

AH Committee

From: Lauren Kang <LKang@hotmail.com>
Sent: Friday, October 04, 2019 7:22 AM
To: AH Committee
Subject: Oppose Makila Farms
Attachments: Deny Makila Farms.docx

Aloha e Council,

Please see my attached letter on why I think you should oppose Makila Farms.

Thank you for your time,
Lauren Kang

Sent from [Mail](#) for Windows 10

October 4, 2019

Aloha e Council,

My name is Lauren Kang, I am a full-time student at UHMC and I work at a busy resort in Kā'anapali. I reside in Kaua'ula valley (which sits mauka of Makila) with my boyfriend, Charlie Palakiko, who farms kalo there.

I am going to bypass the already known massive issues of fast tracking this development that we feel like we are repeatedly opposing as far as poor planning, safety, lack of infrastructure and accessibility, fire hazard, ATU seepage and how unaffordable they really are, the list goes on and on.

I understand Greg Brown is proposing to fast track a development that he says he already has water meters from WML and will also be utilizing wells.

Being by Charlie's side, I am a first-hand witness to what seems to be an endless fight with WML's water manager. Sometimes this is a daily struggle for Charlie to ask for more water. What seems to have been suitably forgotten by WML is that as a kuleana landowner with a stream flowing on their property, Charlie's 'ohana has appurtenant, riparian and kuleana water rights. USLegal.com speaks of Hawai'i's appurtenant water rights as a "greater superior right. Appurtenant rights are annexed to another more worthy thing with which it passes as an incident, being incapable of existence separate and apart from the particular property to which it is annexed and to which it bears a relationship connected with the use of such property."

(<https://definitions.uslegal.com/a/appurtenant-rights/>)

Reppun v. Honolulu Board of Water Supply (1983) set a legal precedent where the Board of Water Supply was directed by the state Supreme Court to reduce its ground-water pumping, since the pumping reduced the flow of Waihe'e Stream, injuring downstream taro crops. This case also set the stare decisis of riparian rights which are a "product of the people's statutory rights to 'flowing' and 'running' water currently embodied in HRS 7-1," and cannot be severed from the land "in any fashion."

The USGS explains excessive pumping as overdrawing the groundwater "bank account". Pumping groundwater out faster than it can be replenished causes the following types of depletion:

- drying up of wells (lowering the water table)
- reduction of water in streams and lakes
- deterioration of water quality (saltwater contamination)
- increased pumping costs
- land subsidence (soil collapsing)

https://www.usgs.gov/special-topic/water-science-school/science/groundwater-decline-and-depletion?qt-science_center_objects=0#qt-science_center_objects

For the first time that I can remember, the muliwai of Kaua'ula stream has run *bone dry*. We have not seen a drop of water since June, that's four months of no connectivity to the ocean! I wonder how many native species we might still have left in the stream, which was thriving less than six months ago. I also have wondered, up until research for this testimony has proven very probable, if the wells that are pumping groundwater from beneath our stream has caused the river to dry at the bottom. I could

not prove it myself, but it seemed like common sense to me; as gravity pulls the water down towards the ocean, could the lower portion of the river possibly be drying up as the water seeps down attempting to replenish the water table that is being sucked up through multiple giant straws? The USGS has seen this happen and knows it's a result of over pumping groundwater.

Furthermore, in the case of *McBryde v. Robinson*, the “natural flow” principle addresses the rights of ocean water to receive surface and sub-surface water inflow.

Charlie has been working on expanding his kalo patches. How will he be able to do so if this development is passed, and continues to deplete the water table, causing the stream to dry up? If there is more development, especially the denser amount Greg Brown is proposing, how can Charlie fathom maintaining what he is farming right now?

Native Hawaiian water rights are protected by: Traditional and customary rights of native tenants protected by the state Constitution; Rights to instream uses that protect traditional and customary Hawaiian rights; The appurtenant water rights of kuleana and taro lands. (<https://www.environment-hawaii.org/?p=4008>)

What these rights are protecting is the kalo and native life, which have the first and foremost rights to live and thrive, above all else; including development and profits, and the façade of a few affordable houses.

I ask that you reject the 201-H development proposed here.

Mahalo,

Lauren Kang