when resources "may be threatened by existing or proposed withdrawals" of water. HRS § 174C-41(a). As a resident of Lahaina and kalo farmer in Kahoma Valley that depends on Kahoma stream, I believe that "regulation is necessary to preserve our diminishing ground water supply for future needs." HRS. § 174C-44(3).

Your staff submittal highlights many of the water challenges our community is facing, including harm to ground water quantity and quality by saltwater intrusion, climate uncertainty due to prolonged drought and declining rainfall, as well as the connection between ground and surface water resources. More numeric IIFSs have encouraged new well construction. In designated areas, you are better able to manage well placement to protect the long-term health of our precious ground water. And perhaps most importantly, our Native Hawaiian cultural practices have and will continue to be harmed without additional protective action by this Commission. Our ability to maintain our traditions and lifeways is at risk.

For example, there are major conflicts over water use in our community, which makes designation necessary for pono management of our resources. We cannot continue to have kalo farmers, whose water use is a protected public trust purpose, receiving their water at the mercy of plantation water systems and the developers who currently operate them. Competition over declining water resources in our area has already led to conflicts over water, and we only expect that to get worse. The Water Code proclaims that designation is appropriate where "serious

disputes respecting the use of surface water resources are occurring.” HRS §174C-45. Serious disputes are occurring in our community right now and your submittal confirms that.

Designation would help your Commission balance requests for water and ensure that public trust purposes, such as water for kalo, have priority. I have keiki that are also farming kalo alongside us on kuleana land. It is because of wai (water) from Kahoma stream that we are able to maintain this practice that is vital to our identity as Hawaiians. Without the water we have no kalo (taro), we lose that ‘ai (food) that feeds us physically and connects us spiritually to our Native Hawaiian ancestors. Designation is necessary to ensure any hope for the future that my children and their descendants will always be able to sustain those connections. We believe that designation is the best tool to address these and other issues our community faces

Under the Hawai‘i Supreme Court’s ruling in *Waiāhole*, “the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation” and “where [scientific] uncertainty exists, a trustee’s duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.” We do not believe uncertainty exists, but even if you do, please vote today to move forward with the designation process.

Mahalo for this opportunity to testify, for considering my concerns, and for fulfilling your kuleana as a steward of our public trust by proactively protecting our resources.

Na‘u me ka ‘oia‘i‘o,  
Pā‘anaakalā Tanaka

Aloha, my name is Lauren Palakiko, I'm am a resident of Kaua'ula valley. I am born and raised across the street from Shark pit, which happens to be where the muliwai (stream outlet) for Kaua'ula flows, so this place has always been a concern for me, much more now that I am the wife of a kalo farmer here.

Mauka to makai connectivity is imperative to our native ecosystem. However, even with a break in connectivity between the dam and siphon, Kaua'ula stream was filled with life; 'o'opu, 'opae, prawns and more. There was enough water coming down the muliwai that the GM of Puamana had cultivated a lo'i!

The IIFS was mandated on March 20, 2018, however I don't believe there was ever a time when the LIC had released the mandated 3.36mgd. In fact, we have only seen the amount of water in the river decline since then.

On June 6, 2019 our muliwai dried up for the first time that I can remember. Besides after rain storms, it has not ran since then. A week later the muliwai was an 'o'opu graveyard. I had noticed the drop in water occurred after LIC installed a few big blue pumps down the road. Although I can't prove these pumps led to the muliwai drying up, I thought it was worth noting that the day after they removed these pumps ("bomb shelter") on October 29, the muliwai started to trickle water again.

This past Summer was hard on the lo'i, where 1400gpm was previously extremely low, the LIC was running it at 1200. Dave Minami (LIC water manager) advised us to email Peter Martin to see if there was any changes that could be made. Peter responded with CWRM's decision was for them to give us 1000gpm. Now, we are currently being given 800. The mud in our patches are showing, the water temperature may be rising which all could lead to rot and loss of our crops.

Sometime before 2019 would have been proactive to designate Lahaina as a WMA. It is now beyond crucial for our native practices, farming and island's ecosystem to do so.

Mahalo,

Lauren Palakiko

**[Charlene Rowland**  
[REDACTED]  
Lahaina, Hawai'i 96761  
email: [REDACTED]

**VIA EMAIL TRANSMITTAL**

Commission on Water Resource Management  
State of Hawai'i Department of Land and Natural Resources  
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**RE: Agenda Item #B4, Accept Chair's Recommendation to Designate the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area under HRS § 174C-41, and to Notice and Hold a Public Hearing**

Aloha Chair Case and Water Commissioners:

As a resident of Lahaina, mahalo for this opportunity to testify in support of the Chair's recommendation to designate the Lahaina Aquifer Sector as a surface water and ground water management area. For some time now, we have been experiencing drought and related impacts, including declines in stream flow. As we prepare for our new climate reality, we believe that designation, and the water use permitting that goes with it, are the best tools to address these challenges.

