

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.

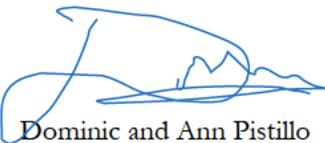
As you know, Launiupoko is an agricultural area (where agriculture and Farm Plans are required by Maui County) that is very challenging to farm due to its hot climate, high winds, lack of regular rainfall, and rocky and porous (fast draining) soil. The promotion of agriculture, along with the provision 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 lose. This is a band-aid effort that will create unnecessary 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 mitigation 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 of 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 user 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.DLNRCWRM](#)
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



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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
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Commission on Water Resource Management
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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