

‘Olelo Ho‘oholo

Helu. 23-216

KA HO‘OLALE ‘ANA I KE KIA‘ĀINA E HO‘OMAU I KE KUMUKĀNĀWAI O
KA MOKU‘ĀINA O HAWAI‘I NEI A ME KE KĀNĀWAI WAI O KA
MOKU‘ĀINA MA O KA HO‘I KOKE ‘ANA IĀ MARVIN KALEO MANUEL I
KE KŪLANA HOPE MUA NO KA PAPA KOMIKINA WAI

‘OIAI, he kuleana ko ka Moku‘āina, ‘oia nō “ke kuleana e ho‘omalū, e ho‘oholo, a e mālama i ka ho‘ohana ‘ana i ka nā wai o Hawai‘i nei no ka pono o ko lākou mau kānaka,” he ‘ōlelo kēnā o ke Kumukānāwai o ka Moku‘āina o Hawai‘i,” a

‘OIAI, ma lalo o ka Paukū XI, Māhele 7, o ke Kumukānāwai o ka Moku‘āina, “E ho‘olako ka ‘aha‘ōlelo kau kānāwai i nā mea lako no kekahi hui wai, mālama ‘ia e ke kānāwai, e ho‘omalū i ka wai, ke ‘ano a me nā kulekele ho‘ohana; wehewehe i nā mea waiwai a me nā kumu no ka ho‘ohana ‘ana; ho‘omalū i ka wai honua a me ka wai ‘ili, nā ‘āina kumu wai a me nā kahawai kūlohelohe; ho‘okumu i nā lōina no nā makakoho ho‘ohana wai, ‘oia ka ho‘omau ‘ana i nā mea e pono ai a ho‘okumu i nā lōina no ka ho‘oholo ‘ana i ka wai o Hawai‘i nei;” a

‘OIAI, i ka makahiki 1987, ua ho‘oholo ka ‘Aha‘ōlelo Kau Kānāwai o ko Hawai‘i Moku‘āina i ke Kānāwai Wai o ka Moku‘āina i ka Mokuna 174C, kapa ‘ia ‘o Hawai‘i Revised Statutes, a ‘ōlelo ‘ia, “e ho‘omalū i nā pono Hawai‘i ku‘una a me nā pono Hawai‘i pa‘a mau, ka ho‘omalū ‘ana a me ka ho‘opulapula ‘ana i nā i‘a a me nā holoholona lōhiu, ka mālama ‘ana i ke kālaikaiaola a me ka nani o nā hi‘ohi‘ona ‘āina, a me ka ho‘omau a ho‘okā‘oi ‘ana i nā wai o ka Moku‘āina no ka hana o ke kūlanakauhale, nā mea ho‘onanea o ka lehulehu, ka wai no ka lehulehu, ka ‘oihana mahi‘ai, a me ka ho‘okele ‘ana; a

‘OIAI, i ka Mokuna 174C, ‘o Hawai‘i Revised Statutes, ua ho‘okumu ‘ia ka Papa Komikina Wai, aia nā loea kōkua i ka ‘ike wai ma loko o ua hui nei, i mea e ho‘omau ai i ke Kānāwai Wai; a

‘OIAI, ma Hawai‘i nei, ‘o ka wai, ‘o ia nō ka mea nui no nā mea ola a pau a me kekahi waiwai noho kahu o ka lehulehu, no laila, ‘oia nō ke kuleana o ka Moku‘āina e ho‘omalū i ka wai no ka pono o nā kupa; a

‘OIAI, ua ho‘okumu ‘ia ka papa ho‘olālā ‘o Maui Island Water Use and Development Plan e ka hui ‘o Maui Department of Water Supply, ‘āpono ‘ia e ka hui ‘o Board of Water Supply, ‘ae ‘ia e ka ‘Aha Kalana, a

