

Brickwood Galuteria - Chairperson
Kaleihikina Akaka - Vice Chair

MEMBERS
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KE'ENA KULEANA HAWAII
BENEFICIARY ADVOCACY AND EMPOWERMENT COMMITTEE
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

MEETING OF THE COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT

DATE: Wednesday, July 29, 2026

TIME: 9 A.M.

PLACE: Remote Meeting by Interactive Conference Technology

Viewable at <https://www.oha.org/livestream> OR
Listen by phone: (213) 338-8477 Webinar ID: 999 3845 4674

This meeting can be viewed via livestream on OHA's website at www.oha.org/livestream or listened to by phone using the call-in information above. Additionally, this meeting can be viewed live on 'Ōlelo Community Media <http://olelo.org>. A physical meeting location, open to members of the public who would like to provide oral testimony or view the meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817.

AGENDA

I. Call to Order

II. Approval of Minutes

- A. February 18, 2026
- B. March 4, 2026
- C. March 18, 2026

III. New Business

- A. **Presentation** – Establishment of the East Maui Water Authority and Next Steps Regarding Stewardship of East Maui Waters — Grant Nakama, Mahi Pono; Jonathan Scheuer and Kyle Nakanelua, 'Aha Wai o Maui Hikina, East Maui Water Authority; Office of Mayor Bissen (pending confirmation).
- B. **BAE Action Item #26-05:** OHA's Position and Possible Action Concerning the East Maui Ditch and Water Diversion System

IV. Community Concerns and Celebrations

V. Announcements

VI. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, please contact Keola Fong at (808) 626-5484 or by email at keolaf@oha.org as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible

formats.

In the event that the livestream public broadcast is interrupted and cannot be restored, the meeting may continue as audio-only through the phone number and Webinar ID provided at the beginning of this agenda. Meeting recordings will be made available on OHA's website

<https://www.oha.org/about/leadership/board-of-trustees/> as soon as practicable after the meeting.

Public Testimony will be called for each agenda item and must be limited to matters listed on the meeting agenda. Community Concerns and Celebrations is not limited to matters listed on the meeting agenda. Hawai'i Revised Statutes, Chapter 92, prohibits Board members from discussing or acting on matters not listed on the meeting agenda.

* The board packet will be available for the public to inspect at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817, no later than three full business days before the meeting. The board packet will also be made available on OHA's website, <https://www.oha.org/bac>, as soon as practicable thereafter.

§ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5

Testimony can be provided to the Board of Trustees either as: (1) *written testimony* or (2) live, oral testimony online, by telephone, or at the physical meeting location during the remote meeting.

- (1) Persons wishing to provide *written testimony* on items listed on the agenda should submit testimony via email to botmeetings@oha.org or via postal mail to Office of Hawaiian Affairs, Attn: Board of Trustees Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Testimony is requested to be received at least twenty-four hours prior to the scheduled meeting to allow board members with sufficient time to review the testimony before the meeting. *Please note that all written testimony will be posted on OHA's meeting website. Please omit or redact any personal information (e.g., name, email address, phone number, home address, or materials) that you do not want to be disclosed publicly online.*
- (2) Persons wishing to provide *oral testimony online* during the remote meeting, please click on the link: <https://zoom.us/j/99938454674>

To provide oral testimony online, you will need:

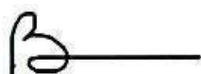
- (1) a computer or mobile device to connect to the remote meeting, internet access, and
- (2) a microphone to provide oral testimony.

Persons wishing to provide oral testimony by telephone during the remote meeting may dial the phone number listed at the beginning of this agenda and enter the corresponding Webinar ID. Telephone participants will be able to provide oral testimony during the meeting.

Persons wishing to provide oral testimony at the physical meeting location can sign up the day of the meeting at the physical meeting location.

If you willfully disrupt the meeting, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

Oral testimony online, by telephone or at a physical meeting location will be limited to five (5) minutes.



Trustee Brickwood Galuteria, Chair
Committee on Beneficiary Advocacy and Empowerment

Date: 7/23/26



Beneficiary Advocacy & Empowerment Committee

II. Approval of Minutes

- A. February 18, 2026 – Minutes will be deferred
- B. March 4, 2026
- C. March 18, 2026 – Minutes will be deferred

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT (BAE)

March 4, 2026

9 a.m.

(via Interactive Conference Technology)

To view this meeting's recording, please click on the link below:

<https://www.youtube.com/watch?v=dZKlqDNMeho&t=29s>

MINUTES

ADMINISTRATION

Brickwood Galuteria, Chair

Kaleihikina Akaka, Vice Chair (arr. 9:04 a.m.)

Dan Ahuna

Keli'i Akina

Luana Alapa

Kaiali'i Kahele (Excused)

Carmen Hulu Lindsey

Keoni Souza

John Waihe'e, IV (arr. 9:11 a.m.)

Summer Sylva, Interim CEO

Sean Kekina, COO

Deja Ostrowski

James Matsuzaki

Kevin Chak

Kyle Saucier

Lise Vaughan-Sekona

BOARD COUNSEL

Kapono Kiakona

BAE STAFF

Lei-Ann Stender Durant

Mark Watanabe

Nathan Takeuchi

Remy Keli'ihomalu

GENERAL COUNSEL

Everett Ohta

BOT STAFF

Anuheia Diamond

Carina Lee

Pōhai Ryan

Sommer Soares

I. CALL TO ORDER

Chair Galuteria called the March 4, 2026 meeting of the Committee on Beneficiary Advocacy and Empowerment to order at 09:03 a.m.

Chair Galuteria welcomed everyone to the day's meeting and acknowledged his trustee aide, Lei-Ann Stender Durant, serving as the Committee Recording Secretary and Trustee Akina's Aide, Remy Keli'iho'omalua, serving as the Committee Technology and Information Specialist. **Chair Galuteria** thanked **Trustee Akina** for allowing Remy to help with the BAE Team.

Chair Galuteria called for the roll to confirm attendance:

Roll Call

Present: Trustees Ahuna, Akina, Alapa, Lindsey, Souza, Chair Galuteria

Excused: Trustee Kahele

Not Present at time of vote: Trustees Akaka, Waihe'e IV

With six trustees present, a quorum had been established.

(Time Stamp: 1:07/56:13 ~ Real Time: 09:03:09 a.m.)

II. NEW BUSINESS

Chair Galuteria asked **Public Policy Manager, Deja Ostrowski**, to join the Trustees at the board table.

Legislative Session Overview

(Time Stamp: 3:14/56:13 ~ Real Time: 09:05:13 a.m.)

Deja provided an overall legislative update for the Office of Hawaiian Affairs (OHA) public policy package. It was reported that despite an intense workload and high volume of testimony submissions, outcomes to date had been favorable. Trustees acknowledged the update and expressed anticipation for a positive report.

a. 2026 OHA State Legislative Bill Package – Matrix 1

(Time Stamp: 4:29/56:13 ~ Real Time: 09:06:28 a.m.)

Public Testimony

None

Bill Updates

1. Land Use Commission Bill

(Time Stamp: 4:58/56:13 ~ Real Time: 09:06:57 a.m.)

Deja explained that the purpose of this bill authorized OHA to designate the traditional Hawaiian land use seat by adding water (wai) expertise representation on the Land Use Commission.

Deja further explained that this bill was still alive and progressing. 116 pages of testimony that were overwhelmingly supportive were submitted. Testimonies emerged as a key legislative vehicle to ensure responsible land use development, incorporate water resource considerations, and expand meaningful community engagement in decision-making.

(Time Stamp: 5:12/56:13 ~ Real Time: 09:07:11 a.m.)

2. Commercial Aquarium Fishing Ban Bill

(Time Stamp: 5:35/56:13 ~ Time Stamp: 09:07:34 a.m.)

Deja reported that this bill was alive and advancing due to, she believes, strong community participation in testimony, increased awareness through media coverage, and parallel administrative action such as the Board of Land and Natural Resources (BLNR) advancing rules that include a potential aquarium fishing ban. This bill continues to gain traction despite earlier expectations it would not survive the early stages.

(Time Stamp: 5:40/56:13 ~ Real Time: 09:07:39 a.m.)

3. Burial Council Support Bill

(Time Stamp: 6:26/56:13 ~ Time Stamp: 09:08:25 a.m.)

Deja told the Trustees that the purpose of this bill was to address recruitment and retention challenges for Island Burial Council (IBC) members by establishing a reimbursement framework to reduce participation barriers and improve quorum reliability.

Background issues identified included persistent difficulty maintaining quorum for Burial Council meetings as well as structural barriers to participation, including childcare obligations; lost wages or the need to take time off work; and travel and time commitments associated with meetings and site visits. There is currently a reliance on largely voluntary service limits, participation, and equity.

A proposed approach to these issues included the development of a structured reimbursement system, rather than a flat stipend and a conceptual reimbursement category that includes childcare expenses; lost wages or compensated participation time; and other necessary costs related to service.

Deja reported that this bill was alive and advancing post-crossover.

Chair Galuteria emphasized that recruitment challenges were longstanding and systemic. He raised a concern that a flat stipend (e.g., nominal fixed payments) would possibly be insufficient and appear arbitrary or inequitable. He directed the advocacy team to return with multiple reimbursement/compensation structure options including clear justification for each model that would include consideration of fairness, adequacy, and sustainability.

Chair Galuteria stated that the measure was seen as critical to strengthening Burial Council operations by improving quorum reliability, broadening participation, and supporting continued protection and stewardship of iwi kūpuna.

(Time Stamp: 6:31/56:13 ~ Real Time: 09:08:30 a.m.)

4. Historic Preservation Bill

(Time Stamp: 7:42/56:13 ~ Real Time: 09:09:41 a.m.)

OHA's advocacy team proposed to repeal or amend portions of a historic preservation law enacted in the prior legislative session with the intent to address implementation challenges, clarify regulatory requirements, and improve alignment with Native Hawaiian cultural resource protection priorities. The prior law was recently adopted, and agencies and stakeholders are still in the early stages of implementation.

Concerns prompting this bill included: administrative burdens or inefficiencies, unintended consequences affecting project approvals and cultural resource management, and the need for better integration of Native Hawaiian perspectives and consultation processes. However, due to the recency of the law, there was institutional reluctance to reopen or revise it so soon after passage.

Repealing or significantly amending newly enacted legislation was characterized as a “heavy lift,” requiring broad stakeholder alignment, additional time for evaluation of impacts under the current law, and stronger legislative and agency support.

Deja reported that the bill had died and was no longer advancing for the current session.

Because there was a need for continued monitoring of how the existing law performs in practice, further stakeholder engagement was needed to identify other concerns. **Deja** suggested that policy change in this area would require a more incremental or phased approach rather than asking for immediate repeal.

Deja indicated possible intent to reassess and refine proposed amendments; build broader support among legislators, agencies and community stakeholders; and potentially reintroduce revised legislation in a future session. While unsuccessful this session, the effort highlights ongoing concerns around historic preservation and cultural resource management and positions OHA to continue advocating for improvements that better protect cultural sites, historic resources, and Native Hawaiian heritage.

In summary, three of OHA's six proposed bills continue to advance.

(Time Stamp: 7:47/56:13 ~ Real Time: 09:09:46 a.m.)

****Note: Matrix 1 was for information only. There was no decision-making, and no vote was taken.***

II. NEW BUSINESS (continued)

b. 2026 Legislature: OHA Position on Bills Naming OHA – Matrix 2

(Time Stamp: 8:37/56:13 ~ Real Time: 09:10:36 a.m.)

