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May 22, 2023

Council Chair Alice Lee
Council of the County of Maui
200 South High Street, 8th Floor
Wailuku, Hawaii 96793

RE: Testimony Concerning CR 23-34, Bill 37 (2023), and Bill 38 (2023)

Aloha Chair Lee and Members of the Council,

I am submitting this testimony on behalf of the REALTORS Association of Maui in my capacity as their Government Affairs Director. The REALTORS Association of Maui (RAM) recognizes and appreciates the immense effort that went into the budget process this year, and we are impressed by the results. Concerning CR 23-34 and the budget generally, RAM is supportive of this Council's efforts, and we appreciate the clear focus on supporting our residents in a time of economic uncertainty and hardship for many. Notwithstanding, RAM would like to share comments on two of the bills proposed for referral in CR 23-24. Specifically, Bill 37 (2023) and Bill 38 (2023).

Concerning Bill 37, we would ask that the County avoid establishing a minimum appropriation from real property tax revenue, and maintain the current method of allocating funds to the economic development and cultural fund as outlined in the existing language of Section 3.81.030 of the Maui County Code. Obviously there is a great benefit for everyone when the County funds economic development and cultural programs, and there is certainly a need for such funding. RAM supports such funding in principle, but we think the current method makes more sense. For instance, when anticipated revenue is less than the certified revenue, it seems preferable to everyone to avoid forcing a minimum allocation of 2% of the revenue to the economic development and cultural fund. Similarly, establishing a fund with such high minimum allocations without a clear sense of the true need for such funds, at a time of such high economic uncertainty, seems somewhat excessive and unnecessary. Notwithstanding, we look forward to learning more about the legislation and sharing our input in committee.

Concerning Bill 38, RAM strongly supports the establishment of an ohana assistance program under the home acquisition and ownership program revolving fund, and we would like to share some additional considerations for how the program should function. Specifically, we suggest:

- That grant funds from the program may be used for any aspect of creating a new ohana unit, including in the financing process;
- That grant amounts be paid back to the county if the property is sold;
- That grant funds are made available at the point of permit approval;
- That grant funds be returned to the county upon transfer of title, with the exception of transfer to the owner's family trust;
- And that a lien be placed on the subject properties for the grant amounts.

Clearly, many of these suggestions are details that would not necessarily need to be outlined in the language of the legislation itself, but they are worth discussing in committee. Notwithstanding, we support Bill 38, as it clearly seeks to advance RAM's vision of *A Home for Everyone*.

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COUNTY CLERK

As always, we are grateful for the opportunity to provide input on the legislative process, and we are happy to provide additional information on any of our comments as you may desire. Please feel free to contact me with any questions by email at jason@ramau.com, or by phone at (808)243-8585.

Mahalo,

Jason A. Economou
Government Affairs Director
REALTORS Association of Maui

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2023 MAY 22 PM 1:10

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 and 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
BFED.committee@mauicounty.us budget.office@co.maui.hi.us
mayors.office@mauicounty.gov 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 “Hamoā 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-21-000010 (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 johnblumberbuell@gmail.com

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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,)	
)	PLAINTIFF'S SECOND AMENDED
vs.)	COMPLAINT FOR DECLARATORY AND
)	INJUNCTIVE RELIEF; SUMMONS
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.)	

**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’alaie) 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’alaie, 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 “Hamoia 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 Hamoia 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 8th 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
45935 Hana Highway
Post Office Box 787
Hana, Maui, Hawai'i 96713
Email: blubu@hawaii.rr.com
Phone: (808) 248-8972

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, _____.

