

# **What is our water future?**



**Draft Water Policy Plan  
Statewide Beneficiary Consultation  
March – April 2014**

# Purpose of Meeting

**To share and consult on:**

- 1. The function of the Water Policy Plan (WPP)**
- 2. How the WPP was developed**
- 3. What is in the WPP**
- 4. How the WPP be implemented if approved**

# Agenda

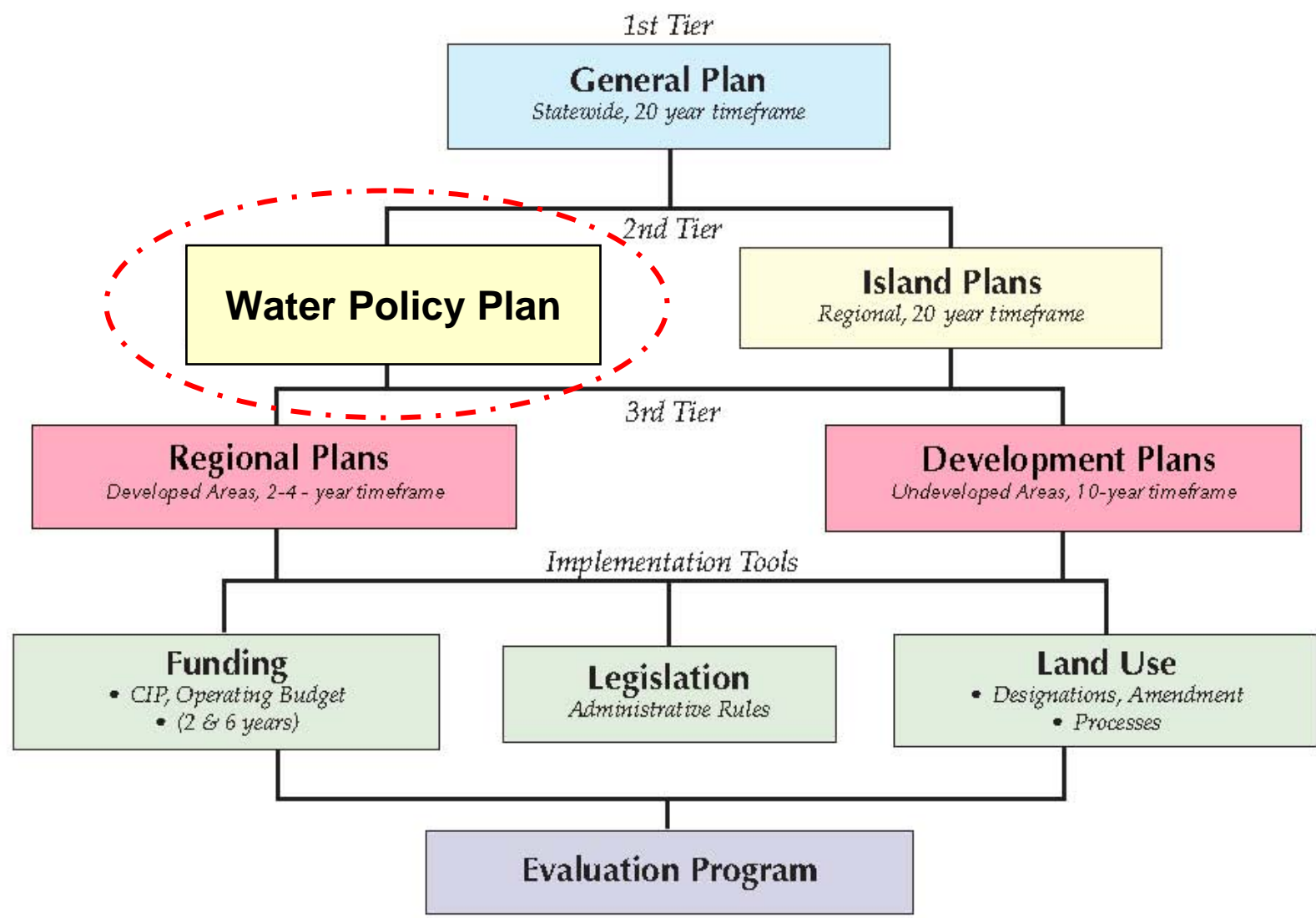
- 1. Waiwai: Introduction (6:30 pm)**
- 2. Waihona: Review of the Draft Water Policy Plan (6:45 pm)**
- 3. Mālama: Open Discussion (7:15 pm)**
- 4. Laulima: Goal Prioritization (8:00 pm)**
- 5. He kuleana ko kākou: Closing mana'o (8:15 – 8:30 pm)**

