

From: [Amber](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Wednesday, July 9, 2025 9:49:47 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Amber and I am from Kauai. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku ‘Aupuni o Ko‘olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku’s constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams; among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui’s stream diversions that have festered for far too long.

Supreme court decisions such as [Kaua‘i Springs](#) and the recent [Nā Wai ‘Ehā](#) opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request

would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku ‘Aupuni o Ko‘olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku ‘Aupuni o Ko‘olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Amber H.

Ola i ka wai!

From: [Tara Apo-Priest](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-3
Date: Thursday, July 10, 2025 3:06:44 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- *The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;*
- *The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;*
- *The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;*
- *What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;*
- *What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;*

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially

for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

*Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.*

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter."

Tara Apo (she/her)

M.S. Candidate in Environmental Justice

University of Michigan I School for Environment and Sustainability

Catalyst Fellow for Indigenous Studies, Tishman Center for Social Justice and the Environment

From: [Erica Arnold](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 11:03:35 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;

The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;

The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;

What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;

What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

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Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

From: [Patricia Blair](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Please REJECT the staff recommendation to deny Na Mokus contested case request. Please GRANT Na Mokus request instead. It is the pono thing to do.
Date: Thursday, July 10, 2025 8:02:38 AM

Mahalo, Patricia Blair, Kailua, 8088886393
Sent from my iPad

From: [Boisvert-Jorgensen](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 9:50:59 AM

Aloha,

There have been too many devastating decisions made over the last two centuries that have denied Native Hawaiians their right to land, water, and their livelihood. Corporate greed and its influence over decision-makers have been proven, time and again, to be the main reasons for the unfair decisions.

It's time to change that trajectory.

Please DENY the staff recommendation in Item D-3.
Please GRANT *Nā Moku 'Aupuni o Ko'olau Hui* their requested contested case hearing.

Thank you for your kind consideration.
Denise Boisvert
Honolulu

From: [Betsy Bowen](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] AGENDA ITEM D-3
Date: Thursday, July 10, 2025 10:57:57 AM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Betsy Bowen and I am from North Kihei. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the

current permit and potentially for any future permits that may be issued.

As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts.

Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Thank you for your consideration of this matter.

Sincerely,
Betsy C Bowen

From: [Will Caron](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-3
Date: Thursday, July 10, 2025 5:27:37 AM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Will Caron and I am from Kahalu'u. I respectfully but strongly urge you to vote NO on item D-3, and to instead grant Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;

The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;

The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;

What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;

What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as [Kaua'i Springs](#) and the recent [Nā Wai 'Ehā](#) opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively

looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to grant the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Mahalo,

Will Caron
Community Organizer
Kahalu'u, O'ahu
8083874920

From: [Ashiya Carter](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 9:31:58 AM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Ashiya Carter. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as [Kaua'i Springs](#) and the recent [Nā Wai 'Ehā](#) opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes

actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Ashiya Carter

From: [Glenn Choy](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-3
Date: Wednesday, July 9, 2025 10:23:05 PM

Please grant the request for a hearing. Serve Hawai'i interests, not those of foreign capital.
Sent from my iPhone

From: [Beth Clapper](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Na Moku Aupuni o Ko'olau Hui
Date: Thursday, July 10, 2025 7:59:29 AM

I am writing to strongly urge you to ALLOW and GRANT the contested hearing request from Na Moku Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

This will provide further clarity and evidence on why East Maui water should not be in the hands of yet another foreign entity.

It is sad to even have to state the obvious if an issue that has been corrupt for far too long!

Do what is PONO, give rights to the wai where rights belong!

Mahalo,

Elizabeth Clapper

Sent from my iPhone

From: [Andrea Dias-Machado](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 8:38:31 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams; among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to

protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.”

Me ke aloha,
Andrea Puanani Dias-Machado

Andrea P. Dias-Machado
Owner and Principal Consultant
Huliau Aloha LLC
www.huliaualoha.com
(808) 590-7349
<https://calendly.com/andrea-huliaualoha>



From: [gianni duff](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 8:40:46 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;

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Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter."

