

APT Committee

From: Jonathan Scheuer <jllscheuer@gmail.com>
Sent: Tuesday, June 14, 2022 5:01 PM
To: APT Committee
Subject: DHHL presentation today to APT
Attachments: APT June 14 2022 DHHL Scheuer.pdf

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Aloha,

Attached please find the slides I presented to the APT today on behalf of DHHL.

mahalo,

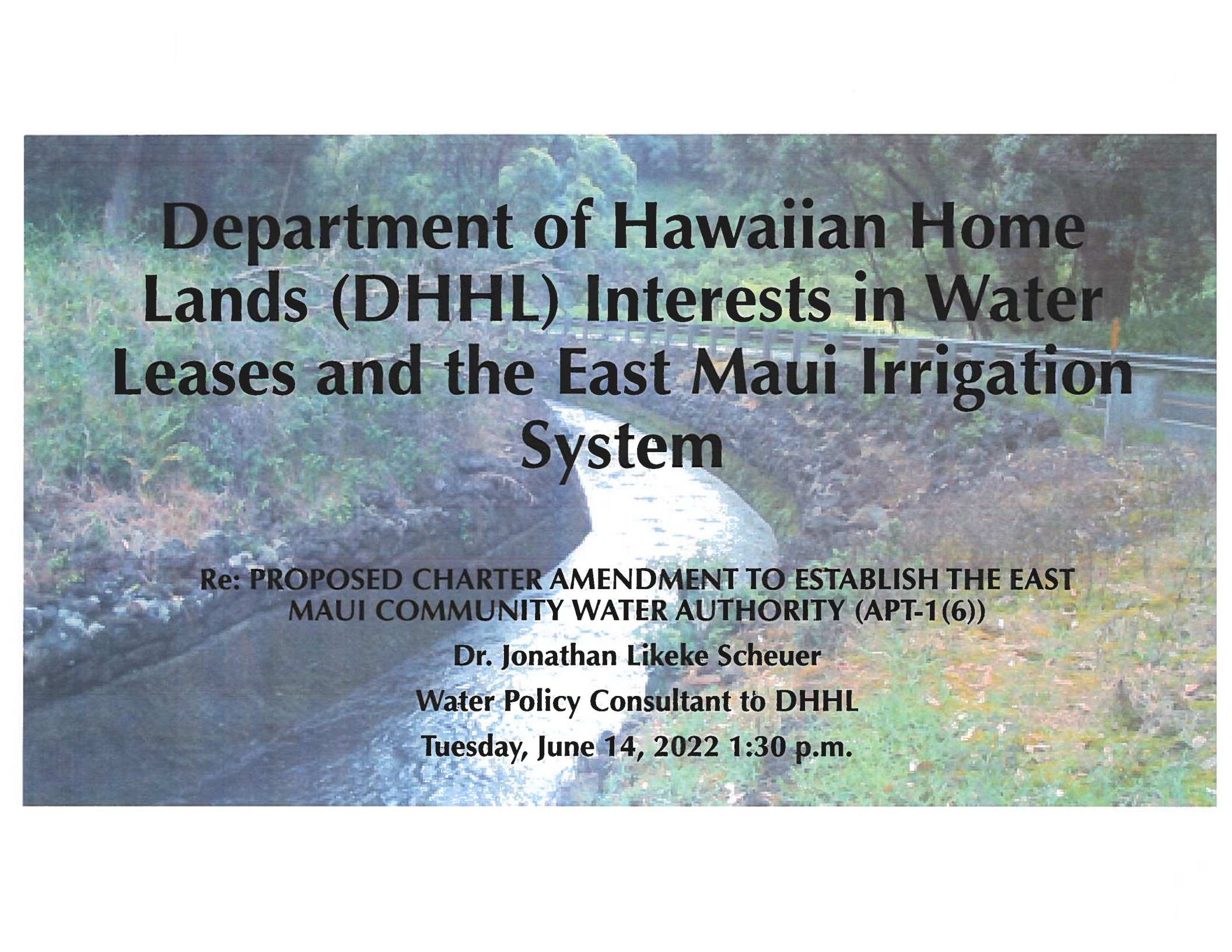
Jonathan

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Jonathan Likeke Scheuer, Ph.D.

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Water and Power In West Maui (2021) is available now from the University of Hawai'i Press



Department of Hawaiian Home Lands (DHHL) Interests in Water Leases and the East Maui Irrigation System

**Re: PROPOSED CHARTER AMENDMENT TO ESTABLISH THE EAST
MAUI COMMUNITY WATER AUTHORITY (APT-1(6))**

Dr. Jonathan Likeke Scheuer

Water Policy Consultant to DHHL

Tuesday, June 14, 2022 1:30 p.m.

