

APT Committee

From: Isaac Hall <idhall@maui.net>
Sent: Tuesday, June 29, 2021 10:27 AM
To: APT Committee
Subject: Comments on WUDP; Agenda APT; June 29, 2021 Agenda; 1:30 pm
Attachments: EMW4.let.appt.pdf

Dear Chairperson Sinenci and Committee Members:

Attached are comments on the WUDP on behalf of Plaintiffs constituting the Coalition to Protect East Maui Water Resources regarding the impact of the Consent Decree on the WUDP, and other issues. Thank you for considering these comments.

Sincerely,
Isaac Hall

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June 29, 2021

Via Email

APT.committee@mauicounty.us
Chairperson Shane M. Sinenci
and Members of the
Committee on Agriculture and Public Trust
Maui County Council
200 South High Street
Wailuku, Maui, Hi. 96793

Re: Water Use and Development Plan (“WUDP”) for Maui
Agenda for June 29, 2021 Meeting at 1:30 pm

Dear Chairperson Sinenci and Members of the Committee on Agriculture and Public Trust of the Maui County Council:

I have served as attorney, for over twenty years, for the Coalition to Protect East Maui Water Resources, Hui Alanui o Makena, the Sierra Club and Mark Sheehan (“the Coalition”), the four Plaintiffs in *The Coalition to Protect East Maui Water Resources, et al v. The Board of Water Supply, County of Maui and The Department of Water Supply, County of Maui, et al* in Civil No. 03-1-0008(3). A “Consent Decree” was entered on December 22, 2003 as the Order of the Court in this case. This Consent Decree is still in full force and effect. The Consent Decree directs, in significant fashions, preconditions which must take place before any groundwater can be developed in the designated East Maui area or transported to other aquifers.

The WUDP includes options to develop groundwater resources in the designated East Maui area, however, no mention is made of the restrictions that the Consent Decree imposes on such groundwater development and the possible transport of these water resources, outside of these East Maui aquifers, to Upcountry or Central Maui or beyond. The Coalition has warned that the WUDP will not serve its purpose or allow responsible weighing of the costs and benefits of such proposals unless a careful analysis of the requirements of the Consent Decree is included within the WUDP.

The Coalition supports the restoration of Haiku streams in the Koolau Aquifer. The DWS is required to implement this restoration by a term contained in the Consent Decree. Development of groundwater may be inconsistent with this requirement.

The lawsuit, leading to the Consent Decree, was filed because the impact of groundwater pumping on the flow in streams in the area was totally unknown. To this day, this impact is unknown. If groundwater pumping does impact streamflow, streams in our area, relied upon by farmers and taro growers, will be diminished, if not dewatered, seriously, adversely impacting these local users, whose waters have already been diminished by the diversions of EMI and Mahi Pono. If additional dewatering is demonstrated to occur through groundwater pumping, that pumping may not be allowed, and the viability of any project to exploit and transfer groundwater from this area may be undermined.

The language in every main section of the WUDP that assumes that the Haiku Aquifer has abundant water for the future Central Maui system, should instead have more truthful and realistic language acknowledging that the firm capacity is not proven and a wide series of research needs to be done. The Tables that list future water from Haiku aquifer should be amended with a footnote indicating that this is not a fully researched option and should not be depended upon. The Coalition supports including realistic language about the Haiku aquifer capacity in the WUDP and also the need for a great depth of information about the Haiku aquifer that will not be available at the time the WUDP is passed. Until this information is gathered and evaluated, the WUDP cannot legally conclude that Haiku Aquifer will be a reliable future water source for export.

The Coalition also supports language in the WUDP which requires compliance with the Paia-Ha'iku Community Plan. The DWS should look to a variety of options to meet future demands. Right now their "go to" assumption is that only Haiku has a large amount of untapped water for future use, where in reality, several smaller sources could also be combined to meet future demand.

The four Plaintiffs are aware of, and participated in, the "Maui County Water Use and Development Plan Central DWS District Plan Update," dated November 16, 2010. It includes a cost/benefit analysis of the "Final Candidate Strategies" for providing water to the "Central District." It recommends **against** the "Eastward Basal Groundwater" strategy and recommends in favor of developing West Maui water resources. This study, and particularly its findings on the "Eastward Basal Groundwater" strategy on pp. 33 – 43, should be included in the WUDP

Thank you for the opportunity to submit these comments on these important issues.

Sincerely,

/s/ Isaac Hall

Isaac Hall

IH/gr

Cc: Coalition