

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Friday, April 16, 2021
10:00 AM
State Capitol, Via Videoconference**

**In consideration of
HOUSE CONCURRENT RESOLUTION 163, HOUSE DRAFT 1, SENATE DRAFT 1
REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO ENTER
INTO A LONG TERM WATER LEASE WITH THE WAI'OLI VALLEY TARO HUI
FOR THE HUI'S EXISTING USE OF WATER FROM WAI'OLI STREAM VIA
DIRECT NEGOTIATION, UPON COMPLETION OF REQUIREMENTS PURSUANT
TO CHAPTER 343, HAWAII REVISED STATUTES**

House Concurrent Resolution 163, House Draft 1, Senate Draft 1 requests the Board of Land and Natural Resources (Board) to enter into a long term water lease with the Wai'oli Valley Taro Hui (Hui) for the Hui's existing use of water from Wai'oli stream via direct negotiation, upon completion of the requirements of Chapter 343, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

The Department continues to work with the Hui to complete the water leasing process pursuant to Section 171-58, Hawaii Revised Statutes (HRS). The Hui has worked in good faith to comply with the requirements of Section 171-58, HRS. The Hui has consulted with the Department of Hawaiian Home Lands on water reservations, and is in the process of developing a watershed management plan with the Department, working with the Department's Commission on Water Resource Management to determine interim instream flow standards and producing a draft environmental assessment in compliance with Chapter 343, HRS.

The Department supports granting the Board the authority to award water leases to the Hui and other agricultural water users via direct negotiation in addition to public auction and worked to introduce measures, House Bill 1015 and Senate Bill 1169, to achieve that objective. However, the measures were not passed. Nevertheless, the Department will continue to work the Hui to explore options to award a water lease through direct negotiation that complies with existing law.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai
Legislative Testimony

HCR163 HD1 SD1

REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO
ENTER INTO A LONG-TERM WATER LEASE WITH WAI‘OLI VALLEY TARO HUI
FOR THE HUI'S EXISTING USE OF WATER FROM WAI‘OLI STREAM VIA DIRECT
NEGOTIATION, UPON COMPLETION OF THE REQUIREMENTS OF CHAPTER 343,
HAWAII REVISED STATUTES.

Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo
Senate Committee on Judiciary

‘Apelila 16, 2021

10:00 a.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HCR163 HD1 SD1, which would help to further the Wai‘oli Valley Taro Hui’s (Hui’s) efforts to obtain a water lease from the Board of Land and Natural Resources (BLNR).

As an initial matter, OHA commends the tireless efforts of the Hui, to perpetuate kalo farming traditions and practices that have persisted in spite of the tremendous changes to Hawai‘i’s environment, economy, and political landscape that have occurred over the last two centuries. The Hui’s continued resilience and perseverance, particularly after the recent devastating floods of 2018, as well as their ability to evolve and adapt to changing governmental bureaucracies and requirements in pursuit of their ultimate goal – to continue traditional kalo cultivation in the footprint of our ancestors¹ – provides inspiration and hope that our practices, knowledge, and values will continue well into the 21st century and beyond.

OHA further expresses its deep appreciation and gratitude to the professors and students of the William S. Richardson School of Law, whose environmental law clinic has provided invaluable assistance to the Hui in navigating complex and sometimes unclear legal processes and overlapping jurisdictions as a means of protecting and perpetuating Wai‘oli’s farming traditions. OHA likewise thanks the administration and staff of the Department of Land and Natural Resources (DLNR) and its divisions, the Department of Hawaiian Homelands, and the County of Kaua‘i for their continued support of the Hui and the law clinic. This has been and continues to be a true “kākou” effort.

This measure would lend the Legislature’s support to the Hui’s ongoing efforts to secure a water lease from BLNR. Importantly, a water lease will not only enable the Hui’s continued use and maintenance of the ‘auwai system that has served their lo‘i since time immemorial, but it will also promote public trust purposes in Wai‘oli such as the maintenance

¹As illustrated in the attached report by OHA Research Analyst Natashja Tong, historical documentation demonstrates that the ‘auwai, mānowai, and po‘owai relied on by the Hui is part of a traditional irrigation system that existed since time immemorial, to support an agricultural complex of no less than 41 separate kuleana ‘apana containing lo‘i kalo at the time of the Māhele, of which no less than 12 referred to this particular ‘auwai as part of their metes and bounds description. See Attachment A.

of surface waters in their natural state, as well as the range of biocultural resources and functions that rely upon and support stream flow and mauka-to-makai connectivity, agricultural subsistence and domestic uses of water, and Native Hawaiian traditional and customary practices including but not limited to lo'i kalo cultivation. **In this regard, OHA notes that the Hui is uniquely situated to serve as a template for the State to protect public trust interests during the water leasing process.**

Accordingly, OHA urges the Committee to **PASS** HCR163 HD1 SD1. Mahalo nui for the opportunity to testify.

ATTACHMENT A

The Indigenous Origin of the Native Hawaiian Irrigation System that Feeds the Lo‘i Kalo in Wai‘oli, Kaua‘i

By Natashja Tong

Land, Culture, and History Research Analyst, Office of Hawaiian Affairs

The Wai‘oli Valley Taro Hui aims to restore its mānowai (traditional intake from the main stream channel), po‘owai (secondary diversion to traditional irrigation ditches), ‘auwai (traditional kalo irrigation ditches), and the related lo‘i kalo system (wetland kalo patches), which were damaged by the devastating and record-breaking flood that hit Kaua‘i in April of 2018. This report summarizes OHA’s draft research, which concludes that this system existed in pre-contact times; i.e., prior to the arrival of Captain Cook in about 1778. This is based, in part, on the estimated birth and death years of the ali‘i referenced in the Native Register of Kuleana Claimants during the Māhele process.

Although OHA has not yet located historical documentation that specifically dates the creation of the mānowai or po‘owai, documentation of the ‘auwai (which moves water from its point of initial diversion to the lo‘i kalo) is available in the Māhele records (between the years 1848-1860) that transitioned Hawai‘i into a hybridized system of private land ownership. Forty-one separate Kuleana ‘apana (land parcels) were found that included lo‘i kalo, and 12 Kuleana ‘apana (land parcels) were found that referred to the ‘auwai in their metes and bounds. A mānowai or po‘owai is necessary to supply water to an ‘auwai; thus, the existence of traditional intakes on Wai‘oli Stream is a given based on the existence of the lower portions of this particular ‘auwai system.

Kuleana are a type of Land Commission Award (LCA) given to native tenants during the Māhele. Native tenants who were seeking a Kuleana award would submit a Native Register (NR) – a statement that explained the extent of their land claim – to the Land Commission, the Board tasked with confirming title during this process. Typically, the Native Register included information on how many ‘apana (land parcels) the applicant was claiming and what was being cultivated at the time. The Native Register also detailed from whom the applicant derived their interest (i.e., who gave the claimant the right to cultivate those lands), which was usually a konohiki or ali‘i, and/or the year or time period that ali‘i was in power typically in the form of “I ke au iā” or “during the time of” followed by the name of the ali‘i.

For example, the NR for [LCA 8196](#) to Hakui notes, “e hoike imua o oukou no ko‘u kuleana mai ka wa mai ia Kaikioewa a hiki i keia la” (“I make known before you my interest [in this land] from the time that Kaikioewa ruled until today”). Kaikioewa died in 1839,ⁱ and was a contemporary and kuhina (advisor) of Kamehameha I (1758-1819).ⁱⁱ

ⁱ Lilikalā Kame‘eleihwā, *Native Land and Foreign Desires: Pehea Lā E Pono Ai?*, (Honolulu: Bishop Museum Press, 1992), 109.

ⁱⁱ These years represent estimated life span, not political reign. Samuel Kamakau, *Ke Kumu Aupuni*, (Honolulu: Ke Kumu Lāma, 1996) 2-3; 87; 206-216.

Kaumuali‘i, also a contemporary of Kamehameha I, is referenced many times as he is the ali‘i nui of Kaua‘i during that period. For example, the NR for [LCA 9276](#) for Kiolea states, “Penei ke kuleana ana mai a Kaumualii mai a hiki i ka makahiki 1848” (“Such is the interest in this land from Kaumuali‘i until the year 1848”). Kaumuali‘i, who died in 1824,ⁱⁱⁱ was the mō‘ī of Kaua‘i who negotiated a treaty with Kamehameha during his campaign to unite the islands under one rule. Similarly, the NR for [LCA 9275](#) to Koenapuu explains, “Penei ke kuleana ana mai a Kaumuali‘i mai a ia keia manawa” (“Such is my interest from Kaumuali‘i until now”). As yet another example, the NR for [LCA 11059](#) (seen below in Figure 1) to Timoteo proclaims, “I ka manawa ia Kaumualii o Kauai nei, mai ko‘u mau makua mai a hiki mai ia‘u i keia wa ka pili ana o keia wahi me au” (“During the time of Kaumualii’s rule, from my parents until me during this time, is the connection of this place with me”).

Based on my years of experience and research in this area, it is my professional opinion that if lands in Wai‘oli were given during the reign of Kaikioewa and Kaumuali‘i, both contemporaries of Kamehameha I who lived through and experienced “contact” with Captain Cook in 1778, that the mānowai, po‘owai, and ‘auwai system required to support the lo‘i kalo claimed by those native tenants was also in place prior to contact.

To provide more context for this conclusion, I received a Bachelor’s Degree in 2011 and my Master’s Degree in 2014, both in Hawaiian Studies from the University of Hawai‘i at Mānoa’s Kamakūōkalanī Center for Hawaiian Studies. While pursuing my degrees, I was one of a handful of students selected to train as an Ancestral Visions of ‘Āina Kōnohiki. Under the mentorship of Lilikalā Kame‘eleihiwa, Ph.D., Pua Kanahēle, Ph.D., and others, I reviewed, and transcribed, thousands of Māhele documents, including LCAs, native registers, and native and foreign testimonies. Some of those documents are available on the avakonohiki.org website. That is but one example of my specific training in research and translations in this field. Moreover, as one of OHA’s Land, Culture, and History Research Analysts, since 2014, my research has focused on land, water, and the Māhele process in particular. Given this and other background and training, I am confident that the Wai‘oli mānowai, po‘owai, and ‘auwai are Native Hawaiian in origin and were established before the arrival of Europeans in Hawai‘i.

ⁱⁱⁱ Kame‘eleihwīa, *Native Land and Foreign Desires*, 109.

