

ORDINANCE NO. 3321

BILL NO. 76 (2005)

Draft 1

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.90A,
MAUI COUNTY CODE, RELATING TO REGULATION OF PERMITS AND WATER USE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The Council finds that the County's ability to monitor and manage water resources in conjunction with the County's exercise of its planning and zoning powers is impeded by unreported withdrawals and diversions of water by private, non-governmental parties and unregulated construction of private, non-governmental water systems. Therefore, the purpose of this ordinance is to require private, non-governmental parties to report withdrawals and diversions of water, and to regulate the construction of private, non-governmental water systems.

SECTION 2. Chapter 2.90A, Maui County Code, is amended by adding new sections to be appropriately designated and to read as follows:

"Section 2.90A.050 Reports of use. A. Whenever a report of water use in the County of Maui is required to be submitted to the commission pursuant to section 13-168-7, Hawaii administrative rules, the same report shall be simultaneously submitted to the department. The director shall transmit received reports on a monthly basis to the council and the mayor.

B. Where a well or stream diversion works is part of a battery of interconnected water sources or distribution system (such as part of a ditch system), each report of water use shall list the following for each period of record:

1. Total and average inflow to the system in million gallons per day;

2. Total and average metered usage for the system (including kuleana uses) in million gallons per day;

3. Total and average amounts delivered to each kuleana user, if any;

4. A description of each individual site and user (including kuleana uses) serviced by the system, including all crop types;

5. Acres in actual cultivation by each individual user at each individual site (including kuleana uses);

6. Total and average metered usage for each individual user and site (including kuleana uses) in million gallons per day;

7. Total and average system loss by type of loss (such as evaporation, leakage, seepage, and ditch overflows) in million gallons per day;

8. The capacity and levels of each storage facility (such as a tank or reservoir) at the beginning and end of the period of record in million gallons per day;

9. The location and status (active, inactive, or abandoned) of any and all gauges; and

10. The location and status (active, inactive, or abandoned) of any and all ground and surface water intakes.

C. The department may require additional related information as reasonably necessary to fulfill this chapter's purpose.

Section 2.90A.060 Administrative enforcement. If the director determines that any person has violated any provision of this chapter, the director may have the person served, by mail or personal delivery, with a notice of violation and order pursuant to this chapter:

A. Contents of the notice of violation. The notice shall include at least the following information:

1. Date of the notice;

2. The name and address of the person noticed;

3. The section number of the provision that has been violated;

4. The nature of the violation; and

5. The location and time of the violation.

B. Contents of the order.

1. The order may require the person to do any or all of the following:

a. Cease and desist from the violation;

b. Correct the violation at the person's own expense before a date specified in the order;

c. Pay a civil fine not to exceed \$1,000 in the manner, at the place, and before the date specified in the order; and

d. Pay a civil fine not to exceed

\$1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

2. The order shall advise the person that the order shall become final thirty days after the date of its mailing or delivery. The order shall also advise that the director's action may be appealed to the board of variances and appeals.

C. Effect of order; right to appeal. The provisions of the order issued by the director under this section shall become final thirty days after the date of the mailing or delivery of the order. The person may appeal the order to the board of variances and appeals as provided for in this code. However, an appeal to the board of variances and appeals shall not stay any provision of the order.

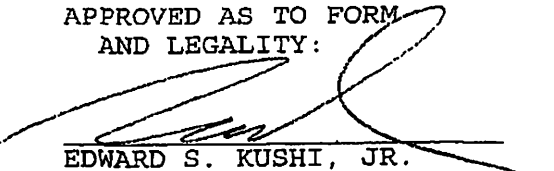
D. Collection of unpaid civil fines. In addition to any other procedures for the collection of civil fines available to the County by law or rules of the court, the County may add unpaid civil fines as herein defined to any County taxes, fees, or charges except for residential water or sewer charges.

E. Judicial enforcement of order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by the order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid."

SECTION 3. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

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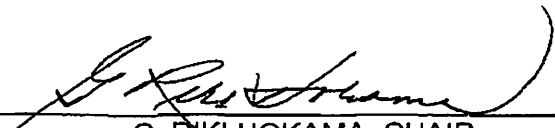
WE HEREBY CERTIFY that the foregoing BILL NO. 76 (2005), Draft 1

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 16th day of September, 2005, by the following vote:

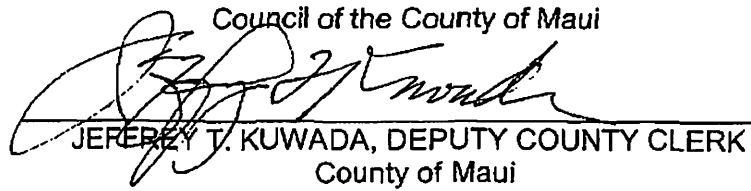
G. Riki HOKAMA Chair	Robert CARROLL Vice-Chair	Michelle ANDERSON	Jo Anne JOHNSON	Dain P. KANE	Dennis A. MATEO	Michael J. MOLINA	Joseph PONTANILLA	Charmaine TAVARES
Aye	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Excused

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 28th day of September, 2005.

DATED AT WAILUKU, MAUI, HAWAII, this 28th day of September, 2005.

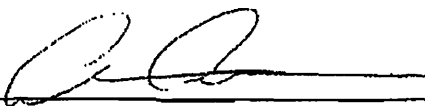


G. RIKI HOKAMA, CHAIR
Council of the County of Maui



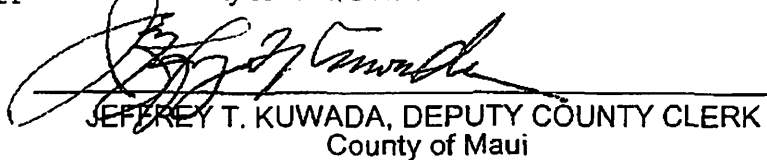
JEFFREY T. KUWADA, DEPUTY COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27 DAY OF Sept., 2005.



ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3321 of the County of Maui, State of Hawaii.



JEFFREY T. KUWADA, DEPUTY COUNTY CLERK
County of Maui

Passed First Reading on August 23, 2005.
Effective date of Ordinance September 29, 2005.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3321, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

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CLERK OF THE
COUNTY CLERK