

BOARD OF WATER SUPPLY  
COUNTY OF MAUI

REGULAR BOARD MEETING  
MINUTES OF MARCH 17, 2022

The regular meeting of the Maui County Board of Water Supply was held online via BlueJeans, on Thursday, March 17, 2022. Recordings of the meetings are viewable at <https://www.akaku.org/boards-commissions/>.

I. CALL TO ORDER

The meeting was called to order by Chair Dean Frampton at 1:33 p.m.

II. ROLL CALL

Members present: Dean Frampton, Chair  
Nalani Kaninau, Vice Chair  
Norman Franco  
Buddy James Nobriga  
Antonette Eaton  
Jason Hew  
Juanita Reyher-Colon

Staff present: Helene Kau, Acting Director  
Keola Whittaker, Deputy Corporation Counsel  
Sherilyn Otsubo, Secretary to Boards/Commissions

III. APPROVAL OF MINUTES

Member Hew moved to approve the minutes of February 17, 2022. Vice Chair Kaninau seconded the motion. The motion passed with 7 ayes.

IV. TESTIMONY FROM THE PUBLIC

Jeff Pearson, former Director of the Department of Water Supply testified on the resolutions for the outgoing members. He thanked them for their efforts to the board and the County of Maui. He also mentioned that he left the department with a 2-week notice and was not able to address the board. He thanked the board for the work they've done and asked that they continue to support the new director and to keep moving forward.

Testimony was closed at 1:39 p.m.

V. OTHER BUSINESS

A. Resolutions for outgoing members Nalani Kaninau and Norman Franco.

Chair Frampton read Board of Water Supply, County of Maui Resolution No. 1 (2022) and Resolution No. 2 (2022), (attached).

Chair Frampton, all board members and Deputy Corporation Counsel Whittaker said their thank yous and expressed appreciation to Vice Chair Kaninau and Member Franco.

Member Nobriga moved to approve Resolution No. 1 and Resolution No. 2. Member Reyher-Colon seconded the motion. The motion passed unanimously.

B. Update by the Department of Water Supply on new source development for Maui County.

Acting Director Kau addressed source development by district. In West Maui there is the Kahana Well Development. This existing well will provide additional water source and was originally bid in 2019. Permit approvals are required to secure funding from the Department of Health because we're utilizing a Safe Drinking Water Fund loan which has prevented the project from being contracted. Once funding and permit approvals are secured, the county will evaluate the re-bid of the project. The recent initiation of the designation of the Lahaina Aquifer Sector as a Surface Water and Ground Water Management Area will likely have an impact on the development of this well.

The Launiupoko Source Development in West Maui is to address the Kanaha Instream Flow Standards requiring DWS to reduce its withdrawal of surface water from Kanaha Stream by developing ground water sources. It's currently in the design phase and engineering studies are being conducted. Five well sites are being evaluated; three sites are in the Launiupoko Aquifer and two sites are in the Honolua Aquifer. The designation of the Lahaina Aquifer Sector will likely have an impact on the development of this well.

The Mahinahina Well Development is being evaluated and will serve as a backup well due to limited yield and long-term sustainability.

In Central Maui, the Waihee Aquifer Source Development project is currently in the land acquisition phase. The land owner was recently sent a letter with request for a right-of-entry to allow the consultant to evaluate the proposed well site.

There are no source developments in the Upcountry area, however the State is proposing the Upcountry Maui Well, which is currently in the well drilling phase. If this well is determined viable by the State, they will be proposing that it be operated by DWS and will propose the approval of source credits by the County. The request for source credits will require approval by the Maui County Council. On Molokai there are no source development projects currently proposed by DWS, however a recent settlement involving the existing Kualapuu Well site provides for dedication of this site for a second future well that could potentially provide

additional source for Molokai. DWS is currently working on the land acquisition for the existing Kualapuu Well site.

Chair Frampton mentioned that the origin of this update on new source development is something that we're all concerned about. Specifically, Member Franco brought up an issue about Mr. Mendes.

Member Franco said that Mr. Mendes is developing a water well on his ranch and he needs to produce a hydrolysis report on the quality of the water. He feels that the county should re-evaluate the wells on his ranch to see if it meets water quality standards.

Member Hew asked if Acting Director Kau knew the deadline for the interim instream flow standards for Kanaha Stream and the timeline for Launiupoko Well to be operational. And what the elevation of the proposed Upcountry well is.

Acting Director Kau said she will get back to him.

Vice Chair Kaninau asked if there's a ballpark figure of what's really needed to satisfy clearing some of the names on the water meter list and what's the target of sustainable yield for the Upcountry source.

Acting Director Kau will get back to the board with that information.