Overview

- I. What are state water leases? Where are they being pursued?**
- II. What are the HHC & DHHL Interests in water licenses and leases?**
- III. What are our Specific Interests in the East Maui Irrigation System?**

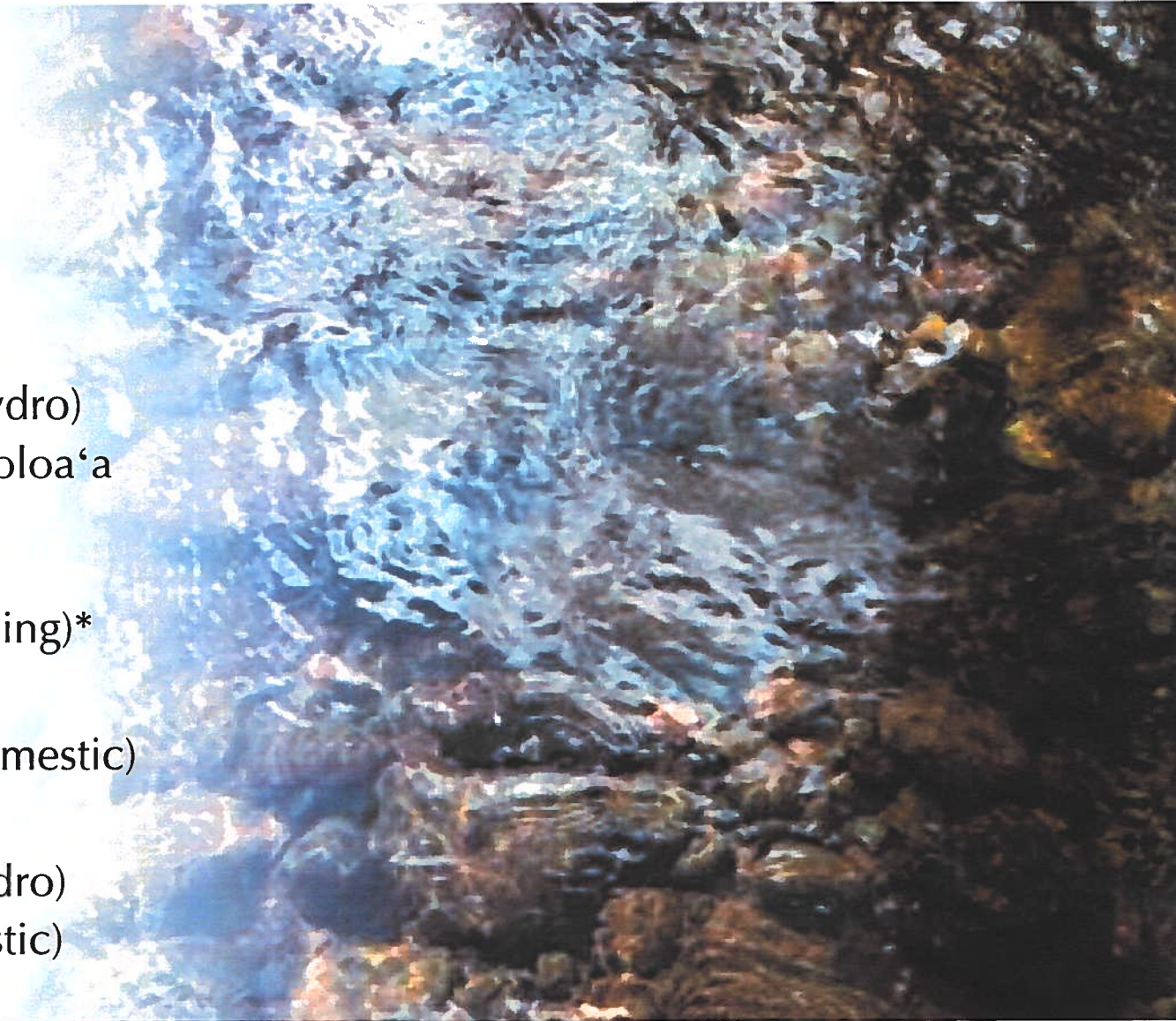


I. What is a water lease?

- Governed by HRS §171-58 and other sections
- Managed by DLNR, Land Division
- Subject to recent, repeated attempts to amend by the Legislature
- A legal agreement with the state to use water
- Subject to certain conditions including
 - Time limits (171-36)
 - Watershed Planning (171-58(e))
 - Environmental Impact Statement approvals (171-58(c))
 - DHHL Reservations (171-58(e), 174C-101)
 - Pricing via an appraisal (171-17, -58(c))

