



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

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

November 15, 2022
Honolulu, Hawai'i

Approve Implementation Actions to Provide Water to
Mary Ann Velez (Higa) (SWUPAs 2241/2242N), Jordanella Ciotti (SWUPAs 2247/2248N),
and Greg Ibara (SWUPAs 2245/2246N) on the Wailuku Town Kuleana 'Auwai,
Nā Wai 'Ehā Surface Water Management Area, Wailuku, Maui

SUMMARY OF REQUEST

Staff is requesting that the Commission on Water Resource Management (Commission) approve implementation actions to meet the Water Use Permit allocations of water to Mary Ann Velez (Higa) (SWUPAs 2241/2242N), Jordanella Ciotti (SWUPAs 2247/2248N), and Greg Ibara (SWUPAs 2245/2246N) on the Wailuku Town Kuleana 'Auwai.

LEGAL AUTHORITY

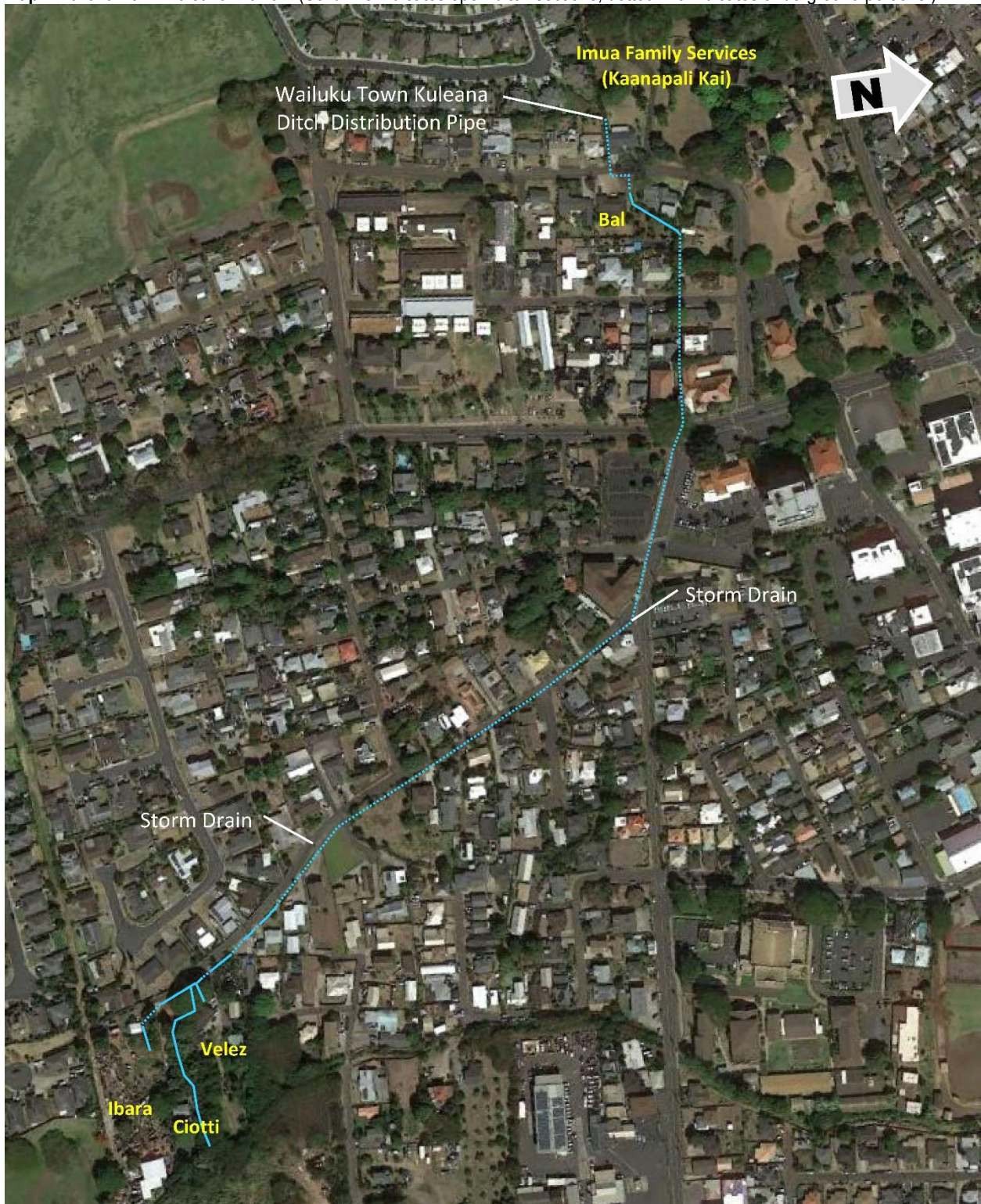
Under the State Water Code (Code), the Commission shall have jurisdiction statewide to hear any dispute regarding water resource protection, water permits, or constitutionally protected water interests, or where there is insufficient water to meet competing needs for water, whether or not the area involved 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.

BACKGROUND

Note: Please see Exhibits 1 and 2 (Briefing A3 and Testimony, respectively, from January 18, 2022 Commission meeting), Exhibits 3 and 4 (Submittal B2 and Testimony, respectively), Exhibits 5 and 6 (Submittal C1 and Testimony, respectively) for a more complete background of events related to this submittal.

Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area

Map: Wailuku Town Kuleana 'Auwai. (Solid line indicates open-ditch sections; dotted line indicates underground portions.)



Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

The Wailuku Town Kuleana ‘Auwai (‘Auwai) receives water from a distribution pipe and control valve that is located on TMK (2) 3-4-014:006. The property was formerly owned by Kaanapali Kai Inc. and is now owned by Imua Family Services. The distribution pipe conveys water from an intake located on Waihe‘e Ditch approximately 1,800-feet mauka. Wailuku Water Company currently manages the distribution of water both from Waihe‘e Ditch using a valve located at the intake, and a control valve located at the boundary on Imua Family Services property. From the distribution point, the water flows underground in a concrete lined channel for about 200 feet, then drops into an open channel where it flows for another 200 feet through two properties. The water goes back into a concrete-lined channel and continues on to the end, where it flows into an unlined channel for the last 250 feet. The total length of the ‘Auwai is approximately 0.54 miles. An access point is located behind the Wailuku Public Library, and a storm drain grate which captures runoff into the ditch is located at the corner of Kaohu Street and Kalua Road, and a second storm drain gate approximately 1,000 feet further down Kalua Road.

On April 17, 2014, under contested case hearing CCH-MA06-01, the Commission issued an Order adopting the; 1) Hearings Officer’s Recommendation on the Mediated Agreement Between the Parties; and 2) Stipulation re Mediator’s Report of Joint Proposed Findings of Fact, Conclusion of Law, Decision and Order.

