



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

August 19, 2025
Honolulu, Hawai'i

Authorize the Chairperson to Enter into a Memorandum of Agreement with the Honolulu Board of Water Supply to Receive Funding for Sealing Abandoned Waiale'e Wells – State Well Numbers 3-4101-005 and 3-4101-006 – on O'ahu and Delegate to the Chairperson Authorization to Finalize and Make Non-Substantial Edits as Appropriate

SUMMARY OF REQUEST

That the Commission on Water Resource Management (Commission) authorize the Chairperson to enter into a Memorandum of Agreement (MOA) with the Honolulu Board of Water Supply (BWS) to receive funding to seal abandoned wells fulfilling the cost-sharing requirements of the U.S. Environmental Protection Agency's (EPA) Community Grant awarded to the Commission for sealing abandoned wells.

BACKGROUND

Unsealed abandoned wells pose a significant threat to Hawai'i's groundwater resources. Contaminants such as herbicides, pesticides, bacteria, and chemicals from activities on the surface can enter unsealed abandoned wells. These contaminants may enter the well through cracks and breaks in the well casing and reach the groundwater table, polluting Hawai'i's precious drinking water resources.

In federal fiscal year 2024, \$2,400,000 in federally Congressionally Directed Spending (CDS) was earmarked by Congress to the Commission to fund the decommissioning of unused and abandoned wells across the state that pose a serious threat to drinking water aquifers. The funding for this project is being routed through the EPA Community Grant Program. The program requires each recipient to provide a 20 percent cost share of the total project cost from non-federal sources. The cost share amount for this project is \$600,000.

After receiving notice of the earmarked amount, Commission staff started to curate a list of priority abandoned well locations statewide. These priorities were based on a set of four criteria that included 1) wells within the State Department of Health (DOH) Source Water Assessment

CWRM-Honolulu Board of Water Supply MOA for Sealing Abandoned Wells

Program (SWAP) maps that delineate drinking water source protection areas; 2) wells identified as priorities by the Commission's Survey Branch staff; 3) wells that are State owned and on State land; and 4) wells prioritized by DOH. After sharing the list of priorities with the county water departments, BWS staff identified two abandoned wells in Waiale'e, O'ahu, that were their top candidates for sealing: Waiale'e wells – State well numbers 3-4101-005 and 3-4101-006. These wells are a priority for BWS because they are adjacent to an operational BWS production well, Waiale'e Well 1, serving DOH public water system #366 (Waiale'e).

INVOLVEMENT BY THE HONOLULU BOARD OF WATER SUPPLY

BWS is committed to preserve and protect O'ahu's water resources as well as provide the current and future generations with safe and dependable potable water. Supporting the sealing of abandoned wells aligns with BWS's and the Commission's efforts to advance our shared goals to protect drinking water sources on O'ahu. The BWS's Source Water Protection Plan (2024), identifies the locating and sealing of abandoned wells as a priority action. The BWS, via its Board¹, has agreed to fund the cost share amount as part of their FY26 budget. The combined federal and BWS funding (\$3,000,000) will be used to seal the Waiale'e wells.

DESCRIPTION OF MOA

The Commission will partner with BWS to seal the abandoned Waiale'e wells (3-4101-005 and 3-4101-006). The project requires a cost share of \$600,000 and BWS is agreeable to provide this cost share amount. The proposed MOA (attached as Exhibit 1) outlines the terms of the transfer of funds to the Commission.

The BWS signed a similar MOA with the State of Hawai'i Board of Land and Natural Resources that allowed BWS to plan, design, develop and construct an exploratory well in Kunia, O'ahu. The BWS Corporation Counsel has reviewed the draft MOA which will be reviewed by the Hawai'i Department of the Attorney General if approved by the Commission.

MODIFICATION OF MOA

The proposed MOA period begins on the date of execution. The MOA may be modified only by written amendment to the MOA and signed by the parties.

RECOMMENDATIONS

Staff recommends that the Commission authorize the Chairperson to enter into and finalize a Memorandum of Agreement (MOA) with the Honolulu Board of Water Supply to receive funding for sealing abandoned Waiale'e wells – State well numbers 3-4101-005 and 3-4101-006 on O'ahu and make non-substantial edits as appropriate.

¹ Board of Water Supply approval received May 27, 2025

August 19, 2025

Respectfully submitted,



CIARA W.K. KAHAHANE
Deputy Director

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG
Chairperson

Exhibit 1 – Draft Memorandum of Agreement (MOA) with the Honolulu Board of Water Supply

Exhibit 1

MEMORANDUM OF AGREEMENT

SEALING ABANDONED WELLS ON O‘AHU (“Agreement”)

This Agreement, executed on the respective dates indicated below, is effective as of the date of the last execution, by and between the COMMISSION ON WATER RESOURCE MANAGEMENT (hereinafter referred to as “CWRM”), DEPARTMENT OF LAND AND NATURAL RESOURCES (hereinafter referred to as “DLNR”) whose principal place of business and business address is 1151 Punchbowl Street, Honolulu, Hawaii 96813 and the BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, whose principal place of business and post office address is 630 South Beretania Street, Honolulu, Hawaii 96843 (hereinafter referred to as the “BWS”), collectively, the “PARTIES”.

RECITALS

WHEREAS, unsealed, abandoned wells pose a significant threat to Hawai‘i’s groundwater resources. Contaminants such as herbicides, pesticides, bacteria, and chemicals from activities on the surface can enter unsealed abandoned wells. These contaminants escape through cracks and breaks in the well casing and enter the groundwater table, polluting Hawai‘i’s precious drinking water resources.