Our Water Code requires designation when resources "may be threatened by existing or proposed withdrawals" of water. HRS § 174C-41(a). As a resident of Lahaina, I believe that "regulation is necessary to preserve [my] diminishing ground water supply for future needs[.]" HRS. § 174C-44(3).

Your staff submittal highlights many of the water challenges our community is facing, including harm to ground water quantity and quality by saltwater intrusion, climate uncertainty due to prolonged drought and declining rainfall, as well as the connection between ground and surface water resources. More numeric IIFSs have encouraged new well construction. In designated areas, you are better able to manage well placement to protect the long-term health of our precious ground water. And perhaps most importantly, our Native Hawaiian cultural practices have and will continue to be harmed without additional protective action by this Commission. Our ability to maintain our traditions and lifeways is at risk.

For example, there are major conflicts over water use in our community, which makes designation necessary for pono management of our resources. We cannot continue to have kalo farmers, whose water use is a protected public trust purpose, receiving their water at the mercy of plantation water systems and the developers who currently operate them. Competition over declining water resources in our area has already led to conflicts over water, and we only expect that to get worse. The Water Code proclaims that designation is appropriate where "[s]erious

disputes respecting the use of surface water resources are occurring.” HRS §174C-45. Serious disputes are occurring in our community right now and your submittal confirms that.

Designation would help your Commission balance requests for water and ensure that public trust purposes, such as water for kalo, have priority. Without adequate water, we are unable to continue these Native Hawaiian practices that define who we are as a people and that made Lahaina the “Venice of the Pacific.” It is important to secure our water future now for the generations to come. We believe that designation is the best tool to address these and other issues our community faces.

**[I also support designation because.../Other concerns I have are...]**

Under the Hawai‘i Supreme Court’s ruling in *Waiāhole*, “the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation” and “where [scientific] uncertainty exists, a trustee’s duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.” We do not believe uncertainty exists, but even if you do, please vote today to move forward with the designation process.

Mahalo for this opportunity to testify, for considering my concerns, and for fulfilling your kuleana as a steward of our public trust by proactively protecting our resources.

Mahalo nui loa,  
Charlene Rowland

Aloha,

I'm Charlie Palakiko, a kuleana land owner of Kaua'ula valley. My family and I have been raising kalo on this land for over 30 years. When we first restored our family patches, we fed our patches water from a hose.

Through the years, we restored our auwai and got the stream running by negotiating with West Maui Land. Since then I've seen our water drop drastically from reaching the muliwai (river mouth) to now a dry stream killing many stream life such as 'o'opu, 'opae and prawns, and also affecting our kalo patches.

As of today, water to our patches are extremely low causing dirt to show in them. I called WML and was told our water is being pinched because their water was running low. I was told the siphon was set to 800gpm which is equivalent to a little over 1mgd this is not enough and it's been getting worse.

As you can see, we are already running into problems and they're not complying to the IIFS, which I think they are suppose to be releasing 2mgd at the dam which is not being done at this time. We've been at a standstill for the last two and a half years not being able to expand because of decreasing water flow.

This is why we need to be a designated water management area. We need a third party to fairly manage the developer's water taking.

Mahalo for your time,

Charlie Palakiko

Please see attached photos of our muliwai when it dried up in June 2019 and our patches today showing dirt because the stream is so low.



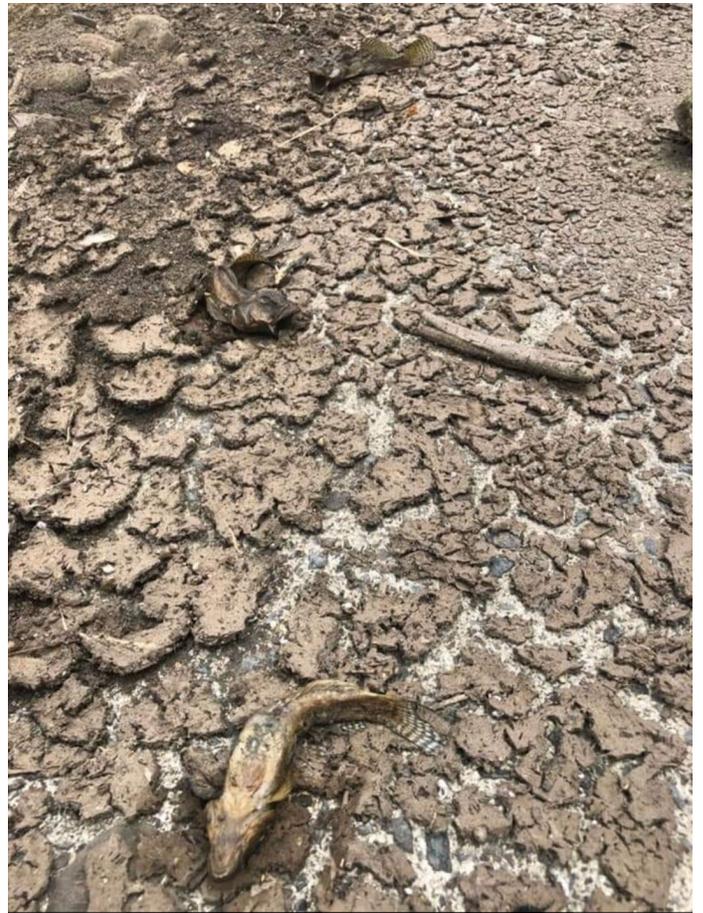
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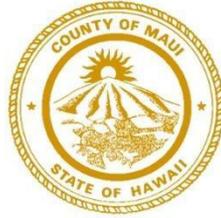
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**BOARD OF WATER SUPPLY**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/water](http://www.mauicounty.gov/water)

