

## BFED Committee

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**From:** John Blumer Buell <johnblumerbuell@gmail.com>  
**Sent:** Monday, April 27, 2026 12:11 PM  
**To:** BFED Committee  
**Cc:** Mayors Office; council.services@mauicounty.us; water.supply@mauicounty.gov (Water Supply); John Blumer Buell  
**Subject:** URGENT Fiscal Year 2027 Budget Request. Please Confirm Receipt. Mahalo!  
**Attachments:** Budget Request April 27, 2026.pdf; #1 County Hana Water Meeting February 9, 2005..pdf; #2 HCA letter Hamoa to Koali Waterline. June, 25, 2005..pdf; #3 HCA letter # 2 Re Hamoa to Koali waterline dated August 29, 2005..pdf; #4. <https://www.mauicounty.gov/DocumentCenter/View/137433/FY26-Community-Budget-Request-Form.pdf>; #5. Council Budget Committee May 22, 2023, Meeting.pdf; #6. 2nd Amended Complaint Certified 2.pdf

You don't often get email from johnblumerbuell@gmail.com. [Learn why this is important](#)

*Aloha !*

Enclosed are the budget request letter dated April 27, 2026 and 6 of the 10 additional supporting enclosures.

Enclosures 7-10 will be sent in the next email.

Please confirm receipt. *Mahalo!*

*John Blumer-Buell*

[johnblumerbuell@gmail.com](mailto:johnblumerbuell@gmail.com)

Post Office Box 787, Hana, Hawai'i 96713

25 year community elected member of the Hana Community Association Board of Directors, founding member appointed by Mayor Hannibal Tavares with three terms of service on the Hana Advisory Committee to the Maui Planning Commission, Hana member of the 25 member General Plan Advisory Committee (GPAC). Founding Board Member of the following organizations; the Hana Community Arts Council, the East-Maui Taro Festival, the Kipahulu 'Ohana, Na Mamo O Mu'olea, the Hana Community Dialysis Center and Ke Ao Hali'i.

April. 27, 2026

Maui County Council Budget, Finance Committee and Economic Development Committee, Yuki Lei Sugimura, Chair.

Sent Via Email to [bfed.committee@mauicounty.us](mailto:bfed.committee@mauicounty.us)

Cc: Mayor Bissen [mayors.Office@co.maui.hi.us](mailto:mayors.Office@co.maui.hi.us) , Maui Council Services [council.services@mauicounty.us](mailto:council.services@mauicounty.us) , Department of Water Supply Director Stufflebean [water.supply@mauicounty.gov](mailto:water.supply@mauicounty.gov) ,

Also sent via USPS Certified Mail with Return Receipt to Maui County Council Budget, Finance Committee and Economic Development Committee, Yuki Lei Sugimura, Chair. % Office of Council Services  
200 South High Street, 7th Floor Wailuku, Hawai'i 96793

**Subject: URGENT Fiscal Year 2027 Budget Request to fund the legally required Hawaii Revised Statute Chapter 343 Environmental Impact Statement process for the ongoing impacts resulting from the illegal segmentation of the ongoing upgrades to the County of Maui waterline system from Hamoa through Koali.**

Aloha Council Budget, Finance, and Economic Development Committee (BFED) Chair Sugimura and Committee Members,

This urgent request was initially made by the Hana Community Association Board of Directors on behalf of the Hana Community in the enclosed letters dated June 25, **2005** and August 29, **2005**.

The County of Maui has repeatedly and illegally refused to enable and fund the legally required Hawaii Revised Chapter 343 Environmental Impact Statement process from 2005 until the present date in spite of the 1994 Hana Community Plan Ordinance No. 2347, effective on July 1, 1994 and the Maui County General Plan 2030 Countywide Policy Plan documented at <https://www.mauicounty.gov/420/Countywide-Policy-Plan> Please read “SECTION IV: GOALS, OBJECTIVES, POLICIES, AND ACTIONS”,. “K. **Strive for Good Governance**” on page 78.

Ordinance No. 2347 was approved in part to: (1) “Ensure community participation, including resident Hawaiian, in all long- term infrastructure planning”; (2) “Identify water service area expansion needs in the Hana region”; and (3) “Prepare a domestic water system master plan and a wastewater system master plan for he Hana region”; and (4) “Acknowledge and respect family ancestral ties to cultural resources”; and (5) “Require development projects to identify all cultural resources within or adjacent to the project area as part of the County development review process. Further require that all proposed development include appropriate mitigation measures including site avoidance, adequate buffer areas and interpretation”; and (6) “Explore alternative land use and overlay zoning designations that recognize and preserve the unique natural and cultural characteristics of each community within the Hana region”. The County of Maui has failed to implement these critical objectives.

To date, the County of Maui has failed and refused to follow the applicable laws and respect the due process rights of entitled Kanaka Maoli lineal descendants, the larger Hana Community and Federal, State and County taxpayers.

URGENT is not too strong a word in describing the need to address the **ongoing** impacts and violations.

The most obvious benefit of following the law and respecting due process rights would be to enable the *hundreds* of impacted lineal descendants to clarify their rights of ownership and other constitutionally protected interests. Recognition of these rights would lead to actual affordable, cultural living and housing.

Enclosed are several documents, of many, further supporting and documenting the need for immediate funding of the legally required Hawaii Revised Statute Chapter 343 Environmental Impact Statement process for the ongoing and illegally segmented County of Maui Hamoa through Koali water pipeline system upgrades.

Regrettably, the current mayor, several past mayors, a criminally convicted former Hawai'i State Senator and several current and past members of the Maui County Council have been involved in misleading, covering up and "stone walling" the corrupt and documented situation.

If that statement sounds outrageous, untrue and libelous, please investigate the terms of Federal Assistance Award #NA03NOS4190118 to the County of Maui and closely related matters. Federal Assistance Award #NA03NOS4190118 was granted by the United States Department of Commerce National Oceanic and Atmospheric Administration (NOAA) toward the 3+ million dollar "Fraudulently Misrepresented" purchase of Mu'olea Point.

The requested budget proposal will be constructive in resolving the issues and will finally acknowledge the 1994 Hana Community Plan Ordinance language of *Aloha* and *Peace* stating, "Encourage community-based dialogue regarding proposed land use changes in order to avoid *unwarranted conflict*".

I have sincerely tried to avoid *unwarranted conflict* in addressing these issues for decades. *'Onipa'a!*

Please carefully consider the enclosures and include the budget request in your proposed budget. I am available to answer questions you may have.....*Mahalo Nui!*