From: [Jadie Iijima](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 11:57:29 AM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Jadie Hōkūala Iijima Geil and I am a lifelong O‘ahu resident. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku ‘Aupuni o Ko‘olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku’s constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the coming year;

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Ko‘olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku ‘Aupuni o Ko‘olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,

Jadie



Friday, July 18, 2025

Board of Land and Natural Resources

Agenda Item D-3

Position: Oppose

Me ke Aloha, Chair and Members of the Board of Land Natural Resources

The Land Division seems confused about the nature of both the public trust and the nature of a contested case, and to have taken the narrowest and most self-interested possible view regarding property and resource interests of the petitioners. Rather, it is plain that the backward approach of the Land Board reverses the rights to natural resources. The lease of state lands clearly intends to preempt use of natural stream flow downstream of diversions, guaranteeing the diversion of available amounts to the detriment of downstream users.

The Commission on Water Resource Management (Water Commission) has adopted interim instream flow standards based on long-term averages, which militate against low-flow and drought conditions. The lease of State lands assumes automatic diversions based on infrastructural capacity, not on flows available only after downstream public trust uses are met. These conditions invert the meaning and violate the purpose of the public trust: diversions reduce the value of public trust resources in order to guarantee benefit to off-stream commercial uses. A proper basis for understanding the public trust interest in stream flows is the optimum flow for all downstream uses as a first-order consideration. Diversions are a second-order consideration. The Water Commission has not determined optimum flows for public trust uses, which presumably could include the interruption all diversions under low flow conditions to assure downstream public trust uses.

Petitioners' standing to request a contested case does not depend on past participation in decision-making regarding other processes. Rather, they are activated by the instant decision being proposed. The conditions of stream flow diversions place a different challenge upon the public trust uses of stream flow, as noted above. Public trust uses are not being observed if low flow conditions mean that diversions for commercial purposes leave no downstream flow. This violation of the public trust harms petitioners, entitling them to seek redress through a challenge to diversions for commercial purpose, even as it may reduce State lease revenues.

While it is constitutionally appropriate for the Land Board to lease State lands, it's determination of the value and use of available water resources is impertinent. That is the province of the Commission on Water Resource Management, which has the unenviable task of determining necessary but unpredictably varying stream flows to serve public trust uses. To date, it has only determined interim minimum flows, not optimum flows to the benefit of these public trust lands and their potential reasonable and beneficial purposes, including traditional Hawaiian values in the 'āina.

The lease value of the land in this case is entirely confined to the amount of water to be diverted from it to other, non-public trust, private lands. In other words, it is a completely improper valuation of land

and an abandonment of public trust resources to divert these resources to private commercial lands in detriment of public trust purposes.

Commercial use of such water is subject to higher scrutiny than the public trust uses outlined by the Supreme Court, and the undermining, rather than benefiting, of public trust lands values in order to boost the commercial value of private lands is yet to be adjudicated. The land value to the community – “the State” – is in the use of the land itself, largely based upon its ecological conditions, given all natural resources it contains, pre-eminently the value of the land as served by undiverted natural flowing streams, including the natural and public, legal and economic value to nearshore waters and their habitats. Hence the value of the proposed lease is entirely dependent upon what the Water Commission may deem available for use other than in the watershed. Until those natural, economic, and legal values are established, the only appropriate current action by the Land Board is a determination of the value of these lands in their natural undiverted state. The fact that diversions of public resources were appropriated by colonial usurpers has no historical preeminence over the current public trust of the people of Hawaii.

We should bear in mind that unlike previous cases only considering the appropriate use of water among counter-claimants in the public trust versus commercial use, this case involves the lease of lands.

Where is the appropriate analysis of the value of those lands with their natural flow of water – not only in monetary terms, but in public trust terms?

This purview and responsibility for the Land Board has not ripened. Prior responsibility lies with the Water Commission. In due time, the lease of these lands must be evaluated on the basis of their diminished value with proposed water diversions.