On June 28, 2021, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order (D&O) in contested case hearing CCH-MA15-01 regarding the Surface Water Use Permit Applications, Integration of Appurtenant Rights and Amendments to the Interim Instream Flow Standards, Na Wai Eha Surface Water Management Areas of Waihee, Waiehu, Iao and Waikapu Streams, Maui. In its D&O, regarding the management of the WWC delivery system and the ‘Auwai, the Commission set forth the following provisions:

D&O, pp. 305-307, Line 39:

- B. Appurtenant Rights and Surface Water Use Permits (SWUPs)
 - 39. SWUPA 2157 – Wailuku Water Company
 - b. As a condition of this permit, WWC is required to gage and continuously monitor with the installation of a parshall flume or a Commission staff approved water meter, at the following locations:
 - 2. Distribution Points:
 - v. Wailuku Town Kuleana Pipeline
 - c. WWC shall ensure that the following quantity of water is delivered to the following distribution points in the indicated amounts based on SWUPs that will be issued as a result of this decision. The amounts to be delivered shall be provided at all times unless identified in Tables 1-3, supra, or determined by the Commission to be an emergency:
 - 5. Wailuku Town Kuleana Pipeline – 0.088 mgd

The following users were awarded water use permits under the D&O:

- ii. **Wailuku Town Kuleana Ditch**
 - 181. The Wailuku Town Kuleana Ditch is next on the Waihe‘e Ditch

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

182. **SWUPA 2181—Kaanapali Kai (FOF 469)**
Kaanapali Kai is granted an existing use permit for 4,595 gpd based on her metered use.
183. **SWUPAs 2209/2210N—Vernon Bal (FOF 470)**
Because Bal did not submit testimony or participate in the contested case hearing, his request for recognition of appurtenant rights is denied without prejudice. Similarly, his request for an existing use permit is denied and his request for a new use permit is denied without prejudice.
184. **SWUPAs 2241/2242N—Mary Ann Velez (Higa) (FOF 471)**
- a. Parcels 16 and 17 are recognized as having appurtenant rights of 136,950 gpd (0.913 acre x 150,000 gad).
 - b. Velez’s request for an existing use permit is denied.
 - c. Velez is granted a new use permit of 69,000 gpd (0.46 acre x 150,000 gad) for new lo‘i kalo. The 69,000 gpd is granted based on the recognition of appurtenant rights to Parcels 16 and 17.
 - d. Velez is also recognized as having a domestic use of 975 gpd (0.39 acre x 2,500 gad) a home garden, for which a permit will be issued.
185. **SWUPA 2247 & 2248N—Jordanela Ciotti (FOF 472)**
- a. Parcel 19 is recognized as having appurtenant rights of 34,500 gpd (0.23 acres x 150,000 gad).
 - b. Ciotti is granted a permit for 8,265 gpd consisting of the following:
 - i. An existing use permit of 375 gpd (.0025 acre x 150,000 gad) for lo‘i kalo; and
 - ii. A new use permit of 7,890 gpd (.0526 acre x 150,000 gad) for lo‘i kalo. 8,265 gpd is granted based on the recognized appurtenant rights for Parcel 19.
 - c. Ciotti is recognized as having a domestic use of 989 gpd (0.3957 acre x 2,500 gad) for a garden, for which a permit will be issued.
186. **SWUPAs 2245/2246N—Greg Ibara (FOF 473)**
- a. Parcel 20 is recognized as having appurtenant rights of 175,650 gpd (1.171 acres x 150,000 gad).
 - b. Ibara is granted a permit of 4,050 gpd consisting of the following:
 - i. An existing use permit of 1,050 gpd (0.007 acre x 150,000 gad) for existing lo‘i kalo; and
 - ii. A new use permit of 3,000 gpd (0.02 acre x 150,000 gad) for new lo‘i kalo.
 The 4,050 gpd is granted based on the appurtenant rights recognized for Parcel 20.

Beginning on September 29, 2021, the Commission staff began receiving communications from Mr. Robert Street, who indicated that he was angry about not receiving surface water via the ‘Auwai. During the same period, the Commission staff also began receiving communications

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

from Mr. Avery Chumbley, of Wailuku Water Company (WWC), that they were attempting to implement the Commission’s D&O to deliver the total permitted amount of water at the specified distribution point for the ‘Auwai; however, somebody was also vandalizing the control valve in an attempt to increase the release of water. Mr. Chumbley would later implicate Mr. Street.

On October 29, 2021, Commission staff conducted a site visit at 9:00 a.m. with a representative from Senator Lorraine Inouye’s office and the assistance of a Maui Division of Conservation and Resources Enforcement (DOCARE) officer. Staff met with Mr. Chumbley and Mr. Dean Wong, of Imua Family Services, to inspect the valve on the Wailuku Town Kuleana Pipeline distribution pipe located at the boundary of the Imua Family Services property as well as to understand the use of water on-site. WWC was asked to fully open the valve on the 3-inch line to observe the maximum flow (in gallons per minute, gpm) in the pipeline (Photo 1)

Photo 1. Wailuku Town Kuleana Pipeline distribution point meter showing approximately 500-gallon per minute flow with a fully-opened valve.



On November 28, 2021, Commission staff received an email from Jordanella Ciotti stating, “Please take notice and be advised that I, Jordanella Ciotti designate Robert Street as my legal representative on Case Number CCH-MA 15-01, FINDING OF FACT, CONCLUSION OF LAW AND DECISION & ORDER; SWUPA 2247 & 2248N (FOF 472) located at 484 Kalua Road, Wailuku, Maui, Hawaii.”

On January 26, 2022, Mr. Street sent the following email to Mr. Hokua Pelegrino, of Hui o Nā Wai ‘Ehā, copying Mayor Michael Victorino, Maui County Council members, and Commission staff.

On February 15, 2022, the Commission approved interim water use permits to Mary Ann Velez (Higa) (SWUPAs 2241/2242N), Jordanella Ciotti (SWUPAs 2247/2248N), and Greg Ibara (SWUPAs 2245/2246N) on the Wailuku Town Kuleana ‘Auwai, to provide immediate relief in accordance with recognized appurtenant and domestic use rights and provide for the assessment of system losses by Commission staff; Order Wailuku Water Company to provide for a full release of water from the Wailuku Town Kuleana Pipeline distribution point, estimated at 500

Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area

gallons per minute (gpm) or 720,000 gallons per day (gpd); and Order Mahi Pono, LLC to install a berm in the Spreckels Ditch to prevent stagnant conditions in the Spreckels Ditch resulting from the backflow of water from the Hopoi Chute and the additional flow through from the Wailuku Town Kuleana 'Auwai. See **Exhibits 3 and 4**.

On March 10, 2022, Chair Suzanne Case approved a modification to the implementation of the Commission D&O, per the delegation of authority granted to the Chair at its February 15, 2022 meeting. The following implementation actions are related to the operation and maintenance of the Wailuku Town Kuleana 'Auwai. These actions are intended to adequately meet the needs of the kuleana users at the end of the 'auwai system while allowing Imua Family Services to meet their irrigation needs and shall take effect immediately.

1. Wailuku Water Company (WWC) to properly train Imua Family Services staff to adjust the 3-inch valve (located on the downside drop below the air relief) to 100 gpm daily from 7:30am to 9:30 am (2 hours) to allow Imua Family Services to irrigate their property within their Water Use Permit allocation of 4,595 gpd. At 9:30am, the 3-inch valve shall be readjusted to the fully opened position per the Commission's original implementation recommendation. *Note: Based on best irrigation practices, shifting irrigation to the late afternoons would be preferred, but for the time being this time period is what was requested by Imua Family Services.
2. WWC to ensure that the original 4-inch valve that comes out of the rock wall shall continue to remain in the fully open position.
3. Imua Family Services to provide images of the totalizer meter on their pump after each irrigation period in order to ensure that Imua Family Services is getting their proper allocation amount. These images can be submitted weekly to the Commission for their review. Please coordinate with Stream Branch (Malie Beach-Smith; malie.n.beach-smith@hawaii.gov) on best way to submit this information.
4. All of these modifications shall remain in effect until modified by Chairperson or Commission's action.

On March 29, 2022, Commission staff installed a U.S. Geological Survey (USGS) 3-Inch Modified Parshall Flume in the 'Auwai at TMK (2) 3-4-004:078, approximately 250 ft. upstream of the split between the three (3) water use permittees.

