

26 MAY 7 AM 9:43 DLNR-CWRM

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawai'i*

SILVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawai'i*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

May 5, 2026

Ryan Kanaka'ole, Acting Chairperson
Commission on Water Resource Management (CWRM)
P.O. Box 621
Honolulu HI 96809

Re: Surface Water Use Permit Applications posted on April 16, 2026 by applicants claiming appurtenant or traditional and customary rights and requesting water from Honokōhau Stream

Acting Chair Kanaka'ole,

Mahalo for providing the opportunity for the Department of Hawaiian Home Lands (DHHL) to provide comments on the pending Water Use Permit Application (WUPAs) posted on April 16, 2026 by applicants claiming appurtenant or traditional and customary rights and requesting water from Honokōhau Stream.

Based on our review, these WUPA appear to be requests for water to exercise traditional and customary Native Hawaiian practices, a protected Public Trust use of water. Reservations of water for and uses of water by DHHL and its beneficiaries are also Public Trust uses of water. Because both our uses and the claimed uses are Public Trust uses, we do not object to these applications.

However, we note that should any of these applications become subject to a Contested Case Proceeding we reserve the right to request to intervene. We also offer the following comments at this time.

DHHL Comments

DHHL interests in these WUPA. DHHL has significant interests in the allocation of water in Maui Komohana (West Maui) in general and in these specific WUPA by the CWRM. DHHL and its beneficiaries may be directly impacted by the proposed uses. DHHL needs CWRM to legally secure potable and nonpotable water for DHHL tracts at Leali'i and Honokōwai. Beyond the legal obligation CWRM has to guarantee and hold groundwater reservations for us in the Honokōwai Aquifer and a surface water reservation from Honokōhau Stream, DHHL also has foreseeable needs not addressed

Ryan Kanaka'ole, Acting Chairperson
May 5, 2026
Page 2

by these reservations that we will require CWRM to protect. In addition DHHL will need to have CWRM issue it a Water Use Permit for its well under construction in Honokōwai, as well as its use of water from Honokōhau Stream, the source of water for the WUPA that are the subject of this letter.

DHHL needs assistance from CWRM to determine what impacts issuing these WUPA may have on its reservation from Honokōhau. The information presented by CWRM in the public notice and in the summary on its website did not allow DHHL to readily determine how these proposed uses, if all granted, might impact offstream availability. A transparent accounting of potential consumptive uses versus return flows is essential for all off stream parties to understand the cumulative effects on the resource if these permits are granted.

Fulfilling undisputable Public Trust uses must remain the Commission's highest priority and initial focus in allocating water in this region. The Hawai'i Supreme Court has not designated a hierarchy among Public Trust uses.¹ DHHL does recognize that there are practical distinctions that matter for Commission decision-making. As an off stream Public Trust user, DHHL realizes that off stream Public Trust uses generally have alternatives, whereas instream Public Trust uses do not.² With that, we are concerned that CWRM does not seem to have an articulated plan on how to distinguish DHHL uses from municipal uses. Staff seem to have abandoned their initial desire to process all Public Trust uses, only considering claimed traditional and customary uses, and have no process to balance among Public Trust uses if the resource is insufficient. Among other matters, DHHL believes all users, including Public Trust users, should be expected to operate efficiently, especially during dry periods when the resource is most vulnerable.

To that end, we urge the CWRM to move promptly to develop a water shortage plan pursuant to the Water Code.³ Such a plan is critical during periods of low flow which have been recently experienced in this area and can be expected to recur. The plan should clearly articulate how the Commission will balance instream Public Trust uses, offstream Public Trust uses, and non- Public Trust uses when water availability is constrained.

¹ The Hawai'i Supreme Court has made clear that and that there is no hierarchy established among public trust purposes: "Given the diverse and not necessarily complementary range of water uses, even among public trust uses alone, we consider it neither feasible nor prudent to designate absolute priorities between broad categories of uses under the water resources trust." *In re Water Use Permit Applications (Waiahole I)*, 94 Hawai'i 97, 141-42, 9 P.3d 409 (2000).