Mahalo for the opportunity to address this issue,

/s/ Charley Ice, Hoa'āina

Hydrologist, Commission on Water Resource Management 25 years (retired)

Planner, Hawaiian Home Lands (10 years), Hawaiian rights specialist and Chair's liaison to the Water Commission

From: [Bianca Isaki](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 8:55:37 AM

To: blnr.testimony@hawaii.gov
Subject: Agenda Item D-3

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Bianca Isaki

--

Bianca Isaki, Ph.D., Esq.
Law Office of Bianca Isaki
1720 Huna St. 401B
Honolulu, Hawai'i 96817
mobile 808.927.5606

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From: [Waikiki - Hawaii Condo](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D3
Date: Thursday, July 10, 2025 9:59:49 AM

Aloha,

This testimony is to ask you to REJECT the staff recommendation that would, effectively, deny Na Moku's rights to due process.

Please GRANT the hui their requested contested case hearing.

Mahalo,
Kim Jorgensen
O'ahu

From: coloneledamvc@aol.com
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Wednesday, July 9, 2025 9:41:23 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Richard Kite. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the

credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decision making that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Richard Kite

From: [Robert Knourek](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 5:03:45 AM

To: blnr.testimony@hawaii.gov

Subject: Agenda Item D-3

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

I am Rob Knourek and I am from Kapalua.

I respectfully but strongly urge you to APPROVE the staff recommendation in item D-3 without further delay.

We need to manage our water resources in an expeditious manner and without delay.

Accordingly, I urge you to PASS on the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,

Robert Knourek

From: [Kupuna Moopuna](#)
To: [DLNR.BLNR.Testimony](#)
Cc: [Kupuna Moopuna](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 10:33:21 AM

Kūpuna for the Mo'opun

committed to the well-being of Hawai'i for the next generations to come

kupuna4moopuna@gmail.com

Meeting of the Board of Land and Natural Resources

DATE: July 11, 2025

TIME: 9:00 a.m.

PLACE: DLNR Boardroom, Kalanimoku Bldg

“Testimony for Agenda Item D-3”

DENY the staff recommendation in item D-3, and GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing

Aloha,

We, Kūpuna for the Mo'opuna, a hui of Hawaiian Homes Commission Act kūpuna beneficiary farmers from Pana'ewa, Hawai'i, urge the Board of Land and Natural Resources to **DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.**

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions.

We urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui.

Mahalo,

~Kūpuna for the Mo'opuna
Pana'ewa, Hawai'i

From: [Zachariah Lockwood](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3 – Support for Nā Moku's Contested Case Request
Date: Thursday, July 10, 2025 7:12:14 AM

Dear Chair Chang and Members of the Board,

I write in strong support of Nā Moku ‘Aupuni o Ko‘olau Hui’s petition for a contested-case hearing on the 2025 East Maui revocable permit and respectfully ask the Board to reject the Staff’s recommendation to deny that request.

A contested case is the Board’s best tool for meeting its public-trust duty.

The Hawai‘i Supreme Court has made clear that every state agency is a constitutional trustee of wai. In *Waiahole I* the Court held that trustees must protect instream values and Native Hawaiian practices through “openness, diligence, and foresight,” supported by a robust evidentiary record before offstream diversions are allowed. In *Nā Wai ‘Ehā*, the Court reiterated that agencies may not rely on prior flow standards alone when new uses or harms emerge; trustees must take a “close look” and place the burden on applicants to justify continued diversions. A contested case supplies the sworn testimony, cross-examination, and written findings the Court demands and that informal public comment cannot provide.

The Staff’s recommendation understates the risk of error and overstates the burden of a hearing.

The Staff argue that Nā Moku lacks standing and that CWRM jurisdiction over instream flows moots a Board-level hearing. Yet the revocable permit at issue is a land disposition that authorizes diversions across 33,000 acres of public land; only the Board can modify or condition that disposition. A contested case would allow the Board to evaluate, among other points, (a) whether millions of gallons lost daily from unlined reservoirs constitute waste; (b) whether the permit authorizes more water than Mahi Pono can reasonably use; and (c) whether stream dewatering in Huelo violates Native Hawaiian rights in spite of nominal IIFS compliance. Resolving such factual disputes without sworn evidence creates an unacceptably high risk of erroneous deprivation of constitutional and customary rights, far outweighing the administrative cost of convening a single hearing.