Public Testimony

None

Discussion

Deja introduced **HB2584** as part of OHA’s legislative package and noted that this bill proposes to increase Public Land Trust (PLT) revenues and that continued advancement of two PLT bills (**HB2584/SB3307**) was identified as a positive development.

Deja recommended a change of position to Support for **HB2584** and acknowledged participation by Chair Emerita, Hulu Lindsey, and Committee Vice Chair Akaka at the legislative hearing. She invited feedback from Trustees Lindsey and Akaka at this time.

(Time Stamp: 8:49/56:13 ~ Real Time: 09:10:48 a.m.)

Vice Chair Akaka provided the following detailed observations regarding the legislative hearing and associated testimony that had shifted from prior amendment discussions to a focus primarily on determining the dollar amount of PLT revenue allocation. **Vice Chair Akaka** emphasized that this shift heightened the importance of accurate legal interpretation in legislative decision-making.

Vice Chair Akaka raised concerns regarding oral testimony provided by the Attorney General’s office, stating that the testimony was concerning and not necessarily accurate. She felt the Attorney General’s testimony may have mischaracterized the legal framework governing PLT revenues by creating confusion or weakening the understanding of this mandate and that the testimony might have influenced legislators as they moved forward determining funding levels.

Vice Chair Akaka also stressed that the Hawai’i State Constitution mandates that 20% of Public Land Trust revenues be allocated to OHA; this allocation is not discretionary but a constitutional requirement. She further noted the difference between written and oral testimony presented by the Attorney General’s Office; it concerned her that the oral testimony introduced interpretations that could confuse committee leadership and members.

She highlighted that such discrepancies undermined clarity in the legislative record and increased the risk of misinformed decision-making.

Vice Chair Akaka emphasized the possibility that legislators could rely on the Attorney General’s testimony as key legal authority. Any inaccuracies could affect committee deliberations, budget decisions, and OHA’s receipt of constitutionally mandated funds.

Vice Chair Akaka recommended engagement by OHA’s public policy team with committee chairs, committee vice chairs, and legislative members. She believes that engaging with one another would provide accurate clarification of the law, reinforce OHA’s constitutional entitlement to 20% PLT revenues, and ensure informed legislative decision-making.

(Time Stamp: 9:27/56:13 ~ Real Time: 09:11:26 a.m.)

Chair Emerita, Hulu Lindsey, reported that a meeting was conducted with Public Land Trust Working Group (PLTWG) legal counsel, Sherry Broder, due to concerns regarding the Attorney General's testimony as it was considered a misrepresentation of the law. A formal letter was drafted to the Attorney General (AG) proposing that Chair Emerita and Ms. Broder meet with her to provide accurate information. She explained that although correcting the misinformation was critical, she did not want to send the letter to the AG before speaking with and getting support from the other OHA board members before doing so.

Chair Emerita noted that similar inaccurate testimony occurred previously at Representative Tarnas's committee [Judiciary and Hawaiian Affairs], but Chair Emerita was able to correct the misinformation at that time.

Chair Emerita further reported concern regarding testimony from another PLTWG member suggesting the use of the PLT overflow account to fund the inventory and audit. **Chair Emerita** expressed dissatisfaction with this recommendation.

****Update: The Finance Committee advanced HB2584 with the funding amount left blank. The bill will now proceed to the Senate Ways and Means Committee; and, potentially, will advance to conference committee***

Chair Emerita expressed concern regarding the uncertainty created by the unspecified funding amount that was left out of the bill.

(Time Stamp: 11:00/56:13 ~ Real Time: 09:13:04)

Chair Galuteria clarified Chair Emerita's request for the Board of Trustees to authorize Chair Emerita Lindsey and Ms. Broder to meet with the AG to correct the misinformation so that the way the law is written is not misrepresented. **Chair Galuteria** expressed that he supports the meeting and encouraged the other trustees to weigh in with their thoughts.

(Time Stamp: 13:15/56:13 ~ Real Time: 09:15:14 a.m.)

Vice Chair Akaka confirmed the accuracy of the AG did having the same testimony as did the Judiciary and Hawaiian Affairs Committee and the Finance Committee. She further expressed the need for mitigation for any legislator that will be voting on this matter.

(Time Stamp: 13:47/56:13 ~ Real Time: 09:15:46 a.m.)

Trustee Ahuna raised concerns regarding the language "temporarily increase the total amount of Public Land Trust revenues," questioning its practicality and legal meaning. The concern emphasized that revenues owed should not be characterized as "temporary," but rather as an obligation due to beneficiaries. Clarification was sought on whether the adjustment could be based on a percentage (e.g., 20%) of the overall budget.

(Time Stamp: 14:45/56:13 ~ Real Time: 09:16:44 a.m.)

Chair Emerita clarified that such an approach is not permissible, as PLT revenues fall under a 5(f) trust, which imposes legal constraints on how funds are calculated and allocated.

Additionally, the land inventory and the audit have not yet been completed. She went on to explain that the term “temporary” is tied to the incomplete status of the audit and inventory of PLT revenues. There exists an overage account, representing funds already belonging to OHA but not yet fully distributed. The immediate proposal aims to draw from this overage account to increase near-term payouts to OHA.

Chair Emerita Lindsey clarified that the Legislature will ultimately determine the amount appropriated (e.g., \$0, \$5 million, \$10 million, etc.) but emphasized that the current request seeks funding from the overage account, not the general fund. It was reiterated that the overage account consists of funds belonging to OHA; and, therefore, should not be considered part of general fund obligations. The intent of the request is to access accumulated overage funds rather than compete for general fund appropriations. She further expressed concern that the Finance Committee did not specify a funding amount, noting that an earlier request may have been for approximately \$30 million.

Chair Emerita sought clarification from **Public Policy Manager, Deja Ostrowski**, regarding projected requests from the overage account for the upcoming biennium. The request could be at least \$50 million per year, dependent on the balance and carry-forward amounts; the figures would reflect available funds within the account, including any accumulated carryover.
(Time Stamp: 16:25/56:13 ~ Time Stamp: 09:18:24 a.m.)

Vice Chair Akaka noted that the Judiciary and Hawaiian Affairs Committee had discussed the possibility of lifting the cap on the overage account, and testimony in that committee referenced the carry-forward balance. There was also mention in the committee of lifting the cap; however, the Committee Chair intentionally left the funding amount blank for further determination by the Finance Committee.

(Time Stamp: 17:15/56:13 ~ Real Time: 09:19:14 a.m.)

Chair Emerita shared her thoughts that the increase is “temporary” because there is most likely only so much money in the overage account. The hope is that each year the funds will increase as the 20% owed will continue to be deposited into OHA’s account. Regarding the current balance of the overage account, estimated at approximately \$57 million, **Chair Emerita** added that increasing withdrawals (e.g., \$30–\$50 million annually) could significantly deplete the account and that the account is expected to replenish annually through OHA’s 20% revenue share.

(Time Stamp: 15:06/56:13 ~ Real Time: 09:17:06 a.m.)

Trustee Ahuna expressed frustration regarding limited legislative success in advancing OHA-related measures, ongoing narratives presented by the Attorney General’s office and others that were characterized as inaccurate or misaligned with OHA’s current efforts, and the importance of continuing to assert OHA’s position regarding revenues owed to the agency. He felt that because the narratives are not true, the narratives being created were incorrect.

(Time Stamp: 18:31/56:13 ~ Real Time: 09:20:30 a.m.)

Trustee Akina stated his support for Chair Emerita Lindsey's request to visit with the AG and discuss clarification of this issue.

(Time Stamp: 18:59/56:13 ~ Real Time: 09:20:58 a.m.)

Trustee Souza inquired about the role of legal counsel, Sherry Broder, in relation to Chair Emerita Lindsey's request to meet with the Office of the Attorney General. Specifically, **Trustee Souza** asked whether Ms. Broder would be participating as a member of the PLTWG or in her professional capacity as legal counsel. **Trustee Souza** further noted that if Ms. Broder were acting in her capacity as an attorney, such participation could have associated budgetary implications. He asked what approval process would be required should an expenditure be necessary. **Chair Emerita Lindsey** responded that Ms. Broder would be representing the PLTWG in her capacity as the group's legal counsel, rather than serving in a paid legal role for OHA. **Trustee Souza** confirmed his understanding that, based on this clarification, no expenditure would be incurred. **Trustee Lindsay** affirmed.

(Time Stamp: 19:06/56:13 ~ Real Time: 09:21:05 a.m.)

Trustee Waihe'e, IV, inquired if this issue centered around the money [20% of fees due from crown and government lands revenue that is owed OHA yearly].

Deja clarified that the funds under discussion represented amounts already being reported by the State as 20% of acknowledged ceded land revenues, emphasizing that these figures are not in dispute. **Deja** underscored that the State itself is reporting these revenues, implying agreement on the underlying financial obligation.

Trustee Waihe'e, IV raised a question regarding the potential objection from the State to the proposed bill, given the apparent alignment that the funds are owed. In response, **Deja** noted that she believed that was the reason there were concerns stemming from prior testimony by the AG, which may have introduced uncertainty or inconsistency relative to this shared understanding. She further indicated that there had been an expectation that the State's position, particularly from the Finance (FIN) Chair and committee members, would formally acknowledge that these revenues were undisputed and attributable to OHA. However, concerns remain regarding the State's interpretation and the AG's testimony. **Deja** suggested that the State's hesitation may relate to concerns about exceeding existing statutory or policy caps on revenue transfers. Participants noted that the State appears to favor a temporary, two-year approach, allowing the PLTWG additional time to evaluate and determine a longer-term resolution. She discussed the need to identify and specify a finite appropriation amount, rather than leaving it open-ended, to fully utilize the funds currently held in the account. A proposed figure of \$50 million was identified as a reasonable estimate, with the expectation that this amount would sufficiently address the available balance.

Trustee Waihe'e, IV acknowledged the concern about exceeding the cap but noted that the very purpose of the legislative measure is to address and potentially override that limitation.

(Time Stamp: 19:58/56:13 ~ Real Time: 09:21:57 a.m.)

Chair Galuteria asked OHA’s Corporate Counsel, Everett Ohta, for his opinion on the matter. The discussion concluded with an invitation for additional input from Everett, indicating that further clarification or perspective was anticipated. General agreement was that the revenues in question are acknowledged and undisputed. Ongoing concerns remain regarding the interpretation of the AG’s testimony and the State’s reluctance tied to cap limitations. (Time Stamp: 23:00/56:13 ~ Real Time: 09:24:59 a.m.)

Chair Emerita raised a concern regarding testimony provided by the Deputy Attorney General, specifically, noting that the AG’s statement indicated there is no statutory basis requiring a 20% allocation of ceded land revenues to OHA. She asserted that this statement was inaccurate, emphasizing that there is, in fact, statutory authority supporting the 20% entitlement. She identified this discrepancy as a central point of concern and clarified that this issue is shared by both her and legal counsel, Sherry Broder. Their concerns centered on the legal interpretation presented in official testimony and its potential implications for ongoing legislative and policy discussions. (Time Stamp: 24:44/56:13 ~ Real Time: 09:26:43 a.m.)

Chair Galuteria acknowledged the concerns and invited additional comments. (Time Stamp: 25:04/56:13 ~ Real Time: 09:27:03 a.m.)