‘āpono ‘ie e ka Papa Komikina Wai, i mea e ho‘olālā ai i ka ho‘omalū ‘ana, ka ho‘oholo ‘ana, a me ka ho‘ohana ‘ana i nā wai ma Maui nei no nā mea ho‘ohana a pau i ka wā o ‘iwakālua mau makahiki; a

‘OIAI, ho‘okumu ka papa ho‘olālā ‘o Maui Island Water Use and Development Plan i nā kulekele he ‘elima ma lalo, no ka ho‘okā‘oi ‘ana i ke ola o nā kahawai a me ka ho‘okaulike ‘ana i nā pono o ke kaiāulu:

- Ho‘omalū a ho‘okā‘oi i nā papakū kahawai a hō‘ole i ka ho‘ololi ‘ana i nā kahawai;
- Hana pū me nā hui kūpono i mea e ho‘okumu ai i ka palena iki o ke kahe wai a mālama i ke kahe wai i mea e mālama ai i nā kaiaola, ka mahi kalo, a me nā ahupua‘a;
- Aloha aku a ‘imi pū i nā hā‘ina no nā pilikia e pili ana i nā pono ‘āina a me nā pono wai o nā Hawai‘i, ‘oia ho‘i, ka ‘āina kuleana, ka ‘āina ho‘oku‘u ‘aelike, a me nā pono o ka ‘oihana mahi‘ai a me ka ‘ohi ‘ana;
- Ho‘opa‘a i nā kāmāwai a me nā kulekele no ke kahe o nā kahawai i ‘ike ‘ia i ke Kumukāmāwai Moku‘āina a me ke Kāmāwai Wai; a
- Hana pū me nā hui kūpono a me nā pā‘oihana i mea e ho‘okumu ai i ka palena iki o ke kahe wai, ho‘opaipai i nā hana kākō‘o kaianoho a me ka ho‘ohana ‘ana i nā lo‘i, a me ka mālama ‘ana i ke kahe o nā kahawai no ka ho‘ohua ‘ana i nā kalo; a

‘OIAI, wahi a ka papa ho‘olālā ‘o Countywide Policy Plan, eia kekahi pahuhopu hāiki, “e ho‘okā‘oi i ka ho‘oholo ‘ana i nā ‘ōnaehana wai i mea e ‘ino ‘ole ai i ka wai ‘ili a me ka wai honua”; a

‘OIAI, paipai ka papa ho‘olālā ‘o West Maui Community Plan i ka ho‘oulū ‘ana i nā lo‘i, ka ‘emi ‘ana i ka ho‘oka‘awale wai ‘ili, a me ka ho‘okoe ‘ana i ka wai no ka hana kinai ahi no nā hale ma nā ‘āina kuleana; a

‘OIAI, e kahe mau ka wai ma ka lo‘i i mea e hānai ai i nā mea kanu ma loko, a he ‘ōnaehana ho‘olaupā‘i, ho‘onui ‘ia ka wai ma ka papakū wai

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honua, a ho‘ohana i ke kaiola ahupua‘a e mahi i ka nui o nā mea kanu a me nā holoholona; a

‘OIAI, luku ‘ia nā ‘ōnaehana e ho‘olupalupa i nā ahupua‘a i nā makahiki 1800 a me 1900 ma muli o ka ho‘oka‘awale ‘ia ‘ana o nā kālani he mau miliona ia lā a‘e e nā luna mahi i mea e ho‘oulu ai i kā lākou mau mea kanu, me ka ho‘one‘e ‘ana i nā Hawai‘i a me ka ho‘ololi ‘ana i nā mea laulauna, nā mea ho‘okele waiwai, a me nā hi‘ohi‘ona mo‘omeheu o Maui nei; a

‘OIAI, i nā makahiki 1988 a me 1989, wehewehe ka Papa Komikina Wai i nā lōina, kapa ‘ia ‘o “interim instream flow standards,” ‘o IIFS, akā, eia kekahi mau lōina no ka mea ma‘amaui, i ka hapanui o ka manawa, ‘oia nō ka ho‘oka‘awale ‘ana i nā kahawaiwai; a