***Malama Pono!***

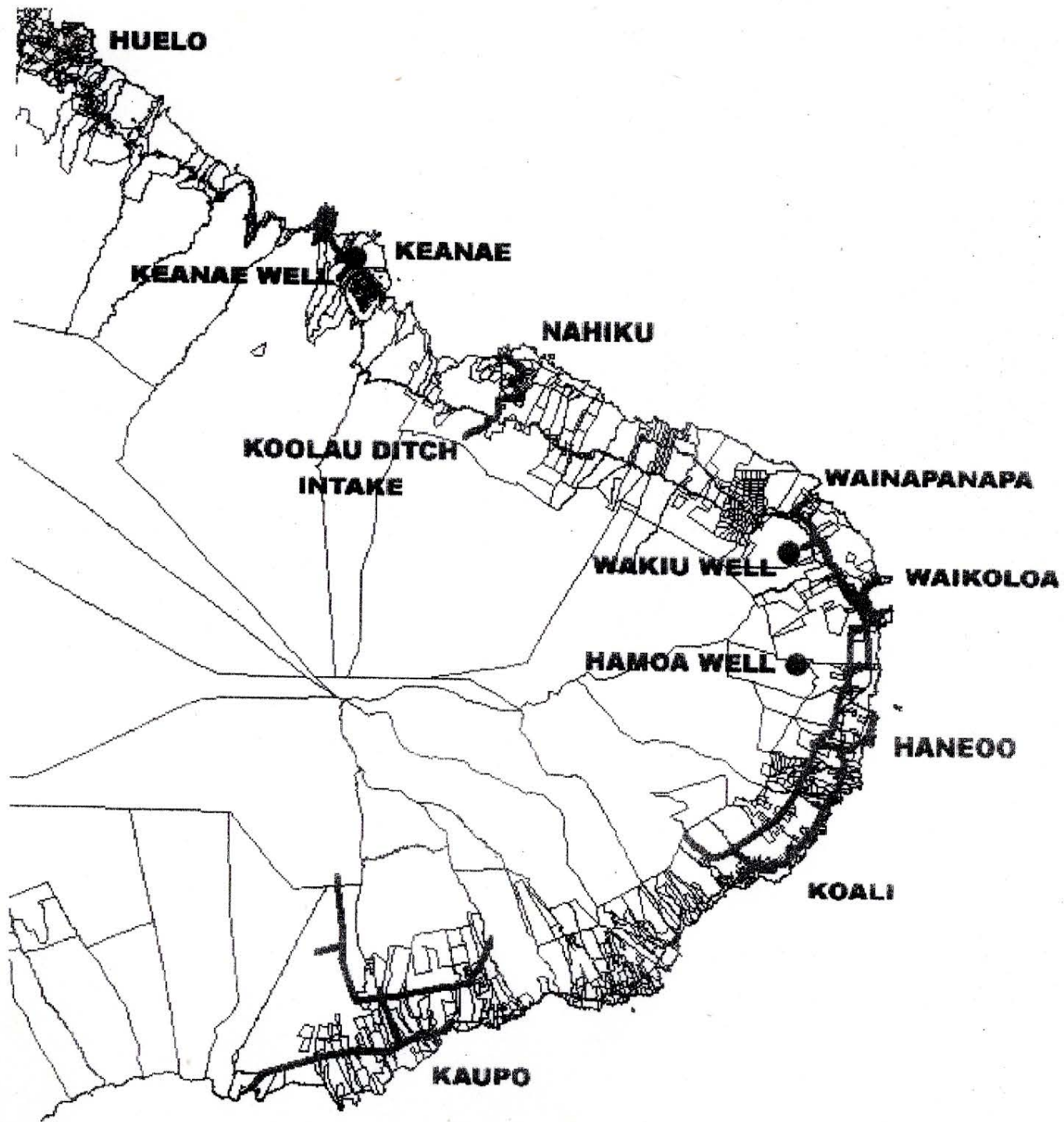
*John Blumer-Buell, Mu'olea*

**Enclosures:**

- 1) County Hana Water Meeting February 9, 2005.
- 2). HCA letter Hamoa to Koali Waterline. June, 25, 2005.
- 3). HCA letter #2 Re: Hamoa to Koali waterline. August 29, 2005.
- 4). COUNTY OF MAUI Office of the MayoFiscal Year 2026 Community Budget Request.
- 5). Council Budget Committee May 22, 2023, Meeting.
- 6) 2nd Amended Complaint Certified 2.pdf
- 7) Public Works Blumer-Buell Road Easement
- 8) Water Service Request NMOM. County Letter dated December 28, 2015.
- 9) April 27, 2023 NOAA LETTER.
- 10) September 13, 2023 Maui Department of Water Supply.

*Department of Water Supply*  
*County of Maui*

**HANA COMMUNITY MEETING**  
**February 9, 2005**  
**Helene Hall**



# **HANA WATER SYSTEM**

# **HANA-HAMOA WATERLINE IMPROVEMENTS**

## **PURPOSE**

- Provide permanent backup source and upgrade fire protection for Hana

## **PROJECT DESCRIPTION**

- 13,200 feet of 12-inch Waterline from Mill Road to Haneoo
- 31 Fire Hydrants (Spacing: Ag 500'; Res 350'; Comm 250')
- Water Service Laterals (16)

## **STATUS**

- Environmental Assessment completed
- Contractor: Maui Master Builders
- Notice To Proceed: January 10, 2005
- Construction Completion: Early 2006

# Environmental Assessment

DRAFT  
ENVIRONMENTAL ASSESSMENT  
Published OEQC Bulletin: 12/23/02  
Copy to Hana Library 12/13/02

30-DAY COMMENT PERIOD  
Deadline: 1/22/03

FINAL  
ENVIRONMENTAL ASSESMENT/  
FINDINGS OF NO SIGNIFICANT IMPACT  
Published OEQC Bulletin: 3/23/03

30-DAY CHALLENGE PERIOD  
Deadline: 4/22/03

# HAMOA WELL 2 – EXPLORATORY DRILLING

## PURPOSE

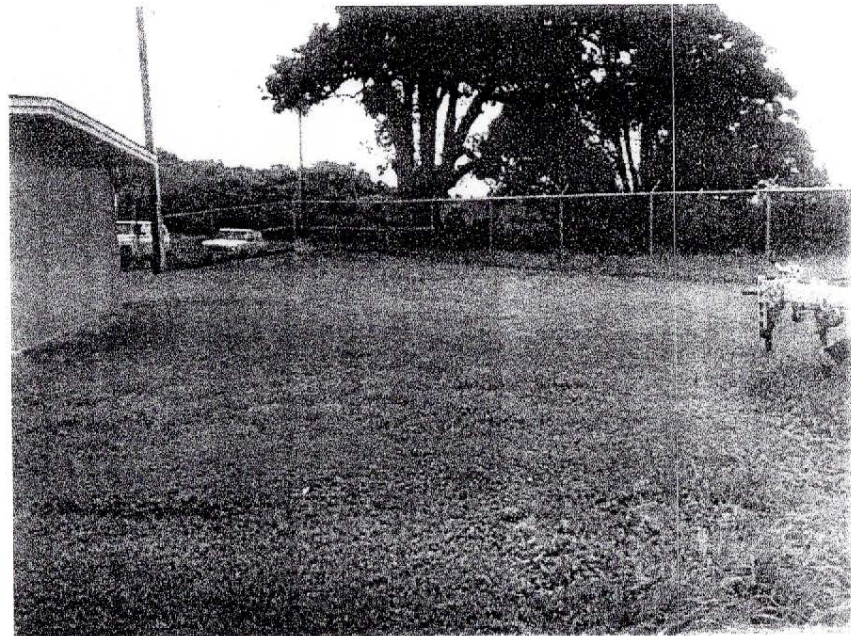
- Provide a more reliable water system by providing a backup source to Hamoa Well 1

## PROJECT DESCRIPTION

- Drill exploratory well at existing Hamoa Tank Site
- Well Depth = 400'
- Proposed Pump Capacity = 200 gpm

## STATUS

- Environmental Assessment completed



**Proposed Hamoa Well 2 Site**

# HAMOA WELL 2 – EXPLORATORY DRILLING

## **STATUS, continued**

- Design – 75% complete
- Fiscal Year 2005 - \$350,000 for well drilling (mid 2005)
- Fiscal Year 2006 - \$900,000 for well development
- Anticipated Online Date: end 2007

# **HAMOYA-KOALI WATERLINE REPLACEMENT**

## **PURPOSE**

- Improve waterline for domestic and fire protection purposes for the Koali area.

## **PROJECT DESCRIPTION**

- 16,000 feet of 8-inch Waterline from Kakio Road to Koali Tank
- Fire Hydrants (Spacing: Ag 500'; Res 350'; Comm 250')
- Water Service Laterals

# HAMOA-KOALI WATERLINE REPLACEMENT

## STATUS

- Design – 0% complete
- Topographic Survey – to be completed by April 2005
- Design – to be completed by end 2005
- Fiscal Year 2006 - \$650,000 for construction of 4,500 feet
- Fiscal Year 2007 - \$515,000 for construction of 3,500 feet
- Fiscal Year 2008 - \$567,000 for construction of 4,000 feet
- Fiscal Year 2009 - \$576,000 for construction of 4,000 feet

# **KOALI TANK REPLACEMENT**

## **PURPOSE**

- Improve water storage for the Koali area for fire protection and domestic consumption

## **PROJECT DESCRIPTION**

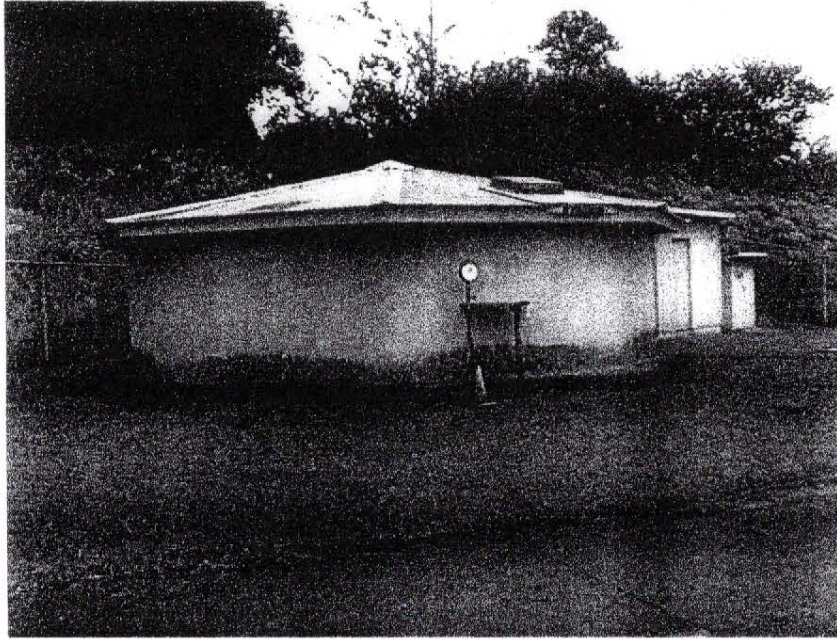
- Construct larger water storage tank
- Size (est. 200,000 gallons) and location of tank will be determined during design phase
- Remove existing 12,000 gallon water storage tank

## **STATUS**

- Consultant Selection – to be completed by March 2005
- Fiscal Year 2005 - \$150,000 for design
- Fiscal Year 2007 - \$350,000 for construction