Vice Chair Akaka expressed appreciation to Representative Kahaloa for her continued diligence and leadership on the matter. The **Vice Chair** further highlighted the importance of ongoing education and outreach to both legislators and the broader community. It was noted that there is a perception that OHA should be receiving at least \$80 million yearly which does not account for accrued interest over time since prior audits were conducted. **Vice Chair Akaka** emphasized that revenues derived from crown and government lands have generated substantial proceeds over time, warranting further examination and accurate accounting. It was also noted that these concerns had been recognized within the Judiciary and Hawaiian Affairs Committee, where members expressed interest in ensuring the issue is properly addressed. Additional discussion referenced the complexity of the legislative process, noting that there is multiple “moving parts,” including efforts to advance the bill and considerations related to inventorying assets and revenue sources. The importance of continued monitoring and strategic oversight by the OHA Board was emphasized.

Vice Chair Akaka noted support for continued legislative engagement support, including efforts regarding revenue entitlements and historical financial context including educational outreach to policymakers with affirmation of OHA’s position that statutory authority exists supporting a 20% revenue entitlement along with a reminder that OHA should be receiving at least \$80 million with accrued interest yearly. There was consensus on the need for a defined, time-bound funding amount (e.g., two-year allocation). In addition, it would be in OHA’s interest to track legislative developments related to revenue inventory and associated measures. (Time Stamp: 25:11/56:13 ~ Real Time: 09:27:10 a.m.)

Chair Galuteria indicated that absent objection from the Board, the current course of action should proceed. Chair Emerita Lindsey was encouraged to move forward, with confirmation that earlier concerns, particularly regarding expenditures, had been satisfactorily addressed.

No objections were raised by Board members; support was voiced for Chair Emerita’s proposal to meet with the AG to seek clarification on legal and fiscal positions and clarification on the overage account and funding a cap. In addition, Chair Emerita [and Sherry Broder] will engage with the AG’s office for further discussion and alignment and continue pursuing clarification regarding the overage account and funding cap. In addition, they will engage with the Attorney General’s office for further discussion and alignment after going through the process of speaking with Chair Kahele about the upcoming meeting. K. Sean suggested, and members of the board agreed, that Corporate Counsel, Everett Ohta, participate in that meeting.
(Time Stamp: 29:04/56:13 ~ Real Time: 09:31:03 a.m.)

Motion was made by **Chair Galuteria** to Approve OHA Staff’s Bill Position Recommendations for **Bills Naming OHA** as presented in **Matrix 2**.
(Time Stamp: 29:53/56:13 ~ Real Time: 09:31:52 a.m.)

Discussion

None

There being no discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe’e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 30:01/56:13 ~ Real Time: 09:32:09 a.m.)

II. NEW BUSINESS (continued)

c. 2026 Legislature: OHA Position on Bills Affecting the Public Land Trust – Matrix 3

(Time Stamp: 30:36/56:13 ~ Real Time: 09:32:13 a.m.)

Public Testimony

None

Discussion

Public Policy Manager, Deja Ostrowski, presented recommended changes to previously adopted legislative positions following updates since the earlier publication of Matrix 3:

(Time Stamp: 30:37/56:13 ~ Real Time: 09:32:36 a.m.)

Item 1: HB1603 – Relating to Agricultural Park Leases

- Bill expands agricultural park lease provisions beyond O’ahu to other counties
- **Prior position:** Comment (based on earlier testimony regarding expansion implications)
- Staff noted competing legislative priorities and resource allocation considerations
- **Staff Recommendation:** Downgrade position from Comment → Monitor to de-prioritize engagement as the bill advances to conference.

(Time Stamp: 30:50/56:13 ~ Real Time: 09:32:49 a.m.)

Item 4: HB2395 – Relating to Taking of Marine Deposits

- Bill authorizes DLNR to approve permits for research involving the taking of marine deposits
- Clarification provided to the Board that “marine deposits” include sand and/or natural beach materials, not debris or rubbish
- **Prior position:** Comment, conditioned on requirement that materials be returned to the beach
- Staff cited current workload, testimony demands, and need for legislative education efforts
- **Staff Recommendation:** Downgrade position from Comment → Monitor.
(Time Stamp: 31:25/56:13 ~ Real Time: 09:33:24 a.m.)

Item 6: SB2003 – Relating to Natural Resource Management (Mauna Kea)

- Bill proposes to repeal the Mauna Kea Oversight Authority
- Significant community discussion noted
- **Prior position:** Comment.
- Staff clarification:
 - Existing law already grants DLNR authority to extend leases via holdover provisions
 - Bill language has created confusion but does not fundamentally alter existing authority
- **Recommendation:** Downgrade position from Comment → Monitor.
(Time Stamp: 32:18/56:13 ~ Real Time: 09:34:17 a.m.)

Item 14: SB2593 – Relating to Mauna Kea

- This bill addresses governance and lease management concerning Mauna Kea lands, specifically involving the Mauna Kea Stewardship and Oversight Authority
- The measure proposes to authorize the Authority to extend existing leases on Mauna Kea
- Staff indicated that the bill is often viewed as related to or complementing of other Mauna Kea governance measures but is not a direct companion; rather, it addresses a specific component of lease authority
- **Prior Board Position:** Oppose

Basis for opposition included concerns that the bill:

- Could be interpreted as inconsistent with the original purpose and intent of establishing the Mauna Kea Oversight Authority
- May represent a step back from governance reforms intended to provide clearer accountability, stewardship structure, and community trust in management of Mauna Kea resources

Staff Clarification and Legal Context:

- Staff emphasized that existing law already grants the Department of Land and Natural Resources (DLNR) authority to extend leases, including through holdover provisions
- As such:
 - **SB2593** does not create entirely new authority but rather extends or duplicates authority by allowing the Mauna Kea Stewardship Oversight Authority to exercise or participate in lease extension decisions
 - The bill may also allow for transfer or shared exercise of this authority, which could introduce additional administrative layers or ambiguity
- Staff noted that confusion in stakeholder discussions may stem from misunderstanding of existing DLNR powers versus proposed statutory changes

Policy and Strategic Considerations:

Staff acknowledged that, while concerns remain, the bill's practical legal impact may be limited given existing authority due to the volume of higher-priority legislative matters, limited capacity for continued engagement, and the need to focus advocacy resources on bills with greater direct impact on PLT interests. Staff recommended a strategic de-prioritization.

Staff Recommendation: Change position from *Oppose* → *Monitor*.

This reflects a shift from active opposition to passive tracking, while preserving the Board's previously stated concerns in the record.

(Time Stamp: 33:17/56:13 ~ Real Time: 09:35:16 a.m.)

**Note: Testimony in opposition had already been submitted.*

Trustee Ahuna inquired whether the OHA or its representatives are included in the oversight committee associated with the matter under discussion. **Deja** confirmed that OHA is not currently represented on the oversight committee and was not allowed representation in its formation. **Trustee Ahuna** reiterated that the lack of OHA representation was a key factor in the filing of a lawsuit, emphasizing that OHA's absence removes the voice of its beneficiaries, and the lawsuit was intended to assert the necessity of OHA participation in governance decisions affecting trust and crown lands. Concern was expressed that despite the legal action, current developments appear to replicate the same exclusionary conditions that prompted the lawsuit. This situation undermines OHA's constitutional role and fiduciary responsibility to represent Native Hawaiian beneficiaries. **Chair Emeria Lindsey** confirmed **Trustee Ahuna's** inquiries. (Time Stamp: 34:32/56:13 ~ Real Time: 09:36:22 a.m.)

Chair Galuteria asked about the status of the related bill; **Deja** confirmed that the bill was expected to "make crossover" (advance in the legislative process). Multiple participants expressed confidence that progression is likely and imminent, based on recent status checks. (Time Stamp: 35:07/56:13 ~ Real Time: 09:37:06 a.m.)

Vice Chair Akaka recommended ongoing proactive engagement, by specifically assigning an OHA representative to attend oversight committee meetings, even if not formally included, ensuring OHA remains informed of developments in real time, and providing testimony, mana'o (input), and formal positions when appropriate.

Vice Chair Akaka further emphasized the matter directly relates to crown lands and government trust lands, reinforcing OHA's responsibility to be engaged and that OHA must actively assert its kuleana (responsibility) in these proceedings.

(Time Stamp: 35:27/56:13 ~ Real Time: 09:37:26 a.m.)

Trustee Ahuna underscored that OHA serves as the constitutionally mandated voice of Native Hawaiian beneficiaries and excluding OHA effectively removes beneficiary representation from decision-making processes. The situation reflects a broader concern of systemic marginalization of that voice in governance related to government and trust lands. There was also reflection on whether the lawsuit remains the most effective strategy, given current developments.

(Time Stamp: 36:14/56:13 ~ Real Time: 09:38:40 a.m.)

Chair Galuteria asks for any questions, comments, or discussions.

There being no other discussion or table changes to Matrix 3, **Deja** expressed appreciation, thanked the Trustees for the discussion, and noted that the input provided could be explored further through other operational or policy avenues.

(Time Stamp: 36:41/56:13 ~ Real Time: 09:38:40 a.m.)

Motion made by **Chair Galuteria** to Approve OHA Staff's Bill Position Recommendations for **Bills Affecting the Public Land Trust** as presented in **Matrix 3**, except for:

- **HB1603** Relating to Agricultural Park Leases from Comment → Monitor
- **HB2395** Relating to the taking of Marine Deposits from Comment → Monitor
- **SB2003** Relating to Resource Management from Comment → Monitor
- **SB2593** Relating to Mauna Kea from Oppose → Monitor

(Time Stamp: 37:16/56:13 ~ Real Time: 09:39:15 a.m.)

There being no further discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 37:54/56:13 ~ Real Time: 09:39:53 a.m.)

II. NEW BUSINESS (continued)

d. 2026 Legislature: OHA Position on Bills Affecting Natural Resources and Native Hawaiian Traditional & Customary Practices – Matrix 4

(Time Stamp: 38:28/56:13 ~ Real Time: 09:40:27 a.m.)

Public Testimony

None

Deja reported there were no table changes, no discussion needed, and no vote taken.

Motion made by **Chair Galuteria** to Approve OHA Staff's Bill Position Recommendations for **Bills Affecting Natural Resources and Native Hawaiian Traditional and Customary Practices** as presented in **Matrix 4**.
(Time Stamp: 42:04/56:13 ~ Real Time: 09:44:29 a.m.)

There being no discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 42:21/56:13 ~ Real Time: 09:44:20 a.m.)

II. NEW BUSINESS (continued)

e. **2026 Legislature: OHA Position on Bills Affecting Native Hawaiian Housing – Matrix 5**

(Time Stamp: 42:46/56:13 ~ Real Time: 09:44:45 a.m.)

Public Testimony

None

Discussion

HB 1728 - Rainwater Catchment Systems:

Public Policy Manager, Deja Ostrowski, reported that recommended position changes were being refined based on the volume of testimony received and overall workload priorities. She addressed **HB 1728**, a bill requiring counties to allow the installation and operation of rainwater catchment systems. She further noted that **HB 1728** has been a priority of Representative Evslin, who has expressed concerns that housing costs increase when county laws restrict rainwater catchment systems.

Deja stated that the measure had previously held a position of Support. However, advocacy **staff recommended** changing the position on **HB 1728** from Support → Monitor. The rationale provided included limited staff capacity, the significant volume of testimony being submitted, and the need to prioritize other active legislative package items. **Deja** specifically referenced ongoing and complex PLT matters requiring focused attention and emphasized the importance of ensuring that when support is given, the agency can fully stand behind that position.