On April 19, 2022, the Commission: 1) Approved an extension of the interim water use permits for the following users from the Wailuku Town Kuleana Pipeline distribution points currently managed by Wailuku Water Company (see Exhibit 5 for further information); 2) Ordered Wailuku Water Company to maintain fully open both control valves at the intake on Waihe'e Ditch and at the boundary on Imua Family Services property to release water to the Wailuku Town Kuleana Pipeline, for an additional period of 60 days to provide for immediate relief to the water use permittees located on the Wailuku Town Kuleana 'Auwai and allow for Commission staff to continue to assess system losses in the Wailuku Town Kuleana 'Auwai; and 3) Vacated the February 15, 2022 Order to Mahi Pono, LLC, to install a berm in the Spreckels Ditch,

Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area

upstream of the Velez (Higa) property to prevent stagnant conditions in the Sprekels Ditch resulting from the backflow of water from the Hopoi Chute and the additional flow through from the Wailuku Town Kuleana 'Auwai. See **Exhibits 5 and 6**.

On May 31, 2022, based on communications that new landowner, Mr. Keola Gomes, altered the 'Auwai, Commission staff met with Mr. Gomes and water use permittees to discuss his alleged use of water from and restoration of the 'Auwai. Furthermore, Mr. Gomes asserted that he owned the area where the 'Auwai ran between his property and Ms. Velez's property.

On June 6, 2022, a letter was sent to Mr. Gomes recommending that he "resolve land ownership issues between your property and the adjacent landowners," and "requests that you restore the alignment of the Wailuku Town Kuleana 'Auwai to its original configuration as discussed." See **Exhibit 7**. A response letter from Mr. Gomes' attorney was received on June 27, 2022 that the Gomes "completed the restoration work relating to the 'Auwai." See **Exhibit 8**.

It is Commission staff's understanding that on-going disputes between Mr. Gomes and Mr. Street resulted in Mr. Street closing the distribution valve at the Imua Family Services property resulting in no water flowing in the 'Auwai for nearly one (1) month. Mr. Street alleged that a pipe, withing the 'Auwai, conveying water to his property was destroyed.

On July 18, 2022, Commission staff met with Ms. Velez, Mr. Ibara, Mr. Street, and Mr. Gomes. At the time, the 'Auwai was dry. Commission staff indicated that they would recommend to the Commission that they order the water use permittees to install a piped system to deliver water directly to their respective properties, thereby avoiding any further water use disputes with Mr. Gomes.

On July 26, 2022, Commission staff received a text message that water was again flowing in the 'Auwai. The messages indicated that water was stopped at the split between Mr. Ibara and Ms. Velez. Mr. Ibara assisted Ms. Velez with installing a pump in the 'Auwai to siphon water to her property as an interim measure. Mr. Ibara could receive water as normal, but Mr. Street was unable to receive any water.

On September 22, 2022, Commission staff downloaded the transducer data and removed the USGS Modified Parshall Flume from the 'Auwai.

On October 7, 2022, Commission staff conducted a brief site visit and noted that the 'Auwai was dry, with no water flowing.

On November 7, Commission staff met with Mr. Street and Mr. Ibara and specifically asked if they would accept a staff recommendation that the 'Auwai be piped to distribute water to the three (3) water use permittees. At the time, water appeared to be flowing as normal in the 'Auwai. Both Mr. Street and Mr. Ibara indicated that they would prefer the 'Auwai remain open as it currently is.

The Commission staff conducted at least eleven (11) site visits to the 'Auwai to conduct field measurements, download transducer data, and meet with water use permittees.

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

Table 1. Summary of site visits to the Wailuku Town Kuleana ‘Auwai.

Date	Purpose	Notes
March 3, 2022	Field Measurements	Staff conducted a seepage run.
March 9, 2022	Field Measurements	Staff conducted a seepage run.
March 22, 2022	Field Measurements	Staff conducted a seepage run.
March 29, 2022	Field Measurements	Staff conducted a seepage run.
April 7, 2022	Site Visit	At approximately 5:00 PM, the ‘Auwai was flowing.
April 26, 2022	Data Download	
May 31, 2022	Data Download and Site Visit	Staff met with Mr. Gomes regarding his alteration of the ‘Auwai.
July 18, 2022	Data Download and Site Visit	Staff met with Ms. Velez, Mr. Ibara, Mr. Street, and Mr. Gomes. At approximately 3:00 PM, the ‘Auwai was dry.
September 22, 2022	Data Download	
October 7, 2022	Site Visit	At approximately 12:00 PM, the ‘Auwai was dry.
November 7, 2022	Site Visit	Staff met with Mr. Ibara and Mr. Street. At approximately 11:00 AM, the ‘Auwai was flowing.

ANALYSIS

In its D&O, the Commission did not consider the system losses that occur from the delivery point, located at the Imua Family Services property, to the end users on the ‘Auwai (i.e., Velez (Higa), Ciotti, and Ibara), because no evidence was presented or data available for the system. The Commission staff believes that there is likely considerable loss occurring from the ‘Auwai as it traverses approximately 0.54 miles underground in a concrete lined channel for most of its course and in unlined channels in certain sections.

The Commission conducted four (4) seepage runs on the ‘Auwai. System losses in the Wailuku Town Kuleana ‘Auwai, between the Cook property and Kalua Road are estimated as follows (all measurements are in gallons per day, gpd):

Table 2. Summary of system loss based on seepage runs of the Wailuku Town Kuleana ‘Auwai.

Date	Cook Property	Kalua Road	Difference	Percent Loss
March 2, 2022	194,000	148,892	45,108	23.3%
March 9, 2022	243,000	215,183	27,817	11.4%
March 22, 2022	256,000	230,839	25,161	9.8%
March 29, 2022	187,000	143,182	43,818	23.4%

Despite Wailuku Water Company’s assertion that, when the distribution pipe valve at Imua Family Services property is in the full-open position, flow to the ‘Auwai fluctuates between 400 and 500 gpm (576,000 to 720,000 gpd), it is apparent based on staff’s measurements that the WWC’s meter is not operating properly and the ‘Auwai receives roughly half the amount of water indicated by the meter.

The flow measured in the ‘Auwai on Kalua Road, just upstream of the three (3) water use permittees indicates that the ‘Auwai had an average flow of 287,291 gpd. The median flow was 270,604 gpd. See **Exhibits 9 and 10**. Commission staff recognizes that if the current water use permittees were to be awarded full use of their appurtenant rights, the current ‘Auwai system flows are inadequate to fully meet their needs. At this time, staff believes that leaving the valve

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

in the fully open position meets the intent of recognizing and honoring the appurtenant rights of these parcels. Future modification of the SWUPs to reflect these quantities and or additional implementation actions will need to be done at a later time and under a separate proceeding.

RECOMMENDATIONS

Staff recommends that the Commission:

- 1) Take no further action on the Wailuku Town Kuleana ‘Auwai at the point where the three (3) water use permittees receive their water at the end of the ‘Auwai.
- 2) Reinforce portions of Chair’s action on March 10, 2022, that:
 - a. Wailuku Water Company to properly train Imua Family Services staff to adjust the 3-inch valve (located on the downside drop below the air relief) to 100 gpm daily from 7:30am to 9:30 am (2 hours) to allow Imua Family Services to irrigate their property within their Water Use Permit allocation of 4,595 gpd. At 9:30am, the 3-inch valve shall be readjusted to the fully opened position per the Commission’s original implementation recommendation.
 - b. Wailuku Water Company shall ensure that the original 4-inch valve that comes out of the rock wall shall continue to remain in the fully open position.
- 3) Order Wailuku Water Company to maintain fully open both control valves at the intake on Waihe‘e Ditch and at the boundary on Imua Family Services property to release water to the Wailuku Town Kuleana Pipeline. Wailuku Water Company shall also continue to maintain infrastructure between the Waihee Ditch and Imua Family Services property, as necessary, to ensure delivery of water to all water use permittees.