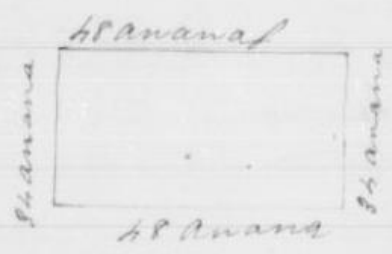
Figure 1. Native Register for L.C.A. 11059 to Timoteo

11.159 Timoteo

I ka Iha Hoona Kule ana aia ma ka Hale Hoani. Aloha nui oukou.

Eia wau he kanaka Hawaii e noho ana ma ka Hokuipuni o Hawaii i Hawaii. E hoiho aku ana i koi wahi kule ana e noho nei, a e Kupa nei koi wahi hale.

I ka manawa ia Hoimua i Hawaii nei, mai koi manawa mai a hiki mai ia i keia wa ka pili ana o keia wahi me ai Penei ka nui.



Pela koi ana ana i kule ana Hale. Penei

COUNTY COUNCIL

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Council Services Division
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Lihu'e, Kaua'i, Hawaii 96766

April 14, 2021

**TESTIMONY OF MASON K. CHOCK
COUNCIL VICE CHAIR, KAUAI COUNTY COUNCIL
ON**

**HCR 163, HD1, SD1, REQUESTING THE BOARD OF LAND AND NATURAL
RESOURCES TO ENTER INTO A LONG-TERM WATER LEASE WITH
WAI'OLI VALLEY TARO HUI FOR THE HUI'S EXISTING USE OF WATER
FROM WAIOLI STREAM VIA DIRECT NEGOTIATION, UPON COMPLETION
OF THE REQUIREMENTS OF CHAPTER 343, HAWAII REVISED STATUTES**

Senate Committee on Judiciary

Friday, April 16, 2021

10:00 a.m.

Via Videoconference

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to provide testimony in support of HCR 163, HD1, SD1, Requesting The Board Of Land And Natural Resources To Enter Into A Long-Term Water Lease With Wai'oli Valley Taro Hui For The Hui's Existing Use Of Water From Wai'oli Stream Via Direct Negotiation, Upon Completion Of The Requirements Of Chapter 343, Hawaii Revised Statutes. My testimony is submitted in my individual capacity as Council Vice Chair of the Kaua'i County Council.

Wai'oli Valley Taro Hui ("Hui") is comprised of small family farmers, many of whom have been stewarding the same land in Wai'oli Valley for four to six generations or more. The Hui has been working diligently to comply with all requirements necessary to be able to continue to care for this 'aina and its related resources. Subjecting the Hui to compete at a public auction for a water lease is concerning due to the Hui's limited financial resources. Allowing the Hui to negotiate directly with the Board of Land and Natural Resources for this water lease and skip the public auction phase would not only promote the Hui's continued traditional practice of lo'i kalo, but also expand on opportunities for community-based cultural and agricultural education, including education on vital environmental benefits such as flood mitigation, groundwater recharge, and preserving native habitat for endangered and threatened water birds.

Thank you again for this opportunity to provide testimony. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

MASON K. CHOCK
Council Vice Chair, Kaua'i County Council

AN EQUAL OPPORTUNITY EMPLOYER

OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHLIG, MANAGING DIRECTOR



TESTIMONY OF MAYOR DEREK S.K KAWAKAMI

Mayor, County of Kauai

Before the

SENATE COMMITTEE ON JUDICIARY

April 16, 2021; 10:00 a.m.

Via Videoconference

In consideration of

HOUSE CONCURRENT RESOLUTION 163 HD1 SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long Term Water Lease with Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Completion of the Requirements of Chapter 343, Hawaii Revised Statutes

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am testifying today in **strong support** of House Concurrent Resolution 163 HD1 SD1. Farmers throughout the island, particularly those in our North Shore, were severely impacted by the 2018 floods. Although that happened almost three years ago, we on Kaua'i still have a long way to go. Just last month, a landslide along the Hanalei Valley ridge which cut off the highway forced our kalo farmers to ferry their harvest, one pallet at a time, across the Hanalei River and then transport by ATV to awaiting trucks and then market.

But the Kalo farmers in Wai'oli valley continue to face other challenges; their greatest is in restoring their agricultural and cultural practice through cultivating a staple food in our state-wide community. Without water, there is no kalo. This resolution supports these farmers as their hui seeks to directly negotiate with the Board of Land and Natural Resources in securing a water lease.

Actions speak louder than words. Generations of farmers in Wai'oli have shown their respect and stewardship of the land and resources. Their track record of stewardship should weigh heavily in entrusting them with doing what needs to be done to perpetuate the cultural practices that have stretched back millennia.

I respectfully ask that you approve this resolution in support of traditional Hawaiian practices and the Wai'oli Valley Taro Hui.

Mahalo for your time and consideration.



Hanalei Watershed Hui

April 14, 2021

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE

Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

I testify here as the Executive Director of the Hanalei Watershed Hui. Our community nonprofit has worked with the Hanalei and Wai'oli Valley taro farmers supporting kalo cultivation for two decades.

The Hanalei and Wai'oli valleys produce nearly two-thirds of Hawaii's taro. Our work to better understand and culturally manage the watershed of Hanalei is inexorably linked to kalo cultivation. We are currently engaged in a comprehensive flood mitigation project to address the impacts of the 2018 flood which severely affected the Wai'oli farmers. This work will be a collaborative effort with these farmers.

These resolutions will enable these farmers to continue to produce kalo benefitting all of Hawaii. It is imperative we all provide support for this work in all the ways available to us. Passage of this resolution is critical to that support.

I am confident their work will meet all required permitting and environmental reviews. As a member of the Hawaii State Environmental Council, I fully understand the Chapter 343 requirements and am assured this work will be in full compliance.

These farmers are members of our families and community and have been dedicated to this work for generations. We are committed to the continuation of this cultural, environmental and economic resource for our people and Hawaii.

Me ka pono,

E malama kumu wai ~ Protect the source
5299C Kuhio Hwy, P. O. Box 1285, Hanalei, Kauai, HI 96714
Telephone (808) 826-1985/(808)346-5458 E-mail: hanaleiwatershedhui@gmail.com
www.hanaleiwatershedhui.org
The Hanalei Watershed Hui is an equal opportunity employer and provider.



HULIAUAPA'A

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE
Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021, 10:00 a.m., Via Videoconference

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

My name is Dominique Leu Cordy and I am testifying today on behalf of Huliauapa'a in **strong support** of House Concurrent Resolution 163, HD1, SD1.

Huliauapa'a is a 501(c)(3) non-profit organization, our *Vision* is wahi kūpuna thriving through Hawaiian self-determination. Our *Mission* is to grow Hawai'i's communities through culturally based dimensions of innovative learning, leadership development and collaborative networking in wahi kūpuna stewardships.

The Wai'oli Valley Taro Hui, and their stewardship of the wahi kūpuna, or ancestral place, that is the Irrigated Wai'oli Lo'i Kalo System, from manowai upstream, into the 'auwai, through the lo'i, and out the hoi back into the stream, is a great example of a traditional sustainable no-take system.

The Irrigated kalo system that is the topic of this action, has been used *continuously* in Wai'oli since time immemorial. This is unfortunately uncommon in Hawaii. The Hui of taro farmers, and their families, are the reason this valuable cultural, historical, agricultural, and water distribution system exists today. There are few enduring traditional systems for lo'i agriculture left in the state. They are not easy to run or maintain.

The Hui and their families have not only kept this traditional farming system thriving, they have also worked diligently to comply with HRS 171-58 and should be able to negotiate directly with BLNR once it has completed the Chapter 343 environmental review process, even funding and executing an Environmental Assessment and a Cultural Impact Assessment (CIA).

Per the research done in the CIA, it is clear that the irrigated kalo system that is the topic of this action, has been used *continuously* in Wai'oli since time immemorial. This is unfortunately uncommon in Hawaii. The Hui of taro farmers, and their families, are the reason this valuable cultural, historical, agricultural, and water distribution system exists today.



HULIAUAPA'A

Kalo cultivation is integral to our identity in across Hawaii, and even more intimately on Kaua`i. Please support those who maintain this lifestyle and Native Hawaiian tradition. Supporting kalo cultivation in Hawai`i and small family farmers like the Wai`oli Valley Taro Hui is vital. Without cultural practitioners, we have no culture.

Please pass this resolution and allow the Hui to directly negotiate with the Board of Land and Natural Resources for a water lease and support traditional lo`i kalo cultivation and the Wai`oli Valley Taro Hui.

Me Ka Ha`aha`a,

Dominique Leu Cordy

[Huliauapa'a](#)

Strategy & Innovation Officer

**HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE**

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai‘oli Valley Taro Hui for the Hui’s Existing Use of Water from Wai‘oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai‘i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of this Honorable Committee:

Mahalo for scheduling this hearing on HCR163, HD1, SD1. We greatly appreciate the support from Chair Rhoads, Vice Chair Keohokalole, and the members of this Committee. **The Wai‘oli Valley Taro Hui strongly supports this measure, which is critical to perpetuate our Native Hawaiian and local kalo culture on Kaua‘i’s North Shore.**

Our Hui of about a dozen small family farmers has been growing kalo on the same ‘āina in Wai‘oli Valley for many, many generations. We work to support and enhance the ma uka to ma kai biocultural resources primarily in the Wai‘oli Stream Watershed, protect the natural and cultural resources that enable traditional and customary Native Hawaiian practices, maintain habitat for endangered Hawaiian waterbirds, and engage the greater Kaua‘i community through educational outreach programs and initiatives relating to kalo farming and community-based stewardship of water resources.

Although our community has always been close, we did not formally organize as a state nonprofit with federal tax exempt status until 2019, after devastating floods made it painfully clear that our entire community and way of life was at risk. As a part of the disaster relief efforts, the Department of Land and Natural Resources informed us that portions of our centuries-old kalo irrigation system, which predates modern zoning laws and even the water leasing provision of HRS 171, was located on conservation land. So, we are now required to get a water lease, even though our farms have operated in essentially the same way for centuries.

After those 2018 floods, our mānowai (traditional, Native Hawaiian break-away dam), po‘owai (dam at the head of the ‘auwai), and entire ‘auwai (ditch) systems were completely devastated. Our river changed course and some described what we experienced as a thousand-year flood event. As wetland kalo farmers, water from Wai‘oli Stream is our lifeline. Almost three years after the 2018 floods, and despite significant kōkua from the State of Hawai‘i, County of Kaua‘i, and University of Hawai‘i at Mānoa’s Richardson School of Law, we are still in basic recovery mode.

