



**PRESS RELEASE**  
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## **Hawai'i Environmental Court Again Rules in Favor of East Maui Streams, Communities in Stream Diversion Case**

**HONOLULU, HAWAI'I** – In the latest legal ruling concerning the decades-long diversion of East Maui's streams, the Hawai'i environmental court last Friday temporarily slashed the amount of stream water that can be taken from East Maui by more than 5 million gallons per day.

In December, the Board of Land and Natural Resources issued a one-year permit authorizing Canada-based PSP Investments, d.b.a. Mahi Pono, to divert 35.22 million gallons of water per day from East Maui's streams. This permit was issued after the Land Board denied a request from the Sierra Club of Hawai'i and Nā Moku 'Aupuni o Ko'olau Hui for an evidentiary hearing, or contested case, to more closely examine issues such as water waste and environmental impacts. Both organizations appealed the permit decision in separate legal filings.

In a preliminary ruling in favor of the Sierra Club, the environmental court reduced the amount of water that Mahi Pono can divert from East Maui to 30 million gallons per day, pending its final decision on the Sierra Club's appeal. The court made its ruling after finding that the Land Board's decision likely violated the Sierra Club's constitutional right to a contested case.

"For the better part of a decade, all we've asked for is a meaningful look at how much water actually needs to be taken from East Maui, and how actions like lining reservoirs can reduce waste while protecting East Maui's streams and communities," said Wayne Tanaka, Sierra Club of Hawai'i director. "Time and again, the courts have vindicated our right to an evidentiary hearing on these matters, but the Land Board has not listened."

"Now, with additional concerns like severely diminished rainfall patterns, new information on habitat impacts, and unfulfilled stream restoration orders, the need for fact-driven decisionmaking for East Maui's streams is even greater – yet we must once again spend more time, energy, and resources just to help the Land Board do its job."

In its decision, the environmental court found that a Hawai'i supreme court decision along with its own rulings concerning one-year stream diversion permits for 2021, 2022, and 2025 all weighed in favor of the Sierra Club.



The court also noted the Board of Land and Natural Resources failed to recognize that Mahi Pono has alternative sources of water that it can also use to irrigate its crops.

It also noted that longstanding and unfulfilled stream flow restoration orders risked irreparable harm to the Sierra Club's members. In 2022, the Water Commission ordered the modification of two dozen stream diversion structures that drain a dozen East Maui streams of water, to address their impacts on the environment and other public interests. With these modifications still incomplete, an issue the Land Board chose to ignore, "Sierra Club members will never regain the time and opportunity lost waiting to use and enjoy these streams for recreational, cultural, and spiritual purposes."

Notably, the record on appeal demonstrated that Mahi Pono would have sufficient access to water to meet its needs under the court's new 30 million gallon per day cap. This includes at least seven million gallons per day of groundwater (less than half of the 18 million gallons per day Mahi Pono pumped in 2025), and over two million gallons per day of unused stream water that is provided to Upcountry Maui and returned to Mahi Pono, as highlighted in the court's decision.

The court's decision does not affect the availability of water for Upcountry Maui.

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About the Sierra Club of Hawai'i: Formed in 1968, the Sierra Club of Hawai'i has over 20,000 members and supporters working throughout the islands to stop climate change, ensure climate justice for all, and protect Hawai'i's unique natural resources. The Sierra Club is the largest, oldest environmental organization in the U.S. We rely on volunteers to support outdoor education programs, trail and native species restoration projects, and grassroots advocacy for sound environmental policies.