Deferring entirely to CWRM would repeat the errors reversed in *Nā Wai ‘Ehā*.

In that case the Commission relied on existing flow standards, declined to probe applicants’ asserted needs, and omitted findings on Native Hawaiian practices. The Court vacated the decision, emphasizing that agencies cannot abdicate fact-finding or delegate their trust responsibilities to the very applicants who seek to divert water. Granting Nā Moku’s request will give the Board the evidentiary foundation necessary to avoid a similar reversal and to craft measured, enforceable permit conditions that reflect present-day realities rather than outdated assumptions.

For these reasons I respectfully urge the Board to **grant** Nā Moku ‘Aupuni o Ko‘olau Hui a contested-case hearing on Agenda Item D-3.

Mahalo nui for your consideration.

Zach Lockwood

J.D., William S. Richardson School of Law
University of Hawai'i at Mānoa, Class of 2025
zlock@hawaii.edu | (720) 560-1558

From: [Madonna Dizon](#)
To: [John Shockley](#)
Cc: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Re: LIVE NOTE: Regarding the Maui water flow diversion from East Maui by Alexander & Baldwin
Date: Thursday, July 10, 2025 4:19:01 AM
Attachments: [favicon.ico](#)
[favicon.ico](#)

Do what is PONO for the people and the 'aina. Diverting stream water disrupts taro farming, native ecosystems, and indigenous heritage. During crises of the 2023 Lahaina fires, diverted reservoirs could have aided firefighting. Stream restoration and traditional farming will work toward food sustainability. Diversion for real estate and golf courses geared toward the wealthy fail to address the needs of the people. Malama is your KULEANA.

Me Ke Aloha Pumehana, Madonna

On Thu, Jul 10, 2025, 3:57 AM John Shockley <shockleyjr@gmail.com> wrote:

Aloha Chairman Chang and BLNR Members!

Water is the precious life line of the land. For about a century the Plantation System diverted water to West Maui sugar growers. The sugar fields are gone but the water flow continues for real estate development companies. Unlined waterways waste water during the diversion process.

This water is vital to the farmers and lands where Hawaiian food crops are grown. There is a balance long overdue for the Pono use of water on Maui. Although we live on O'ahu, we know how important this water issue is for not only Maui be all of us.

We therefore ask you to allow a Contested Case to move forward before you make your decision about water diversion on Maui.

Mahalo for your time and hopefully, your kokua.

John & Rita Shockey
Coordinators: Free Access Coalition

Free Access Coalition
freeaccesscoalition.weebly.com



To: Chair Chang and all BLNR members July 9, 2025
blnr.testimony@hawaii.gov
From: Richard "Dick" Mayer dickmayer@earthlink.net
RE: **BLNR 10-July-2025 Agenda item D-3**

Aloha Chair Chang and Members of the Board of Land and Natural Resources.

My background: My name is Richard "Dick" Mayer I am a 57-year resident of Upcountry Maui and consumer of the water diverted from East Maui. I am a Professor Emeritus, having taught geography and economics for 34 years at Maui Community College. I'm also a former member of the Maui Planning Commission and I was Vice-Chair of both the Maui General Plan Advisory Committee that created the present Maui Island, and the Upcountry Maui Community Plan.

I request that the Board of Land and Natural Resources NOT ACCEPT the recommendations of the DLNR staff with regard to Item D-3 on your 11-July-2025 Agenda. Rather, I believe it is very important for a contested case hearing to be conducted to determine many of the issues concerning the East Maui watershed, the East Maui streams, the harvesting of the water from those streams, and the numerous uses and users of those waters. **The contested case request from Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) should be honored.**

A particular concern is the need to recognize the longstanding injustice that has been done to many of the East Maui residents who have seen water from their communities being transported away by a major corporation for over a century, and now is being exploited by a foreign pension entity.

The BLNR will be deciding whether that drainage of water from the East Maui residents and communities will be continued, or whether a remedy can be found to recognize the various needs of the streams, HHL, farmers, homeowners, and the County. A Contested Case will allow the parties to make their cases. It should also provide the info needed to decide who should get the long-term East Maui water lease and what conditions need to be included in that lease to meet constitutional requirements.

