

From: [Cuong Tran](#)
To: [DLNR.CW.DLNRWWM](#)
Subject: [EXTERNAL] Lahaina Aquifer Sector Water Management
Date: Wednesday, April 20, 2022 9:34:33 AM

Aloha,

My name is Cuong Tran from Lahaina, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

Cuong Tran

From: [Ilene Bellerue](#)
To: [DLNR.CW.DLNRWCRM](#)
Subject: [EXTERNAL] Testimony for Commission on Water Resource Management
Date: Wednesday, April 20, 2022 9:37:53 AM

Aloha,

My name is Dr. Ilene Bellerue, from Kula, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,
Dr. Ilene Bellerue

From: [Daniel Bishop](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] West Maui Water Management Area
Date: Wednesday, April 20, 2022 9:44:13 AM

My name is Daniel Bishop and I am in Strong Support of ground and surface water management area designation for the Lahaina Aquifer Sector.

Mahalo

Daniel Bishop

From: [Kyle Kajihiro](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Lahaina Aquifer Sector
Date: Wednesday, April 20, 2022 10:12:08 AM

Aloha Commissioners

My name is Kyle Kajihiro. I am a lecturer in the Departments of Geography & Environment and Ethnic Studies at the University of Hawai'i at Mānoa. I also work with Hawai'i Peace and Justice and the O'ahu Water Protectors movement. The Water Commission's role in protecting Hawai'i's water resources is vital, especially in a time of climate change, development pressures, and demands for government to do more to ensure the sustainability of life on these islands.


I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

I am surprised that West Maui is not already designated as a water management area.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Thank you very much for your consideration.

Sincerely,
Kyle Kajihiro

--
Kyle Kajihiro, Ph.D. (he/him/his)
Lecturer, Department of Geography and Environment
Lecturer, Department of Ethnic Studies
University of Hawai'i at Mānoa


From: [Jennifer Valentine](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Water Resource Management
Date: Wednesday, April 20, 2022 11:07:05 AM

Aloha,

I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

j valentine

From: [Tlaloc Tokuda](#)
To: [DLNR.CW.DLNR.CWRM](#)
Subject: [EXTERNAL] Proposal to designate water management area protections
Date: Wednesday, April 20, 2022 11:47:37 AM

Hawaii's post (European) contact has had a terrible record of transforming a sustainable agricultural system into a colonial cash crop third world economy where missionaries brought religion and took the land. Maui is a case in point. Ex-missionaries controlled large land holdings that were used to grow sugar. A&B diverted water from subsistent kalo farmers and took the lion's share of water and have continued to dominate their water consumption (in collusion with the **BLNR**). Environmental groups took them to courts. A&B lost in the latest court battles. So hopefully there will be a greater parity of water use.

I STRONGLY SUPPORT ground and surface water management area designation for the Lahaina Aquifer Sector. Climate Chaos is diminishing rainfall levels (along with a host of other disruptions), significant projected increases in water demands, and growing conflicts over the use of West Maui's water. Its time for the Commission on Water Resource Management (CWRM) to uphold the public trust in West Maui's waters! CWRM needs to implement the ***water management area designation*** that will enable CWRM to uphold the public trust, and balance the water needs of West Maui's people and environment.

I live on the BI but have been visiting Maui since 72'. Please implement the water management designation now, so that the people of Maui can begin the discussion over West Maui's water future in a sustainable way (and hope the BLNR stays out of the discussion for their track record on sustainability is zero).

Mahalo nui for your consideration,
tlaloc tokuda
Kailua Kona, HI 96740

From: [REDACTED]
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Testimony
Date: Wednesday, April 20, 2022 11:56:23 AM

Commission on Water Resource Management hearing at
**Keōpūolani Hall at Waiola Church, 535 Waine‘e Street,
Lahaina, Hawai‘i**

**TESTIMONY in support of water management area
designation for the Lahaina Aquifer Sector:**

Aloha Commissioners,

My name is William Reese Liggett from Honolulu, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui’s water, it is time for the Water Commission to step in and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui’s people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui’s water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Thank you for your consideration of my testimony,

William Reese Liggett

William Reese Liggett

Help Protect the Natural & Cultural

Features of Wāwāmalu Beach!



From: [Pete Wilson](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Water Management West Maui
Date: Wednesday, April 20, 2022 4:24:19 PM

Aloha,

My name is Pete Wilson from Pahoia, Big Island, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony.

Pete Wilson

[REDACTED]
Pahoia HI 96778
[REDACTED]
[REDACTED]

From: [Carole Berthiaume](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] West Maui water management area designation
Date: Wednesday, April 20, 2022 4:27:19 PM

Aloha,

My name is Carole Berthiaume from Wailuku, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

Carole Berthiaume

From: [Ann Wallace](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Water management in West maui
Date: Wednesday, April 20, 2022 4:50:37 PM

Aloha,

My name is Ann Wallace from Kihei, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

Ann



SIERRA CLUB OF HAWAI'I

To: Kaleo Manuel, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawai'i 96809
Via e-mail: DLNR.cwrmm@hawaii.gov

Date: April 20, 2022

Re: **Support for Recommended Designation of Lahaina Sector, Maui as a Surface Water and Ground Water Management Area**

Aloha Deputy Director Manuel,

The Sierra Club of Hawai'i, on behalf of its 20,000 members and supporters, **STRONGLY SUPPORTS** the designation of West Maui as a ground water and surface water management area. The public trust doctrine, enshrined in our state constitution, requires the state to manage and protect our water resources, including and particularly for the protection of the environment, Native Hawaiian traditional and customary practices, the appurtenant rights of kuleana landowners, and the water rights of the Department of Hawaiian Home Lands and its beneficiaries.¹ **In light of the ever-increasing demands for West Maui's diminishing water resources, as well as the reported conflicts arising from Native Hawaiian cultural practitioners' and kuleana farmers' inability to access water sufficient for their needs, the proposed water management area designation will provide the Water Commission with the regulatory tools it needs to uphold the state's public trust responsibilities in West Maui.**

The Hawai'i State Constitution makes clear that our water resources are subject to the public trust, and therefore must be managed and protected for the benefit of present and future generations.² This includes a high level of consideration and precautionary presumptions in favor of public trust purposes such as environmental and ecological benefits, Native Hawaiian traditional and customary practices, the appurtenant rights of kuleana landowners, domestic uses, and the water needs of the Department of Hawaiian Home Lands.³ The Hawai'i State Legislature has accordingly tasked the Commission on Water Resource Management ("CWRM") to serve as the principle agency responsible for upholding the state's public trust obligations with respect to our water resources,⁴ and has adopted a State Water Code that envisions the use of water management area designation as a management tool whenever water resources may be threatened, wasted, or subject to serious disputes.⁵

Ample evidence provided by Water Commission staff and other sources indicate that water management area designation is critically needed for West Maui. Severe droughts, diminishing rainfall

¹ See *In Re Water Use Permit Applications*, 94 Hawai'i 97 (2000).

² *Id.*, HAW. CONST. ART. XI SECS. 1, 4.

³ *In re Water Use Permit Applications*, *supra* note 1; *In re Wai'ola o Moloka'i*, 103 Hawai'i 401 (2004).

⁴ HRS Chapter 174C.

⁵ HRS §§ 174C-41 et. seq.



SIERRA CLUB OF HAWAI'I

patterns, and climate change impacts are threatening West Maui's streams and aquifers at the same time that existing and planned development will only increase the demand for West Maui's water;⁶ meanwhile, despite the end of plantation agriculture in West Maui, streams continue to be diverted and wells developed to support luxury residential developments on agricultural lands,⁷ to the potential detriment of the environment and Native Hawaiian kuleana landowners, including small farmers.⁸

Accordingly, West Maui provides a textbook example of when water management area designation is not only appropriate, but necessary, to meaningfully fulfill the state's and CWRM's public trust obligations. With designation, CWRM will have the regulatory opportunities it needs to ensure that water uses are sufficiently protective of public trust purposes, including West Maui's environmental integrity and Native Hawaiian traditional and customary practices, and will also be able to balance and condition competing water uses to maximize benefits to present and future generations. For example, CWRM may be able to condition certain water uses on the exploration and implementation of water efficiency and conservation measures – including water reclamation and reuse and irrigation infrastructure upgrades – that can reduce the strains placed on West Maui's aquifers and streams; ensure that stream diverters adequately provide for kuleana and bona fide agricultural uses of surface waters; and ensure that private development projects plan for and accommodate the Department of Hawaiian Home Lands' water rights.

The Sierra Club of Hawai'i understands that there may be concerns regarding delays in development timelines should designation take place. However, the growing strains on and conflicts over West Maui's limited water resources call for careful and timely planning in the use of these resources, which will only benefit the long-term stability and sustainability of regional activities dependent on water. Given the tremendous cost impacts of readjusting projects and addressing conflicts that may only be exacerbated without up-front resource management, common sense counsels designation sooner, rather than later, to both uphold the public trust, and avoid the harms and costs of maintaining the status quo.

Accordingly, we urge the Commission to move forward with the water management area designation recommendation.

Sincerely,

Wayne Tanaka, Director
Sierra Club of Hawai'i

⁶ Commission on Water Resource Management, Staff Submittal, Agenda Item A-2: Designation of Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area, January 18, 2022 available at <https://files.hawaii.gov/dlnr/cwrmsubmittal/2022/sb20220118A2.pdf>.

⁷ See, e.g., Launiupoko Homes and Lands For Sale, Sotheby's International Realty, <http://www.luxuryrealestatemaui.com/launiupoko.php?p=2> (last accessed April 20, 2022); Ka'anapali Coffee Farms, Sotheby's International Realty, <https://www.hawaiiirealestatesearch.com/maui/kaanapali-coffee-farms> (last accessed April 20, 2022).

⁸ Teresa Dawson, *Threats to West Maui Ground, Surface Sources*, ENVIRONMENT HAWAI'I, February, 2022, available at <https://www.environment-hawaii.org/?p=14219>.

From: [redahi](#)
To: [DLNR.CW.DLNRWORM](#)
Subject: [EXTERNAL] April 26,2022 540p
Date: Thursday, April 21, 2022 1:13:29 AM

I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,
B. A. McClintock

Sent from my T-Mobile 4G LTE Device

From: [Kainoa Wilson](#)
To: [DLNR.CW.DLNRCWRM](#)
Cc: [R. Tereari"i Chandler-"Iao](#)
Subject: [EXTERNAL] Designation of the Lahaina Aquifer as a WMA
Date: Friday, April 22, 2022 2:20:59 PM

To Whom It May Concern,

Aloha! My Name is Kainoa Wilson and I am a resident of Honokohau Valley on the North side of Maui, right where the "giddy-giddy" on the top of the Po'o of Maui is. I have lived in this valley for the last 50 years of my 60 years in this life. My parents brought us here to make a life for our Ohana when all of it was just overgrown jungle and through hard work, persevearance and a love and respect for the aina and her resources, we managed to build and live a beautiful life. The water in the river has been an integral part of our daily life, providing the nourishment for our Kalo lo'i, plants and animals, water for our domestic household use and recreation, and a bountiful resource for aquatic life used as a food source. At that time, water use was limited to just the few families that were currently living in the valley. Over the years, as more people chose to move back onto ohana Kuleana lands and the demand for more water to be drawn to service water needs out in the public areas, the amount in the river has become less than sufficient. More hotels, more expansions, more villas, "private estates", "McMansions", etc. demand the 'need' for more water. Our resources cannot sustain the demands for "more" and that is one of the reasons I support the designation of the Lahaina Aquifer as a Water Management Area. We need to control the demand to ensure we have sufficient resources for all, we need to ensure that we make decisions that will protect and restore traditional and customary rights of Native Hawaiians and ensure that there will be sufficient resources for our future generations, we need to make sure we have the water to ensure we can grow what we need to survive sustainably and limit our dependence on imported goods.

"WATER IS LIFE". Not just words on a bumper sticker. Approve this designation and secure our future.

Mahalo
Kainoa Wilson

From: [Waikiki - Hawaii Condo](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Water Management in West Maui
Date: Friday, April 22, 2022 3:38:31 PM

Aloha,

Please consider this to be my STRONG SUPPORT of the proposal to designate water management area protections for the streams and aquifers of West Maui.

Private enterprises should no longer be allowed to monopolize water in the streams and aquifers; the proposal to manage the water will be much fairer to kuleana farmers who do the back-breaking work of growing food that does not have to be shipped TO Hawaii.

Mahalo for your kind consideration to approve the proposal.
Kim Jorgensen

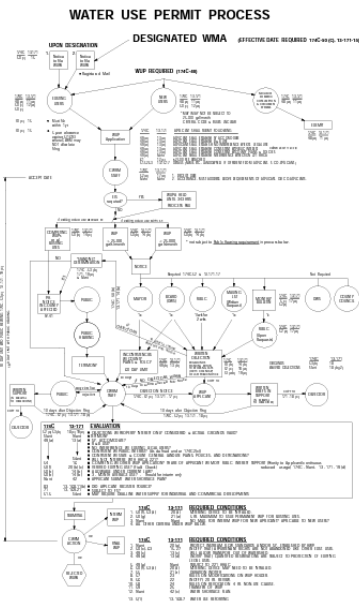
From: [Boisvert-Jorgensen](#)
To: [DLNR.CW.DLNRWWM](#)
Subject: [EXTERNAL] West Maui Water Management Proposal
Date: Friday, April 22, 2022 3:57:24 PM

Dear Commission on Water Resource Management,

I am submitting testimony in STRONG SUPPORT of the proposal to manage ground and surface water in the Lahaina Aquifer Sector.

The last decade has already seen significant decreases in rainfall, and with the threat of climate change in full swing, it is obvious that management of this natural resource is vital for FAIR distribution and for the survival of future generations.

With aloha,
Denise Boisvert



2021 12-month average (mgd)	development discharge (mgd)	entitled/ auth. planned use* (mgd)	other permitted well capacity (mgd)	total existing and auth. planned use (mgd)	% of SY
0.030	0.00	1.080	0.000	1.11	56%
0.064	0.10	0.003	0.000	0.167	8%
1.305	3.91	1.036	1.777	8.028	115%
3.998	2.50	2.533	1.150	10.181	170%
2.554	0.00	1.969	1.150	5.673	71%
0.000	3.75	0.001	0.000	3.751	42%

County of Maui DWS September 3, 2020

1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

April 23, 2022

M. Kaleo
Manuel
Deputy
Director
Commission on
Water Resource
Management

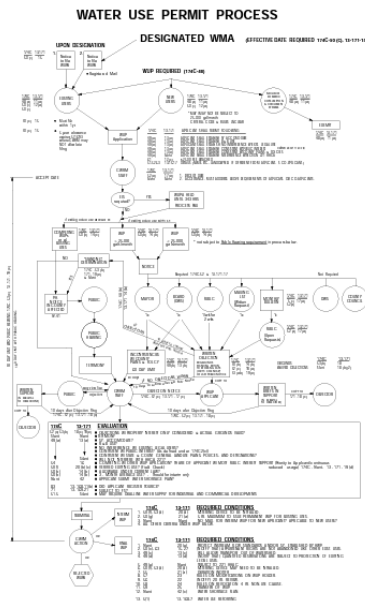
Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is **Ron Valenta**, (Kahoma Land Holdings LLC) and I am a **owner** of approx 1,000 acres on West Maui. TMK's 2-4-05-021-006, 2-4-05-021-024, 2-4-06-022-002 & 2-4-05022-004. I write on behalf of **myself** to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

Concerns Regarding Decades of Delay to Existing and New Uses of Water Within the Lahaina Sector. Designation of the Lahaina Aquifer Sector would require users of water in the Lahaina Aquifer Sector,¹ **including Kuleana tenants and affordable housing projects**, apply for

and obtain a permit to use water. Processing each permit is a lengthy and convoluted process, as shown in the diagram to the left.²



As evidenced by the Molokai groundwater designation and Na Wai Eha surface water designation, it will likely take **decades** to process permit applications.

The Island of Molokai was designated as a groundwater management area on May 13, 1992. Permit applications for existing uses were due one year later in 1993. Following innumerable contested case hearings and appeals to and remands from the Hawai‘i Supreme Court, **existing use permits remain unissued and stuck in limbo 29 years after the designation was made.**

The Island of Maui has fared no better. Na Wai Eha was designated as a surface water management area on March 13, 2008. Permit applications for existing uses were due one year later in 2009. Following innumerable contested case hearings and appeals to and remands from the Hawai‘i Supreme Court, **existing use permits remain unissued and stuck in limbo 13 years after the designation was made.**

designation was made.

Existing uses are not the only uses impacted.³ Each new use must also obtain a permit. A new use is any use of water that begins after the designation is made. For example, any existing user in the Sector (including Kuleana tenants and affordable housing projects) who decides to use water in a way that did not exist prior to the designation, such as for agriculture, cannot begin to use water for the new use until a permit is issued. Importantly, new use permit applications cannot be processed until all existing use permits have been processed. In the Na Wai Eha Surface Water Management Area, **zero new use permits have been processed in the 13 years since the designation was made.**

CWRM simply does not have the resources to process existing use permit applications (still outstanding in Molokai and Na Wai Eha), let alone new use permit applications (zero processed in Na Wai Eha in 13 years). CWRM has tried for decades to catch up. It has not. Should the designation for **both** surface water and groundwater be made here, users will be left to the same fate—stuck in limbo and without water for new uses for decades.

Concerns Regarding Facts Set Forth in the Staff Submittal. The proposed designation does not appear to be based on “scientifically proven fact” or in compliance with the State Water Code. For example, there are concerns with Table 2 of the Staff Submittal:

²

³

System	SY (mgd)	2020 12-month average (mgd)	2021 12-month average (mgd)	development tunnel discharge (mgd)	entitled/auth. planned use* (mgd)	other permitted well capacity (mgd)	total existing and auth. planned use (mgd)	% of SY
Ukumehame	2.0	0.042	0.030	0.00	1.080	0.000	1.11	56%
Olowalu	2.0	0.082	0.064	0.10	0.003	0.000	0.167	8%
Launiupoko	7.0	1.637	1.305	3.91	1.036	1.777	8.028	115%
Honokōwai	6.0	3.480	3.998	2.50	2.533	1.150	10.181	170%
Honohua	8.0	2.131	2.554	0.00	1.969	1.150	5.673	71%
Honokōhau	9.0	0.000	0.000	3.75	0.001	0.000	3.751	42%

*based on email and excel table from County of Maui DWS September 3, 2020

- **Sustainable Yield.** It is unclear how sustainable yield was determined, including whether a rate of recharge was included in the calculation and the basis for the rate of recharge.

- **Development Tunnel Discharge.** There are five development tunnels in the Launiupoko Aquifer System. These estimates were made in the 1930s, some 80 to 90 years ago. The current discharge rates need to be verified or revised with actual field measurements. Based on declining stream flows sustained by high-level groundwater discharge in West Maui, it is absolutely certain that the tunnel discharges are significantly less than estimated in the 1930s.

Additionally, in arriving at the IIFS values for Kauaula Stream, the discharge of the Kauaula Development Tunnel is counted as a 2.00 MGD draft of groundwater (as estimated in the 1930s) and is also counted as stream flow. This double counting, similar to the situation of the development tunnels draining into Honokowai Stream, should be resolved.

- **“Entitled/Authorized Planned Use.”** Table 2 indicates that “entitled/authorized planned use” is based on an email and excel table from the County of Maui Department of Water Supply dated September 3, 2020. The email and excel file should be provided so that the validity of the included wells and their respective pump capacities and expected use for the Launiupoko Aquifer System can be assessed.

- **“Other Permitted Well Capacity.”** The inclusion of “other permitted well capacity,” particularly on the assumption of 24/7 use, is not a justifiable inclusion as the basis for designation. A listing of all the wells that are included in this category and their respective pump capacity should be provided.

- **Affects to Neighboring Aquifers.** CWRM’s data shows that current groundwater use and authorized planned use does not reach 90% of sustainable yield for any other aquifer system than Honokowai. Thus, designation may be warranted for the Honokowai Aquifer System only.

In response, CWRM has stated that withdrawals from the Honokowai and Launiupoko Aquifer Systems are likely to impact adjacent aquifer systems due to permeability contrasts (in the weathered basalt and coastal alluvium versus the north-south permeability in the unweathered basalt). This is an assumption without a basis in fact and should be explained.

Additionally, assuming without agreeing that adjacent aquifer systems are impacted, it is unclear why the sustainable yield of each system should not be added together (total 34 mgd) against the total existing and authorized planned uses in each system (total 18.65 mgd). In that event, **only 55% of the sustainable yield is met in the entire Lahaina Sector.**

Designation is an extraordinary event that will subject existing uses to decades of delay and potential litigation and halt any new uses, including by Kuleana tenants and affordable housing projects. The County of Maui has been working diligently on its Maui Island Water Use and Development Plan (“WUDP”). The WUDP should be implemented and interim instream flow standards adopted for priority streams and subsequently enforced by CWRM. CWRM can monitor and evaluate the changed circumstances. Until that time, regulating powers should remain with the County of Maui.

Given these concerns, I oppose the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,

Ron Valenta



April 23, 2022

WRITTEN TESTIMONY (via e-mail)
Commission on Water Resources Management
dlr.cwrmm@hawaii.gov
raeann.p.hyatt@hawaii.gov

Testimony of West Maui Preservation Association for the Public Hearing on Designation of the Lahaina Aquifer Sector; Maui as a Surface Water and Ground Water Management Area, April 26, 2022, Lahaina, Maui.

Please accept this testimony on behalf of the West Maui Preservation Association (WMPA), a nonprofit organization based in Lahaina, Maui, in **strong support** of the designation of the Lahaina aquifer sector as ground- and surface water management areas.

WMPA is organized for the purposes of preserving, protecting and restoring the natural and cultural environment of West Maui, including land conservation and educational activities related thereto. For nearly two decades, WMPA has advocated for community interests in West Maui's natural resources. Water management area designation is sorely needed in Lahaina to address the inertia preventing implementation of more equitable and sustainable solutions to protect water resources and public trust uses thereof.

WMPA applauds the Commission staff's herculean effort in fostering the designation proposal and offer the following comments in order to bolster and clarify the Commission's draft findings of fact, dated April 12, 2022 (Lahaina FOFs).

1. The following statement is not accurate: "The interim IFS in Kaua'ula Stream has created conflicts between cultural practitioners that rely upon a diversion managed by LIC, noninstream use of water for commercial agriculture, and the use of water for landscape irrigation of agriculturally-zoned parcels." Lahaina FOFs at 22. More accurately, conflicts arise from: (1) poor planning by LIC, and its related entities, which have created a service area outsized to surface and ground water sources; and, (2) the County's failure to enforce agricultural district standards, permitting single-family dwellings to be constructed in the absence of any farm plans or other evidence of agricultural activity in the Kauaula valley area. The State Land Use Commission commented on the situation:

It further concerns the LUC that the County of Maui has allowed the subdivision of these lands without any assurances of an adequate support of non-potable water for irrigation. Such access to water from Kauaula Valley should be a condition precedent to any authorization to allow the subdivision of such lands. This concern must be of critical importance to the County of Maui. Innocent purchasers of subdivided parcels who must

obey the land use restrictions and actively conduct agricultural activities on the lands, would be frustrated if they cannot productively conduct agricultural activities because of a lack of access to non-potable water.

Order, LUC Docket No. DR-02-26, at 8 (Jul. 2, 2003). LIC's decades-long usurpation of Kauaula stream waters and the County's "blind-eye" to its obligations to maintain the integrity of agricultural districts create conflicts, not CWRM's efforts to restore stream function through its amended IIFs.

2. The report states: "Honokōhau Valley supported one of the largest concentrations of Hawaiian agriculture in the state, with taro cultivation in excess of 10 acres." Lahaina FOFs at 26. However, CWRM's own "Appurtenant Water Rights Survey" dated February 14, 1993, prepared by Eugene P. Dashiell Planning Services, focused on Honokōhau valley. CWRM's appurtenant rights study notes approximately 51.5 acres of lo'i were in existence around 1900 and are documented in a set of maps by Duncan and Shishido. *Id.* at 6-11. This includes 30.08 acres owned by individuals and 21.67 acres in which Maui Land & Pine claims an interest. *Id.* Nā Mamo Aloha 'Āina o Honokōhau, an active nonprofit organization in Honokōhau, includes in its mission the restoration of the historic bounty of Honokōhau valley, including traditional lo'i kalo.

3. The list of "Pending Well Applications" for the Launiupoko aquifer system may soon include a further well to be drilled by the county. *See* Lahaina FOFs at 56. Kauaula residents accompanied engineers regarding this prospective well and were contacted by consultants from Honua Consulting who asked them to fill out surveys regarding traditional and customary rights they exercise in the area. This prospective well could further stress Launiupoko aquifer resources. CWRM notes WMPA's previous testimony raising this issue. Lahaina FOFs at 108. The County has since noted that it may not use the state land site it was initially surveying. Should further evidence of authorized planned use be required for designation decision-making, further inquiry or clarification from Maui DWS about the location, size, and timing of its planned well may be appropriate.

4. The Commission appropriately states: "The limitations of only designating the 'Īao aquifer serve as a *'lesson learned'* and further justify including adjacent aquifers for proactive and comprehensive management, especially due to decline in recharge because of the climate crisis." Lahaina FOFs at 125-16. As further support for this lesson, WMPA notes West Maui will likely see shifts in water resource use consequent to both climate change, a resurgence of kuleana tenant occupancy, and management changes. As part of resolving the Ka Malu o Kahālāwai's water wasting complaint, phased IIFs for Honokōhau surface water were installed that do not provide for offstream, non-public trust uses during low flows, including Kapalua Plantation Estates' landscaping uses. This may induce MLP to begin using their Kapalua wells in the Honolua aquifer. Similarly, LIC has proposed ramping down Kauaula surface water use in favor of pumping wells, albeit in the same aquifer area.

Mahalo for considering our testimony. Please contact us with any questions.

West Maui Preservation Association
Post Office Box 11150, Lahaina, Hawai'i 96761
info@savewestmaui.com

From: [Greg Puppione](#)
To: [DLNR.CW.DLNRWWM](#)
Subject: [EXTERNAL] Protect West Maui's Water!
Date: Saturday, April 23, 2022 2:39:29 PM

Aloha,

My name is Greg Puppione from Honolulu, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,
Greg

From: [Naomi Holokai](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Testimony in SUPPORT
Date: Sunday, April 24, 2022 7:59:56 PM

Aloha,

My name is Kamalani from Pe‘ahi, Ha‘ikū, Maui, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui’s water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui’s people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui’s water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for hearing my testimony,
Kamalani Holokai



From: [Uilani Kapu](#)
To: [DLNR.CW.DLNR.CWRM](#); [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Public Hearing on Designation of the Lahaina Aquifer Sector
Date: Sunday, April 24, 2022 10:05:46 PM

Commission on Water Resource Management

I am in favor on the designation of the Lahaina Aquifer Sector, as a Surface Water and Ground Water Management Area.