Deja concluded by stating that the request was to deprioritize **HB 1728** to a monitoring position.
(Time Stamp: 43:02/56:13 ~ Real Time: 09:45:19 a.m.)

Motion made by **Chair Galuteria** to Approve OHA's Staff's Bill Position Recommendations for **Bills Affecting Native Hawaiian Housing** as presented in **Matrix 5, except for:**

- **HB 1728** Relating to rainwater catchment systems from Support → Monitor
(Time Stamp: 44:15/56:13 ~ Real Time: 09:46:14 a.m.)

There being no further discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 44:39/56:13 ~ Real Time: 09:46:38 a.m.)

II. NEW BUSINESS (continued)

f. 2026:Legislature: OHA Position on Bills Affecting Native Hawaiian Health – Matrix 6

(Time Stamp: 45:26/56:13 ~ Real Time: 09:47:25 a.m.)

Public Testimony

None

Discussion

Deja Ostrowki introduced **HB1790**, relating to policing that establishes a Center for Criminal Justice Research. She reported positively on collaborative work conducted with Papa Ola Lōkahi, internal research staff, and external partners, including Carla [Hostetter, Director, Research and Evaluation], Keith [Gutierrez, Manager, Research and Evaluation], and their respective teams.

Deja stated that amendments developed by the organization - specifically amendments addressing data collection for Native Hawaiians - were adopted by the legislative committee. She expressed that adoption of these amendments was significant and beneficial, particularly if the bill continued to advance through the legislative process.

Staff Recommendation: Full Support for the bill, citing successful adoption of the proposed amendments in committee.

(Time Stamp: 45:45/56:13 ~ Real Time: 09:47:44 a.m.)

Deja also highlighted **HB 1769** relating to incarcerated people and private out-of-state facilities which is asking for an incremental return of those incarcerated in private out-of-state facilities.

Staff Recommendation of Support has not changed; **Deja** just wanted to highlight that this bill was moving through the legislative process.

(Time Stamp: 46:20/56:13 ~ Real Time: 09:48:19 a.m.)

Motion made by **Chair Galuteria** to Approve OHA Staff's Bill Position Recommendations for **Bills Affecting Native Hawaiian Health** as presented in **Matrix 6, except for:**

- **HB1790** Relating to Policing that establishes a Center for Criminal Justice Research from *Support with Amendments* → *Support*.
(Time Stamp: 47:02/56:13 ~ Real Time: 09:49:01 a.m.)

There being no further discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Galuteria

Excused: Trustee Kahele

(Time Stamp: 47:30/56:13 ~ Real Time: 09:49:29 a.m.)

II. NEW BUSINESS (continued)

g. 2026 Legislature: OHA Position on Bills Affecting Native Hawaiian Education – Matrix 7

(Time Stamp: 47:55/56:13 ~ Real Time: 09:49:54 a.m.)

Public Testimony

None

Discussion

None

Deja Ostrowski reported there were no changes on **Matrix 7**.

Motion made by **Chair Galuteria** to Approve OHA Staff's Bill Position Recommendations for **Bills Affecting Native Hawaiian Education** as presented in **Matrix 7**.

(Time Stamp: 48:16/56:13 ~ Real Time: 09:50:15 a.m.)

There being no discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 48:45/56:13 ~ Real Time: 09:50:44 a.m.)

h. 2026 Legislature: OHA Position on Bills Affecting Native Hawaiian Economic Stability – Matrix 8

(Time Stamp: 49:06/56:13 ~ Real Time: 09:51:05)

Public Testimony

None

Discussion

None

Deja Ostrowski reported there were no changes on **Matrix 8**.

(Time Stamp: 49:20/56:13 ~ Real Time: 09:51:19 a.m.)

Motion made by **Chair Galuteria** to Approve OHA Staff's Bill Position Recommendations for **Bills Affecting Native Hawaiian Economic Stability** as presented in **Matrix 8**.

(Time Stamp: 49:34/56:13 ~ Real Time: 09:51:33 a.m.)

There being no discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 49:54/56:13 ~ Real Time: 09:51:53 a.m.)

II. NEW BUSINESS (continued)

i. 2026 Legislature: OHA Position on Bills Affecting Hawai'i Revised Statutes Chapter 6E (Iwi Kūpuna and Historic Preservation) – Matrix 9

(Time Stamp: 50:19/56:13 ~ Real Time: 09:52:18 a.m.)

Public Testimony

None

Discussion

Public Policy Manager, Deja Ostrowski, reported that two previously published position changes had already been incorporated into the legislative matrix. These changes involved shifting the agency's position from *Comment* → *Oppose*. The adjustment was based on recent developments, specifically the failure (death) of the agency's historic preservation bill, which has altered the policy context and strategic posture. As a result, **staff now recommend** strengthening opposition to related measures that propose streamlining regulatory processes, particularly those that may weaken protections connected to:

Historic preservation review processes

- Housing development streamlining efforts
- Regulations affecting iwi (environmental/energy-related) and kūpuna-related considerations (as referenced in discussion)

These position updates apply to:

- The affected historic preservation bills
- A housing bill with similar streamlining provisions

**All changes have already been reflected in the legislative matrix and clearly highlighted for visibility and tracking*

Staff Recommendation: Staff formally recommend that the Board adopt a Comment → Oppose position.

(Time Stamp: 50:31/56:13 ~ Real Time: 09:52:30 a.m.)

Motion made by **Chair Galuteria** to Approve OHA Staff's Recommendation for **Bills Affecting Hawai'i Revised Statutes Chapter 6E (Iwi Kūpuna and Historic Preservation)** as presented in **Matrix 9**, except for:

- **HB1710/SB2341** Relating to Historic Preservation from Comment → Oppose

(Time Stamp: 51:00/56:13 ~ Real Time: 09:52:59 a.m.)

There being no further discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (7-1)

Yes: Trustees Ahuna, Akaka, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Abstain: Trustee Akina

Excused: Trustee Kahele

(Time Stamp: 51:27/56:13 ~ Real Time: 09:53:26 a.m.)

II. NEW BUSINESS (continued)

j. 2026 Legislature: OHA Position on Governor's Messages – Board and Commission Confirmations – Matrix 10

(Time Stamp: 51:58/56:13 ~ Real Time: 09:53:57 a.m.)

Public Testimony

None

Discussion

Deja presented an overview of the Governor's Messages concerning board and council appointments currently included in the legislative matrix. She reported that Support is being **recommended** for several nominees, including appointments to:

- The Juvenile Justice Advisory Council
- The Defender Council (Public Defender's Council), which oversees services for individuals receiving public defense in criminal cases

It was noted that some nominees were recognizable figures, including Kirsha [Durante, Litigation Director] identified as the current head of the Native Hawaiian Legal Corporation (NHLC).

Advocacy staff specifically flagged Island Burial Council (IBC) Nomination #7 – Hawai'i Island.

Staff specifically flagged **Item #7**, seeking additional clarification. **Staff** consulted with **Kamakana** [Ferreira, Compliance Archaeologist] regarding this nomination. This nominee was not recommended to the Governor by OHA. Despite this, **staff recommended** Support for the appointment to ensure that the Island Burial Councils can function effectively.

Staff further explained that with guidance from Board Counsel, Everett Ohta, testimony expressed Support for the nominee to maintain council operations but will clearly state that the nominee does not meet the statutory preference/qualification tied to OHA-recommended candidates.

Staff also noted concern regarding the absence of additional IBCI nominations that were expected but had not yet been transmitted. It was reported (via **Chief Advocate Leinā'ala Ley**) that DLNR and Ryan Kanaka had been contacted and follow-up had been requested regarding the status and delay of pending nominations. At this time, Item #7 was the only IBC nomination before the board, with expectations that more would be forthcoming for future meetings.

Staff concluded that this completed the review of the legislative matrix associated with the Governor's Messages.

Staff Recommendation: Support for identified nominees to the Juvenile Justice Advisory Council and Defender Council and Support for Hawai'i Island Burial Council nomination, with qualifying language in testimony regarding non-OHA recommendation.

(Time Stamp: 52:10/56:13 ~ Real Time: 09:54:09 a.m.)

Motion made by **Chair Galuteria** to Approve **Bill Position on Governor's Messages – Board and Commission Confirmations** as Recommended by OHA Staff.: Support for identified nominees to the Juvenile Justice Advisory Council and Defender's Council and Support for Hawai'i Island Burial Council nomination, with qualifying language in testimony regarding non-OHA recommendation as presented in **Matrix 10**.

(Time Stamp: 53:48/56:13 ~ Real Time: 09:55:47 a.m.)

There being no further discussion, **Chair Galuteria** called for the vote. **Roll Call**

Motion carried (8 – 0)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 54:07/56:13 ~ Real Time: 09:56:06 a.m.)

Chair Galuteria thanked the advocacy team, the Trustees, and the Trustees' teams for their work and diligence on matters discussed. **Deja** thanked the Trustees for letting the advocacy team lift up and celebrate how far they have gotten.

III. COMMUNITY CONCERNS AND CELEBRATIONS

None

(Time Stamp: 54:54/56:13 ~ Real Time: 09:56:53 a.m.)

IV. ANNOUNCEMENTS

None

(Time Stamp: 55:09/56:13 ~ Real Time: 09:57:08 a.m.)

V. ADJOURNMENT

Motion made by **Trustee Ahuna** to adjourn the March 4, 2026 meeting of the Committee on Beneficiary Advocacy and Empowerment.

(Time Stamp: 55:24/56:13 ~ Real Time: 09:57:23 a.m.)

There being no discussion, **Chair Galuteria** called for the vote.

Roll Call

Motion carried (8 – 1)

Yes: Trustees Ahuna, Akaka, Akina, Alapa, Lindsey, Souza, Waihe'e IV, Chair Galuteria

Excused: Trustee Kahele

(Time Stamp: 55:38/56:13 ~ Real Time: 09:57:37 a.m.)

Chair Galuteria adjourns the meeting at 9:58 a.m.

Respectfully submitted,

Lei-Ann Stender Durant, Trustee Aide
Committee Recording Secretary

Brickwood Galuteria, Trustee At-Large
Committee Chair

Date Approved:



Beneficiary Advocacy & Empowerment Committee

III. New Business

- A. Presentation** - Establishment of the East Maui Water Authority and Next Steps Regarding Stewardship of East Maui Waters — Grant Nakama, Mahi Pono; Jonathan Scheuer and Kyle Nakanelua, ‘Aha Wai o Maui Hikina, East Maui Water Authority; Office of Mayor Bissen (pending confirmation) – *No material at this time*

- B. BAE Action Item #26-05:** OHA’s Position and Possible Action Concerning the East Maui Ditch and Water Diversion System

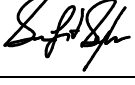


ACTION ITEM

Committee on Beneficiary Advocacy and Empowerment July 29, 2026

BAE #26-05

Action Item Issue: OHA's Position and Possible Action Concerning the East Maui Ditch and Water Diversion System

Co-Prepared by:	 _____ Leinā'ala L. Ley & Advocacy Staff Ka Pou Kihi Kū (Chief Advocate)	07/23/2026 _____ Date
Reviewed by:	 _____ K. Sean Kekina Ka Pou Nui (Chief Operating Officer)	07/23/2026 _____ Date
Reviewed by:	 _____ Everett Ohta Ka Paepae Puka (General Counsel)	07/23/2026 _____ Date
Reviewed by:	 _____ Summer Lee Haunani Sylva Ka Pouhana Kūikawā (Interim Chief Executive Officer)	07/23/2026 _____ Date
Reviewed by:	 _____ Brickwood Galuteria Chairperson, Committee on Beneficiary Advocacy and Empowerment	07/24/2026 _____ Date

I. PROPOSED ACTION

Motion 1

The OHA Board of Trustees (BOT) approve staff recommendation to continue supporting restoration of streams in East Maui consistent with OHA's constitutional and statutory responsibilities, the BOT Wai Policy¹, and OHA's longstanding advocacy for the restoration of East Maui streams and Native Hawaiian traditional and customary rights, as set forth in Attachment B. This includes supporting efforts to ensure Mahi Pono complies with existing court orders to restore water to streams and remedy East Maui ditch system losses that contribute to unneeded diversion and waste of stream waters.