CLERK OF THE ABOVE-ENTITLED COURT

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

October 7, 2022

Mr. Jordan Molina, Director
Department of Public Works
County of Maui
Wailuku, Hawai'i 96793

Dear Mr. Molina:

**SUBJECT: REQUEST FOR RESPONSE TO QUESTIONS FROM
CHRISTEL AND JOHN BLUMER-BUELL (PAF 22-249)**

May I please request a written response to the following questions from Christel and John Blumer-Buell about a parcel identified as Tax Map Key (2) 1-5-006:007 in Mu'olea, Hana, Maui, Hawai'i ("Buell property"):

1. Is the Buell property within the Hanahuli Subdivision? If not, what subdivision contains the Buell property?
2. For the Hanahuli Subdivision, or whichever subdivision contains the Buell property, what was the date of final subdivision approval? Please also indicate:
 - (a) Any current conditions or requirements relating to right-of-way and pavement width standards for the subdivision.
 - (b) The minimum right-of-way and pavement width standards in place at the time of final subdivision approval.
3. What are the current minimum right-of-way and pavement width standards applicable to the Buell property? In particular, the owner indicates the area in question is classified as "Deadend Street not serving not more than eight lots and 400-feet long, Rural."
4. If an ordinance establishes or changes a design standard, such as minimum right-of-way or pavement width, what impact, if any, does that have on subdivisions approved prior to its enactment?

Mr. Jordan Molina
October 7, 2022
Page 2

5. Are there any circumstances under which the Buell property would not be subject to the minimum right-of-way or pavement widths provided in Section 18.16.050, Maui County Code?

May I further request that you transmit a copy of your response to county.council@mauicounty.us and alison.stewart@maicounty.us by **October 24, 2022**. To ensure efficient processing, please include the relevant PAF number in the subject line of your response.

Should you have any questions, please contact me or Legislative Analyst Alison Stewart at ext. 7661.

Sincerely,



SHANE M. SINENCI
Councilmember

paf:ans:22-249a

cc: Mayor Michael P. Victorino

RICHARD T. BISSEN, JR.
Mayor

KEKUHAUPIO R. AKANA
Managing Director

JOHN STUFFLEBEAN, P.E.
Director

JAMES A. LANDGRAF
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
<http://www.mauicounty.gov/water>

May 22, 2023

Honorable Alice L. Lee, Chair
and Members of the Council
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Dear Chair Lee and Members,

On, May 18, 2023 the Board of Water Supply unanimously voted to support the Department of Water Supply's proposed budget which includes rate increases and the newly established hotel tier. Also, additional rate increases will likely be needed in future years to fully cover ongoing capital costs. We ask that the administration and the County Council assist the department with implementing these actions.

We appreciate your support and look forward to working together to further better our community.

Sincerely,

A handwritten signature in black ink that reads "Buddy James Nobriga".

Buddy James Nobriga
Chair, Board of Water Supply

cc: Honorable Mayor Richard T. Bissen Jr.
Kekuhaupio Akana, Managing Director
Director John Stufflebean, Department of Water Supply
Deputy Director James Landgraf, Department of Water Supply



RECEIVED
2023 MAY 22 PM 2:11
OFFICE OF THE
COUNTY CLERK

"By Water All Things Find Life"

County Clerk

From: David Goode <David.Goode@Ledcor.com>
Sent: Monday, May 22, 2023 4:25 PM
To: County Clerk
Subject: Testimony Re Resolution 23-146

RECEIVED
2023 MAY 22 PM 4:29

OFFICE OF THE
COUNTY CLERK

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

Aloha Chair Lee and Members of the Maui County Council:

The proposed Resolution 23-146 containing 76 parcels in Kihei and one each in Wailea and Lana'i is defective and premature for consideration by the Conservation Planning Committee (CPC). There is clearly a need for a rigorous, thoughtful, and community consulted process to be developed that ensures that parcels for acquisition that are to be reviewed by the CPC are supported by both the Council and the administration.