There are numerous issues involved and I believe that a contested case hearing would be the best mechanism for your Board to get all the information it will need to make proper decisions.

We, your Board and all Maui residents must protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Mahalo for allowing me to provide my testimony, Dick Mayer

From: [KEILI MCEVILLY](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 7:34:39 AM

Dear Chair Chang and Members of the Board,

*My name is Ke'ili McEvelly and I am a kānaka māoli in Waimānalo, O'ahu. I respectfully but strongly urge you to **DENY** the staff recommendation in item D-3, and to **GRANT** Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.*

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- *The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;*
- *The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;*
- *The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;*
- *What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;*
- *What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;*

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decision making that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

*Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.*

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter."

- Ke'ili McEvilly

From: [meredith](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-3
Date: Wednesday, July 9, 2025 10:21:46 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Meredith Buck and I am from Kailua Kona, Hawaii Island. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as [Kaua'i Springs](#) and the recent [Nā Wai 'Ehā](#) opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and

customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Meredith

From: [Peter \(Kalawai'a\) Moore](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] In Support of the Contested Case Hearing_ DENY the staff recommendation in item D-3
Date: Wednesday, July 9, 2025 9:51:38 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Kalawai'a Moore and I am from Honolulu, but work out of Hōlani, Hana in East Maui. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as [Kaua'i Springs](#) and the recent [Nā Wai 'Ehā](#) opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and

customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,

Kalawai'a Moore

P. Kalawai'a Moore
Professor, Hawaiian Studies
Windward Community College
Editor-in-Chief, Hawaiian Journal of Law and Politics
(808) 235-7388
peterm@hawaii.edu

From: [Amy Muramatsu](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Subject: Agenda Item D-3
Date: Wednesday, July 9, 2025 11:25:21 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Amy Muramatsu and I am from Pukalani, Maui. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams; among many others.

A contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and

fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Amy Muramatsu
84 Ala Apapa Place
Pukalani, HI 96768

From: [Jessica Raina Myers](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on Agenda Item D-3 – Support for Nā Moku’s Contested Case Request
Date: Thursday, July 10, 2025 3:08:06 PM

Aloha Chair Chang and Members of the Board,

My name is Raina, and I am a stream monitor for the Ha‘ikū Community Association, a staff member of Sierra Club Maui, and a land steward on Honopou Stream in East Maui.

I write in strong support of Nā Moku ‘Aupuni o Ko‘olau Hui’s request for a contested case hearing regarding the 2025 revocable water diversion permit for Mahi Pono.

As someone who lives and works daily with the streams of East Maui, I have witnessed both the harm caused by diversions and the incredible healing that occurs when wai is allowed to flow again. I’ve seen native species return, lo‘i thrive, and communities reconnect to place through the simple act of water being where it belongs.

The streams of East Maui are not just sources of water—they are living systems that sustain everything from upland biodiversity to nearshore reef and estuary health. When water is diverted excessively or without accountability, the impacts ripple throughout the entire ahupua‘a and into the ocean. Fresh water is vital for regulating salinity, transporting nutrients, and supporting the life cycles of native stream species that migrate between mauka and makai. When streamflow is interrupted, our fishponds, limu beds, and reefs suffer.

Nā Moku’s call for a contested case hearing is not just about due process—it is about insisting on a full and

transparent review of the impacts of water diversions on ecological health, cultural rights, and food sovereignty. Denying this request would deny East Maui families the chance to present evidence, cross-examine claims, and ensure that decisions about wai are made with integrity and respect for the public trust.

I urge the Board to REJECT the staff recommendation in Agenda Item D-3 and GRANT Nā Moku's contested case hearing request.

Our communities have waited too long for real, informed, and equitable decision-making. Now is the time to stand for justice—for the streams, the people, and the future of East Maui.