**Waiwai**



**Mōhala i ka wai ka maka o ka pua.**

# Waiwai



DHHL Planning System

# **How was the Draft WPP Developed?**

- **Department and Water Commission files**
- **Review of DHHL legal rights and roles**
- **Specific Projects (e.g. Pulehunui, Maui)**
- **State Water Projects Plan Update**
- **Scoping Interviews**
- **Statewide beneficiary meetings**
  - **Notes, conversation maps, letters**

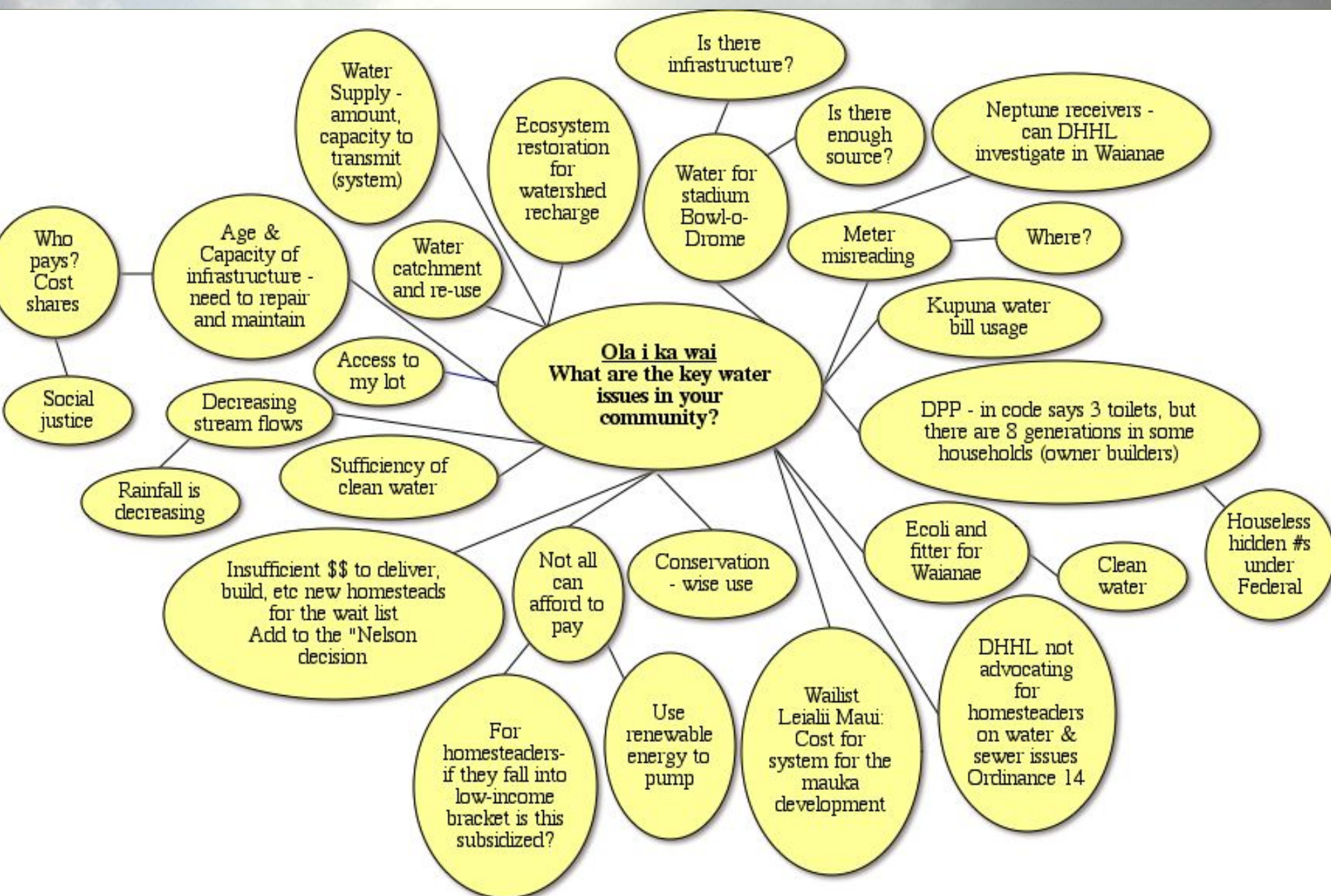
# **Statewide Meetings 2013**

<b>Oct. 23</b>	<b>O`ahu</b>	<b>Stevenson Middle School Cafeteria</b>
<b>Oct. 30</b>	<b>Kaua`i</b>	<b>Chiefess Kamakahelei Middle Sch.</b>
<b>Nov. 4</b>	<b>Moloka`i</b>	<b>Lanikeha Community Center</b>
<b>Nov. 5</b>	<b>O`ahu</b>	<b>Kapolei Middle School Cafeteria</b>
<b>Nov. 6</b>	<b>O`ahu</b>	<b>Blanche Pope Elementary Cafeteria</b>
<b>Nov. 7</b>	<b>Lāna`i</b>	<b>Lāna`i Elementary &amp; High Cafeteria</b>
<b>Nov. 12</b>	<b>Hawai`i</b>	<b>DHHL Kūhiō Hale – Waimea</b>
<b>Nov. 13</b>	<b>Hawai`i</b>	<b>Hilo High School Cafeteria</b>
<b>Nov. 14</b>	<b>Maui</b>	<b>DHHL Paukūkalo Community Center</b>

# Meeting Notes



# Waiwai



# Written Comments

## HISTORICAL RELATIONSHIP BETWEEN DHHL AND MIS

### The Beginning

"The commission is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, Government-owned water upon the island of Molokai and Government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after the passage of this Act. Any water license issued after the passage of this Act and covering any such Government-owned surplus water shall be deemed subject to the condition, whether or not stipulated therein, that the license shall, upon the demand of the commission, grant to it the right to use, free of all