Ground and Surface water resources are connected and should be managed together to ensure sustainability.

This commission should oversee all well locations and the impacts it may have on our streamflow.

As a Kuleana water user with appurtenances rights, who have the highest rights to water and has managed it responsibly by allowing the return to the stream as shown by the directors graph. We have gone without water to many times and would like a dull system set up for kuleana and KS users.

I support this designation it is necessary to protect the Kuleana owners of Kaua'ula and KS and our appurtenances rights so that we may continue and pass our customary and traditional native Hawaiian right to the future generation.

Please Designate Lahaina Aquifer Sector, as a Surface Water and Ground Water Management Area.

Mahalo

Ui'lani Kapu

[REDACTED]

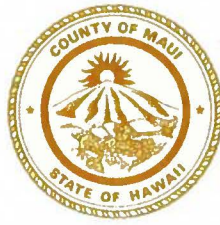
Lahaina, HI 96761

Sent from my iPhone

MICHAEL P. VICTORINO
Mayor

HELENE KAU
Acting Director

SHAYNE R. AGAWA, P.E.
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET WAILUKU,
MAUI, HAWAII 96793
www.mauicounty.gov/water

April 25, 2022

VIA MAIL AND EMAIL
dlnr.cwrn@hawaii.gov
raeann.p.hyatt@hawaii.gov

Ms. Suzanne D. Case, Chairperson and Members
State of Hawaii Department of Land and Natural Resources
Commission on Water Resource Management
1151 Punchbowl Street, Board Room 132
Honolulu, Hawaii 96809

SUBJECT: Testimony on Recommended Designation of the Lahaina
Aquifer Sector, Maui as Surface Water and Ground Water
Management Area, April 26, 2022 Public Hearing

Dear Ms. Case and Members,

The Maui County Department of Water Supply (MDWS) provided written and oral testimony at the January 18, 2022 Commission meeting. We offer additional testimony **supporting** designation of Honokōwai Aquifer System and **opposing** designation of the entire Lahaina Aquifer Sector as a Surface Water and Ground Water Management Area.

Investigations or studies in cooperation with MDWS for the benefit of the commission, in accordance with HRS §174C-43, have not yet been conducted. As such, MDWS testimony is based on the information released to date by the CWRM.

Public Hearing Notice

The March 23, 2022 Public Hearing Notice describes legal subdivisions as part of the Lahaina Aquifer Sector, none of which are located in Lahaina Aquifer Sector, as required in HRS §174C-42.

"By Water All Things Find Life"

Climate uncertainty and Sustainable Yield

Climate uncertainty such as drought and decline in rainfall applies throughout aquifer systems statewide and is not an isolated Lahaina phenomenon. Changes in groundwater recharge should be addressed in CWRM's calculations of sustainable yield. The Staff Submittals rely on 2015 and 2017 studies available at the time CWRM updated the Water Resources Protection Plan and sustainable yield for each aquifer system. The Staff Submittals rely on the mid-century and dry-climate scenarios and disregard the wet-climate scenario published in the same 2019 U.S Geological Survey (USGS) Study, which projects an increase in groundwater recharge for Honokōhau, Honolua, Honokōwai and Olowalu aquifers.¹

Threats to water resources by existing and proposed withdrawals:

Table 2 in the Staff Submittals includes development tunnel discharge. CWRM's new approach in this initiative to count 100% of tunnel discharge against basal sustainable yield remains inconsistent with the 2019 Water Resources Protection Plan, the findings of the USGS Report 2012-510 *Groundwater Availability in the Lahaina* and the approach CWRM applied to qualify high-level tunnel sources in the `Īao Groundwater Management Area (GWMA) designation, and upheld in the Na Wai 'Ehā contested case. This discretionary interpretation of 3.91 mgd tunnel discharge results in existing and proposed withdrawals exceeding sustainable yield in Launiupoko aquifer.

Authorized Planned Use (APU) is defined in HRS §174C-3 as the use or projected use of water by a development that has received the proper state land use designation and county development plan/community plan approvals. Table 2 in the Staff Submittals refers to the excel table provided via email by MDWS September 3, 2020 but double counted certain data. The correct APU for each aquifer system **if also** including meter reservations, source agreements and DHHL aquifer reservations from CWRM is shown below. Simply calculating APU by the aquifer system underlying each project is misleading as projects may be served by adjacent aquifer systems, surface water or recycled water, as explained in the Maui Island WUDP for Lahaina aquifer sector.

¹ Mair, A. *et al.* 2019. Estimated groundwater recharge from a water-budget model incorporating selected climate projections, Island of Maui, Hawai'i. USGS SIR 2019-5064.

	Ukumehame	Olowalu	Launiupoko	Honokōwai	Honolua	Honokōhau
APU* (MGD)	1.080	0.003	0.9364	2.4102	1.8473	0.000

*Projects with county land use entitlements known to MDWS. Projects may have partial building permits issued (overlapping with Open Building Permits). Project may or may not be served by underlying ASYA, may be served by surface water or recycled water.

Correcting for APU and factoring in that 100% of tunnel discharge have **not** been qualified or quantified against basal sustainable yield, current groundwater withdrawals, new permitted wells and APU represent about 57% of sustainable yield for Launiupoko aquifer. Threats to water resources by existing and proposed withdrawals is limited to **Honokōwai aquifer**.

Serious disputes over surface and groundwater

The county favors a collaborative approach among water purveyors to ensure sustainable water pumpage throughout each aquifer system. The Maui Island WUDP was adopted unanimously by Maui County Council and submitted to CWRM for approval . The plan strategies offer compromises to address community concerns and disputes, align with the General Plan and Community Plan for the Lahaina region to allocate water to planned land use. In fact, CWRM staff in their review noted the benefit of strategies to meet future needs, including transfers from adjacent aquifers, to help guide CWRM in future decision-making on water management area designation. In the February 5, 2022 Staff Submittal, CWRM responds to testimony questioning the role of the Maui Island WUDP but neglects to respond to MDWS’s written testimony.² The MDWS January 13, 2022 testimony is also not included in the Draft Findings of Facts “Summary of Written Testimony”. We are concerned over the hasty approach to designate the entire district and motivation to do so before exploring solutions provided in the WUDP, including to support collaboration between water purveyors in lieu of state control. Subjective designation that is not grounded in undisputed facts risk triggering a contested case petition by an affected party and closes the door to proactive collaboration among all parties.

The state water code provides CWRM the option to invite water users in the aquifer sector to assess the groundwater situation and devise mitigative measures (HRS §174C-44). As advocated for in our previous testimony, MDWS believes that proactive guidance by CWRM to interpret and utilize available groundwater models and monitoring data to ensure adequate pump distributions are arguably better tools to enhanced and integrated management, than designation.

² MDWS Testimony on January 18, 2022 Agenda Item A.2. Email to Raeann.p.hyatt@hawaii.gov 01/14/22.

Harm to groundwater quantity and quality by saltwater intrusion

Low initial chloride levels in wells underlying previously irrigation sugarcane and pineapple cultivation are expected to increase as agricultural cultivation ceased and irrigation return recharge to the aquifer decreased. MDWS wells in Honolua aquifer underlie former pineapple fields. Chlorides in MDWS Kanaha wells 1 & 2 in Launiupoko directly respond to changes in pumpage and MDWS current well exploration in Launiupoko aquifer would help redistribute pumpage from this well field, guided by the 2012 USGS study on groundwater availability in the Lahaina district. MDWS has funded multiple cooperative studies with the USGS to guide resource management and to address threats to water quantity and quality and climate change impacts. These tools underpin the proposed WUDP strategies to allocate water to land use, guide sustainable groundwater pumpage, address declining rainfall and climate uncertainty.

Water shortage

MDWS has a significant responsibility to serve the public, providing about 5.5 mgd or 59% of potable water needs in the region. MDWS is actively preparing to shift to groundwater to reduce reliance on surface water long term, comply with adopted IIFS and to provide for planned growth of the Lahaina community. Water conservation and infrastructure improvements relieve some stress on the MDWS systems and resource. However, the community must understand the process and consequences of designation. The current MDWS Lahaina system cannot meet planned growth and much needed affordable housing without new source to offset surface water from Kanaha Stream. Once designated, water use permit (WUP) applications for **existing** uses and wells are processed first, before any WUPs for **new** source are awarded. Completing construction of new well sites currently in the works will be further delayed. Once MDWS reduce diversions from Kanaha Stream we no longer have reliable capacity to serve additional customers, which triggers a water shortage declaration per Maui County Code Chapter 14 and de facto building moratorium per MDWS Administrative Rules Title 16, Chapter 201.

Lessons learned

GWMA Designation of ʻĪao aquifer was triggered by alleged withdrawals exceeding 90% of sustainable yield (SY). CWRM subsequently issued water use permits exceeding 95% of SY but any guidance on well spacing, pump optimization and adaptation has not been forthcoming. MDWS has funded multiple cooperative studies with the USGS to guide resource management and distribute aquifer pumpage in a sustainable fashion.

Ms. Suzanne D. Case, Chair
and Members
April 25, 2022
Page 5 of 5

All Molokai aquifers were designated as GWMA's regardless of any realistic future pumpage of most aquifer systems. In Ualapue, the MDWS request for an additional 165,000 gallons per day were met with strong objection and a petition for a contested case. If granted, the WUP would have increased total water use to 4% of Ualapue 8 million gallons per day sustainable yield. The Ualapue community now face a de facto building moratorium on the MDWS system as no additional meters can be issued to waiting applicants.

Designation does not necessarily provide for better integration of land use and water planning. The county, private purveyors and community members can and have to step up on a local level. Ultimately all of us depend on responsible use and management of every resource. MDWS does **not** support designation of the entire aquifer sector. We believe a better approach is proactive collaboration between CWRM, public and private purveyors and community representatives to ensure implementation of WUDP strategies and refine integrated management.

Surface water designation and IIFS

Designation of a Surface Water Management Area (SWMA) may be warranted where ongoing conflicts over water use have not been resolved, such as Kaua`ula. MDWS acknowledges that we have yet to comply with Kanaha Stream IIFS. MDWS and USGS have actively pursued access to install gages on Kanaha Stream since 2018. MDWS has budgeted and pursued well development to offset reduced diversions. Designation does not resolve the obstacles to develop wells, improve infrastructure and balance water needs between the MDWS sources and subsystems. On the contrary, designation would prevent or at the very least seriously delay much needed new source development on the MDWS system.

In conclusion, MDWS supports designation of **Honokōwai Aquifer System** only.

Sincerely,



Helene Kau
Acting Director of Water Supply

From: [pij aiwohi](#)
To: [DLNR.CW.DLNR.CWRM](#)
Subject: [EXTERNAL] Honokohau April 26th testimony
Date: Monday, April 25, 2022 8:56:40 AM

APRIL 26TH 2022
ALOHA WATER COMMISSION MEMBERS,

MY NAME IS PI'IMAUNA AIWOHI AND I LIVE IN HONOKOAHU VALLEY AND I REPRESENT MY OHANA OF THE PAST, PRESENT, AND FUTURE. MY KUPUNA HAVE BEEN RAISING KALO SINCE 1899 AND TODAY MY FAMILY AND I STILL TRY AND CARRY ON THIS TRADITIONAL PRACTICE OF GROWING KALO.

IT'S UNFORUNATE THAT IN TODAY'S WORLD THAT THE NATIVE PEOPLE'S OF THIS 'AINA HAVE TO STRUGGLE TO RECEIVE ADEQUATE WATER TO SUSTAIN THEIR TRADITIONAL PRACTICE'S OF AGRICULTURE.

IT'S UNFORTUNATE THAT THROUGH THE MANY YEARS, BLATANT DISREGARD WAS AND STILL IS A COMMON PRACTICE THROUGH OUT THE STATE BECAUSE OF GREED AND PROGRESS LITTLE TO NO REGARD WAS GIVEN TO ANY OF THE TRADITIONAL USERS OF THE WATER SYSTEM THAT WAS PUT INTO PLACE BY OUR ANCESTORS WHO THRIVED IN THE MOST SOPHISTICATED USES OF WATER. HOW AKAMAI WERE OUR ANCESTORS TO FIGURE OUT A SYSTEM AND PUT INTO PLACE WHERE "ALL" BENEFITED FROM THE WATER THAT WAS SO PRECIOUS TO OUR KUPUNA.

TODAY "WE" THE NATIVE PEOPLE HAVE TO FIGHT IN MANY WAYS TO GET WHAT WAS ONCE A NORMAL PROCESS OF WATER RIGHTS. TODAY "WE" THE TRADITIONAL NATIVE

PEOPLE OF THIS 'AINA ARE HERE BECAUSE OF THE INJUSTICE THAT WAS DONE TO OUR PEOPLE TO OUR 'OHANA AND TO THE MANY GENERATIONS THAT CAME BEFORE US TO COME UP WITH A SOLUTION THAT BENEFITS "ALL" AND NOT "1".

TODAY I HOPE THAT "WE" AS COMMUNITY LEADERS WILL LEAD THE WAY FOR GENERATIONS TO COME AFTER US TO FIND A SOLUTION THAT BENEFITS "ALL".

WE AS LEADERS OF TODAY WHETHER WE ARE COMMUNITY LEADERS OR GOVERNMENT OFFICIALS CANNOT BE BOUGHT OR CLOUDED OR ILL ADVISED BY MONEY OR GREED.

THIS PROCESS THAT WE ARE HEADING INTO IS SOMETHING THAT WE ARE CURRENTLY TRYING TO FIX BECAUSE OF THE DISREGARD FOR HUMANITY TO THOSE THAT CAME BEFORE US. I APPRECIATE THE PROCESS AND THE EFFORT TO FIX THE WRONGS THAT WAS DONE.

I AM IN GREAT HOPE THAT THE SURFACE WATER USAGE PERMIT ARE STEPS IN THE RIGHT DIRECTION FOR ALL TO ENJOY ESPECIALLY THE ORIGINAL NATIVE USERS OF WATER.

THANK YOU,
PI'IMAUNA AIWOHI

Commission on Water Resource Management
Public Hearing
Keōpuōlani Hall at Waiola Church
535 Waine‘e St. Lahaina, Hawai‘i 96761
Email: dlncwrmm@hawaii.gov

Re: Full Support for the Designation of the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area

Aloha Mai Kākou:

My name is Devon Haia and I am a member of an ‘ohana that has been in Lahaina for centuries; I am also a third year law student at the University of Hawai‘i William S. Richardson School of Law.

I am testifying in full support of designation.

This semester, I wrote a fifty-page paper on why the Commission should designate Lahaina as a water management area. Don’t worry, I am not going to repeat it all now, but I am going to highlight some of the major points.

My research revealed that in a pre-contact Hawai‘i, Lahaina was a paradise of countless lo‘i kalo shaded under ulu trees with abundant fresh water flowing in streams ma uka to ma kai. In fact, when foreigners arrived, the waterways were so plentiful they felt like they were in the city of Venice.

I won’t go into the painful history of how foreigners razed the valleys for their sugar and pineapple plantations, destroying many of the ‘auwai systems, and dewatered streams to feed their exported crops at the expense of kalo farmers and natural and human communities.

I will remind you and everyone else here today of the important constitutional provisions that are not only foundational to your decision to designate, but also compel you to do so:

Article XI, Section 1 outlines the state’s responsibility to not only “conserve and protect Hawai‘i’s natural beauty and all natural resources” but also to “promote the development and utilization of these resources in a manner consistent with their conservation.”

Article XI, Section 7 makes specific reference to water by establishing that “the State has an obligation to protect, control and regulate the use of Hawai‘i’s water resources for the benefit of its people.”

Article XII, section 7, mandates that the State “shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes” of Native Hawaiians.

In addition to these constitutional protections, the Water Code affirms Native Hawaiian rights and practices, which includes growing kalo. See, e.g., Haw. Rev. Stat. § 174C-101.

The Water Code also says that the Commission may designate by either finding a need for preserving the diminishing surface water supply for future needs or when there is a finding of serious disputes respecting the use of surface water resources.

With regard to Lahaina's future needs: There is already more land zoned for urban development in Lahaina than there is water available to service it. This unsustainable future development of Lahaina, coupled with projected diminishing surface water supply as shown in this Commission's own FOFs, require you to take action through designation.

Regarding serious disputes over water: your FOFs report that there have been generational conflicts generating numerous complaints to this Commission over the lack of streamflow, wasted water, and issues of ditch system management for almost every stream in the Lahaina district. These diversions, now largely maintained by private developers, have contributed to the lack of streamflow which continues to impede downstream kuleana users of water and prevents many of them from being able to cultivate kalo on their land.

My aunty owns a kuleana parcel in Kaua'ula, and she shared her mother's stories of going to the family property to tend to the land that grew not only kalo, but also mango, banana, ulu, and more. On Pō'alimas, her mother's family would huki the kalo, boil it, make poi, and travel throughout the valley trading with other families. On these days, the families in the valley showed their spirit of community and sustainability. Multiple times in her life, my aunty has gone up to her property to do the very hard work of cleaning the area by clearing away brush and cutting back overgrown grass in hopes of being able to farm kalo and restore it to the way her mother described it to her. However, these dreams have yet to come to fruition because the water, due to diversions, no longer runs through the property. Without water, a lo'i cannot exist. The stream that previous generations used to cultivate kalo is now being diverted almost completely for private use without any care or consideration for the Native Hawaiian kalo farmers – who have superior rights to this water – and who wish to use the stream water for the traditional and customary Native Hawaiian protected public trust purpose of growing kalo.

As a reminder, the Hawai'i Supreme Court has counseled this Commission to be proactive as “the primary guardian of public rights under the trust” and “take the initiative in considering, protecting and advancing public rights in the resource”. The Court also recognized “the ultimate value of water to the ancient Hawaiians” and that even the King “intended to guarantee public rights to all water”

As you well know, water in Hawai'i is a protected public trust resource, held for the benefit of the people of Hawai'i, as shown consistently in the Constitution, Water Code, and decisions of the courts.

As a law student, I understand that designation is a proactive approach that attempts to ensure availability of stream and ground water resources to all who seek it. As a mom, my hope is that one day there will be enough water in the streams so that my keiki will be able to help grow kalo in the same place their kūpuna did.

In closing, I respectfully urge this Commission to designate Lahaina as a Ground and Surface Water Management Area to fulfill its public trust obligations to protect and ensure fair access to water, giving kalo farmers the chance to cultivate lo'i, care for their family and community, and hopefully recreate a lush, green Lahaina to thrive once again, as it did over a thousand years ago.

Mahalo for your time.

Devon Haia

From: [Uilani Kapu](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Lahaina Water Designation
Date: Monday, April 25, 2022 12:54:35 PM

Aloha Commission

My name is Ui'lani Kapu and I am the Aha Moku, Lahaina representative for Maui, voted for by my Community in 2017 taking Mr. Bonconco's position.

Our community made up of Kupuna, Makua ame Keiki are in support of the Water designation. These waters need to make it to the ocean, because our limu and E'a are disappearing and we as Kanaka Māori of this Moku depend on that source as medicinal and traditional uses.

Wai is life from the wa Akua to the Kai, for our Loi, to our fishponds. Mountain to ocean is what we teach.

This is why we Aha Moku o Lahaina are in support of the water Designation for Lahaina.

Mahalo

Ui'lani Kapu

Aha Moku O Lahaina, Maui



From: [Uilani Kapu](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Lahaina Water Designation
Date: Monday, April 25, 2022 2:06:55 PM

Aloha Commission

I am emailing you for our Kupuna.

My name is Tutu Patty Nishiyama Na Kupuna O Maui and Aha Moku Kupuna Council.

We Kupuna are in favor of this designation. The Ahupua'a of Ku'ia and Kaua'ula feed our Royal Island Moku'hinia/ Moku'ula. We would like this Commission to know how important these waters are to the Kanaka Māoli Tradition and our future generations. Moku'ula is the the capital of Hawaii and all these waters traverse from the mountain to ocean and at this moment Na Aikane O Maui and Our Aha Moku Council are cleaning this Historical site.

Again we the Kupuna O Lahaina support this designation any questions feel free to contact me.

Mahalo nui loa

Tutu Patty

Na Kupuna O Maui/ Aha Moku O Lahaina Kupuna Council



Sent from my iPhone

From: Priscilla Stuckey [REDACTED]
Sent: Monday, April 25, 2022 3:19 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] support designating Lahaina Aquifer as SWGWMA

To the Commission on Water Resources Management:

I fully support the recommendation to designate the Lahaina Aquifer Sector, Maui, as a Surface Water and Ground Water Management Area in accordance with Hawai'i Revised statutes. With rainfall decreasing on Maui decade by decade because of climate change, we need to use maximum protections to safeguard precious groundwater and surface water on Maui.

Designating this aquifer area as a Management Area is consistent with the Hawai'i Constitution, which recognizes water as a public trust, to be managed for the best use of all. Managing water as a public trust means using all legal means available to limit nonpublic commercial uses that threaten the availability of water to—and therefore the survival of—the wider community.

We cannot live without water. Please use all means available to preserve this precious and limited resource. Water Is Life.

Priscilla Stuckey, PhD

[REDACTED]
Kihei HI 9675 |
[REDACTED]

April 25, 2022

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

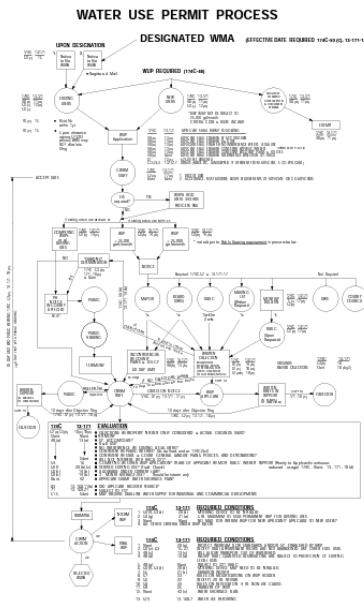
Dear Deputy Director Manuel:

My name is Frank Violi, Jr, and I am the Director of the Kapalua Resort Association in West Maui. I write on behalf of all of our Resort Partners to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

In addition to my professional involvement, I am also a long time resident of Lahaina. I write to express my concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

Concerns Regarding Decades of Delay to Existing and New Uses of Water Within the Lahaina Sector.

Designation of the Lahaina Aquifer Sector would require users of water in the Lahaina Aquifer Sector,¹ **including Kuleana tenants and affordable housing projects**, apply for and obtain a permit to use water. Processing each permit is a lengthy and convoluted process, as shown in the diagram to the left.²



As evidenced by the Molokai groundwater designation and Na Wai Eha surface water designation, it will likely take **decades** to process permit applications.

The Island of Molokai was designated as a groundwater management area on May 13, 1992. Permit applications for existing uses were due one year later in 1993. Following innumerable contested case hearings and appeals to and remands from the Hawai'i Supreme Court, **existing use permits remain unissued and stuck in limbo 29 years after the designation was made.**

¹ The only exemptions are for domestic consumption (use of water for personal needs and household purposes), customers of the County water system and catchment system.

² The diagram is also enclosed and available on CWRM's website.

The Island of Maui has fared no better. Na Wai Eha was designated as a surface water management area on March 13, 2008. Permit applications for existing uses were due one year later in 2009. Following innumerable contested case hearings and appeals to and remands from the Hawai'i Supreme Court, **existing use permits remain unissued and stuck in limbo 13 years after the designation was made.**

Existing uses are not the only uses impacted.³ Each new use must also obtain a permit. A new use is any use of water that begins after the designation is made. For example, any existing user in the Sector (including Kuleana tenants and affordable housing projects) who decides to use water in a way that did not exist prior to the designation, such as for agriculture, cannot begin to use water for the new use until a permit is issued. Importantly, new use permit applications cannot be processed until all existing use permits have been processed. In the Na Wai Eha Surface Water Management Area, **zero new use permits have been processed in the 13 years since the designation was made.**

CWRM simply does not have the resources to process existing use permit applications (still outstanding in Molokai and Na Wai Eha), let alone new use permit applications (zero processed in Na Wai Eha in 13 years). CWRM has tried for decades to catch up. It has not. Should the designation for **both** surface water and groundwater be made here, users will be left to the same fate—stuck in limbo and without water for new uses for decades.

Concerns Regarding Facts Set Forth in the Staff Submittal. The proposed designation does not appear to be based on “scientifically proven fact” or in compliance with the State Water Code. For example, there are concerns with Table 2 of the Staff Submittal:

System	SY (mgd)	2020 12-month average (mgd)	2021 12-month average (mgd)	development tunnel discharge (mgd)	entitled/ auth. planned use* (mgd)	other permitted well capacity (mgd)	total existing and auth. planned use (mgd)	% of SY
Ukumehame	2.0	0.042	0.030	0.00	1.080	0.000	1.11	56%
Olowalu	2.0	0.082	0.064	0.10	0.003	0.000	0.167	8%
Launupoko	7.0	1.637	1.305	3.91	1.036	1.777	8.028	115%
Honokōwai	6.0	3.480	3.998	2.50	2.533	1.150	10.181	170%
Honoīua	8.0	2.131	2.554	0.00	1.969	1.150	5.673	71%
Honokōhau	9.0	0.000	0.000	3.75	0.001	0.000	3.751	42%

*based on email and excel table from County of Maui DWS September 3, 2020

- **Sustainable Yield.** It is unclear how sustainable yield was determined, including whether a rate of recharge was included in the calculation and the basis for the rate of recharge.

³ In the event that an existing use permit application is not submitted on time, the existing use must apply as a new use instead.

- **Development Tunnel Discharge.** There are five development tunnels in the Launiupoko Aquifer System. These estimates were made in the 1930s, some 80 to 90 years ago. The current discharge rates need to be verified or revised with actual field measurements. Based on declining stream flows sustained by high-level groundwater discharge in West Maui, it is absolutely certain that the tunnel discharges are significantly less than estimated in the 1930s.

Additionally, in arriving at the IIFS values for Kauaula Stream, the discharge of the Kauaula Development Tunnel is counted as a 2.00 MGD draft of groundwater (as estimated in the 1930s) and is also counted as stream flow. This double counting, similar to the situation of the development tunnels draining into Honokowai Stream, should be resolved.

- **“Entitled/Authorized Planned Use.”** Table 2 indicates that “entitled/authorized planned use” is based on an email and excel table from the County of Maui Department of Water Supply dated September 3, 2020. The email and excel file should be provided so that the validity of the included wells and their respective pump capacities and expected use for the Launiupoko Aquifer System can be assessed.
- **“Other Permitted Well Capacity.”** The inclusion of “other permitted well capacity,” particularly on the assumption of 24/7 use, is not a justifiable inclusion as the basis for designation. A listing of all the wells that are included in this category and their respective pump capacity should be provided.
- **Affects to Neighboring Aquifers.** CWRM’s data shows that current groundwater use and authorized planned use does not reach 90% of sustainable yield for any other aquifer system than Honokowai. Thus, designation may be warranted for the Honokowai Aquifer System only.

