

ASSOCIATION OF HAWAIIAN CIVIC CLUBS

A RESOLUTION

NO. 2020 - 43

URGING THE COUNCIL OF THE COUNTY OF MAUI AND ADMINISTRATION OF THE COUNTY OF MAUI TO ADOPT THE RECOMMENDATIONS OF ITS BOARD OF WATER SUPPLY TO ACQUIRE THE EAST MAUI IRRIGATION (EMI) WATER SYSTEM FOR THE PEOPLE OF MAUI

WHEREAS, water is life and is a public trust resource to be carefully managed, maintained and utilized by and for the people, in perpetuity; and

WHEREAS, the East Maui Irrigation (“EMI”) system is one of the most expansive water delivery systems in the state which transports water from as far as upcountry Maui, to the central plains of Kahului, providing water for agricultural and residential uses; and

WHEREAS, for generations there have been numerous contentious legal challenges regarding access and availability of the water that is collected and diverted through the various aqueducts, tunnels, flumes, channels and sluice gates within the East Maui area; and

WHEREAS, these controversies, which become cost-prohibitive and time-consuming legal disputes for downstream native tenants (see *Carmichael v. Board of Land and Natural Resources*), have exposed the precarious nature for which fair distribution, delivery, and dispersal of this vital public trust resource has been historically managed, and raises grave concerns as to current and future availability for the community's agricultural and residential needs; and

WHEREAS, the long-expired EMI water lease had been repeatedly extended through “temporary revocable permits” in order to maintain control of a larger portion of guaranteed water availability for the central Maui large-scale agricultural activity occurring on Alexander and Baldwin/Hawaiian Commercial & Sugar Company (“A&B/HC&S”) held lands; and

WHEREAS, the recent sales contract of A&B/HC&S held lands to the California-based Pomona Farming LLC and Canada’s Public Sector Pension Investment Board, DBA Mahi Pono LLC, included a part-ownership agreement with A&B of the EMI water delivery system and “guaranteed” water for Mahi Pono LLC agricultural activities; and

WHEREAS, according to its Amended and Approved December 19, 2019 Temporary Investigative Group’s (“TIG”) Report on the Feasibility of Purchasing and Maintaining the EMI Water Delivery System, the Maui County Board of Water Supply (“BWS”) acknowledges that

there have been no assurances made by the EMI system's current owners regarding fair, equitable water supply and delivery for county agricultural and residential uses, should the continuance of "temporary revocable permits" cease; and

WHEREAS, the BWS also acknowledges the vulnerability tied to the County of Maui's inability to provide adequate and consistent water supply to our communities; and

WHEREAS, the BWS convened a TIG in July of 2019 to explore the feasibility of the County of Maui purchasing and maintaining the EMI system to secure community oversight and stewardship of the public trust resource; and

WHEREAS, the TIG's report recommended that the county examine and discuss options to acquire the EMI water delivery system to "meet the needs of the island's diverse stakeholders, in particular Native Hawaiians -- will ultimately be the only way to guarantee that the public trust is maintained properly and remains safely in community hands"; and

WHEREAS, the TIG's report presented example governance structures, including co-op, municipal water authority, hybrid and independent public water authority, emphasizing the importance of serving the public purpose and coordinating various public entities and diverse stakeholders, in particular Native Hawaiian taro farmers; and

WHEREAS, the TIG's report recommends that one of the steps for creating a Public Trust Water System be the development of a design for the governance infrastructure that embeds transparency, accountability, and commitment to cultural and community values and the environment, with a focus on decision-making taking place in the affected communities; and

WHEREAS, the TIG's report concluded that, "ownership of the EMI Water Delivery system by the people of Maui or a partnership -- in the form that is most cost-effective, accountable, environmentally responsible, transparent, and meets the needs of the island's diverse stakeholders, in particular Native Hawaiians -- will ultimately be the only way to guarantee that the public trust is maintained and remains safely in community hands"; and

WHEREAS, the TIG's report also recommended that "acquiring the system in the near term will increase the chances of minimizing long-term debt"; and

WHEREAS, the Association of Hawaiian Civic Clubs believes Native Hawaiian tenants and the community should maintain and manage its public trust resources including its primary water delivery system to meet the needs and accessibility of water for Native Hawaiians in the East Maui area, and believes it is within the County of Maui's and the community's overall best interest to investigate every option available to acquire the EMI delivery system for community stewardship and ownership; and

WHEREAS, this effort supports the Association of Hawaiian Civic Clubs previously expressed positions stated in both its adopted Resolution 2018-38: "Ka Paipai Ikaika nā Alaka'i o ka Moku'āina 'o Hawai'i e Hō'ōia i ka Ho'ihō'i Piha o nā Kahawai o Maui Hikina e like me ka

Mea i Palapala ‘ia ma nā Hana a nā Moku Aupuni o Ko‘olau Hui no ka Mālama Mau i nā Ululā‘au ma ka Lawa o ka Wai,” and Resolution 2017-32: “Expressing Support of Efforts to Restore Waterflow in the Historic, Natural Waterways of Hawaii for Traditional and Customary Native Hawaiian Practices” and

WHEREAS, the Maui Council of the Association of Hawaiian Civic Clubs adopted this resolution at its annual Council convention held virtually on August 15, 2020 and is forwarding the same to the Association of Hawaiian Civic Clubs to be considered as a resolution submitted by the Maui Council of Hawaiian Civic Clubs.

NOW, THEREFORE, BE IT RESOLVED that the Association of Hawaiian Civic Clubs at its 61st Annual Convention held online, in the malama of Makali‘i and the rising of ‘Olekūkolu, this 22nd day of November 2020, urging the Council of the County of Maui and administration of the County of Maui to adopt the recommendations of its Board of Water Supply to acquire the East Maui Irrigation (EMI) water system for the people of Maui; and

BE IT FURTHER RESOLVED, that the Maui Mayor and the Maui County Council are urged to adopt the recommendations of the Board of Water Supply to acquire the EMI System for community ownership; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the Mayor of the County of Maui, the Chair of the Council of the County of Maui, the Chair of County of Maui Board of Water Supply, the Director of the County of Maui Department of Water Supply, Na Moku Aupuni o Ko‘olau Hui, the ‘Aha Moku o Maui, and the Chair of the State Commission on Water Resource Management, as well as the Governor of the State of Hawai‘i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate subject matter committee on Hawaiian Affairs, Chair of the State House subject matter committee on Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all other County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Makali‘i and the rising of ‘Olekūkolu on the 22nd day of November 2020, at the 61st Annual Convention of the Association of Hawaiian Civic Clubs held online.



Hailama V.K.K. Farden, President