charge, any of the water upon the island of Molokai and any of the surplus water tributary to the Waimea River upon the island of Kauai, which is covered by the license and which the commission deems necessary for the additional purpose of adequately irrigating any tract."

As indicated by this Section 221(d), the commission was given the authority to use any Government-owned water on Molokai, free of charge, to adequately irrigate any HIL tract, excluding water already under a license prior to the Act. If a water license was issued subsequent to this Act, the commission retained its right to use water free of charge for irrigating purposes.

### Creation and Subsequent Changes to a Molokai Water Authority

In May 1943, the territorial legislature passed Act 227 to establish a Molokai Water Board as a way of addressing the domestic and agricultural water needs of Molokai homeowners. The Hawaiian Homes Commission served as the Board. The Act specifically gave homestead lessees preference to have their water needs met first before any other person or persons.

In June 1953, the territorial legislature passed Act 245 which established the Hawaii Irrigation Authority (HIA). The HIA substituted for the HHC in its role as the Molokai Water Board, e.g., its powers, duties, and functions as MWB were transferred to HIA.

### Significance of Proposed Amendments to HHC Act of 1920 and Passage of Territorial Legislation Act 164

In May 1955, three (3) significant pieces of legislation were enacted, two proposed Congressional measures amending the HHC Act, Section 220 and 221, and one territorial measure, giving two-thirds preference for water from a constructed irrigation system to DHHL.