Motion 2

The BOT approve staff recommendation to support community-led public governance for East Maui water, including potential transfer of the East Maui ditch to the County and management by Maui's East Maui Water Authority (EMWA), its community board, 'Aha Wai o Maui Hikina, and the County of Maui Department of Water Supply.

II. ISSUE

Whether the OHA Board of Trustees should approve: Motion 1 related to ongoing advocacy to restore stream flows to East Maui communities; and Motion 2 related to supporting Maui County's efforts to establish and implement community-based management of the East Maui Ditch System.

III. BACKGROUND

Most waters diverted through the East Maui Irrigation (EMI) system and transferred to Central Maui for county, commercial, and agricultural use originate from Crown and Government Lands that today comprise the Public Land Trust (PLT). As trustee for Native Hawaiian beneficiaries of the PLT, OHA has a constitutional and statutory responsibility to advocate for the proper stewardship of these trust resources, protect Native Hawaiian traditional and customary rights, and ensure that public trust resources are managed for present and future generations rather than primarily for private commercial benefit.

OHA's Administration has previously submitted testimony to the Board of Land and Natural Resources (BLNR) supporting community stream restoration within existing authority in furtherance of the BOT Wai Policy and longstanding litigation support for community group Nā Moku Waupun o Ko'olau Hui (Nā Moku). However, because the anticipated August 14th BLNR agenda item regarding the EMI ditch system and long-term disposition of water from East Maui presents a significant new issue regarding

¹ See Office of Hawaiian Affairs Board Of Trustees Executive Policy Manual, Series 2070 Wai, (updated Sept. 2025), starting at p. 22.

public ownership and governance through the EMWA and Maui Department of Water Supply, Administration presents Action Item 26-05 to recommend that the BOT approve recommendations as set forth in Motions 1 and 2 above and further elaborated below.

A. Water Diversions Have Harmed East Maui Beneficiaries

For more than a century, streams flowing from the eastern slopes of Haleakalā have been diverted through a gravity-fed system of ditches, caves, and flumes originally built to divert waters to support plantation agriculture. The EMI ditch system collects surface stream water from approximately 50,000 acres of land of which approximately 33,000 acres are Crown and Government Lands located within Nāhiku, Keʻanae, Honomanū, and Huelo license areas, and the remaining approximately 17,000 acres of which are privately owned.² In 2018, PSP Investments (dba Mahi Pono), acquired the private lands from Alexander & Baldwin (A&B), and A&B's remaining interests in EMI last year.

Due to the historical diversion of water to support plantation agriculture, many East Maui communities experienced significant ecological degradation and disruption of Native Hawaiian traditional and customary practices, including kalo cultivation, gathering, subsistence, and cultural practices dependent upon healthy mauka-to-makai stream flows. Accordingly, beginning in 2001, Native Hawaiian beneficiaries through community group Nā Moku have initiated legal proceedings to restore water to some of the 100 streams historically diverted through the EMI ditch system which are the most significant for kalo farming and other practices. Since its inception, OHA has supported this legal action through funding to the Native Hawaiian Legal Corporation.

Hawai'i's constitutional public trust doctrine, Haw. Const. Art. XI, § 1, requires that public resources be managed for the benefit of present and future generations, with commercial uses that negatively impact these resources disfavored under the law. Where commercial uses are permitted, commercial users have a high burden to justify their needs considering negative consequences on public trust uses of water.³ The constitutionally protected water uses are: (1) the maintenance of waters in their natural state; (2) domestic water use; (3) maintenance of water flows necessary for the exercise of Native Hawaiian traditional and customary rights; and (4) the Department of Hawaiian Home Lands' reservations of water to meet their separate trust obligations. *Kauai Springs, Inc. v. Planning Comm'n of Cnty. of Kauai*, 133 Hawai'i 141, 172 (2014)

²See Wilson Okamoto Corporation, Corrected Final Environmental Impact Statement: Proposed Lease (Water Lease) for the Nāhiku, Keʻanae, Honomanū, and Huelo License Areas Vol. 1 (Sept. 2021), p. 1-2, available at [2021-09-08-MA-FEIS-corrected-East-Maui-Water-Lease-Vol-1.pdf](#).

³ The public trust doctrine places the burden on off-stream water users to demonstrate their "actual needs and . . . the propriety of draining water from public streams to satisfy those needs." *In re Waiāhole Ditch Combined Contested Case Proceeding*, 94 Hawai'i 97 (2000) ("Waiāhole"). Before approving private diversions, the BLNR must "consider the cumulative impact of existing and proposed diversions on trust purposes and . . . implement reasonable measures to mitigate this impact, including the use of alternative sources." *Id.* at 143.

(“*Kaua ‘i Springs*”).

As a result of Nā Moku’s litigation, and parallel litigation brought by the Sierra Club of Hawai‘i and Maui Tomorrow, Hawai‘i’s courts have regularly reversed BLNR decisions related to disposition of East Maui water, including for failing to protect public trust water uses. As recently as July 17, 2026, Hawai‘i’s Environmental Court reversed BLNR’s decision to renew the 2026 revocable permit authorizing Mahi Pono to divert 35.22 mgd of East Maui surface water (averaged annually), and sent the matter back to BLNR with directions to initiate a contested case hearing no later than November 6, 2026 (see full timeline below § D). The court noted that the object of permits is not “maximum consumptive use, but the most equitable, reasonable, and beneficial allocation of trust resources, with full recognition that **resource protection also constitutes ‘use.’**”⁴

OHA has historically advocated on East Maui water issues in furtherance of the BOT Wai Policy, including litigation, staff advocacy, public education, media engagement, and coordination with community organizations and allied experts. OHA’s core advocacy points have included:

- Upholding wai as a public trust resource;
- Restoring and protecting water necessary for Native Hawaiian traditional and customary practices;
- Ensuring that private commercial uses are subjected to the heightened scrutiny required under the public trust;
- Supporting management structures that prioritize stream restoration, watershed health, kalo cultivation, appurtenant rights, and other public trust purposes; and
- Resisting any default assumption that plantation-era diversions or revocable permit practices should define the future of East Maui water governance.

B. OHA Advocacy & Engagement Highlights

Time Period	OHA Advocacy, Engagement
2001- Present	OHA provides funding to the Native Hawaiian Legal Corporation who represents Nā Moku ‘Aupuni o Ko‘olau Hui on this East Maui water issue.
2015 – 2018	Staff participation and support during contested case hearing on Nā Moku petition to amend the interim instream flow standards (IIFSs) for 27 streams of East Maui. IIFSs provide numerical guidance on the <i>minimum</i> amount of stream water that must remain flowing in streams at all times and are set by the Commission on Water Resources Management (CWRM) to protect constitutional public trust water uses.

⁴ *Sierra Club v. Kanaka ‘ole*, Civ. No. 1CCV-25-2146 (Haw. Cir. Ct. Jul. 17, 2026) at ¶ 30 (citation omitted).

2016 – Present	Near annual Administrative Testimony to the Board of Land and Natural Resources opposing renewal of revocable permits to A&B and later Mahi Pono//EMI absent compliance with public trust principles and applicable court orders. Legislative testimony on relevant bills related to revocable permits, water leases, and the East Maui water issue.
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See Attachment B for more detailed chronology of OHA’s engagement on this issue.

C. EMWA Was Established to Facilitate Community Co-Stewardship of East Maui Watersheds

The East Maui Water Authority (EMWA) is a department within the County of Maui. EMWA was created after Maui County voters in 2022 approved by 64% a charter amendment establishing a department focused on resolution of disputes related to East Maui diversion and public management of Maui water.⁵ Since its inception, EMWA and the Maui Department of Water Supply have been working together to plan for eventual management of the EMI ditch system and Nāhiku, Ke‘anae, Honomanū, and Huelo water license areas.

EMWA is focused on implementing an innovative, place-based, community-driven integrative model for wai management in collaboration with its community board, ‘Aha Wai o Maui Hikina. While the Maui Department of Water Supply will leverage its expertise on water delivery to manage the ditch system, EMWA and its community board will focus on watershed management programs and community accountability. This integrated model will not only address current operational needs to manage the ditch system, but also plan for and prioritize watershed management which contributes to long-term water security.

‘Aha Wai o Maui Hikina includes representatives from 9 districts within the jurisdiction of EMWA and covers the four license areas of Nāhiku, Ke‘anae, Honomanū, and Huelo affected by historical stream diversions. The community board also includes a dedicated seat for DHHL as well as consultants with water expertise. This structure is significant because it reflects a community-led and place-based approach to governance with delivery and community accountability to be held together rather than treated as separate or competing functions.

⁵ The County of Maui’s Board of Water Supply formed a Temporary Investigative Group (TIG) in 2019. One of their recommendations addressed this longstanding issue of private water lease holders, and proposed the County apply for the long-term lease that A&B was pursuing. See Board of Water Supply Temporary Investigative Group available at <https://www.mauicounty.gov/DocumentCenter/View/119847/2019-10-17-TIG-Report--Draft?bidId=>

D. History of East Maui Water Diversions

- **1876:** Alexander & Baldwin (A&B) and Haiku Sugar Company obtain permission from the Kingdom of Hawai'i to divert water from four East Maui streams through the Hamakua Ditch to support Central Maui sugar plantations.
- **1896–1970s/1980s:** Although the original permit was for 20 years, A&B maintains and expands control of East Maui water through successive government leases.
- **2001:** A&B and EMI apply for a 30-year water license while requesting continued annual permits. Nā Moku challenges the application through a request for contested case hearing at the BLNR. Nā Moku also files Petitions to Amend the IIFS for 27 streams at CWRM.
- **2001–2007:** BLNR continues issuing holdover revocable permits, allowing diversions of approximately 164–450 million gallons per day (mgd).
- **March 23, 2007:** BLNR issues decision in the Nā Moku contested case, requiring reduced diversions from Waiokamilo Stream to restore water for downstream kalo farmers.
- **December 2015:** BLNR again renews the holdover permits. Nā Moku files suit, arguing environmental review is required and challenging BLNR's use of temporary permits.
- **January 2016:** First Circuit Court rules that while environmental review is not required, BLNR exceeded its authority by issuing temporary holdover permits for 13 consecutive years, invalidating the permits.
- **2016 Legislative Session:** At the request of A&B and EMI, the Legislature introduces H.B. 2501/S.B. 3001 to authorize temporary holdover permits for water lease applicants pending completion of the environmental review process (adopted as Act 126 with a 3-year sunset date)
- **December 9, 2016:** Under Act 126, BLNR approves another one-year holdover permit for A&B and EMI despite HC&S's closure but imposes conditions including restoration of certain streams identified by CWRM as priorities and a diversion cap of 80 mgd.
- **June 20, 2018:** CWRM issues Findings of Fact, Conclusions of Law, & Decision and Order on Petitions to Amend IIFS for 21 streams filed by Nā Moku in 2001 ("2018 CWRM Decision and Order").
 - CWRM orders the complete or near-complete restoration of flow to nine East Maui streams and one major tributary to enable water to flow to East Maui taro farming communities.
 - CWRM also orders the full or partial restoration of flow to 12 other streams it concluded to have the greatest benefit for restoration of habitat for endemic species including those collected in the exercise of traditional and customary Hawaiian practices.
- **2020-2026:** Ongoing litigation by Sierra Club and Nā Moku challenging continued issuance of revocable permits to A&B/Mahi Pono in light of the failure to restore streams

and remedy system losses consistent with 2018 CWRM Decision and Order and prior court orders.