² *Waiahole II*, 105 Hawai'i 1, 93 P.3d 643 (2004)

³ HRS §174C-62 Declaration of water shortage; HRS §174C-5; HRS §174C-31

Ryan Kanaka'ole, Acting Chairperson
May 5, 2026
Page 3

Finally, in evaluating alternatives and mitigation measures for non- Public Trust permits, we request that the CWRM ensure DHHL water needs are fully accommodated. If DHHL cannot receive its full reservation from Honokōhau stream, the Commission should use its various authorities to require mitigation by non-Public Trust users. Potential measures include:

- Conservation actions, including eliminating luxury landscape irrigation and other measures to address high-volume single-family residential consumption
- Improvements to increase pre customer efficiencies in municipal systems
- Expanded use of recycled water

These steps will help ensure that DHHL's reservations are protected and that Public Trust purposes are fully provided for.

Thank you for your consideration of these comments. We look forward to continued collaboration with the CWRM to safeguard our valuable water resources and uphold the rights of native Hawaiian beneficiaries.

Mahalo,



Kali Watson, Chairperson
Hawaiian Homes Commission

C: Patrick & Naomi Guth 1154 Lahilahi Pl. Lahaina, HI, 96761; TMK(s): (2) 4 1 003:005
Charmene Ai Yamada & Makana Haia 93 Pualu Loop Lahaina, HI, 96761; TMK(s): (2) 4 .1 .003:010
(2) 4 1 003:011
Pi'imauna & Hi'ilei 'Aiwohi, & Hinaleimoana 1739 'A'a Pl. Lahaina, HI, 96761; TMK(s): (2) 4 1
005:005 (2) 4 1 004:017 (2) 4 1 004:022
Pi'imauna 'Aiwohi & Hi'ilei 'Aiwohi 1739 'A'a Pl. Lahaina, HI, 96761; TMK(s): (2) 4.1.002:060 (2) 4 1
002:074
Job Keanuenue Cabato & Keith "Kalei" Kauhane 5095 Napilihau St.; PMB 107 Lahaina, HI, 96761;
TMK(s): (2) 4 1 002:073 (2) 4 1 002:060
Chun Ohana in care of Nabil Olinga Vogele P.O. Box 10303 Lahaina, HI, 96761; TMK(s): (2) 4 1
004:002
Larrick Kapule Eubank 82 Ikaika Pl. Lahaina, HI, 96761; TMK(s): (2) 4 1 004:006 (2) 4 1 004:008
Aaron & Lorraine Schattenburg 3350 L. Honoapiilani, #215-209 Lahaina, HI, 96761; TMK(s): (2) 4 1
003:013
David Steven Kapakū P.O. Box 11888 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:052
Ehuehuokekai Pali P.O. Box 1224 Lahaina, HI, 96761; TMK(s): (2) 4 1 003:012
Gretchen Losano & Kaliko'okalani Teruya 5095 Napilihau St.; PMB 162 Lahaina, HI, 96761; TMK(s):
(2) 4 1 002:028

Ryan Kanaka'ole, Acting Chairperson

May 5, 2026

Page 4

Haili & Kalena Shim 156 E. Aipuni Pl. Lahaina, HI, 96761; TMK(s): (2) 4 1 003:003

James (Kimo) Lindsey 5095 Napili Hau St.; PMB 161 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:056

Jessica Kailani Ross P.O. Box 6011 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:076

Kainoa Wilson & Beverlee L.K. Wilson P.O. Box 12224 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:034

Karyn & Maka Kanekoa P.O. Box 12022 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:033 (2)

4.1.002:035 (2) 4.1.002:064 (2) 4 1 002:066

Keith "Kalei" Ka'uhane 5095 Napili Hau St.; PMB 107 Lahaina, HI, 96761; TMK(s): (2) 4 1 003:004

Keith Keahi 134 Aipuni St. Lahaina, HI, 96761; (2) 4 1 002:058 TMK(s): (2) 4 1 002:057

Kirk Lai 5095 Napili Hau St.; PMB 222 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:043

Larrick Kapule Eubank 82 Ikaika Pl. Lahaina, HI, 96761; TMK(s): (2) 4 1 004:006 (2) 4 1 004:008

Leona Shim & Malia Wong 5095 Napili Hau St. 109-B; PMB 2364 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:031 (2) 4 1 002:065

Malia Wong 5095 Napili Hau St. 109-B; PMB 150 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:027 (2) 4 1 002:014

Michael J. Edmisson 5095 Napili Hau St., #109B; PMB 138 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:050

William & Nicole Wood 5095 Napili Hau St., #109-B; PMB 389 Lahaina, HI, 96761; TMK(s): (2) 4 1 002:039

Ryan Kanaka'ole, Commission on Water Resource Management (CWRM) P.O. Box 621 Honolulu HI 96809