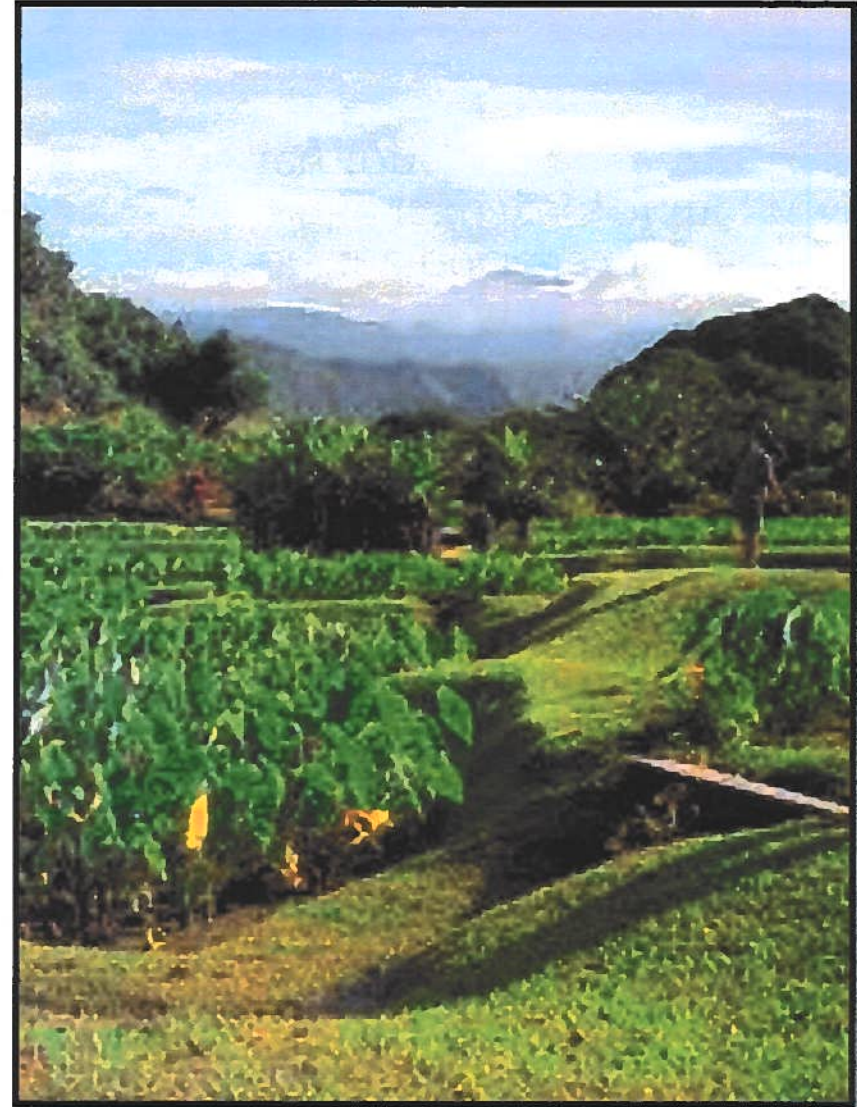
I. Where have water licenses/leases being pursued?

- Kaua'i
 - Wailua "Blue Hole" (Hydro)
 - Groundwater well in Moloa'a (commercial ag)
 - Waimea River (WKEP)
 - Wai'oli River (Kalo farming)*
- Maui
 - EMI (commercial ag, domestic)
- Hawai'i
 - Wailuku River, Hilo (hydro)
 - Ka'ū (ranching & domestic)



II. DHHL's Interests in Water Licenses/Leases

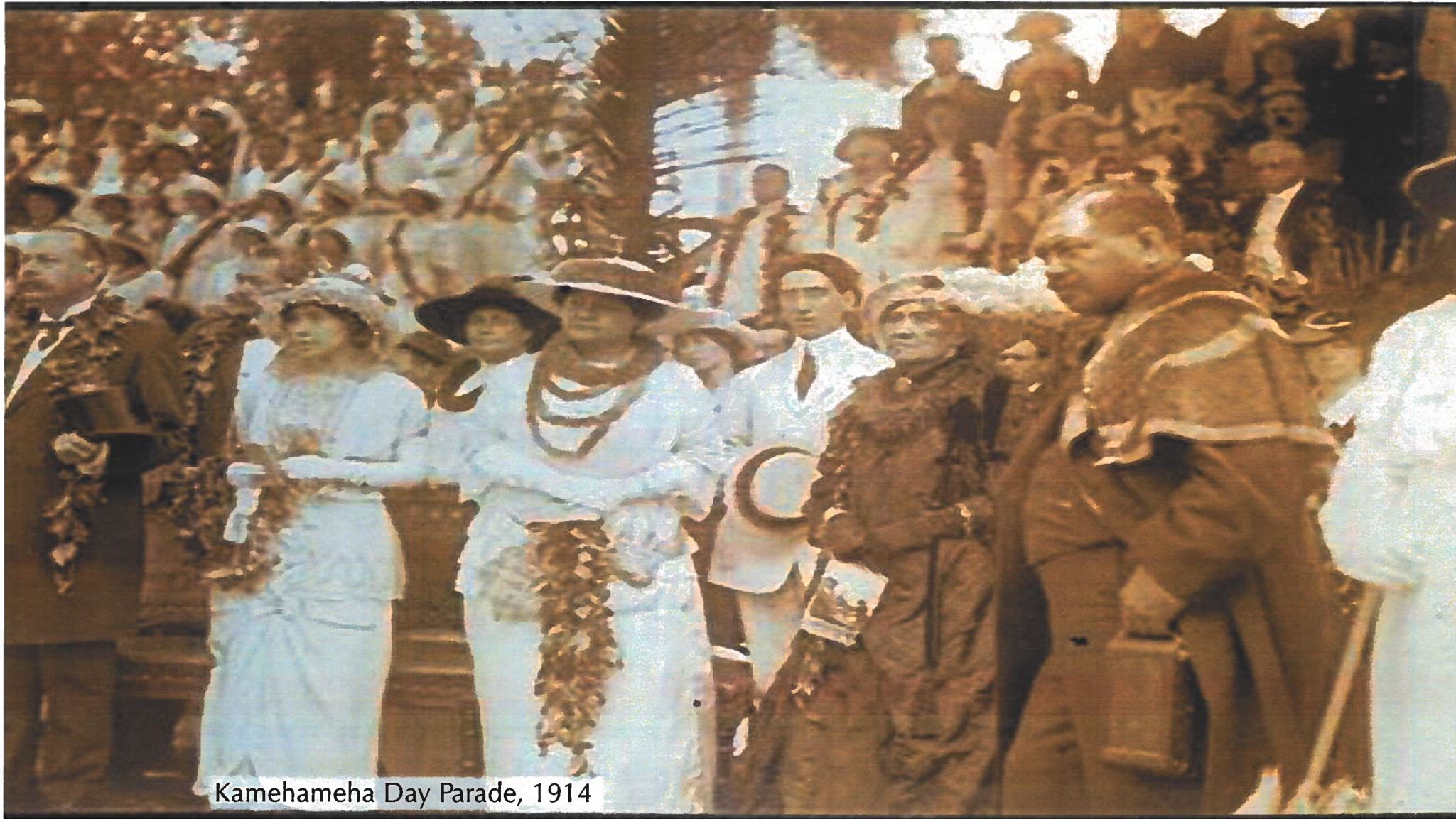
- 1. Water Reservations (171-58(g))**
- 2. NH Traditional and Customary Practices**
- 3. Water License Fees – 30% revenue from water licenses into Native Hawaiian Rehabilitation Fund**