In response, CWRM has stated that withdrawals from the Honokowai and Launiupoko Aquifer Systems are likely to impact adjacent aquifer systems due to permeability contrasts (in the weathered basalt and coastal alluvium versus the north-south permeability in the unweathered basalt). This is an assumption without a basis in fact and should be explained.

Additionally, assuming without agreeing that adjacent aquifer systems are impacted, it is unclear why the sustainable yield of each system should not be added together (total 34 mgd) against the total existing and authorized planned uses in each system (total 18.65 mgd). In that event, **only 55% of the sustainable yield is met in the entire Lahaina Sector.**

Designation is an extraordinary event that will subject existing uses to decades of delay and potential litigation and halt any new uses, including by Kuleana tenants and affordable housing projects. The County of Maui has been working diligently on its Maui Island Water Use and Development Plan (“WUDP”). The WUDP should be implemented and interim instream flow standards adopted for priority streams and subsequently enforced by CWRM. CWRM can monitor

and evaluate the changed circumstances. Until that time, regulating powers should remain with the County of Maui.

Given these concerns, the Kapalua Resort Association, our partners and myself personally oppose the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,

Frank Violi, Jr
Director
Kapalua Resort Association
808-319-3999

**STATE OF HAWAII RECOMMENDED DESIGNATION OF LAHAINA
AQUIFER SECTOR, MAUI AS A SURFACE WATER AND GROUNDWATER
MANAGEMENT AREA**

Written Testimony

‘O Maui nui a Kama ku‘u mokupuni. ‘O Kā‘anapali ku‘u moku. ‘O Honokohau ku‘u
ahupua‘a. ‘O Panioi ku‘u ‘ili ‘Āina.

Aloha mai kākou,

My name is Maileho‘oaihinanomekealoha Aiwahi. I am a product of Honokōhau Valley. Raised on the very waters that have brought us here today. Like many areas around Maui, and Hawai‘i in general, access to freshwater has been a growing concern. Stream flow restoration to Nā Wai ‘Eha to ‘Anakala Walter Ritte and the many families on the west side of Molokai who recently were awarded natural stream flow to 5 streams after over 100 years of water diversion by Molokai Ranch. *Ka lāhui Hawai‘i*, the Hawaiian people are becoming more verbal about our traditional rights and concerns that hinder our way of living.

I write to you today to voice my concern about our water right here on Maui. My family has been sustainably living in Honokōhau Valley since the late 1800s. Growing up in Honokōhau has blessed me with many memories that occur around the river and the waters that flowed through these ridges. A few fond memories are of my pāpā, Darryl Aiwahi who made sure to rise early each morning to tend to the kalo. I remember him ridding his lo‘i of weeds before the sun rose above the ridges. My arms got itchy from the sap when I carried the huli from one lo‘i to the other and he often scolded us mo‘opuna about running around the banks of the lo‘i. He made kalo chips and coconut milk from the very resources from Panioi (the ‘ili ‘āina we cared for). I’d follow behind him in the lo‘i with a net catching crayfish and pulling the bright pink Apple Snail eggs from the stalks of kalo. These memories that I cherish are all centered around our most important resource, *wai* (freshwater).

Our kūpuna knew of necessity of wai. Mōhala i ka wai ka maka o ka pua.¹ This ‘āina has been in my ‘ohana for many generations and today we are still present and continue with the water levels we currently have which is not enough to sustainably live. Without the adequate amounts of water we are left to rely on western forms of living.

What troubles me is that without wai, and not granted the SWUP, surface water usage permit, it is our culture that is taken from us. It is generational knowledge that is being stolen away from our families. It is mo’olelo and traditions that are being robbed from our future generations. Without this resource we cannot keep growing healthy kalo, tī, māmaki, ‘ulu, and the different resources that rely on water to grow. And because of this, we won't be able to share those stories that transmit who we are as a lāhui.

As you can see it is important not just for food sustainability but also for us as a culture to have access to this water. Please consider the necessity of this permit as well as the restoration of the natural stream flow to Honokōhau Valley.

Mahalo for you time,

A handwritten signature in black ink, appearing to read "Maile Aiwahi". The signature is fluid and cursive, with a large initial "M" and "A".

Maile Aiwahi

¹ Ōlelo No‘eau # 2178. *Unfolded by the water are the faces of flowers.* Flowers thrive where there is water, as thriving people are found where living conditions are good. Adapted from *‘Ōlelo No‘eau Hawaiian Proverbs & Poetical Sayings*. Mary Kawena Pukui. (1983).

TY Management Corporation
April 25, 2022

Commission on Water Resource Management
State of Hawai'i Department of Land and Natural Resources
1151 Punchbowl Street, Room 227
Honolulu, Hawai'i 96813
Via Email: dlnr.cwrm@hawaii.gov

RE: Written Testimony on the Recommended Designation of Lahaina Aquifer Sector, Maui as a Surface and Ground Water Management Area

Dear Chair Case, Deputy Manuel, and Members:

This is written testimony on the above referenced matter provided in advance of the April 26, 2022 Public Hearing on same.

TY Management Corporation is the owner of the Bay and Plantation Golf Courses at the Kapalua Resort, as well as associated assets. TY acquired the Plantation Course in 2009 and the Bay Course in 2010. We retained Troon Golf, the world's largest professional golf course management company, in 2011 to manage these courses. Troon retains approximately 100 full-time and 35 part-time employees on Maui in carrying out this responsibility. Our two golf courses are simultaneously essential landscape features and economic drivers for the Kapalua Resort, which itself is the employment center for this part of Maui.

We understand the precious nature of our water resources, and our management team has actively employed tools to ensure that our water use is as efficient as possible. We have done this in the absence of Water Management Area designation because we want to be good stewards of our island resources and effective contributors to our West Maui economy.

Our potable and non-potable water needs are provided by the Kapalua Water Company (KWC) which is now owned and operated by Hawaii Water Service Company (HWS). The potable water is sourced from groundwater wells owned by Maui Land and Pineapple Company (MLP), and the non-potable water is sourced via the Honokohau Ditch which utilizes water from a diversion on the Honokohau Stream owned by MLP.

We participated actively in the Commission on Water Resource Management (CWRM) review and setting of Interim Instream Flow Standards in our hydrologic unit between 2019-2021 and we appreciated the opportunity to do so. We are now concerned about this current process of designation and wish to ensure that the CWRM understands the extent to which we have historically relied upon both the ground and surface water resources as noted above.

We understand that water in Hawai'i is held as a Public Trust, and that there are four constitutionally protected "Public Trust" uses of water. We further understand that our golf course irrigation is not a Public Trust use.

However, while our irrigation use is not a Public Trust use of water, we believe that under the law our use is an "existing use of water", and our uses meet the legal standard of being both reasonable and beneficial. Indeed, as at least some of our uses predate the closure of plantation operations, we may be one of the oldest still-extant existing offshore water uses.

We respectfully request that CWRM consider all of the implications for existing reasonable and beneficial users of water in our area when considering a final decision on designation. If designation does occur we believe it is critical to ensure adequate protections for reasonable and beneficial water users which have historically relied on the existing water systems.

Thank you for your consideration and your service to the state of Hawai'i.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kindred', written in a cursive style.

Jonathan B. Kindred
Director



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

April 25, 2022

VIA: Email, hard copy to follow.

The Honorable Chair and Members of the
Commission on Water Resource Management
State Department of Land and Natural Resources
P. O. Box 621
Honolulu, HI 96809

RE: LAHAINA AQUIFER DESIGNATION

Dear Commissioners:

As the State Representative for House District 10: West Maui, Mā'alaea, North Kīhei, I am testifying in support of the Commission on Water Resource Management's ("Commission") recommendation to designate the Lahaina Aquifer Sector as a Surface and Ground Water Management Area. Approval of this designation is important to the West Maui community due to the effects of climate change resulting in a decline in rainfall, threats to groundwater by increased levels of chlorides, intrusion of salt water, and prospective increase in usage with an increase in population. By taking this protective action, the Commission can fulfill the mandate of the Hawaii State Constitution and prevent further harm to our water systems and our residents.

To holistically address these serious disputes, instead of piecemeal declarations, I concur with the recommendation to designate the entire Lahaina Aquifer Sector Area as a Surface and Ground Water Management area. While the commission should not have its hands tied in acting proactively, I would argue that the proverbial horse has left the barn. To act now would be an attempt to try and stave off the unfolding perfect storm of overuse, contamination, and degradation of the present, and future rights of the Native Hawaiian community.

To illustrate the point of needing a holistic approach, as ground water resources reach or exceed maximum withdrawal rates in areas like the Honokōwai and Launiupoko Aquifers, ground water development will need to shift to other adjacent aquifers to avoid harm of over pumping. In addition, existing wells in the Lahaina Aquifer Sector cannot be continuously pumped.

Besides the current conflicts and issues, as shown by the data future growth will exacerbate the current situation. For instance, the increased demands at Pulelehua, Waialele Ridge, Mahana Estates, and Kapalua Mauka will increase demand by 3.64 million gallons per day while irrigation for Kapalua Resorts, common areas, and luxury home landscaping will increase demand by almost a million gallons per day. Furthermore, landscaping gentlemen estates and common areas for the proposed 194 acres will add fuel to the fire by putting an additional demand of 1.500 million gallons per day from our freshwater resources.

I firmly believe the designation of Lahaina Sector as a Ground and Surface Water Management Area will not erode the County's Department of Water Supply's plans for future water development but ensure the protection of public trust purposes and resources for future generations. Furthermore, to that point, the State Water Code requires all counties to develop a water use plan regardless of water management area designation. In fact, designation of a water management area and its subsequent Water Use Permit Application process will allow for more public and private participation including notice and public hearing requirements. I also note that the decision to designate aquifers as water management areas will not curtail the rights of individual water users because they are fully protected in the permitting process-a process that comes with Due Process rights. As the Hawaii State Supreme Court noted, water management area designations do not affect the interests of any potential water users. The only impact is that the user's water source is subject to the Commission's regulation, which does not, in and of itself, dilute their water rights.

It is also critical to note that nothing happens in a vacuum in that there are four other private water companies besides the County's Department of Water Supply that are using these resources. The well placement, pumping, and water use by these entities cannot be regulated by the County and only the Commission has the authority to do so in a designated Water Management Area. I would further note that the County has itself recognized its limitations to regulate and plan for the use of other private water companies as these systems are not interconnected and are independently operated and maintained. Data also indicates that these companies have not been compliant with the IIFS for Kauaula Stream or Olowalu Stream. To say that additional manpower is needed by the Commission is a red herring because private-public water systems were requested by the County to provide demand projections and did not supply it only speaks to the need for complementary state oversight.

When the Hawaii Supreme Court clarified that the Commission is to uphold the public trust in the matter of water protection and use, the safeguards which West Maui needs are exactly the protections they had in mind. It is imperative that not only the environment is protected but that Native Hawaiian rights as well as public resources be a priority. The Commission must approve the Lahaina Aquifer designation for continued protection and to ensure that entities are in compliance with the IIFS.

Thank you for your time and consideration in this matter. Should you have any questions, feel free to contact my office at (808) 586-6160.

Sincerely,

A handwritten signature in black ink, appearing to read 'AM', with a long horizontal line extending to the right.

State Representative Angus L. K. McKelvey

From: leona nahooikaika [REDACTED]
Sent: Monday, April 25, 2022 6:12 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Commission on Water Resources Management: Testimony

Aloha

My name is Leona Nahooikaika

I vote for designate to protect and restore traditional Native Hawaiian Rights and Practices. Since Lahaina hasn't rained recently our streams are low and there's climate change ground and surface water resources are connected it should be manage together.

Mahalo

From: Tiffany Banggo [REDACTED]
Sent: Monday, April 25, 2022 7:02 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Testifying in Support of Water Management Area Designation for West Maui

Aloha,

My name is Tiffany Banggo from Kahului, Maui and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,
Tiffany Banggo

From: Yasha Ronquillo [REDACTED]
Sent: Monday, April 25, 2022 7:08 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Protect West Maui's Water! - from a concerned Maui citizen

Aloha,

My name is Yasha Ronquillo from Kahului, Maui, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Thank you so much for your consideration of my testimony.

--

*Thank you,
Yasha Ronquillo*

From: Kainalu Steward [REDACTED]
Sent: Monday, April 25, 2022 10:37 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Lahaina Aquifer Sector and water management (SUPPORT)

Aloha,

My name is Kainalu Steward. I am originally from Lahaina and Napili on West Maui and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, significant projected increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

Kainalu Steward

--
M.S Student, Tropical Conservation Biology & Environmental Science
University of Hawai'i at Hilo
[REDACTED]



April 26, 2022

Via Electronic Mail

Commission on Water Resource Management
Kalanimoku Building
1151 Punchbowl Street, Room 227
Honolulu, Hawai'i 96813
e: dlnr.cwrn@hawaii.gov

Re: Strong Support for the Designation of the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area

Dear Chair Case and Commissioners:

Mahalo for this opportunity to comment on the Commission's Draft Findings of Fact, dated April 21, 2022 ("FOF"), and your recommendation to designate the Lahaina Aquifer Sector Area ("Lahaina ASA") as ground and surface water management areas.

At the outset, and as an organization with experience advocating on behalf of communities seeking restoration of healthy waters and waterways throughout Hawai'i pae 'āina, we applaud the Commission's vision and foresight in proposing designation of the Lahaina ASA as a critical and necessary tool to manage West Maui's finite water resources proactively and comprehensively. Historically, this Commission has designated water management areas after the filing of a petition. Here, the Commission has demonstrated that it is not relegating itself to the role of "a mere umpire passively calling ball and strikes for adversaries appearing before it," and instead, is taking the initiative to plan and proactively manage water resources from a global, long-term perspective. *See In re Water Use Permit Applications*, 94 Hawai'i 97, 143, 9 P.3d 409, 455 (2000) (*Waiāhole I*). The Commission's initiative to designate to better protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people is exactly the type of intergenerational approach to water resource management that is essential to preserve Maui Komohana's water future and combat the deleterious impacts of global warming.

After discussions with the Maui Komohana community, Earthjustice is in **strong support** of the Commission's recommendation to designate Honokōhau, Honolua, Honokahua, Kahana, Honokōwai, Wahikuli, Kahoma, Kaua'ula, Launiupoko, Olowalu, and Ukumehame as surface water management areas and to designate Honokōhau, Honolua, Honokōwai, Launiupoko, Olowalu, and Ukumehame as ground water management areas. Designation of the Lahaina ASA is not only appropriate, but it is necessary to give this Commission the tools it

needs to comprehensively manage Maui Komohana's water resources and ensure that public trust purposes are protected.

A. The Lahaina ASA Meets Multiple Criteria for Designation.

The Commission's discretion to designate a water management area is broad. *Ko'olau Agricultural Co., Ltd. v. Comm'n on Water Res. Mgmt*, 83 Hawai'i 484, 490, 927 P.2d 1367, 1373 (1996) ("*Ko'olau Ag.*"). There are eight ground water criteria and three surface water criteria that this Commission must consider. Hawai'i Revised Statutes ("HRS") §§ 174C-44, -45. The presence of just one criterion is sufficient to designate. "Regardless of how many or how few of the criteria are applicable, the Commission shall designate an area as a [water management area] when it can be reasonably determined that the water resources in an area may be threatened by existing or proposed withdrawals or diversions of water." *Ko'olau Ag.*, 83 Hawai'i at 490-91, 927 P.2d at 1373-74 (internal quotation marks, brackets and ellipsis omitted); see HRS § 174C-41(a). Here, multiple criteria justify designation of the Lahaina ASA as ground and surface water management areas.

(1) Surface Water Designation Criteria.

Two of the three surface water criteria for designation are met in the Lahaina ASA. The first criteria governs "[w]hether regulation is necessary to preserve the diminishing surface water supply for future needs." HRS § 174C-45(1). This criterion takes into consideration evidence of excessively declining surface water levels not related to rainfall variations. *Id.* As noted in the January 18, 2022 USGS presentation to this Commission, island-wide recharge is expected to decrease for the island of Maui and reduction in recharge in the Lahaina ASA alone ranges between 6.8-67.0%. FOF at 119. Further, the rainfall data for the past decade evidences a constant decline of rainfall, which is not just rainfall variation. *Id.* Thus, a reasonable determination may be made that surface water levels are excessively declining.

The second criterion considers "[s]erious disputes respecting the use of surface water resources." HRS § 174C-45(3). Conflicts among water users, stakeholders, and the protection of instream values in the Lahaina ASA have persisted for more than a century. See, e.g., *Horner v. Kumuli'ili'i*, 10 Haw. 174 (1895) (1895 lawsuit in which the largest sugar plantation in the Lahaina area, Pioneer Mill, sued 60 Hawaiians in West Maui over water claims involving Kaua'ula Valley). Conflicts over wai in the Lahaina ASA also continue today. Multiple informal and formal complaints have been filed with the Commission regarding the lack of streamflow, the waste of diverted surface water, the delivery of water, and issues with diversion management from Honokōhau to Ukumehame. Many community groups have raised concerns that numeric Interim Instream Flow Standards are not being met and water continues to be diverted and prioritized for offstream uses while protected instream uses and kuleana families with superior rights do not have sufficient water. Kuleana users, who once thrived on the traditional 'auwai system, are now forced to rely on the operation of plantation-

era diversions for the delivery of their water, which can (and has) been shut off without notice. In a docket currently before the Public Utilities Commission (“PUC”), Launiupoko Irrigation Company (“LIC”) seeks to offset the cost of pumping ground water. Ironically, residents of Launiupoko’s gentlemen estates whose irrigation water is supplied by LIC are crying foul and complaining about the state of their lawns which has been compared to “a war zone”;¹ meanwhile, water continues to be prioritized for offstream uses while protected instream uses and public trust purposes lack sufficient water for crops and livestock, and even to shower or flush toilets.

The FOF clearly demonstrates that the Lahaina ASA’s surface water resources are threatened by existing withdrawals or diversions of water, thus necessitating designation of a surface water management area.

(2) Ground Water Designation Criteria.

Five of the eight ground water criteria for designation are met in the Lahaina ASA. HRS § 174C-44 provides, in relevant part, that the Commission shall consider:

- (1) Whether an increase in water use or authorized planned use may cause the maximum rate of withdrawal from the ground water source to reach ninety per cent of the sustainable yield . . . ;
- ...
- (3) Whether regulation is necessary to preserve the diminishing ground water supply for future needs, as evidenced by excessively declining ground water levels;
- ...
- (5) Whether the chloride contents of existing wells are increasing to levels which materially reduce the value of their existing uses;
- ...
- (7) Serious disputes respecting the use of ground water resources are occurring; or
- (8) Whether water development projects that have received any federal, state, or county approval may result, in the opinion of the Commission, in one of the above conditions.

It is clear from this Commission’s own FOF that ground water resources in the Lahaina ASA are threatened by existing and proposed withdrawals of water, necessitating designation. Current and authorized planned uses of the Honokōwai and Launiupoko aquifer systems either exceed or approach 90% of sustainable yields and threaten the aquifer due to saltwater intrusion of the freshwater lens. FOF at 7, 121. Of the nineteen wells reporting chlorides in the Honolulu, Honokōwai, and Launiupoko hydrologic units, the chloride content of some of these

¹ Hearing on Launiupoko Irrigation Co. Application for a General Rate Case Increase (PUC Docket No. 2020-0089) available at <https://www.youtube.com/watch?v=GxSXIK2SELs>.

existing wells has increased to levels surpassing the maximum for safe drinking water as determined by the US EPA and Hawai'i Department of Health. FOF at 123. Despite threatened sustainable yields and increasing chlorides, in the Launiupoko Aquifer System alone, there have been four new wells drilled since 2019 and five new well applications are pending. FOF at 48, 56. Moreover, a proposed new pump installation at the Lahaina A/B skimming well further threatens to tax sustainable yields and contribute to saltwater intrusion. *See* FOF at 60; Appendix K. Further, while USGS has determined that island-wide recharge is expected to decrease, Maui County Department of Water Supply ("DWS") projects that potable water consumption will increase by 67% in the next 15 years based on population growth and community planned development timelines. FOF at 122. The reduction in recharge, coupled with the increase in demand, will exacerbate diminishing ground water supplies for future needs.

As noted in Part A.1. above, there are serious ongoing conflicts over water use in Maui Komohana. Conflicts among surface water users also have direct implications for ground water use. Maui DWS's drinking water supply is dependent on blending surface and ground water sources to meet current and future demand. Management decisions that affect one source are likely to have consequences for others. Moreover, competition over declining water resources has already led to conflicts over water, and this will only worsen as demand increases² and global warming limits the amount of water available.

In the Lahaina ASA, multiple criteria for designation as both a ground and surface water management area are met. Maui Komohana's freshwater resources will only grow scarcer as climate impacts worsen, creating a dire situation if the Commission does not take the necessary

² In addition to the population growth that the Maui DWS projects will increase potable water demand, proposed developments further threaten already over-allocated water resources. *See* CBRE Ukumehame Real Estate Offering Overview, enclosed. In Ukumehame, a 216-acre parcel of land with an entitlement to "build up to 48 single family homes" in a subdivision comprised of forty-five agriculturally zoned residential estate lots is being offered to a willing developer. CBRE at 7. The zoning in this parcel allows for one main house of unlimited square footage and an 'ohana cottage of up to 1,000 square feet. *Id.* Most concerning about this proposed development, however, is the advertised "Dedicated Freshwater Stream" that "produces water year round and provides the agricultural subdivision with a low-cost water source." *Id.* at 10. The CBRE offering, which cites a handful of other luxury estate subdivisions in West Maui situated on agricultural land, emphasizes why designation of the Lahaina ASA is imperative. These gentlemen's estates circumvent county zoning laws and siphon water from the West Maui streams, leaving streambeds dry and kuleana users wondering if they will have enough water to maintain their lo'i kalo and meet their true domestic needs. Designation would give this Commission the necessary tools to correct this rampant misuse of public trust water resources and ensure greater consistency and integration between land use and water resource availability.

steps to proactively and comprehensively manage these precious resources now. The Hawai'i Supreme Court ruled that the Commission, by virtue of its agency expertise, is "certainly in a better position than the courts to evaluate scientific investigations and research to determine whether a water resource may be threatened by existing or proposed withdrawals and diversions of water." *Ko'olau Ag.*, 83 Hawai'i at 493. Moreover, water management area designations do not affect the interests of any potential water users "because the rights of individual water users are fully protected in the permitting process." *Id.* As such, the *Ko'olau Ag.* Court held that "the Commission has exclusive jurisdiction and a [water management area] designation is not judicially reviewable." *Id.* at 494. We applaud the Commission's recommendation to designate the Lahaina ASA to provide more protection to the State's water resources for the benefit of its people.

B. Designation of the entire Lahaina ASA is necessary to allow the Commission to regulate and manage surface water and ground water in a comprehensive and integrated manner.

The *Waiāhole* Court recognized the often direct interrelationship between ground and surface water. *Waiāhole I*, 94 Hawai'i at 173, 9 P.3d. at 485. The FOF similarly acknowledges that "[s]trems in West Maui have strong interactions with the groundwater" and are assumed "to have a one-to-one relationship for management purposes." FOF at 125. The public trust and precautionary principle support presumptions and protections for the benefit of the ground and surface waters in this case.³ To the extent that scientific uncertainty exists, the Commission should err in favor of protecting the resource. As the designation of the 'Īao but not the Waihe'e Aquifer illustrated, ground water withdrawals in one aquifer affect neighboring aquifers, and developers will focus on what is best for their bottom line, regardless of the impacts on public trust resources or purposes. This FOF recognizes the interrelationship between surface and ground water hydrologic units across the Lahaina ASA. *See* FOF at 125. West Maui's hydrology is not confined by arbitrary geographical barriers on a map and piecemeal designation will only encourage jumping artificially drawn boundaries. The best way to protect and comprehensively manage Maui Komohana's water resources is to designate the entire area.

³ *See Waiāhole I*, 94 Hawai'i at 155, 9 P.3d at 467 (repeatedly emphasizing that under the public trust and precautionary principle, "the lack of full scientific certainty does not extinguish the presumption in favor of public trust purposes or vitiate the Commission's duty to protect such purposes whenever feasible," and "[u]ncertainty regarding the exact level of protection necessary justifies neither the least protection feasible nor the absence of protection").

C. Designation is a necessary tool to allow the Commission to uphold its constitutional duty to protect public trust resources.

Under Hawai'i's constitutional public trust doctrine, the state, including this Commission, has the "affirmative duty" to protect public trust resources, including freshwater. *Kaua'i Springs Inc. v. Planning Comm'n*, 133 Hawai'i 141, 172, 324 P.3d 951, 982 (2014). Moreover, this Commission has a constitutional duty to protect the public trust water resources *before* a crisis develops.⁴ Kuleana families and Native Hawaiian community members throughout Maui Komohana are currently at the mercy of plantation water systems and the developers that operate them. As a result, kuleana families are often cut off from freshwater resources, even though their traditional and customary practices, appurtenant rights, and domestic water uses are protected public trust purposes, which are supposed to be prioritized over private commercial uses. Designation would give this Commission the tools necessary to balance requests for water and ensure that public trust purposes, such as water for kalo cultivation, have priority over private commercial uses, which do not enjoy the same protection.

D. Conclusion.

In conclusion, we applaud the Commission's forward-looking vision and initiative to designate the Lahaina ASA as both a ground and surface water management area. Earthjustice supports designation to best protect and comprehensively manage Maui Komohana's finite water resources and protect public trust purposes while allowing for reasonable beneficial uses.

Ke aloha no,

/s/ Elena L. Bryant

Elena L. Bryant

Mahesh Cleveland

EARTHJUSTICE

⁴ Article XI § 7 of the Hawai'i State Constitution imposes upon the State the duty to hold water resources in trust, for the benefit of its people, "with the responsibilities of a trustee to actively protect, control and regulate the development of water resources in the State. This concept implies not only the power to protect the resources but the responsibility to do so long before any crisis develops." *See* FOF at 92 (quoting the 1978 Constitutional Committee Report 77 at pages 688-89). Moreover, as noted in the FOF, the legislative history of the Water Code further reflects the intent "[t]o ensure that the availability of this precious resource will meet the present and future needs of the people . . . the water code should serve as a tool and an incentive for planning the wise use of Hawai'i's water resources, rather than as a water crisis and shortage management mechanism." FOF at 93.