Member Franco asked if Acting Director Kau knew anything about a private well in Pukalani which is supposed to be turned over to the County.

Acting Director Kau said that she believes that it's Everett Dowling's well and they had assigned some source credits related to that, but she'll follow up.

#### C. Update by the Department of Water Supply on the Upcountry Water Meter List.

Acting Director Kau said that in 2021, the meter offer status included DWS sending meter offers to 40 properties on the Upcountry Priority List on December 22, 2021. Some of those properties are still in the 60-day response period based on the date the certified mail was received by the applicant to accept the offer. Currently staff is processing water meter reservation or water service requests for the properties that have already responded. The 40 properties requested a total of 69 water meters covering request to be placed on the Upcountry Priority List between December 5, 2022 and January 15, 2023. As of March 10, 2022, 14 properties have accepted and 26 properties have not responded. For subdivision requests, 12 properties offered, 1 accepted, 11 pending. For water service requests, 28 properties offered, 13 accepted, 15 pending. For building permit requests, zero properties offered.

As of January 1, 2022, there are 1,894 properties on the Upcountry Priority List that have not been reviewed for a meter offer. DWS is currently working on the first 20 properties on the list, which we anticipate to mail out by the end of May 2022.

Member Eaton said that she looked at the monthly Division Reports and the sustainable yield for the Makawao Aquifer is seven MGD. That well produces 361,734 gallons per day. With all the problems with the water meter list why aren't we exploring more wells in that area.

Acting Director Kau will follow up with Engineering.

Member Nobriga stated that the board is willing to assist the Acting Director as she transitions into her position. He would like to see a plan to get water meters issued. The water system is also very old and needs an upkeep.

Chair Frampton said that the department is in a very difficult position with this issue. Asking the people to do the county's deferred maintenance in order to get their meter is a hard pill to swallow. He hopes the board can continue to make it a priority and work with the new director moving forward,

Member Eaton rephrased her question on why we're not exploring more wells. The former director always said that it was money, and she understands that. With a sustainability yield of seven million gallons per day, it would be money well spent to explore more wells. Our dependence on surface water will drastically change along with climate change. It's something that needs to be looked into, especially in Makawao.

Chair Frampton said that we will revisit this item on an upcoming agenda.

D. Board report on the Department of Hawaiian Home Lands Water Law and Advocacy Training.

Member Reyher-Colon submitted a memo regarding the training session put on by Ka Huli Ao Center for Excellence in Native Hawaiian Law (attached). There was a training that took place on March 1<sup>st</sup> and March 3<sup>rd</sup> which targeted the beneficiaries for Hawaiian Homes and other interested parties on Maui. They gave an update on what was happening with the petition, provided some background information about the Department of Hawaiian Home Lands, the Water Commission, and the Maui Hikina litigation, and how to properly write compelling testimony to the commission. She encouraged everyone to attend this training.

Members Hew and Eaton also attended either one or both sessions.

Member Hew said that the training was really beneficial to him. He has a general understanding of the water law, but this dug into the specific codes. They also provided excellent resources to refer back to if needed, and helped him to understand the needs of the beneficiaries and the homestead areas that they are trying to develop water sources for.

Member Eaton stated that this is the second training that she has attended. The Native Hawaiian water law is not something that everybody is familiar with, so the new members should understand DHHL's right, CWRM's mandates, and the Constitution.

Vice Chair Kaninau asked if information on this topic can be added to board's manual for new members.

## VI. DIVISION REPORTS

Acting Director Kau said that she would solicit questions and if she's unable to answer them, she'll respond in writing.

Member Nobriga asked if the acting director had anything to share about the current drought we're having.

Acting Director Kau replied that currently, they've requested some degree of conservation on the West Side. The Mahinahina Treatment facility is shut down because the flow from the intake is very dry. Upcountry is okay right now. We're in the midst of transitioning from chlorine back to chloramine.

Member Hew has heard feedback from the community that every time there is are restrictions, the residents feel that the resorts and golf courses should be the first to conserve since they are the egregious users. He feels that it's important for the egregious users to follow the same restrictions as best as they can.

Vice Chair Kaninau said that the opportunity to make some headway is in the water rates.

Chair Frampton said some of these users are some of our biggest employers on the island and he would like to see the county consider implementing a more effective rate structure and options.

## VIII. NEXT MEETING DATE AND TIME

Contested Case Hearing: April 21, 2022 at 9:00 a.m.

Board Meeting: April 21, 2022 at 1:30 p.m.

Deputy Corporation Counsel Whittaker asked if there are enough people available to have an hour-long meeting on April 14 to approve the Decision and Order, elect a chair and vice chair, and have a brief training on Sunshine Law and contested cases for the new members.

