

July 31, 2026
Lahaina, Hawai'i

Chair Cook and Members
Water and Infrastructure Committee
Maui County Council
200 South High Street
Wailuku, HI 96793

Subject: Testimony in Opposition to Bill 1

Dear Chair Cook and Members of the Committee:

I respectfully oppose Bill 1, whether considered in its original form or as the proposed Committee Draft (CD1), and respectfully request that the Committee either file the bill or defer action. I am concerned that the Committee is being asked to consider a significant change to Maui County's long-standing Water Availability Policy without the benefit of a complete record.

The Board of Water Supply submitted a formal comment letter on Bill 1, yet that letter was not included in the publicly available committee packet. Because this legislation directly affects the statutory responsibilities of the Department of Water Supply (DWS), I believe both the Committee and the public should have the benefit of the Board's analysis before legislative action is taken. I have attached that letter as Attachment A.

The Board's analysis fundamentally changes the discussion surrounding Bill 1. Rather than supporting the need for legislation, the Board concludes that there is *"no evidence that Bill 1 will result in any timesaving in the processing within DWS regarding subdivision plan reviews."* The Board further concludes that *"DWS already has the ability to re-sequence its workflow to accomplish this; in cases where this is appropriate."*

These findings raise a primary question that, in my opinion, has not yet been answered. If DWS already possesses the administrative authority to prioritize and conduct subdivision construction-plan reviews concurrently with the Director's determination of long-term water sufficiency whenever circumstances warrant, then what statutory problem does Bill 1 actually solve? The Committee has not been presented with evidence that existing law prevents concurrent review, nor has it been shown that DWS has requested additional statutory authority because its existing administrative discretion is inadequate.

The Board also identified a more fundamental concern with the original version of Bill 1. It concluded that the language of the original bill was inconsistent with its stated purpose because it would have required approval of subdivision construction plans even where wa-

ter availability had not yet been verified, thereby removing DWS's ability to condition or withhold construction-plan approval based upon water availability concerns. The proposed Committee Draft appears to address those concerns by restoring the requirement that written verification precede approval of subdivision construction plans.

However, CD1 is not merely a technical correction. It introduces new statutory language directing that written verification of water availability must not delay the Department's review of and comments on subdivision construction plans. That is a materially different proposal from the bill originally introduced. While it may represent an improvement over the original language, it nevertheless establishes a new statutory directive governing how DWS is to administer its review process.

Because the Board has already advised that DWS possesses the administrative flexibility to re-sequence its workflow whenever appropriate, the Committee should first determine why this new statutory directive is necessary. The record before the Committee does not demonstrate that the Department lacks the authority to accomplish the stated objective under existing law.

I am also concerned that the Committee has not been provided with the 20+ years legislative history explaining why Chapter 14.12 was originally enacted in 2007 and reaffirmed in 2012. The existing Water Availability Policy did not arise accidentally. It reflects deliberate legislative judgments regarding the role of long-term water availability in the subdivision approval process. Before modifying that framework, the Committee should understand the reasons previous Councils adopted it. A brief legislative chronology is attached as Attachment B.

For these reasons, I respectfully request that the Committee file the bill or defer action on Bill 1 until:

1. the Board of Water Supply's comments are formally incorporated into the legislative record;
2. the Board of Water Supply has had an opportunity to comment specifically on Committee Draft 1;
3. the legislative history of Chapter 14.12 has been considered; and
4. the public has had a meaningful opportunity to review and comment on the substantially revised proposal.

The Board of Water Supply has advised that there is no demonstrated efficiency gain from Bill 1 and that DWS already possesses the administrative authority to re-sequence its workflow whenever appropriate. If that is so, then Bill 1 does not solve an administrative problem. Instead, it legislates a solution to a problem the Department says it already has the authority to address.

More importantly, the Committee has not been presented with any justification for altering the relationship between the Director's statutory determination of long-term water availability and the administrative review of subdivision construction plans. **The Director's written verification is not merely another procedural step in the subdivision process. It is the statutory safeguard enacted by previous Councils to ensure that development proceeds only after a long-term, reliable water supply has been established.**

Until the Committee identifies a statutory problem that cannot already be addressed through the Department's existing administrative authority, I respectfully submit that the necessity for this legislation has not been established.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John J. Helly". The signature is fluid and cursive, with the first name "John" and last name "Helly" being clearly distinguishable.

Dr. John J. Helly

Attachment A

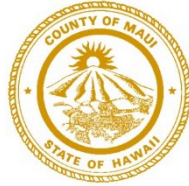
Board of Water Supply Letter (May 21, 2026)

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

JOHN STUFFLEBEAN, P.E.
Director

JAMES A. LANDGRAF
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
<http://www.mauiCounty.gov/water>

May 21, 2026

Tom Cook, Chair
Water and Infrastructure Committee
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

**SUBJECT: BILL 1 (2026), AMENDING THE WATER AVAILABILITY POLICY
ON SUBDIVISION CONSTRUCTION PLANS (WAI-21)**

Dear Chair Cook and Members of the WAI Committee,

Mahalo for the opportunity to review and comment on Bill 1. After hearing testimonies across multiple Board of Water Supply meetings, we have the following comments to offer.

We fully support the desire and intention to improve efficiency and reduce administrative burdens on citizens and companies seeking to subdivide their property. We also recognize and support the kuleana of the County of Maui and the Department of Water Supply (DWS) to protect the long-term viability of our water supply. In that spirit, these are our findings.

1. The language in Bill 1 is inconsistent with the declared intentions of its advocates.
 - a) The addition of, and modifications to, respectively, Sections 18.20.160 (D) and 14.12.040 (B) together require that DWS must approve construction plans even without water verification.

"By Water All Things Find Life"

- b) This directly contradicts Bill 1's framing that it does not change how DWS approves water supply. In fact, it removes DWS's ability to condition or withhold construction plan approval based on water concerns.
- 2. There is no evidence that Bill 1 will result in any timesaving in the processing within DWS regarding subdivision plan reviews.
 - a) Bill 1 would simply require DWS to re-order its workflow to move subdivision reviews to the front-of-the-line but it would not shorten the time required overall. In other words, there is no efficiency gain to be effected by this bill although it would cause displaced work to be delayed and those interruptions may, in fact, lead to new inefficiencies.
 - b) DWS already has the ability to re-sequence its workflow to accomplish this; in cases where this is appropriate.

We encourage the Water and Infrastructure Committee to seek efficiencies in government and appreciate the opportunity to review and comment on this proposed bill.

Sincerely,



Nichole Inouye-Nohara, Chair
Board of Water Supply

cc: Mayor Richard T. Bissen, Jr
Director John Stufflebean

Attachment B

Legislative Background of Chapter 14.12

- 2007 – Ordinance 3502 created Chapter 14.12 (Water Availability Policy) and integrated it into the subdivision approval process.
- 2012 – Ordinance 3934 reaffirmed the policy requiring verification of a long-term, reliable water supply before applicable subdivision approvals and grounded the policy in the protection of water as a public trust.
- 2026 – Bill 1 and Committee Draft 1 propose changes to the administration and sequencing of subdivision construction-plan review.