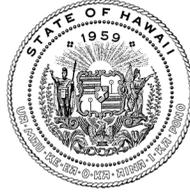


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA



DAWN N.S. CHANG  
CHAIRPERSON

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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA  
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CIARA W.K. KAHAHANE  
DEPUTY DIRECTOR

March 2, 2026

**VIA ELECTRONIC DELIVERY**

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Re: Burden of Establishing Uses Allowed to Continue under HRS  
§ 174C-48(a)

Aloha:

As you know, in correspondence dated August 21, 2025, the Chairperson of the Commission on Water Resource Management (Commission), Dawn Chang, indicated that "temporary use of groundwater as a substitute for surface water during low flow periods is allowed for irrigation uses, including at the Bay and Plantation Golf Courses, pending Commission action on Hawai'i Water Service's water use permit application." This communication was based on Hawai'i Water Service's representation that, prior to designation, groundwater was used as a substitute for irrigation purposes, including on the Bay and Plantation Golf Courses.

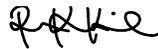
I am now writing to clarify that the burden of establishing that a use may continue under Hawai'i Revised Statutes § 174C- 48(a) pending Commission action on a water use permit application, rests with the applicant. This is consistent with the approach adopted by the Commission during contested case proceedings in *In the Matter of Water Use Permit Applications, Petitions for Interim Instream Flow Standard Amendments, and Petitions for Water Reservations for the Waiāhole Ditch Combined Contested Case Hearing*. Order No. 8, Case No. CCH-OA95-1 (Aug. 15, 1995) ("The

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March 2, 2026  
Page 2

burden of proving that an existing use may be continued until the Commission has acted upon a water use permit application rests with those who seek to benefit from it.”).

Accordingly, any party seeking formal recognition of an existing use pending Commission action should submit a request to the Commission identifying the factual and legal basis for their claimed existing use.

Sincerely,



RYAN K.P. KANAKA'OLE  
Acting Chairperson  
Commission on Water Resource Management

RKPK/skr

c: Deputy Director Ciara W.K. Kahahane, CWRM  
Benjamin A. Kudo, Esq., Ashford & Wriston  
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