MAUI, HAWAII

UKUMEHAME

OFFERING CONSISTS OF A PORTION OF
LAND SHOWN

PACIFIC OCEAN



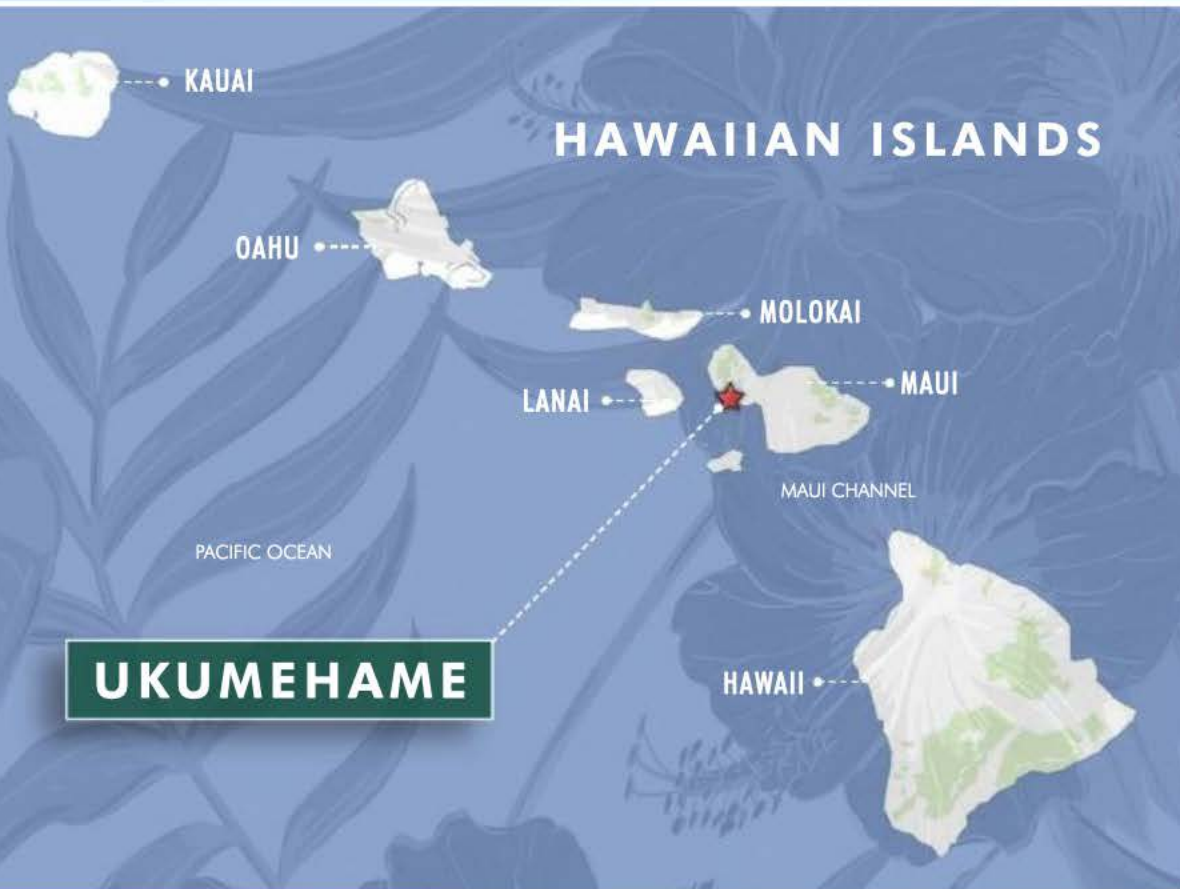


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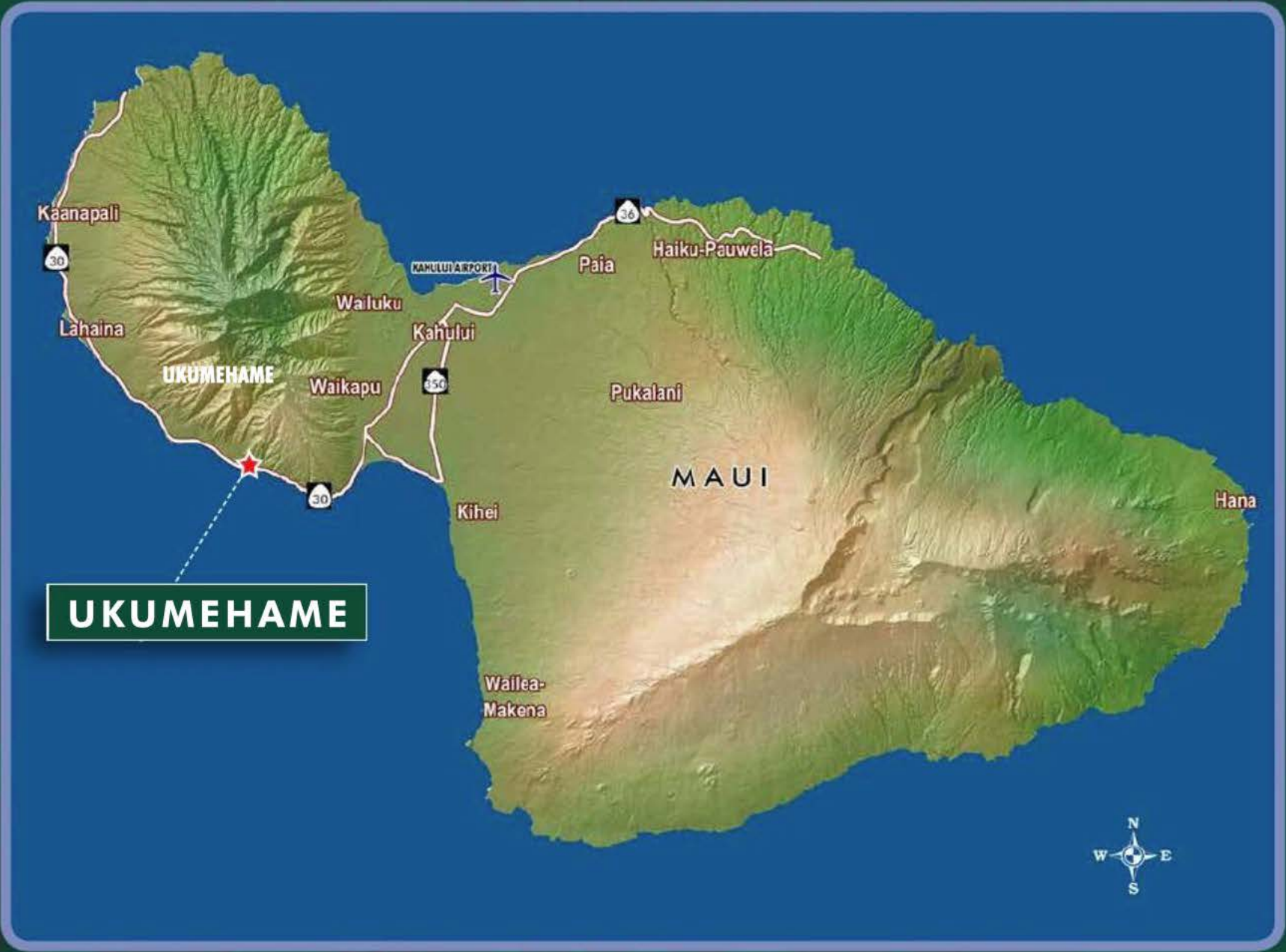
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UKUMEHAME

MAUI FOREST RESERVE

UKUMEHAME

OFFERING CONSISTS OF A PORTION OF
LAND SHOWN

HONOAPIILANI HWY

WESTERN COAST OF MAUI

PACIFIC OCEAN

OFFERING INTRODUCTION

Executive Summary
Parcel Map
Parcel Tax Map Key
Investment Highlights

PACIFIC OCEAN

PAEKI'I PL

POHAKU'AEKO ST

STREAM PROVIDES YEAR ROUND RUNNING WATER

KEHALE'A PL

EHEHENE ST

HONOAPILANI HWY

OFFERING OVERVIEW

Executive Summary

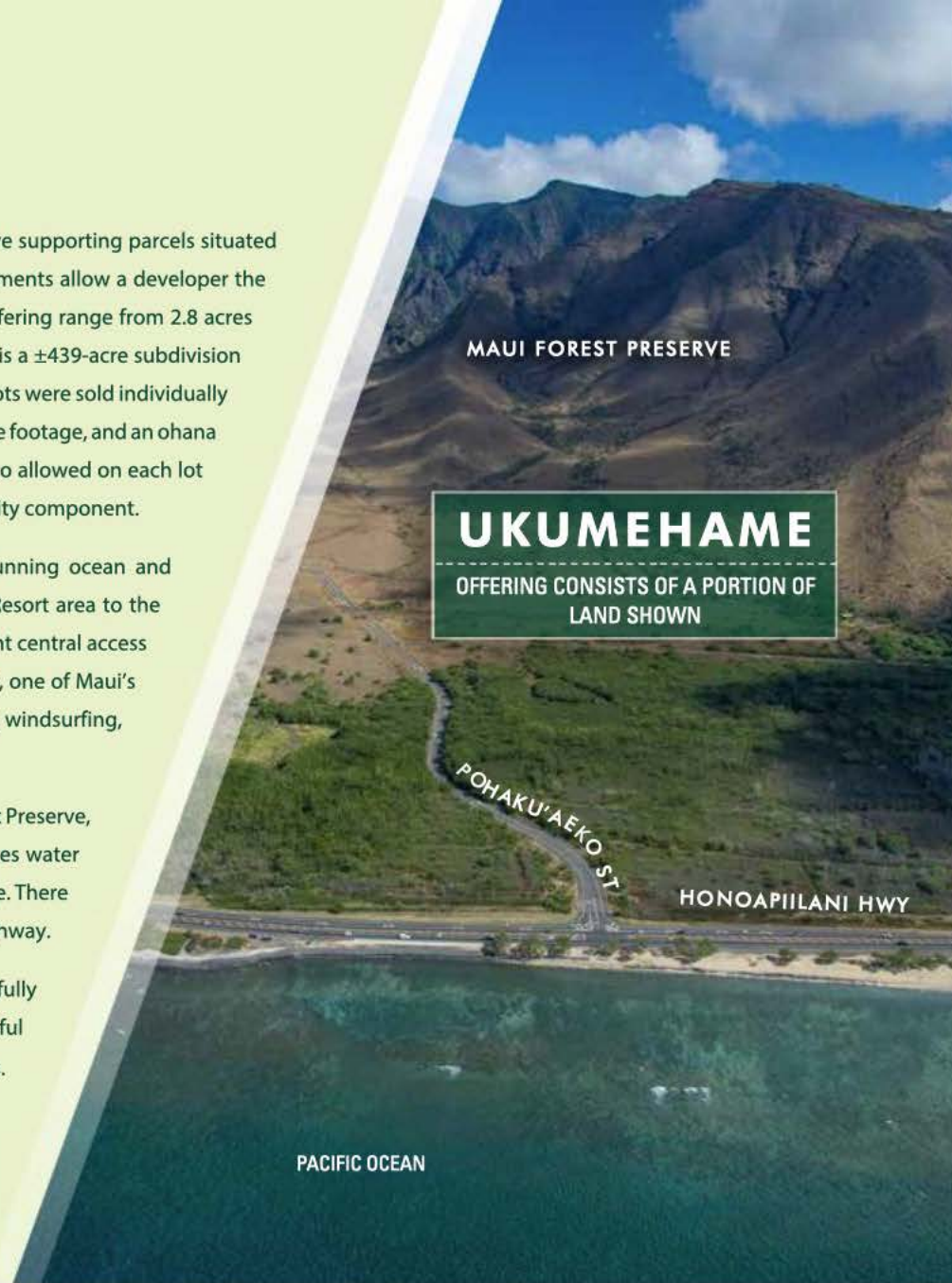
CBRE, Inc. is pleased to present 24 entitled, residential estate lots along with five supporting parcels situated on ± 216 acres of land on the island of Maui in the state of Hawaii. The entitlements allow a developer the opportunity to build up to 48 single family homes. The 24 estate lots in this offering range from 2.8 acres to 12.7 acres, have an average lot size of approximately 6.3 acres. Ukumehame is a ± 439 -acre subdivision that is comprised of 45 agriculturally zoned residential estate lots. The other 21 lots were sold individually throughout 2006-2009. The zoning allows for one main house of unlimited square footage, and an ohana (cottage) of up to 1,000 square feet. A barn or other agricultural structure is also allowed on each lot and the excess land can be farmed for additional income. There is no affordability component.

Situated on the slopes of the West Maui Mountains, Ukumehame offers stunning ocean and mountain views. Located between historic Lahaina Town and the Kaanapali Resort area to the northwest, and Maalaea Harbor to the southeast, the property boasts convenient central access on the island. Additionally, the property is adjacent to Ukumehame Beach Park, one of Maui's best South Shore surf spots, well known for its excellent swimming, snorkeling, windsurfing, paddle boarding, hiking and boating.

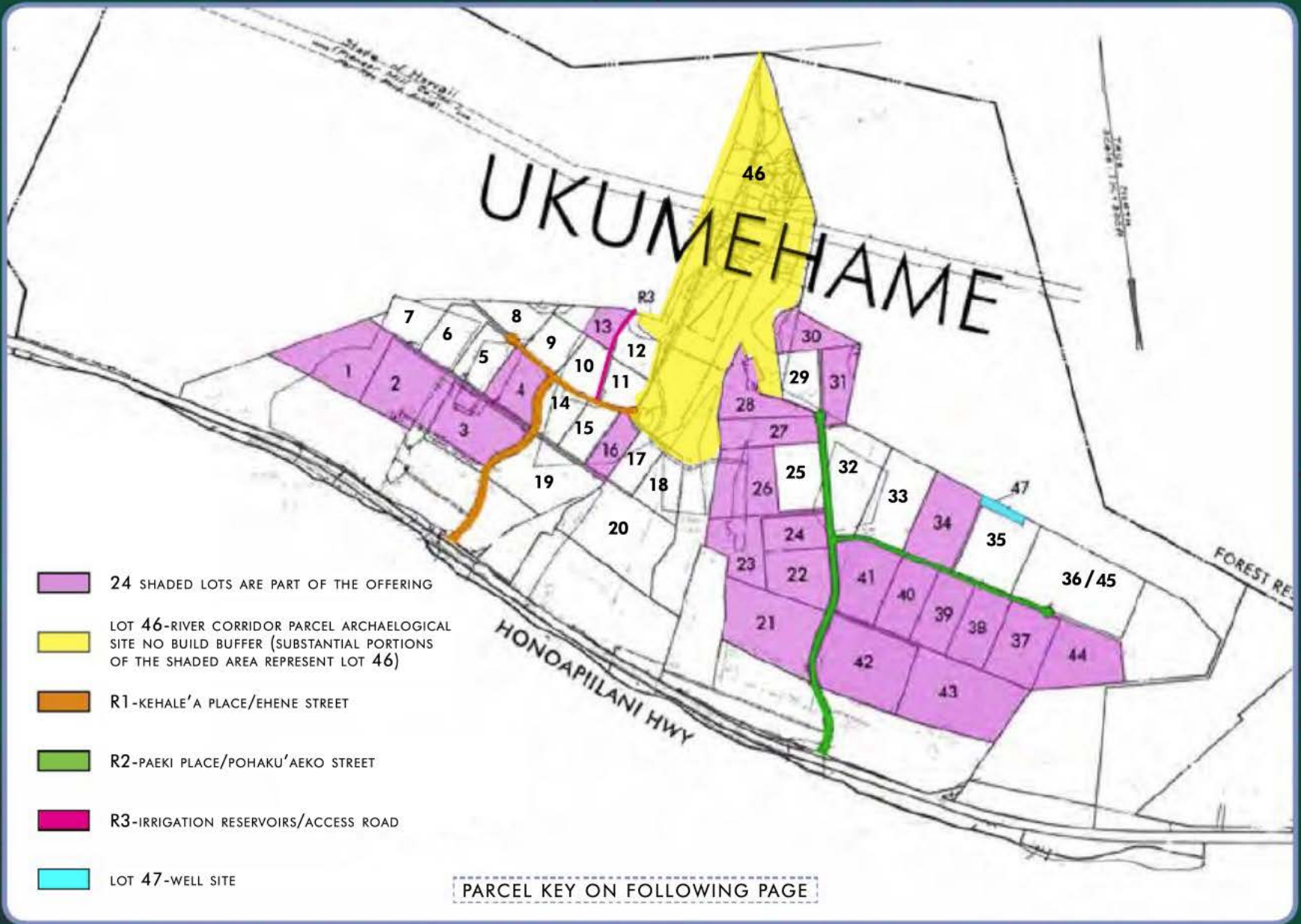
Ukumehame has a dedicated freshwater stream that travels from the Maui Forest Preserve, down the gently sloping hillside, to bisect the subdivision. The stream produces water year round and provides the agricultural subdivision with a low-cost water source. There are two access points with roads leading to Ukumehame from Honoapiilani Highway.

Ukumehame provides a rare opportunity for a developer to acquire entitled, fully subdivided lots for up to 48 single family homes on fee simple land in a beautiful West Maui location. The property is offered to the market on an UNPRICED basis.

Website: www.CBREUkumehame.com



PARCEL MAP



24 ENTITLED LOTS PARCEL KEY

LOT	ACREAGE	TAX MAP KEY	
1	9.160	(2) 4-8-002-009	
2	8.731	(2) 4-8-002-074	
3	7.785	(2) 4-8-002-075	
4	4.442	(2) 4-8-002-076	
13	3.048	(2) 4-8-002-085	
16	2.791	(2) 4-8-002-088	
21	10.506	(2) 4-8-002-093	
22	5.365	(2) 4-8-002-094	
23	5.393	(2) 4-8-002-095	
24	3.559	(2) 4-8-002-096	
26	7.253	(2) 4-8-002-098	
27	4.662	(2) 4-8-002-099	
28	4.464	(2) 4-8-002-100	
30	3.931	(2) 4-8-002-102	
31	3.808	(2) 4-8-002-103	
34	7.499	(2) 4-8-002-106	
37	6.358	(2) 4-8-002-109	
38	5.000	(2) 4-8-002-110	
39	5.000	(2) 4-8-002-111	
40	5.000	(2) 4-8-002-112	
41	6.597	(2) 4-8-002-113	
42	11.003	(2) 4-8-002-114	
43	12.768	(2) 4-8-002-115	
44	7.342	(2) 4-8-002-116	
SUPPORTING LOTS	46	55.643	(2) 4-8-002-118
	47	0.973	(2) 4-8-002-119
	R-1	2.652	(2) 4-8-002-120
	R-2	5.156	(2) 4-8-002-121
	R-3	0.375	(2) 4-8-002-120



- RIVER CORRIDOR PARCEL ARCHAEOLOGICAL SITE - NO BUILD BUFFER
- WELL SITE
- KEHALE'A PLACE / EHENE STREET
- PAEKI PLACE / POHAKU'AEKO STREET
- IRRIGATION RESERVOIRS / ACCESS ROAD

29 LOTS 216.26 ACRES

OFFERING OVERVIEW

Investment Highlights

Rare Offering

Ukumehame provides a rare opportunity to purchase subdivided and entitled estate lots in West Maui. Obtaining entitlements on the island of Maui is a difficult and long process that has great uncertainty, thereby creating significant monetary risk due to vague timelines for completion. The Property's in-place entitlements and improvements removes significant development uncertainties for the future owner.

Development Potential

The agricultural zoning allows for a main residence of unlimited size, and an additional ohana (cottage) not to exceed 1,000 square feet. A barn or agricultural structure is also allowed on each lot. There is no affordability requirement. Additional land can be leased out and farmed for added income. Water and electrical utilities are in place. According to the C, C & R's, all utilities will run underground, and are provided via underground transmission lines. The topography is gently sloping towards the ocean.

Dedicated Freshwater Stream

Ukumehame has a dedicated freshwater stream that travels from the Maui Forest Preserve, down the gently sloping hillside, to bisect the subdivision. The stream produces water year round and provides the agricultural subdivision with a low-cost water source.

Exceptional Ocean & Mountain Views

Expansive spectacular sunset ocean views, including whale watching, and great views of the coastline are seen from the Property.

UKUMEHAME

OFFERING CONSISTS OF A PORTION OF
LAND SHOWN



OFFERING OVERVIEW

Access

From Honoapiilani Highway there are two access points to the subdivision with left hand turn lanes and right hand acceleration lanes. Access to the lots is from internal streets within the subdivision.

Outdoor Lifestyle

The property is located directly across the street from one of Maui's best South Shore surf spots, Ukumehame Beach Park. Surfing, snorkeling swimming, hiking, kayaking and stand-up paddle boarding are all a short walk away. Boating, golfing, dining and shopping are all within a 15 to 20 minute drive by car.

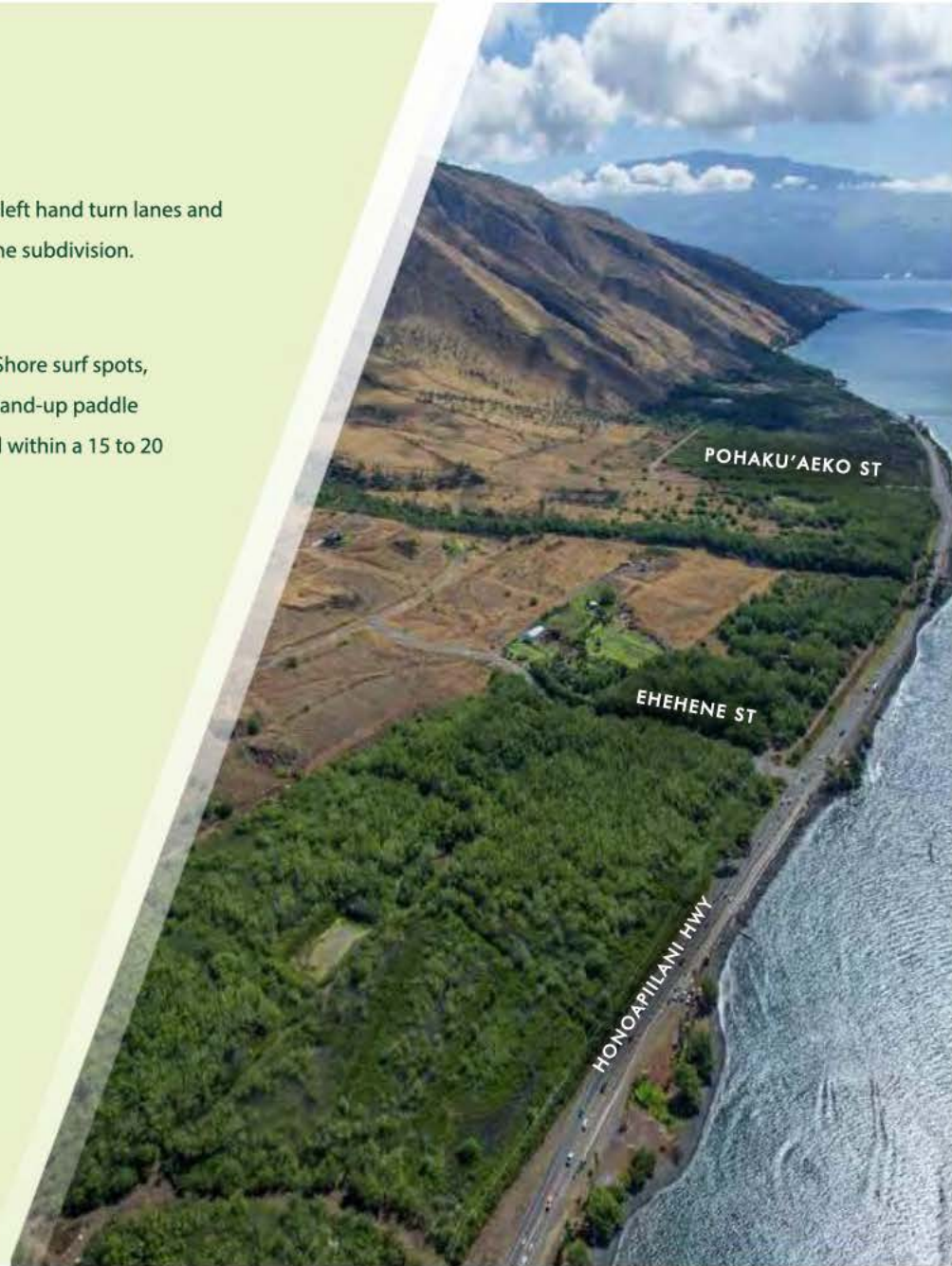


MAUI FOREST PRESERVE

UKUMEHAME

To review the preliminary title report and the complete Covenants, Conditions and Restrictions, please visit:

WWW.CBREUKUMEHAME.COM



POHAKU'A EKO ST

EHEHENE ST

HONOAPIILANI HWY



UKUMEHAME

OFFERING CONSISTS OF A PORTION OF
LAND SHOWN

PACIFIC OCEAN

TO LAHANA

HONOAPIILANI HWY

**RESIDENTIAL
MARKET
OVERVIEW**

Ukumehame
Previous Sales
Maui Market Overview

UKUMEHAME SALES OF THE OTHER 21 LOTS

Lot	Acreage	Sale Date	Price	Notes
Lot 33	7.50	01/26/07	\\$1,395,000	
Lot 36	13.28	06/19/07	\\$1,395,000	Unrelated 3rd Party Buyer
Lot 29	3.63	12/12/07	\\$1,350,000	
Lot 6	4.27	09/29/06	\\$1,295,000	Unrelated 3rd Party Buyer
Lot 7	4.18	09/29/06	\\$1,295,000	Unrelated 3rd Party Buyer
Lot 8	3.26	12/31/07	\\$1,295,000	
Lot 9	3.22	01/25/08	\\$1,295,000	
Lot 10	3.09	11/07/07	\\$1,295,000	
Lot 32	7.85	01/10/08	\\$1,295,000	
Lot 35	7.41	01/25/08	\\$1,295,000	
Lot 11	2.63	01/10/08	\\$1,275,000	
Lot 18	3.81	11/07/07	\\$1,275,000	
Lot 12	3.07	07/02/08	\\$1,235,000	Unrelated 3rd Party Buyer
Lot 5	3.77	11/07/07	\\$1,195,000	
Lot 14	3.05	02/08/08	\\$1,195,000	
Lot 15	3.18	12/31/07	\\$1,195,000	
Lot 17	3.10	02/05/08	\\$1,195,000	
Lot 19	7.99	11/09/06	\\$1,195,000	Unrelated 3rd Party Buyer
Lot 20	12.27	10/05/09	\\$950,000	Unrelated 3rd Party Buyer
Lot 25	4.97	10/13/09	\\$861,598	Unrelated 3rd Party Buyer
Lot 45	11.63	08/17/06	\\$750,000	Unrelated 3rd Party Buyer



MAUI RESIDENTIAL MARKET OVERVIEW

Ukumehame is located in West Maui between the submarket of Wailuku/Kahului and the resort town of Lahaina. The submarkets of both Wailuku/Kahului and Lahaina have shown significant activity throughout the last two years.

