



Time for Maui to Take Charge of Its Own Water Future
Maui Tomorrow responds to Governor Ige's Call for Further Delay

*For Immediate Release
Earth Day, April 22, 2019*

Recently Governor David Ige sent a letter asking lawmakers to revive House Bill 1326, House Draft 2. This version of the unpopular bill would extend temporary permits to divert millions of gallons of water from 33,000 acres in East Maui. Fortunately, Senate committees did their homework, asked the tough questions and refused to pass HB1326. Now the Governor's office has elected to repeat misinformation that has already been disproven many times, to pressure legislators into reviving HB1326, so that East Maui's public trust waters, evidently valued at \$62 million in the A&B/Mahi Pono contract, can pass from one corporation to another, with no accountability, monitoring or environmental review.

Albert Perez, Executive Director of Maui Tomorrow Foundation, and a former Maui County water and land use planner, offered this statement in response:

"For two decades, Maui Tomorrow and allies have asked the State to follow its own laws and bring justice to East Maui's people and water resources. This included recent meetings with Governor David Ige and his staff, in which sound data was presented.

In spite of this dialogue, we are disappointed to see a practical man like Governor Ige repeating discredited talking points about East Maui water, and not insisting on getting the real facts. He is calling on legislators to ignore our Public Trust laws and revive HB 1326, after the bill was duly considered and then rejected by the Senate on April 4th."

In 2016, Governor Ige, promised action in a statement issued upon signing Act 126, which gave revocable permit holders and the Department of Land and Natural Resources three years to fix perceived problems with the existing water law:

"My expectation is that the Board of Land and Natural Resources and the Commission on Water Resource Management will act quickly, especially in setting instream flow standards so we all have the same facts."

Now in 2019, HB1326 would delay the process by another seven years. This bill is based on political muscle power, not sound facts or sensible solutions. It does not bring fairness or justice to the management of the state's public trust waters. It simply "kicks the can down the road" and allows continued diversion of East Maui Streams with no accountability, monitoring or environmental review. Here are the facts:

Denying Leases to A&B Does Not Mean Upcountry Maui Will Lose its Water Supply

- HB1326 only affects state lease areas on Maui. Most of Maui County's Upcountry customers (70%) don't use water from the lease areas, except during time of extreme droughts.
- Maui County's own Water Use and Development Plan makes it clear that more groundwater sources and more water storage are needed to mitigate Upcountry drought conditions, not continued reliance on stream water. HB1326 doesn't offer these solutions.
- No proof has been given that A&B's East Maui ditch system, which serves the County's Kamole water treatment facility, can be "shut off," even if A&B's permits are not renewed. Many East Maui streams are fully captured by the ditch system without any diversion structures, and would continue to flow unabated. Decision makers deserve to get the facts.
- A&B faced "loss" of its permits briefly in 2016, when Judge Nishimura ruled that A&B's ongoing "holdover" permits to divert East Maui Stream water were illegal. However, the judge specifically exempted delivery of East Maui lease area waters to Maui County's Upcountry public water system, and made it clear that the County was still entitled to waters from State lands.
- Under the State Water Code, Maui County has the right to use reasonable amounts of public trust water without using A&B as an intermediary, regardless of any agreements to the contrary.

HB1326 Gives No Clear Process for Leases to Smaller Water Permit Holders on State Land

- In 2016 A&B appealed Nishimura's ruling, then went straight to the legislature, using its clout to overrule the court by changing the law ("ACT 126") and getting three more years of temporary permits, promising to make the transition to leases, with appropriate environmental review.
- Instead, A&B used those three years to close down their sugar operations and sell their farm lands.
- After three years, the Board of Land and Natural Resources still reviews water permits based on inadequate data, and A&B has not even issued a draft environmental impact statement.
- Revocable water permit holders statewide still face a confusing process to apply for a lease.
- State agencies still haven't defined criteria for watershed management plans.
- Small farmers and ranchers in Ka'u – who don't use water from streams - face lease requirements to establish instream flow standards.
- Clearly, this crisis in public trust resource management will not be resolved by passing HB1326 and "passing the buck" for seven more years, but that is exactly what Governor Ige and his administration are asking the Senate to do.

Diversified Farming in Central Maui is not Dependent on Passage of HB 1326

Makawao farmer Bill Greenleaf, put it this way: "We have plenty of water for farmers, ranchers, and public water users, while still leaving enough in the streams for our offshore fisheries and Hawaiian communities. By choosing farming practices that build healthy soil, and climate-adapted crops, farmers need less water and can grow healthier food. The water rights of regular people have been ignored for so long – let's not delay things by another seven years."

- A&B successor Mahi Pono claims they will plant nearly 9,000 acres needing East Maui water by 2020
- 4,700 acres would be irrigated grazing lands; another 11,000 acres of grazing land would not need irrigation.
- In a Draft Farm Plan given to Senators in March 2019, Mahi Pono estimated having access to 27 to 34 million gallons of water per day from their own lands, even if they don't get a State water lease. During rainy weather this amount is even higher.
- 27 to 34 million gallons of water per day available from Mahi Pono lands should provide an adequate supply if the goal of planting 9,000 acres in 18 months is achieved.
- Some sources estimate Mahi Pono can get as much as 80 million gallons per day from their own lands, but most East Maui streams have no devices to monitor flows and provide reliable data. HB1326 does not address this.
- Mahi Pono promises to use efficient agricultural practices to build soil health and conserve water, but the company's March Farm Report predicted high water demand for most crops.

HB1326 Does Not Advance Water Security for Maui's Future

Maui's people need the Governor and the Legislature to help break the cycle of corporate control of public resources. Maui Tomorrow's Executive Director Albert Perez summarized the situation:

"The real risk lies in continuing Maui County's reliance on a water supply that is subject to the whims of a for-profit corporation. This is poor public policy. Creating worry among Upcountry residents and farmers will not lead us to greater water security. Maui County needs to take steps to secure its own water future - independent of A&B, Mahi Pono, or any other outside entity. The State Senate deserves credit for having had the courage to look beyond campaign contributions and well-paid lobbyists, and for recognizing that the time has come - not to settle for delay tactics like HB1326 - but to get on with the work of managing public trust resources for the benefit of all."

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