Member Reyher-Colon is available on the 14<sup>th</sup>, but not the 21<sup>st</sup>. She asked if we will have a complete board by then.

Deputy Corporation Counsel Whittaker said that the council is considering approval of one new member next week, but he doesn't know the status of the other vacancy.

Vice Chair Kaninau asked if the approval vote needs to be by the people who heard the case or just current, sitting board members.

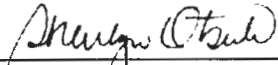
Deputy Corporation Counsel Whittaker said that the appeal was already decided, so it doesn't have to be the people that decided the case.

Member Franco ended the meeting by playing a song on his saxophone.

IX. ADJOURNMENT

There being no further business, the regular meeting was adjourned at 2:42 p.m.

Prepared by:

  
\_\_\_\_\_  
Sherilyn Otsubo  
Secretary to Boards/Commissions II

Approved for distribution:

Digitally signed by Helene Kau  
Date: 2022.04.21 15:06:26 -10'00'

\_\_\_\_\_  
Helene Kau  
Acting Director

**BOARD OF WATER SUPPLY, COUNTY OF MAUI**  
**RESOLUTION NO. 1 (2022)**

WHEREAS, NALANI KANINAU was appointed to the Board of Water Supply of the County of Maui on November 1, 2019; and

WHEREAS, her term will expire on March 31, 2022; and

WHEREAS, NALANI KANINAU was elected in April 2021 to serve as vice chair of the Board of Water Supply; and

WHEREAS, NALANI KANINAU greatly influenced and helped to shape the Board of Water Supply's recommendations to the Director, the Mayor, and the County Council regarding various water issues for the County of Maui; and

WHEREAS, during her term, NALANI KANINAU shared her knowledge and skills to make business and policy decisions on behalf of the Board of Water Supply that will influence its direction and operation for the years ahead; and

WHEREAS, NALANI KANINAU has unselfishly devoted her time and energy into matters dealing with the Board of Water Supply, all in the interest of the people of the County of Maui; and

WHEREAS, the attentiveness and leadership demonstrated through NALANI KANINAU's interest in this Board of Water Supply and the Department of Water Supply has been greatly appreciated by her fellow board members; now, therefore,

BE IT RESOLVED by the Board of Water Supply, that it hereby commends and recognizes NALANI KANINAU for her faithful dedication and untiring public service as a member of the Board of Water Supply; and

BE IT FURTHER RESOLVED that the Board of Water Supply and the Department of Water Supply hereby expresses its sincerest gratitude to NALANI KANINAU and extends their aloha and best wishes for continued success and much happiness in her future endeavors; and

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to NALANI KANINAU, the Honorable Michael P. Victorino, Mayor, County of Maui; and Helene Kau, Director, Department of Water Supply.



**BOARD OF WATER SUPPLY, COUNTY OF MAUI**

**RESOLUTION NO. 2 (2022)**

WHEREAS, NORMAN FRANCO was appointed to the Board of Water Supply of the County of Maui on April 1, 2017; and

WHEREAS, his 5-year term will expire on March 31, 2022; and

WHEREAS, during this time, NORMAN FRANCO greatly influenced and helped to shape the Board of Water Supply's recommendations to the Director, the Mayor, and the County Council regarding various water issues for the County of Maui; and

WHEREAS, NORMAN FRANCO served as chair of the Temporary Investigative Group whose purpose was to explore the feasibility of purchasing and maintaining the East Maui Irrigation Water Delivery System; and

WHEREAS, this group spent over a hundred hours in meetings and doing research and presented its findings and recommendations in a report which was approved by the Board of Water Supply in December 2019; and

WHEREAS, NORMAN FRANCO has unselfishly and with dedication, devoted his time and energy into matters dealing with the Board of Water Supply, all in the interest of the people of the County of Maui; and

WHEREAS, during the time of his service, NORMAN FRANCO shared his knowledge and skills to make business and policy decisions on behalf of the Board of Water Supply that will influence its direction and operation for the years ahead; and

WHEREAS, the attentiveness and leadership shown by NORMAN FRANCO in the Board of Water Supply and the Department of Water Supply has been greatly appreciated by his fellow board members; now, therefore,

BE IT RESOLVED by the Board of Water Supply and the Department of Water Supply, that it hereby expresses its sincerest gratitude and appreciation to NORMAN FRANCO for his public service and participation in County government, and extends their aloha and best wishes for continued success in his future endeavors; and

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to NORMAN FRANCO; the Honorable Michael P. Victorino, Mayor, County of Maui; and Helene Kau, Director, Department of Water Supply.

