

APT Committee

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Sent: Monday, February 15, 2021 1:49 PM
To: APT Committee
Subject: Testimony for Feb 16, 2021 APT (APT-57)
Attachments: WUDP App. 10 Comments on needed changes.doc

Please accept this Testimony from Ha'iku Community Association on the Topic of the Draft Maui Water Use and Development Plan, Appendix 10.

for the Feb 16, 2021 APT meeting, agenda item (APT-57)

Mahalo nui loa

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From: Haiku Community Association

Feb 14, 2021

to: APT committee on Draft WUDP Agenda Item APT-57

Aloha Kakou

The Haiku Community Association (HCA) has heard from a number of our kanaka maoli residents that the Maui Draft Water Use and Development Plan process has not included adequate consultation with the native Hawaiian community about their longterm water needs and constitutionally protected rights. Appendix 10 of the WUDP is designed to offer an analysis of the impacts of the 60 specific water strategies discussed in the draft WUDP on traditional and customary Hawaiian practices.

We fully support the APT committee and County staff reaching out to kanaka maoli groups island wide to hear their comments and concerns directly. HCA offers some of the thoughts that have been offered at past HCA community meetings on this topic as they would apply to amendments needed in WUDP APPENDIX 10 re: Native Hawaiian Rights

- 1) Appendix 10 of WUDP has a lack of any significant info on extent of cultural use in the various areas of Maui. It's all vague generalities. The plan should have specific consultations with the kanaka communities on the strategies the Plan offers, and incorporate the comments received as amendments, if needed, before the Maui WUDP is finalized and adopted.
- 2) Appendix 10 of WUDP assumes that if IIFS are set for a stream, everything will be just fine and IIFS will actually be met and if met, will be adequate. Then it assumes that everything beyond the IIFS "number" is just "extra water" that can just be used by others- this simply is not factual and is not what Hawaiian communities are experiencing. The WUDP should discuss what the community suggests as criteria to be met to evaluate the successful implementation of IIFS.
- 3) Appendix 10 of WUDP has lots of assumptions about using Haiku aquifer to supply large amounts of water for transport, being able to be "mitigated" by various means, and the "means" ignore real impacts to Hawaiian cultural users and include no mention of Haiku stream restoration or Community Plan requirements. The WUDP Haiku well discussion also ignores the firmly established legal principles that water resource decisions need to be based on obtaining sufficient data up front, not proposed on the basis of some future studies with unknown outcomes.
- 4) Appendix 10 of WUDP has lip service being given to "ahupua'a management" but Appendix 10 includes a number of "strategies" to send more water far away from the areas ("ahupua'a") where it originates. The report should specify a process for consulting with communities to determine what level of "sharing" water among communities will respect the Public Trust doctrine and the needs of all communities concerned.
- 5) Appendix 10 of WUDP has no policy statement about DWS /Maui County actually advocating for Native Hawaiian cultural rights during state agency water decisions. Appendix 10 could have language that specifies that before the MDWS offers testimony to state or other agencies on water issues affecting native Hawaiian water rights, a consultation process with the affected communities needs to be held, and the results of that input included in the MDWS testimony.

6) Appendix 10 of WUDP has no mention of transition to public/community management of EMI or Na Wai 'Eha systems as potential "mitigation" for impacts to the native Hawaiian cultural use of Public Trust waters.

7) Appendix 10 of WUDP has no policy to actually include non-profits or cultural groups in county Watershed management funding efforts to manage watersheds below 3,000 ft elevation. Just vague terms are used that have no implementation strategy.

8) Appendix 10 of WUDP has no clear policy to include Hawaiian communities and orgs in County water planning/policy decision making and implementation. WUDP Appendix 10 could suggest a quarterly input session (online); a yearly site visit, or some other specific consultation commitment that is vetted and supported by kanaka communities.

9) Appendix 10 of WUDP should make it clear that "scientific" studies of water resources also include consultation with Hawaiian groups to include a traditional knowledge component that is respected as part of final decision making

10) Appendix 10 of WUDP should indicate a clear transition to community involvement in stream and watershed monitoring programs.

11) Appendix 10 of WUDP "mitigations" for Hawaiian cultural users should include a commitment to support restructuring stream diversions Island-wide to bypass low flows and keep them in the stream.

12) Appendix 10 should make it clear how DWS plans to seek clear input from Hawaiian groups on proposals to capture and store high stream flows, as a way to balance demands on streams during lower flows. The WUDP would be more useful if it actually included "strategies" that had community support.

13. "Diversified Ag" is mentioned many times in Appendix 10, but not defined. Appendix 10 has no mention of any effort to work with ag community to lower irrigation demand in dry central Maui from 5,000 gal/day to 2,500- to 3,000 gal/day- this would be a very meaningful "mitigation" and could be achieved by improvements to soil health and water retention in the fields.

14. Appendix 10 includes no strategy to deal with rights of kuleana water users during WUDP decision making process, or other water policy discussions. Hawaiians deserve more than "lip service" to their rights. Kuleana water rights have specific priorities under the law.

15. Appendix 10 has no mention of DWS updating contracts with EMI/ Wailuku Water, ML&P etc to reflect Hawaiian water rights and 21st century water management goals- this is a very clear "mitigation" that should be discussed.

Mahalo for your consideration,

Ha'iku Community Association