II. DHHL's Interests in Water Licenses/Leases

- DHHL Interests in water licenses were a hard fought, original provision of the HHCA
- Secured as a revenue source in light of concerns that funding the HHCA would come out of "the pockets of the white taxpayers of the territory"



Kamehameha Day Parade, 1914

HAWAIIAN HOMES COMMISSION ACT, 1920

HEARINGS

BEFORE THE

COMMITTEE ON TERRITORIES UNITED STATES SENATE

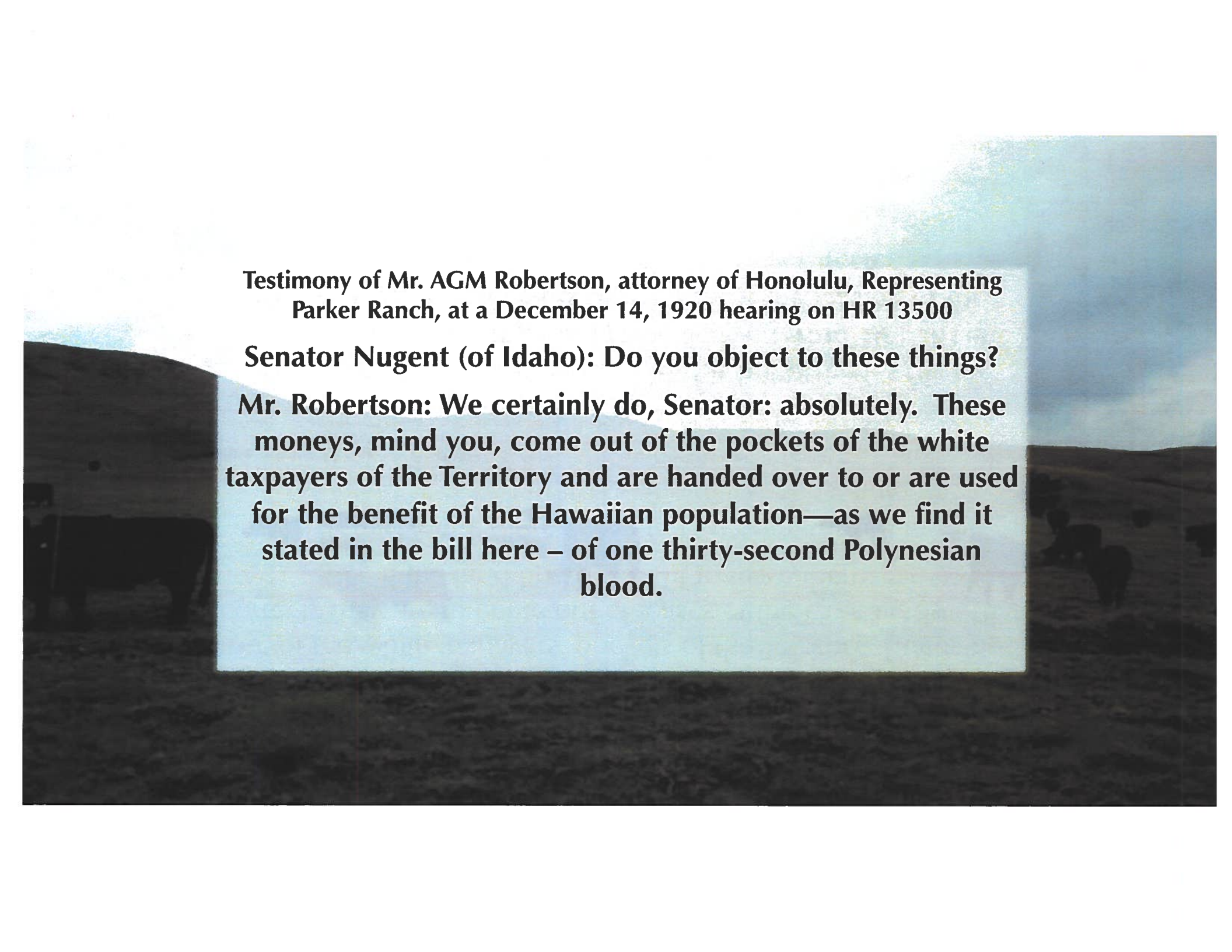
SIXTY-SIXTH CONGRESS

THIRD SESSION

ON

H. R. 13500

**A BILL TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE A
GOVERNMENT FOR THE TERRITORY OF HAWAII," APPROVED