# **NAHIKU WATER SYSTEM**

# NAHIKU SOURCE IMPROVEMENTS



**Nahiku 30,000 Gallon Tank**

## **STATUS**

- Consultant Selection – to be completed by March 2005
- Fiscal Year 2005 - \$70,000 for exploratory drilling - design
- Fiscal Year 2006 - \$570,000 for construction
- Fiscal Year 2007 - \$70,000 for well development – design
- Fiscal Year 2008 – \$750,000 for construction

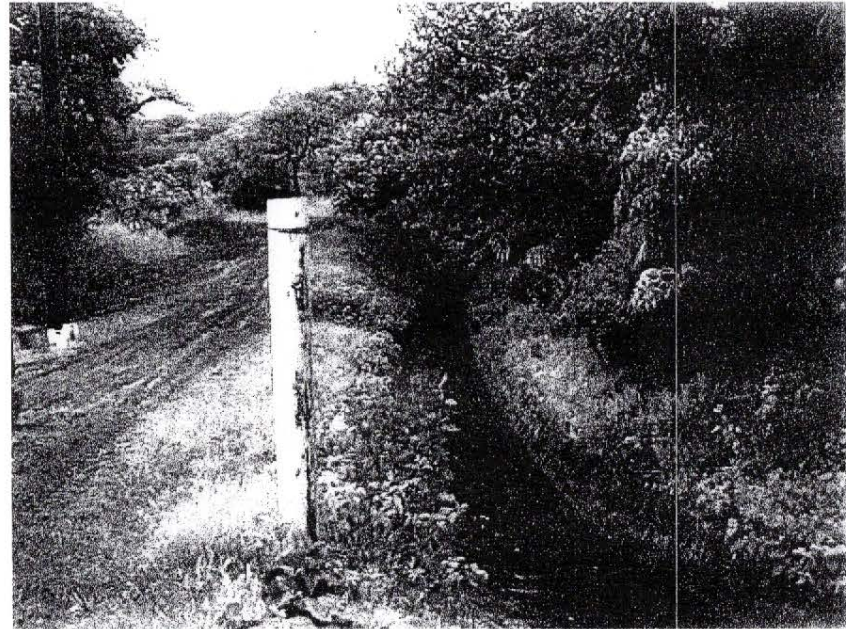
# NAHIKU SOURCE IMPROVEMENTS

## PURPOSE

- Provide a ground water source for Nahiku to replace the existing surface water source

## PROJECT DESCRIPTION

- Install a deep well in vicinity of Nahiku Tank
- Well depth and capacity will be determined in design



**Koolau Ditch  
(Nahiku Intake)**

# **KEANAE WATER SYSTEM**

# KEANAE WELL 2

## PURPOSE

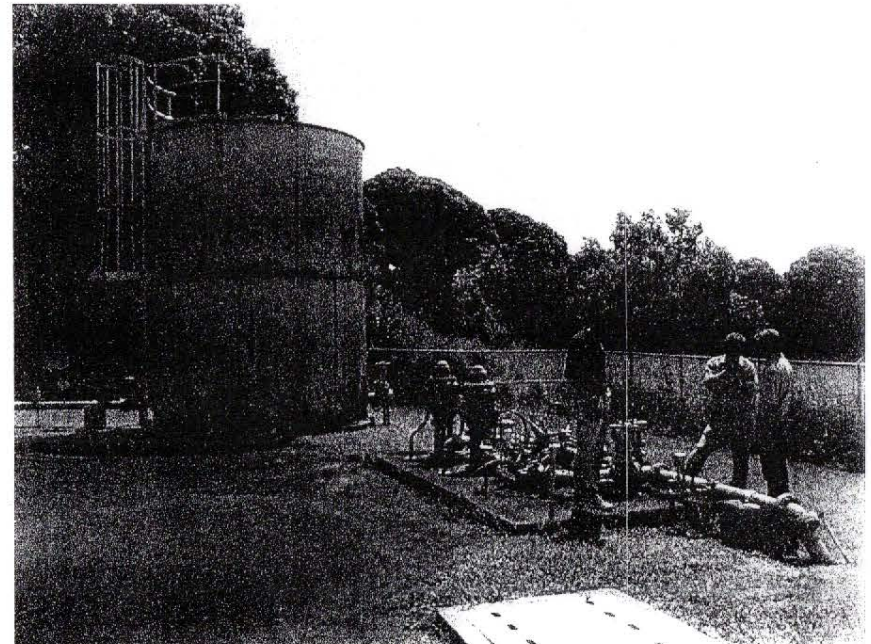
- Provide a more reliable water system by providing a backup source to Keanae Well 1

## PROJECT DESCRIPTION

- Install Well Pump
- Well Depth = 330'
- Proposed Pump Capacity = 100 gpm

## STATUS

- Contractor: Maui Master Builders
- Construction: 95% complete
- Construction Completion: Early 2005



# **KEANAE WATERLINE REPLACEMENT**

## **PURPOSE**

- Improve water system for domestic and fire protection purposes for the Keanae Peninsula area

## **PROJECT DESCRIPTION**

- 3,500 feet of 8-inch waterline along Keanae Place from Hana Highway to Keanae Park
- Fire Hydrants (Spacing: Ag 500'; Res 350')
- Water Service Laterals

## **STATUS**

- Consultant Selection – to be completed by March 2005
- Fiscal Year 2005 - \$20,000 for design
- Fiscal Year 2007 - \$500,000 for construction

# UPPER KEANAE TANK REPLACEMENT

## PURPOSE

- Improve water storage for the Keanae area for fire protection and domestic consumption

## PROJECT DESCRIPTION

- Construct larger water storage tank (est. 200,000 gallons)
- Final size and location of tank to be determined during design
- Remove existing 50,000 gallon water storage tank

## STATUS

- Consultant Selection – to be completed by March 2005
- Fiscal Year 2005 - \$100,000 for design
- Fiscal Year 2007 - \$500,000 for construction

**HANA COMMUNITY ASSOCIATION**

Post Office Box 202, Hana, Maui, Hawaii 96713

June 25, 2005

County Of Maui Department of Water Supply  
200 South High Street  
Wailuku, Maui, Hawaii 96793

Mr. George Tengan, Director, Sent Via Fax (270-7951) and U.S. Mail  
Ms. Wendy Taomoto, Engineer, Sent Via Fax (270-7833) and U.S. Mail

Subject: Request for an Environmental Assessment (EA) for the Hamoa to Koali Waterline. Opposition to a negative declaration.

Aloha Mr. Tengan and Ms. Taomoto,

The Hana Community Association (HCA) Board of Directors met on June 13, 2005. The Hamoa to Koali waterline was part of the agenda.

After discussion, the HCA Board voted unanimously to “request an Environmental Assessment” and “to oppose a negative declaration for an EA for the Hamoa to Koali waterline”.

Most importantly, the entire community should have the opportunity to comment on the possible impacts of the proposed project. Some of the concerns and issues the HCA Board identified were;

\* Interim Rural Zoning Issues, Land Use Issues and Cultural Impact Issues.

The Hana District is the only district without rural zoning. The County of Maui previously proposed rural zoning in Hana, but decided not to proceed until a number of important issues were resolved including;

a) Appropriate rural lot size. Previous discussions included possible lot sizes from one to five acres. What is the build out scenario? Much of the land between Hamoa and Koali is currently Interim Rural.

b) The Hana Community Plan calls for “the exploration of alternative land use and overlay zoning designations that recognize and preserve the unique natural and cultural characteristics of each community within the Hana region”. The area between Hamoa and Koali is particularly relevant to those issues.

c) The Hana Community Plan calls for “consideration of alternative regulatory frameworks to facilitate family residential use of Hawaiian hui and kuleana lands”. The area between Hamoa and Koali is particularly relevant to those issues.

d) The Hana community Plan states, “Identify and inventory exceptional open space resources and view sheds. Explore protective management measures such as covenants, easements, and other planning tools”. The area between Hamoa

Page 2

and Koali is particularly relevant to those issues.

Increasing the size of the Hamoa to Koali waterline without first considering important issues and impacts previously raised by the community is not in the best interests of the community.

The Hana Community Plan states, “ Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict”. The HCA Board feels an Environmental Assessment for the Hamoa to Koali pipeline will help fulfill this and other objectives and policies of the Hana Community Plan.

We look forward to working with you during the Environmental Assessment process.

Sincerely yours,

on behalf of the HCA Board of Directors

Tony Angelini  
John Blumer-Buell  
Lehua Cosma  
Suzette Cossey  
Kuulei Haina  
Lisa Hamilton  
Jackie Kahula  
Annie Kahula Rahl  
Kema Kanakaole  
Judy Kinser  
Guy Lay

**HANA COMMUNITY ASSOCIATION**  
Post Office Box 202, Hana, Maui, Hawaii 96713

August 29, 2005

County Of Maui Department of Water Supply  
200 South High Street, Wailuku, Maui, Hawaii 96793  
Mr. George Tengan, Director, Sent Via Fax (270-7951) and U.S. Mail  
Ms. Wendy Taomoto, Engineer, Sent Via Fax (270-7833) and U.S. Mail

Subject: **Second Request for an Environmental Assessment (EA) for the Hamoa to Koali Waterline. Opposition to a negative declaration. Opposition to “segmentation” of environmental impact documents.**

Aloha Mr. Tengan and Ms. Taomoto,

**The Hana Community Association has not received a letter of response to our letter dated June 25, 2005 (attached).**

The Hana Community Association Board of Directors wants to further inform you that we oppose any “segmentation” of the environmental disclosure documents for the Hamoa to Koali waterline replacement and Koali tank replacement.