The resolution is defective on two fronts. First, the resolution fails to clearly identify how each parcel complies with the standards of Maui County Code Sections 2.82.060, 3.88.020, and 19.47.020 and the County's goals as established in the Countywide Policy Plan as stated in the resolution's final Whereas. Secondly, the resolution notes that on unnumbered page 3 of Exhibit A, that TMKs (2)3-9-041:006 and 021 (0.6814 and .6259 acres respectively) are situated at Halekuai Street, Kihei. Per the Real Property Division's website, TMKs (2)3-9-041:006 and 021 are actually 0.625 and 0.1769 acres, and are located on S. Kihei Road and Kalola Place, respectively. The resolution is defective and property owners are not adequately noticed.

The resolution is premature for consideration by the CPC or a council committee until such time as the council and the administration can organize the CPC, get the recently delayed Greenprint completed, complete the wetland map required under Ordinance 5421, and develop rules for the CPC by which to review requests.

The CPC currently has four of its nine members vacant. One was recently passed by committee, leaving three vacant positions, including the Council's representative. At a March 20, 2023 committee meeting the administration stated it was still sorting out what department would staff the CPC, and that budget funds were considered being offered to complete the required CPC Greenprint plan – a plan that helps identify what parcels should be considered for future acquisition. I do not know if funds were inserted into the FY24 budget for the Greenprint plan.

Finally, it seems to me that individual councilmembers submitting unsubstantiated acquisition requests for 78 parcels, 77 of which are not in the member's district, is not a sustainable practice to subject the council and the administration to – let alone for the CPC to review of all the parcels within the CPC's 120 day code review deadline. A better process would be to finish the Greenprint plan and wetland mapping for S. Maui, have the administration annually submit a fiscally achievable list of properties to acquire that details how those properties are compliant with acquisition goals, have individual councilmembers augment the administration's list of properties with justified parcels within their council districts, and then have the appropriate council committee vet a condensed list that an adequately-staffed CPC can review and comment on within 120 days.

For the record, Ledcor Maui's Wailea parcel (2)2-1-008:145 on the first page of Exhibit A does not meet any of the acquisition criteria and we object to the inclusion of this parcel for acquisition consideration. The county already owns an undeveloped 10 acres immediately adjacent and north of this parcel (Kilohana Park). We were not noticed nor contacted by the Council, but told by an associate about this parcel being on this list last Thursday.

Accordingly, the full council should file this resolution and instead focus on working with the administration on a process that is sustainable to implement, thoughtful, and meaningful to the public, landowners, and the CPC to acquire lands that meet the criterium of the Maui County Code and is fiscally responsible.

Mahalo for the opportunity to comment.

David Goode

Director of Land Development
Ledcor Maui LP
590 Lipoa Parkway, Suite 259
Kihei, HI 96753

www.ledcordevelopment.com | www.ledcormauai.com

FORWARD. TOGETHER.



RECEIVED

2023 MAY 23 AM 8:00

May 22, 2023

OFFICE OF THE
COUNTY CLERK

VIA county.clerk@mauicounty.us

Subject Testimony in **OPPOSITION** of **Resolution No. 23-146** "Requesting the conservation planning committee to review and provide recommendations on the acquisition of land for conservation purposes"

Council of the County of Maui Meeting

May 23, 2023, 9:00 A.M.

BlueJeans: <https://maui.bluejeans.com/295235670>

Aloha Council Chair Lee, Vice Chair Sugimura, and members of the Maui County Council:

Mahalo for the opportunity to share our position with you on agenda item "Resolution No. 23-146: Requesting the conservation planning committee to review and provide recommendations on the acquisition of land for conservation purposes." Included in the resolution is Exhibit A, which is a list of the Tax Map Key (TMK) numbers for lands for consideration for recommendation for action. The list is predominantly lands in Kihei (76 of the 78 listed to be exact). There is one TMK in Wailea and one TMK on Lānaʻi.

Pūlama Lānaʻi **opposes Resolution 23-146**, as written. It is too premature to send over the recommended parcels for review and consideration and the TMK identified on Lānaʻi (TMK (2) 4-9-002:001) is already actively managed by Pūlama Lānaʻi's Conservation Department. We **respectfully request the Council to file Resolution 23-146**.