Due to its location and beauty, the West Maui market lures secondary home buyers from across the world. Approximately 50% of the buyers in the market area come from outside of Hawaii. The largest market share comes from the west coast of the United States. California leads this group of buyers with nearly 50% of sales in the west followed by Washington State. Canadians represent approximately 20% of the buyer pool in Maui as well.

Specifically in the West Maui market, there are three major developments which are comparable to the Subject Property.

Kaanapali Coffee Farms

Kaanapali Coffee Farms is one of West Maui's newest exclusive communities. It was once a vast sugar cane plantation run by Pioneer Mill Company. This development consists of 52 lots, situated on the hillside of the West Maui Mountains. The project is a total of 500 acres with an average lot size of 5.19 acres.



Kaanapali Coffee Farms Undeveloped Lot Sales Since 2011

	2011	2012	2013	2014	2015	2016
Sales Volume	2	2	11	14	7	7
Average Lot Size (acres)	5.70	5.45	5.26	5.03	6.06	4.9
Average Price (\\$)	605,000	585,000	670,182	885,868	1,460,857	1,304,518

Since 2011, there have been 43 lots sold within this subdivision. Sales velocity increased significantly in 2014 with 14 total sales that year. However, 2015 saw the highest average price per lot at \$1.46 million. The average lot size in this community is 5.19 acres. As of February 2017, there were only four lots available for sale in this subdivision.

MAUI RESIDENTIAL MARKET OVERVIEW

Launiupoko

Former sugar lots in the 1990's, Launiupoko is a development by West Maui Land Company which is located just to the east of Lahaina and consists of 10 different subdivisions. Mahanalua Phase I, II, III and IV of this project were completed in 2006. The 153 agricultural lots in the project range in size from 2 to 9 acres and are served by a dual water system providing both potable (drinking water) and non-potable (irrigation) water.

Launiupoko consists of the following subdivisions:

- Makila Plantation
- Makila Plantation III
- Makila Plantation II
- Puunoa
- Puunoa II
- Makila Ridge
- Mahanalua Nui Ph I
- Mahanalua Nui Ph II
- Mahanalua Nui Ph III
- Mahanalua Nui Ph IV



Launiupoko Undeveloped Lot Sales Since 2011

	2011	2012	2013	2014	2015	2016
Sales Volume	25	26	21	26	16	17
Average Lot Size (acres)	12.41	5.57	5	15.24	15.55	6.74
Average Price (\\$)	1,274,900	1,189,162	1,287,838	1,837,896	1,786,384	1,801,153

Within the Launiupoko subdivision, 131 lots have sold since 2011. In 2014 sales reached their peak with an average price of \\\\$1.84 million and 26 total sales that year alone. Available lots in this community range from approximately 2 to 9 acres. Current asking prices in this subdivision range from \\\\$1,095,000 on the low end to \\\\$13,750,000 on the high end.

MAUI RESIDENTIAL MARKET OVERVIEW

Plantation Estates

The Plantation Estates at Kapalua total 720 acres with 52 plantation estates adjacent to the world renowned Plantation Golf Course in Kapalua. The subdivision was part of Kapalua Land Company's master planned resort area which was completed in 1990. Since then, lots have sold and completed construction while a few of the vacant estates remain undeveloped. Plantation Estates is a gated subdivision, with lot sizes ranging from 2 to 7 acres. The estates have panoramic views of the outer islands and Oneloa Bay. As part of owning in this community, residents have reduced rates at The Bay Golf Course, The Plantation Golf Course and the Kapalua Tennis Garden



Plantation Estates Undeveloped Lot Sales Since 2011

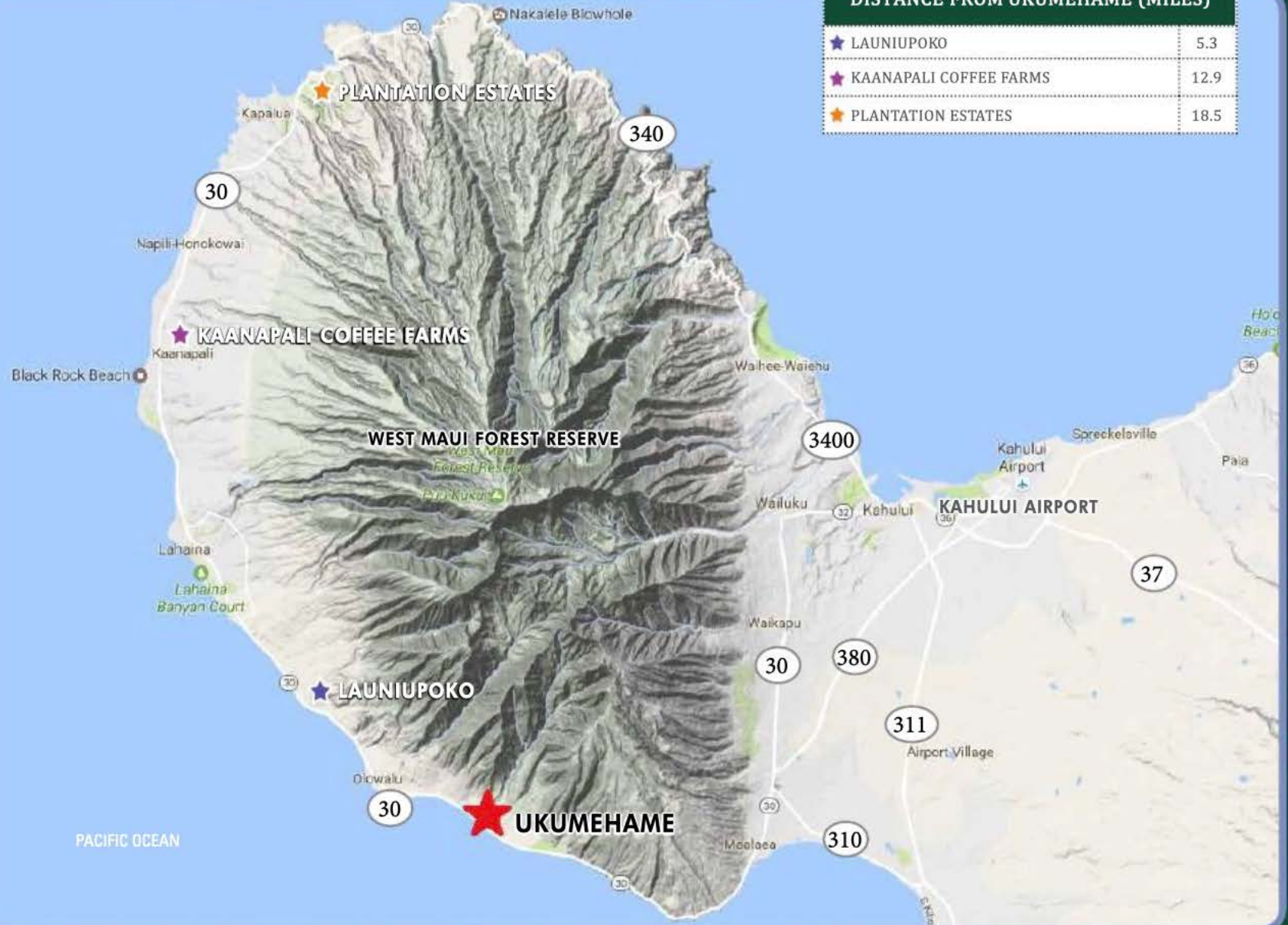
	2011	2012	2013	2014	2015	2016
Sales Volume	2	3	4	4	4	3
Average Lot Size (acres)	2.3	2.2	21.65	3.16	2.05	3.2
Average Price (\\$)	11,800,000	3,313,877	1,850,000	2,631,250	2,867,950	4,090,000

Since 2011, there have been 20 lots sold within this subdivision. Pricing reached its peak in 2016 with an average price per lot of \\$4.09 million. Available lots in this community range from approximately 2 to 7 acres. Current asking prices in this subdivision range from \\$999,777 on the low end to \\$15,000,000 on the high end.

DEVELOPMENTS OF WEST MAUI

DISTANCE FROM UKUMEHAME (MILES)

★ LAUNIUPOKO	5.3
★ KAA NAPALI COFFEE FARMS	12.9
★ PLANTATION ESTATES	18.5



Maui Forest Reserve

UKUMEHAME

OFFERING CONSISTS OF A PORTION OF
LAND SHOWN

HONOAPIILANI HWY

PACIFIC OCEAN

AREA OVERVIEW

Demographics
Ukumehame
Maui
Hawaii

DEMOGRAPHICS



HAWAII POPULATION

total

2016 Population	1,438,998
2021 Projected Population	1,508,413
Percent Pop Change: 2016 - 2021	4.8%



HAWAII HOUSEHOLDS

total

2016 Households	483,329
2021 Projected Households	508,884
Percent Pop Change: 2016 - 2021	5.38%



HI. HOUSEHOLD INCOME

total

2016 Average Household Income	\\$91,057
2021 Projected Household Income	\\$99,366
2016 Households with incomes of \\$100,000+	33%

HAWAIIAN ISLANDS



MAUI POPULATION

total

2016 Population	166,228
2021 Projected Population	175,992
Percent Pop Change: 2016 - 2021	5.9%



MAUI HOUSEHOLDS

total

2016 Households	58,641
2021 Projected Households	62,562
Percent Pop Change: 2016 - 2021	6.7%



MAUI HOUSEHOLD INCOME

total

2016 Average Household Income	\\$90,729
2021 Projected Household Income	\\$101,197
2016 Households with incomes of \\$100,000+	32%

MAUI



WEST MAUI POPULATION

total

2016 Population	82,353
2021 Projected Population	87,294
Percent Pop Change: 2016 - 2021	6%



WEST MAUI HOUSEHOLDS

total

2016 Households	26,149
2021 Projected Households	27,149
Percent Pop Change: 2016 - 2021	6.5%



W. MAUI HOUSEHOLD INCOME

total

2016 Average Household Income	\\$94,922
2021 Projected Household Income	\\$107,069
2016 Households with incomes of \\$100,000+	44%

WEST MAUI



AREA OVERVIEW

Ukumehame Beach Park

Ukumehame Beach Park is located near the 12 mile marker along the Honoapiilani Highway (Hwy 30) in West Maui just a few miles north of the tunnel which separates the west side from Maalaea Harbor and the central valley. Ukumehame takes its name from the huge valley that can be seen directly behind it, which carves a spectacular "V" in the West Maui Mountains. The name of the area is derived from the native wood "Mehame".

Ukumehame Beach Park (also known as "Pako'a") is primarily a beach that is used for surf outings or kayak launches and is one of the better developed surfing beach parks in West Maui. It has great surf conditions on a year round basis, although winter surf is generally higher. The surf breaks are numerous along the ocean here and this area is often referred to as "thousand peaks" because of all the wave activity.

Ukumehame Beach Park has dedicated picnic and barbeque areas with views of the surf zone. It also boasts spectacular sunset viewing opportunities. The early morning break is uniquely good, so surfers will often start their day of surfing here.

West Maui

- **As of 2016: West Maui's population was 82,353 people and is expected to grow by 6% over the next five years.**
- **The average household income is \ \$94,922.**
- **44% of Households in West Maui make incomes of over \ \$100,000 per year.**



AREA OVERVIEW

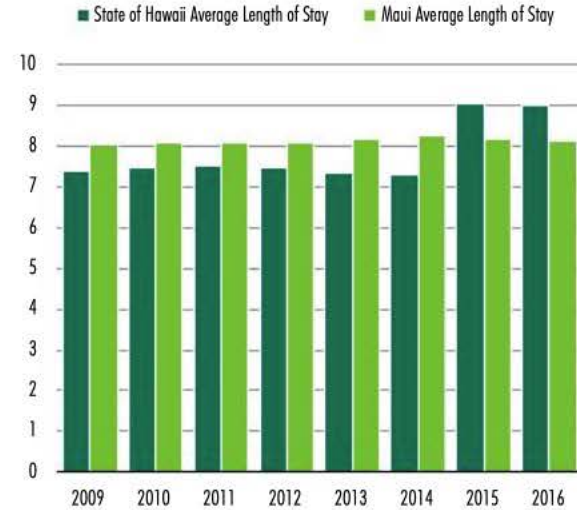
Maui Overview

The Island of Maui contains an ideal mix of economic development, community mind-set, and healthy lifestyle. Maui's incredible natural beauty and the tropical climate have encouraged the development of tourism as the most important sector of Maui's economy. Many visitors around the world now consider Maui as one of the top destinations anywhere. Two airports on the island add to the convenience in getting to and from Maui, as do a number of direct flights from the mainland United States. The Kahului airport handles 90% of the air seats to and from Maui. Maui County welcomes 1.8 million direct air seats from the mainland U.S. and Canada annually and further benefits from an additional 1.5 million (24%) interisland air seats from Oahu. Of the inter-island flights to Maui, the vast majority (93%) fly into Kahului airport over Kapalua.

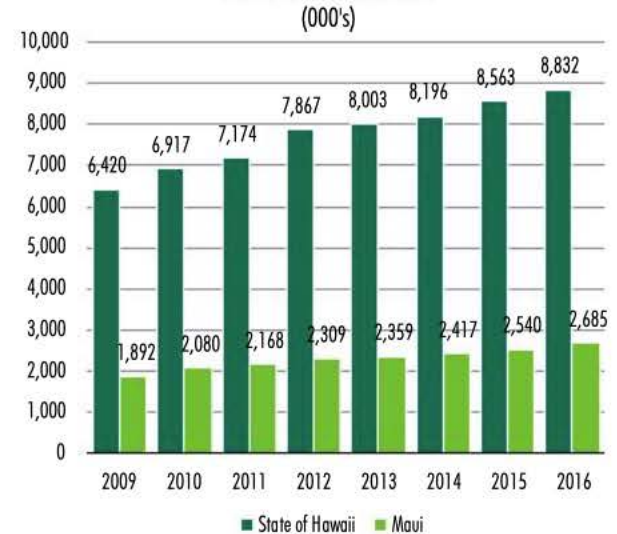
- **The largest share of visitors to Maui in 2015 was from U.S. West (49%), followed by U.S. East (26.2%), Canada (10.2%), Other Asia (3.1%), Oceania (2.9%) and Japan (2.3%).**
- **Arrivals to Maui from U.S. West and U.S. East increased 5.8 percent and 4.6 percent, respectively.**



VISITOR AVERAGE LENGTH OF STAY BY AIR



VISITOR ARRIVALS BY AIR



DIRECT FLIGHTS TO KAHULUI AIRPORT



DIRECT FLIGHTS TO HAWAII



KAHULUI AIRPORT

Kahului Airport is the second most visited airport in the state. According to preliminary year-end statistics released February 2017 by the Department of Business Economic Development and Tourism (DBEDT), Maui arrivals increased 4.1% to 2,685,222 year to date visitors, and international visitors by air days increased 3.0% in December 2016.

LODGING MARKET OVERVIEW

Maui Lodging Overview

The island of Maui has slightly over 20,000 visitor accommodations situated in 504 properties. These properties consist of everything from Bed and Breakfasts to mega resorts. There are only 24 hotel properties on the island of Maui containing 7,039 rooms and 50 condominium/hotel properties containing 4,663 rooms.

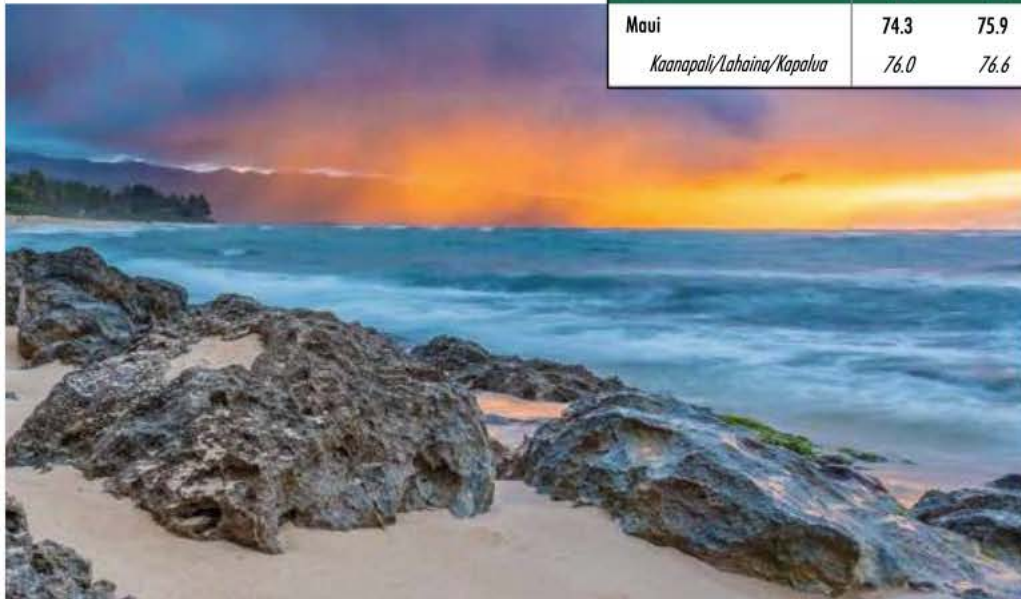
Wailea/Makena/Kihei Lodging Overview

The Wailea/Makena/Kihei area is home to some of the most luxurious brands in the world and has the largest share of hotel, condominium hotel and timeshare units on the Island of Maui. Wailea caters to the upper class and luxury inventory while Kihei offers a more affordable option. There are over 7,000 visitor accommodations in this area which are mostly contained within 35 properties. There are 12 hotel properties with 3,047 keys, 15 condominium hotel properties with 1,442 keys, and 8 timeshare properties with 656 keys. The Wailea and Makena markets contain over 3,100 lodging units and Kihei contains over 2,700 lodging units.

MAUI HOTEL MARKET STATISTICS

Market	Occupancy 2015 (%)	Occupancy 2016 (%)	Y-O-Y Change (BPS)	ADR 2015 (\$)	ADR 2016 (\$)	Y-O-Y Change (%)	RevPAR 2015 (\$)	RevPAR 2016 (\$)	Y-O-Y Change (%)
Maui	74.3	75.9	+160	317.79	331.54	+4.3	236.25	251.62	+6.5
<i>Kaanapali/Lahaina/Kapalua</i>	<i>76.0</i>	<i>76.6</i>	<i>+60</i>	<i>270.67</i>	<i>279.38</i>	<i>+3.2</i>	<i>205.81</i>	<i>214.02</i>	<i>+4.0</i>

MAUI HOTEL RESULTS

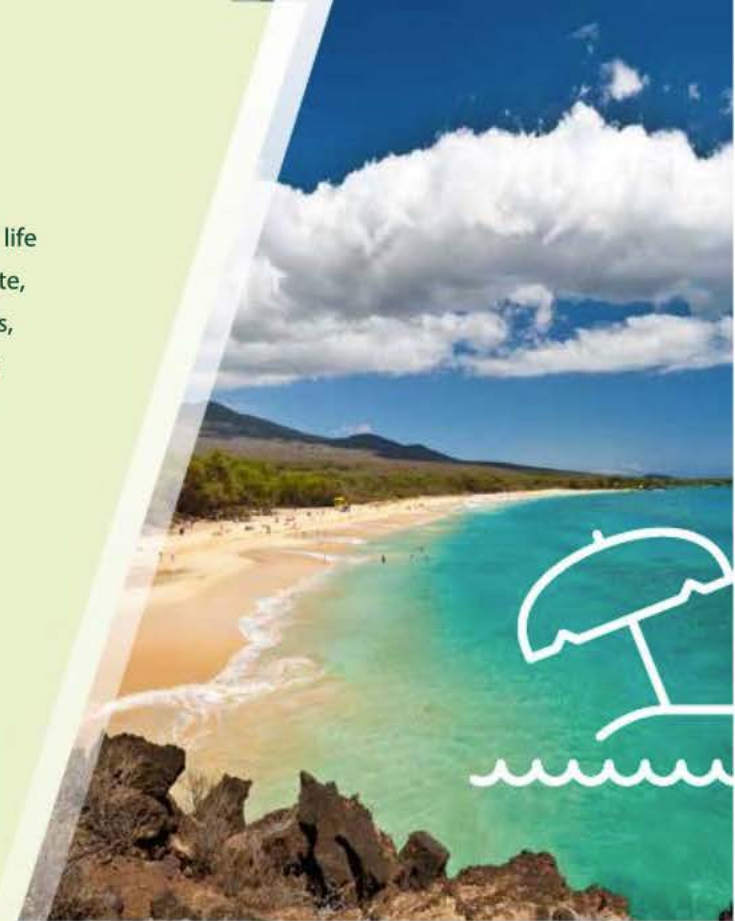


AREA OVERVIEW

Hawaii Overview

Hawaii is considered one of the most attractive regions in the country from a quality of life perspective. Not only does it boast world-famous beaches and a temperate year-round climate, but Hawaii also has a vibrant and diversified economy with numerous employment opportunities, making it an extremely attractive place to live and invest. Hawaii is ideally positioned, benefiting from international trade between the Pacific Rim countries and the United States, earning the nickname "Crossroads of the Pacific." Direct flights from Hawaii to major U.S. and Canadian cities, as well as Pacific Rim countries, make travel to and from the islands very convenient. With 98% of all goods arriving in the state via containerized shipping, Hawaii's ports provide modern efficient facilities to handle the significant tonnage that is regularly off-loaded and moved throughout the state.

Hawaii is an archipelago consisting of eight major islands, with the capital, Honolulu, located on the island of Oahu. Much of the state's attractiveness stems from its spectacular natural beauty and incomparable climate featuring an average temperature of 80 degrees Fahrenheit year round. Hawaii has the best air quality in the nation, with virtually no air pollution, and residents enjoy one of the world's purest fresh water sources. Many of these factors attribute to the fact that Hawaii has the longest life expectancy in the United States. Hawaii is one of the few resort destinations in the world that functions 365 days a year. It is the only place where mainland visitors can enjoy a tropical paradise, while still having the comfort and security of being within U.S. borders. Known around the world as a quality golf and resort destination, Hawaii offers a relatively undisturbed natural environment with a host of activities including swimming, surfing, golf, horseback riding, hiking, biking, kayaking, paddle boarding fishing, sailing and epicurean dining.



Hawaii has the longest life expectancy in the United States and is one of the few resort destinations in the world that functions 365 days a year.

HAWAII HOTEL MARKET OVERVIEW

Hawaii's lodging market closed 2016 on a high note, achieving its seventh consecutive year of RevPAR growth, at 4.8% for the year. December, traditionally a peak month for the State, posted RevPAR growth of 7.2% over December 2015. The Big Island and Kauai outperformed, with year-end RevPAR increases of 9.3% and 6.8%, respectively.

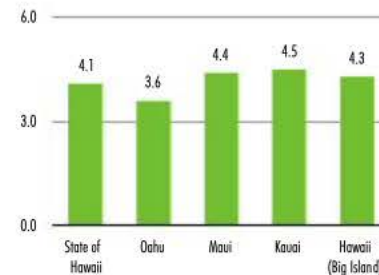
Flat or declining arrivals from key international markets to Hawaii (Japan, Canada, Australia and China) suggested a reaction to unrelenting USD strength. The 27% increase in Korean visitors was a welcome offset, although this source market remains a small component (<3%) of overall visitation to Hawaii. Recent, sizable, Korean investment in prominent Hawaiian hotels (Hyatt Regency Waikiki and Fairmont Orchid) is anticipated to stimulate Korean travelers' interest in Hawaii, just as the launch of low-cost carrier Jin Air's Seoul-Honolulu direct flights a year ago has enhanced access.

On the domestic front, buoyant consumer sentiment and improved airlift drove mainland visitation levels to Hawaii up by 3.2% in 2016. LAX, SFO and SEA, the three primary West Coast airports offering non-stop flights to Hawaii, collectively offered 4.6 million inbound airseats during the year (2.1% increase over 2015) and 1.1 million airseats during Q4 (0.9% increase over Q4 2015). Healthy 2017 GDP forecasts for the Los Angeles (2.6%), San Francisco (3.0%) and Seattle (3.5%) metropolitan areas underscore the stable outlook for Hawaii's lodging market performance for the remainder of 2017.

HOTEL SALE TRANSACTIONS OVER \$10 MILLION

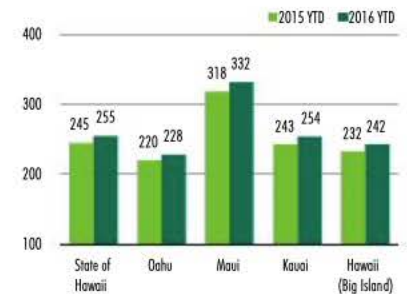
Date	Property Name	Location	Total Units	Sale Price	\$ Per Unit	Buyer
Pending	Westin Maui Resort & Spa	Kaanapali, Maui	759	\\$330,000,000 (est.)	\\$434,800	Confidential
Pending	Ambassador Hotel	Waikiki, Oahu	298	\\$90,000,000 (est.)	\\$302,000	Confidential
Dec. 2016	Surfjack Hotel & Swim Club	Waikiki, Oahu	112	\\$45,000,000	\\$402,700	Hashino Resorts
Nov. 2016	Ritz-Carlton Kapalua	Kapalua, Maui	463	\\$173,000,000	\\$373,700	Ares, Watro, Trinity, Square Mile

Average Daily Rate – Annual Change (%)



Source: STR, Dec. 2016.

Average Daily Rate (\$)



Source: STR, Dec. 2016.

RETAIL MARKET OVERVIEW

Maui Retail Market

Maui continues to garner significant attention from national retailers and is the second most developed retail island in the state. Retail sales on the island is a hefty \ \$4.2 billion, much of this attributed to strong visitor fundamentals.

Second to only Oahu, Maui's retail vacancy rate is 9.3%. Although slightly higher than the state's average, this vacancy factor remains significantly lower than the national average. The average asking retail rents, in Maui is \ \$52.44/sf per annum.

Retailers such as TJ Maxx, Target and Whole Foods are recent additions into Maui retail landscape while other large and mid-sized national and local retailers have been exploring expansion into the market.