As you know from your February 9, 2005, presentation in Hana, the Hamoa-Koali waterline replacement presentation disclosed the financial phases of the waterline between fiscal years 2005 and 2009. The Koali tank replacement presentation disclosed financial phases between the fiscal years 2005 and 2007. The possible impacts of financial phasing are among the many issues that need to be examined in the environmental documents.

The Hana Community Association discussed the issue of segmentation with the State Office of Environmental Quality Control (OEQC). We have been informed that “segmentation” of the environmental disclosure documents would violate state law.

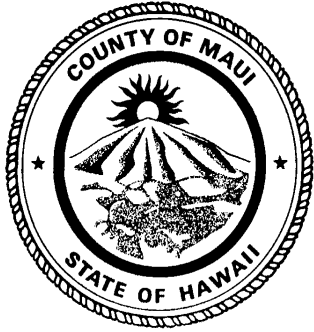
We request an immediate response from you regarding these issues.

Sincerely yours,

on behalf of the HCA Board of Directors

Tony Angelini John Blumer-Buell Lehua Cosma Suzette Cossey  
Kuulei Haina Lisa Hamilton Jackie Kahula Annie Kahula Rahl  
Kema Kanakaole Judy Kinser Guy Lay

cc: Maui County Council Water Resources Committee, State Office of Environmental Quality Control.



**COUNTY OF MAUI**  
**Office of the Mayor**  
**Fiscal Year 2026**  
**Community Budget Request**

FOR STAFF  
USE ONLY NO.

PLEASE PRINT

**Name:** John Blumer-Buell, on behalf of the Hana Community

**Email Address:** johnblumberbuell@gmail.com

**Phone:** 808-248-8972

**Mailing Address:** Post Office Box 787

**City/Zip:** Hana, Hawai'i 96713

**I Represent:**  **Myself**

**Organization** The Hana Community Association, the Hana Advisory Committee (HACMPC) and the GPAC.

**Request/Issue:** Request funding for the legally required Hawai'i Revised Statute Chapter 343 Environmental Impact Statement

process for the proposed and ongoing waterline and infrastructure upgrades to the "Hamoia to Koali Waterline Replacement" in Hana.

The issues were discussed and documented at a 2005 meeting in Hana sponsored by the County of Maui Department of Water Supply.

The printed handout is attached as proof. See pages 8, 9 and 10. The 2005 Hana Community Association Board requested an

Environmental Impact Statement. See the two attached letters as proof. A lawsuit was previously filed requesting an Environmental

Assessment (EA) and to oppose the illegal "Segmentation" of the project. See the attached lawsuit. The community rights of "legal

due process" are being denied by the County of Maui. The legally required process will enable hundreds of entitled lineal descendants

to build culturally appropriate affordable housing. Malama Pono! Why does the County of Maui refuse to follow Hawai'i Revised

Statute 343, the 1994 Hana Community Plan Ordinance and the Maui Island Plan "Goals and Objectives" ?

I am a firm believer in the 1994 Hana Community Plan language stating, "Encourage community-based dialogue regarding

proposed land use changes in order to avoid unwarranted conflict". The Hana Community, the Hana Advisory Committee to the Maui

Maui Planning Commission, the Maui County Council and the Mayor of Maui all worked together to endorse that statement of ALOHA.

**Funding Request (if known):** \$ 50,000.00+ Estimate.

**Responsible County Department:** Department of Water Supply.

*John and Christel Blumer-Buell*

Entitled Residents, Owners and Taxpayers in the Proposed 1959 Hanahuli Association Limited Subdivision in Mu'olea, Hana, Maui. Entitled Users and Managers with Vested Interests in the Historic State of Hawai'i Registered Mu'olea Spring and Distribution System in the Ahupua'a of Mu'olea.  
P.O.Box 787, Hana, Hawai'i 96713, [johnblumberbuell@gmail.com](mailto:johnblumberbuell@gmail.com) and [cblumberbuell@gmail.com](mailto:cblumberbuell@gmail.com) Telephone 808-248-8972

May 21, 2023 (for May 23 meeting)

Maui County Council Budget, Finance Committee and Economic Development Committee, Yuki Lei Sugimura, Chair

Sent via email to [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)  
[BFED.committee@mauicounty.us](mailto:BFED.committee@mauicounty.us) [budget.office@co.maui.hi.us](mailto:budget.office@co.maui.hi.us)  
[mayors.office@mauicounty.gov](mailto:mayors.office@mauicounty.gov) [leo.Caires@mauicounty.gov](mailto:leo.Caires@mauicounty.gov)

**Public Testimony, May 23, 2023. Timely Request for Complete Information, Inquiry and Requests Regarding:** 1) Evidence of any funding already approved for any segment or segments of a County of Maui water pipeline upgrade from Puuiki through Koali. 2) Evidence of any funding requested in the current proposed county budget under consideration for any or all segments of a County of Maui water pipeline upgrade from Puuiki through Koali. 3) Proof of County of Maui **intent** to timely conduct the legally required Hawai'i Revised Statute 343 Environmental Impact Statement (EIS) process for any or all segments of a County of Maui water pipeline upgrade from Puuiki through Koali..

*Aloha* Chair Sugimura and Committee Members,

I have been actively involved for decades in several important and still festering land use and water issues in Ahupua'a from Wailua Valley (south) to Hamoa, Haneo'o and Hana. The issues **directly** involve the County of Maui.

The issues can be constructively, peacefully and legally resolved with the cooperation of the County of Maui Administration and County Council.

To date, the County of Maui has not cooperated. Therefore, this “**Timely Request for Complete Information, Inquiry and Request**”.

This Budget Committee is in a position to initiate a long overdue healing process on behalf of Kanaka Maoli, the wider community and county, state and federal taxpayers through budgeting the required HRS 343 process.

The issues are currently under consideration by the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), the United States Attorney General, the State of Hawai’i Department of Natural Resources (DLNR) Commission on Water Resource Management (CWRM) and others. I am considering possible legal actions toward peacefully resolving several of the issues if government fails to do so.

I am a firm believer in the 1994 Hana Community Plan Ordinance language which states, “Encourage community- based dialogue regarding proposed land use changes in order to avoid *unwarranted conflict*”. We have sincerely tried to avoid *unwarranted conflict* in these issues for decades.

I have also tried to be mindful of this important statement of *Aloha* during my service as a 25 year Hana Community elected board member of the Hana Community Association, a member of the Maui General Plan Advisory Committee (GPAC) and a three term member of the Hana Advisory Committee to the Maui Planning Commission.

**First Issue:** The many substantial issues and impacts regarding the segmented County of Maui “Hamoia to Koali” water pipeline upgrades:

These should have been routinely and publicly addressed more than a decade ago though the legally required HRS 343 Environmental Impact Statement (EIS) or Environmental Assessment (EA) process. The Director of the County of Maui Department of Water Supply promised to do so.

I am enclosing in pdf the case I personally filed on April 23, 2021, CIVIL NO. 2CCV-21-0000010 (1) (Environmental Court) to demand a HRS Chapter 343 process. It is factually correct.

Unfortunately, the County of Maui was completely uncooperative in conducting the Chapter 343 process. However, **they conceded their error** in their first “DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT” in the new filing made on February 25, 2021. See number 3. of the “PLAINTIFF’S SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF”.

**Second Issue:** Since that time, I have discovered **POSSIBLE MAJOR FRAUD** involving the Hanahuli Association Limited, the County of Maui, the Hawai’i State Land Court and others. **This is a NEW and completely related issue to the “First Issue” and CIVIL NO. 2CCV-21-0000010 (1) (Environmental Court).**

On page 6 of an April 27, 2023, letter I wrote to the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) and the United States Attorney General I stated, “Next, I will present a “Brief History of Relevant Facts Regarding the Proposed 1959 Mu’olea and Mu’olea Point Subdivision”.

**“This includes the SHOCKING revelation and proof the legally required 1959 Water Bond Agreement between the Hanahuli Association Ltd. and the County of Maui to subdivide Mu’olea Point as part of a proposed 18 lot subdivision was never met”.**

“The evidence shows the Hanahuli Association Limited **DEFAULTED** on the legally required County of Maui water system improvements required to approve the entire 18 lot subdivision. From the evidence, it appears the Mu’olea Point lot and the other 17 lots were NEVER legally subdivided by the County of Maui. As a result, there could possibly be millions of dollars of liability damages against the Hanahuli Association Limited, the County of Maui, the Hawai’i State Land Court, Title Guarantee of Hawai’i, other title research and title guarantee insurance companies and other parties for misrepresentations and fraud”.