- 1) Joint Resolution 10 would amend Sec. 220 of HHC Act by adding a new paragraph that would allow for the construction of irrigation projects on

From: Kawehickalaninui-Hiamamao Kanui <kawehi.kanui11@gmail.com>  
To: andrew.h.choy@hawaii.gov  
Date: 11/13/2013 02:15 PM  
Subject: Water and Other Responses

Aloha Andrew,

Please forward this email to Nancy, Darrell, Jonathan, chair and commissioners on our feed back regarding water.

As the newly elected/appointed by na kupuna, as the Executive/Project Director for the Waimanalo Ahupuaa Business and Community Association based in Waimanalo, we have concerns below...both myself and representing the fisher people, Mr. Sam Marquez attended the meeting to understand what the water issue was all about and what the DHHL is doing...we met and talked after the meeting and sending in to you our concerns, we want you to make copies and make sure each commissioner has our written input.

One observation, there were 15 people from our community who were community people and not staff that came to the meeting...that was a very low number to carry any kind of votes by the commissioners on water and we request that commissioners also attend these meetings...Uncle Joe Tassill did not attend due to being off island...talked with him at the Celebration For Life funeral for the late Kahu Ryan Kalama who passed.

The other observation and in our discussion prior to the meeting about the amendments to the HCCA 1920, since 1984...and still have not gotten it when we requested that information more than a year ago.

These amendments are important to your plans and our plans for Waimanalo and all homestead lands on all islands. We would like to request again a list of all amendments made during and after 1982...to the present.

We have a feeling that these amendments were never passed through the US congress and is illegal until it is passed by all US congressional members as Kule had the act set-up so it would not be taken over by third parties, protecting the rights of the people from the time of the kingdom to the present.

Objectively, the first main issue is Jurisdiction...and this is where we are stomped...and amazed at how is it that so called stakeholders have the main say in properties that came from the kingdom, to us, via Kule and to us, na kanaka Hawaii?

Secondly, with the lands came the water so there is no doubt in our minds that WATER must be free to Kanaka Hawaii...anyone who is not tied to third parties or stakeholders...including Hawaiians who work for any State of Hawaii agency, department or groups. Jurisdiction dictates that no third parties are allowed, yet they are all over your paper work and people working within this government...is a conflict of interest...we have to insist on doing things right to manage our lands...it is ass backwards, to put it bluntly as I am told by na kupuna, that night.

# **Organized Comments**

## **Different meetings had different concerns:**

- **O`ahu (Honolulu):** Education, outreach, advocacy
- **Kaua`i:** Stream restoration, ag water, CWRM
- **Moloka`i:** Take back the MIS, self-sufficiency
- **O`ahu (Kapolei):** Water rates / high cost of water
- **O`ahu (Waimanalo):** state v maoli rights, homestead design
- **Lāna`i:** Desalinization & development impact
- **Hawai`i (Waimea):** Ag water, water system management
- **Hawai`i (Kona):** Oppose Keauhou designation
- **Hawai`i (Hilo) :** Fairness of the County BWS
- **Maui:** DHHL vs. kuleana water rights; kalo

# **Common themes**

- **Water is a critical trust asset**
- **We need sufficient water now & in the future**
- **DHHL's knowledge of water is limited**
- **Water management should be balanced**
- **Beneficiary partnership is essential**
- **Continuous, aggressive advocacy is critical**
- **Water connects DHHL to other trusts, and to all other people**

# **Drafting and Approval**

- **Statements further grouped as they relate to:**
  - **Values**
  - **Policies**
  - **Goals**
- **Draft cross checked with beneficiary input**
- **Review by DHHL staff**
- **Unanimous approval as DRAFT by the HHC on February 19, 2014**



**Ua lehulehu a manomano  
ka `ikena a ka Hawai`i.**

# **Draft WPP: Ten Sections**

- **Vision**
- **Mission**
- **Values**
- **Policies**
- **Goals**
- **Delegation of Authority & Reporting**
- **Legal Authorities**
- **Related Plans and Policies**
- **References**
- **Definitions**