**\ \$4.2
BILLION**

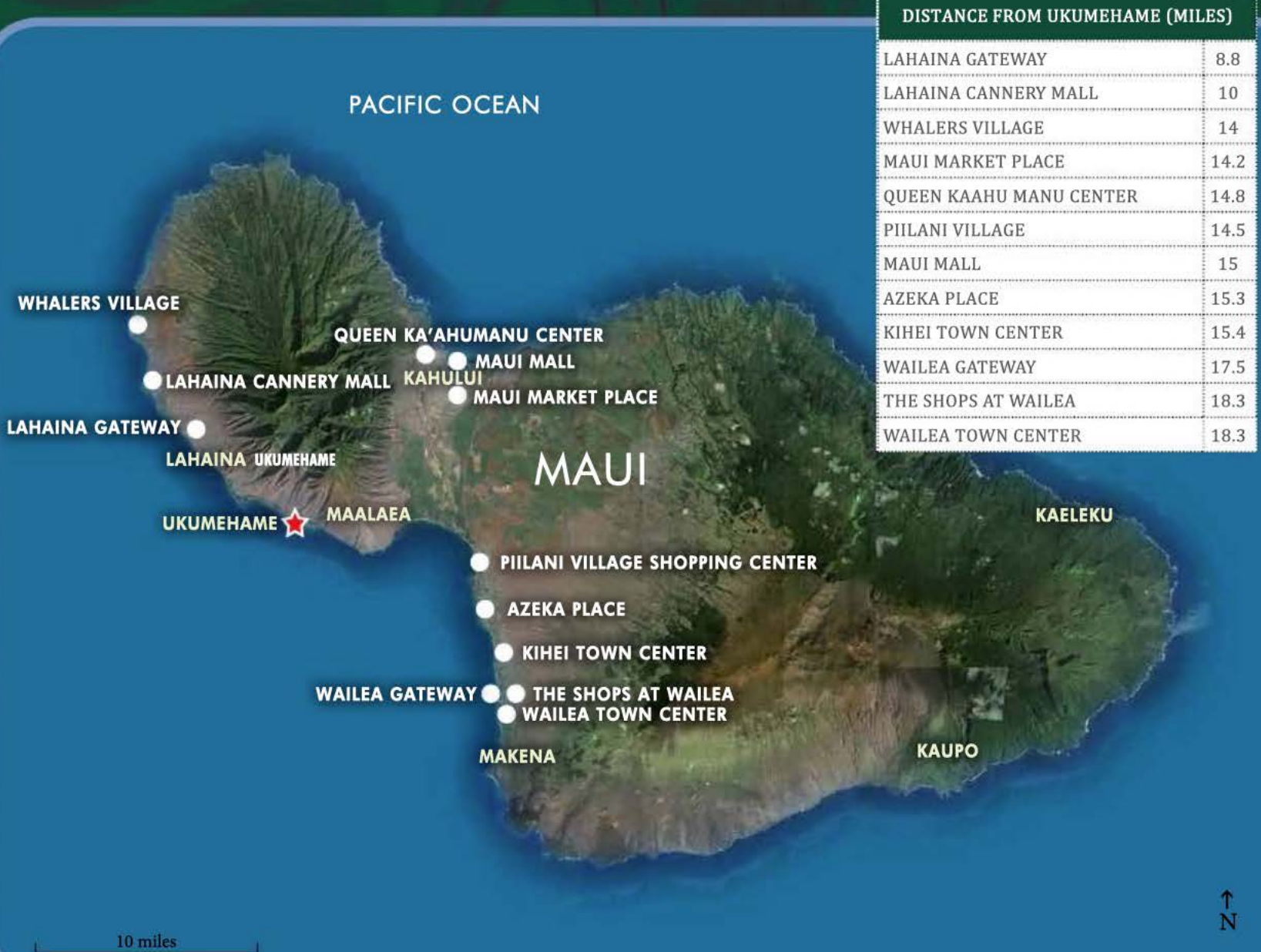
IN RETAIL SALES (2015)



2015 MAUI VISITOR EXPENDITURES

Total Visitors – 2,527,204	Total Spending
U.S. West	\ \$5,330,133,233
U.S. East	\ \$3,712,362,119
Japan	\ \$2,162,248,564
Canada	\ \$1,066,855,099
Other	\ \$2,847,282,909
Total	\ \$15,118,881,924

MAUI RETAIL CENTERS



SOUTH MAUI

The Shops at Wailea

Key Tenants: Louis Vuitton, Tiffany & Co., Gucci, Tommy Bahama, Ruth's Chris Steakhouse, Billabong, Roxy

Wailea Gateway

Key Tenants: Monkeypod Kitchen, Sweet Paradise Chocolatier, The Market by Capische

Wailea Town Center

Key Tenants: First Hawaiian Bank, REPS Fitness Center, Matteo's Osteria

Piilani Village

Key Tenants: Safeway, Hilo Hattie, Wet Seal, Outback Steakhouse, Cold Stone Creamery, Starbucks

Azeka Place

Key Tenants: Panda Express, Ace Hardware, Bank of Hawaii, Radio Shack, Coconuts Fish Café

Kihei Town Center

Key Tenants: Foodland, Sansei Seafood and Sushi

The Shops at Wailea



WEST MAUI

Lahaina Gateway

Key Tenants: Barnes & Noble, Office Max, Foodland Farms, Maui Dive Shop, Local Motion

Lahaina Cannery Mall

Key Tenants: Safeway, Longs, Honolua Surf, Hawaiian Island Creations

Whalers Village

Key Tenants: Louis Vuitton, Tori Richard, Tommy Bahama, Honolua Surf Co., Quiksilver, Brighton Collectibles, Lululemon, Hula Grill, Leilani's on the Beach

Lahaina Cannery Mall



CENTRAL MAUI

Queen Kaahumanu Center

Key Tenants: Macy's, Sears, PacSun, Wet Seal, Ben Bridge Jewelers, Ben Franklin Crafts, Consolidated Theaters, Ruby's Diner, Foot Locker

Maui Marketplace

Key Tenants: Lowes, Sports Authority, Pier 1, Office Max

Maui Mall

Key Tenants: Whole Foods, Longs Drug Store, Regal Cinema, TJ Maxx

Queen Kaahumanu Center



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This is a confidential Memorandum intended solely for your limited use and benefit in determining whether you desire to express further interest in the acquisition of the Property.

This Memorandum contains selected information pertaining to the Property and does not purport to be a representation of the state of affairs of the Property or the owner of the Property (the "Owner"), to be all-inclusive or to contain all or part of the information which prospective investors may require to evaluate a purchase of real property. All financial projections and information are provided for general reference purposes only and are based on assumptions relating to the general economy, market conditions, competition and other factors beyond the control of the Owner and CBRE, Inc. Therefore, all projections, assumptions and other information provided and made herein are subject to material variation. All references to acreages, square footages, and other measurements are approximations. Additional information and an opportunity to inspect the Property will be made available to interested and qualified prospective purchasers. In this Memorandum, certain documents, including leases and other materials, are described in summary form. These summaries do not purport to be complete nor necessarily accurate descriptions of the full agreements referenced. Interested parties are expected to review all such summaries and other documents of whatever nature independently and not rely on the contents of this Memorandum in any manner.

Neither the Owner or CBRE, Inc. nor any of their respective directors, officers, Affiliates or representatives make any representation or warranty, expressed or implied, as to the accuracy or completeness of this Memorandum or any of its contents, and no legal commitment or obligation

shall arise by reason of your receipt of this Memorandum or use of its contents; and you are to rely solely on your investigations and inspections of the Property in evaluating a possible purchase of the real property.

The Owner expressly reserves the right, at its sole discretion, to reject any or all expressions of interest or offers to purchase the Property, and/or to terminate discussions with any entity at any time with or without notice which may arise as a result of review of this Memorandum. The Owner shall have no legal commitment or obligation to any entity reviewing this Memorandum or making an offer to purchase the Property unless and until written agreement(s) for the purchase of the Property have been fully executed, delivered and approved by the Owner and any conditions to the Owner's obligation therein have been satisfied or waived.

By receipt of this Memorandum, you agree that this Memorandum and its contents are of a confidential nature, that you will hold and treat it in the strictest confidence and that you will not disclose this Memorandum or any of its contents to any other entity without the prior written authorization of the Owner or CBRE, Inc. You also agree that you will not use this Memorandum or any of its contents in any manner detrimental to the interest of the Owner or CBRE, Inc.

If after reviewing this Memorandum, you have no further interest in purchasing the Property, kindly return this Memorandum to CBRE, Inc.

UKUMEHAME

WEST MAUI, HAWAII

+216 ACRES OF FEE SIMPLE LAND NEAR LAHAINA HAWAII

24 ENTITLED LOTS FOR THE DEVELOPMENT OF 48 SINGLE FAMILY HOMES

ALL LOTS ABOVE SEA LEVEL
HOMES WILL HAVE OCEAN VIEWS

OFFERING CONSISTS OF A PORTION
OF LAND SHOWN



WWW.CBREUKUMEHAME.COM

EXCLUSIVE AGENTS
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HI Lic.: 78657

From: Marissa Kennedy [REDACTED]
Sent: Tuesday, April 26, 2022 7:52 AM
To: DLNR.CW.DLNRWWM
Subject: [EXTERNAL] Protect West Maui's Water

Aloha,

My name is Marissa Kennedy from Makawao, although I originally grew up in Paia and my family has ties to Lahaina. I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

I feel it is in the best interest of our island and our keiki's future to be better stewards of this land.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

*Mahalo nui for your consideration of my testimony,
Marissa Kennedy*

April 25, 2022

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

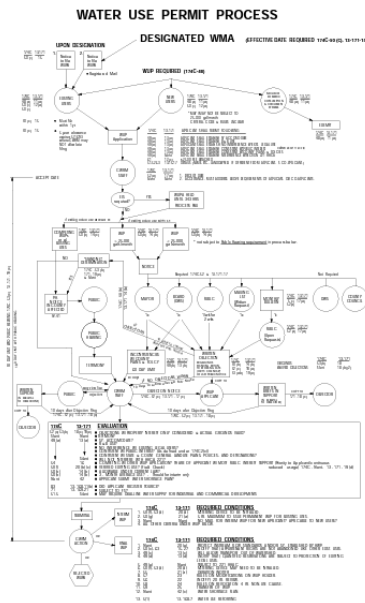
Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is John Horvath and I am a the General Manager at Golf Villas in Kapalua, LahainaI write on behalf of AOA GOLF VILLAS to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

I am also a resident of Lahaina. I write to express my concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

Concerns Regarding Decades of Delay to Existing and New Uses of Water Within the Lahaina Sector. Designation of the Lahaina Aquifer Sector would require users of water in the Lahaina Aquifer Sector,¹ **including Kuleana tenants and affordable housing projects**, apply for and obtain a permit to use water. Processing each permit is a lengthy and convoluted process, as shown in the diagram to the left.²



As evidenced by the Molokai groundwater designation and Na Wai Eha surface water designation, it will likely take **decades** to process permit applications.

The Island of Molokai was designated as a groundwater management area on May 13, 1992. Permit applications for existing uses were due one year later in 1993. Following innumerable contested case hearings and appeals to and remands from the Hawai'i Supreme Court, **existing use permits remain unissued and stuck in limbo 29 years after the designation was made.**

¹ The only exemptions are for domestic consumption (use of water for personal needs and household purposes), customers of the County water system and catchment system.

² The diagram is also enclosed and available on CWRM's website.

The Island of Maui has fared no better. Na Wai Eha was designated as a surface water management area on March 13, 2008. Permit applications for existing uses were due one year later in 2009. Following innumerable contested case hearings and appeals to and remands from the Hawai‘i Supreme Court, **existing use permits remain unissued and stuck in limbo 13 years after the designation was made.**

Existing uses are not the only uses impacted.³ Each new use must also obtain a permit. A new use is any use of water that begins after the designation is made. For example, any existing user in the Sector (including Kuleana tenants and affordable housing projects) who decides to use water in a way that did not exist prior to the designation, such as for agriculture, cannot begin to use water for the new use until a permit is issued. Importantly, new use permit applications cannot be processed until all existing use permits have been processed. In the Na Wai Eha Surface Water Management Area, **zero new use permits have been processed in the 13 years since the designation was made.**

CWRM simply does not have the resources to process existing use permit applications (still outstanding in Molokai and Na Wai Eha), let alone new use permit applications (zero processed in Na Wai Eha in 13 years). CWRM has tried for decades to catch up. It has not. Should the designation for **both** surface water and groundwater be made here, users will be left to the same fate—stuck in limbo and without water for new uses for decades.

Concerns Regarding Facts Set Forth in the Staff Submittal. The proposed designation does not appear to be based on “scientifically proven fact” or in compliance with the State Water Code. For example, there are concerns with Table 2 of the Staff Submittal:

System	SY (mgd)	2020 12-month average (mgd)	2021 12-month average (mgd)	development tunnel discharge (mgd)	entitled/ planned use* (mgd)	other permitted well capacity (mgd)	total existing and planned use (mgd)	% of SY
Ukumehame	2.0	0.042	0.030	0.00	1.080	0.000	1.11	56%
Olowalu	2.0	0.082	0.064	0.10	0.003	0.000	0.167	8%
Launupoko	7.0	1.637	1.305	3.91	1.036	1.777	8.028	115%
Honokōwai	6.0	3.480	3.998	2.50	2.533	1.150	10.181	170%
Honolua	8.0	2.131	2.554	0.00	1.969	1.150	5.673	71%
Honokōhau	9.0	0.000	0.000	3.75	0.001	0.000	3.751	42%

*based on email and excel table from County of Maui DWS September 3, 2020

- **Sustainable Yield.** It is unclear how sustainable yield was determined, including whether a rate of recharge was included in the calculation and the basis for the rate of recharge.

³ In the event that an existing use permit application is not submitted on time, the existing use must apply as a new use instead.

- **Development Tunnel Discharge.** There are five development tunnels in the Launiupoko Aquifer System. These estimates were made in the 1930s, some 80 to 90 years ago. The current discharge rates need to be verified or revised with actual field measurements. Based on declining stream flows sustained by high-level groundwater discharge in West Maui, it is absolutely certain that the tunnel discharges are significantly less than estimated in the 1930s.

Additionally, in arriving at the IIFS values for Kauaula Stream, the discharge of the Kauaula Development Tunnel is counted as a 2.00 MGD draft of groundwater (as estimated in the 1930s) and is also counted as stream flow. This double counting, similar to the situation of the development tunnels draining into Honokowai Stream, should be resolved.

- **“Entitled/Authorized Planned Use.”** Table 2 indicates that “entitled/authorized planned use” is based on an email and excel table from the County of Maui Department of Water Supply dated September 3, 2020. The email and excel file should be provided so that the validity of the included wells and their respective pump capacities and expected use for the Launiupoko Aquifer System can be assessed.
- **“Other Permitted Well Capacity.”** The inclusion of “other permitted well capacity,” particularly on the assumption of 24/7 use, is not a justifiable inclusion as the basis for designation. A listing of all the wells that are included in this category and their respective pump capacity should be provided.
- **Affects to Neighboring Aquifers.** CWRM’s data shows that current groundwater use and authorized planned use does not reach 90% of sustainable yield for any other aquifer system than Honokowai. Thus, designation may be warranted for the Honokowai Aquifer System only.

In response, CWRM has stated that withdrawals from the Honokowai and Launiupoko Aquifer Systems are likely to impact adjacent aquifer systems due to permeability contrasts (in the weathered basalt and coastal alluvium versus the north-south permeability in the unweathered basalt). This is an assumption without a basis in fact and should be explained.

Additionally, assuming without agreeing that adjacent aquifer systems are impacted, it is unclear why the sustainable yield of each system should not be added together (total 34 mgd) against the total existing and authorized planned uses in each system (total 18.65 mgd). In that event, **only 55% of the sustainable yield is met in the entire Lahaina Sector.**

Designation is an extraordinary event that will subject existing uses to decades of delay and potential litigation and halt any new uses, including by Kuleana tenants and affordable housing projects. The County of Maui has been working diligently on its Maui Island Water Use and Development Plan (“WUDP”). The WUDP should be implemented and interim instream flow standards adopted for priority streams and subsequently enforced by CWRM. CWRM can monitor and evaluate the changed circumstances. Until that time, regulating powers should remain with the County of Maui.

Given these concerns, I and AOAOL GOLF VILLAS oppose the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony. Mahalo for considering my testimony

Respectfully,

A handwritten signature in black ink, appearing to read "John C Horvath", with a long horizontal flourish extending to the right.

John C Horvath
Resident of Lahaina
General Manager AOAOL GOLF VILLAS

From: Sylvia Rodriguez [REDACTED]
Sent: Tuesday, April 26, 2022 9:34 AM
To: DLNR.CW.DLNR.CWRM
Subject: [EXTERNAL] Protect West Maui's Water!

Aloha,

My name is Sylvia from New York City, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

*Mahalo nui for your consideration of my testimony,
Sylvia Rodriguez*



April 26, 2022

Via e-mail to dlnr.cwrmm@hawaii.gov

Mr. M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Re: Recommended Designation of Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area

Dear Deputy Director Manuel,

My name is Paulus Subrata, and I write on behalf of Maui Land & Pineapple Company, Inc. ("MLP") to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area. Before CWRM resorts to the extreme measure of water management area designation, we respectfully request that CWRM provide advice and guidance to the West Maui Community, the various stakeholders in water delivery systems and the County of Maui, through its Department of Water Supply ("MDWS"), and allow these Maui-based groups the opportunity to reach a reasonable resolution on water usage.

The County is currently finalizing its Water Use Development Plan ("WDUP"). It would be prudent for CWRM to delay designation until the WUDP is finalized so that its findings, which are the culmination of years of works and community outreach by the MDWS, can be taken into account before considering a designation. While we recognize that "scientific certainty" is not a requirement for designation, CWRM shouldn't rush into designation without taking into consideration the WUDP as it contains extensive studies and reflects the experience of MDWS.

MLP has been in existence for more than 100 years, and its operations have evolved as times have changed. We have consistently made efforts to be good stewards. We are particularly proud of establishing the Puu Kukui Watershed Preserve and of being a founding member of the West Maui Mountains Watershed Partnership. When MLP shifted away from pineapple cultivation, we realized the need for assistance in adequately operating the Honokohau Ditch System and contracted with Hawaii Water Service Company ("HWSC") to operate and maintain the ditch system. Great strides have been made in the maintenance and operation of the ditch system, and a relationship is being forged between HWSC and the residents and kuleana users in Honokohau Valley. A water management area designation will not resolve disputes. Instead, it will result in decades of litigation. Please allow MLP and HWSC

MAUI LAND & PINEAPPLE COMPANY, INC.
200 Village Road • Lahaina, Maui, Hawai'i 96761 • 808-757-2666 • Fax 808-665-0641
psubrata@kapalua.com • mauland.com

Mr. M. Kaleo Manuel

Page 2 of 2

Company time to continue their efforts to work **with** the residents and kuleana users in Honokohau Valley to come to a reasonable understanding regarding the water.

CWRM staff cites the Waihee aquifer as a cautionary tale supporting designation. The Water Use Permit Application process for Na Wai Eha also serves as a cautionary tale. In the Na Wai Eha Surface Water Management Area, there were about 130 applications for Surface Water Use Permits. Many individuals applied for domestic use. The Draft Findings of Fact Report states that a majority of the resident population is served by potable water by the Maui Department of Water Supply. However, there are many water users who rely on non-potable surface water for their domestic uses and, if consistent with Na Wai Eha, will be required to apply for a water use permit.

Finally, the County of Maui is currently upgrading its West Maui Recycled Water System with the goal of creating a more reliable recycled water system and connecting additional users to the system. It would be prudent of CWRM to take into account the effects of an improved R-1 water distribution system on the surface and groundwater uses of the Lahaina Aquifer prior to a water management area designation.

Water is a precious resource that must be protected. A water management area designation with an unworkable water use permit application process does not protect the water resource and causes complications to current and future users.

Sincerely,

A handwritten signature in black ink, appearing to read "Paulus Subrata". The signature is stylized with a large, circular flourish on the left and a long, sweeping underline that extends to the right.

Paulus Subrata
Vice President

From: Jennifer Valentine [REDACTED]
Sent: Tuesday, April 26, 2022 10:41 AM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Lahaina Aquifer Sector

Aloha,

I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony, jennifer valentine

From: Jamie T [REDACTED]
Sent: Tuesday, April 26, 2022 11:19 AM
To: DLNR.CW.DLNR.CWRM
Subject: [EXTERNAL] Written Testimony for Protecting West Maui Waters

Aloha,

My name is Jamie Takushi from Ha'ikū, Maui and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Before Western contact with Native Hawaiian people they had a management system that made sure seven generations after were assured resources. We need to look into and apply ways of management like the Native Hawaiians did many years before. Water is our most precious resource, and our constitution and laws require that water be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to step in, and implement the water management area designation that will enable it to uphold the public trust, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,
Jamie Takushi

aloha mai kakou my name
is Mapuana Pal. I am one
of many kuleana that live
in Kava'ula Not just 3 kuleana
family as what Glenn Tremble
had mention that depend on
the water source there
is history in this valley as
well in every valley an yes
that is why the Ahupua'a
system is so important to
us all in every moku yes
the water from mountain to
ocean they feed each
other as well all kuleana
family an our lo'i Kalo, wala,
ulu, wiu, no'i an our live stock
yes water was being diverted
for sugar then streams was
drying up. Some kuleana was
force to leave an some
never left. The water system
was working ok before

Kava'ula land company, Makila
land company an now lanipoko
irrigation company that

As Peter Martin as well
westward construction. Kuleana
is first especially when Kuleana
land commission award an
still there is not one drop
of water provided to the
Kuleana 'ohana they have
to go out of there way to
haul water up to there homes
they can't even farm on
there Kuleana land, and
the Hydro system did not
work since the night of the
aug. 24, 2018 that Hydro back
surge it's just mismanagement
there whole business is
JUST MISMANAGE from
the beginning an now they
want to dig more well an
suck all of our resource from
the inside out

From: [Kahiks ."](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] I support the West Maui designation
Date: Tuesday, April 26, 2022 1:17:06 PM

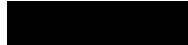
Aloha Rae Ann & Water Commissions,

My name is Kahikilaniwahinemaika'i'opuna Niles I am a recognized lineal descendant of Lahaina as well as a Kuleana land owner in Kahoma Valley and have lived in Lahaina all my life. I support the West Maui Aquifer designation because it is dangerous and scary to have just one private entity such as LIC (Launiupoko Irrigation Company) controlling all the water of West Maui. Throughout the years they have mismanaged the water systems with inexperienced employees and now they are asking to increase the amount they charge for members of the community and also asking to charge Kuleana land owner for water which sustains us and is our pertinent right for water which they do not own, nor do they pay for and they have not created.

I ask you folks to kindly push forward the West Maui Aquifer designation.

Mahalo nui,

Kahikilani Niles



From: Kahakaloha [REDACTED]
Sent: Tuesday, April 26, 2022 1:28 PM
To: DLNR.CW.DLNRCWRM
Subject: [EXTERNAL] Please Protect West Maui's Water

Aloha,

My name is Johnny Kahakaloha from Lahaina moku, and I am testifying in STRONG SUPPORT of ground and surface water management area designation for the Lahaina Aquifer Sector. Wai is our most precious resource, and our constitution and laws require that wai be carefully protected and managed to ensure its availability for the benefit of present and future generations. With diminishing rainfall levels, projected significant increases in water demands, and conflicts already arising over the use of West Maui's water, it is time for the Water Commission to STEP IN, and implement the water management area designation that will enable it to UPHOLD THE PUBLIC TRUST and PROTECT NATIVE HAWAIIAN RIGHTS, and balance the water needs of West Maui's people and environment.

Please implement water management designation now, so that we can begin the discussion over West Maui's water future sooner rather than later, and before development and planning decisions result in less-than-appropriate water uses that may be much more difficult and costly to reverse than prevent.

Mahalo nui for your consideration of my testimony,

Johnny Kahakaloha
Lahaina, HI
[REDACTED]

Commission on Water Resource Management
State Department of Land and Natural Resources
PO Box 621
Honolulu, Hawai'i 96809
Email: dlnr.cwrn@hawaii.gov

RE: Tuesday, April 26, 2022, Public Hearing on Recommended Designation of the Lāhainā Aquifer Sector, Maui as a Surface Water and Ground Water Management Area

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

My name is Evan Miyaki, Jr. and I am in **STRONG SUPPORT** of designation of the Lāhainā Aquifer as a Surface Water and Ground Water Management Area. Designation is necessary to protect water resources and Native Hawaiian rights and practices. Ground and surface water resources are connected and should be managed together to ensure sustainability. Several areas of Maui Komohana are notoriously dry and rainfall and stream flow decreased in recent years. With impending climate destabilization and population growth, the amount of water available will decrease while the demand for water will rise.

There are existing disputes over water use in the region and many who are entitled to water do not receive an adequate amount. Kuleana water users with appurtenant rights have the highest rights to water, but they are currently at the mercy of plantation ditch system operators who prioritize their finances over the public good. Plantation ditch system operators are able to cut people off from their water without warning and are not held accountable by the current system. Designation and the associated permits help to manage water resources and prevent conflict by promoting sustainable water use and ensuring that all users obtain the water they are entitled to.

Please vote to designate. Delaying this process serves the financial interests of a few, while public trust resources, environmental protection, and Native Hawaiian practices, all of which have legal priority, are neglected.

Mahalo nui for the opportunity to testify,

Evan Miyaki, Jr.

VIA EMAIL TRANSMITTAL

Commission on Water Resource Management
State of Hawai‘i Department of Land and Natural Resources
PO Box 621,
Honolulu, Hawai‘i 96809
Email: dlnr.cwrm@hawaii.gov

**Re: Recommended Designation of Lahaina Aquifer Sector, Maui
As a Surface Water and Ground Water Management Area**

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

Mahalo nui for the opportunity to testify in strong support of designation of the Lahaina Aquifer as a Surface Water and Ground Water Management Area under Hawai‘i Revised Statutes § 174C-41. My name is MJ Palau-McDonald, and I have had the great privilege of working with community members from Lahaina who are directly impacted by your decision.

Though there are myriad reasons to support designation, I want to highlight one specific area of acute concern: the skimming wells in Launiupoko. The sustainable yield for the Launiupoko aquifer sector is only 7 million gallons per day (“mgd”). As noted in Table 4.8.3.3 of your Findings of Fact, Launiupoko Irrigation Company (“LIC”) is already taking 1 mgd via freshwater wells, and gentleman estate owners have drilled their own wells since the establishment of the Interim Instream Flow Standard (“IIFS”). Now, LIC wants to reopen the old skimming wells that dried Mokuhinia to take an additional 2 mgd. Historic pumpage from those wells was extremely high (over 10 mgd) with high chloride levels. Moreover, as your Commission explained in Table 4.8.3.7, five additional private parties have filed well applications. It seems that LIC and wealthy private owners are attempting to circumvent the IIFS by increasing pumpage before designation. The proposed well sites are so close together that chloride levels will surely rise. If this were not worrying enough, Maui Department of Water Supply’s Water Use and Development Plan depends on developing new wells in Launiupoko.