Too premature to recommend parcels for consideration for the following reasons:

1. The Conservation Planning Committee (Committee) is not fully established.
There is no administrative department responsible for staffing the Committee, and to our knowledge no funding identified to staff the committee. As such, the Committee cannot conduct business in its current state and the Council should work with the Administration to fully establish a Committee, properly staff the Committee with administrative assistance, and most importantly, fund the activities necessary to conduct business. This should include funding to support community outreach to all islands within Maui County, including travel expenses to Molokaʻi, and Lānaʻi.

The following is a table summarizing the members of the Committee as identified on the County's website,¹ it should be noted that the *terms are expired for all but three members (highlighted in yellow) of the committee* (voting and non-voting).

Member Name (affiliation)	Voting Member (yes/no)	Term
Jordan Molina (Director of Public Works)	Yes	January 2, 2023 (EXPIRED)
Shane Sinenci (Councilmember)	Yes	January 2, 2023 (EXPIRED)
Samuel Ahling Akoi IV (East Maui)	Yes	March 31, 2023 (EXPIRED)
Benjamin Ostrander (Lānaʻi)	Yes	March 31, 2024
Mahina Poepoe (Molokaʻi)	Yes	March 31, 2023 (EXPIRED)
Dale Bonar (Hawaiʻi based Land Trust)	Yes	March 31, 2024
Michelle Gould (Sustainable Science Management Program, University of Hawaii)	Yes	March 31, 2023 (EXPIRED)
Vernon Kalanikau – (Aha Moku)	Yes	March 31, 2025
Rogerene "Kali" Arce (Department of Agriculture)	Yes	January 2, 2023 (EXPIRED)
Scott Fretz – (State Department of Land and Natural Resources)	No	January 2, 2023 (EXPIRED)
Walle Landenberger – (County Information Technology Division)	No	January 2, 2023 (EXPIRED)
Emily Fielding – (The Nature Conservancy)	No	January 2, 2023 (EXPIRED)
Allison Cleghorn – (Office of the Mayor)	No	January 2, 2023 (EXPIRED)
Sandy Baz – (Managing Director)	No	January 2, 2023 (EXPIRED)
Guy Hironaka – (Department of Finance)	No	January 2, 2023 (EXPIRED)
David Yamashita – (Department of Parks and Recreation)	No	January 2, 2023 (EXPIRED)

¹ <https://www.mauicounty.gov/176/Conservation-Planning-Committee>. Information downloaded on May 22, 2023.

2. The purpose of the Conservation Planning Committee is to “serve as a nexus for multi-agency and inter-departmental land planning and management for the County of Maui. The committee shall review and provide recommendations on land acquisition of open space land property and advise the Mayor and Council to ensure consistency with the purposes and values set forth in the Greenprint Conservation Plan.”²

There is no Greenprint³ Conservation Plan. It is premature to put forward a list of identified parcels without a Greenprint Conservation Plan.

The proposed greenprint was never established and is overdue. According to Section 2.82.050, Maui County Code, the proposed greenprint “...must be adopted by the committee and submitted to the council by December 31, 2022. The committee must oversee the review and update of the greenprint, which must be submitted to the council every five years.”⁴

3. The Greenprint should include a methodology, criteria, public outreach process, etc. regarding the identification of parcels for consideration. **There has been no public outreach to date.**

The land identified on Lānaʻi (TMK (2) 4-9-002:001 (69,269.977 acres) is actively managed by Pūlama Lānaʻi’s Conservation Department, which is fully staffed and funded.

Pūlama Lānaʻi’s Conservation team actively manages the land identified in Exhibit A. There is no need to consider these lands as they are already meeting the goals of the Countywide Policy Plan stated in the resolution:

- “Maui County’s natural environment and distinctive open spaces will be preserved, managed, and cared for in perpetuity”;
- “A full range of island island-appropriate public facilities and recreational opportunities will be provided to improve the quality of life for residents and visitors”;
- “Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner”

Here is brief list of activities that are already implemented (not in the planning stage) on the Lānaʻi land identified in Exhibit A of Resolution 23-146. It should be noted that this is not an exhaustive list:

- **Cooperative Game Management Area (CGMA)** with the State of Hawaiʻi Department of Land and Natural Resources Division of Forestry and Wildlife.