**“What did the Trust for Public Land, NOAA, County of Maui taxpayers, State of Hawai’i taxpaers, U.S. taxpayers, the Office of**

**Hawaiian Affairs and many others actually acquire and pay nearly three million dollars for?”**

“Please fully investigate. A forensic audit is needed to document the facts. *Mahalo!* (Thank you)”

\* \* \*

The April 27, 2023, letter continued on page 9:

**“A BRIEF HISTORY of RELEVANT FACTS REGARDING THE PROPOSED 1959 MU’OLEA and MU’OLEA POINT SUBDIVISION \***

Indicates document is available in pdf.”

“1. On July 23, 1946, the Hanahuli Association Ltd. proposed an 88 lot subdivision between Wailua and Puuiki, Hana, Maui. On March 6, 1947, the number of proposed lots was increased to 99. The revealing subdivision map was created by R. M. Towill, Engineer and Surveyor”. \*

“2. On September 4, 1959, the Maui Board of Supervisors granted **preliminary approval of the proposed** Hanahuli Association Ltd. 18 lot subdivision in the Ahupua’a of Mu’olea”.\*

“3. On September 21, 1959, the Hanahuli Association Ltd. made Land Court Application 1692 for Mu’olea, Hana, Maui. The Hanahuli Association Limited Owners’s Certificate of Title is 65,632, Authorized and Approved by Order of the Judge of the Land Court Dated October 16, 1959. The 2 maps and document were created by R. M. Towill”. \*

“4. ”In the Land Court the Territory State of Hawai’i”, October 19, 1959, Land Court Application 1692, Petition and Order of Subdivision, Recorder’s Memo:” Legibility of Writing, Typing or Printing UNSATISFACTORY in this document when received. Note on Page 6 of the document: APPROVAL: This subdivision was approved by the Board of Supervisors of the County of Maui on September 4th, 1959”.\*

“5. December, 1959. The Hanahuli Association, Ltd. filed with the County of Maui a legally binding Water Bond agreement in which they agreed to construct a water system for the subdivision of Land Court Application No. 1692 which contains 18 lots”. \*

**“THE COUNTY OF MAUI BOARD OF SUPERVISORS SEPTEMBER 4TH, 1959, APPROVAL WAS PRELIMINARY and CONDITIONAL. FINAL APPROVAL WAS SUBJECT TO COMPLETION OF THE DECEMBER, 1959, COUNTY OF MAUI and HANAHULI ASSOCIATION LTD. WATER BOND AGREEMENT”.**

**“THE HANAHULI ASSOCIATION LTD. DEFAULTED ON THE REQUIRED WATER BOND. FINAL APPROVAL OF THE CONDITIONALLY APPROVED SUBDIVISION WAS NEVER GRANTED BY THE COUNTY OF MAUI”.**

“Proof of these facts is documented in a “March 18, 1971, letter from Carl Kaima, Director, Department of Water Supply to Dr. P. H. Liljestrand, President, Hanahuli Association, Ltd., Subject: Installation of subdivision water system, LCA No. 1692”. \* “The letter states in part,”

**“In December 1959, Hanahuli Association, Ltd. filed with the County of Maui an agreement in which they agreed to construct a water system for the subdivision of Land Court Application No. 1692 which contains 18 lots. A bond was posted with the County of Maui in August 1959 to insure this water system improvement. However, this water system has not been constructed to date and consequently, a recent request by one of the lot owners had to be denied”.**

**“The above matter was referred to our attorney who has opined that Hanahuli Association, Ltd. defaulted on the agreement by selling parcels within this subdivision without first completing the water-line improvements”.**

“Additional proof of these facts are documented in a May 5, 1971, letter signed by Maui Planning Director Howard K. Nakamura. It is officially stamped “RECEIVED”, 1971, July 16, PM 4:15 BY THE DEPT. OF WATER SUPPLY, COUNTY OF MAUI”. The letter was addressed to Mr. Robert N. Ota, NORMAN SAITO ENGINEERING CONSULTANTS, INC. regarding “Land Court Application 1692...”. \* “The letter states in part,”

**“This is to inform you that the above subdivision cannot be granted preliminary approval at this time because of an unsatisfactory performance of an agreement between the County Board of Water**

**Supply and the Hanahuli Association”. And, “Until such time that the water system improvements are completed and approved, or under construction and completion is reasonably assured to the Department of Water Supply, the approval of the above subdivision cannot be considered”.**

**“Again, FINAL APPROVAL OF THE PROPOSED 18 LOT SUBDIVISION WAS NEVER APPROVED BY THE COUNTY OF MAUI BECAUSE THE HANAHULI ASSOCIATION LTD. DEFAULTED ON THE REQUIRED WATER BOND IMPROVEMENTS”.**

**“The curiously “hurried and before the fact” approval by the Hawai’i Land Court was premature, uninformed and legally questionable. There is possible political influence and fraud involved in the decision. The Hawai’i Land Court decision needs to be fully documented, investigated and reported for the public good in a legal “Finding of Facts and Conclusions of Law”. *End of quotes from the April 27, 2023, letter.***

If the Hanahuli Association proposed subdivision is proven to be illegal, there are potentially millions of dollars of liability for fraud and damages. Many of the issues could be completely vetted in a HRS 343 process. However, that could be a “round about” and potentially long process to get answers we allegedly already know.

**Now, today, the County of Maui retroactively wants federal, state and county taxpayers to pay for ALL costs of the PROPOSED, never approved, 1959 Hanahuli Association Subdivision Water Bond improvements.**

The Hanahuli Association has already “escaped” with millions of dollars of private donations, county, state, and federal taxpayer money. This could or should be a class action lawsuit.

Please note: The U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), The Trust for Public Lands, the Office of Hawaiian Affairs (OHA) and the County of Maui were among major financial contributors.

**Importantly, NOAA still has THE superior and binding legal agreement with the County of Maui to control Mu'olea Point and the associated entitlements.**

Mu'olea Point was proposed to be subdivided into numerous lots in the proposed 1946 subdivision. Subsequently, less lots in the proposed 1959 Hanahuli Association Subdivision. I have both of the maps. And, an earlier map from 1891.

Years ago, I was asked to help Jim Meeker and the Getty Trust in a "due diligence" effort to purchase Hanahuli Association Ltd. "interests" in 2100 acres. I personally met with Hanahuli Association Ltd. principal David Pietsch and several related attorneys. Significantly, David Pietsch was also President and CEO of Title Guaranty Escrow Services Inc.

My wife Christel and I have standing in the cases as buyers and owners of one of the 1946 proposed 18 Hanahuli Association subdivision lots, as entitled users of the historic "5th Avenue" mauka road access easement, entitled users of the historic and State registered Mu'olea Spring and water distribution system and federal, state, and county taxpayers. We have lived in Mu'olea and managed the spring for nearly half a century.

**This is not simply "old history". The County of Maui Director of Public Works Jordon Molina could not or would not answer questions in an October 22, 2022, letters from Council Member Shane Sinenci.** The letter is enclosed.

There is much, much more important information, facts and evidence. For example, **Kanaka Maoli rights are being outrageously violated within all these issues.** Perhaps, the Native Hawaiian Legal Corporation should be informed, consulted and invited to be a party toward resolution.

Please carefully consider the issues. Please write or call with any questions, comments or requests. We understand there are many important considerations and questions.

*Sincerely, Mahalo and Best Wishes,*

*John* (Blumer-Buell), on behalf of Christel, our ‘Ohana and the Community. Telephone 808-248-8972. Email [johnblumerbuell@gmail.com](mailto:johnblumerbuell@gmail.com)

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IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

JOHN BLUMER-BUELL,  
  
Plaintiff,

vs.

COUNTY OF MAUI; COUNTY OF MAUI )  
DEPARTMENT OF WATER SUPPLY; )  
COUNTY OF MAUI DEPARTMENT OF )  
ENVIRONMENTAL MANAGEMENT; )  
COUNTY OF MAUI DEPARTMENT OF )  
PUBLIC WORKS, and COUNTY OF MAUI )  
DEPARTMENT OF PLANNING, )  
  
Defendants. )

) CIVIL NO. 2CCV-21-000010 (1)  
) (Environmental Court)  
)  
) PLAINTIFF'S SECOND AMENDED  
) COMPLAINT FOR DECLARATORY AND  
) INJUNCTIVE RELIEF; SUMMONS

**PLAINTIFF'S SECOND AMENDED COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. On September 25, 2020, the County of Maui Department of Water Supply (DWS) Director made a "DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT" for the "HANA WATERLINE REPLACEMENT PROJECT (KAPIA RD TO HAOU RD) HANA, MAUI, HAWAII, DWS JOB NO. 21-02B. "in violation of Hawai'i Revised Statutes ("HRS") Chapter 343, the Hawai'i Environmental Policy Act ("HEPA"). In issuing this exemption declaration, Defendant DWS failed to follow the procedures outlined in HEPA and properly apply the law so that "environmental concerns are given appropriate consideration in decision making[.]" HRS § 343-1.