APRIL 30, 1900, AS AMENDED, TO ESTABLISH AN HAWAIIAN
HOMES COMMISSION. AND FOR OTHER PURPOSES**



**Testimony of Mr. AGM Robertson, attorney of Honolulu, Representing
Parker Ranch, at a December 14, 1920 hearing on HR 13500**

Senator Nugent (of Idaho): Do you object to these things?

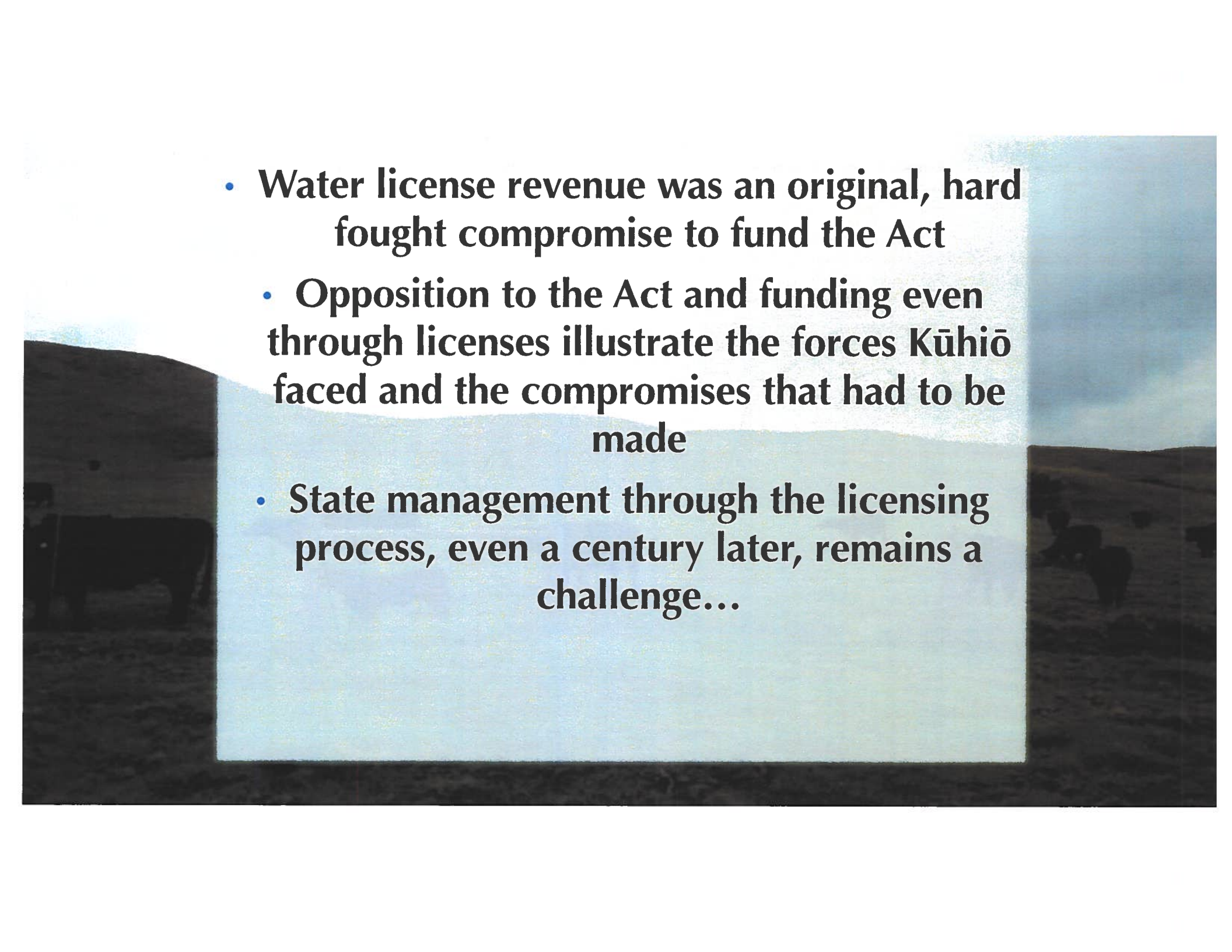
**Mr. Robertson: We certainly do, Senator: absolutely. These
moneys, mind you, come out of the pockets of the white
taxpayers of the Territory and are handed over to or are used
for the benefit of the Hawaiian population—as we find it
stated in the bill here – of one thirty-second Polynesian
blood.**