‘OIAI, i ka makahiki 2000, ua mau‘a‘e ka ‘Aha Ho‘okolokolo Ki‘eki‘e o Hawai‘i i ke koho e pili ana i ka hihia ‘o Waiāhole Ditch Contested Case, a ua koho ka ‘Aha, ‘a‘ole kūpono ‘o IIFS no ka ho‘omalua ‘ana i nā kahawai, a hahai ‘ole ‘o IIFS i ke kānāwai, a ua koi ‘ia ke Komikina e noi‘i i ke kahe o ke kahawai a ho‘omōhala i nā lōina o IIFS i ka moku‘āina holo‘oko‘a; a

‘OIAI, ua hana ‘o Marvin Kaleo Manuel i ke kūlana Hope Mua no ka Papa Komikina Wai mai ka mahina o Ianuali ma ka lā 28, i ka makahiki 2019, a hiki i kona “ho‘onoho hou ‘ia ‘ana” e ke Kia‘āina ‘o Green lāua ‘o Dawn Chang, ka Luna Noho o ka hui ‘o Board of Land and Natural Resources, i ka mahina o ‘Aukake, ma ka lā 16, i ka makahiki 2023; a

‘OIAI, ‘ike ‘ia ka wā o ka Hope Mua ‘o Manuel i ke kūlana Hope Mua no ka Papa Komikina Wai, ua ‘ike ‘ia i ka mana‘o o na lālā o ke kaiāulu, he nui loa ka huahua o kēia wā no ke Komikina; a

‘OIAI, i ka mahina o ‘Apelila i ka makahiki 2022, me ke kōkua o ka Hope Mua ‘o Manuel, ua ‘ae ke Komikina i ka ho‘okumu ‘ana i ‘elima mau IIFS no ka Mokupuni o Molokai, a ua ho‘i ka wai iā Kawela Hikina, ka ‘Aumana ‘o Kawela Hikina, ‘o Kawela Komohana, ‘o Lualohe, a me ke Kahawai ‘o Waikolu, ke kahawai i ho‘oka‘awale ‘ia a ho‘omalo‘o ‘ia no kekahi kenekulia a ‘oi aku; a

OIAI, i ka mahina o ‘Apelila i ka makahiki 2022, alaka‘i ka Papa Komikina Wai iā Launiupoko Irrigation Co., he hui pili iā West Maui Land Co., e ho‘i i ka wai i ke awāwa ‘o Kaua‘ula ma muli o kā lākou hahai ‘ole

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‘ana iā IIFS a ua ho‘opio lākou i ka wai me ka ho‘olaha ‘ole i nā kānaka noho; a

‘OIAI, ma hope o kekahi mau kekeke o ke kāko‘o mai ke kaiāulu a me ka mālama ‘ole ‘ana i ka wahi, ‘a‘ohe mea ho‘omalua, ua hāpai ka Papa Komikina Wai i ko lākou noi pono‘ī, e ho‘okohu i ka Papakū Wai Honua o Lahaina i kekahi wahi, kapa ‘ia ‘o Surface Water and Ground Water Management Area, ma muli o ka ‘ikepili i hō‘ili‘ili ‘ia e ka Hope Mua ‘o Manuel a me nā limahana a ua ‘ae lōkahi ‘ia kēia i ka mahina o Iune i ka makahiki 2022; a

‘OIAI, ua ‘ike ka Hope Mua ‘o Manuel i ke ko‘iko‘i o ka ho‘okohu ‘ana aku iā Lahaina, i ka mahina o Kēkēmapa i ka makahiki 2021, ua ho‘ēmi nā hui pilikino i ‘eono miliona kālani a ‘oi ia lā a‘e mai kekahi māhele o ka papakū wai honua ma Honokōwai, ‘o ka palena nui o ka hō‘emi ‘ana i ka wai, ‘oia nō ‘eono mau miliona i ka lā ho‘okahi; a

