



**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

Hawaii State Aha Moku Testimony  
To the Commission on Water Resource Management

For the meeting of the  
Commission on Water Resource Management  
August 20, 2024  
Honolulu, Hawaii

**AGENDA ITEM: B1**

Approval of Stream Diversion Works Permit Application (SDWP, 5951.6) and Special Conditions to East Maui Irrigation Company, LLC, for Abandonment of Stream Diversion Works No. 184.6, Allowing Applicant to Breach and Remove the Kapala’alaea Dam, Reseed, and Add Erosion Protection; Papalua (Piiloi) Stream, Ha’iku, Maui, Tax Map Key: (2) 2-8-007:001.

Aloha Chairperson Chang and Honorable Members of Commission for Water Resource Management (CWRM),

On behalf of the Hawaii State Aha Moku (Aha Moku) native Hawaiian generational families connected to the Haiku Ahupua’a, Hamakualoa Moku, Moku O Pi’ilani (Island of Maui), we are **in support of Agenda Item B1 and ask that CWRM approve this Action Item.**

Hawaii State Aha Moku Foundation

The Hawaii State Aha Moku (Aha Moku), via Act 288, SLH 2012 brings the voices of the native Hawaiian generational and lineal descendants forward to the Hawaii State government in issues that impact their traditional and customary practices within natural and cultural resources.

Ka Pa’akai Analysis

The September 11, 2000, Hawai’i Supreme Court decision in Ka Pa’akai O Ka ‘Aina v Land Use Commission ruled that State agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised rights of native Hawaiians to the extent feasible. CWRM is obligated to make an assessment, independent of the developer or applicant, of the impacts on customary and traditional practices of native Hawaiians. The independent assessment must include three factors known as the “Ka Pa’akai framework.” The framework includes determining:

1. Identify the scope of valued cultural, historical, or natural resources in the petition or impacted area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the petition area.  
**The Kapala’alaea Dam/Reservoir was built in 1885, and at the time, no historic or culturally significant sites were described. However, water from this source was used for irrigation of sugar and pineapple, watering of livestock and commercial industrial uses. Per generational families of Haiku, the area was used for subsistence agriculture.**
2. Determine the extent to which those resources, including traditional and customary native

Hawaiian rights, will be affected or impaired by the proposed action.

**The restoration of the Papalua Stream which is located downstream of the dam, and the restoration of the Piiloi Stream, which is located upstream of the dam would ensure that future traditional agricultural projects could be restored. The Kapala'alaea Reservoir bisects both streams and is treated as a diversion.**

3. Identify feasible actions, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

**With the removal of the dam/reservoir, the natural environment will be returned to its pre-dam condition. Also, with the disturbed ground to be re-seeded to allow vegetation to take hold, the erosion protection will be assured.**

Further, in reviewing Jocelyn Costa's Comments, we fully agree with her position of support of the removal of the dam/reservoir. Ms. Costa is a native Hawaiian generational practitioner of Haiku Ahupua'a and is one of the original authors of the Hawaii State Aha Moku.

**The Hawaii State Aha Moku supports the recommendation of CWRM staff and urges the Commission to accept, approve and adopt Agenda Item B-1.**

Respectfully yours,

Kalei Luuwai, Po'o

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