# Vision & Mission

- **Vision**
- **Directly from Sec. 101 of the HHCA**
- **Mission**
- **Driven by the DHHL water kuleana**
- **Reviewed at last meeting**

DEPARTMENT OF HAWAIIAN HOME LANDS (DHHL) WATER KULEANA			
<p>The DHHL's main water responsibilities are to develop sources, to manage systems, and to plan for needs and advocate for rights. To do this DHHL has distinct water rights based on the Hawaiian Homes Commission Act (HHCA), the Hawai'i State Constitution (HSC) and Hawai'i Revised Statutes (HRS), and court cases.</p> <p>These water rights are tools that the Hawaiian Homes Commission (HHC) can use as needed. Which tool/right is best to use in a situation depends on the opportunities at hand and the costs (financial and other) to assert the tool/right.</p>			
Right/Tool	Description	Legal Reference	Has it been exercised? Where?
<b>RESPONSIBILITY: DEVELOP WATER SOURCES</b>			
Priority Use	In water management areas, water use permits are conditioned on permitted uses not interfering with the rights of DHHL. Permitted amounts can be reduced if they interfere with DHHL rights.	<ul style="list-style-type: none"> <li>• HRS 174C-49(a)</li> <li>• Wai'ola O Moloka'i, 103 Haw. 401</li> </ul>	In the ground water management areas established on O'ahu, Moloka'i, and Maui, permits are issued conditioned on DHHL rights.
Demand Water	To supply pastoral, aquaculture, agriculture, or domestic needs, DHHL can (1) Demand water deriving from government lands, without paying the government (2) negotiate for the right to use water deriving from government or private lands, or (3) bring eminent domain proceedings, in its own name, the right to use "surplus water" from private lands.	<ul style="list-style-type: none"> <li>• HHCA §221 HRS 171.58</li> <li>• Attorney General Opinion dated 8/22/1994 by W. Tam</li> </ul>	DHHL has negotiated for the use of water across the islands. The HHC has authorized the assertion of a demand for water in Waimea, Kaua'i.
Issue Leases or Licenses for Transmission	The DHHL can lease or license trust land to third parties for the provision of water.	<ul style="list-style-type: none"> <li>• HHCA especially §204-2, 207</li> </ul>	Yes. Most new DHHL water systems are built to County standards then licensed to the County Board of Water Supply.
<b>RESPONSIBILITY: MANAGE WATER SYSTEMS</b>			
Own and Manage Water Systems	The DHHL can develop, manage, and own water systems and deliver water to homesteaders and others. It is barred from selling any wholly owned system.	<ul style="list-style-type: none"> <li>• HHCA §220, 220.5, 221</li> <li>• HRS 167</li> </ul>	Yes; on Moloka'i, Kaua'i, and Hawai'i.
Derive Revenue	The HHC may derive revenue from the delivery of water to non-homesteaders.	<ul style="list-style-type: none"> <li>• HHCA §220</li> </ul>	Yes; on Moloka'i and Kaua'i.
Moloka'i Irrigation System	If an actual need is shown to the Department of Agriculture, HHC and homesteaders have a preference right to 2/3 of the water developed by the system.	<ul style="list-style-type: none"> <li>• HRS 168-4</li> </ul>	Homesteaders have individually sought access to the MIS for water and been provided it.
<b>RESPONSIBILITY: WATER PLANNING AND ADVOCACY</b>			
Water Reservations	The Commission on Water Resource Management shall "reserve" water for future DHHL needs to the extent applicable, based on DHHL projections.	<ul style="list-style-type: none"> <li>• HHCA §221</li> <li>• HRS 174C-49(d), 101(a)</li> </ul>	Yes; on O'ahu and Moloka'i, but never in an "undesignated" area.
Water License Revenue	DHHL is entitled to 30% of the receipts from water licenses issued by the State.	<ul style="list-style-type: none"> <li>• HSC Art. XII §1</li> <li>• HHCA §213(b)</li> <li>• HRS 171-58(a), 174C-101</li> </ul>	Yes; it has received revenue and audited returns.
Public Trust Status	Public Trust uses of water include the domestic needs of the general public, traditional and customary Hawaiian uses, maintaining wildlife and scenic beauty, and the rights of the DHHL. Public Trust uses are supposed to have priority over private commercial uses of water.	<ul style="list-style-type: none"> <li>• HSC XI §1, 2HRS 1-1, 174C</li> <li>• Waialeale I, 94 Haw. 370</li> <li>• Wai'ola O Moloka'i, 103 Haw. 401</li> </ul>	Yes; in legal actions on O'ahu (the Waialeale case) and Moloka'i (the Wai'ola case).
Ola i ka wai. E mālama i ka wai. He kuleana ko kākou.			
Prepared by Jonathan Likeke Scheuer ph.d. for dhhl 10-18-13			