- **September 24, 2021:** BLNR accepts A&B/EMI's Final Environmental Impact Statement (FEIS) on a proposed long-term lease for the Honomanū, Huelo, Ke'anae, and Nāhiku license areas.
- **March 14, 2024:** EMWA through 'Aha Wai o Maui Hikina formally notifies the BLNR of its request that DLNR initiate the processes for the EMWA to obtain and manage the East Maui water licenses.
- **September 26, 2024:** BLNR Chair Dawn Changs withdraws a September 27th BLNR agenda item related to long-term disposition of East Maui water to A&B/Mahi Pono following a request from Mayor Richard T. Bissen to support transfer of the water licenses and ditch system to the County of Maui.
- **November 14, 2025:** DLNR staff propose contested case hearing over proposed disposition of a water license by public auction or set aside via Executive Order to County of Maui.
- **March 6, 2026:** The Environmental Court grants the Sierra Club's motion to stay of the 2026 revocable permits to Mahi Pono, and ordered "a surface water diversion cap of 30 mgd (averaged monthly) from the East Maui streams."
- **April 24, 2026:** BLNR Informational Briefing on County of Maui, Department of the East Maui Water Authority's Operational Capacity and Planning Related to East Maui Irrigation System. County of Maui testimony included prepared Executive Order for set aside to the County of Maui. *See Attachment C.*
- **May 19, 2026:** Mahi Pono briefing to CWRM on the Status of East Maui Diversion Modifications as ordered in the 2018 CWRM Decision and Order.⁶
- **July 17, 2026:** The Environmental Court issues its decision that Sierra Club is entitled to contested case hearing on 2026 revocable permits authorizing Mahi Pono to continue diverting water from Honomanū, Huelo, Ke'anae, and Nāhiku license areas.
- **July 25, 2026:** The Environmental Court issues its decision that Na Moku is entitled to contested case hearing on 2026 revocable permits authorizing Mahi Pono to continue diverting water from Honomanū, Huelo, Ke'anae, and Nāhiku license areas.

IV. Discussion

The BLNR is expected to address the ongoing East Maui water controversy at its upcoming meeting on August 14, 2026. At issue is not only who should receive the long-term entitlement to divert water from Honomanū, Huelo, Ke'anae, and Nāhiku (A&B/Mahi Pono or EMWA), but unresolved questions regarding the actual ownership and interests in the ditch system itself.

⁶ <https://files.hawaii.gov/dlnr/cwrn/submittal/2026/sb20260519C1B.pdf>.

Regarding ownership of the ditch system, the following reversion clause was typically included in the license agreements of the licensed areas of Ke‘anae, Nāhiku, Huelo and Honomanū:

“...upon termination of this license by elapse of time or for any other cause, any improvements now or hereafter erected upon the Licensed Area, including the whole of such aqueduct system and all extensions thereof and improvements made thereto...shall revert to and become sole property of the Licensor...”

Land License General Lease S-3695, ¶ 28 (1962).⁷

In a presentation to the BLNR on April 24, 2026, former ‘Aha Wai o Maui Hikina Chair Jonathan Likeke Scheuer raised the issue that the water delivered through the EMI system is diverted from state owned land subject to the license term above (and other similar license terms in other relevant permits). As framed during the April presentation: either the State owns substantial interests in the system or the State gave away an asset that A&B and now Mahi Pono claim is worth hundreds of millions of dollars, which would warrant investigation and resolution prior to any long-term water lease disposition involving use of the ditch system. Resolving ownership is particularly important because the system exists largely to transport water originating from Crown and Government lands. Determining ownership of associated infrastructure is therefore inseparable from the State's broader fiduciary obligations over the PLT.

The decision before the BLNR extends beyond determining who will operate a water delivery system. At its core, it is a decision about how water as a public trust resource originating largely from Crown and Government Lands should be managed and stewarded in the future. For more than a century, East Maui waters have largely been managed through a plantation-era model that prioritized commercial diversion over the restoration of streams, Native Hawaiian traditional and customary practices, and long-term watershed management. BLNR management decisions have been challenged and often overturned through litigation and administrative proceedings, but many of the underlying governance, stewardship, and system maintenance issues remain unresolved.

This contested ownership issue reinforces parallel concerns from Nā Moku, Sierra Club, and the larger community that a long-term lease or other long-term water disposition to Mahi Pono would be premature in light of non-compliance with existing CWRM and court orders. Thus, the question is whether the long-term management of EMI by the County of Maui and the EMWA better fulfills the State's constitutional public trust obligations and responsibilities to Native Hawaiian beneficiaries than management by a private commercial entity.

OHA has consistently advocated that public trust resources should be managed in a manner that prioritizes stream restoration, Native Hawaiian rights, watershed

⁷ See [1962 - Land License Bearing General Lease No. S-3695 \(Honomanu\).pdf](#). The complete paragraph includes qualifications related to other water agreements and licenses not currently available to OHA staff.

protection, and meaningful community participation. These principles are reflected throughout the BOT Wai Policy and have guided OHA's advocacy in East Maui for more than two decades. A public governance model led by Maui County, through the EMWA the Department of Water Supply, and the community advisory board 'Aha Wai o Maui Hikina, more closely aligns with the public trust doctrine and OHA's longstanding policy positions. Unlike a private commercial lessee, Maui County's responsibility is to serve the public interest. Although Maui County Department of Water Supply will assume significant operational responsibilities, its incentives are directed toward public and watershed management, rather than maximizing financial return from diverted water.

The role of 'Aha Wai o Maui Hikina is especially important in considering management of the EMI ditch system by Maui County. The origin and establishment of EMWA have been a grassroots effort led in significant part by East Maui community members and Native Hawaiian beneficiaries. Many East Maui Native Hawaiian beneficiaries, including kalo farmers and members of 'Aha Wai o Maui Hikina, support the set aside to the County of Maui as intended through the establishment of EMWA. Current membership of 'Aha Wai o Maui Hikina is comprised of: Kyle Nakanelua (Chair), Dr. Jonathan Likeke Scheuer (Vice Chair), Veralyn "Sissy" Latham (Nāhiku), Norman "Bush" Martin, Jr. (Ke'anae), Lurlyn "Lynn" Scott (Huelo-Ha'ikū), Moses Kahiamoe, Jr. (Huelo), Francis Quitazol (Kula), Janet Redo (Honomanū), Robert "Bobby" Pahia (Kula), Moses Bergau, Jr. (Nāhiku), and Harry Hueu, Jr. (Honomanū).

In recommending that OHA support management of the EMI ditch system by Maui County, Administration acknowledges that management by Maui County will not, by itself, resolve every outstanding issue associated with East Maui water. Continued engagement by the community and OHA will be necessary to ensure compliance with constitutionally protected public trust uses and the rights of Native Hawaiian practitioners. Likewise, questions regarding ownership of the ditch system, necessary improvements, and the long-term disposition of public assets should continue to be resolved through appropriate legal and administrative processes.

Despite some articulated challenges with management changes, Administration concludes that the proposed County governance model represents a meaningful step away from plantation-era private management and toward a governance structure that is more transparent, publicly accountable, and capable of integrating watershed restoration, Native Hawaiian rights, and community stewardship. Consistent with OHA's constitutional responsibilities, BOT Wai Policy, and longstanding advocacy, Administration therefore recommends that OHA support Maui County's request to manage the ditch system and underlying PLT lands.

Specifically, the Administration seeks Board's approval to continue to advocate with our beneficiaries to:

- Ensure stream restoration consistent with the IIFSs set by CWRM, the expressed interest of Native Hawaiian communities in East Maui, and longtime OHA advocacy and opposing any long-term lease to a

private entity absent compliance with existing CWRM and court orders (Motion 1);

- Urge the State to resolve the question of EMI ditch ownership prior to long term disposition of water as it is their kuleana as a trustee of Crown and Government lands to protect public trust beneficiaries' rights and interests in the ditch system (Motion 2); and
- Urge BLNR to move forward with community co-management governance in the management of East Maui water including through transfer of the EMI ditch system and related surface water permits to the County of Maui (Motion 2).

V. TIMEFRAME

In anticipation of this issue coming before BLNR at its meeting on August 14th, 2026, the BOT is requested to take immediate action to support the community of East Maui. Without BOT Action at this juncture, OHA Administration and Advocacy staff may be unable to fully support community positions on the issues when it comes before the BLNR .

VI. RECOMMENDATION

The OHA Board of Trustees approve Motions 1 and 2.

VII. ALTERNATIVES

- A. Amend and approve the proposed recommendation.
- B. Defer decision making to a later date.
- C. Take no action.

VIII. ATTACHMENTS

- A. Map of East Maui Crown and Government Lands/East Maui Ditch System
- B. Advocacy Chronology of OHA Activities Related to East Maui Waters
- C. County of Maui's Testimony Re: April 10 Agenda Item D-1 and Request for a Set Aside via Governor's Executive Order for State Held Interests in the East Maui Irrigation System and Surface Waters from Ko'olau Forest Reserve, Island of Maui, Hawai'i for the Public Purposes of Domestic, Municipal, and Agricultural Use to be Under the Control and Management of the County of Maui (April 9, 2026).

Attachment B: Advocacy Chronology of OHA Activities Related to East Maui Waters

- **2001–2014: OHA supported legal advocacy for East Maui residents.**
 - Nā Moku Aupuni o Ko‘olau Hui was represented by the Native Hawaiian Legal Corporation (NHLC), which receives OHA funding.
- **2015–2018: OHA participated during contested-case process.**
 - During the lengthy contested-case proceeding before CWRM concerning East Maui Interim Instream Flow Standards (IIFS), OHA consistently aligned itself with Native Hawaiian beneficiaries seeking stream restoration and recognition of traditional rights. CWRM’s decision was published in 2018 where OHA publicly described the proceeding as addressing long-standing inequities in water allocation.
- **2016–2018: OHA opposed revocable permit holdover and diversions.**
 - OHA opposed HB2501, a measure that would overturn a recent court order that invalidated the BLNR’s longstanding practice of allowing Alexander & Baldwin to divert and dewater over 100 East Maui streams without any assessment of environmental and cultural impacts. Although the bill passed, OHA’s advocacy included a successful amendment to the bill to include a 3-year sunset clause.
 - OHA advocates for BLNR revocable permits program for public lands to fulfill fiduciary duties with respect to Hawai‘i’s public lands and natural and cultural resources.¹
 - OHA opposed the summary approval of Alexander and Baldwin’s (A&B’s) and East Maui Irrigation’s (EMI’s) continued diversion.²
 - OHA urged BLNR to defer any recommended “holdover” of the subject revocable permits (RPs), unless and until the permittees carry their burden of proof in providing adequate information and justification for their use of water over the next year, as required under the Public Trust Doctrine.³
 - OHA issues formal public statement on CWRM decision supporting restoration of stream flows.⁴

¹ OHA Administrative Testimony on BLNR Agenda D7 for June 24, 2016.

