



November 14, 2022

Via Electronic Mail

Commission on Water Resource Management
Kalanimoku Building
1151 Punchbowl Street, Room 227
Honolulu, Hawaii 96813
dlnr.cwrm@hawaii.gov

RE: Support of CWRM Staff Submittal on Agenda Item B5 (*Address the Petition to Amend Interim Instream Flow Standards*) and B6 (*Reservation of Non-potable Water for the Department of Hawaiian Home Lands from East Maui Streams*)

Dear Chair Case and Members of the Commission,

Mahi Pono strongly supports the Commission Staff's recommendation to amend and establish East Maui interim instream flow standards in conjunction with the recommended approval of the DHHL's surface water reservation requests, as contemplated by Agenda Items B5 and B6 of the November 15, 2022 meeting of the Commission.

The Commission Staff has spent years gathering and analyzing data related to stream flows in East Maui. The Staff's current proposal to amend and establish flow standards is representative of a practical and reasonable application of this analysis and the balancing test that is required by the IIFS process. We commend the Staff on the significant amount of work that has gone into the development of these interim instream flow standard recommendations.

In addition to being reflective of a years-long data gathering process, the Staff's stream flow recommendations also facilitate the Staff's corresponding recommendation to approve the Department of Hawaiian Homelands ("DHHL") requests for non-potable water reservations relating to future developments in the Pulehunui and Keokea-Waiohuli regions on Maui. As noted by the Staff Submittals on these Agenda Items, the reservations of surface water for the DHHL should be coordinated with a corresponding establishment of interim instream flow standards.



We are pleased to support a balanced outcome that addresses two DHHL surface water reservations through the adoption of the Commission Staff's data-driven stream flow recommendations. This dual-purpose solution is much more credible than any piecemeal alternative that would otherwise diminish the years of data gathered by the Commission's Staff.

We look forward to working collaboratively with CWRM Staff and the DHHL on the implementation of the Staff's proposed recommendation. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant Nakama', is written over a solid horizontal line.

Grant Nakama
VP of Operations



SIERRA CLUB OF HAWAI'I

Testimony to
COMMISSION ON WATER RESOURCE MANAGEMENT

November 15, 2022

9 AM

Room 132

COMMENTS on B-6:

RESERVATION OF NON-POTABLE WATER FOR THE DEPARTMENT OF HAWAIIAN HOME LANDS FROM EAST MAUI STREAMS IN THE NĀHIKU, KE'ANAE AND HONOMANŪ REGIONS AND AMEND INTERIM INSTREAM FLOW STANDARDS FOR THE SURFACE WATER HYDROLOGIC UNITS OF WAIKAMOI (6047), HONOMANŪ (6051), NUA'AILUA (6052), WEST WAILUAIKI (6057), WAIOHUE (6060), EAST MAUI

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

The Sierra Club **supports** the Department of Hawaiian Home Lands receiving the water to which it is constitutionally entitled.

The Sierra Club **strongly supports** letting more water flow in Honomanū and Nua'ailua streams.

The Sierra Club, however, **opposes** the amendments to the instream flow standards for West Wailuaiki, Waikamoi and Waiohue. This item should be separated out of agenda item B-6 and the changes to the instream flow standards should be considered at a later meeting.

First, it is the Sierra Club's understanding that Native Hawaiians continue to engage in constitutionally-protected cultural practices in Wailuaiki, Waikamoi, and Waiohue streams. The staff submittal fails to adequately address the impact on these practices in reducing stream flow.

Second, there does not appear to be sufficient data to justify this drastic reduction in stream flows. The absence of evidence is not evidence of absence. These streams were deprived of all their water for more than a century. Far too little data has been collected and/or presented to conclude that aquatic life will not benefit from restored stream flow, especially as the watershed continues to recover after over one hundred years of disruption.

Third, the staff submittal and the October Powerpoint presentation on this matter

assume that no water has been taken from the Ke‘anae area. This is an incorrect assumption. EMI’s Mark Vaught testified under oath that during low flow in 2020, EMI took water from all of the revocable permit areas. CCH-LD-21-01, December 8, 2021 Transcript at 53-54. It is unclear whether there were times when water was taken from east of Huelo in 2018, 2019, and 2022. These additional diversions would confound the data.

Fourth, Nā Moku ‘Aupuni O Ko‘olau Hui spent 18 hard-fought years working to get water restored to approximately two dozen streams. Four years ago, this Commission finally ordered restoration of all the flow to nine streams and one major tributary, and a minimum flow of 64% of each stream’s median base (the minimum flow necessary to provide suitable habitat conditions for recruitment, growth and reproduction of native stream animals) to five streams. Despite their clear interest and nearly two decades of work, it appears that any “consultation” with Nā Moku has failed to clearly explain how much less water would flow in West Wailuaiki, Waikamoi and Waiohue streams. Such community consultation and buy-in must take place before any action that may remove 12 mgd from two of the fully restored streams and one of the habitat streams. The Sierra Club is very concerned that the implications of staff submittal B-6 have not been adequately vetted in the community.

For the above reasons, the Sierra Club of Hawai‘i respectfully urges the Water Commission to **support** the Department of Hawaiian Home Lands’ water reservation request and the proposed restoration of stream flow to Honomanū and Nua‘ailua, but urges the Commission to **defer** any proposal to reduce any stream flow standards until further data is developed and affected communities adequately consulted.

Mahalo nui for your consideration of this testimony.