Mahalo nui loa,

Raina Myers

Stream Monitor, Ha'ikū Community Association

Staff, Sierra Club Maui

Honopou ahupua'a, Hāmākualoa, Maui

From: [Madison Owens](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 7:18:34 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;*
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;*
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased streamflow, and what feasible steps can be taken to realize these benefits;*
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;*
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;*

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decision making that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion

*make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.*

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Madison Owens

From: [Kathleen Pahinui](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Nā Moku 'Aupuni o Ko'olau Hui
Date: Thursday, July 10, 2025 11:27:17 AM

Dear Chair Chang and Members of the Board,

I respectfully and strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Mahalo for your consideration.

Mālama 'āina,

Kathleen Pahinui
Waiialua Resident

From: [Pua'ala Pascua](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 7:28:16 AM

Dear Chair Chang and Members of the Board,

I respectfully and strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Pua'ala Pascua

From: [lori](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] AGENDA ITEM D-3
Date: Thursday, July 10, 2025 2:33:31 AM

Aloha Chair Chang and Members of
the Board of Land and Natural
Resources,

My name is Loriann Poaipuni and I
am from Waiehu, Maui. I respectfully
but strongly urge you to DENY the
staff recommendation in item D-3,
and to GRANT Nā Moku 'Aupuni o
Ko'olau Hui (Nā Moku) the right to a
contested case hearing, consistent
with your duties under the
constitution and the public trust.

Beyond upholding Nā Moku's
constitutional rights, a contested
case would provide critical,
comprehensive, and vetted
information to address numerous
persistent issues and concerns
regarding East Maui water
diversions, including:

- The need for an objective
method to determine how much
water will actually be needed by
the revocable permit applicant
for the year;
- The true extent of the impacts
that permitted stream
diversions may have on public
trust purposes, including
watershed health and Native
Hawaiian traditional and
customary practices;
- The extent to which Native
Hawaiian traditional and
customary rights may benefit
from increased stream flow,
and what feasible steps can be
taken to realize these benefits;

- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts.

Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,

Loriann Poaipuni

OLA I KĀ WAI!



Wayne Tanaka
Chapter Director

More Background:

For decades, East Maui kalo farmers and community members fought an uphill battle to vindicate their water rights, as former plantation oligarch-turned-real estate investment trust Alexander & Baldwin - with the [annual blessing of the Board of Land and Natural Resources](#) (BLNR) - dewatered dozens of streams that once sustained East Maui's watersheds, lo'i kalo, muliwai, and ways of life.

While they have seen some recent successes with the [Water Commission](#) and in the [Hawai'i Supreme Court](#), this was not

before many of the kūpuna who had first sought to assert their water rights [passed away](#), never seeing their rights vindicated, much less the mauka-to-makai stream flow that they dreamed of one day returning to their 'āina.

Moreover, the BLNR has continued to abdicate its own public trust responsibilities, allowing Alexander & Baldwin and its former business partner, Mahi Pono, to divert East Maui streams under annual revocable permits without [requiring these diverters to demonstrate their actual needs](#), or to reduce the [waste of millions of gallons of water per day](#) due largely to their refusal to use lined reservoirs.

The BLNR has also continued to defy [court orders to provide interested parties, such as the Sierra Club, a contested case hearing](#) before it issues its annual revocable permits that authorize these diversions. This includes its decision in December 2024 to [summarily deny the contested case hearing requests](#) that the Sierra Club had submitted in 2023 for the 2024 permit, and in 2024 for the 2025 permit.

Now, the BLNR is poised to continue this legacy of injustice, as it considers a staff recommendation to reject a contested case hearing request by Nā Moku 'Aupuni o Ko'olau Hui over the 2025 East Maui revocable permit. Doing so would once again deny East Maui kalo farmers and residents their constitutional rights to due process, to engage in Native Hawaiian traditional and customary practices, and to ensure a healthful environment for themselves and the generations to follow

From: [Noel Shaw](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 9:52:18 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust. As someone who is part of educating and creating space for keiki to learn about and eat kalo, kalo farmers having water is ESSENTIAL to the work I do having actual impact.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

--

Noel Kaleikalaunuoka'oia'i'o Shaw

619-261-5894

From: [John Shockley](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] LIVE NOTE: Regarding the Maui water flow diversion from East Maui by Alexander & Baldwin
Date: Thursday, July 10, 2025 4:00:40 AM
Attachments: [favicon.ico](#)

Aloha Chairman Chang and BLNR Members!