December 14, 1920 hearing on HR 13500

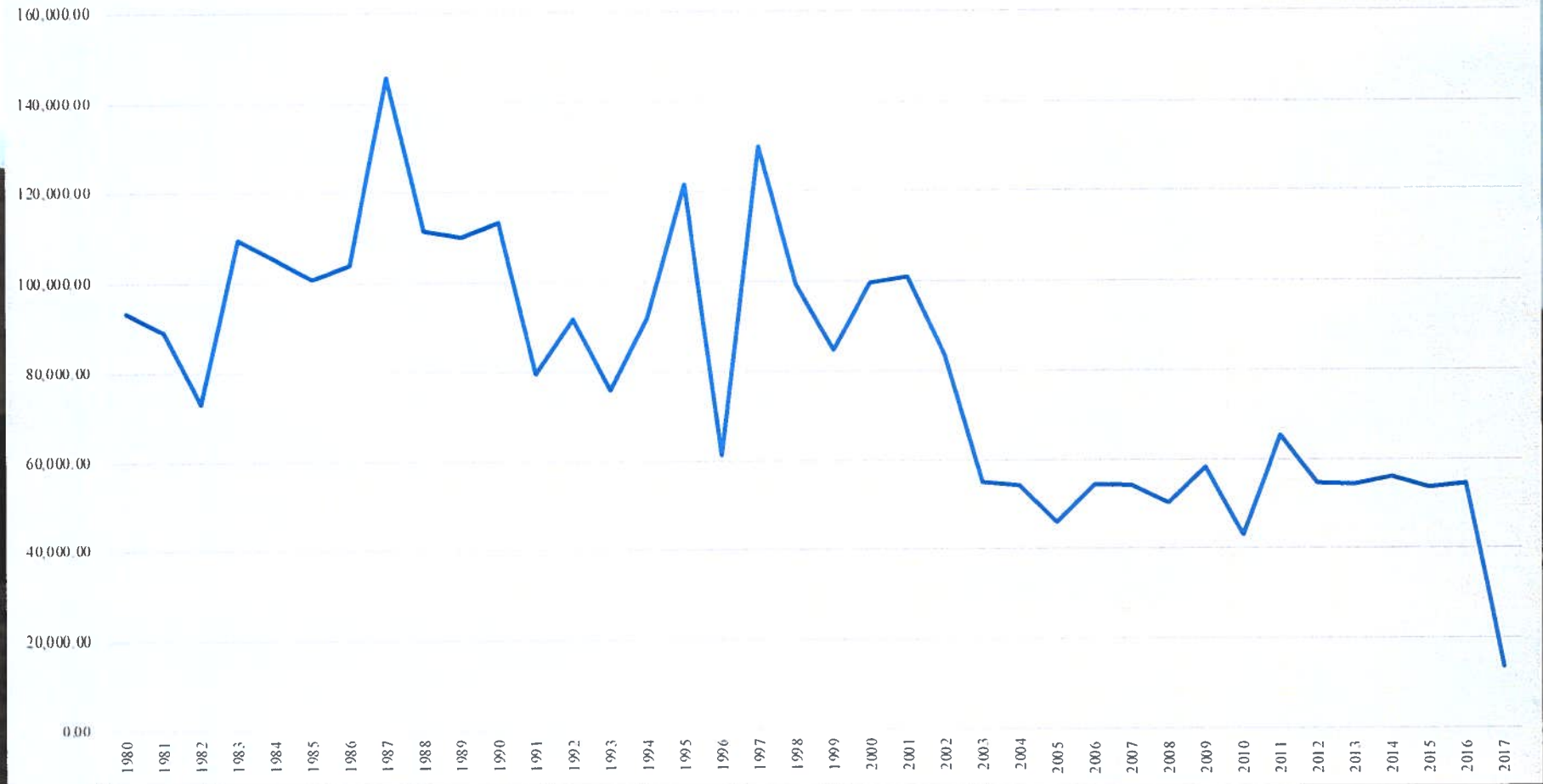
Mr. Kalanianaʻole. Mr. Chairman, may I say just a few words right there?. Mr. Robertson says that these moneys are to come out of the white taxpayers' pockets of the Territory. That is not correct. They are to come out of leases of the cane lands – that is, if the land board sees fit to lease them...

Mr. Robertson. I was coming to that point further in my argument. It does not make any difference where this \$1,000,000 ...comes from....it is money that comes out of the pockets of the white taxpayers of the Territory.

Mr. Kalanianaʻole. Section 213 of this bill provides for the creation of a revolving fund to be derived from 30 per cent of the Territorial receipts derived from the leasing of the cultivated sugar-cane lands and water licenses.

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- **Water license revenue was an original, hard fought compromise to fund the Act**
 - **Opposition to the Act and funding even through licenses illustrate the forces Kūhiō faced and the compromises that had to be made**
 - **State management through the licensing process, even a century later, remains a challenge...**

1980-2017 Water License Revenue into the NHRF



DHHL's Interests in Water Licenses: Where are licenses not being pursued?