² OHA Administrative Testimony on BLNR Agenda D11 for December 9, 2016.

³ OHA Administrative Testimony on BLNR Agenda D5 for November 9, 2017.

⁴ On June 21, 2018, OHA Chair Colette Machado, Maui Trustee Hulu Lindsey, and CEO Kamana‘opono Crabbe released a joint statement acknowledging the nearly 30-year community effort to restore East Maui streams, praised the decision as a significant step toward justice for Native Hawaiian beneficiaries, thanked the Native Hawaiian Legal Corporation, hearing officers, commissioners, staff, and community members for their work, and emphasized that restoring stream flows was necessary to protect Native Hawaiian rights and traditional and customary practices after decades of industrial monopolization of public trust water resources.

- OHA’s asks BLNR for “holdover” of the revocable permits be deferred as the DLNR fails to meet the basic requirements of the Public Trust burden of proof and the BLNR’s independent and affirmative duty to protect public trust purposes of state water resources.⁵
- **2019: OHA opposes extensions of East Maui water diversions.**
 - OHA opposes HB 1326 (2019), would originally was to allow Alexander & Baldwin’s (A&B’s) to bypass environmental assessment for its diversion of over 100 East Maui streams and tributaries, and continue their lease.
 - OHA issues statement supporting then Senator Kai Kahele’s SD1 to HB1326 that extended BLNR's authority to issue holdover permits, except for permits invalidated by a court; required BLNR to explicitly consider and minimize impacts before issuing holdover permits for water uses exceeding two million gallons per day; and required the Board to make meaningful and timely progress toward issuing long-term water leases. This legislative compromise failed to pass, but lease extension was defeated.⁶
 - OHA comments on draft EIS cultural impacts analysis, and HRS 6E (historic preservation) compliance for Proposed Water Lease for the Nāhiku, Ke‘anae, Honomanū, and Huelo License Areas.⁷
- **2020: OHA continues to advocate for better decision-making at BLNR with respect to revocable permits.**
 - OHA comments on revocable permit rent rates, issues for particular revocable permits, and additional decision-making criteria for the BLNR’s consideration.⁸
 - OHA opposed BLNRS’ proposed holdover/continuation or renewal of the subject water revocable permits.⁹
- **2021: OHA supports community representation in Maui water decision-making.**

⁵ OHA Administrative Testimony on Board of Land and Natural Resources Agenda D7, November 9, 2018.

⁶ See OHA support of HB1326 SD1 press release. <https://www.oha.org/news/oha-board-supports-sen-kaheles-proposed-water-bill-compromise/>. The bill ultimately died. See: <https://www.civilbeat.org/2019/04/water-rights-bill-goes-down-the-drain-in-historic-vote/>

⁷OHA Letter to Wilson Okamoto Corporation regarding Draft Environmental Impact Statement for the Proposed Water Lease for the Nāhiku, Ke‘anae, Honomanū, and Huelo License Areas, November 6, 2019.

⁸ OHA Administrative Testimony to the Board of Land and Natural Resources on Agenda D3, October 9, 2020.

⁹ OHA Administrative Testimony to the Board of Land and Natural Resources on Agenda D8, November 13, 2020.

- OHA testimony supports the addition of Department of Hawaiian Home Lands' member as part of the County of Maui's Board of Water Supply.¹⁰
- **2021: OHA opposes the FEIS for a long-term lease.**
 - OHA opposed the acceptance of the Final Environmental Impact Statement (FEIS) for issuance of a long-term water lease via public auction over various TMK parcels in East Maui to Alexander & Baldwin and East Maui Irrigation Company, LLC for farming and domestic purposes. OHA's testimony noted significant insufficiencies warranting further analysis and consultation.¹¹
 - OHA opposed DLNR staff's submittal with proposed guidance noting that it was vague and does not adequately justify its assumptions or its rejection of alternatives considered. Testimony also suggested formal rulemaking instead to set guidance that appraisers should use to determine the upset rent for public auctions for water leases for consumptive use purposes because rulemaking would provide greater opportunities for meaningful public review and comment on this incredibly important issue.¹²
- **2025: OHA opposes long-term disposition of the ditch system pending restoration of stream flow.**
 - OHA opposed the DLNR staff-proposed contested case hearing over the proposed disposition of a water license by public auction. OHA noted the proposed contested case hearing to advance a 30-year license was premature given that one of the applicants, EMI/Mahi Pono, has not yet restored streams in the license area, or implemented mitigation measures to reduce system losses, as required in their current revocable permit conditions and ordered by the circuit court.¹³

OHA Communications and Media:

- Ola I ka Wai: <https://vimeo.com/87830767>
- East Maui Addendum: <https://vimeo.com/121578202>
- Kamakako'i website
 - <https://www.kamakakoi.com/hoi-ka-wai>
 - <https://www.kamakakoi.com/nowaikawai>
- Ka Wai Ola newspaper
 - <https://kawaiola.news/aina/east-maui-water-wars-end-in-sight/>

¹⁰ OHA Testimony to the Maui County Council regarding County Communication No. 21-361, July 23, 2021.

¹¹ OHA Testimony to the Board of Land and Natural Resources on Agenda D7, September 24, 2021.

¹² OHA Testimony to the Board of Land and Natural Resources on Agenda D8, October 22, 2021.

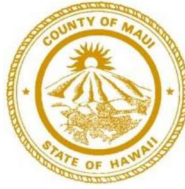
¹³ OHA Administrative Testimony to the Board of Land and Natural Resources on Agenda D10, November 14, 2025.

- <https://kawaiola.news/aina/east-maui-streamflow-standards-established/>
- <https://kawaiola.news/oha/trustees/a-pono-vision-for-mauis-future/>

Attachment C

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov

April 9, 2026

Ryan Kanaka'ole, Acting Chair
State of Hawai'i Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawai'i 96813

RE: BLNR APRIL 10, 2026 AGENDA ITEM D-1 AND REQUEST FOR A SET ASIDE VIA GOVERNOR'S EXECUTIVE ORDER FOR STATE HELD INTERESTS IN THE EAST MAUI IRRIGATION SYSTEM AND SURFACE WATER FROM KO'OLAU FOREST RESERVE, ISLAND OF MAUI, HAWAII FOR THE PUBLIC PURPOSES OF DOMESTIC, MUNICIPAL, AND AGRICULTURAL USE TO BE UNDER THE CONTROL AND MANAGEMENT OF THE COUNTY OF MAUI

Aloha e Acting Chair Kanaka'ole,

Mahalo for your patience as the County of Maui has prepared to take on the responsibility of managing the East Maui water system. The County is ready to move forward and respectfully requests a set aside pursuant to HRS Sections 171-11 and 95.

As you know, the set-aside process through executive order has historically been used for public purposes and offers a more efficient path forward than other mechanisms. Because a set aside does not require a contested case, it provides a much more efficient, less litigious and less divisive opportunity to bring the Maui community together as we move toward County management of water delivery systems. The County's focus remains on ensuring that the system is managed in a way that serves the public interest, and we look forward to continued discussions on the most appropriate path forward.

Consistent with these principles, the County, as a governmental subdivision of the State of Hawai'i, is well positioned to serve as a steward of these resources in a

way that upholds the public trust. The County's role allows for a balanced approach that supports watershed protection, long-term ecosystem health, and reliable future water availability.

Part of this balanced approach is the recognition of the critical importance a strong agricultural sector plays in developing Maui's food security, economic resilience, and wildfire risk reduction. Productive agriculture in Central Maui helps sustain our local economy and plays an important role in stewarding lands in ways that reduce fire risk and protect surrounding communities. Ensuring long-term, reliable, and affordable access to water is essential for Mahi Pono and any future operators to continue fulfilling this role.

Our shared goal is to support the continued viability of agriculture in the Central Valley for generations to come, while preserving Important Agricultural Lands as a foundation for food production and economic opportunity for our residents.

We look forward to working collaboratively with you and the Board of Land and Natural Resources on the development of an executive order. Once completed, acceptance of the order is subject to approval by the County Council. We have attached a proposed draft executive order for your consideration. Please let us know a convenient time to begin these discussions.

Mahalo,

A handwritten signature in dark ink, appearing to read "Richard T. Bissen, Jr.", written in a cursive style.

Richard T. Bissen, Jr.

Enclosure:

Draft Executive Order & Exhibit A

cc: Governor Josh Green, M.D.

Gina Young, Director, Maui County Department of the East Maui Water Authority

James Landgraf, Director, Maui County Department of Water Supply

Josiah K. Nishita, Managing Director, County of Maui

Dr. Jonathan Likeke Scheuer, Chair, the 'Aha Wai O Maui Hikina, East Maui Regional Community and Board Members

LAND COURT SYSTEM) REGULAR SYSTEM
 Return by Mail () Pickup () To:

Tax Map Key No.

TO: COUNTY OF MAUI
200 SOUTH HIGH STREET
EXECUTIVE ORDER NO.

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, as amended, and all other authority vested in me, do hereby order that the public surface water hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR DOMESTIC, MUNICIPAL AND AGRICULTURAL PURPOSES, to
be under the control and management of the COUNTY OF MAUI, being

that public surface water diverted from streams located on parcels of State-owned land situated at Koolau Forest Reserve, Island of Maui, more particularly described in Exhibit "A".

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to constitutionally protected water rights; reservations, including but not limited to the 11,455,510 gallons per day reserved by the Department of Hawaiian Home Lands from Koolau Forest Reserve to meet the Department of Hawaiian Home Lands' rights under Section 221 of the Hawaiian Homes Commission Act; as well as other statutorily or judicially recognized interests relating to the right to withdraw water for the purposes of and in accordance with the provisions of Section 171-58(d), Hawaii Revised Statutes;

SUBJECT, FURTHER, to the amounts of water necessary to remain in Koolau Forest Reserve to satisfy instream flow standards, as set by the Commission on Water Resource Management; and

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public water.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the
Great Seal of the State of Hawaii to be affixed.

Done at the Capitol at Honolulu this _____ day of
_____, 20__.