The County of Kaua‘i helped to fix our māno in the Summer of 2020, but recent flooding has caused damage that will require further repairs. Flooding is becoming more frequent and more severe. This year we have already had two major flooding events while we are still recovering from 2018. Currently, our mānowai is broken again, this time into four different intakes when it

should just be one structure. After the heavy rains and landslide last month, the road into Wai‘oli Valley has only recently reopened. To get people and key supplies into the valley, they needed to be brought in by boat or during the scheduled one-lane convoy. This has made it difficult for our farmers who are kūpuna, and some of them are not able to get to their patches unless the road is open. We need your kōkua.

For the last two years, we have been working closely with the William S. Richardson School of Law’s Environmental and Native Hawaiian Rights Clinics. They helped us to apply for and secure an easement for our irrigation system and a revocable permit for our water use, but a longer term water lease remains elusive. We have completed consultation with the Department of Hawaiian Home Lands, a draft watershed plan, and are working with the Water Commission on an interim instream flow standard amendment, and with others on a draft environmental assessment in compliance with Hawai‘i Revised Statutes chapter 343. To say that this process is complicated and confusing is a gross understatement — we would never have gotten this far without the hard work of the Clinics’ students, fellows, and attorneys.

We have been working diligently to fulfill the various requirements of the water lease application, including chapter 343 requirements. And although the end is now in sight, we have significant concerns about our own Hui’s ability to prevail at a public auction. Moreover, our ancient, Native Hawaiian water use for kalo cultivation is non-consumptive, non-polluting, instream, and in-watershed, and appropriate for direct negotiation with BLNR under HRS 171-58(c). Our Hui utilizes a traditional mānowai to take some water from Wai‘oli Stream. That water flows through our ‘auwai, into our taro patches, then back to either Wai‘oli Stream or the lower reaches of Hanalei River. Like other kalo farmers throughout Hawai‘i, we need throughflow — water flowing through our taro patches — but we do not “consume” water like most offstream users because it returns to the streams. All of our use is within the watershed in which the water originates. So, any seepage, for example, also goes back to feed our water cycle in the larger Hanalei Bay Watershed.

For these reasons, Hawai‘i’s Constitution (including Article XI sections 1 and 7 and Article XII, section 7), Water Code (HRS 174C-101), and court decisions (*Waiāhole*), grant special protection and respect to traditional instream, in-watershed cultivation of kalo like our Hui’s. Our water use is fundamentally different than most of the “big users” regulated under HRS 171, such as EMI/Mahi Pono’s use of East Maui water where water is taken out of the watershed, distributed across the island, and never returns to its ahupua‘a of origin.

Given these unique circumstances, we humbly ask your committee to pass out HCR163, HD1, SD1 and allow our Hui to directly negotiate with BLNR after we have completed the remaining water lease application process. While direct negotiation will not stop the floods, it brings us one step closer to the finish line so we can focus on farming instead of permits and compliance.

Mahalo for your time and consideration.

Reid Yoshida
President, Wai‘oli Valley Taro Hui
Kaua‘i, Hawai‘i
waiolivalleytarohui@gmail.com



SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE
Testimony in Strong Support of HCR 163, HD1

April 16, 2021, 10:00 a.m.
Via Videoconference

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

Hawaiian Islands Land Trust d/b/a Hawai'i Land Trust (HILT) is Hawai'i's islands-wide land trust that is both a Hawai'i 501(c)3 nonprofit, and a nationally accredited land trust. Our mission is to protect and steward the lands that sustain Hawai'i, and perpetuate Hawaiian values by connecting people to 'āina. We appreciate the opportunity to provide testimony in strong support of HCR 163, HD 1. HILT has protected over 21,500 acres throughout Hawai'i, owns and stewards 7 preserves, including Kāhili Beach Preserve and Wainiha Beach Preserve on Kaua'i's North Shore, and holds 45 conservation easements permanently protecting conservation values of private lands across the state. HILT's land protection priorities include Hawaiian cultural landscapes, coastlines, and lands that produce healthy food for Hawai'i's people.

HILT holds two conservation easements permanently protecting approximately 39 acres of kalo producing 'āina in Wai'oli that is currently farmed by members of the Wai'oli Valley Taro Hui. The private landowner donated these conservation easements to HILT which restrict land use to kalo farming. HILT has seen firsthand the ongoing effects of the devastating 2018 floods. These lo'i kalo have fed 'ohana and community for generations. HCR 163, HD1 will ensure active stewardship and farming of these lands by allowing the Wai'oli Valley Taro Hui to directly negotiate with the Board of Land and Natural Resources for a water lease.

These small family farmers that make up the Wai'oli Valley Taro Hui, including those who currently farm on 'āina protected by HILT, provide an important source of food for our island community. For example, they supply taro to the Waipā Foundation, whose poi feeds families from Hā'ena to

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Waimea, Kaua'i and even Ni'ihau. Moreover, the Wai'oli Valley Taro Hui's collective stewardship of the ma uka (upland, directioned towards the mountain) reaches of Wai'oli Valley and each families' respective lo'i kalo, provides critical and invaluable ecosystem services that protect Hanalei town and surrounding areas from minor and major flooding events. Lastly, kalo cultivation is integral to the community's identity on Kaua'i and HILT supports Hawai'i's local farmers who maintain this lifestyle and the generational knowledge inherent in this cultural tradition of growing food, caring for Hawai'i's water sources and systems, in ways that provide for reciprocated benefits for people and the environment. Without the families of Wa'oli farmers, without cultural practitioners, we have no culture.

Mahalo nui loa for all of your service to our communities statewide and mahalo for the opportunity to provide testimony in strong support of HCR 163, HD1.

Me ka ha'aha'a,

A handwritten signature in black ink, appearing to read "Makana Reilly".

Makana Reilly

Director of 'Āina Connection, makana@hilt.org, 808-791-0729, P.O. Box 3537, Līhu'e, Hawai'i 96766

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE

Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

E ka Luna Ho'omalua Rhoads, Hope Keohokalole, a me nā Mea Hanohano o ke Kōmike,

The Hanalei Hawaiian Civic Club fully supports House Concurrent Resolution 163, and urges your honorable Committees to please do the same. The North Shore of Kaua'i, like most of the world, has been hit hard by the effects of Covid-19. These impacts have been especially challenging for our community as we are still recovering from the severe flooding that occurred in 2018.

These two crises, while devastating to our community, have showed that we are resilient like the kalo growing in our iconic fields. Through these trying times we have pulled together and have supported one another, and have once again proven how resilient we are because of the connections we have with each other and our 'āina. If not for the farmers of Wai'oli, Waipā, and others in the Halele'a (North Shore) community, we would have been in an even worse situation than we are now. These farmers and families have provided local, accessible, ono food for our community and others around Kaua'i, ensuring that we did not go hungry.

Our organization and many others throughout the years have benefitted from the kalo that comes from Wai'oli. These 'ohana who have been feeding our community for generations, continually provide support for fundraisers, community events, and small family parties. Their farms are constantly photographed as part of the North Shore's iconic view plane and many work multiple jobs to continue to preserve and perpetuate this endangered lifestyle.

To support these resolutions supports not only these farmers, but the very essence of our humble community. We are kama'āina, children of the land, firmly rooted and unwavering, despite the many storms that attempt to irreparably change our Hawaiian way of life. These resolutions will help to stem the tide of the detrimental change that has been seen in our community, and communities around Hawai'i, by promoting and protecting traditional practices such as kalo farming.

We humbly ask for your support of these resolutions and our Hawaiian community.



Devin Kamealoha Forrest
Vice-President Hanalei Hawaiian Civic Club

HCR-163-SD-1

Submitted on: 4/14/2021 12:20:11 PM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Chang	Individual	Support	No

Comments:

Aloha committee members, I support this resolution because it supports a spirit and pathway for small farmers to be an increased and empowered part of the food systems, environment and culture we need to nurture for a more self-determined future 2,500 miles from anywhere else in the world. Mahalo Kevin

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS
& VICE CHAIR JARRETT KEOHOKALOLE

Testimony **Strongly Supporting** HCR 163 HD1 SD1

Requesting the BLNR to enter into a long-term water lease with Wai‘oli Valley Taro Hui for the Hui's existing use of water from Wai‘oli stream via direct negotiation, upon completion of the requirements of chapter 343, HRS.

April 9, 2021, 1:30 p.m.
Via Videoconference

Aloha Chair, Vice Chair, and Honorable Members of the Senate Committee on Judiciary,

My name is Alexa Deike and I am testifying in **strong support** of HCR 163 HD1 SD1. I am a student at the William S. Richardson School of Law at the University of Hawai‘i at Mānoa and had the privilege and honor to work with the farmers of the Wai‘oli Valley Taro Hui for three semesters in the Environmental Law and Native Hawaiian Rights clinics.

During our site visit in Wai‘oli in February 2020, I have met the humble and extremely hard-working farmers and could see for myself the on-going devastation of the 2018 floods and the long, arduous road of recovery to have water returned to their lo‘i and return to growing kalo. Besides facing the challenge of repairing their water intake from the stream and their silt damaged lo‘i fields, the Wai‘oli Valley Taro Hui was confronted with the extremely difficult legal hurdle of obtaining a water lease.

Wai‘oli Valley is a truly uniquely and special place. This lo‘i kalo system has been in place since time immemorial as Wai‘oli Stream is one of the very few streams in the state that has not been diverted for plantation needs. The farmers have stewarded this ‘āina and wai for multiple generations and supplied kalo and poi for the community in Kaua‘i and across Hawaii nei.

The Wai‘oli Valley Taro Hui has worked diligently with the DLNR to fulfill all the requirements needed to obtain a water lease under HRS § 171-58 and should be able to negotiate directly with the BLNR once it has completed the Chapter 343 environmental review process.

Your vote today will ease the Wai‘oli Valley Taro Hui’s burden to obtain a lease and support traditional lo‘i kalo cultivation.

Mahalo for your time and consideration,

Alexa Deike

HCR-163-SD-1

Submitted on: 4/14/2021 4:55:14 PM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John K. Aana	Individual	Support	No

Comments:

Please refer to prior testimony on HD163

April 14, 2021

Hearing of the Senate Committee on Judiciary
April 16, 2021 at 10:00 AM

ATTN: Chair Karl Rhoads & Vice Chair Jarrett Keohokalole

**RE: TESTIMONY STRONGLY SUPPORTING HCR 163, HD1, SD1
Supporting the Wai‘oli Valley Taro Hui and Traditional Lo‘i Cultivation and
Encouraging BLNR to Directly Negotiate for a Long-Term Water Lease**

Aloha e Chair Rhoads, Vice Chair Keohokalole, and
Honorable Members of the Senate Committee on Judiciary,:

My name is Nick Ernst and I am an attorney practicing in Honolulu, a graduate of the William S. Richardson School of Law, and former high school educator at Kamehameha Schools. Mahalo for the opportunity to submit testimony **strongly supporting** House Concurrent Resolution 163, HD1.