Water is the precious life line of the land. For about a century the Plantation System diverted water to West Maui sugar growers. The sugar fields are gone but the water flow continues for real estate development companies. Unlined waterways waste water during the diversion process.

This water is vital to the farmers and lands where Hawaiian food crops are grown. There is a balance long overdue for the Pono use of water on Maui. Although we live on O'ahu, we know how important this water issue is for not only Maui be all of us.

We therefore ask you to allow a Contested Case to move forward before you make your decision about water diversion on Maui.

Mahalo for your time and hopefully, your kokua.

**John & Rita Shockey
Coordinators: Free Access Coalition**

Free Access Coalition
freeaccesscoalition.weebly.com





SIERRA CLUB OF HAWAI'I

Testimony to Board of Land and Natural Resources

July 11, 2025

9:00 AM

Room 132

In OPPOSITION to Agenda Item D-3

Denial of Petition for Contested Case Hearing filed by the Native Hawaiian Legal Corporation on behalf of Na Moku Aupuni O Ko'olau Hui on December 19, 2024, Regarding Agenda Item D-9, Approved as Amended on December 13, 2024: Issuance of Revocable Permit to Alexander & Baldwin, Inc. and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Aloha mai e Chair Chang and members of the Board of Land and Natural Resources,

The Sierra Club of Hawai'i strongly urges you to DENY the staff recommendation to deny Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) a contested case hearing, and thereby violate its constitutional due process rights - including with respect to its members' Native Hawaiian traditional and customary rights, and right to a healthful environment.

The staff submittal before you is premised on the outlandish proposition that the Board of Land and Natural Resources (BLNR) has no authority to protect streams. This is patently false. In Kaua'i Springs, the Hawai'i Supreme Court ruled that all agencies, including even county planning commissions, have the authority and duty to consider and take action to uphold the public trust in wai. The authorizing statute for the issuance of revocable permits also explicitly allows the BLNR to impose conditions that "best serve the interests of the state" - which include the enforcement of the public trust.

Accordingly, there are numerous actions that you can and should take to uphold the public trust in East Maui's streams, including in the recommendations the Sierra Club submitted during your decisionmaking on the revocable permit at issue: requiring steps to be taken towards the lining of at least one unlined reservoir in Central Maui, or the use of an existing lined reservoir; requiring steps to be taken to implement the updated instream flow standards for the Huelo license area; etc. A contested case hearing, which provides all parties with the opportunity to present, defend, and cross examine witnesses and other evidence, will give you the credible, vetted, and comprehensive information you need to take such actions and better uphold the public trust.

A contested case hearing would also allow the BLNR to address problematic conditions in this revocable permit, such as the “annual” average used to determine compliance with daily water diversion limits. Such an “annual” accounting would make noncompliance verifiable only after the one-year permit period has ended. Moreover, this “annual” average would allow the permittee to take more water during the dry season when the Nā Moku’s needs, and the water needs of the East Maui, are higher - inviting violations of the public trust.

The staff submittal also claims that there is no connection between the potential dewatering of streams, as has occurred and will continue to occur under the revocable permit at issue, and impacts to the Native Hawaiian traditional and customary “property” rights of Nā Moku. The Sierra Club is confident that the BLNR will recognize the absurdity of this argument.

Finally, the staff submittal claims a government interest in saving administrative time and resources by denying Nā Moku’s contested case request. Yet the submittal says nothing about the overriding governmental interest in upholding the constitution, including the due process rights of Native Hawaiians and members of the public, constitutionally protected Native Hawaiian rights, the public trust doctrine, and the constitutional right to a healthful environment. Holding contested case hearings is in fact the job that the BLNR and the state attorney general’s office is supposed to do, and that deputy attorney generals are paid to facilitate. Elevating the convenience of state employees over the constitution and the constitutional rights of Native Hawaiians and our present and future generations should never be endorsed by the BLNR, or any government agency.