2. In order to ensure that proper procedures and laws are followed and in order to protect the integrity of the public rights to legal due process, Plaintiff John Blumer-Buell asks this Court to ensure (1) compliance with HEPA’s notice and consultation requirements and (2) the timely preparation of, at minimum, an Environmental Assessment (“EA”) for the *entire* County of Maui Department of Water Supply system from Kapia Road, in the Ahupua’a of Maka’alae, through the Ahupua’a of Koali - i.e. the Hamoa to Koali Pipeline.

3. On February 25, 2021, the County of Maui Department of Water Supply Director made a **second, new**, “DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT” for the “HANA WATERLINE REPLACEMENT PROJECT (HANA HWY - KAPIA RD TO ST. PETER’S CHURCH RD) HANA, MAUI, HAWAII, DWS JOB NO. 21-02B. “in violation of Hawai‘i Revised Statutes (“HRS”) Chapter 343, the Hawai‘i Environmental Policy Act (“HEPA”). In issuing this exemption declaration, Defendant DWS failed to follow the procedures outlined in HEPA and properly apply the law so that “environmental concerns are given appropriate consideration in decision making[.]” HRS § 343-1.

4. In order to ensure that proper procedures and laws are followed and in order to protect the integrity of the public rights to legal due process, Plaintiff John Blumer-Buell asks this Court to ensure (1) compliance with HEPA’s notice and consultation requirements and (2) the timely preparation of, at minimum, an Environmental Assessment (“EA”) for the *entire* County of Maui Department of Water Supply system from Kapia Road, in the Ahupua’a of Maka’alae, through the Ahupua’a of Koali - i.e. the Hamoa to Koali Pipeline.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims for relief in these acts pursuant to HRS §§ 603-21.5, 603-21.9, 632-1, and 343-7(a).

6. Plaintiff's claim for relief arose from acts/or omissions which occurred in the County of Maui, State of Hawai'i and the United States of America.

### PARTIES

7. Plaintiff John Blumer-Buell is a long time resident of Mu'olea, one segment of the numerous Ahupua'a land areas impacted by the County of Maui Department of Water Supply system from Kapia Road through Koali and an individual historically dedicated to the protection of due process rights and the environment.

8. Defendant County of Maui is governed by the Laws and Constitution of the United States of America, the State of Hawai'i and the County of Maui.

9. Defendant County of Maui Department of Water Supply is governed by the Laws and Constitution of the United States of America, the State of Hawai'i and the County of Maui.

10. Defendant County of Maui Department of Environmental Management is governed by the Laws and Constitution of the United States of America, the State of Hawai'i and the County of Maui.

11. Defendant County of Maui Department of Public Works is governed by the Laws and Constitution of the United States of America, the State of Hawai'i and the County of Maui.

12. Defendant County of Maui Department of Planning is governed by the Laws and Constitution of the United States of America, the State of Hawai'i and the County of Maui.

### FACTUAL ALLEGATIONS

13. Forty-five (45) years ago and earlier, untreated surface water flowed by gravity from the southern end of the County of Maui water system from Wailua Valley (south) and Koali all the way north to Hana Town. The two primary transmission lines ran mauka of the road through a land courted pipeline easement from Koali to Puuiki and along the road easement all the way to Hana Town.

14. Hana Town was originally served by a surface water diversion originating at Wailua Valley-Koali via a mauka pipeline and a road pipeline to Hana Town.

15. With the successful drilling of a well in Hamoa, the installation of a large storage tank and water treatment capabilities, water source and delivery of primary treated water completely changed flow direction. Water now flowed in the opposite direction from Hamoa through Koali, instead of from Koali to Hamoa.

16. Subsequently, a pump station and water storage facility were added on the Mu'olea side of Papa'ahawahawa Stream in an agreement with the Hanahuli Association, Ltd. This facility pumps the Hamoa well water to the higher elevation storage tank in Koali.

17. "The 1994 Hana Community Plan, one of nine (9) community plans for Maui County, reflects current and anticipated conditions in the Hana region, and advances planning goals, objectives, policies and implementation considerations to guide decision making on water resources and other issues in the region in the region through the year 2010".

18. The 1994 Hana Community Plan provides specific recommendations to address the goals, objectives and policies contained in the General Plan, while recognizing the values and unique attributes of Hana, in order to enhance the region's overall living environment.

19. The 1994 Hana Community Plan Ordinance is still a primary, if not the primary, County of Maui planning reference for Hana and East-Maui. The 1994 Hana Community Plan Ordinance is still in effect.

20. The 1994 Hana Community Plan Ordinance No. 2347, effective on July 1, 1994, was approved by Ordinance No. 2347 to: (1) “Ensure community participation, including resident Hawaiian, in all long- term infrastructure planning”; (2) “Identify water service area expansion needs in the Hana region”; and (3) “Prepare a domestic water system master plan and a wastewater system master plan for he Hana region”; and (4) “Acknowledge and respect family ancestral ties to cultural resources”; and (5) “Require development projects to identify all cultural resources within or adjacent to the project area as part of the County development review process. Further require that all proposed development include appropriate mitigation measures including site avoidance, adequate buffer areas and interpretation”; and (6) “Explore alternative land use and overlay zoning designations that recognize and preserve the unique natural and cultural characteristics of each community within the Hana region”.

21. The longstanding Hamoa through Koali water system project, which spans about 3.3 miles, was previously discussed at a Hana Community meeting on February 9, 2005, with the County of Maui Department of Water Supply. The Plaintiff attended that public meeting as a Board Member of the Hana Community Association.

22. The February 9, 2005 meeting was followed up by the Hana Community Association (“HCA”) Board of Directors with two letters to County of Maui Department of Water Supply Director Mr. George Tengan and Engineer Ms. Wendy Taomoto dated June 25, 2005 and August 29, 2005.

23. The August 29, 2005, letter stated in part, “Subject: Second Request for an Environmental Assessment (EA) for the Hamoa to Koali Waterline. Opposition to a negative declaration. Opposition to “segmentation” of environmental impact documents”.

24. Further, “The HCA discussed the issue of segmentation with the State Office of Environmental Quality Control (OEQC). We have been informed that “segmentation” of the environmental disclosure documents would violate state law”.

25. Subsequently, in or around 2011-13, the Plaintiff personally met with former Maui DWS Director Dave Taylor at his county office in Wailuku on behalf of HCA. The two HCA letters were reviewed line by line and Mr. Taylor assured the Plaintiff that he understood the legal obligation of the County of Maui DWS to comply with HRS Chapter 343 regarding the future Hamoa to Koali pipeline project’s numerous issues and projects.

26. A “Declaration of Exemption from the Preparation of an Environmental Assessment” was signed by Defendant County of Maui Department of Water Supply Director on September 25, 2020, regarding the proposed project described as “DWS JOB NO. 21-02B. Bid Title: Hana Waterline Replacement **Kapia Rd to St. Peter's Church Rd**”.

27. A “Declaration of Exemption from the Preparation of an Environmental Assessment” was signed by Defendant County of Maui Department of Water Supply Director on September 25, 2020, regarding **an additional segment** of the larger historical Hamoa through Koali County of Maui water system projects, described as **Kapia Rd. to Haou Rd.**

28. On September 15, 2020, prior to the “Declaration of Exemption”, Defendant County of Maui Department of Environmental Management signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

29. On September 16, 2020, prior to the “Declaration of Exemption”, Defendant County of Maui Department of Public Works Director signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

30. On September 16, 2020, prior to the “Declaration of Exemption”, Defendant County of Maui Department of Planning Director signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

31. The Declaration of Exemption was never posted in The Environmental Notice on the website of the Office of Environmental Quality Control (“OEQC”) as legally required.

32. The “Declaration of Exemption” and “Bid” documents describe two different **“Multiple or Phased Actions”**.

33. On February 25, 2021, a **second, new**, “Declaration of Exemption from the Preparation of an Environmental Assessment” was signed by Defendant County of Maui Department of Water Supply Director excluding the previously included additional segment described as **St. Peter’s Church Rd. to Haou Rd.** of the larger and historical Hamoa through Koali County of Maui water system projects.

34. On February 3, 2021, prior to the second, new, February 25, 2021, “Declaration of Exemption”, Defendant County of Maui Department of Planning Director

signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

35. On February 8, 2020, prior to the second, new, February 25, 2021, “Declaration of Exemption”, Defendant County of Maui Department of Environmental Management Director signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

36. On February 19, 2021, prior to the second, new, February 25, 2021, “Declaration of Exemption”, Defendant County of Maui Department of Public Works Director signed a “Request for Consultation” statement; “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply.”

37. **The second, new, February 25, 2021, “Declaration of Exemption from the Preparation of an Environmental Assessment”** signed by Defendant County of Maui Department of Water Supply Director is subject to Hawai’i Revised Statute Chapter 343-7, which states in part, “Limitation of actions, (a) Any judicial proceeding, the subject of which is the lack of assessment required under section 343-5, shall be initiated within one hundred twenty days of the agency's decision to carry out or approve the action, or, if a proposed action is undertaken without a formal determination by the agency that a statement is or is not required, a judicial proceeding shall be instituted within one hundred twenty days after the proposed action is started. The council or office, any agency responsible for approval of the action, or the applicant shall be adjudged an aggrieved party for the purposes of bringing judicial action under this subsection. Others, by environmental court action, may be adjudged aggrieved”. The one hundred and twenty day filing “deadline” from February 25, 2021, is June 24, 2021.