WHEREAS, two million four hundred thousand dollars (\$2,400,000.00) in federal Congressionally Directed Spending (CDS) FY 2024 was secured by Senator Mazie Hirano to fund the decommissioning of unused and abandoned wells across the state that pose a serious threat to drinking water aquifers (hereinafter referred to as the “PROJECT”).

WHEREAS, the PROJECT funding is being routed through the U.S. Environmental Protection Agency’s (EPA) Community Grant Program and each EPA Community Grant recipient must provide a 20 percent (%) cost share of the total project cost from non-federal sources. The cost share amount for this PROJECT is six hundred thousand dollars (\$600,000.00). BWS is agreeable to fund this cost share amount.

NOW, THEREFORE, the PARTIES agree as follows:

- A. Contribution: BWS agrees to direct funding to CWRM to satisfy the cost share for the PROJECT. The maximum total contribution from BWS shall not exceed six hundred thousand dollars (\$600,000).
- B. Transfer of Funds: After the execution of this MOA, CWRM shall send a written request to BWS requesting the transfer of funds for the PROJECT. Upon appropriate review and approval by BWS, BWS will transfer the funds to CWRM for the PROJECT.

- C. PROJECT Scope: BWS shall help CWRM determine the scope of the PROJECT, provided that the PROJECT scope remains consistent with the description in the Recitals and does not exceed the authorized funding. CWRM will seal the Waialeʻe Wells 3-4101-005 and 3-4101-006 in accordance with State and County standards.
- D. Permit Applications: CWRM or its representative shall be responsible for applying for and obtaining all Federal, State and City permit(s) and approval(s) required for the PROJECT and shall comply with all laws applicable to the PROJECT.
- E. Additional Funds: If the PROJECT exceeds three million dollars (\$3,000,000.00), CWRM agrees that it shall seek any additional funds necessary to complete the scope of work of the PROJECT, provided that CWRM is not obligating itself to perform any work not funded by this Agreement.
- F. Submittals: CWRM shall submit to BWS quarterly status reports by postal or electronic mail that shall cover a summary of work completed (which may include daily inspection sheets, change orders or any adjustments of price within the scope of the project, updated PROJECT schedule, PROJECT funding balance and representative photos of the PROJECT work). CWRM shall also provide a detailed final accounting of the Project's activity to BWS no later than 90 days following the date of CWRM acceptance of the PROJECT.
- G. Contract Information: The point of contact for submittals and any other correspondence shall be:

CWRM:
Planning Branch Program Manager
1151 Punchbowl Street, Room 227
Honolulu, HI 96813
(808) 587-0214
katie.c.roth@hawaii.gov

BWS:
Water Resources/ Program Administrator
630 South Beretania Street
(808) 748-5900
busagawa@hbws.org

- H. Return of Funds: Any unused funds shall be returned to BWS, without interest, as set forth below:
1. If for any reason CWRM is unable to award a contract for or complete the PROJECT, CWRM shall provide written notification to BWS detailing the reason(s). Any unused funds shall be promptly returned by CWRM to BWS.

2. If, after the final acceptance of the PROJECT and CWRM's final payment to the Contractor, there are unused BWS funds, those unused funds shall be promptly returned to BWS.
- I. Rights and Protection: CWRM shall include provisions in any contract for the planning and construction of the Project to require the contractor to provide the same rights and protections for BWS as afforded to CWRM under any PROJECT contract as follows:
1. BWS shall be included as an additional insured to the extent CWRM is provided such coverage by the Contractor;
 2. BWS shall be included as an indemnitee in all indemnification, hold harmless, and defense obligations afforded to CWRM by the Contractor; and
 3. BWS shall be granted a waiver and release of consequential damages from the Contractor to the extent that the CWRM is afforded such waiver and release.
 4. Any PROJECT contract shall state that BWS is an intended third party beneficiary of the foregoing provisions and has the independent right to enforce them.
- J. Miscellaneous Conditions:
1. CWRM shall be responsible for procuring, contracting, and managing all phases of the PROJECT, with assistance as needed from BWS, which shall comply with the requirements of the Hawai'i Procurement Code, HRS Chapter 103D, and any other applicable laws or regulations.
 2. It is expressly understood and agreed that upon completion of any construction work for the PROJECT, CWRM (or DLNR, as applicable) shall own said improvements and shall be solely responsible for all future obligations relating to the PROJECT, including but not limited to maintenance, repairs, further improvements, removal and decommissioning.
 3. This Agreement shall be governed by the laws of the State of Hawai'i.
 4. This Agreement may be modified only by written amendment to the Agreement and signed by the Parties.
 5. This Agreement contains all the agreements and understanding of the Parties.

IN WITNESS WHEREOF, CWRM and BWS have executed the Agreement by their signatures on the dates below.

Approved by CWRM at its meeting
held on _____.

APPROVED AS TO FORM

COMMISSION ON WATER
RESOURCE MANAGEMENT

By: _____
Deputy Attorney General
STATE OF HAWAII

Dawn N.S. Chang
Chairperson, CWRM

Date: _____

Date: _____

APPROVED AS TO FORM AND
LEGALITY:

CITY AND COUNTY OF HONOLULU,
BOARD OF WATER SUPPLY:

By: _____
Deputy Corporation Counsel
City and County of Honolulu

By: _____
Manager and Chief Engineer

Date: _____

Date: _____