‘OIAI, ua ‘ae ‘ia ka ho‘ohana ‘ana i ka wai i ka papakū wai honua ma Honokōwai a ua ho‘ohana ‘ia 51% a ‘oi o ka palena nui a 89% o ka palena nui no ka papakū wai honua ma Launiupoko; a

‘OIAI, ua ‘āpono ka ‘Aha Kalana iā Reso 22-73 i mea e kāko‘o ai i ka Papakū Wai Honua ma Lahaina, a ho‘okohu ua papakū wai honua nei i kekahi māhele wahi, kapa ‘ia ‘o Surface Water and Ground Water Management Area; a

‘OIAI, i ka mahina o Nowemapa i ka makahiki 2022, ua ho‘ouku ka Papa Komikina Wai iā Olowalu Water Co., he hui pili iā West Maui Land Co., \$470,050 no nā hana kū‘ē i nā lōina kahe wai no ke Kahawai ‘o Olowalu; a

‘OIAI, i ka mahina o Nowemapa i ka makahiki 2022, ua ho‘ololi ka Papa Komikina Wai iā IIFS no ‘umikūmālua mau kahawai a me nā ‘aumana i ka wahi o Huelo ma Maui Hikina, a ua ‘imi ‘ia kekahi ala e ho‘ololi i ka ‘ōnaehana ‘o East Maui Irrigation i mea e ho‘omalua ai i nā kahawai; a

‘OIAI, ua “ho‘onoho hou” ‘ia ka Hope Mua ‘o Manuel mai kona kūlana Hope Mua no ka Papa Komikina Wai i ka mahina o ‘Aukake, ma ka lā 16, i ka makahiki 2023, me ke kumu ‘ole; a

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‘OIAI, i kekahi ho‘olaha nūhou i ka mahina o ‘Aukake ma ka lā 16, i ka makahiki 2023, ke Kia‘āina ‘o Green lāua‘o Dawn Chang, ka Luna Noho o ka hui ‘o Board of Land and Natural Resources, ‘ōlelo ‘ia, “deployment does not suggest that First Deputy Manuel did anything wrong”; i kēia manawa, no laila,

HO‘OHOLO ‘IA e ka ‘Aha Kalana o Maui:

1. Ho‘opaipai i ke Kia‘āina a me ka hui ‘o Board of Land and Natural Resources e ho‘omau i ke Kumukānāwai o ka Moku‘āina o Hawai‘i nei a me Ke Kānāwai Wai o ka Moku‘āina ma o ka ho‘i koke ‘ana iā Marvin Kaleo Manuel i ke kūlana Luna Hope no ka Papa Komikina Wai;
2. Ho‘olale i ke Kia‘āina e hahai i ka ‘āpono ‘ana o ka ‘Aha Kalana iā ‘Ōlelo Ho‘oholo 22-73, e kāko‘o i ka Papakū Wai Honua o Lahaina a ho‘okohu ua mea nei i ka wahi ‘o Surface Water and Ground Water Management Area; a
3. Ho‘olaha i nā kope kūhelu o kēia ‘Ōlelo ‘Aelike i ka Mea Hanohano ‘o Josh Green, M.D., Ke Kia‘āina, Moku‘āina o Hawai‘i; ka Mea Hanohano ‘o Sylvia Luke, Ke Kia‘āina Lukānela, Moku‘āina o Hawai‘i; ‘o Ronald Kouchi, Pelekikena ‘Aha Kenekoa, Moku‘āina o Hawai‘i; ‘o Dawn Chang, Luna Noho, ka hui ‘o Board of Land and Natural Resources, Moku‘āina o Hawai‘i; nā lālā o ka Papa Komikina Wai, Ka Moku‘āina o Hawai‘i; a me ka Mea Hanohano ‘o Richard T. Bissen, Jr., Meia, Kalana o Maui.