- Hawai'i
 - Kehena Ditch
 - Waimea water systems
 - Richard Ha Hydroelectric plant
 - Hū Honua
- Maui
 - Honokōhau Ditch
 - Wailuku Water Company
- Molokai
 - Molokai MWS
 - Molokai MIS
- O'ahu
 - Waiāhole Ditch
- Groundwater, everywhere



DHHL's Interests in Water Licenses: What issues are not being addressed?

- Equity Issues – tying up the resource for 30+ years
- Unevenly applied
- Water “appraisal”
- Reservations vs. “Wet water”

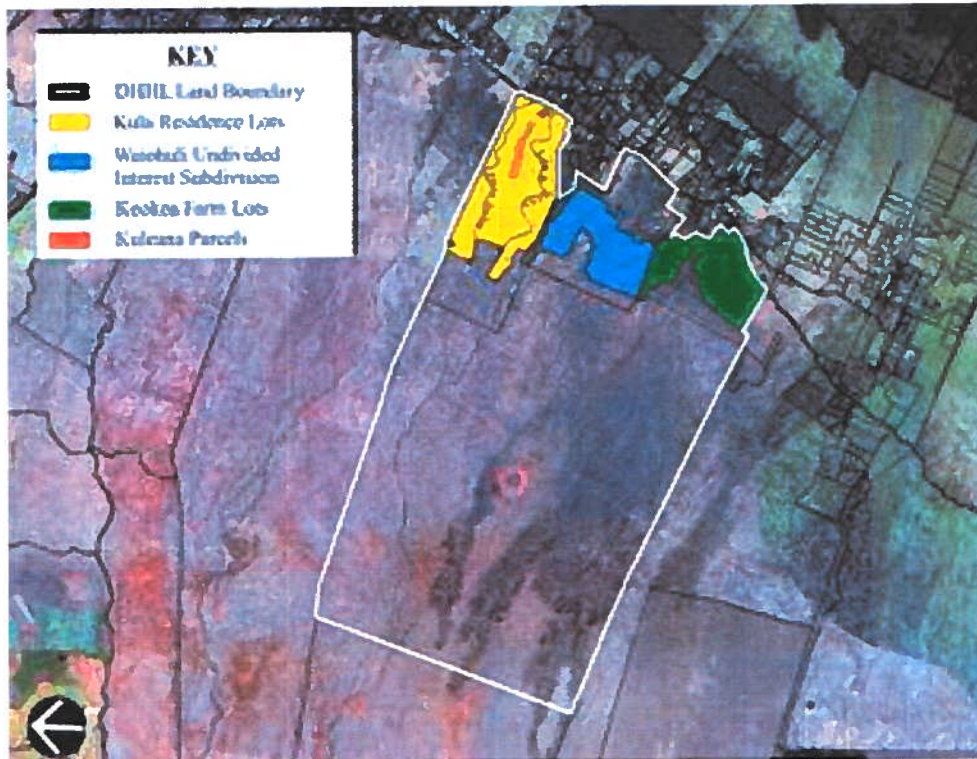


DHHL's Interests the East Maui Irrigation System

- Reservations requested
 - Pending CWRM action
- Infrastructure needed
- Unknown license revenue



Kēōkea-Waiohuli Reservation Request



Priority Project - Develop Water Source and Related Infrastructure for Agricultural and Residential Lots

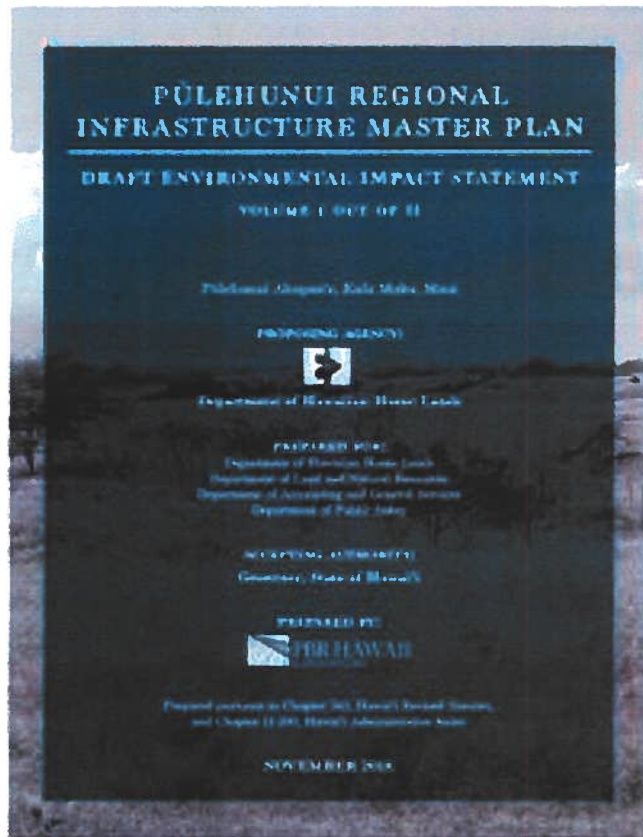
Kēōkea-Waiohuli	Potable	Non-Potable
From SWPP	809,700	578,000
Already Reserved	813,000	
3,940 acs. Gen. Ag @2500		9,850,000
Adjusted Totals		10,428,000