Kaua‘ula Stream’s IIFS is rarely—if ever—met. Because surface- and groundwater resources are intimately connected, failing to take a proactive, wholistic approach to these well applications will inevitably wreak more havoc in Kaua‘ula. Kuleana ‘ohana with the highest rights under Hawai‘i law consistently bear the brunt of the ongoing water theft in the valley. It is time to stop treating the Kuleana as collateral damage. Your Commission is constitutionally required to protect and prioritize their appurtenant and traditional and customary Native Hawaiian rights and domestic uses over commercial and municipal uses, like those of wealthy gentleman estate owners and Maui Department of Water Supply.

As the trustee of our Public Trust, it is your constitutional duty to move towards water stewardship that is just for *all* communities, not just the wealthy, vocal ones. Please vote to designate today.

Mahalo,

MJ Palau-McDonald




Kaanapali Land Management Corp.

275 Lahainaluna Road • Lahaina, Maui, HI 96761 • t: (808) 661-9652 • f: (808) 667-9658 • www.KaanapaliLand.com

*Honoring our roots.
Preserving our spirit.*

April 26, 2022

VIA EMAIL & PUBLIC HEARING TESTIMONY

Commission on Water Resource Management
(dlnr.cwrn@hawaii.gov)
State Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i 96809

Attention: Ms. Suzanne D. Case and Members

Re: Public Hearing: April 26, 2022, Keopuolani Hall at Waiola Church,
Recommended Designation of Lahaina Aquifer Sector Maui as a Surface and Ground WMA

Dear Chairperson Case and Members:

My name is Margaret Jenness. I am the managing director for Kaanapali Land Management Corp. ("Company"). Historically, the Company has used water from the Honokōwai and Honokōhau aquifers. Today, the Company is heavily reliant on ground water from the Honokōwai development tunnels because very little water from Honokōhau passes beyond Mahinahina.

I write to set forth the Company's preliminary views on the proposed designation of the Lahaina Aquifer Sector, Maui, as a Surface Water and Ground Water Management Area. This submission is preliminary because there has been an incomplete public disclosure of information and data used by the staff of the Commission on Water Resource Management ("CWRM") to analyze the proposed designation. For that reason, the Company reserves the right to amend, supplement, and expand upon the reasons for its position.

In general, the Company concurs with (1) the conclusion by the County of Maui Department of Water Supply in its letter to CWRM dated December 28, 2021 that the proposed designation is "premature and inconsistent with our Water Use Development Plan;" (2) the letter to CWRM dated February 8, 2022 from the Hawaii Water Service Company asking for data underlying the summary numbers presented by CWRM in support of the proposed designation; (3) the questioning expressed by Dean K. Frampton, the then Chair of the Maui County Board of Water Supply, in a letter to CWRM dated February 14, 2022 regarding the resources and capacity of CWRM to "properly manage" the proposed Lahaina Aquifer Sector; (4) the discussion regarding the public hearing notice, climate uncertainty and sustainable yield, the threats to water resources by existing and proposed withdrawals, the serious disputes over surface and groundwater, and

lessons learned set forth in the Department of Water Supply letter to CWRM dated April 25, 2022. (The Company disagrees with the position in that letter regarding Honokōwai as it contravenes the logic, data, and analysis of the other sections in the letter); and (5) the letter to CWRM dated April 26, 2022 from West Maui Land Company detailing the decades of delay experienced by applicants seeking an existing use permit and the futility of acquiring a new use permit in aquifers previously designated by CWRM.

Respectfully, the proposed designation should be deferred pending (1) further collection and analysis of data and (2) the rendering of an objective assessment of the resources of CWRM to timely and effectively administer the regulatory regime contemplated by the proposal. In this context and for purposes of this public hearing, the Company submits the following points for your consideration.

Conflict-Ridden, Costly, Lengthy, and Impractical Regulatory Procedures. An examination of the history of surface and ground water management areas presents a narrative replete with increases in acrimonious and divisive public hearings, contested administrative hearings, litigation proceedings, appeals to the judicial system, and lengthy delays in permitting and final regulatory decisions. The embedded regulatory procedures graphically illustrated in the CWRM Water Resource Protection Plan are commonly – and accurately – referred to as the “confuse-o-gram.” I have attached the relevant chart for ease of reference.

The proposed designation of surface and ground water located in six aquifer systems is unprecedented in its scope and extent. Historically, the designations of substantially fewer and less complex aquifer systems as management areas have caused extensive conflicts, costs, delays, confusion, and impractical results as explained in the submission by the West Maui Land Company. Those designations have frustrated the development and utilization of those resources in a manner consistent with the constitutional objectives of conservation and furtherance of the self-sufficiency of Hawai‘i. With that history in mind, it is fair to forecast that those same consequences that have marked substantially less complex and relatively simpler designations will be multiplied many times if the proposed designation is adopted. For the Company, those results would be consequential, posing an existential threat to its viability.

Outdated, Questionable, and Poor Data. The Company supports the notion that further investigation and analysis into the rate of natural recharge for sustainable yield assessments are needed; but those investigations and subsequent analysis should precede – not follow - radical changes in the existing regulatory framework. In the absence of such work updating outdated, questionable, and poor data, the sustainable yield for the Honokōwai aquifer system cannot be reasonably or credibly asserted to have been scientifically set at 6 million gallons per day. As a result, it is untenable to claim that existing or authorized increases in existing water use or authorized planned use may cause the maximum rate of withdrawal from the Honokōwai aquifer to reach ninety per cent of its sustainable yield.

The Water Resource Protection Plan (2019 Update) observed that “[t]he availability of ground water resources is dependent on recharge, or the replenishment of fresh ground water, and ground and surface water interactions. However, ground water flow can be difficult to understand and predict because scientists must infer and interpolate its status and the characteristics from limited data and modeling tools.” See Section 2.2.3.1, at page 25. The Update noted that “CWRM first adopted sustainable yield estimates in the WRPP in 1990 and has revised them based on management approaches, new information and modeling techniques, and the identification of errors in previous models or studies.” *Id.*, at page 26.

Sustainable yield and recharge are two critical components in assessing the propriety of designation of a groundwater management area. For Honokōwai, there is little evidence that CWRM has employed sound scientific methodologies to develop, assess, and properly translate new information from field work and modeling techniques to scientifically determine recharge and sustainable yield measurements. To the contrary, new information has been largely ignored; modeling results contradicting CWRM’s policy preferences have been overlooked; and CWRM’s preferred hypotheses such as the alleged – but unverified - interconnectivity of the Honokōwai aquifer with adjacent aquifers have not been the subjects of transparent data-backed measurements visible to the public. Compare, for example, the 1990 Water Resource Protection Plan, the USGS Report 2007-5103, the 2008 Water Resource Protection Plan, USGS Report 2014-5168, and the 2019 Water Resource Protection Plan:

Aquifer System		1990 WRPP		USGS Report 2007-5103		2008 WRPP		USGS Report 2014-5168		2019 WRPP	
Name	Number	Ground Water Recharge (MGD)	Sustainable Yield (MGD)	Ground Water Recharge (MGD)	Possible Sustainable Yield (MGD)	Range of Sustainable Yield (MGD)	Adopted Sustainable Yield (MGD)	Ground Water Recharge (MGD)	Possible Sustainable Yield (MGD)	Range of Sustainable Yield (MGD)	Adopted Sustainable Yield (MGD)
Honokowai	60203	13	8	26.44	12	6-11	6	36.43	16	6-16	6

As depicted on the foregoing table, CWRM has chronically spurned new information and modeling results inconsistent with the lowest number in a range. It then embraces that number to rationalize ever more onerous regulatory regimes. This is not a proper implementation of the Precautionary Principle as articulated by the Hawai`i Supreme Court. In the Court’s understanding, the Precautionary Principle adjures regulatory paralysis when scientific evidence is absent or materially incomplete. It does not legitimate turning a deaf ear to scientific evidence or systematically discounting new data that contradicts old positions. Assuredly, it does not countenance exercises in confirmation bias. The Precautionary Principle does not underwrite cherry picking the lowest data points for ground water recharge and sustainable yield to force-fit an aquifer into a water management area. Yet, the evidence points persuasively in that direction here where CWRM must take the lowest numbers if it is to get within long-range-arguable-possible-maybe striking distance of the sustainable yield criterion set forth in Hawai`i Revised Statutes §174(C)-44(1) (when an increase in water use or authorized planned use may cause the

maximum rate of withdrawal from a ground water source to reach ninety per cent of the sustainable yield of the proposed ground water management area).

Remarkably, CWRM's evidence-free hypothesis of interconnectivity between aquifer systems within the proposed Lahaina Aquifer Sector is marshalled to support the designation, but that theory is then disconnected when measuring recharge and sustainable yield analysis. To be consistent with its ill-founded and wrong-headed theory, CWRM should add those numbers together from each aquifer within the proposed sector. Since that approach vitiates the purported justification for the designation, CWRM conveniently ignores it in that context.

Given the circumstances described in the preceding paragraphs of this letter, the continued selective use of data and adherence to confirmation bias practices is unsurprising but examples help to illuminate the prudence of deferring the pending proposed designation. CWRM has persisted to use mid-century and dry climate scenarios and disregarded the wet-climate scenario, all of which were published in the 2019 USGS Survey. Under the wet-climate scenario, an increase in groundwater discharge for the Honokōwai aquifer is projected.

Furthermore, the contention that the recharge and sustainable yield data selected by CWRM is accurate rather than outdated, questionable, or poor is undermined by evidence relevant to the other factors listed in Hawai'i Revised Statutes §174(C)-44(2) – (6). Here, information derived from the Mahinahina Deep Monitoring Well is instructive. The data points to trends which show “that the water level in this DMW has risen nearly 0.5 feet, while the TTZ has declined 1.27 feet, indicating a thickening of the freshwater lens. The gentle rise of the Mid-Point (MPTZ) to near the calculated Mid-Point, based upon the water level, and the stability of the brackish/sea water interface, also indicates this area of Honokōwai ASA has been stable over the period of the monitoring.” CWRM Staff Submittal (January 18, 2022) at page 9. Those observations are consistent with the higher sustainable yields and ground water recharge data noted in the preceding table. Equally important, those observations rebut the notions that there is an actual or threatened water quality degradation (which the Department of Health has never determined to have occurred); that there is diminishing ground water supply; that withdrawals of ground water are endangering the stability or optimum development of ground water due to upconing or encroachment of salt water; or increasing chloride contents; or that excessive preventable waste of ground water is occurring.

Parenthetically, CWRM points selectively to the chloride contents affecting certain wells. Tellingly, CWRM does not disclose data showing increases in chloride content affecting those wells. Put differently, Hawai'i Revised Statutes §174(C)-44(4) directs the commission to consider whether withdrawals are “endangering the stability or optimum development of the ground water body due to **upconing or increasing** encroachments of salt water.” (Emphasis added). By overlooking baseline historical chloride content in those wells and not providing evidence of upconing or increasing encroachments of salt water, CWRM has not engaged in the necessary fact-finding called for by the statute.

As with the absence of evidentiary support for the preceding six criteria that CWRM is mandated to consider pursuant to Hawai`i Revised Statutes §174(C)-44(1) – (6) in designating an area for ground water use regulation in a management area, there is no evidence that there have been or are “serious disputes respecting the use of ground or surface water resources in the Honokōwai aquifer system. *See* Hawai`i Revised Statutes §174(C)-44(2) – (6). There has been no regulatory finding of fault on the part of Company. In summary, the existing data does not support the designation of Honokōwai as a ground or surface water management area. To the contrary, not a single statutory ground is supported by the existing data disclosed by CWRM.

For similar reasons and for those reasons set forth in the brief filed by the Company on October 9, 2019 with respect to the draft Instream Flow Standard Assessment Report, Island of Maui Hydrological Unit 6010 Honokōwai, DRAFT PR-2019-01 dated June 2019, which is hereby incorporated by reference into this letter, the surface water criteria for designation set forth in Hawai`i Revised Statutes §174(C)-45 have not been met.

Taking Issues

The Water Resources Protection Plan (2019 Update) concedes that “[t]he State Water Code preserved appurtenant rights but not correlative and riparian rights in designated water management areas. Thus, when a ground water management area is designated, existing correlative rights within that area can be issued water use permits under the existing use provisions of the State Water Code, but unexercised correlative rights are extinguished. Similarly, when a surface water management area is designated, existing riparian uses within that area are eligible for water use permits as existing uses, but unexercised riparian rights are extinguished.”

The Company recognizes that CWRM may believe that those results are consistent with the takings clause of the federal and state constitutions. Respectfully, we disagree. The consequences of the proposed designation pose a fundamental existential challenge to our vested and entitled property rights and the viability of the Company.

Conclusion

We urge the commission to defer action on the proposed designation and enter discussions with stakeholders to address concerns more effectively and fairly than reflected by past procedures and the present proposal.

Thank you.

Very truly yours,

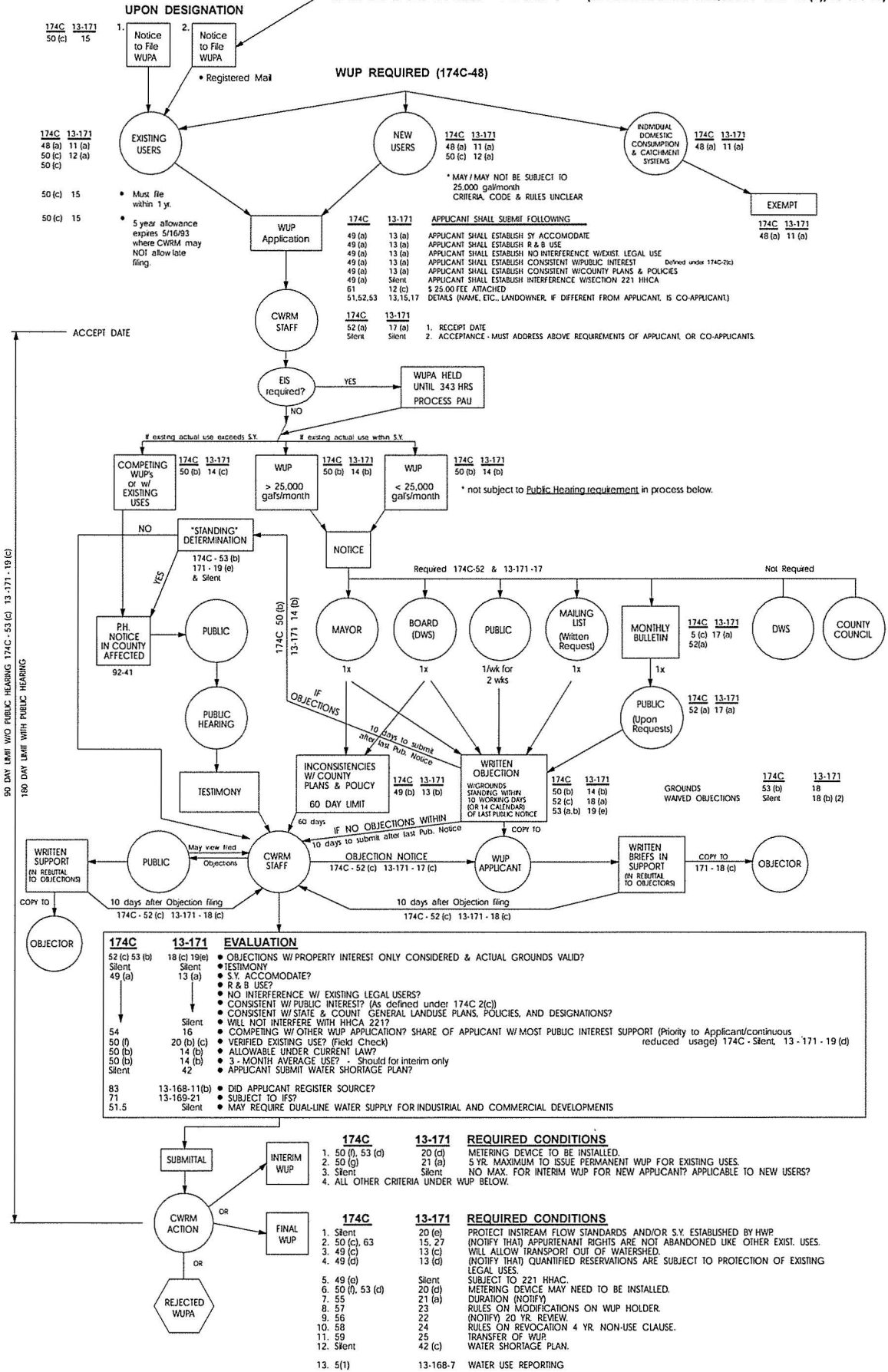


Margaret Jenness
Managing Director

WATER USE PERMIT PROCESS

DESIGNATED WMA

(EFFECTIVE DATE REQUIRED 174C-50 (c), 13-171-15)



TO: Suzanne D. Case
Chairperson, Commission on Water Resource Management

FROM: Albert Perez, Executive Director
Maui Tomorrow Foundation

RE: RECOMMENDED DESIGNATION OF LAHAINA AQUIFER SECTOR, MAUI AS A
SURFACE WATER AND GROUND WATER MANAGEMENT AREA

DATE: April 26, 2022

Aloha Chair Case and members of the Commission,

Maui Tomorrow strongly supports the commission staff recommendation to designate the Lahaina Aquifer Sector, Maui as a Surface Water and Ground Water Management Area.

Water management area designation will enable the Commission on Water Resource Management to ensure that competing water uses are balanced and protect the public trust. With ever-diminishing rainfall levels, well withdrawals are already approaching the sustainable yield for several aquifers in the West Maui regions.

The water needs of cultural practitioners and stream biota need to be balanced with those of non-instream uses. Unfortunately, this balance is not being achieved in West Maui, in part because such decisions are currently being made independently by self-interested water managers, some of whom repeatedly cut off water from kuleana users, whose needs should have top priority.

Designation will incentivize aggressive conservation measures, such as paying for the retrofitting of inefficient water fixtures, paying for low water use landscaping, wastewater reclamation, and other measures. These actions should be a prerequisite for non-instream uses.

We ask you to consider that the West Maui area is seeing a resurgence of lo'i taro farming. Like much of Maui, this area has the potential for significantly more kalo growing, as people return to the land to reclaim lo'i that have been idle for decades. It's long past time to restore water to people who never should have lost it.

Please put an end to the current situation, wherein the self-interested decisions of individual water managers often ignore the wider impact on underlying aquifers, as well as the relationship of ground water with the streams. Designation of this aquifer sector as a ground water and surface water management area would help to bring order to the current chaos. We urge you to support the staff recommendation.

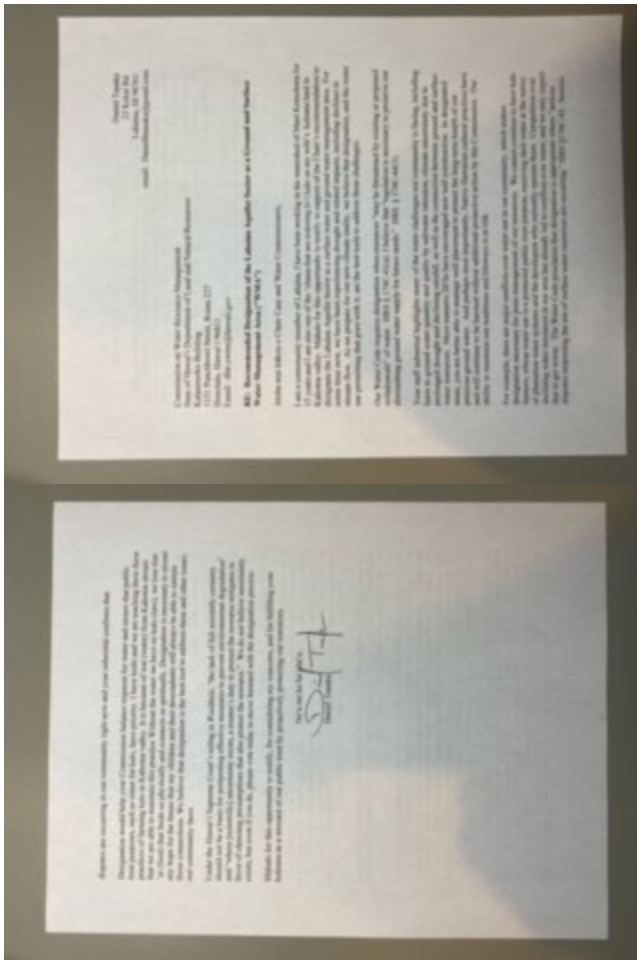
Mahalo.

From: [REDACTED]
To: DLNR.CW.DLNR.CWRM
Subject: [EXTERNAL] Public Testimony: Designation of Lahaina Aquifer as Water Management Area
Date: Tuesday, April 26, 2022 4:06:08 PM

Ke aloha no,
Mahalo for this opportunity to support the proposal for the designation.

Please see attached testimony.

Me ke aloha,
Daniel Tanaka



Sent from my iPhone

From: [Meleana Shim](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Testimony in Support of Designation
Date: Tuesday, April 26, 2022 4:10:21 PM

Aloha,

Below is my testimony in support of designation. Mahalo for your consideration.

Meleana

Aloha Chair Case and Members of the Commissioner on Water Resource Management,

Mahalo for the opportunity to testify. My name is Meleana Shim, and I have had the opportunity to work with Lahaina community members who will be impacted by your decision.

I am in strong support of designation of surface water use in Kaua‘ula. Designation is necessary to protect and restore traditional and customary Native Hawaiian rights and practices, particularly that of kuleana users and kalo farmers. Kuleana lands and lo‘i should have water use priority over all other water users.

I would also like to comment on rumors regarding designation preventing potential “affordable housing” development plans - something that is being used to convince community members to oppose designation. This is fear mongering and a list ditch effort to block community members from getting water on their property that is necessary to sustain their traditional and customary practices. Let’s be real - there is no affordable housing in this area and not enough water to develop further. We can already see that there is not enough water to sustain the current developments.

Please vote to support designation so kuleana users and lo‘i farmers have water to continue their traditional and customary practices.

Aloha,
Meleana Shim

Pā'anaakalā Tanaka
[REDACTED]
Lahaina, Hawai'i 96761
email: [REDACTED]

Commission on Water Resource Management
State of Hawai'i Department of Land and Natural Resources
PO Box 621
Honolulu, Hawai'i 96809
Email: dlnr.cwrn@hawaii.gov

RE: Recommended Designation of the Lahaina Aquifer Sector as a Ground and Surface Water Management Area ("WMA")

Ke aloha nō e Chair Case and Water Commissioners,

I am a resident of Lahaina and one of the 'ohana that are restoring lo'i kalo on kuleana land. Mahalo for this opportunity to testify in support of the Chair's recommendation to designate the Lahaina Aquifer Sector as a surface water and ground water management area. For some time now, we have been experiencing drought and related impacts, including declines in stream flow. As we prepare for our new climate reality, we believe that designation, and the water use permitting that goes with it, are the best tools to address these challenges.

Our Water Code requires designation when resources "may be threatened by existing or proposed withdrawals" of water. HRS § 174C-41(a). As a resident of Lahaina and kalo farmer in Kahoma Valley that depends on Kahoma stream, I believe that "regulation is necessary to preserve our diminishing ground water supply for future needs." HRS. § 174C-44(3).

Your staff submittal highlights many of the water challenges our community is facing, including harm to ground water quantity and quality by saltwater intrusion, climate uncertainty due to prolonged drought and declining rainfall, as well as the connection between ground and surface water resources. More numeric IIFSs have encouraged new well construction. In designated areas, you are better able to manage well placement to protect the long-term health of our precious ground water. And perhaps most importantly, our Native Hawaiian cultural practices have and will continue to be harmed without additional protective action by this Commission. Our ability to maintain our traditions and lifeways is at risk.

For example, there are major conflicts over water use in our community, which makes designation necessary for pono management of our resources. We cannot continue to have kalo farmers, whose water use is a protected public trust purpose, receiving their water at the mercy of plantation water systems and the developers who currently operate them. Competition over declining water resources in our area has already led to conflicts over water, and we only expect that to get worse. The Water Code proclaims that designation is appropriate where "serious disputes respecting the use of surface water resources are occurring." HRS §174C-45. Serious disputes are occurring in our community right now and your submittal confirms that.

Designation would help your Commission balance requests for water and ensure that public trust purposes, such as water for kalo, have priority. I am teaching my keiki to farm kalo as well and they are alongside us as we work in the lo‘i. It is because of wai (water) from Kahoma stream that we are able to maintain this practice that is vital to our identity as Hawaiians. Without the water we have no kalo (taro), we lose that ‘ai (food) that feeds us physically and connects us spiritually to our Native Hawaiian ancestors. Designation is necessary to ensure any hope for the future that my children and their descendants will always be able to sustain those connections. We believe that designation is the best tool to address these and other issues our community faces.

Under the Hawai‘i Supreme Court’s ruling in *Waiāhole*, “the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation” and “where [scientific] uncertainty exists, a trustee’s duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.” We do not believe uncertainty exists, but even if you do, please vote today to move forward with the designation process.

Mahalo for this opportunity to testify, for considering my concerns, and for fulfilling your kuleana as a steward of our public trust by proactively protecting our resources.

Na‘u me ka ‘oia‘i‘o,
Pā‘anaakalā Tanaka

Launiupoko Irrigation Company, INC

305 E. Wakea Ave., Suite 100
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

April 25, 2022

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is Glenn Tremble, and I am the Treasurer for Launiupoko Irrigation Company Inc.. I write on behalf of Launiupoko Irrigation Company Inc.. to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

Concerns Regarding Decades of Delay to Approve Existing and New Uses of Water Within the Lahaina Sector. The Lahaina Aquifer Sector is comprised of six systems: Honokohau, Honolua, Honokowai, Launiupoko, Olowalu and Ukumehame. Designation of the Lahaina Aquifer Sector would require users of water in the Sector¹ to apply for and obtain permits to use water. Processing each permit is a lengthy and convoluted process, as shown in the diagram on CWRM's website.²

As evidenced by the Molokai and Na Wai Eha designations, it will take **decades** to process permit applications.

The Island of Molokai was designated as a groundwater management area on May 13, 1992. Permit applications for existing uses were due one year later in 1993. Following extensive contested case hearings and appeals to and remands from the Hawai'i Supreme Court, **permits remain unissued 29 years after the designation was made.**

On Maui, Na Wai Eha (Waihee, Waiehu, Waikapu and Iao Systems) was designated a surface water management area, and the Iao System was designated a groundwater management area on March 13, 2008. Permit applications for existing uses were due one year later in 2009. Following

¹ The only exemptions are for domestic consumption (use of water for drinking, bathing, heating, cooking, noncommercial gardening and sanitation), customers of the County water system and catchment system. However, CWRM is not clear on who needs to apply for and obtain a permit in a surface water management area.

² The diagram is also enclosed and available on CWRM's website.