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URGING THE GOVERNOR TO UPHOLD THE
CONSTITUTION OF THE STATE OF HAWAI'I
AND THE STATE WATER CODE BY
IMMEDIATELY REINSTATING MARVIN KALEO
MANUEL AS FIRST DEPUTY FOR THE
COMMISSION ON WATER RESOURCE
MANAGEMENT

WHEREAS, the State has an “obligation to protect, control and regulate the use of Hawai‘i’s water resources for the benefit of its people” as mandated by the Hawai‘i State Constitution; and

WHEREAS, under Article XI, Section 7, of the State Constitution, “The legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawai‘i’s water resources”; and

WHEREAS, in 1987, the Hawai‘i State Legislature enacted the State Water Code, Chapter 174C, Hawai‘i Revised Statutes, which states “adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation”; and

WHEREAS, Chapter 174C, Hawai‘i Revised Statutes, established the Commission on Water Resources Management, composed of volunteer

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experts in water management, to oversee the implementation of the Water Code; and

WHEREAS, in Hawai'i, wai is essential to all life and a public trust, making the State responsible for protecting it to benefit all its citizens; and

WHEREAS, the Maui Island Water Use and Development Plan was drafted by the Maui Department of Water Supply, recommended by the Board of Water Supply, approved by the Council, and adopted by the Commission on Water Resource Management, to plan for the protection, management, and use of water resources on Maui by all water users over a 20-year period; and

WHEREAS, the Maui Island Water Use and Development Plan establishes the following five policies to enhance stream vitality while balancing community needs:

- Protect and enhance natural streambeds and discourage stream alteration;
- Work with appropriate agencies to establish minimum stream flow levels and ensure adequate stream flow to sustain riparian ecosystems, traditional kalo cultivation, and self-sustaining ahupua'a;
- Respect and participate in the resolution of Native Hawaiian residual land and water rights issues, including kuleana lands, ceded lands, and historic agricultural and gathering rights;
- Ensure that stream flows implement laws and policies found in the State Constitution and Water Code; and
- Work with appropriate agencies and stakeholders to establish minimum stream flow levels, promote actions to support riparian habitat and the use of available lo'i, and maintain adequate flows for the production of healthy kalo crops; and

WHEREAS, the Countywide Policy Plan makes it an objective to "improve the management of water systems so that surface water and groundwater resources are not degraded by overuse or pollution"; and

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WHEREAS, the West Maui Community Plan encourages expanding lo‘i restoration, decreasing surface water diversions, and ensuring water for fire protection of homes on kuleana lands; and

WHEREAS, lo‘i require continuously flowing water to sustain the crops grown within, and as a regenerative system, maximizes aquifer recharge, and creates a ahupua‘a ecosystem that cultivates an abundance of native plants and animals; and

WHEREAS, the systems that made it a thriving ahupua‘a were destroyed in the late 1800s and early 1900s when plantation owners diverted tens of millions of gallons of water a day from streams to grow their crops, displacing Native Hawaiians and changing Maui’s social, economic, and cultural landscape; and

WHEREAS, in 1988 and 1989, the Commission on Water Resource Management defined its administrative rules governing interim instream flow standards, known as IIFS, but these standards were for status quo conditions, which in most cases were diversions of all base stream flows; and

WHEREAS, in 2000, the Hawai‘i Supreme Court overruled the Commission on its judgment on the Waiāhole Ditch Contested Case, and the Court held that the current IIFS were not adequate to protect streams or comply with the law and required the Commission to take immediate steps to assess the stream flow characteristics and develop quantitative IIFS statewide; and

WHEREAS, Marvin Kaleo Manuel served as the First Deputy for the Commission on Water Resource Management from January 28, 2019, until Governor Green and Dawn Chang, Chairperson of the Board of Land and Natural Resources, “re-deployed” him on August 16, 2023; and