² See “OVERVIEW” section on website <https://www.mauicounty.gov/176/Conservation-Planning-Committee>

³ MCC Section 2.82.020 Definitions: Greenprint" means a strategic conservation plan and tool based on local conservation priorities and grounded in science to meet the County's conservation goals of protecting important cultural, historical, agricultural, natural, coastal, and scenic landscapes, as described in section 2.82.050 of this chapter

⁴ Section 2.82.050 Greenprint Using public outreach, the general plan, and other community and documentary resources, including land conservation organizations, a comprehensive conservation plan, also known as a greenprint, must be created that includes a geographic information systems map. The greenprint will guide land acquisition by the County for open space, natural resources, cultural resources, and scenic views preservation purposes, and help to identify lands suitable for voluntary private-sector conservation. A proposed greenprint must be adopted by the committee and submitted to the council by December 31, 2022. The committee must oversee the review and update of the greenprint, which must be submitted to the council every five years.

- A third of the land that is identified is part of the CGMA area.⁵ The area is approximately 30,000 acres. The game bird season runs from November through January. Game mammal hunting opportunities for Axis deer are from late February through mid-May, and Mouflon sheep hunting opportunities are from late-July through late-October.
- **Kuahiwi A Kai: Lānaʻi Watershed Conservation Program** is a partnership with the National Fish and Wildlife Foundation (NFWF).⁶ This land area is approximately 35 percent of the area (~24,000 acres) identified in Exhibit A of Resolution 23-146.
 - Kuahiwi A Kai was launched in 2019 to strategically preserve and enhance Lānaʻi's unique natural and cultural resources from mauka to makai (from the top of the mountain down to the ocean), while encouraging community engagement and shared stewardship. Awarded projects on Lānaʻi take a comprehensive approach to land management to achieve the goals of the program.
 - The goals of the Kuahiwi a Kai Program are to:
 - Reduce sediment run-off to nearshore reefs
 - Restore native vegetation to improve watershed health
 - Protect and enhance populations of endangered and endemic species
 - Improve habitat and predator management for Hawaiian petrel ('ua'u)
 - Improve the quality of the landscape for the local community and visitors through preservation of nearshore resources, beaches, and cultural sites
 - Increase community conservation ethic and involvement in landscape protection effort
 - As of 2021, the Kuahiwi a Kai Program with additional support from other NFWF partnerships, awarded eleven grants totaling \$1,396,254. These projects have generated \$1,553,041 in grantee matching funds, providing a total conservation impact of \$2,949,295 on Lānaʻi.⁷

Resolution 23-146 is premature and the land identified on Lānaʻi (TMK (2) 4-9-002:001) should be removed because it is actively managed by our Conservation Department. For these reasons and the data provided herein, we **respectfully ask you to please file Resolution 23-146.**

Mahalo for your consideration of our request.

Aloha,

Keiki-Pua Dancil
Keiki-Pua Dancil (May 22, 2023 19:31 HST)

Keiki-Pua S. Dancil, Ph.D.
SVP, Government Affairs & Strategic Planning.

⁵ See CGMA map here: [Lanai-1.pdf \(hawaii.gov\)](#).