JOSH GREEN, M.D.
Governor of the State of Hawaii

APPROVED AS TO FORM:

Deputy Attorney General

Dated:_____

STATE OF HAWAII

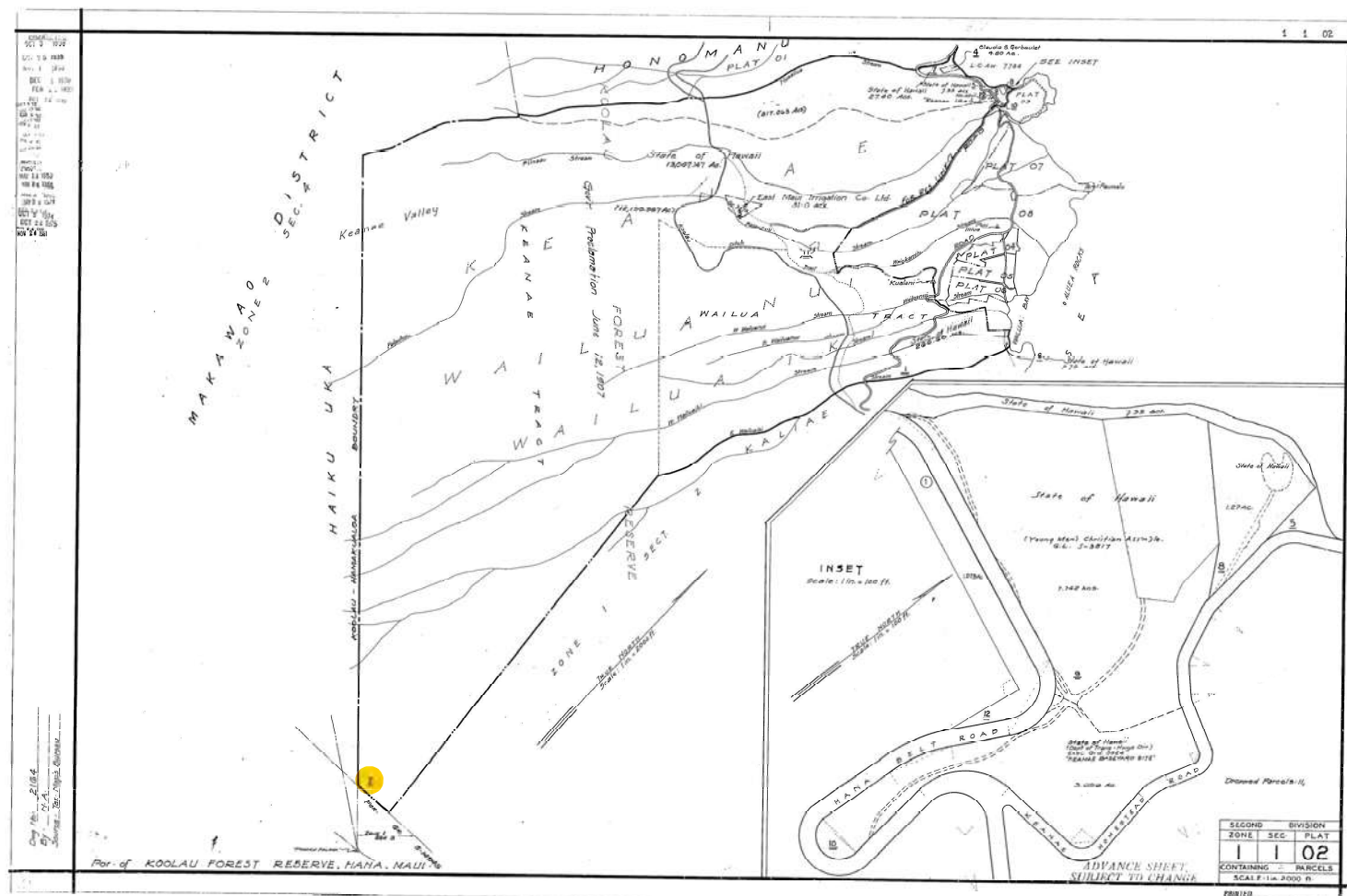
Office of The Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy
of Executive Order No. _____ setting aside land for
public purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant
Governor of the State of Hawaii, has
hereunto subscribed her name and cause the
Great Seal of the State to be affixed.

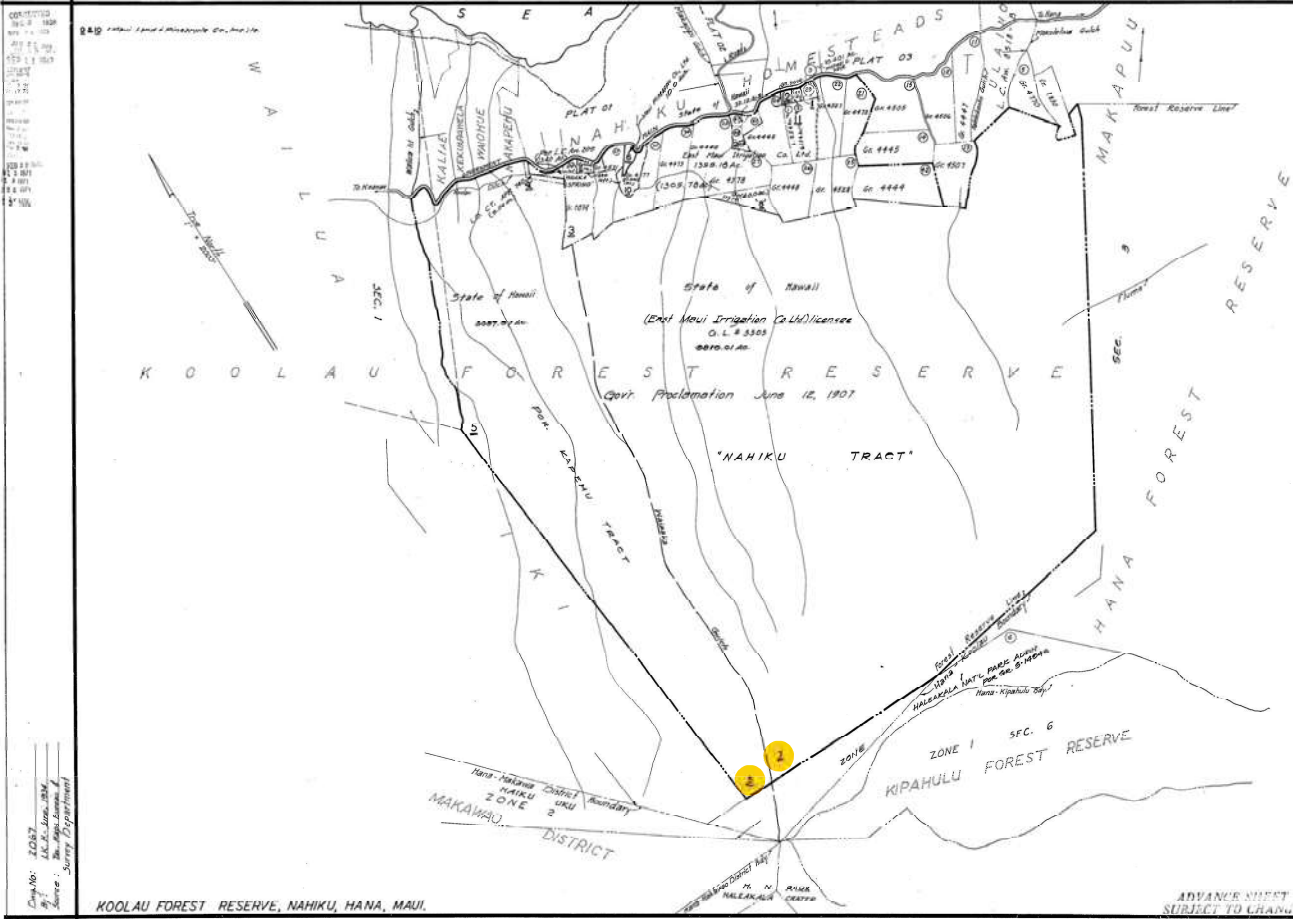
SYLVIA LUKE
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this _____ day of
_____, A.D. 2026



SECOND		DIVISION
ZONE	SEC	PLAT
1	1	02

ADVANCE SHEET,
SUBJECT TO CHANGE



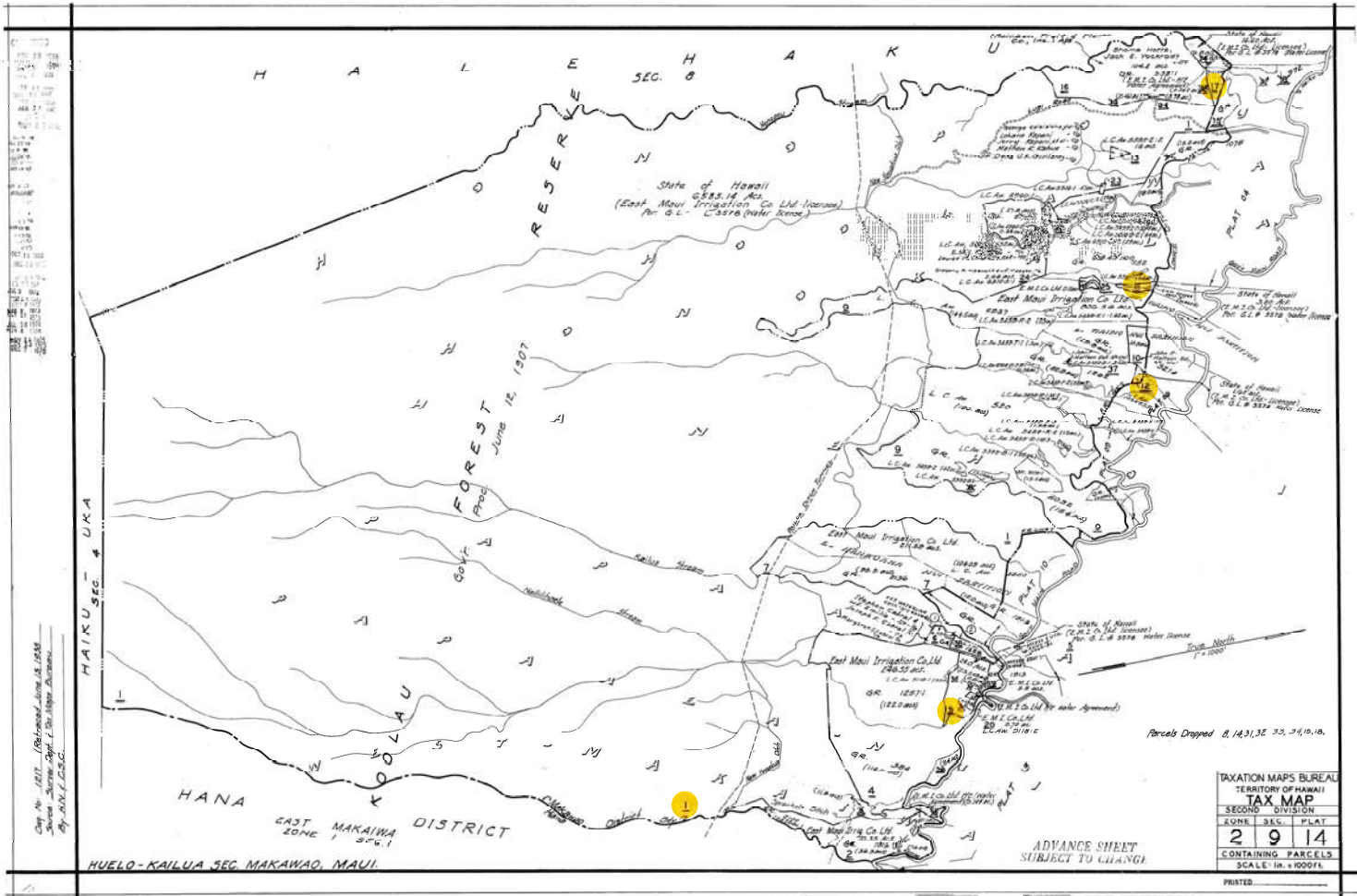
PARCELS DRAWN: 8

SECOND DIVISION	
ZONE	SEC. 1 PLAT
1	2 04
CONTAINING PARCELS	
SCALE: 1 in = 2000 ft.	
PRINTED	

KOOLAU FOREST RESERVE, NAHIKU, HANA, MAUI.

ADVANCE SHEET
SUBJECT TO CHANGE

Copyright: 1907
By: L. L. Jones, Inc.
Survey Department



TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
SECOND DIVISION			
SECTOR	SEC.	PLAT	
2	9	14	
CONTAINING PARCELS			
SCALE 1" = 1000'			
PRINTED			



Beneficiary Advocacy & Empowerment Committee

IV. Community Concerns and Celebrations – No Material for this item

V. Announcement – No Material for this item

VI. Adjournment – No Material for this item