Launiupoko Irrigation Company, INC

305 E. Wakea Ave., Suite 100
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

extensive contested case hearings and appeals to and remands from the Hawai‘i Supreme Court, **existing use permits remain unissued 13 years after the designation was made.**

Existing uses are not the only uses impacted.³ Each new use must also obtain a permit. A new use is any use of water that begins after the designation is made. For example, any existing user in the Sector who decides to use water in a way or to an extent that did not exist prior to the designation, such as for agriculture, cannot begin to use water for the new use until a permit is issued. New use permit applications cannot be processed until all existing use permits have been processed. In the Na Wai Eha Surface Water Management Area, **no new use permits have been processed in the 13 years since the designation was made.**

CWRM does not have the resources to process existing use permit applications (still outstanding in Molokai and Na Wai Eha), let alone new use permit applications (zero processed in Na Wai Eha in 13 years). CWRM has tried for decades to catch up. It has not. Should the designation of the entire Sector (comprised of six systems) for **both** surface water and groundwater be made here, users will be left to the same fate—stuck in limbo and without water for new uses for decades.

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In response, CWRM has stated that withdrawals from the Honokowai and Launiupoko Aquifer Systems are likely to impact adjacent aquifer systems due to permeability contrasts (in the weathered basalt and coastal alluvium versus the north-south permeability in the unweathered basalt). This is an assumption without a basis in fact and should be explained.

Moreover, assuming without agreeing that adjacent aquifer systems are impacted, it is unclear why the sustainable yield of each system should not be added together (total 34 mgd) against the total existing and authorized planned uses in each system (total 18.65 mgd). In that event, **only 55% of the sustainable yield is met in the entire Lahaina Sector.**

Designation is an extraordinary event. It will subject existing uses to decades of delay. Any dispute over type of use or quantity of water will result in litigation. It will halt any new uses. The impacts will not be felt by only developers and large landowners but will also extend to Maui families who need water for their lands, affordable housing projects and Kuleana tenants.

The County of Maui has been working diligently on its Maui Island Water Use and Development Plan (“WUDP”). The WUDP should be implemented and interim instream flow standards adopted for priority streams and subsequently enforced by CWRM. CWRM can monitor

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and evaluate the changed circumstances. Until that time, regulating powers should remain with the County of Maui.

Given these concerns, Launiupoko Irrigation Company Inc.. opposes the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,

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Glenn E. Tremble
Treasurer/Secretary

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April 25, 2022

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is Glenn Tremble, and I am the Treasurer for Launiupoko Water Company Inc.. I write on behalf of Launiupoko Water Company Inc.. to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

Concerns Regarding Decades of Delay to Approve Existing and New Uses of Water Within the Lahaina Sector. The Lahaina Aquifer Sector is comprised of six systems: Honokohau, Honolua, Honokowai, Launiupoko, Olowalu and Ukumehame. Designation of the Lahaina Aquifer Sector would require users of water in the Sector¹ to apply for and obtain permits to use water. Processing each permit is a lengthy and convoluted process, as shown in the diagram on CWRM's website.²

As evidenced by the Molokai and Na Wai Eha designations, it will take **decades** to process permit applications.

The Island of Molokai was designated as a groundwater management area on May 13, 1992. Permit applications for existing uses were due one year later in 1993. Following extensive contested case hearings and appeals to and remands from the Hawai'i Supreme Court, **permits remain unissued 29 years after the designation was made.**

On Maui, Na Wai Eha (Waihee, Waiehu, Waikapu and Iao Systems) was designated a surface water management area, and the Iao System was designated a groundwater management area on March 13, 2008. Permit applications for existing uses were due one year later in 2009. Following

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Designation is an extraordinary event. It will subject existing uses to decades of delay. Any dispute over type of use or quantity of water will result in litigation. It will halt any new uses. The impacts will not be felt by only developers and large landowners but will also extend to Maui families who need water for their lands, affordable housing projects and Kuleana tenants.

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Given these concerns, Launiupoko Water Company Inc.. opposes the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,

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Glenn E. Tremble
Treasurer/Secretary

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April 25, 2022

M. Kaleo Manuel
Deputy Director
Commission on Water Resource Management
1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is Glenn Tremble, and I am the Treasurer for Olowalu Water Company Inc.. I write on behalf of Olowalu Water Company Inc.. to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

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Given these concerns, Olowalu Water Company Inc. opposes the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,

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Glenn E. Tremble
Treasurer/Secretary

WEST MAUI LAND COMPANY, INC.

LAUNIUPOKO — OLOWALU — KAUAULA — KAHOMA — MAKILA

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April 25, 2022

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1151 Punchbowl Street #227
Honolulu, Hawai'i 96813

Re: Concerns Regarding the Proposed Designation of the Lahaina Aquifer Sector as a Surface Water and Groundwater Management Area

Dear Deputy Director Manuel:

My name is Heidi Bigelow, and I am a Project Manager for West Maui Land Company, Inc.. I write on behalf of West Maui Land Company, Inc. to express our concerns regarding the Commission on Water Resource Management's ("CWRM") proposed designation of the entire Lahaina Sector as a Surface Water and Groundwater Management Area.

The State Commission on Water Resources. ('CWRM') was created in 1987. They control all water – ground and surface. CWRM is proposing to designate of ALL of west Maui as a ground and surface water management area (WMA). You may be familiar with two WMA's – Molokai and Na Wai Eha, here on Maui that have been in the news quite a bit. The goal is to protect our water resource, which we all agree is critical. CWRM already has the authority to grant (or deny) diversion and well permits and limit pumping and diversions. They receive monthly pumping reports from wells and diversions, so can monitor the aquifers. So what does a WMA add? More layers and years of litigation. Water will stay in the streams and native tenants and DHHL will have water, but what are the impacts on all the other users in west Maui? Likely, no new homes will be built for many years. CWRM anticipates that w Maui will be a designated WMA by May. Then water users, have a year to submit existing water use application to justify their water use. CWRM can accept or modify the request, which means, as an existing users are not protected. There doesn't appear to be an avenue for legal challenges now – the opportunity comes during the use applications which are all treated as contested cases, so forcing everyone in w

Maui to be in litigation for years. Seems a sincere effort to disseminate information and detailed process and clear timelines should be made to all residents, business owners, farmers, kuleana tenants, and water purveyors should be made before the designation is made.

CWRM cannot (or isn't supposed to) grant new use applications until all existing use applications have been processed. Permit flow chart on the web site is challenging to follow. Since designating Na Wai Eha as WMA, it took CWRM 13 years to process about 130 existing and new use application. They issued a Decision and Order in 2021, which was challenged, and is still at the Supreme Court. After 30 years of being a WMA, Molokai Ranch's 'new use' application is still pending. (Their original existing use application was not processed, so pending application is considered a 'new use'.) Maui County also has an application pending with the CWRM in the Molokai WMA. The County's application is supposed to be in a combined contested case with the Ranch, but the CWRM has not yet accepted the Ranch's 2019 application.

What does this mean? If you are a current user, you or your water purveyor (unclear who submits the application), will need to submit an existing use application(s) to justify your current uses. Separate applications may be required for ground (well) or surface (stream) water uses, that is unclear. If you are not a current user, you may need to wait for all current use applications in the WMA to be processed.

(Remember, CWRM took 13 years to process Na Wai Eha took 13 years. 'Domestic residential' users are exempt from submitting applications, but it is unclear how or when that determination is made. In Na Wai Eha, all users applied, and the determination was made during the contested case hearing process. There is a provision to exempt the County, but the extent the exemption is unclear. It's possible that existing County uses do not need to apply but new County uses do need to apply, as they did in Moloka'i. Again more questions and potential impacts to all of west Maui.

Molokai (ground water management area) and Na Wai Eha (ground in I'ao, surface all four streams, including I'ao) existing users had different application processes:

Molokai, the water company applied, but in the more recent Na Wai Eha matter, EACH individual users, many of who were kuleana users, had to apply. It's unclear what the process will be for west Maui – where both ground and surface water are used for domestic purposes and irrigation, but what is clear is that west Maui has many more existing users than Molokai and Na Wai Eha.

Bottom line: The consequences, intended or unintended, are unknown. The impacts are far reaching – impacting every resident, farmer, and business owner in w Maui. CWRM should treat this like an Environmental Impact Study, notifying all potentially impacted individuals, companies, and agencies, like one does in an EIS. The staff report and recommendation should be treated like an EIS – held to that standard of detailed review and assessment. Formal replies should be made to all submittals.

This is not an exhaustive list, but these are some of the questions and requests for information that came up during the review of CWRMs handling of other designated areas:

1. How many existing use and new use applications does CWRM anticipate receiving and processing and in what time line? If projected timeline is quicker than Na Wai Eha, please provide the reasoning and justification.
2. Provide a draft of the existing use applications that will be used in west Maui and outline of who will be required to submit applications.
3. Is there a different procedure for ground water and surface water use applications (existing and new).
4. How much water will be left for other users after DHHL reservation? Will this or could this impact or limit the existing users?
5. What happens if an individual or business does not submit a use application? Who / how will this be policed?
6. Who polices the approved uses?

7. There are several private PUC regulated water companies in W Maui. Whose orders prevail: CWMR's or the PUC?
8. What are the impacts on housing? W Maui is in a housing crisis. Will the designation stifle housing including entitled, undeveloped land? There are several approved projects in w Maui, but they would not be considered existing users – what happens to those projects? Are they delayed?
9. The County is seeking to develop new ground water sources after the new instream flows were put in place by CWRM in 2018, drastically limiting the ability to divert water. The county is limiting water meters and restricting use until it develops this new source. Will they need to wait until all use applications are processed before they are issued a well permit if all of west Maui is designated?
10. Will all water companies and the County Dept. of Water Supply be directed to issue moratoriums on any new water meters until all existing use applications will be processed?
11. Please describe how the water from Development Tunnels applied.
12. Please provide detail of calculations and assumptions used for the Authorized Planned Uses. How will these be treated? As new uses?

Many questions and no clear answers on process and expected time lines. We look forward to your response to our request for information.

Given these concerns, West Maui Land Company, Inc. opposes the designation of the Lahaina Aquifer Sector. I appreciate the opportunity to provide testimony.

Respectfully,



Heidi Bigelow
Project Manager

Aloha kākou,

My name is Lauren Palakiko. I am born and raised in Lahaina, and a resident of Kaua'ula Valley.

I am here to ask that you designate Lahaina as a WMA.

The ongoing health and well being of our island's precious eco system has always been very important to me. It's even more now that I am married to a kalo farmer.

Over the past 7 years that I've been with Charlie, I have seen the decline in the stream first hand. We've documented with our GoPro the flourishing life from the muliwai to up above the dam where the water is diverted. 'Opae and different varieties of 'o'opu.

The muliwai went dry on April 8, 2019 and it was extremely sad to witness with our own eyes these native species dying off by the masses. By June, it was an 'o'opu graveyard down there.

I've been by Charlie's side as he calls LIC, sometimes daily having to ask for more water. There is a disconnect in reality with these folks. Legally, the stream and kuleana owners with appurtenant and riparian rights have the highest rights to the water. They have been telling us someday they'll give us more water when they fill all of their reservoirs.

The IIFS was mandated on March 20, 2018. The next two weeks the water ran at an extreme low. On April 30, a month later, there was almost no water in the stream while their reservoir was overflowing. It's as if they had cut us back even further than normal out of spite.

Also, less than 2 weeks ago, they had cut off our domestic water which feeds our homes. My son and I had to bathe out of a bucket filled with river water. The water in our pipes are extremely important as this is also how we water our plants and lawn, which we must keep green in order to create a buffer to shield us from fires.

Based on LIC's track record, I personally do not believe that they would act justly, or ever comply with the law as we've witnessed since the IIFS was implemented, unless they were managed by an outside third party to keep them honest. They are a private company acting in favor of their own personal interests and profits, and therefore couldn't care less about the health of the environment and native farmers that have been in the valley for generations.

We've been living under their tyranny because no one has been able to hold them accountable until this past month, when CWRM issued a letter of alleged IIFS violation. I believe designating the Lahaina aquifer as a water management area would put an end to this. Mahalo.

From: [REDACTED]
To: DLNR.CW.DLNR.CWRM
Subject: [EXTERNAL] Fwd: Cwrn testimony
Date: Tuesday, April 26, 2022 6:12:33 PM

Lillian Suter
[REDACTED]
Lahaina, Hawai'i 96761
email: [REDACTED]

Commission on Water Resource Management
State of Hawai'i Department of Land and Natural Resources
PO Box 621
Honolulu, Hawai'i 96809
Email: dlnr.cwrn@hawaii.gov

RE: Recommended Designation of the Lahaina Aquifer Sector as a Ground and Surface Water Management Area ("WMA")

Ke aloha nō e Chair Case and Water Commissioners,

I am a kupuna of Lahaina who was born and raised here and I am one of the 'ohana that are restoring lo'i kalo on kuleana land. Mahalo for this opportunity to testify in support of the Chair's recommendation to designate the Lahaina Aquifer Sector as a surface water and ground water management area. For some time now, we have been experiencing drought and related impacts, including declines in stream flow. As we prepare for our new climate reality, we believe that designation, and the water use permitting that goes with it, are the best tools to address these challenges.

Our Water Code requires designation when resources "may be threatened by existing or proposed withdrawals" of water. HRS § 174C-41(a). As a resident of Lahaina and a mother as well as grandmother whose descendants are kalo farmers in Kahoma Valley, whom depend on Kahoma stream, I believe that "regulation is necessary to preserve our diminishing ground water supply for future needs." HRS. § 174C-44(3).

Your staff submittal highlights many of the water challenges our community is facing, including harm to ground water quantity and quality by saltwater intrusion, climate uncertainty due to prolonged drought and declining rainfall, as well as the connection between ground and surface water resources. More numeric IIFSs have encouraged new well construction. In designated areas, you are better able to manage well placement to protect the long-term health of our precious ground water. And perhaps most importantly, our Native Hawaiian cultural practices have

and will continue to be harmed without additional protective action by this Commission. Our ability to maintain our traditions and lifeways is at risk.

For example, there are major conflicts over water use in our community, which makes designation necessary for ponomanagement of our resources. We cannot continue to have kalofarmers, whose water use is a protected public trust purpose, receiving their water at the mercy of plantation water systems and the developers who currently operate them. Competition over declining water resources in our area has already led to conflicts over water, and we only expect that to get worse. The Water Code proclaims that designation is appropriate where “serious disputes respecting the use of surface water resources are occurring.” HRS §174C-45. Serious disputes are occurring in our community right now and your submittal confirms that.

Designation would help your Commission balance requests for water and ensure that public trust purposes, such as water for kalo, have priority. I have children and grandchildren that are farming kalo on kuleana land. It is because of wai (water) from Kahoma stream that we are able to maintain this practice that is vital to our identity as Hawaiians. Without the water we have no kalo (taro), we lose that ‘ai (food) that feeds us physically and connects us spiritually to our Native Hawaiian ancestors. Designation is necessary to ensure any hope for the future that my children and their descendants will always be able to sustain those connections. We believe that designation is the best tool to address these and other issues our community faces

Under the Hawai‘i Supreme Court’s ruling in *Waiāhole*, “the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation” and “where [scientific] uncertainty exists, a trustee’s duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.” We do not believe uncertainty exists, but even if you do, please vote today to move forward with the designation process.

Mahalo for this opportunity to testify, for considering my concerns, and for fulfilling your kuleana as a steward of our public trust by proactively protecting our resources.

Na‘u me ka ‘oia‘i‘o a me ka ha‘aha‘a,
Lillian Suter

From: [Suzette Montalvo](#)
To: [Hyatt, RaeAnn P;](#) cwrn.dlnr@hawaii.gov
Subject: [EXTERNAL] Designation of Lahaina Aquifer
Date: Tuesday, April 26, 2022 6:41:37 PM

> Aloha CWRM staff members and commissioners,

>

> My name is Suzette Felicilda, I'm a Kanaka maoli from Mala, Lahaina. I am testifying in support of designation of the Lahaina aquifer.

> Mahalo

>

> Sent from my iPhone

From: [FM](#)
To: cwrmlnr@hawaii.gov
Cc: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Lāhainā aquifer designation - dual surface & groundwater
Date: Tuesday, April 26, 2022 8:02:30 PM

Aloha Commisioners and CWRM Staff

I'm here at the public hearing in Lāhainā at Waiola. It's getting pretty late for our keiki outside who have school in the morning so I'm pretty sure we can't stay til it's our turn to testify. Instead, I'm writing this message to you in support of designation of all the surface water and groundwater in the entirety of Maui Komohana.

The esteemed hydrologists and staff of CWRM have presented plenty of well-researched data in the draft Finding of Facts. On one point I differ- As longtime Launiupoko ratepayers, our family would argue that it wasn't the interim instream flow standards that caused Kauaula conflicts - it was the decades long mismanagement and total lack of planning by the private "water company" which serves as a sham subsidiary for the land developers who own it. Makila Land Co cut off Pi'ilani Auwai way before LIC could blame the IIFS for all the conflicts that they and their investors created.

The ratepayers can tell you that even yesterday, the potable main was broken, wasting large scale water in addition to the regular unaddressed leaks, breaks, and loss in this poorly maintained system, from diversion to delivery pipe. The mismanagement and bad business practices is the reason our community is constantly in court, filing for injunctions, or defending our cultural practitioners from lawsuits filed by these water companies and their investors.

We've seen what the uncontrolled situation in West Maui looks like without dual designation. It's long overdue to implement the protections afforded by designation, and finally adopt the mindset of precautionary principle when it comes to resource management.

Mahalo CWRM and we urge you to designate our aquifer for special management. Our Maui Komohana community will partner with you to ensure protection of the wai, source of life.

Fay McFarlane

From: [Leilani K](#)
To: [DLNR.CW.DLNR.CWRM](#)
Cc: [Leilani K](#)
Subject: [EXTERNAL] Testimony PRO DESIGNATION
Date: Tuesday, April 26, 2022 9:25:38 PM

Aloha Kakou,

My name is Leilani Keli'ikipi and I'm not only a Kauaule valley resident on behalf of Nakaikuaana alongside my longtime partner, Kamuela'Okalani Dizon, who's the youngest son of Yolanda and Albert-Dall Dizon.

I'm also a direct lineal descendant of a few parcels in Wainee nui, Kauaule Valley, as we also live with our children, whom the youngest being 10 months old.

I'd want my children to have consistent water flow not only for their generation, but many, many more generations to arise, before it's completely depleted. At the rate it's going now, there will never be any changes if there's no stand for what's right. This is our time, this is our moment for our keiki and their keikis.

I'm proposing that you carefully ponder and take all this information into consideration of my reasonings to Pro choice for water designation.

My only questions are:

How can you promise that this IS the solution?

What's the turn around time for WUPA?

Will you make it hard for us, Kuleana to obtain for WUPA?, Although it's rightful trust rights for consistent water to Kuleana residents.

How long after WUPA will All these issues be resolved?

Do what's right, Do PONO, Don't just speak it, Actions speak louder than words. Taking everything into account, ACTIONS give importance to words, make results, and at last have the ability to impact individuals, like myself more than words. It's critical to finish ACTIONS so the things you do are lucid with the things you say.

E ola I ka wai, WATER is life.

Without water, there's nothing!

Mahalo iā 'oe no kou manawa a me ko'u ahonui i ka ho'olohe 'ana ia'u i kēia pilikia ko'iko'i.

Mahalo NUI, a pau!

Leilani Keli'ikipi

Mobile: [REDACTED]

From: [Kalena Shim](#)
To: [DLNR.CW.DLNRWWM](#)
Subject: [EXTERNAL] West Maui Water Management Testimony.
Date: Tuesday, April 26, 2022 9:43:43 PM

Aloha my name is Kalena Shim and I am in support of designating the Lahaina Aquifer Sector area as a water management area for West Maui. Born and raised in Lahaina for 25 years I have seen our streams lose its water resources to hotels, golf courses, pools etc.. while our k̄anaka struggle to have water flow for lo'i and other natural crops. Which is our culture! And when you deplete the water resources from the people of Hawai'i you deplete the culture. And when you deplete the culture you deplete the people. And when you deplete the people you deplete Hawai'i. The people are what make Hawai'i, Hawai'i. Because we keep the culture alive, and protect all its resources. From Mauka to Makai!
Mahalo!

From: [Charlene Rowland](#)
To: [DLNR.CW.DLNR.CWRM](#)
Cc: [REDACTED]
Subject: [EXTERNAL] Area Designation in the Lahaina Aquifer Sector
Date: Tuesday, April 26, 2022 10:05:13 PM

My Name is Charlene Rowland and I'm in Favor of Designation. I feel it is necessary to protect and restore traditional and customary Native Hawaiian rights and practices to include kalo cultivation. It is very important to secure our water future now for generations to come. Ground and surface water resources are connected and should be managed together to ensure sustainability. Please vote to designate. Requests for delay serve only the financial interests of a few, and our public trust resources and things like environmental protection and Native Hawaiian practices, have legal priority. We have serious disputes over water use in our community, and we/I support designation because it is necessary for proactive management of our water resources. Kuleana water users with appurtenant rights, who have the highest rights to water, cannot continue to be at the mercy of plantation ditch system operators.

Thank you for your time and attendance of this matter.

Have a beautiful and blessed day.

~Charlene Rowland~

Sent from my iPad

From: [menehune420](#)
To: [DLNR.CW.DLNR.CWRM](#)
Subject: [EXTERNAL] Ho'i ka wai
Date: Tuesday, April 26, 2022 10:12:49 PM

Aloha my name is Vince Saures. Return the water to the stream and to the Native Hawaiians. It is the Native Hawaiian peoples rights to water. Letting Native Hawaiians and Native Hawaiian plants like kalo go without water is shameful and illegal. It is shameful that for all these years you folks let corporate entities plunder our river beds and let it dry up killing all of our Native species. Shame on you! Make it right. HO'I KA WAI!

Aloha
Vince Saures

Sent from my Verizon, Samsung Galaxy smartphone

From: [Lakerslady Lakerslady](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Support for dual designation
Date: Tuesday, April 26, 2022 10:13:15 PM

I'm writing in support of designation of surface water and groundwater in West Maui. Despite the inconvenience of water use permit applications, our Lahaina community is loud and clear that we prioritize the greater good, resource protection and public trust doctrine. This designation is supported by our elected officials, community advocates, DHHL, environmental scientists, Kānaka cultural practitioners, and everyday maka'āinana of Maui.

Dual designation has been discussed here for many years and most moku descendants and longtime residents wish this process had started long before proliferation of private wells, sustainable yields approached or exceeded max, before our traditional and customary users were plagued by serious water disputes, lawsuits, and harrassment by private water/land companies.

Please honor our community's unwavering objective- designate both surface and groundwater in every part of the Lahaina Aquifer sector. Doing the hard work now will benefit our mo'opuna in the future.

Lynn McFarlane
Lahaina, Maui

From: [REDACTED]
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Lahaina Aquifer designation
Date: Tuesday, April 26, 2022 10:36:00 PM

Dear Sir or Madam,

I saw tonight's public hearing on a livestream and was encouraged by the testimony of my fellow community members. My name is Gary and I'm a resident of a subdivision in West Maui where there have been many years of conflicts about water use, river diversions, underreporting of wells, and lackadaisical management by privately owned "utility" companies.

Please move to designate all the water in the aquifer here. We'll deal with whatever consequences and restrictions that arise from designation because we understand the underlying state of affairs is not sustainable. Without designation, the water wars will continue unchecked and future generations will be disenfranchised.

I support designation of Lahaina Aquifer groundwater and streams.

Respectfully,
Gary McFarlane

From: [Joshua Guth](#)
To: [DLNR.CW.DLNRCWRM](#)
Subject: [EXTERNAL] Opposition to ground water and surface water management area for west maui
Date: Tuesday, April 26, 2022 10:51:57 PM

To all it may concern, I am opposed to the designation for west maui as a surface and ground water management area. I am specifically concerned with the permitting process of obtaining a surface water diversion permit and a water use permit. I feel that all affected residents especially those on kuleana lands or those that utilize stream water should be shown exactly what will be expected of them if the designation were to be implemented, and the time frame for approval of such and all applicable permits. If current users do not have a permit for water use and or diversion, is there a grace period? Will they be faced with hefty daily fines or threat of litigation? What will be the outcome of all west maui residents, will there just be year round water restrictions? Where is Lahaina water supposed to come from? Isn't department of water supposed to phase out of the kanaha diversion? I feel that the intention of the water commission and and CWRM is good, however looking at the challenges that each stream offers and the shear number of streams that the commission is tasked with I am not confident that the commission has the resources to properly implement this management area effectively. Thank you for your time and consideration.

Mahalo,

Joshua Guth

My email has changed. Please update your address book to [REDACTED]

From: [Ke'eaumoku Kapu](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL] Testimony for west maui ground and surface water designation.
Date: Tuesday, April 26, 2022 11:23:24 PM

Aloha mai kakou,

My name is Keeaumoku Kapu and i am a kuleana owner in Kaua'ula and have been on these very lands from the time of the great mahele of 1843 and i grow Kalo to help sustain my livelihood and heritage inbeded in our ohana to the next generation and so on.

I am an heir to the original lands that are still governed by a pre-existing kanawai (law) of our constitutional monarchy and from that case set standards to water uses in Kaua'ula by a supreme court ruling in 1897 Kumliilii versus Horner.

Over 70 plus kuleana families in Kaua'ula also includes the names of Palakiko Ka'ahanui, Mahelona, Nakaikuaana, opunui, Kua, Apaa, Kaaeae, Namauu, Kupihea, Puali, Espinda, White, Pali, Kapule, Kalua, Kealo, Kalaipaehala, paki and the Kapu ohana the same original heirs that are named in the kumuliilii versus horner case. This case was about sharing water. What happened? Now we have to subject ourselves to a monitoring system because of a colonial management system that showed huge profits with zero resource benefit to our fauna, species, and our diminishing entitlements as a mahiai kalo farmer which is suppose to have the highest protection for water uses in the State of Hawaii.

The 1897 case was about sharing water. Well lets start sharing. I support the ground and surface water designation of the whole Lahaina Kaanapali aquifers and ask that this body to please start the designation process now.

Yours truly,

Ke'eaumoku

Ke'eaumoku Kapu
Kuleana Ku'ikahi LLC/Aha Moku o Maui Inc.

[REDACTED]
Lahaina Hi 96761

Ph. [REDACTED]

From: [consuelo apolo-gonsalves](#)
To: [Hyatt, RaeAnn P](#)
Subject: [EXTERNAL]
Date: Tuesday, April 26, 2022 11:48:05 PM

My name is Consuelo Apolo-Gonsalves I strongly support the designation of ground and surface waters aquifer in lahaina enough of people who do not know what they are doing and for all the people who grumbling about the process too bad before you go buying land do your research sucks to be tou guys....strongly support designation

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)