# memo

To: Members of the Maui Board of Water Supply (Dean Frampton, Chair; Nalani Kaninau, Vice-Chair; Norman Franco; Buddy James Nobriga; Antonette Eaton; Jason Hew; Juanita Reyher-Colon)

From: Juanita N. Reyher-Colon

CC: Sherilyn Otsubo, Board Secretary

Date: March 17, 2022

Re: Board report on the Department of Hawaiian Home Lands Water Law and Advocacy “I Mana I Ka Wai” Training

On March 1 from 5:30 pm to 8:30 pm and March 3 from 5:30 pm to 7:30 pm, the Ka Huli Ao Center for Excellence in Native Hawaiian Law hosted a two-part virtual training. There were three board members in attendance at the March 1<sup>st</sup> session; Jason Hew, Antonette Eaton, and myself (Juanita Reyher-Colon) and two members attending the second session, Jason Hew and myself (Juanita Reyher-Colon). Ka Huli Ao’s main focus was to provide this training to the Department of Hawaiian Home Lands (DHHL) Maui beneficiaries and other interested parties.

Per the flyer distributed by Ka Huli Ao, “DHHL has submitted a petition for a reservation of water from the Maui Hikina streams diverted by the East Maui Irrigation Aqueduct System for non-potable water use in the Keokea-Waiohuli and Pulehunui area. With Maui beneficiaries and homesteaders in mind, this training will provide an overview of Hawai’i’s legal framework governing water resources with an emphasis on beneficiary rights, an update on the Maui Hikina water case, and DHHL’s water policy plan”.

I attended this training to understand better the water issues plaguing Maui island and the impacts on native Hawaiians and DHHL beneficiaries. Throughout the two-part series, various topics were covered, from the Hawai’i Water Law to the history of the Hawaiian Homestead Act, DHHL’s water reservation framework, and the Commission on Water Resource Management (CWRM). Updates and overviews were provided on the DHHL’s water reservation petition, water policy plan, and Maui Hikina litigation. The session also walked us through the revocable permit framework and process and how to write a compelling testimony, and the submittal process to the Commission.

I would recommend others, not just board members, if they have a chance to attend these training sessions provided by the Ka Huli Ao Center for Excellence.

File: Training Flyer  
Training Agenda



**Ka Huli Ao Center for Excellence in  
Native Hawaiian Law presents**

# I MANA I KA WAI

**DHHL WATER LAW AND ADVOCACY TRAINING MAUI**



Waikani

## **INTERESTED IN LEARNING MORE ABOUT THE WATER RIGHTS OF DHHL BENEFICIARIES?**

The Department of Hawaiian Home Lands ("DHHL") has submitted a petition for a reservation of water from Maui Hikina streams diverted by the East Maui Irrigation Aqueduct System for non-potable water use in the Kēōkea-Waiohuli and Pūlehunui areas. The petition is pending before the State of Hawai'i Commission on Water Resource Management. With Maui beneficiaries and homesteaders in mind, this training will provide an overview of Hawai'i's legal framework governing water resources with an emphasis on beneficiary rights, an update on the Maui Hikina water case, and DHHL's water policy plan. We will also discuss specific ways beneficiaries and homestead communities can activate and advocate for the pono use and protection of wai on Maui.

**Tuesday, March 1, 2022 at 5:30pm**

and

**Thursday, March 3, 2022 at 5:30pm**

via Zoom

Register here:

<http://go.hawaii.edu/VqC>

by Tuesday, 2/22



HAWAIIAN HOME LANDS



# I MANA I KA WAI

## TRAINING AGENDA

### **PART 1** **TUESDAY, MARCH 1, 2022** **5:30PM – 8:30PM**

- 5:30pm – Aloha & Wehena
- 5:50pm – Hawai'i Water Law
- 6:30pm – Homesteaders' and Beneficiaries' Water Rights and Interests
- 7:05pm – Hawaiian Homes Water Policy Plan
- 7:25pm – Overview of DHHL's Water Reservation Petition
- 8:00pm – Kūkākūkā
- 8:30pm – Panina & Mahalo

### **PART 2** **THURSDAY, MARCH 3, 2022** **5:30PM – 8:30PM**

- 5:30pm – Aloha & Wehena
- 5:40pm – Day 1 Recap
- 6:10pm – Maui Hikina Litigation Update
- 6:40pm – Kūkākūkā
- 7:05pm – Administrative Overview
- 7:20pm – Community Engagement and Advocacy
- 8:00pm – Panina & Mahalo

If you have any questions, please contact us at [nhlawctr@hawaii.edu](mailto:nhlawctr@hawaii.edu).



**KA HULI AO**  
Center for Environmental, Public, & Community Law  
William A. Dillingham School of Law  
University of Hawai'i at Mānoa



**HAWAIIAN HOME LANDS**