February 14, 2022

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

Dear Chairwoman Case:

**SUBJECT: MAUI COUNTY BOARD OF WATER SUPPLY VOTE IN SUPPORT OF DESIGNATING THE LAHAINA AQUIFER SECTOR, MAUI AS A SURFACE WATER AND GROUND WATER MANAGEMENT AREA**

On January 20, 2022, the Maui County Board of Water Supply (BWS) heard testimony from Deputy Director M. Kaleo Manuel and staff regarding the proposal to designate the Lahaina Aquifer Sector as a Water Management Area for both surface and groundwater.

The BWS received testimony from descendants of Lahaina and the other areas that overlay the Lahaina Aquifer Sector. Testifiers described numerous complaints over the years about the Interim Instream Flow Standards (IIFS) not being met and agricultural uses, including kalo farming, competing with irrigation demands and of water waste.

After a presentation by Deputy Director Manuel and staff, a motion was made for the Board to support the designation and a vote was called. At the time of the vote, there were only five BWS members present. Four members were in support of the designation. As Chair, I was not in support of the motion, and expressed reservations based on the following reasons:

- CWRM has admittedly had challenges keeping up with well-reporting;
- CWRM has admittedly had challenges with monitoring and enforcing the IIFS;
- In light of the two issues above, it is questionable if CWRM has the resources and capacity available to properly manage the Lahaina Aquifer Sector; and

*"By Water All Things Find Life"*

- In its December 28, 2021 letter to CWRM, the County of Maui Department of Water Supply noted designation is “premature and inconsistent with our Water Use Development Plan.”

A four-to-one vote would have stalled the motion. I did not want to prevent the Board members in attendance from providing input on the matter, so I voted in favor of the motion, with my concerns clearly expressed.

Thank you for allowing me the opportunity to share this information with you.

Sincerely,



Dean K. Frampton  
Chair, Maui County Board of Water Supply

cc: Mayor Michael P. Victorino  
Sandy Baz, Managing Director  
Jeffrey T. Pearson, Director  
Helene Kau, Deputy Director

Board of Directors  
Jerome Kekiwi, Jr. - President  
Norman Martin, Vice-President  
Earl Inouye - Treasurer  
Jennifer Kekiwi-Brown - Secretary  
Darryl Tau`a - Sgt at Arms  
Guy Mahilani Namahoe  
Radford Ka`auamo  
Nichole Inouye-Nohara  
Shane Tegarden



Kūpuna Council:  
Edward Wendt  
Carl Wendt  
Terrence Akuna  
Murphy Tau-a

Administrator  
Mahealani Wendt

Administrative Assistant  
Amanda Martin

P. O. Box 81642, Ha`īku, Hawai`i 96708

February 15, 2022

Suzanne D. Case, Chairperson  
State of Hawai`i Department of Land and Natural Resources  
Commission on Water Resource Management  
P.O. Box 621  
Honolulu, Hawai`i 96809

Dear Chairwoman Case and Commission Members:

**SUBJECT: AGENDA ITEM #B4, ACCEPT CHAIR'S RECOMMENDATION TO DESIGNATE THE LAHAINA AQUIFER SECTOR, MAUI AS A SURFACE WATER AND GROUND WATER MANAGEMENT AREA UNDER HRS § 174C-41, AND TO NOTICE AND HOLD A PUBLIC HEARING**

Mahalo for the opportunity to testify in support of the Chair's recommendation in designation of the Lahaina Aquifer as a Surface Water and Ground Water Management Area.

The Lahaina region have been experiencing drought and related impacts, including declines in stream flow in recent years. Designation and the permitting requirements that accompany it, are critical to address these and other water availability issues brought on by climate change.

The ground and surface water resources are connected and should be managed together to ensure sustainability. Designation is necessary to protect and restore traditional customary Native Hawaiian Rights and practices including kalo cultivation.

I humbly ask for your support of agenda item B4. I appreciate your consideration in this matter and mahalo for your time.

Mahalo nui loa,

Jerome Kekiwi, Jr.  
Jerome Kekiwi, Jr.  
President