On a visit to Hanalei with my classmates in Professor Kapua Sproat’s Environmental Law Clinic in the Spring of 2020, I had the wonderful privilege and opportunity to meet an incredible and humble group of people. They refer to themselves as simple farmers, and I believe the rest of the world has settled on this simplistic description for them as well. But for anyone with any experience with this lifestyle, they are far from simple mahi‘ai.

The Wai‘oli Valley Taro Hui (the “Hui”) is composed of people with a deep and intimate understanding of their environment. Their knowledge of the intricacies of the watershed translates into actions that have a direct effect on food production and, therefore, the health and well-being of others. They care deeply about sustainability and steward their streams with immense care. They are keenly aware of the challenges that threaten the future of their industry, and work tirelessly to help the next generation of mahi‘ai secure food for Hawai‘i. They epitomize the ‘ōlelo no‘eau, “i hāna i ka pō, i hāna i ke ao” – they are farmers alert by night and alert by day working from before the sun rises through daylight hours.

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After meeting the Hui's members and hiking up the mānowai to see the devastation of the 2018 flood first hand, I was moved to submit testimony to support these wonderful people. The vistas of kalo fields stretching out to the horizon have been replaced by plot after plot of weeds, which take advantage of the fact that kalo cannot be planted. Through their care for the mānowai and po'owai, the Hui can restore not only the viability and health of their lo'i kalo, but the health of the entire Wai'oli Valley ecosystem.

I would like to close with another 'ōlelo no'eau: "He keiki aloha na mea kanu" -- the plants are beloved by farmers like children and receive much care and attention. You can show your aloha and care for these farmers by voting to pass these resolutions and give the Hui the access they need to continue stewarding upstream to maintain their farms and Wai'oli's environment. The lease will give the Hui access to the water they need to continue producing Hawai'i's culturally precious food resource – kalo.

Me ka ha'a ha'a,



Nick Ernst

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1 Supporting the Wai'oli Valley Taro Hui and Encouraging BLNR to Directly Negotiate for a Long Term Water Lease

April 16, 2021, 10:00 a.m.
Via Videoconference

Aloha mai Chair, Vice Chair, and members of this Honorable Committee,

I am testifying today in **strong support** of HCR163, HD1, SD1 that kōkua the Wai'oli Valley Taro Hui. My name is U'ilani Tanigawa Lum and I am an attorney and a Post-J.D. Fellow at Ka Huli Ao Center for Excellence in Native Hawaiian Law.

I first worked with the Wai'oli Valley Taro Hui ("Hui") as a 3rd year law student in the Environmental Law Clinic in 2019. As a student, I visited Wai'oli, understood and assessed the damage, and contemplated next steps to help the farmers recover. I also had the pleasure of meeting the humble farmers of the Wai'oli Valley Taro Hui. At each step of the way, the Hui was 'eleu, ready to undertake the necessary requirements. It was clear to me early on that their incredible work – from supplying kalo to kama'āina, to 'āina-based education, and generational stewardship of the land – needed to continue; but they needed help. I have been helping them, and co-teaching Clinic, since then. The complex permitting process designed to protect our natural resources has, ironically, been particularly difficult for the Hui. As kama'āina of the land, they are uniquely situated to manage the natural and cultural resources of this area. In reality, they know this place the best. As an attorney, I have to believe that our laws can and should support such uniquely situated folks such as the Hui.

As a hula practitioner deeply passionate about Native Hawaiian practices, I also understand the difficulties of continuing traditional and customary practices in Hawai'i nei. The Hui, however, continues one of the most foundational practices for Kānaka Maoli. Without any hesitation, they humbly continue to 'auamo their kuleana: for their 'ohana, their practice of kalo cultivation, and most importantly, their 'āina.

This Hui not only represents the longstanding and understated work ethic of kalo farmers across Hawai'i, but they also illustrate our collective success as Hawai'i. They taught me much more than practical legal skills in that class in law school – they taught me fundamental values and a vision for the best of Hawai'i pae 'āina. They embody the *practice* of mālama 'āina (caring for the land), kuleana, hard work, and most of all, aloha.

I respectfully ask you to please vote to pass this resolution and support traditional lo'i kalo cultivation and the Wai'oli Valley Taro Hui.

Mahalo nui,

U'ilani Tanigawa Lum

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Members of this Important Committee,

Mahalo for taking the time to consider the Wai'oli Valley Taro Hui's desire to directly negotiate with the Board of Land and Natural Resources for a long-term water lease. This resolution would be a game-changer for our kalo farmers, and would help to provide certainty around water flow so we can continue to cultivate this important crop that feeds our community.

My name is Kaisen Carrillo and I come from multiple generations of kalo farmers on both sides of my 'ohana. My mother's side of the family, the Haradas, started farming with my great-great-grandfather, Saburo Harada, in Lumaha'i. My great-grandfather, Genichi Harada, eventually moved the farm to Wai'oli and my 'ohana has been farming in the valley ever since. My great-grandfather's daughter, my grandma Lily, married Ahfook Tai Hook and both of them still farm in Wai'oli at 74 and 83 years old. Finally, my mom Lillian, daughter of Ah Fook, married Bobby Watari, who also farms in Wai'oli Valley.

That leaves me, a 29-year-old 5th generation Native Hawaiian kalo farmer in Wai'oli Valley. I am one of only three farmers in Wai'oli younger than 35-years-old. I have just started my own family and I am raising my 4-year-old daughter and 1-year-old son to farm this land as well. With your support, they will be 6th generation Wai'oli kalo farmers. I spent some time outside of Kaua'i, going to school, earning my associate's degree in hospitality and my bachelor's degree in business. I'm grateful to have these degrees and have been putting them to good use since I moved back to Kaua'i from O'ahu about 4 years ago. Now, as an adult, I am able to use my formal education to expand my own farming efforts and am currently being groomed to run our family-operated farm some day.

Since the 2018 floods, though, things have really been hard. As a full-time farmer with a young family, it's been stressful trying to figure out how to provide for my family. I need to not only repair the damage to my farm, but also provide for my growing family's needs. At the same time, I have been trying to engage more in the administrative aspects of farming by working with our Hui to learn about the issues unique to Wai'oli kalo farmers. These issues include securing a perpetual easement and revocable permit from BLNR, and now, applying for a long-term water lease. I am committed to these issues because I know this will make it possible for my children to farm, just as my kūpuna did all they could to pave the way for me to continue farming.

One of the most important reasons our Wai‘oli Valley Taro Hui should be allowed to directly negotiate with BLNR is because farming kalo is different from most other uses. Our traditional, Native Hawaiian methods of kalo cultivation rely on “throughflow.” Water from Wai‘oli Stream flows into our lo‘i then returns to the stream. So, it’s not consumptive or polluting, and all use is within the same watershed.

For the last two years, our hui of kalo farmers has been trying to complete the application for a water lease with the amazing support from the University of Hawai‘i’s Richardson School of Law’s free legal clinics. Even with all this help, we still have so much to do before we can even apply. The water lease process has been long and challenging for us and it is difficult to imagine that after this application is pau, we might have to go up against private interests in a public auction who have no connection to our ‘āina or wai. That is why direct negotiation with BLNR is our best hope to secure water for current and future generations of Wai‘oli kalo farmers.

This is very important to me because I am raising my keiki with Native Hawaiian values in the hopes that they will develop a passion for kalo as a connection to our culture. But, without the security of a long-term water lease, it is difficult for me to look them in the eye and promise that they will be able to cultivate the same patches that their ancestors stewarded for generations.

As difficult as things have been, I love what I do. This is my culture. It is what my family has been doing for generations. I feel a deep sense of pride and honor to ‘auamo my kuleana and perpetuate this practice — especially now when many of my generation are becoming less interested in taro farming. To be honest, there are more lucrative ventures for some. But, what we do goes beyond monetary value; this is about kuleana. It is our way of life and we will continue to farm taro on these lands for as long as we are physically able.

The ability to negotiate directly with BLNR to secure a long-term water lease would bring me some peace of mind during a stressful time for our Wai‘oli farmers.

Mahalo for the opportunity to explain why this issue is so incredibly important to our way of life in Wai‘oli. Please vote to pass out this Resolution today.

Mahalo,

Kaisen Carrillo

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair Rhoads and Members of the Committee on Judiciary,

My name is Conrad "Kimo" Inanod, and I am a kalo farmer in Wai'oli Valley and the Vice President of the Wai'oli Valley Taro Hui. Mahalo for hearing this resolution so that we can continue to steward our ancient lo'i kalo system. Like many others in our Hui, my family has been farming kalo and taking care of Wai'oli's natural and cultural resources since before I was born. I am a fourth generation Native Hawaiian kalo farmer in Wai'oli; I cultivate one kuleana that my family owns and about 7 acres that I lease from Wai'oli Corporation. Because of this, I also help to mālama Wai'oli Stream and the larger watershed.

I was raised by my grandpa, James Masada, right here in Wai'oli. Over thirty years ago in May 1989, my grandpa and I submitted declarations of our water use with the Commission on Water Resource Management. In 1993, the Commission verified our water uses from the same mānowai, po'owai, and 'auwai that feeds Wai'oli Valley taro patches today. I am also an avid hunter, and regularly access the ma uka reaches of our watershed to exercise my traditional and customary Native Hawaiian rights and practices. Because of this, I am intimately familiar with this 'āina and feel an obligation to ensure responsible use of this land and its resources.

For me, and so many others, obtaining a long-term water lease is more than just a legal issue. For us, this is about protecting and restoring our quality of life as Native Hawaiian practitioners and small family farmers. Kaua'i's North Shore has changed dramatically, and our sleepy farming community has been transformed into a bustling tourist destination and construction zone. While the resolution you are considering today will not repair our māno, lo'i, or equipment that were devastated by the historic floods almost three years ago and again by more recent flooding, it will provide important assurance and hope that we will be able to persevere and maintain this way of life for our children and the generations yet to come.

Our road to recovery is ongoing. The past two months, we were hit with heavy rainfall and my lo'i were completely flooded again (see the picture below). Some members of our Hui almost got washed away in the flash floods as they rushed out to save some of their huli (stocks of kalo replanted for the next crop). You may have also heard of the landslide that closed the road into Hanalei in March. Last month, I sat in traffic for hours with my family as we tried to get home from my son's baseball game and the traffic has not gotten better since then. We are trying to make due, but it's hard. We need your committee's support more than ever as we try to save our lo'i and overcome the many procedural hurdles to obtain a long-term water lease. Our community is resilient and committed to this work but, we need your kōkua — and the ability to directly negotiate — to continue our efforts in earnest. Please act today to pass this resolution.