COUNT 1  
(Violation of HRS Chapter 343)

38. In making both the September 25, 2020 and the February 25, 2021, “Declaration of Exemption”, the Defendants failed to comply with HRS Chapter 343, Environmental Impact Statements and Hawai‘i Administrative Rules (“HAR”), Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules.

39. HAR § 11-200.1-17(b) provides:

“To declare an exemption prior to implementing an action, an agency shall undertake an analysis to determine whether the action merits exemption pursuant to section 11-200.1-15 and is consistent with one or several of the general types listed in section 11-200.1-15 or the agency's exemption list produced in accordance with section 11-200.1-16, and whether significant cumulative impacts or particularly sensitive environments would make the exemption inapplicable. An agency shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise on the propriety of the exemption. This analysis and consultation shall be documented in an exemption notice.”

40. Defendants violated this rule by consulting and advising only themselves (agencies of the County of Maui), not “other outside agencies or individuals having jurisdiction or expertise on the propriety of the exemption.”. To determine whether “.....significant cumulative impacts or particularly sensitive environments would make the exemption inapplicable” (HAR § 11-200.1-17(b), the Defendants needed to first consult with the Hana Community as stated in the 1994 Hana Community Plan. The Defendants did not.

41. Further, regarding consulting ; “.....An agency shall obtain the advice other outside agencies or individuals having jurisdiction or expertise on the propriety of the exemption” (HAR § 11-200.1-17(b). The Defendants did not.

42. The “outside agencies” consulted needed to be serving Hana with understanding and knowledge of the Hana Community. The Defendants failed make the required consultations, ignoring the word “SHALL”. The Defendants consulted only with themselves or by “default”.

43. It is questionable if the Defendant County Departments actually consulted even with themselves. The statements signed by Defendants County of Maui Department of Environmental Management, County of Maui Department of Public Works and County of Maui Department of Planning stated in part, “If no response is received by this date, it will be **assumed** that your department concurs with the exemption declaration.” In other words, Defendant County of Maui Department of Water Supply was willing to accept a “default” consultation. A “default” consultation violates the spirit and intent of Chapter 11-200.1 HAR.

44. The statements signed by Defendants County of Maui Department of Environmental Management, County of Maui Department of Public Works and County of Maui Department of Planning also stated in part, “Pursuant to Chapter 11-200.1 HAR, I concur with this exemption declaration by the Department of Water Supply”.

45. The Declarations signed by the Director of the Department of Water Supply stated, “I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR. I declare that this project will **probably** have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment”. The use and meaning of the word “probably” is significant and disturbing. **Probably** is used when you think something will happen or turn out to be true, but you're not certain enough to say it definitely will. This is a clear violation of the legal intent and spirit of Hawai‘i Revised Statutes (“HRS”) Chapter 343 and the Hawai‘i Environmental Policy

Act (“HEPA”). In issuing this exemption declaration, Defendant DWS failed to follow the procedures outlined in HEPA and properly apply the law so that “environmental concerns are given appropriate consideration in decision making[.]” HRS § 343-1. An Environmental Impact Statement process is intended to clarify information, to eliminate guesswork and “PROBABLY”.

46. It is relevant for the record and the court to be informed this current complaint regarding the “Declaration of Exemption from the Preparation of an Environmental Assessment”, SECOND CIRCUIT 2CCV-21-0000010, has been preceded by a similar objection to the “Declaration of Exemption from the Preparation of an Environmental Assessment” for the County of Maui proposed Nahiku Community Center in 2012. The failure and refusal of the County of Maui to conduct the legally required Environmental Impact Statement process in 2012 has resulted in more than ten years of “unwarranted conflict” (1994 Hana Community Plan language).

47. The refusal and failure of the County of Maui to conduct an EA process for the proposed Nahiku Community Center also resulted in the documented waste of hundreds of thousands of dollars of taxpayer funds, a lawsuit (COUNTY OF MAUI VERSUS MAUI KUPONO BUILDERS LLC, ET AL., CIVIL 15-1-0421(1) and the request for a “Comprehensive and Independent Investigation”, a “Forensic Financial Audit” and a “Forensic Performance Audit” of every aspect of PSLU-32 by ten Nahiku and Hana Community “Intervenors”.

48. The unresolved and still festering issues are currently in the Maui County Council Planning and Sustainable Land Use Committee as agenda item PSLU-32.

49. It should be noted, the Hana Advisory Committee (HAC) to the Maui Planning Commission advised an Environmental Impact Statement (EIS) process be conducted for the proposed Nahiku Community Center. The uninformed and misled Maui Planning Commission ignored the HAC advice. Sadly, after the fact, there appears to be an understanding and consensus the proposed community center was proposed in a completely wrong, unsafe and inappropriate location. All this “unwarranted conflict” would have been avoided with an Environmental Assessment process in 2012.

50. Public agencies and community organizations routinely consulted in matters concerning HRS Chapter 343 and its administrative rules include the Hawai’i State Office of Planning, the Hawai’i State Office of Historic Preservation, the Office of Hawaiian Affairs, the Native Hawaiian Legal Corporation, the State of Hawai’i Maui-Lanai Burial Council, the Hana Aha Moku Advisory Committee, the Hana Community Association, living lineal descendants of the impacted Ahupua’a within the areas impacted by the Kapia Road through Koali county water system projects, and others.

51. The Defendants also failed to consult with the most important source of information regarding the numerous and significant environmental issues. That source is the impacted Hana Community and lineal descendants. In this process, the Defendants chose to ignore The 1994 Hana Community Plan Ordinance which instructs the Defendants to: (1) “Ensure community participation, including resident Hawaiian, in all long- term infrastructure planning”; (2) “Identify water service area expansion needs in the Hana region”; and (3) “Prepare a domestic water system master plan and a wastewater system master plan for he Hana region”; and (4) “Acknowledge and respect family ancestral ties to

cultural resources”; and (5) “Require development projects to identify all cultural resources within or adjacent to the project area as part of the County development review process. Further require that all proposed development include appropriate mitigation measures including site avoidance, adequate buffer areas and interpretation”; and (6) “Explore alternative land use and overlay zoning designations that recognize and preserve the unique natural and cultural characteristics of each community within the Hana region”.

**52. The Defendants violated HAR § 11-200.1-17(b). HAR § 11-200.1-17(b) is the first step in meeting the requirements of a “Declaration of Exemption”. The Defendants have not met the first step of the legal protocol and requirements. Therefore, the Hamoa through Koali Waterline Projects (Kapia Rd. through Koali) do not qualify for a “Declaration of Exemption”.**

COUNT 2  
(Violation of HRS Chapter 343)

53. In making the Declaration of Exemption”, the Defendants failed to comply with HRS Chapter 343, Environmental Impact Statements and Hawai‘i Administrative Rules (“HAR”), Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules.

54. HAR § 11-200.1-10 provides;

That a group of actions shall be treated as a single action when: “(1) The component actions are phases or increments of a larger total program; (2) An individual action is a necessary precedent to a larger action; (3) An individual action represents a commitment to a larger action; or (4) The actions in question are essentially identical and a single EA or EIS will adequately address the impacts of each individual action and those of the group of actions as a whole.”

55. Relatedly, HAR § 11-200.1-15(d) provides;

That “[a]ll exemptions under subchapter 8 are **inapplicable** when the cumulative of

planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.”

56. The proposed projects are segmented parts, “**Multiple or Phased Actions**”, of the much larger, significant, integrated and longstanding Hamoa through Koali water system project previously discussed and partially vetted by the County of Maui Department of Water Supply at a Hana Community meeting on February 9, 2005. The intent and spirit of the law require the issues to be addressed comprehensively.

57. The actual scope of the “**Multiple or Phased Actions**” of the County of Maui water system improvements is from Hamoa (at Kapia Road, Maka’alae) through Koali.

58. The Kapia Road to St. Peter’s Church Road segment is approximately 0.7 mile. The additional “**Multiple or Phased Actions**” of the larger project named in the Defendant’s first “Exemption” is from St. Peter’s Church Rd to Haou Road. That segment is an additional distance of approximately 0.7 mile.

59. The actual distance of the entire “**Multiple or Phased Actions**” projects from Hamoa/Kapia Road through Maka’alae, through Puuiki, through Haou, through Papa’ahawahawa, through Mu’olea, through Koali to Wailua Valley (south) is approximately 3.3 miles.

60. The distances do not include the lateral pipes referenced, but not precisely described or disclosed in length or location, in the “Bid” document. This is basic information that is required to be disclosed in an Environmental Impact Statement process.

61. The Defendants disclosed and “admitted” the Kapia Rd. to Haou Rd. segment of the September 25, 2020, “Declaration of Exemption” was, in fact, part of a **Segmented, “Multiple or Phased Action”** when they recognized and acted to remedy their legal errors.