- **No non-potable allocations for:**
 - Existing Ag lots (425,000 gpd)
 - Gen. Ag of 3,940 acres below homes (9,850,000 gpd)
- **Potential Reservations:**
10,275,000 gpd

Pūlehunui Reservation Request

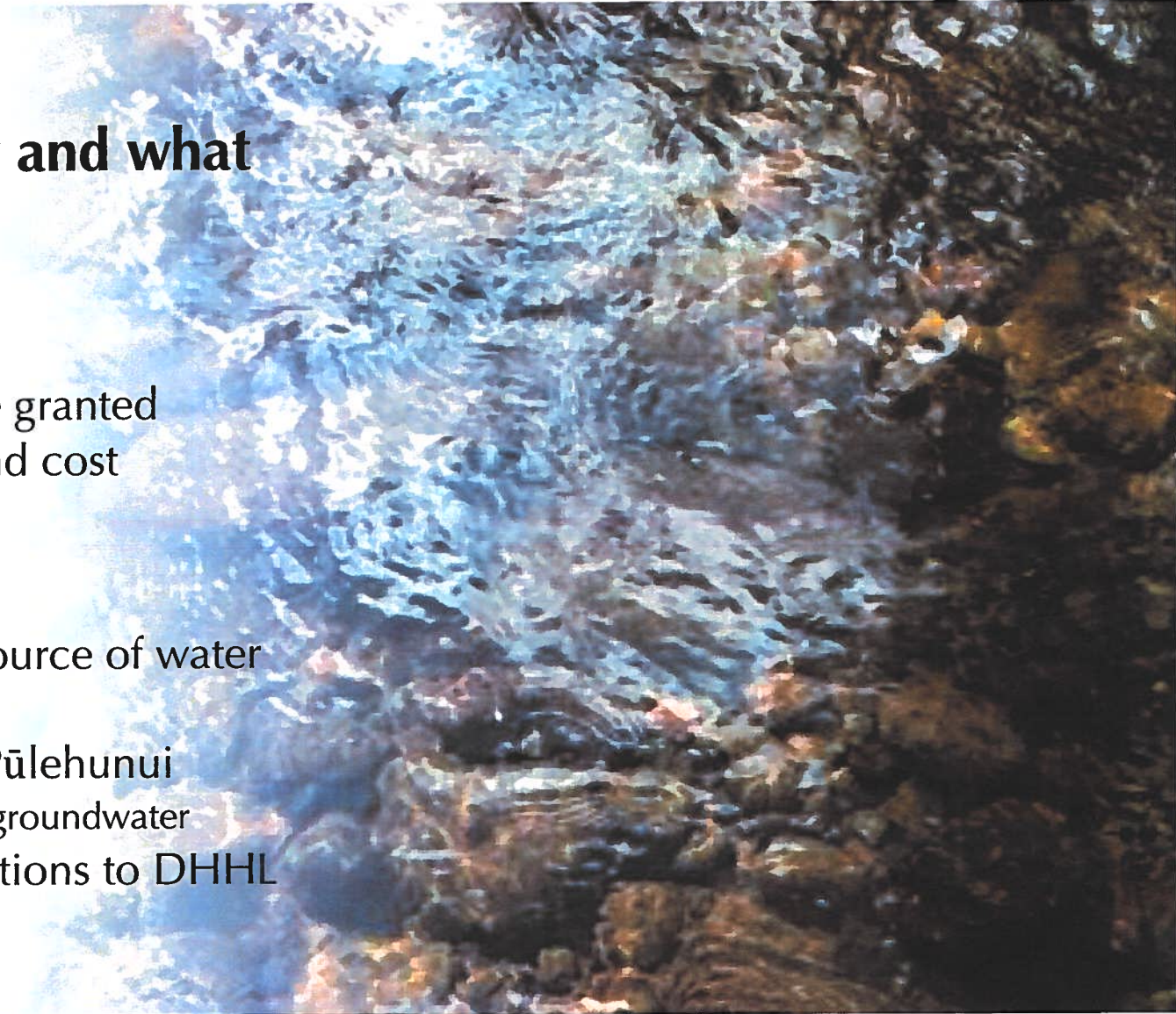
	Potable	Non-Potable
Pūlehunui	1,734,000	1,027,510
Already Reserved	1,734,000	
Adjusted Total	0	1,027,510

- Pūlehunui Regional Infrastructure Master Plan, Draft EIS submitted
- Includes Other Agencies
- New Community Visions
- Groundwater is brackish
- Potential Reservations: 1,027,510 gpd



What we do not know and what we know

- Do not know:
 - If full reservation will be granted
 - Infrastructure needed and cost
 - license revenue
- Do know
 - No practical alternate source of water for Keokea / Waiohuli
 - Most viable source for Pūlehunui
 - Not competitive to `Īao groundwater
 - State and County obligations to DHHL are unambiguous



A photograph of a river flowing through a forested area. The river is in the foreground, flowing from the left towards the center. The banks are covered in dense green vegetation and trees. In the background, a road with a metal guardrail runs horizontally across the frame. The text "Pau / Nīnau?" is overlaid in the center of the image.

Pau / Nīnau?