This is my lo'i on 2/19/2021

Mahalo piha,

C. Kimo Inanod

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair, Vice Chair, and Members of the Committee on Judiciary:

My name is Bobby Watari and I am the Treasurer of the Wai'oli Valley Taro Hui. I urge you to support HCR163, HD1, SD1 which will allow our hui to directly negotiate with the Board of Land and Natural Resources for a long-term water lease. I am a 3rd generation taro farmer who has been farming full-time for the past 40 years. Farming kalo is my life's work and passion. I learned to farm from my father, who moved to Hanalei in the 1950s to farm taro. My father started farming on leased land, and I now steward the same lo'i and have added to it. I cultivate the kuleana land that my family owns and I lease other lo'i from Wai'oli Corporation.

Farming has been my life. My wife Lillian and I are now grooming my step-son, Kaisen Carrillo, and daughter, Lily, to take over. I am working constantly to ensure that our farm is operational and healthy so that my kids have the option of continuing this important family tradition.

Unfortunately, this has been a struggle. Farming is so much more than planting and harvesting. We work hard to preserve the land for taro, and to steward the lo'i kalo irrigation system that has been in place long before I started farming. In Wai'oli, we use a traditional Hawaiian irrigation system that has been in place since before the arrival of Captain Cook in the 1700s. We are honored to be a part of the handful of farmers who continue this important practice — one that has been our way of life in Wai'oli for hundreds of years. We feed our community by supplying this staple to small nonprofits like the Waipā Foundation and others throughout Hawai'i. My step-son Kaisen also provides lū'au leaf so local families can make laulau and other Hawaiian food.

Restoring and maintaining our existing lo'i kalo irrigation system is so critical — not only for my family's livelihood and the livelihood of the other farmers — but also to perpetuate our way of life and the community here in Wai'oli that we are all a part of. We use a mānowai, a traditional, Native Hawaiian breakaway dam, to take some water from Wai'oli Stream. That water flows through our 'auwai (ditches), then into our taro patches, then back to either Wai'oli Stream or the lower reaches of Hanalei River. Like other taro farmers, we need throughflow — water flowing through our taro patches — but we don't "consume" water like most offstream users because it goes back to the stream. All of our use is within the watershed where our

water supply originates (Wai'oli). So the water that runs through our patches eventually goes back to feed our water cycle in Wai'oli. For these reasons, instream, in-watershed cultivation of kalo in a traditional manner (like ours) has earned special protection and respect under our State Constitution and laws.

Our responsible water use and efforts to maintain the watershed and stream system not only benefit our hui, but many others. Having worked with these resources for generations, we take care of them and they take care of us. Although much has been done, we still have more work to do. For the first time in my life, I have had to face the harsh reality of many of my fields remaining unplanted. Prior to the 2018 floods, I had never seen so many of my fields empty. It has taken a toll on me personally and on our family. Now, it seems as though that was just the beginning of our problems.

Every year we are getting slammed by floods that are affecting our streams, small town, and more. We are constantly being locked in or out of the valley because the river is too high or landslides cut off Wai'oli Valley from the rest of the island. Although one lane of our road recently reopened, that process needs a major overhaul. Several weeks ago, many of our farmers spent hours sitting in traffic trying to get home after finally being able to go to town for supplies. While we live in the valley and have access to our farm, we are still dealing with the effects of the slide. Yet even with all of these issues, and all of the struggle, it would be so much harder not to farm.

We enjoy, and are proud of, being able to farm as family. The vision I have of farming this land with my wife, Lillian, step-son, Kaisen, and his kids, and our daughter Lily, gives me the strength needed to continue during these difficult times. Knowing that our 'ohana will have secure access to water into the future would give me hope that they will be able to continue our family tradition of farming taro. It is not easy. The Resolution you are considering and the ability to directly negotiate for a long-term water lease or an exception from needing to go through that process, is a critical next step for us to maintain our way of life in Wai'oli.

Mahalo for considering my testimony and for your continued work to protect our valuable natural resources and traditional practices. Please approve this Resolution.

Mahalo nui,

Robert "Bobby" Watari

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

Aloha Chair Rhoads and Vice Chair Keohokalole!

My name is JoAnne Kaona. I am a fourth generation Native Hawaiian kalo farmer in Wai'oli Valley and the Secretary of the Wai'oli Valley Taro Hui. Mahalo for the opportunity to testify on this issue, which is of grave importance to our community: our ability as a Hui to directly negotiate with the Board of Land and Natural Resources for a long-term water lease. I respectfully ask that you support our community by passing out HCR 163, HD1, SD1.

I am one of only a handful of wahine farmers of my generation in Wa'oli. I help my Dad, Clarence "Shorty" Kaona, to mālama our family kuleana land and some leased land, which is altogether about 3½ acres of kalo. For us, kalo farming defines our 'ohana; it is what we do and something special that we share. It is also how we contribute to our community: by providing kalo, the ultimate staple of Hawaiian culture, as food that is enjoyed by all in Wai'oli and the larger Hanalei area.

Our 'āina in Wai'oli is perfectly suited for wetland kalo cultivation. The 'ohana who have been farming for multiple generations, like mine, have taken on the kuleana to ensure accessibility to our lāhui's most basic and essential food. But, we were hit hard by the 2018 floods, and for the first time in my entire life, many of the Hui's lo'i were barren. It has been a long road to get our patches back into cultivation. We continue to face damage from more frequent and severe weather events due to climate change, especially in the last few months.

I also work at the Waipā Foundation where I teach kids about aloha 'āina, sustainability, natural resource management, and traditional and customary Native Hawaiian practices. The Waipā Foundation's mission is to create a healthier community by educating our people about an indigenous diet while also keeping it affordable. One way to maintain this is by ensuring that our community has local kalo and poi to eat. The Waipā Foundation gets between 70-90% of our kalo from the Wai'oli farmers, including my Dad and me. The Foundation processes that kalo

and poi at our certified kitchen with volunteer labor and provides pa'i'ai for our community at or below cost. For example, Waipā's pa'i'ai price for kūpuna is \$1 per pound.

My Dad took over kalo farming from his Dad in 1987, and even now in his 80s, he still works in the lo'i almost every day. I know that this kuleana will fall upon me when my Dad is no longer able, and I am ready. After four generations of this work, it would be impossible for me to turn away from a practice that has been a part of our family for so long. There is no alternative for me — I just have to do it. Part of my kuleana in preparation to take on farming my 'ohana's lands has been to help our Hui obtain an easement from the Board of Land and Natural resources so we could fix and maintain our traditional ditch system. Our Hui has also worked with BLNR to secure a revocable permit for our water use. Now, we are working with BLNR and Ian Hirokawa on a long-term water lease. To be able to directly negotiate is crucial for our community as a whole.

The truth of the matter is that we, as small family-run farms, won't be able to compete in a public auction process with the wealthy individuals and corporations who have moved to Kaua'i's North Shore. Our desire to continue kalo farming is not for us as individuals, but for our entire community who relies on our small farms to feed them. Please support this Native Hawaiian tradition and way of life that has become all too rare on Kaua'i and throughout Hawai'i.

I humbly request that you support this Resolution. Our ability to directly negotiate a long-term water lease with BLNR will bring our Hui one step closer to upholding our mission to provide this staple Hawaiian food for our community in a way that was done by our ancestors since time immemorial.

Mahalo for your time and consideration,

JoAnne Kaona

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

Dear Chair Rhoads and Members of this Esteemed Committee,

Thank you for the opportunity to testify on this important matter. As a taro farmer in Wai'oli Valley and a member of the Wai'oli Valley Taro Hui, I **respectfully request that you vote to pass House Concurrent Resolution 163, House Draft 1, Senate Draft 1.**

My name is Wayne Tanji and I have been farming in Wai'oli Valley for over 30 years. Prior to becoming a farmer, I worked retail in Hanalei. Back then, my friends were taro farmers and so I eased into farming by slowly acquiring patches from them. Eventually, I decided to farm full-time. I currently lease a little over an acre of land where, prior to the flood, I maintained 7 wetland kalo patches.

The flood three years ago completely devastated my farming operations. Because of the location of my patches, the damage to the 'auwai system hit me particularly hard. After the 2018 floods, my patches could not receive enough water to ensure a consistent level of throughflow and, as a result, my taro couldn't grow properly. This event highlighted how important it is for us to have a stable water supply. Because we know how the water we use affects others further down the 'auwai, we are all considerate about our water use and its impact on others. Water is so vital for us to continue farming. It is the lifeblood. Without it, we cannot survive.

Currently, at 71 years old, I am barely able to maintain only 2 of my original 7 patches. Although sometimes friends come over to give me a hand, I mostly farm alone. The recent landslide has made it more challenging for me because I couldn't go to my patches by truck and it is hard for me to travel by boat to Wai'oli because of my age. To say that this situation is causing me stress is an understatement.

There is still much work to be done as we recover from the 2018 floods and other damage that keeps happening — like the landslide that blocked Kūhiō Highway and the increasing

frequency of heavy rains and flooding — but your approval of this resolution and the ability to directly negotiate for a long-term water lease, or an exemption from needing one, would help so much; especially because we have been working hard to make sure that we comply with all the necessary requirements. We are trying our best.

Thank you again for this opportunity to testify in support of HCR163, HD1, SD1 that would allow our hui to directly negotiate for a long-term water lease. Please act on this resolution today.

Mahalo nui,

Wayne Taniji
Farmer, Wai'oli Valley Taro Hui

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair and Committee Members,

My name is Lillian Watari and I am a 4th generation Native Hawaiian kalo farmer. I have been farming for 45 years. Our 'ohana started farming kalo in Lumaha'i with my great-grandfather Saburo Harada. My grandfather Genichi Harada, then moved the farm to Wai'oli and the tradition continued with my mother and father who still farm in Wai'oli Valley at 74 & 83 years old. I am married to Bobby Watari who also farms in Wai'oli Valley with our son, Kaisen Carrillo.

Kalo farming is more than a longstanding custom and tradition in our family, it's our way of life and our family legacy. Growing up, I was the eldest of 5 children. As soon as we were physically able, we were out in the lo'i helping our parents and grandparents maintain and cultivate kalo. At such a young age, I didn't understand the commitment necessary to farm kalo. It felt like a burden. Our lives revolved around the kalo's needs. Our routine consisted of coming home after school, having just enough time to grab a quick snack, and loading up the truck to head down to the lo'i. Looking back now, the value of the lessons I learned working in the lo'i is hard to put into words. I am proud of my family's tradition of farming kalo and the person it has made me. It taught me the value of hard work and the importance of being able to spend time with nature.