To attempt to correct their legal errors, the Defendants filed a **second, new**, “Declaration of Exemption” on February 25, 2021. The second, new, “Exemption” omitted the previously declared St. Peters Church Road to Haou Road segment of the larger and significant “Hamoa through Koali”, or “Kapia Road through Koali” projects. The second, new “Exemption” does not fix or remedy the errors.

**62. The Defendants violated both HAR § 11-200.1-10 and HAR § 11-200.1-15(d). HAR § 11-200.1-10 and HAR § 11-200.1-15(d) are the second steps in recognizing and meeting the requirements of a “Declaration of Exemption”. The Defendants have not recognized or met the first or the second steps of the legal requirements for a “Declaration of Exemption”. Therefore, the Hamoa through Koali Waterline Projects (Kapia Rd. through Koali) do not qualify for a “Declaration of Exemption”.**

### COUNT 3

(Violation of HRS Chapter 343)

63. In making the Declaration of Exemption”, the Defendants failed to comply with HRS Chapter 343, Environmental Impact Statements and Hawai‘i Administrative Rules (“HAR”), Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules.

64. HAR § 11-200.1-17(b) provides

To declare an exemption prior to implementing an action, an agency shall undertake an analysis to determine whether the action merits exemption pursuant to section 11-200.1-15 and is consistent with one or several of the general types listed in section 11-200.1-15 or the agency's exemption list produced in accordance with section 11-200.1-16, and whether significant cumulative impacts or particularly sensitive environments would make the exemption inapplicable. An agency shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise on the

propriety of the exemption. This analysis and consultation shall be documented in an exemption notice.

65. Agencies are also required to submit “Lists of Exemptions” to the Hawai‘i State Office of Environmental Quality Control (“OEQC”) to identify any exemption they have made during a calendar month. The OEQC publishes links to these in “The Environmental Notice” on the 8<sup>th</sup> of every month.

66. There was no posting of the Defendants September 25, 2020 Declarations of Exemption in The Environmental Notice on October 8, 2020. In fact, as of this filing, these exemptions have never been posted.

67. In fact, the Defendants disclosed and “admitted” their failure to publish their first “Declaration of Exemption” in the Hawai‘i State Office of Environmental Quality Control “The Environmental Notice” when they made a **new, second**, “Declaration of Exemption” on February 25, 2021. The new, second, “Declaration of Exemption” was published in The Environmental Notice on March 8, 2021. **That attempted remedial action does not “remedy” Counts 1 and 2 of this Complaint.**

#### COUNT 4

(Violation of HRS Chapter 343)

68. In making the Declaration of Exemption”, the Defendants failed to comply with HRS Chapter 343, Environmental Impact Statements and Hawai‘i Administrative Rules (“HAR”), Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules.

69. HRS Chapter 343 provides;

**§343-1 Findings and purpose.** The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole. It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.

70. The Defendants are attempting to obstruct and terminate the public right to transparent legal due process regarding the HRS 343 Environmental Impact Statement process for the County of Maui Hamoa through Koali water system project.

71. The public is entitled to a HRS 343 Environmental Impact Statement process to gather, discuss and consider significant information for thoughtful decision making.

72. The required Environmental Impact Statement process would consider comprehensive issues brought forward by the community including: (1) the implementation of the 1994 Hana Community Plan – that is, to ensure community participation, including resident Hawaiian, in all long-term infrastructure planning, identify water service area expansion needs in the Hana region, and prepare a domestic water system master plan for the Hana region; (2) the unresolved future integration of the historic primary mauka County of Maui land court recorded water pipeline from Wailua Valley to Puuiki; (3) the unresolved issues regarding the 1958 water bond and subdivision agreements between the Hanahuli Association, Ltd. and the County of Maui; and (4) the unresolved issues regarding the historic spring that logically served the homes of King Kalakaua and Queen Liliuokalani within the County of Maui held deed for Mu'olea Point; (5) the numerous recorded and

unrecorded historic archaeological and burial sites; (6) the integration of existing or planned wells and water storage into the county system; (7) the consideration of all recorded water use as recognized by the State of Hawai‘i in the “Water Mahele” of 1989; (8) the impacts of the County of Maui Agricultural Land Ordinance that allows administrative subdivision of agricultural zoned land without a public notification process to account for environmental, cultural, and economic impacts; (9) the laws and rules regarding fair distribution of water resources and granting of county meters; and (10) kanaka maoli geneology, land title, water, and access rights issues.

73. Ultimately, the Defendants fail to follow the law and documented history and properly treat the proposed pipeline upgrade as “**Segmentation**” and “**Multiple or Phased Action**” of the much larger, significant, integrated and longstanding Hamoa through Koali water system project, which has been discussed as one whole project since at least 2005.

74. There are many Hana ‘Ohana and hundreds of lineal descendants that should have the opportunity to be informed and express their mana‘o (ideas-opinions) through their legal due process rights in the required environmental review process.

75. The significance of the proposed projects demands consultations with all concerned citizens and organizations as it will have numerous environmental, cultural, economic and spiritual impacts on hundreds of acres owned and claimed by living lineal descendants.

76. The 1994 Hana Community Plan Ordinance No. 2347 and the Maui Island Plan, General Plan 2030 Ordinance No. 4004 both recognize the need for value informed, thoughtful, interactive community consideration of environmental impacts, cultural impacts,

economic impacts, spiritual impacts and additional planning issues to identify problems and peacefully find solutions.

77. The 1994 Hana Community Plan states, “Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict”. This is the Plaintiff’s request and intent. An Environmental Impact Statement process for the Hamoa through Koali water system upgrades and improvements will fulfill that community generated statement and the law.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief as follows:

A. Declare the County of Maui Department of Water Supply improperly declared a “DECLARATION OF EXEMPTION FROM PREPARATION OF AN ENVIRONMENTAL ASSESSMENT” for the “HANA WATERLINE REPLACEMENT PROJECT (KAPIA RD TO HAOU RD) HANA, MAUI, HAWAII, DWS JOB NO. 21-02B” on September 25, 2020.

B. Declare the County of Maui Department of Water Supply improperly declared a “DECLARATION OF EXEMPTION FROM PREPARATION OF AN ENVIRONMENTAL ASSESSMENT” for the “HANA WATERLINE REPLACEMENT PROJECT (HANA HWY-KAPIA RD TO ST. PETER’S CHURCH RD) HANA, MAUI, HAWAII, DWS JOB NO. 21-02B” on February 25, 2021.

C. Declare that the Directors of the County of Maui Department of Environmental Management, the County of Maui Department of Public Works, and the County of Maui Department of Planning, respectively, improperly concurred with the Exemption Declarations.

D. Declare that Defendants violated HRS Chapter 343, Environmental Impact Statements, and HAR Title 11, Chapter 200.1, Environmental Impact Statement Rules.

E. Declare that the Defendants must timely conduct and prepare, at minimum, an environmental assessment for the entire County of Maui Department of Water Supply project from Hamoa (Kapia Road) through Koali.

F. Declare that this important and critical public and community process is long overdue.

G. Enjoin Defendant DWS from commencing or engaging in any land alteration in support of the instant project until it is in compliance with HRS Chapter 343.

H. Grant Plaintiff (pro se) all costs related to this matter, including, but not limited to, filing and service fees as well as travel and per diem costs.

I. Provide for such other and further relief as the Court shall deem just and proper.

DATED: Hana, Hawai'i, April 23, 2021.

/s/ JOHN BLUMER-BUELL  
JOHN BLUMER-BUELL

JOHN BLUMER-BUELL, pro se  
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IN THE CIRCUIT COURT OF THE SECOND CIRCUIT  
STATE OF HAWAI'I

JOHN BLUMER-BUELL,	)	CIVIL NO. 2CCV-21-0000010 (1)
	)	(Environmental Court)
Plaintiff,	)	
	)	SUMMONS
vs.	)	
	)	
COUNTY OF MAUI; COUNTY OF MAUI	)	
DEPARTMENT OF WATER SUPPLY;	)	
COUNTY OF MAUI DEPARTMENT OF	)	
ENVIRONMENTAL MANAGEMENT;	)	
COUNTY OF MAUI DEPARTMENT OF	)	
PUBLIC WORKS, and COUNTY OF MAUI	)	
DEPARTMENT OF PLANNING,	)	
	)	
Defendants.	)	

**SUMMONS**

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to file with the court and serve upon John Blumer-Buell, whose address is 45935 Hana Highway, Hana, Maui, Hawai'i 96713, an answer to the SECOND AMENDED COMPLAINT, which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service.

If you fail to make your answer to the SECOND AMENDED COMPLAINT within the twenty (20) day time limit, judgment by default will be taken against you for the relief demanded in the SECOND AMENDED COMPLAINT.

There shall be no personal delivery of the SECOND AMENDED COMPLAINT between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the district or circuit courts permits in writing on this Summons personal delivery during those hours.

A failure to obey this Summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Wailuku, Hawai'i, \_\_\_\_\_.

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CLERK OF THE ABOVE-ENTITLED COURT