

**COUNCIL OF THE COUNTY OF MAUI**  
**WATER RESOURCES COMMITTEE**

October 6, 2017

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Water Resources Committee, having met on September 20, 2017, makes reference to County Communication 17-370, from Councilmember Alika Atay, relating to the consent decree in The Coalition to Protect East Maui Water Resources, et al. v. The Board of Water Supply, County of Maui, et al., Civil 03-1-0008(3).

Your Committee notes at its meeting of September 8, 2017 the Council also referred a copy of the consent decree filed in the Circuit Court of the Second Circuit, State of Hawaii, on December 22, 2003 (“Consent Decree”).

A Deputy Corporation Counsel provided an historical overview of the case. The Deputy said over 25 years ago, the Department of Water Supply developed a plan to furnish additional water from East Maui to Central Maui, known as the East Maui Water Development Plan, for which the Board of Water Supply (“Board”) accepted a final environmental impact statement (“FEIS”). The Coalition to Protect East Maui Water Resources, Hui Alanui O Makena, The Sierra Club, and Mark Sheehan (“Plaintiffs”) challenged the FEIS. The Court ruled in favor of the Plaintiffs and stated the County needed to address, through a supplemental environmental impact statement, the possibility of groundwater toxicity and whether extracting groundwater from wells in the defined area would impact stream flow.

The Deputy said the County prepared, and the Board accepted, a Final Supplemental Environmental Impact Statement (“FSEIS”) for the East Maui Water Development Plan. The Plaintiffs also challenged the FSEIS which was settled by the parties through the Consent Decree.

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The Deputy also said East Maui, for the purposes of the Consent Decree, is defined by the boundaries shown on the map attached as Exhibit "A" to the Consent Decree.

The Director of Water Supply said since the Consent Decree was filed, Department priorities have shifted from extracting groundwater in East Maui to focusing on surface water sources. The Director said priorities changed because Hawaiian Commercial & Sugar Company ceased sugar operations in 2016, opening the possibility of additional water availability for domestic use.

The Deputy said the Consent Decree remains in effect and its terms and conditions are enforceable in court. Because the matter involves ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received, your Committee voted 4-0 to recommend filing of the communication. Committee Chair Atay, Vice-Chair Cochran, and members Crivello and Sugimura voted "aye." Committee members Carroll, King, and White were excused.

Your Water Resources Committee recommends that County Communication 17-370 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
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ALIKA ATAY, Chair

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