Ola i ka wai,



M. KALEO MANUEL
Deputy Director

Exhibits:

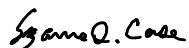
1. January 18, 2022, Briefing A3: Wailuku Kuleana Town ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area, Maui
Online at: <https://files.hawaii.gov/dlnr/cwrm/submittal/2021/sb20210921B1.pdf>
2. January 18, 2022, Testimony related to Briefing A3
Online at: <https://files.hawaii.gov/dlnr/cwrm/submittal/2022/sb20220118A3T.pdf>
3. February 15, 2022, Submittal B2: Approve Interim Water Use Permits to Mary Ann Velez (Higa) (SWUPAs 2241/2242N), Jordanella Ciotti (SWUPAs 2247/2248N), and Greg Ibara

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

(SWUPAs 2245/2246N) on the Wailuku Town Kuleana ‘Auwai and Order Wailuku Water Company and Mahi Pono, LLC to Implement Certain Actions for Commission Staff to Assess Water Loss, Nā Wai ‘Ehā Surface Water Management Area; Wailuku, Maui
Online at: <https://files.hawaii.gov/dlnr/cwrmsubmittal/2022/sb20220215B2.pdf>

4. February 15, 2022, Testimony related to Submittal B2:
Online at: <https://files.hawaii.gov/dlnr/cwrmsubmittal/2022/sb20220215B2T.pdf>
5. April 19, 2022, Submittal C1: Request to Approve Extension of Interim Water Use Permits to Mary Ann Velez (Higa) (SWUPAs 2241/2242N), Jordanella Ciotti (SWUPAs 2247/2248N), and Greg Ibara (SWUPAs 2245/2246N) on the Wailuku Town Kuleana ‘Auwai and Order Wailuku Water Company to Implement Certain Actions for Commission Staff to Assess Water Loss, Nā Wai ‘Ehā Surface Water Management Area; Wailuku, Maui
Online at: <https://files.hawaii.gov/dlnr/cwrmsubmittal/2022/sb20220419C1.pdf>
6. April 19, 2022, Testimony related to Submittal C1
Online at: <https://files.hawaii.gov/dlnr/cwrmsubmittal/2022/sb20220419C1T.pdf>
7. Letter to Mr. Keola Gomes, dated June 6, 2022.
8. Letter from Attorney Michael C. Carroll, representative for Mr. Gomes, dated June 27, 2022.
9. Mean Daily Flows (MDF) recorded (in gallons) in the Wailuku Town Kuleana ‘Auwai at Kalua Road from March 29, 2022 to September 21, 2022. Data on July 05 and July 11 represent runoff collected by road from rainfall events.
10. Graphical representation of the recorded flows in the Wailuku Town Kuleana ‘Auwai at Kalua Road from March 29, 2022 to September 21, 2022.

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area

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
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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

June 6, 2022

Ref: CDR.5876.6

Keola and Monique Gomes
366 Molokai Akau Street
Kahului, HI 96732

Aloha Mr. and Mrs. Gomes:

Restoration of the Wailuku Town Kuleana ‘Auwai
TMK (2) 3-4-004:072, Wailuku, Maui

The Commission on Water Resource Management (Commission) is following up on the site visit of your property conducted on Tuesday, May 31, 2022. As you are aware, the Commission, administratively attached to the Department of Land and Natural Resources, is tasked with protecting and managing water resources for the State of Hawai‘i.

Based on the discussions at the site visit, the Commission recommends that you resolve land ownership issues between your property and the adjacent landowners. The Commission also requests that you restore the alignment of the Wailuku Town Kuleana ‘Auwai (‘Auwai) to its original configuration as discussed and as shown in Exhibit A below.

Pursuant to §Section 174C-10, Hawaii Revised Statutes (HRS), of the State Water 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.”

Any further alterations to the configuration of the ‘Auwai once it is restored, including removal of existing pipes conveying water to properties owned by Jordanella A. Ciotti and Gregory Y. Ibara, may be considered a violation of your deed requiring the “free flowage of Auwai” and the State Water Code, with the matter being presented to the Commission for disposition.

Keola and Monique Gomes
June 6, 2022
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Should you have any questions, please contact Dean Uyeno of the Commission's Stream Protection and Management Branch at dean.d.uyeno@hawaii.gov or by phone at (808) 587-0234.

Ola i ka wai,



M. KALEO MANUEL
Deputy Director

- c. Mary Ann Boyle
Jordanella Ciotti
Gregory Ibara
Officer Hilbert Manlapao, Division of Conservation and Resources Enforcement,
Maui Branch

Keola and Monique Gomes

June 6, 2022

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Exhibit A.



Wailuku Town Kuleana ‘Auwai, Nā Wai ‘Ehā Surface Water Management Area



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 700 Bishop Street, Suite 900
 Honolulu, Hawaii 96813

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 Sharon Paris
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A Partnership of
 Law Corporations

Jason N. Baba
 (1957-2001)

June 27, 2022

Mr. Dean Uyeno
 Commission on Water Resource Management
 P.O. Box 621
 Honolulu, Hawaii 96809

Re: Restoration of the Wailuku Town Kuleana ‘Auwai
 TMK (2) 3-4-004:072, Wailuku, Maui

Dear Mr. Uyeno:

As you know, our firm represents Keola and Monique Gomes (“the Gomes”), owners of the property located at 000 Kalua Road, Wailuku, Hawaii 96793, TMK (2) 3-4-004:072 (“Gomes Property”). We are in receipt of your letter requesting the restoration of the Wailuku Town Kuleana ‘Auwai of the parcel identified above. Thank you for speaking with me about this matter on June 23, 2022.

The Gomes have completed the restoration work relating to the ‘Auwai. The soil that was placed along the ‘Auwai has been removed so that the ‘Auwai runs parallel to the adjoining driveway. Attached to this letter is a photograph documenting the current condition.

Further, the PVC pipe that is believed to have been installed by Mr. Street in the ‘Auwai encroaches and trespasses upon the Gomes Property. To our knowledge, the PVC pipe was not permitted nor authorized by either any owner of the Gomes Property or applicable government agencies. If you are aware of any authorizations relating to the PVC pipe, please provide that to my attention. The Gomes object to the PVC pipe, the damage Mr. Street has inflicted upon the Gomes’s personal property, and his continued trespass onto the Gomes’s Property. Based on our discussion, we understand that this issue will be resolved at a later date.

The Gomes expressly reserve all claims, rights, and remedies with respect to this matter (including with respect to the PVC pipe), and nothing in this letter shall be construed as a

Mr. Dean Uyeno
June 27, 2022
Page 2

waiver of any of such rights. If you have any questions or comments, please feel free to contact our firm. Thank you, in advance, for your attention to this matter.

Sincerely,

LUNG ROSE VOSS & WAGNILD



By: _____

Michael C. Carroll
Attorney at Law, A Law Corporation
Its General Partner

cc: Client
Enclosure

[Image # - 10 pt font]

Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area



Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area

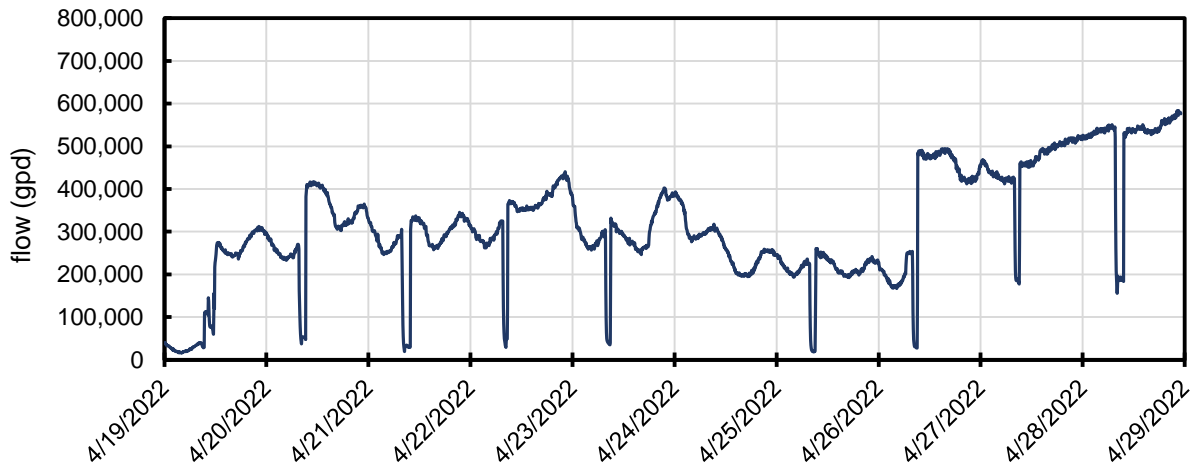
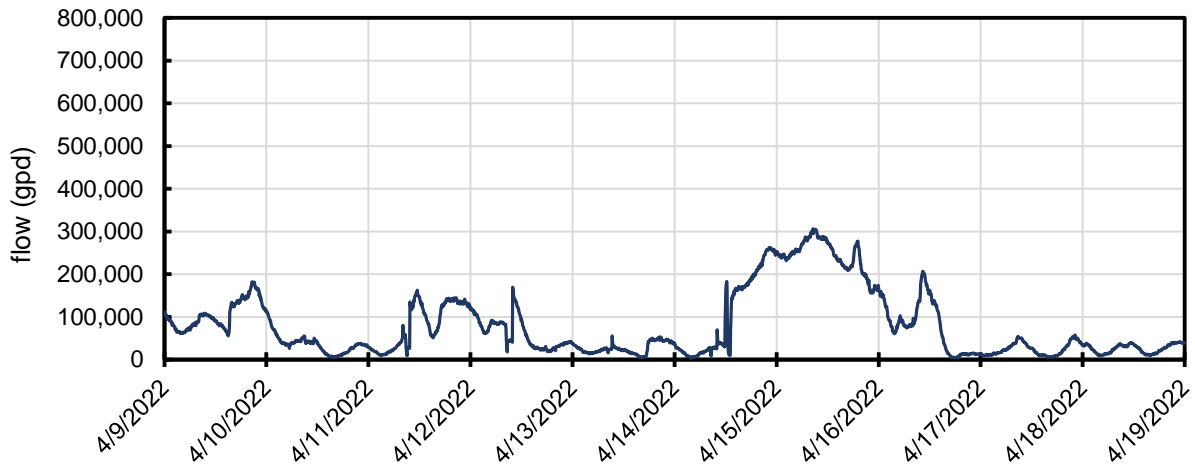
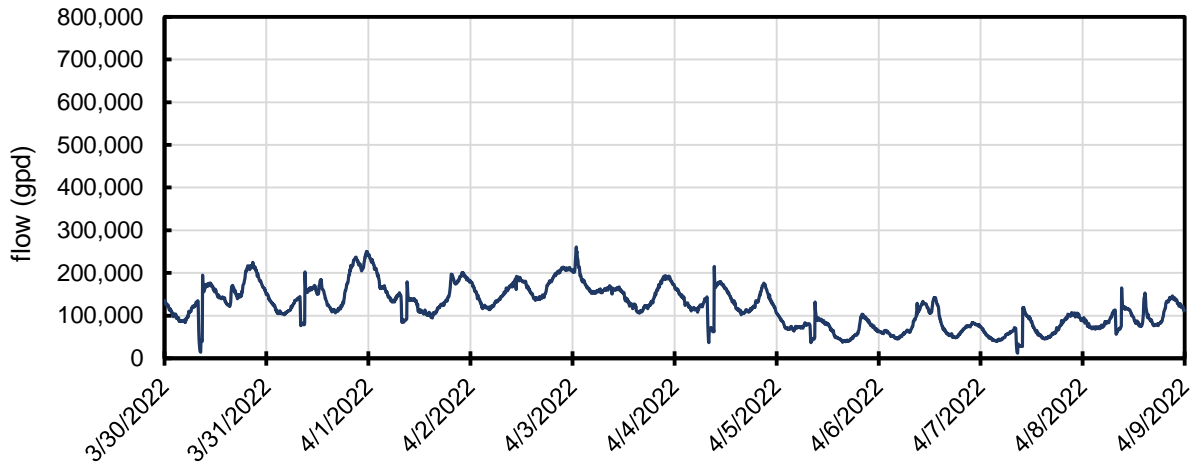
Mean Daily Flows (MDF) recorded (in gallons) in the Wailuku Town Kuleana 'Auwai at Kalua Road from March 29, 2022 to September 21, 2022. Data on July 05 and July 11 represent runoff collected by road from rainfall events.

Date	MDF	Date	MDF	Date	MDF	Date	MDF
3/29/2022	127,710	5/13/2022	505,642	6/26/2022	284,701	8/9/2022	297,664
3/30/2022	142,411	5/14/2022	492,464	6/27/2022	277,966	8/10/2022	354,060
3/31/2022	149,567	5/15/2022	465,752	6/28/2022	264,988	8/11/2022	385,592
4/1/2022	149,268	5/16/2022	443,655	6/29/2022	373,551	8/12/2022	334,856
4/2/2022	162,971	5/17/2022	455,554	6/30/2022	329,638	8/13/2022	308,966
4/3/2022	158,401	5/18/2022	571,705	7/1/2022	215,094	8/14/2022	293,356
4/4/2022	132,477	5/19/2022	627,056	7/2/2022	0	8/15/2022	281,828
4/5/2022	70,877	5/20/2022	603,971	7/3/2022	0	8/16/2022	221,968
4/6/2022	77,477	5/21/2022	625,974	7/4/2022	0	8/17/2022	236,140
4/7/2022	66,965	5/22/2022	614,149	7/5/2022	6,775	8/18/2022	277,321
4/8/2022	97,789	5/23/2022	603,583	7/6/2022	0	8/19/2022	303,405
4/9/2022	105,588	5/24/2022	489,282	7/7/2022	0	8/20/2022	322,069
4/10/2022	36,071	5/25/2022	522,354	7/8/2022	0	8/21/2022	325,775
4/11/2022	80,604	5/26/2022	483,460	7/9/2022	0	8/22/2022	259,774
4/12/2022	61,787	5/27/2022	567,564	7/10/2022	0	8/23/2022	228,248
4/13/2022	26,649	5/28/2022	594,048	7/11/2022	15,942	8/24/2022	245,168
4/14/2022	105,299	5/29/2022	409,383	7/12/2022	0	8/25/2022	252,453
4/15/2022	243,205	5/30/2022	369,150	7/13/2022	0	8/26/2022	294,859
4/16/2022	77,574	5/31/2022	403,873	7/14/2022	0	8/27/2022	292,782
4/17/2022	24,394	6/1/2022	252,504	7/15/2022	0	8/28/2022	249,750
4/18/2022	25,784	6/2/2022	243,779	7/16/2022	0	8/29/2022	220,511
4/19/2022	157,886	6/3/2022	214,392	7/17/2022	0	8/30/2022	199,059
4/20/2022	306,777	6/4/2022	222,859	7/18/2022	0	8/31/2022	120,865
4/21/2022	275,341	6/5/2022	192,484	7/19/2022	0	9/1/2022	128,935
4/22/2022	336,241	6/6/2022	187,691	7/20/2022	0	9/2/2022	173,992
4/23/2022	294,432	6/7/2022	160,362	7/21/2022	0	9/3/2022	199,814
4/24/2022	269,015	6/8/2022	89,281	7/22/2022	0	9/4/2022	181,374
4/25/2022	208,972	6/9/2022	94,290	7/23/2022	0	9/5/2022	138,658
4/26/2022	352,692	6/10/2022	74,873	7/24/2022	0	9/6/2022	201,321
4/27/2022	457,239	6/11/2022	112,378	7/25/2022	162,411	9/7/2022	289,790
4/28/2022	516,189	6/12/2022	120,728	7/26/2022	308,222	9/8/2022	271,835
4/29/2022	546,896	6/13/2022	132,876	7/27/2022	331,274	9/9/2022	224,918
4/30/2022	582,162	6/14/2022	168,048	7/28/2022	293,592	9/10/2022	215,373
5/1/2022	576,557	6/15/2022	206,297	7/29/2022	261,507	9/11/2022	272,985
5/2/2022	626,714	6/16/2022	188,800	7/30/2022	276,057	9/12/2022	320,386
5/3/2022	530,579	6/17/2022	211,830	7/31/2022	323,621	9/13/2022	279,826
5/4/2022	589,897	6/18/2022	133,572	8/1/2022	269,373	9/14/2022	205,216
5/5/2022	652,551	6/19/2022	138,936	8/2/2022	264,335	9/15/2022	254,466
5/6/2022	575,191	6/20/2022	181,253	8/3/2022	219,590	9/16/2022	281,371
5/7/2022	469,879	6/21/2022	272,666	8/4/2022	227,705	9/17/2022	323,564
5/8/2022	439,852	6/22/2022	286,849	8/5/2022	236,237	9/18/2022	324,454
5/9/2022	441,720	6/23/2022	224,260	8/6/2022	247,075	9/19/2022	298,585
5/10/2022	448,642	6/24/2022	180,497	8/7/2022	255,891	9/20/2022	297,824
5/11/2022	409,048	6/25/2022	283,986	8/8/2022	293,677	9/21/2022	276,620
5/12/2022	447,084						