## Values



AUWE ! PAU WAILUKU I KA M  
hiki mai ma ko makou nei keena  
palapala na S. D. Hakuole, o Ku  
hai mai ana i ka pau loa o ka aina o Wai-  
luku i ka mahina i ke ko. A ke hai hou  
mai nei ng ke boomaloo ia nei na loi kanu  
kalo e na Hakuole, i wahi e kanu ai i ke ko. A  
ke makau nei oi, e pau ana ka ai ana o na  
kanaka oia wahi i ka ai ana i ka poi, a e ai  
wale aku ana no pama i ka balena oolea ho-  
eha niho, a hakualea palaoa mama e maona ole  
a hakualea kanaka Hawaii. Oia na mas na ka-  
naka i ka ai i ka poi.



# **Policies**

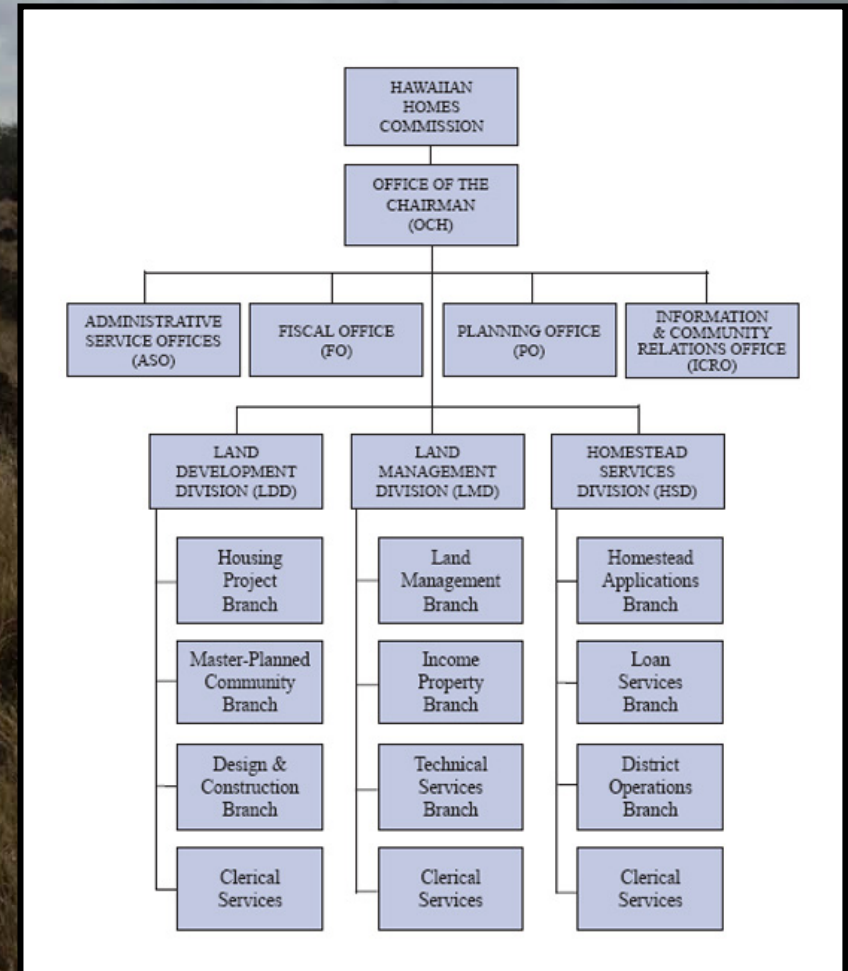
- 1. Time and Attention**
- 2. Plan**
- 3. Educate and aggressively exercise rights**
- 4. Self-sufficiency**
- 5. Self-determination**
- 6. Balance Cost, efficiency, and Public Trust**
- 7. Incorporate traditional knowledge and make reasoned decisions**
- 8. Affirmatively communicate**