I currently work full-time at a hotel. Yet, even now, I look forward to the weekends and being able to go to the lo'i and have the opportunity to be there with my family. It gives me the peace of mind that is often hard to find in today's complex world. It's hard work, but I enjoy it and wouldn't trade it for anything. It's beautiful to continue the legacy built by my grandparents in Wai'oli and to pass that on to my children and, hopefully, my grandchildren.

The ability to directly negotiate with BLNR, for a long-term water lease, would allow our hui to continue our family tradition of farming kalo. It would enable us to continue to be together in the environment and on the land we love most. It has been hard since the floods almost three years ago, both emotionally and in terms of our kalo production. Our family farm may have been hit the hardest because of where our lo'i are situated in relation to the floodwaters. For the first time in our lives, our farm was left with many empty fields for a number of reasons, including a decrease in water flow. Yet, we are resilient and will persevere. We are still here. We just want to be able to get back on our feet and continue to practice the culture we love in our small community.

Hanalei has changed so much over the years. Yet, what holds together our identity as a community is the kalo farming that has been here since the beginning of time in these islands. It is a true testament to our community that we work together and help each other get through challenges like the 2018 floods and more. Last month, we had to deal with a landslide as the aftermath of our most recent rains. There are farmers who are having a hard time getting to their farms because the road to Wai'oli Valley has only partially reopened. There are real logistical and physical challenges to just getting access and basic supplies right now.

We are proud of who we are and what we do, and hope to continue to pass down this tradition to future generations. The ability to negotiate directly with BLNR for a long-term water lease would help to provide some assurance that our family tradition can continue – assurance that we could desperately use while dealing with all of these other things that cannot be controlled.

Mahalo for your time and consideration of this solution that is vital to our survival. Please act today to ensure the viability of our future.

Mahalo,

Lillian Watari

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha to the Chair, Vice Chair, and Members of the Judiciary Committee,

Mahalo for the opportunity to testify in strong support of HCR163, HD1, SD1. Please pass this Resolution today and allow the Wai'oli Valley Taro Hui to directly negotiate a long-term water lease with BLNR.

My name is Demetri Rivera. I am a kalo farmer and a Board Member with the Wai'oli Valley Taro Hui. I farm with Chris Kobayashi in Wai'oli. Together, we maintain and farm about 10 acres of lo'i, banks, and roads. I have been farming kalo full-time for over 25 years.

I know that you cannot farm wetland kalo without good, fresh, flowing water from the mountains. If there is a lack of water or inconsistent water, you will get lots of weeds growing and your kalo quality can be so bad, that sometimes, you just gotta plow under. If water flow is low in the summer and the other hot months, the water is warm and the kalo will rot due to diseases and a poor environment. No sense plant.

As a hui, we have been maintaining Wai'oli's mānowai, po'owai, and 'auwai on a regular basis and especially during emergencies; these days, that seems to be every time there is a big rain. In fact, heavy rain in mid-February damaged our mānowai again and most recently caused a landslide that effectively cut the valley off from the rest of Kaua'i. Although one lane of traffic is now open, repairs will take months. The mānowai is now split in four places. In the winter months, we brace ourselves for big rains and storms, hoping that there won't be any flooding, but knowing that it's likely. Even knowing that flooding is likely, the 2018 flood was unlike anything we've ever seen. And, we are still recovering.

Over the last couple years, we've worked really hard to repair the māno, clear the stream of debris, and fix the 'auwai. But, none of that matters without having access to enough water to start planting again and a reliable supply so that we know our kalo will survive.

Mahalo for this opportunity to testify. I humbly ask you to please vote in support of HCR163, HD1, SD1 and allow us to directly negotiate for a long-term water lease and complete our recovery process.

Aloha,
Demetri Rivera

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Dear Chair and Members of the Committee on Judiciary,

Thank you for the opportunity to testify on this important matter. As a kalo farmer in Wai'oli Valley, Kaua'i, and a member of the Wai'oli Valley Taro Hui, I strongly support this Resolution.

My name is Dwight Morishige and I am a 3rd generation kalo farmer. I have been farming in Wai'oli Valley for over 40 years. From before I can remember, my father and his family farmed kalo. I grew up in a community that dedicated itself to farming kalo. I learned how to farm kalo from my father-in-law, and other farmers in this area.

My family has been here in Wai'oli for decades, and I have continued our traditional and customary practice of wetland kalo cultivation. I currently lease 10 acres to grow kalo. The 2018 flood was the worst I have ever seen. As you may know, all of the Wai'oli Valley taro farmers experienced damage individually and collectively. That damage was mostly caused by flooding, landslides, silt, and erosion being deposited in our lo'i. Flood-related damage is still occurring, which we experienced again in both February and March. The road into Hanalei was recently reopened after heavy rains caused a major landslide that cut us off from the rest of the island.

This community has always been close and centered around farming kalo. Kalo is a very nutritional food that we grow right here in our own town. Culturally, it is important for our younger generation to continue farming. Even though our community has always been tight knit, this is the first time we received so much help and have since organized in response to the 2018 floods. Our community has worked really hard to make sure we can continue the practice of kalo farming in Wai'oli. Without help, kalo farming in 2021 and into the future could be impossible.

Thank you again for this opportunity to testify in support of HCR163, HD1, SD1 and for your work for the people of Hawai'i. Please approve this resolution so our hui can directly negotiate a long-term water lease with BLNR.

Mahalo,
Dwight Morishige

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair Rhoads and Members of the Committee on Judiciary,

Mahalo for the opportunity to testify on this important matter. As a kalo farmer and member of the Wai'oli Valley Taro Hui, I strongly support HCR163, HD1, SD1. I urge you to allow us to directly negotiate a long-term water lease, or to exempt us from the water leasing process altogether.

My name is Sierra-Lynn Stone and my family has been farming kalo for generations. The legacy my family has created inspired me to begin farming and it is what drives me to continue. Farming kalo is my passion and a purposeful way to live life. The dedication I have for farming is genuine, and I come before you with the hope that your Committee can help to ensure a future in farming for me, my young family, and the families of all the other kalo farmers in Wai'oli Valley.

My love for farming began at an early age. I was raised in the fields where I learned and grew to enjoy the culture of kalo, the various aspects of hard work, and how to have fun while working. My dream is to carry on this tradition and lifestyle, and to teach my children and future generations of my family to love it as I do.

Initially, my career pathway was very different. After I graduated from high school, I went off to Washington State University to become a registered nurse. While there, my grandfather's health took a turn for the worse. I had the option of continuing school in Washington, but instead, I chose to return home to run the family farm. Since 2010, I have been running the entire farm and steadily trying to grow my operations. Challenges have come and gone for us, but I always persevered and overcame them. That is why I am asking for your Committee's help with this particular matter.

Our farm is 7 acres. Since the flooding in 2018, we have struggled to maintain our normal operations. We have had to deal with many challenges, but we work really hard to continue. Right after the 2018 flood, the Department of Land and Natural Resources informed us that

portions of our centuries-old lo'i kalo irrigation system, a system that predates modern zoning laws and the water leasing provision, was located on conservation land. Since then we have worked hard to get a perpetual easement so we could access our mānowai and po'owai and repair them. We have also worked hard to apply for a long-term water lease with the state and established that our situation is unique. We have worked to gain access to the water needed for us to continue farming. We have worked hard for stability. This dilemma has affected our entire community. It is important to us all, as a hui, to have stability with our water and its delivery infrastructure. With your Committee's help, we will have a chance to ensure enough water for us to gain stability and to continue doing what we love.

While we've been able to make some progress since the devastating floods, all the other farms in Wai'oli, including ours, still have a long way to go. Flooding continues to happen in Wai'oli. Last month, we had to deal with a landslide and the aftermath of heavy rains. It has been really hard.

My love for farming is limitless — it is hard to put into words. The opportunity to love what you do, and do what you love, is an experience that I hold dear. It is priceless and I plan to continue my family's tradition of farming here on the North Shore of Kaua'i. With your Committee's help, I can do just that. The ability to directly negotiate for a long-term water lease, or to be exempted from those requirements, would bring peace of mind that we will be able to continue responsible stewardship of our lo'i kalo irrigation system into the future.

Thank you again for this opportunity to testify. Please vote to approve HCR163, HD1, SD1.

Mahalo,

Sierra-Lynn Stone

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha!

I am a kalo farmer in Wai'oli Valley and also a Board Member of the Wai'oli Valley Taro Hui. My daughters are the sixth generation of their 'ohana in Hanalei and, skipping a couple generations, the fourth generation to be farming lo'i in Wai'oli. Culture and practices like kalo farming are still very much here and they must be protected so they can be passed on to our keiki.

I would have loved to speak with you all during this hearing, but due to the heavy flooding we have experienced in the past few months, I must tend to my farm. But, I am grateful to share my thoughts with you in writing on why **supporting this resolution is so important.**

Although I am relatively new to farming, I know how important it is to grow kalo. I have developed an intimate understanding of how the plant, over many generations, has allowed our people to pass on ancestral knowledge; knowledge that teaches us about sustainability, how to be better stewards of our 'āina, how to act in our environment, and how those principles translate to how we interact with each other as humans.

The April 2018 flood devastated our 'āina and taro patches, and my 'ohana and I have been forced to start over from the beginning. The silver lining in it all, however, has been the closeness and cohesiveness we have developed between us Wai'oli farmers, working together to help to better the conditions to the extent that we can so we can all return to farming. I know I have to do this for my 'ohana and for our Wai'oli farmers' 'ohana, too. We are also so blessed to have a resilient community that has come to our aid many times and most recently when access to our lo'i was blocked because of the landslide — community members provided access by boat so we could keep tending to our kalo.

Despite the rapid changes in our small communities of Wai'oli and Hanalei with tourism and new demographics, it is important for me to let this committee know that Native Hawaiian cultural practitioners and practices are still alive here. This pandemic has also revealed the weaknesses of relying on a single industry. We in Wai'oli have always been, and will continue to be, committed to providing sustenance for our communities.

These cultural practices such as kalo farming must be protected so we can pass them on to our keiki. It is also important to continue these practices so they can be taught to others when the time is right. The ability to negotiate directly with the Board of Land and Natural Resources for a long-term water lease, or even better, to be exempted given our unique circumstances, would greatly help us to secure water that is so crucial for us to continue our cultural practices as Native Hawaiians for generations to come.

Mahalo for your time and aloha,

Nathaniel Tin Wong

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee on Judiciary,

Mahalo for hearing the resolution before you today. **The ability to directly negotiate a long-term water lease with the Board of Land and Natural Resources given our special circumstances would mean so much to our small hui of farmers.** As a kalo farmer in Wai'oli Valley, and a member of the Wai'oli Valley Taro Hui, I humbly continue to care for our precious resources that are an important part of our livelihood and our community.