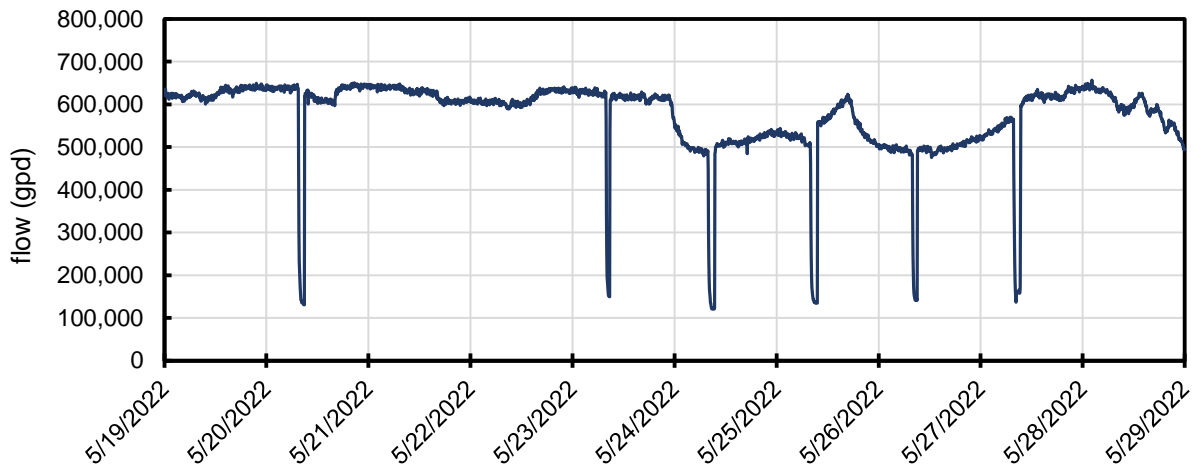
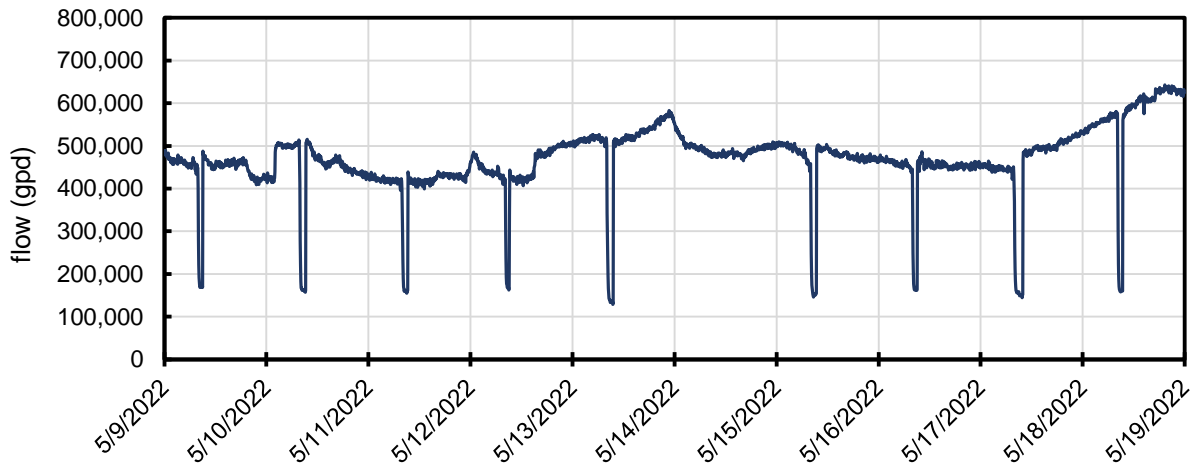
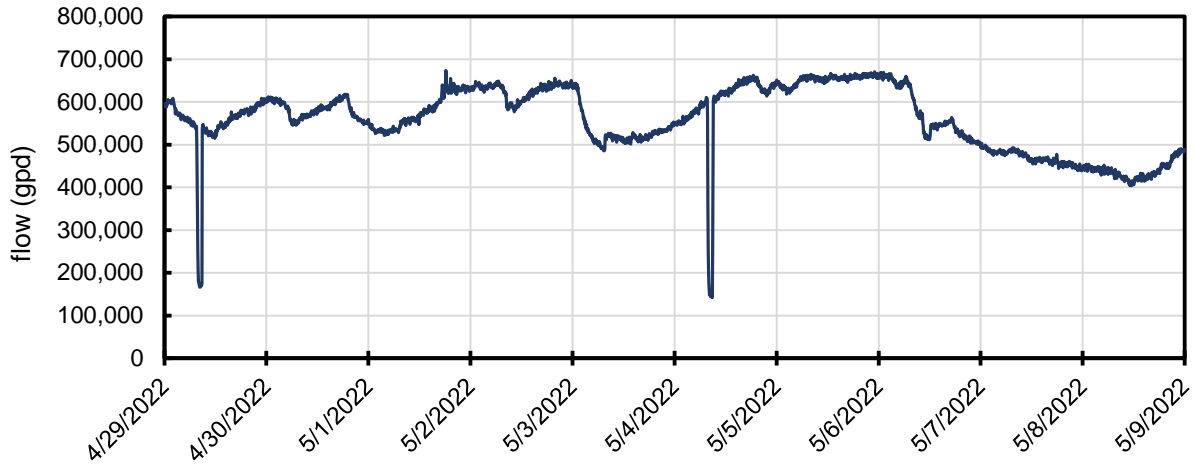
EXHIBIT 9

Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area

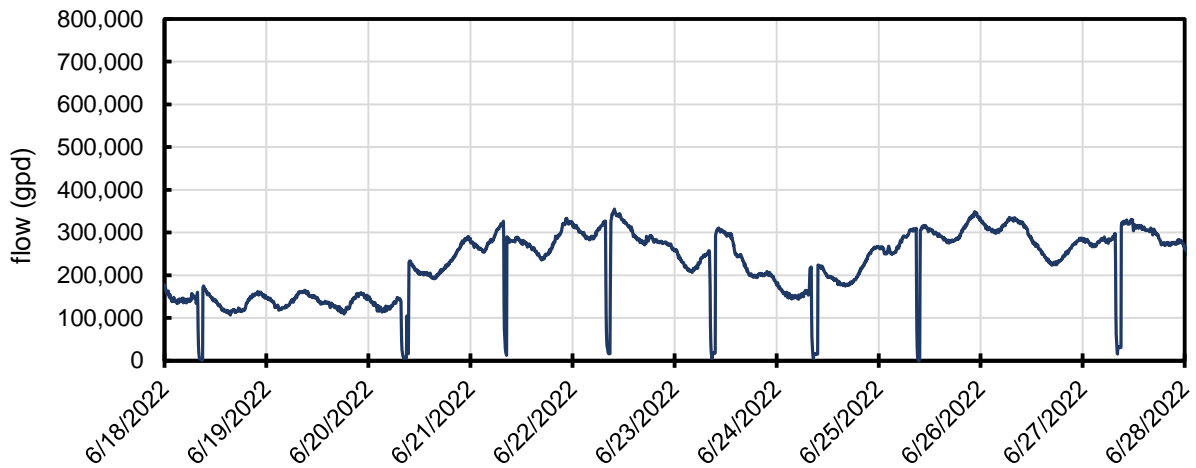
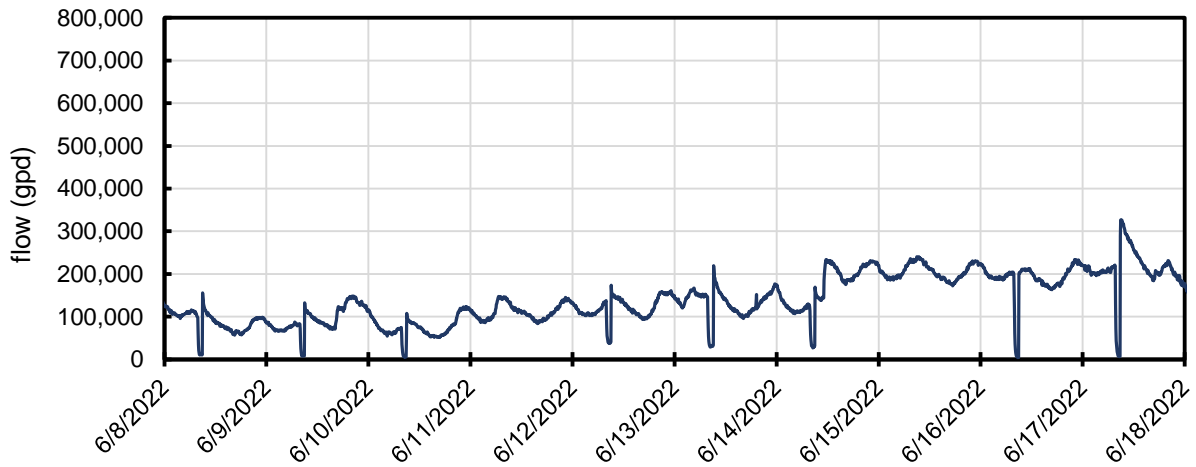
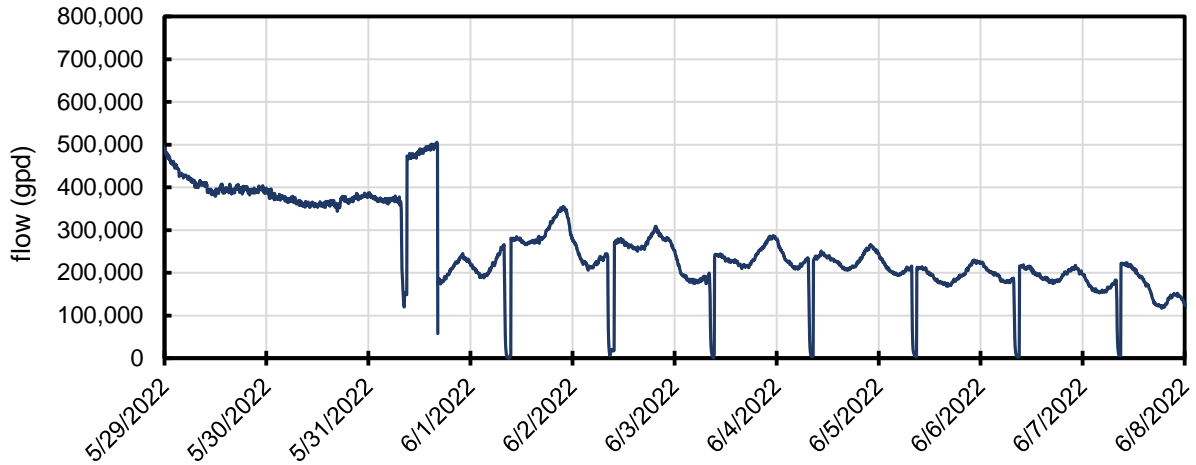
Graphical representation of the recorded flows in the Wailuku Town Kuleana 'Auwai at Kalua Road from March 29, 2022 to September 21, 2022.



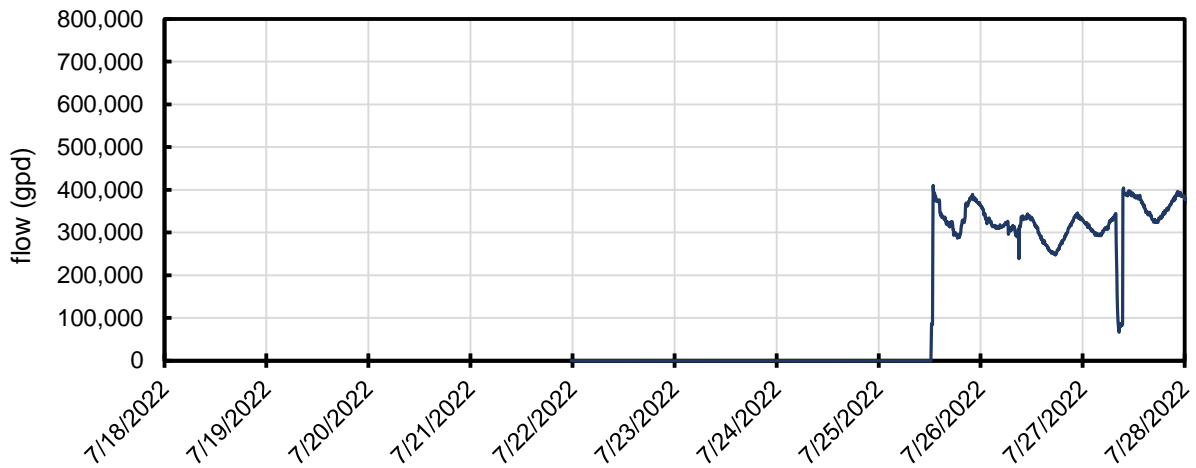
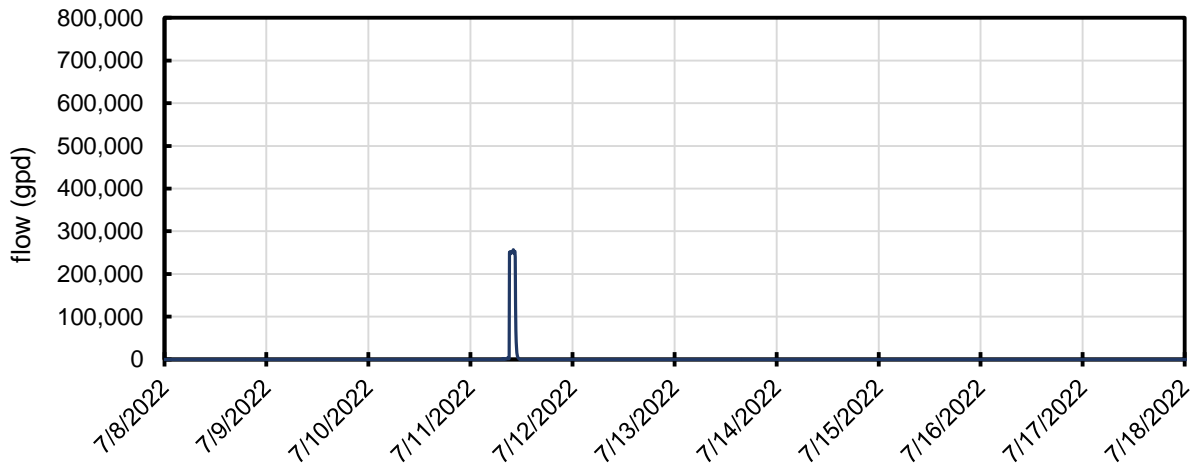
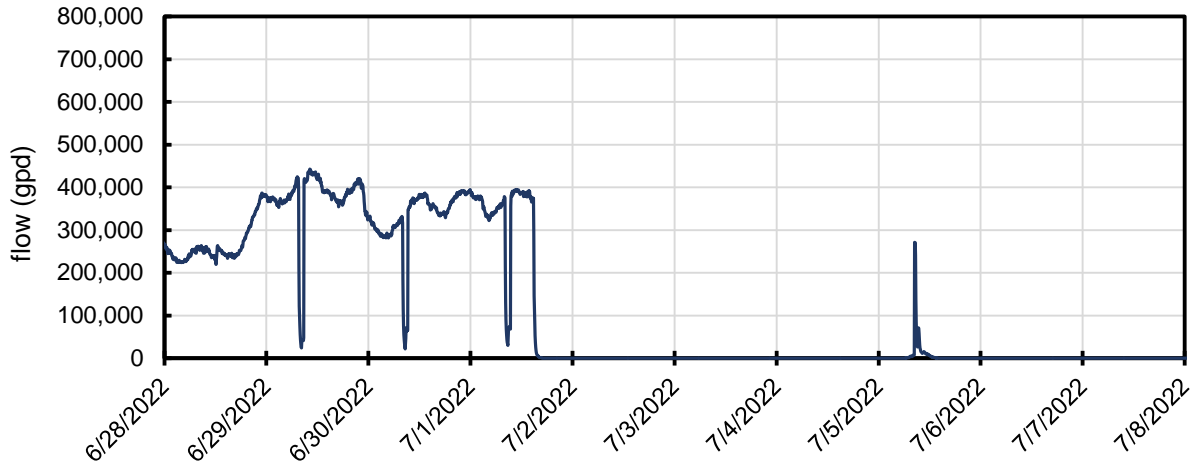
Wailuku Town Kuleana 'Auwai, Nā Wai 'Ehā Surface Water Management Area