⁶ <https://www.nfwf.org/programs/hawaii-conservation-program/kuahiwi-kai-lanai-watershed-conservation-program>

⁷ <https://www.nfwf.org/sites/default/files/2021-07/conservation-on-lanai-fact-sheet.pdf>

County Clerk

RECEIVED
MAY 23 2023

From: Rob Benc <robert@hawaiiisustainable.com>
Sent: Tuesday, May 23, 2023 9:08 AM
To: County Clerk
Subject: Testimony

2023 MAY 23 AM 10: 55

OFFICE OF THE
COUNTY CLERK

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

Aloha,

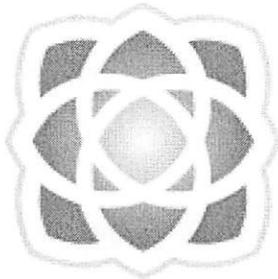
For bill 50 would recommend that to keep ag lands farming and not overdevelop especially upcountry where I grew up it would be better if instead of a second farm dwelling could change to be a second farm labor dwelling the county already has a process to help ensure that farm labor dwellings are only given to farmers.

The other issue maybe not in this meeting are property tax questions that could also help other disabled farmers. If the council could set up a position to help disabled and disadvantaged farmers to know about and help to fill out all the potential programs they could qualify for would be a great help.

I spend a lot of time on paperwork and still miss out on filling out forms like those for the property tax exemptions so a program that would allow for retroactive fixing of the forms to reflect unique situations such as that of missed forms would be a huge help for local disabled farmers.

Mahalo

Robert Bence
Hawai'i Sustainable Farms
1-808-298-9228



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

Bill 22
FY24 Budget
Tuesday, May 23, 2023

RECEIVED
2023 MAY 23 AM 10:55
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COUNTY CLERK

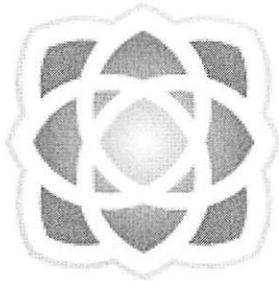
Dear Chair Lee, Vice-Chair Sugimura, and
Members of the Maui County Council,

We want to extend a big mahalo for the Mayor and Council's continued support of the Made in Maui County Festival. This is the 10th anniversary and we are thrilled to continue our momentum from last year and build upon this program. Over the last 9 years of Maui County grant funding, vendors had a cumulative revenue of over \$3.8 million resulting in a return on county investment of 505.95%.

We also appreciate the increase for the Office of Economic Development's small business promotion fund and for broader economic development and cultural programs as we embrace the quadruple bottom line of sustainability. Additionally, we support funding for the various business and workforce development programs, including funds for Maui Economic Development Board, MEO, and others.

We see the reallocations to the new Department of Agriculture and appreciate continued funds to address Axis Deer. We look forward to working with this department on solutions.

While we recognize and appreciate that there is an increase in the Tourism Management Grant Fund, this is still significantly less than what was allotted in prior years, and we have concerns about the provisos. Given the proviso that funds must not be used for marketing and promotion, there seems to be a disconnect with what marketing means and brings. We understand the sentiment that you don't want the funds to be used to bring in more visitors. However, marketing is the appropriate vehicle to convey messaging to those coming about our new regenerative tourism model and marketing funds are critical to get broad exposure of that new messaging. It is important that we explain to visitors how to respectfully embrace and enjoy our islands, through crucial cultural, environmental, economic (such as shop local), safety, and other appropriate messages, which is all part of marketing and needed before, during, and after they visit Maui Nui. By restricting the funds from marketing and promotion, you are not allowing grantees to educate and interact with visitors on these critical issues.



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

Bill 22
Tuesday, May 23
Page 2.

Additionally, we support the socioeconomic and environmental carrying capacity study for Molokai but are concerned about the costs as it may consume over half of the fund. We would suggest using some of the Molokai economic development, environmental, and cultural programs fund to help offset this cost.

Lastly, we see that funding has been moved from the Tourism Management fund as well as 5 other funds for a total of \$300,000 for Maui Epic Swim. While this may be a good opportunity to support ocean research for the University of Hawaii and it is wonderful to see leading watermen contribute to this effort, we question whether this grant is coming from the right funds for the activities being presented and are not clear on the County's ROI from this exploratory research project.

Mahalo for the opportunity to provide testimony on the FY24 budget.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.