# **Goals**

- **Twenty two (22) goals**
- **Tied back to the DHHL water kuleana**
  - **Understand our trust water assets (5)**
  - **Plan for our water needs (3)**
  - **Aggressively assert our rights (6)**
  - **Develop and Protect water sources (3)**
  - **Manage water systems (5)**

## Understand Our Trust Water Assets

- **WAI**
- **HHC submittals**
- **Budgets**
- **Communicate**
- **Staff and organize**



# Plan For Our Water Needs

- **Projections**
- **Design homesteads**
- **Watershed protection**

STATE WATER PROJECTS PLAN  
Hawaii Water Plan

**VOLUME 1**  
**Statewide Technique Document**



*For the:*  
*Commission on Water Resource Management*  
*Department of Land and Natural Resources*  
*State of Hawaii*

February 2003

**FUKUNAGA AND ASSOCIATES, INC.**  
*Consulting Engineers*  
1388 Kapiolani Boulevard, Second Floor  
Honolulu, Hawaii 96814  
(808) 944-1821

# Aggressively Assert Our Rights

- **Consistently**
- **Partner**
- **Hawaii Water Plan**
- **Water Use Permits**
- **BWS's**
- **Licenses**



# Develop & Protect Water Sources

- **Dedication v. DHHL management**
- **Water Credits**
- **Beneficiary wells**




# Manage Water Systems

- **Break even**
- **Legal requirements**
- **Security**
- **Ag water systems**
- **MIS**



# Delegation & Reporting

- 
- **The Draft WPP delegates very little**
  - **Chair to develop an Implementation Program**
  - **Report annually**

# Implementation Program

## Part I. General Trust Management

### Goal 1. Develop and manage a Water Assets Inventory (WAI)

**Reason for goal:** DHHL's water assets are a significant part of the trust corpus but there is no centralized system of inventory.

**Description:** DHHL shall create a WAI as central repository of water information for the Trust. WAI elements shall be geographically linked where possible, and include but not be limited to:

- Place names and traditional knowledge related to water
- DHHL owned water infrastructure (e.g. wells, pipes, storage), including any agreements related to them
- Current and future water demand
- Water agreements
- Water Credits
- Potential water sources, including old plantation systems, waste water, and other alternate sources

#	Implementation Action(s)	Cost / resource estimate	Island(s)	Target date	Lead Division
a.	Continue implementation of contract to inventory basic DHHL water infrastructure		All	2015	LDD
b.	Develop a scope of work to expand from the initial inventory to encompass other WAI elements	TBD	All	2014	PO
c.	Develop a training program so that information in the WAI shall be affirmatively made available to staff and the HHC.	TBD	All	2015	TBD

# **Other Sections**

- **Legal Authorities**
- **Related Plans and Policies**
- **References**
- **Definitions**



He alī`i ka `āina;  
he kauwā ke kānaka



**E lauhoe mai nā wa'a; i ke kā, i ka hoe; i ka  
hoe, i ke kā; pae aku i ka 'āina**

# He kuleana ko kākou

- **Statewide Beneficiary Consultation**
  - **Comment Deadline: May 16, 2014**
    - <http://dhhl.hawaii.gov/po/water/>
    - [dhhl.planning@hawaii.gov](mailto:dhhl.planning@hawaii.gov)
    - **(808) 620-9517**
- **HHC Approval of Water Policy Plan**
  - **June 16-17, 2014**