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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

March 15, 2019

RECEIVED  
2019 MAR 15 AM 8:31  
OFFICE OF THE  
COUNTY CLERK

The Honorable Kelly T. King  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair King:

**SUBJECT: SUPPORTING STEWARDSHIP OF EAST MAUI  
STREAMS (OLA I KA WAI) (PAF 19-103)**

May I request the attached proposed resolution, entitled "SUPPORTING STEWARDSHIP OF EAST MAUI STREAMS (OLA I KA WAI)," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane M. Sinenci".

SHANE M. SINENCI  
Councilmember

paf:kmatt:19-103e

Attachment

COUNTY COMMUNICATION NO. 19-142

# Resolution

No. \_\_\_\_\_

## SUPPORTING STEWARDSHIP OF EAST MAUI STREAMS (OLA I KA WAI)

WHEREAS, free-flowing streams are vital to the traditions and cultural practices, including kalo farming, of communities in East Maui; and

WHEREAS, according to the State Department of Land and Natural Resources' report, "Hawaii's Comprehensive Wildlife Conservation Strategy" (Wildlife Study), Maui has the highest number of diverted streams in the State; and

WHEREAS, the Wildlife Study identifies stream diversion as a threat to freshwater flora and fauna; and

WHEREAS, diversion diminishes the natural beauty of East Maui streams that residents and visitors enjoy; and

WHEREAS, a goal set forth in the Countywide Policy Plan is to restore and protect forests, wetlands, watersheds, and stream flows; and

WHEREAS, the Countywide Policy Plan also notes the County should work with State agencies to protect baseline stream flows for perennial streams, and support polices that ensure adequate stream flow to support Native Hawaiian aquatic species, traditional kalo cultivation, and self-sustaining ahupua'a; and

WHEREAS, Section 2.3.1 of the Maui Island Plan notes that Maui island strives to work with the State and Federal government to mandate instream assessment to provide adequate water for native species; and

WHEREAS, existing diversion structures interfere with upstream migration of native fish and downstream flow of larvae; and

WHEREAS, ongoing interference with these natural migration and spawning cycles have decimated and continue to endanger native fish populations reducing the abundance of reef fish who depend upon the native stream species; and

**Resolution No. \_\_\_\_\_**

WHEREAS, many of the streams and watercourses on the islands of Maui County have been diverted, and some no longer have any water flow that reaches the ocean; and

WHEREAS, pending requests by consumers for more water and information regarding how much water needs to be diverted from East Maui may be based upon inaccurate or insufficient data; and

WHEREAS, uncertain estimates, coupled with deficient water measurement data, have crippled the ability of decision makers' and responsible agencies' abilities to meet their obligations under Hawaii Revised Statutes Chapter 174C, the Hawai'i Water Code, as well as the Public Trust Doctrine, laws which apply to all stream waters within the State of Hawai'i; and

WHEREAS, the Hawaii Supreme Court has opined that the Public Trust Doctrine is the standard by which the State must manage the distribution and allocation of all surface and ground waters; and

WHEREAS, the State Water Code recognizes the waters of the State are held for the benefit of the citizens of the State and declares the people of the State are beneficiaries and have a right to have water protected for their use; and

WHEREAS, the legal requirements for disposition of water rights by long-term leases, including preparation of Environmental Impact Statements, ensure public accountability; and

WHEREAS, the issuance of permits for temporary disposition of water use on a month-to-month basis does not require the same level of scrutiny as long-term leases; and

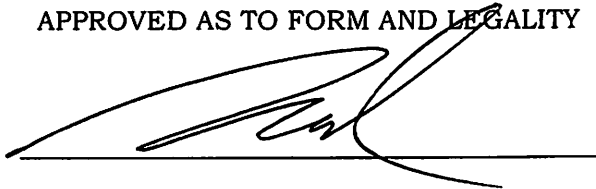
WHEREAS, the 2016 holdover permit bill expires this year and the State Legislature is considering House Bill 1326, which would re-authorize holdover permits for ten more years but does not include requirements for Environmental Impact Statements and other accurate water data measurements; and

**Resolution No. \_\_\_\_\_**

BE IT RESOLVED by the Council of the County of Maui:

1. That it acknowledges the Public Trust Doctrine holds elected officials to the highest standards of public trust and accountability, inconsistent with temporary disposition of water use permits; and
2. That good stewardship of public trust water resources mandates accountability through investment in monitoring of stream life and installation of devices to collect accurate stream data on diverted streams; and
3. That public accountability requires any legislation that grants water licenses from East Maui public lands must include clear provisions for good stewardship of public trust resources; and
4. That copies of this Resolution be transmitted to the Director of Water Supply; Suzanne D. Case, Chair, Board of Land and Natural Resources and Commission on Water Resources Management; Senator Kaialii Kahele, Chair of Water and Land; Representative Ryan I. Yamane, Chair of Water, Land & Hawaiian Affairs; Senator Donovan M. Dela Cruz, Chair of Ways and Means; and Governor David Y. Ige.

APPROVED AS TO FORM AND LEGALITY



Deputy Corporation Counsel  
County of Maui

paf:kmat:19-103d