My name is Chris Kobayashi and my family has been living and farming in Wai'oli Valley for three generations and over one hundred years. My grandfather moved here from Japan and chose to begin farming in Wai'oli. Initially, my family farmed rice, but by the early 1940s, we expanded to wetland kalo.

My father was born in Wai'oli in 1920, the fifth of six siblings. I was born and raised on the same land. My father spent his entire life farming that land. And, this is the same land that I continue to farm today in Wai'oli. One day, my father spoke to me about how worried he was that there might not be anyone left to care for our kalo farm. I thought of all of his blood, sweat, and tears that had gone into clearing, preparing, planting, maintaining, and taking care of the kalo and the land. I thought: I can't let all that he put into our farm be for nothing. At that moment, I decided to take over our family farm.

Over 20 years ago, we started growing various vegetables and fruits using organic methods and inputs. We also applied that knowledge to our kalo cultivation and started implementing sustainable practices. We are always trying to be better. We work really hard to grow food for ourselves and to supply good kalo to small poi millers who make poi or pa'i'ai for their communities. We also support 'āina-based education and organizations; and students and families who do traditional ku'i with this native staple. It has been a heartfelt honor to have been part of this and we hope to continue to supply these friends and others.

Though we continued to harvest kalo until November of 2018, we were unable to plant new fields because all of our equipment, amendments, small tools, and our tractor were ruined in the April 2018

flood. After numerous repairs, we finally got our tractor fully working again in March 2019 and, weather permitting, we started mowing, tilling and cover cropping our farm and preparing our fields. With the huli that we had available to us, **we were finally able to replant some fields and now have 7 lo'i in production. We have the potential to plant 26 lo'i of various sizes. Today, we are still not operating at anything close to full capacity.**

Since the devastation of the 2018 floods, the condition of our stream is in constant flux. Frequent heavy rains cause 'ili'ili to build up and water to breach our banks, requiring us to shovel out the 'ili'ili and build up the banks at the same time. We are constantly working to maintain the māno and 'auwai, especially after heavy rain and wind events (the picture is from flooding that occurred around my house in mid-February). But, our small hui always shows up because this is what we do; we all work together to maintain the lo'i kalo irrigation system. We all depend on managing that system to ensure flowing water for our farms and larger community.



As a kalo farmer, I accept nature's unpredictability. For example, I live in Wai'oli, and several weeks ago, our access beyond the Hanalei bridge was completely cut-off by a landslide. In order to get people and supplies in and out of the valley, we needed to bring them in by boat! I work to maintain my relationship with this land. But, we need help. Where we can, we need stability and predictability in those areas that can be actively managed. We need reliable access to water. The ability to directly negotiate a long-term water lease with BLNR, or the ability to be exempted from the complicated and expensive water leasing process due to our special "legal unicorn-like" status, would allow us to continue to take care of Wai'oli Stream and our traditional lo'i kalo irrigation system. This would be so helpful for us and for future generations to continue farming kalo to feed ourselves, our 'ohana, and our community. We're just small farmers and there is no way we could compete at a public auction. Since 2018, we have been working really hard to understand and go through all the necessary processes. It's a lot, but we also know that it is important for the greater good. As the tides ebb and flow, farmers working with the land and water and kalo are so intertwined with nature and their own lives, that we too ebb and flow.

Thank you for this opportunity to share my testimony and for your continued support of the Wai'oli Valley Taro Hui. I humbly ask you to please vote to approve HCR163, HD1, SD1 today and continue to support our hui.

Mahalo,

Chris Kobayashi

HCR-163-SD-1

Submitted on: 4/14/2021 10:47:14 PM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Hoku Chun	Individual	Support	No

Comments:

I strongly support HCR163, HD1, SD1. I am a third year law student at William S. Richardson School of Law and it has been my privilege to work with the kalo farmers of Waioli. I cannot think of a group of people who are more deserving of your help and support in their endeavor to continue to feed our communities. Many depend on and stand to benefit from the kalo these farmers cultivate. Respectfully, I ask that you pass this resolution and support the people of Waioli.

THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE-CHAIR JARRETT KEOHOKALOLE

Testimony in STRONG SUPPORT of House Concurrent Resolution 163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai‘oli Valley Taro Hui for the Hui's Existing Use of Water from Wai‘oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021 at 10:00 a.m.

Via Videoconference

Aloha Chairs, Vice Chairs, and Honorable Members of the Committee on Judiciary,

My name is Ashley Kaono and in my capacity as an advocate, a recent graduate of the William S. Richardson School of Law, and a Native Hawaiian, I strongly support Senate Resolution 11.

While I grew up in Honolulu, O‘ahu, many of my ‘ohana are from Koholālele in Hāmākua on Hawai‘i Island. I share that to, of course, provide you with some background about myself, but to also express something very simple, and also very special. That is: to know the place I come from, where my ‘ohana comes from, and where many of them remain today. This knowledge is not something I always possessed; it was something I learned much later in life. That is not the case, however, with most of the farmers from Wai‘oli Valley. For them, and their ‘ohana, farming in Wai‘oli Valley has been a way of life for generations, where they continue to steward the same lands and farm kalo on the same ‘āina, with the same kuleana, because they know how important this is to their ‘ohana, their communities, and to all of Hawai‘i nei.

In my last year of law school, I worked as a clinician with both the Native Hawaiian Rights and Environmental Law Clinics to learn more about the practical effects the law has on our communities, and our Native Hawaiian community in particular. What I’ve come to appreciate, but also struggle with, is how complex the law is in these arenas. It is difficult to comprehend, let alone navigate, which is why it is important for me to submit testimony in strong support of this resolution.

While the law can be convoluted and at times ambiguous, many of the principles that our laws have been developed around are clear and manifest. Here, instream, in-watershed cultivation of kalo in a traditional manner has special protection and respect in our State Constitution, our Water Code, and in Hawai‘i case law, where it has been elevated to a mandate. The work of the Wai‘oli Valley Taro Hui is an example of kalo cultivation practiced in a traditional manner, which the black letter of our laws claims to protect. This resolution is the next step in what has been a long and complex journey for the Hui and would allow them to directly negotiate with the

Board of Land and Natural Resources for a water lease. Please vote to support the important work of kalo farming in Wai‘oli Valley so that it, and these communities, can continue to live our culture and be a model of indigeneity and sustainability for the generations yet to come.

I appreciate the opportunity to briefly share my thoughts and express my strong support for the work of the Wai‘oli Valley Taro Hui.

Mahalo for your time and consideration,

Ashley B. Kaono

HCR-163-SD-1

Submitted on: 4/15/2021 12:14:12 AM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Emily Schlack	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

My name is Emily Schlack and I am writing in strong support of House Concurrent Resolution 163 HD1, SD1. The Wai`oli Valley Taro Hui farmers are an incredible example of how cultural traditions and practices can be passed down through generations and continue to grow in strength. The Hui's ancestors have been stewarding this same land, cultivating kalo, and feeding the IÄ• hui for generations, and theirs are the voices who should be heard in decisions regarding Wai`oli Stream, which they have been caring for since time immemorial. Furthermore, the hui should be able to directly negotiate with BLNR for a water lease as they know this area and Ä• ina best. These small family farms are so integral to the community both of Kaua`i and the larger community of Hawai`i. In order to preserve our beautiful Hawai`i nei for future generations it is essential to support local farmers both as cultural practitioners and as providers of local and sustainable food. I respectfully urge you to pass House Concurrent Resolution 163 HD1, SD1.

Mahalo nui for your time and consideration,

Emily Schlack

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE

Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

My name is MJ McDonald, and I write in **strong support of HCR163, HD1, SD1**. Kalo cultivation is vital for community sustainability and cultural identity. The Wai'oli Valley Taro Hui has stewarded their lo'i kalo for centuries, so there is no one better situated to continue this important Native Hawaiian tradition. The Hui has worked tirelessly to restore their lo'i kalo after the devastating 2018 floods, but they still are in the early stages of recovery and need our support to persevere. The Hui are diligently complying with HRS § 171-58 and should be able to directly negotiate with the BLNR once it has completed the Chapter 343 environmental review process. Please vote to pass this resolution and support traditional lo'i kalo cultivation and the Wai'oli Valley Taro Hui.

Mahalo for your time and consideration,

MJ McDonald

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS AND VICE CHAIR JARRETT KEOHOKALOLE

Testimony in Strong Support of HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawai'i Revised Statutes

April 16, 2021, 10:00 a.m.

Via Videoconference

Aloha Chair, Vice Chair, and members of the Judiciary Committee,

My name is Clarence "Shorty" Kaona. I am a 3rd generation kalo farmer in Wai'oli Valley, 100% Native Hawaiian, and a member of the Wai'oli Valley Taro Hui. **I am testifying in strong support of this resolution.** I have been farming the same kuleana land since I was 6 years old. My grandfather started farming kalo in Hanalei Valley in the 1930s. When he passed away, my Dad took over. In the 1940s, my Dad acquired land in Wai'oli Valley. This is the same kuleana that I continue to farm and that will be passed down to my daughter, JoAnne Kaona, and to the generations yet to come.

When we were kids, we would walk to the kalo patch to work every day. We were tasked with weeding, tilling, planting, and any other work my Mom and Dad needed. I think back to these days fondly. We would make poi every week with a model A Ford engine that my Dad hooked up to our grinder. We would share this with our 'ohana and friends in the community. As long as I remember, we always had a bowl of poi on the table. From grade school and through high school, my brothers, sisters, and I spent countless hours in the lo'i. This was our routine and cultural practice as an 'ohana. I am very grateful for this because it taught me many lessons and values. I learned how to work hard, to work diligently, and to work in harmony with nature. Everything in the environment, including us humans, has an impact on the growth of our kalo.

Because our Hui has always shared one irrigation system, we know how to use water responsibly. If we didn't, our farms and families would not survive. For many of us in the Hui, our families have been working together for generations. This experience taught me the importance of valuing our culture as Native Hawaiians and the importance of 'ohana. I lived in California for some time, but when my Dad passed away in 1986, I moved back to Kaua'i and have been farming kalo in Wai'oli Valley full-time ever since. I knew that no one else would step up to this responsibility, and I really wanted to honor my Dad's legacy and continue kalo farming. I hope to pass down the lessons learned in the lo'i to my children and the generations after them.

My family has been here in Wai'oli for generations, and I work hard to continue our traditional and customary Native Hawaiian practice of wetland kalo cultivation. The devastating floods from 2018 have made it hard to continue. In all of my years here in Wai'oli, I have never seen a flood like that. The damage was devastating. It ruined my equipment and tools, most of the banks that border my patches, and the 'auwai, our traditional irrigation system. The 'auwai needs

continual maintenance and restoration after extreme weather events, which have become more frequent. The struggle to keep up with the needs of our irrigation system has impeded our ability to continue farming at the capacity needed to feed our families.