Insofar as the bases of the staff recommendation are problematic if not patently wrong, we urge you to DENY the staff recommendation before you today, and to GRANT Nā Moku’s request for a contested case hearing.

Mahalo nui for the opportunity to testify.

From: [Janice Toma Shiira](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 11:00:46 AM

Dear Chair Chang and members of the Board-

I respectfully but strongly urge you to DENY the staff recommendation in item D-3 and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Regards
Janice Kimie Toma Shiira

Sent from my iPhone

From: [Diane Ware](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda item D-3
Date: Thursday, July 10, 2025 11:21:01 AM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

- *The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;*
- *The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;*

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

*Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.*

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku

'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Diane Ware
808-967-8642
P. O. Box 698
99-7815 Kapoha
Volcano HI 96785

From: [Kylene Wenner](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 2:12:52 PM

Dear Chair Chang and Members of the Board,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui their requested contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional due process rights, a contested case hearing would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding the current East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by Mahi Pono for the coming year;

The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;

The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;

What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;

What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams; among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence provided, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

*Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that **all agencies** - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request will provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.*

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

*Respectfully,
Ky*

From: [scott.werden](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 12:32:59 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Mahalo for your time,
Scott Werden
Ha'iku, HI

From: [keri.zacher](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 6:56:54 AM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Keri Zacher and I am from Molokai. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku 'Aupuni o Ko'olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku's constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

- The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the year;
- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the

current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the evidence and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui's stream diversions that have festered for far too long.

Supreme court decisions such as Kaua'i Springs and the recent Nā Wai 'Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku 'Aupuni o Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,
Keri Zacher

Ola i ka wai!

From: [luka.zavas](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item D-3
Date: Thursday, July 10, 2025 12:31:48 PM

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

My name is Luka and I am from 'Āhuimanu, O‘āhu. I respectfully but strongly urge you to DENY the staff recommendation in item D-3, and to GRANT Nā Moku ‘Aupuni o Ko‘olau Hui (Nā Moku) the right to a contested case hearing, consistent with your duties under the constitution and the public trust.

Beyond upholding Nā Moku’s constitutional rights, a contested case would provide critical, comprehensive, and vetted information to address numerous persistent issues and concerns regarding East Maui water diversions, including:

The need for an objective method to determine how much water will actually be needed by the revocable permit applicant for the coming year;

- The true extent of the impacts that permitted stream diversions may have on public trust purposes, including watershed health and Native Hawaiian traditional and customary practices;
- The extent to which Native Hawaiian traditional and customary rights may benefit from increased stream flow, and what feasible steps can be taken to realize these benefits;
- What feasible steps can be taken to prevent the complete draining of streams, and ensure the expeditious implementation of instream flow standards established by the Water Commission;
- What feasible steps can be taken to save millions of gallons of diverted stream water from being wasted every day, and otherwise keep water in East Maui streams;

among many others.

Only through a contested case hearing can we all begin to truly understand and finally address these questions and concerns, for the current permit and potentially for any future permits that may be issued. As you know, a contested case would include the opportunity for all parties to cross-examine witnesses, critically examine the credibility of the evidence presented, and have decisions made in writing, based on the information and arguments presented - ensuring comprehensive, transparent, and fully-informed decisionmaking that may finally help to resolve the conflict, anguish, and injustice over East Maui’s stream diversions that have festered for far too long.

Supreme court decisions such as Kaua‘i Springs and the recent Nā Wai ‘Ehā opinion make clear that all agencies - even county planning departments - have the duty and authority to uphold the public trust in wai, which includes actively looking for ways to protect stream flow, Native Hawaiian traditional and customary practices, and other public trust purposes from undue impacts. Granting this contested case hearing request would provide you with the information you need to uphold your public trust duties, as well as protect the long-neglected due process, traditional and customary, and other constitutional rights of Nā Moku ‘Aupuni o

Ko'olau Hui.

Accordingly, I urge you to GRANT the contested hearing request from Nā Moku 'Aupuni o Ko'olau Hui, notwithstanding the staff recommendation in agenda item D-3.

Mahalo nui for your consideration of this matter.

Sincerely,

Luka Zavas