

From: Marti Townsend <marti.townsend@sierraclub.org>  
Sent: Thursday, February 25, 2016 8:04 AM  
To: FINTestimony; Rep. Sylvia Luke; Rep. Scott Nishimoto; Rep. Lynn DeCoite  
Subject: Stop HB2501 and Save East Maui's Streams

Aloha Representatives Luke, Nishimoto and DeCoite,

I know that you can help to end a decades-long injustice in East Maui. Please stop HB2501 from passing and protect the public's right to freshwater.

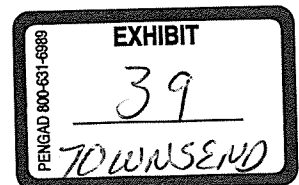
The Public Trust doctrine prioritizes customary, traditional practices and the health of native streams and coastal life over private commercial uses. But if passed, this bill would contradict that principle and allow one commercial user Alexander & Baldwin (A&B) to divert millions of gallons of public water every day and avoid protections for both Hawaiian and public water interests indefinitely. This bill would allow the Board of Land and Natural Resources (BLNR) to authorize A&B to divert water from public streams with no limitations on the amount or duration of the diversion. HB2501 circumvents public trust protections by allowing a private user to evade Environmental Impact Statement (EIS) and Environmental Assessment (EA) obligations of Chapter 343, Hawaii's environmental analysis requirements. Current A&B diversions remove almost all water from several East Maui streams leaving dry rock beds and stagnant water, however the practice has never undergone any type of environmental review.

A&B recently declared plans to harvest its last 17,000 acres of cultivated sugarcane by the end of 2016 and expressed the intent to convert those fields to diversified agriculture in the future, which is key to prevent central Maui from becoming a dust bowl or another city. Diversified agriculture would require less than half the water for sugarcane or about 2,500 gallons per acre per day (gad) which is 42.5 million gallons per day (mgd) for 17,000 acres, or 75 mgd if they hopefully cultivate all 30,000 acres of their agricultural lands. Data in court documents submitted by A&B indicates that without taking any public water, 132 mgd of water on average are available from A&B's private sources. Demonstrating a severe lack of stewardship over their private water, A&B loses an average of 41 million gallons per day mostly due to unlined reservoirs and aging pipes. The remaining 91 mgd average would be more than sufficient to meet the water duty for diversified agriculture and plenty to meet the 9 mgd county requirements for Upcountry residents and farmers. We know there is more than enough water in the streams for everyone on Maui to thrive. We simply need to share it.

Remember, A&B could always seek the same relief the County of Maui received in Circuit Court by requesting a stay of enforcement while it appeals the Circuit Court's ruling invalidating the holdover status of revocable permits. A&B would simply need to explain to the Court how much water it needs, as the County did. No other revocable permit holder in Hawaii is privy to this special "hold-over" status - only in East Maui for A&B. For decades, BLNR has charged A&B less than a penny per 1,000 gallons of water, while our small farmers pay 75 cents for the same amount. Since the 1980's, A&B has paid the Hawaii only \$160,000 for use of 33,000 acres of public land, and 164 million gallons per day on average of diverted public water in East Maui alone. This bill would continue to subsidize the profits of a billion dollar company receiving special status over the interests of the public trust.

Our East Maui kalo farmers are still without the critical water granted to them under the law and A&B still has not restored sufficient water to the streams, though a recent court decision has ruled their special "hold-over" permits do not exist. This bill appears to be another subversive attempt by A&B to evade the law and judicial review in order to avoid stream restoration, environmental analysis, and basic water stewardship. Lawmakers elected to protect the public trust must vigorously oppose HB2501 and prevent any further steps to usurp public water rights and subsidize the profits of a multi-billion dollar company receiving special status over the interests of the public trust. Please do everything in your power to protect public water rights and ensure HB2501 will not ever be heard or supported again.

Mahalo!



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Civil No. 19-1-0019-01 (JPC)

**Defendant A&B/EMI's Exhibit AB-98**

FOR IDENTIFICATION \_\_\_\_\_

RECEIVED IN EVIDENCE \_\_\_\_\_

CLERK \_\_\_\_\_