As I understand it, this resolution has language encouraging BLNR to directly negotiate a long-term water lease with us. It would do so much for my peace of mind. There would still be problems, but it would really help our small Hui. Over the last three years since the floods, we have made some progress; but so much work remains. Despite delays, our Hui regularly cleans out the mānowai, po‘owai, and ‘auwai, which is very important for healthy water flow, streams, and watersheds. Over the years, I’ve come to know that it also helps to prevent flooding. It has been a blessing to have younger farmers like my daughter, JoAnne, who do this work for our farms. Unfortunately, even with all we do to prevent flooding, the floods continue.

As you may have heard, flooding in March closed the road into Hanalei for about two weeks except for emergency response vehicles. As a result, I wasn’t able to get to Wai‘oli to take care of my farm. I went every day to check, but the road remained closed. While they had boat access into the valley, it wasn’t the easiest for some of the kupuna farmers like me.

Today, we are asking for your kōkua to approve this resolution. Doing so would give us a little more stability in Wai‘oli Valley. All we want to do is continue farming so that our traditional and customary practices, knowledge, and lessons, can be continued by future generations. This resolution gives me hope that the younger generations will be able to continue kalo farming in Wai‘oli. This knowledge and the lessons learned can only be gained through the hard work and love that comes with spending time in the lo‘i.

Mahalo for the opportunity to testify in strong support of this resolution of vital importance for my ‘ohana and our larger community. Please vote today to approve HCR163, HD1, SD1.

Mahalo,

Clarence “Shorty” Kaona

HEARING OF THE SENATE COMMITTEE ON JUDICIARY
ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE

Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai‘oli Valley Taro Hui for the Hui's Existing Use of Water from Wai‘oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021, 10:00 a.m.
Via Videoconference

Dear Chairs, Vice Chairs, and Honorable Members of the Senate Committees on Judiciary,

My name is Rachel M. Goldberg, and I am writing to you today in strong support of House Concurrent Resolution 163, HD1, SD1. I am a recent Richardson graduate, and newly admitted member of the Hawaii Bar. In law school, I had the privilege of participating in the first Environmental Law Clinic cohort to work with the Wai‘oli Valley Taro Hui (“Hui”).

The vital role the Hui plays in the environmental and cultural stewardship of Wai‘oli Valley cannot be stressed enough. There is truly no one better situated to continue the Native Hawaiian tradition of lo‘i kalo cultivation. The Hui has a long and rich history of providing poi and kalo across the state. Their practices protect the surrounding Hanalei area from flooding, recharge surface and groundwater, and support the survival of native species. Simply, the Hui embodies sustainability.

In that first clinic, myself and a team of dedicated students and professors assisted the farmers in applying for and securing a right of entry and easement necessary to begin repair to the Hui’s ancient irrigation system in compliance with HRS 171-58.

We visited the Hui on Kauai to situate our understanding of our legal work, and witnessed firsthand the impacts the 2018 floods had on the mānowai (traditional instream diversion structures) and ‘auwai (irrigation ditch) that supports the Hui’s lo‘i kalo cultivation.

Even in the face of such devastation, what was clear in 2018, and is clear now, is that the Hui’s traditional lo‘i kalo cultivation is intertwined with the vibrant ecosystem of the area. As we walked along the mauka reaches of Wai‘oli Valley down to the lo‘i kalo below, I watched as the water continued to flow, recharging the surface and groundwater. There, I saw endemic species of birds in numbers I have never seen anywhere else in my ten years living in Hawai‘i, thriving among the lo‘i kalo.

Few experiences shaped me more in law school than witnessing firsthand the Hui’s mauka to makai biocultural stewardship. It is something often studied, but much more rarely seen. The Hui acts as a hub for the community, allowing others to witness and take part in the living culture of Hawai‘i.

Since then, the Hui has worked tirelessly to comply with the legal requirements necessary to continue the stewardship of this traditional system and practice into the modern era.

Allowing the Hui to directly negotiate with the Board of Land and Natural Resources for a water lease ensures that these benefits to the land and community can continue.

Therefore, I urge you to vote today to pass House Concurrent Resolution 163, HD1, SD1. Please help us bring the work we started three years ago to fruition, and support the Hui, who support the land.

Thank you for your time and consideration,
Rachel M. Goldberg

HCR-163-SD-1

Submitted on: 4/15/2021 9:33:14 AM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaulu Lu'uwai	Individual	Support	No

Comments:

I strongly support this resolution. As a student at the William S. Richardson School of Law who has been working directly with the Wai'oli Valley Taro Hui through the Environmental Law and Native Hawaiian Law clinics, I have seen the many struggles these farmers endure just to continue this tradition of farming kalo to feed their families and community. Every little bit of help for them means a lot. This resolution would provide them with some certainty that at the very least they can work directly with the DLNR to secure water rather have to compete at public action.

LATE

HCR-163-SD-1

Submitted on: 4/15/2021 12:58:40 PM

Testimony for JDC on 4/16/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel James	Individual	Support	No

Comments:

HEARING OF THE SENATE COMMITTEE ON JUDICIARY

ATTN: CHAIR KARL RHOADS & VICE CHAIR JARRETT KEOHOKALOLE

Testimony Strongly Supporting HCR163, HD1, SD1

Requesting the Board of Land and Natural Resources to Enter Into a Long-term Water Lease with the Wai'oli Valley Taro Hui for the Hui's Existing Use of Water from Wai'oli Stream Via Direct Negotiation, Upon Its Completion of Requirements Pursuant to Chapter 343, Hawaii Revised Statutes

April 16, 2021, 10:00 a.m.

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary,

My name is Rachel James and I am testifying today in strong support of House Concurrent Resolution 163, HD1, SD1.

The Hui was devastated by the 2018 floods, has been ravaged by more flooding over the last month, is still in basic recovery mode, and needs our support to persevere. The Hui's perseverance is critical because, the Hui has a longstanding relationship with this `Ä• ina and community and supplies kalo and poi across Kaua`i and Hawai`i nei,

Additionally, the Hui has worked diligently to comply with HRS 171-58 and should be able to negotiate directly with BLNR once it has completed the Chapter 343 environmental review process, and given the Hui's centuries-long stewardship of these resources, there is no one better situated to continue this important Native Hawaiian tradition.

Please vote today to pass this resolution and support traditional lo`i kalo cultivation and the Wai`oli Valley Taro Hui.

Mahalo for your time and consideration.

LATE

April 15, 2021

Aloha members of the Senate Judiciary Committee,

My name is Mehana Vaughan and I am writing in support of HCR 163, HD1, SD1, allowing the Wai'oli Valley Taro Hui to directly negotiate with the Board of Land and Natural Resources for a water lease. I am a life long resident of the north shore of Kaua'i and Associate professor of natural resource management at the University of Hawai'i at Mānoa testifying as a private individual.

The Wai'oli Valley Hui are multigenerational taro farmers respected on our island as hard working stewards of that valley and its waterways. They supply kalo throughout our island and community, and are a critical source of kalo for poi sold across the Hawai'i islands including by Honolulu poi.

In addition, we learned again during the 2018 floods, how critical the lo'i kalo systems the Hui stewards are to protection of the area school, homes, and families. The stream was dammed up at the bridge by a blockade of debris and invasive tree branches, making it difficult for water to exit the valley. Flood waters surrounded the emergency shelter at the elementary school, entered area homes, and covered the highway with over six feet of water, making evacuations or rescues by local emergency personnel nearly impossible. Without the expanse of Wai'oli lo'i kalo, located ma uka of Hanalei town, which allowed upstream waters to spread out and dissipate over a large area designed to handle water, the damage and potential loss of life would have been much worse.

The Hui is still recovering from the damage to their 'auwai system from the 2018 floods. Many lost their entire crop and their ability to replant has been compromised by lower water flows from the damaged system. Yet, they have worked tirelessly to comply with requirements, such as completion of the Chapter 343 environmental review process. It is important to support their efforts to acquire a long-term water lease in order to allow their Hui to, not only restore previous cultivation levels, but remain as much needed stewards of the valley, training future generations to carry on this vital role.

Kalo farming is a constitutionally protected traditional and customary practice, a designated priority water use under Hawai'i law. It is wrong and an abdication of government responsibility, to require taro farmers to compete at public auction to divert water to nourish their lo'i. While this bill pertains only to the Wai'oli Valley Taro Hui, its protections should encompass taro farming Hui throughout the pae 'āina.

Please vote today to pass this resolution and support traditional lo'i kalo cultivation and the Wai'oli Valley Taro Hui. Mahalo for your time and consideration.

Mehana Blaich Vaughan



SIERRA CLUB OF HAWAI'I

LATE

SENATE JUDICIARY COMMITTEE

April 16, 2021 10:00AM Via Video Conference

In **SUPPORT** of **HCR163 SD1**:

Supporting the Wai'oli Valley Taro Hui and Traditional Lo'i Kalo Cultivation in Wai'oli, Kaua'i

Aloha Chair Rhoads, Vice Chair Keohokalole, and members of the committee,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **strongly supports HCR163 SD1** to encourage the Department of Land and Natural Resources to directly negotiate a water license with the taro farmers of Wai'oli Valley.

Like much of Kaua'i, the taro farming community of Wai'oli was devastated by the massive floods of 2018. Experts recognize that climate change morphed an otherwise typical rainy weather into a dangerous extreme weather event that this community is recovering from.

We urge the legislature to support the recovery of this community and the perseverance of their unique traditional kalo farming practices by facilitating their compliance with state laws protecting stream water. The Native Hawaiian residents of Wai'oli have been farming kalo -- and supplying kalo products to Hawai'i nei -- for generations. They have a close relationship with this land and they have demonstrated their commitment to steward these natural resources over centuries.

The hui of taro farmers that have come together in Wai'oli to re-build have done so in complete compliance with all of the state protections for natural and cultural resources, especially stream water. They are currently working to complete all of the requirements of Haw. Rev. Stat. §171 and §343.

Given their use of this stream water is relatively small and is expected to not have a significant impact on the environment, and that there is no one else anywhere better qualified or more committed to steward these resources, the Sierra Club supports a directly negotiated license between the Wai'oli Taro Hui and the Department of Land and Natural Resources.

As the legislature works to diversify local agriculture and support communities harmed by drastic changes in our climate, it is crucial to support the small family farms and the traditional kalo cultivation techniques of long-standing communities like Wai'oli.

Thank you very much for this opportunity to provide testimony in **support of HCR163**.

Mahalo,

Marti Townsend, Chapter Director