WHEREAS, Deputy Manuel’s time as Deputy for the Commission on Water Resource Management is seen by members of the community as one of the most productive times for the Commission; and

WHEREAS, in April 2022, with Deputy Manuel’s assistance, the Commission approved the establishment of five IIFS for the Island of Molokai, returning water back to East Kawela, East Kawela Tributary,

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West Kawela, Lualohe, and Waikolu Stream, which had been almost fully diverted and often dry for more than a century; and

WHEREAS, in April 2022, the Commission on Water Resource Management also directed Launiupoko Irrigation Co., Inc., a subsidiary of West Maui Land Company, Inc., to return water to Kauaʻula Valley after they failed to meet IIFS and turned off water without notice or explanation to residents; and

WHEREAS, after decades of community advocacy and clear environmental degradation to the area, absent necessary protections, the Commission on Water Resource Management put forward its own proposal to designate the Lahaina Aquifer Sector Area as a Surface Water and Ground Water Management Area based on data collected and analyzed by Deputy Manuel and staff and unanimously supported in June 2022; and

WHEREAS, Deputy Manuel recognized the urgency of acting to designate Lahaina, as in December 2021, the Honokōwai portion of the aquifer had private entities withdrawing 6.5 million gallons per day in excess of the sustainable yield of 6 million gallons per day, the maximum amount that can be withdrawn without risking permanent harm; and

WHEREAS, the authorized planned use of ground water in the Honokōwai aquifer exceeded the sustainable yield by 51%, and the Launiupoko aquifer would be at 89% of the sustainable yield; and

WHEREAS, the Council adopted Resolution 22-73 to support the Lahaina Aquifer Sector Area designation as a Surface Water and Ground Water Management Area; and

WHEREAS, in November 2022, the State Commission on Water Resource Management fined Olowalu Water Company, Inc., a subsidiary of West Maui Land Company, Inc., \$470,050 for repeated violations of instream flow standards for Olowalu Stream; and

WHEREAS, in November 2022, the Commission on Water Resource Management amended IIFS for 12 streams and tributaries in the Huelo region of East Maui and explored how to modify the East Maui Irrigation system to better protect instream uses; and

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WHEREAS, Deputy Manuel was “redeployed” from his role as First Deputy for the Commission on Water Resource Management on August 16, 2023, without cause; and

WHEREAS, in a press release on August 16, 2023, Governor Green and Dawn Chang, Chairperson of the Board of Land and Natural Resources, stated that his “deployment does not suggest that First Deputy Manuel did anything wrong”; now, therefore,

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

4. That it urges the Governor to uphold the Constitution of the State of Hawai‘i and the State Water Code by immediately reinstating Marvin Kaleo Manuel as First Deputy for the Commission on Water Resource Management;
5. That it urges the Governor and the Commission of Water Resource Management to honor the Council’s adoption of Resolution 22-73, which supported the Lahaina Aquifer Sector as a Surface Water and Ground Water Management Area; and
3. That certified copies of this Resolution be transmitted to the Honorable Josh Green, M.D., Governor, State of Hawai‘i; the Honorable Sylvia Luke, Lieutenant Governor, State of Hawai‘i; the Honorable Ronald Kouchi, Senate President, State of Hawai‘i; the Honorable Scott Saiki, Speaker of the House, State of Hawai‘i; Dawn Chang, Chairperson, Board of Land and Natural Resources, State of Hawai‘i; the members of the Commission on Water Resource Management, State of Hawai‘i; and the Honorable Richard T. Bissen, Jr., Mayor, County of Maui.

INTRODUCED BY:

A handwritten signature in black ink, appearing to read 'Keani N.W. Rawlins-Fernandez', written in a cursive style.

KEANI N.W. RAWLINS-FERNANDEZ