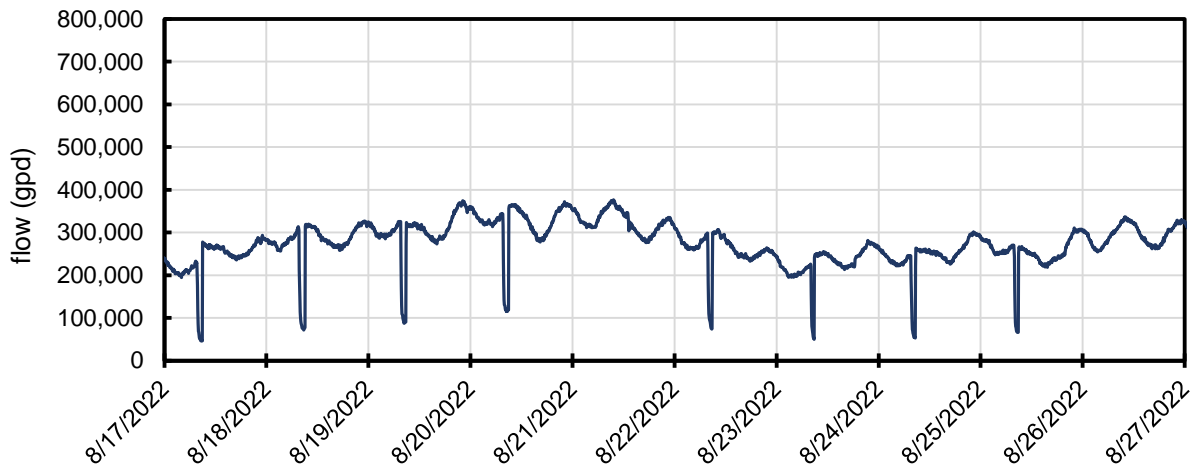
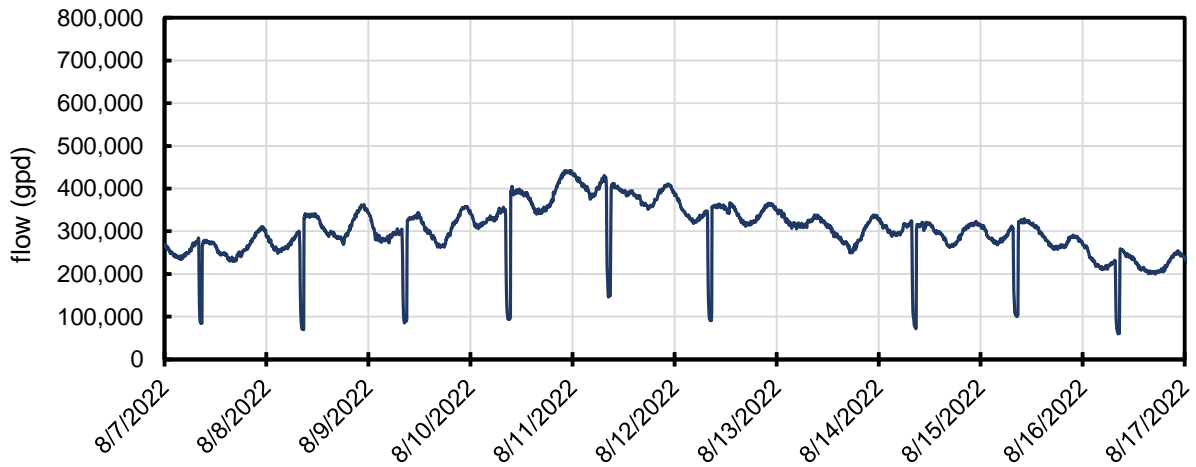
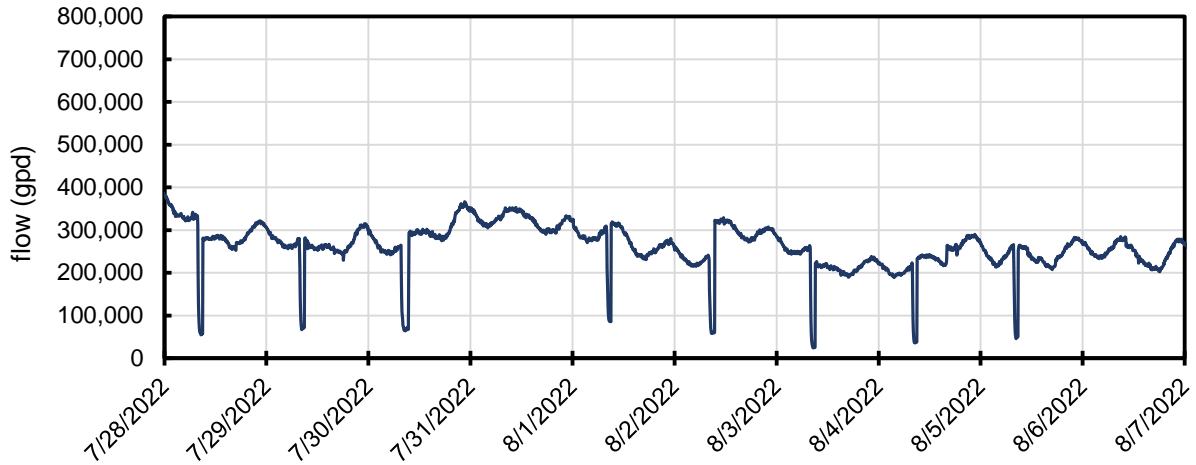
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