

AGRICULTURE AND PUBLIC TRUST COMMITTEE

Council of the County of Maui

MINUTES

June 1, 2021

Online Only via BlueJeans

CONVENE: 1:32 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Shane M. Sinenci, Chair
Councilmember Gabe Johnson, Vice-Chair
Councilmember Kelly Takaya King, Member
Councilmember Alice L. Lee, Member (In 2:27 p.m.)
Councilmember Michael J. Molina, Member
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member

NON-VOTING MEMBERS:

Councilmember Yuki Lei K. Sugimura, Member (In 2:27 p.m.)

STAFF:

Kasie Apo Takayama, Legislative Analyst
Keoni Shirota, Committee Secretary
Nicole Siegel, Legislative Analyst
Jean Pokipala, Committee Secretary
Yvette Bouthillier, Committee Secretary
James Forrest, Legislative Attorney
Shelly Espeleta, Supervising Legislative Analyst
Lenora Dineen, Council Services Assistant Clerk

Gina Young, Executive Assistant to Councilmember Shane M. Sinenci
Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson
Axel Beers, Executive Assistant to Councilmember Kelly Takaya King
Sarah Freistat Pajimola, Executive Assistant to Councilmember Keani Rawlins-Fernandez
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama
Evan Dust, Executive Assistant to Councilmember Tasha Kama

Zhantell Lindo, Council Aide, Moloka'i Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lāna'i Council Office (via telephone conference bridge)
Mavis Oliveira-Medeiros, Council Aide, Hāna Council Office (via telephone conference bridge)
Michele Blair, Council Aide, West Maui Office (via telephone conference bridge)

ADMIN.:

Jeff Pearson, Director, Department of Water Supply
Eva Blumenstein, Planning Program Manager, Department of Water Supply

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Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Jeremy L. Kimura, Commission on Water Resource Management, State of Hawaii
Neal D. Fujii, Commission on Water Resource Management, State of Hawaii
Dean Uyeno, Stream Protection and Management Branch Chief, Department of Land and Natural Resources

PRESS: Akakū: Maui Community Television, Inc.
Jack Truesdale, Maui Times Now!

CHAIR SINENCI: . . . *(gavel)* . . . Aloha ‘auinalā, Members. And welcome to the Agriculture and Public Trust Committee meeting of Tuesday, June 1, 2021. It is 1:32 in the p.m. I’m Shane Sinenci, the Chair of the Committee. Going down . . . joining us today, we have voting Committee Members, Committee Vice-Chair, Gabe Johnson. Aloha ‘auinalā and kalispera [sic].

VICE-CHAIR JOHNSON: Aloha, Chair. Kalimera. I’m glad I wrote that one down. I would have never remembered it. Good afternoon, everybody. I hope we had a good lunch. And we’re ready to work. Mahalo.

CHAIR SINENCI: Thanks for being here. Next we have Councilmember Kelly Takaya King, aloha and kalimera.

COUNCILMEMBER KING: Aloha. Is it...God, I guess it’s . . . kali . . . kalimer . . . kalimera. Okay.

CHAIR SINENCI: Kalimera.

COUNCILMEMBER KING: I don’t know why that one’s so hard. I guess because I’m afraid of mixing it up with the olive.

CHAIR SINENCI: Yeah, I don’t know if, we . . . I said kalispera [sic] ‘cause I thought that was the afternoon greeting of this morning’s. . . *(inaudible)*. . . good afternoon. Chair Lee said that she was going to be joining us in a little bit. Next we have Councilmember Mike Molina. Aloha ‘auinalā.

COUNCILMEMBER MOLINA: Aloha ‘auinalā. And kalimera to you, Mr. Chairman.

CHAIR SINENCI: Aloha ‘auinalā. Thank you for being here. Next we have Councilmember Tamara Paltin. Aloha ‘auinalā. Kalimera.

COUNCILMEMBER PALTIN: Kalimera and aloha ‘auinalā kākou mai Maui komohana.

CHAIR SINENCI: Mahalo for joining us, the West side. And next we have Council Vice-Chair Keani Rawlins-Fernandez. Aloha ‘auinalā and kalimera.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ‘auinalā, Chair, mai Molokaʻi nui a hina and . . . oh, wait . . . kalimera, kalimera kākou.

CHAIR SINENCI: Aloha. Thanks for joining us. Okay, Members. And our Non-Voting Members, for the APT Committee is Pro Tempore Tasha Kama. She’s been asked to be excused. And we also have Councilmember Yuki Lei Sugimura. They’re always invited to join us, if they so choose to. Next, mai ka Administration, we have Mr. Jeremy Kimura, from the State of Hawaii Commission on Water Resource Management. Aloha ‘auinalā, Mr. Kimura.

MR. KIMURA: Good afternoon. Aloha ‘auinalā.

CHAIR SINENCI: Thanks for being here. And also from . . . our Deputy Corporation Counsel, Ms. Stephanie Chen. Aloha ‘auinalā and kalimera.

MS. CHEN: Aloha, Members.

CHAIR SINENCI: Thanks for joining us. And for our staff today, Members, we have Ms. Kasie Apo Takayama, our Legislative Analyst. Aloha ‘auinalā. Next we have Mr. Keoni Shiota.

MS. APO TAKAYAMA: Aloha, Chair and Members.

CHAIR SINENCI: Aloha. Our Committee Secretary.

MR. SHIOTA: Aloha, Members.

CHAIR SINENCI: Aloha. Next, we have Mr. James Forrest, our Legislative Attorney. Next we have Ms. Nicole Siegel, our Legislative Analyst.

MS. SIEGEL: Aloha, Chair.

CHAIR SINENCI: And last. Aloha. Lastly but not least we have Ms. Lei Dineen, our Council Services Assistant. Okay. That’s everybody on board. This online meeting, Members, is being conducted in accordance with the Governor’s most recent emergency proclamation COVID-19. You can see the last page of the agenda for information on meeting connectivity. Members, we have one item agendized today. APT-57, the Water Use and Development Plan for Maui. We will start with testimony. Do we have any testifiers? Ms. Apo-Takayama? We do. Okay. So I’ll go ahead and--testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link, at <https://bluejeans.com/411641115>, as noted on today’s agenda. Testifiers wanting to provide audio testimony should have participated via phone call first by dialing 1-408-915-6290 and entering meeting code 411641115, also noted on today’s agenda. Written testimony is highly encouraged. Instructions on how to submit testimony can also be found at MauiCounty.us/testify. Oral testimony is limited to three minutes per item. If you’re still testifying beyond that time, I’ll kindly ask you to complete your testimony. When testifying, please state your name. If you are testifying

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on behalf of an organization or a paid lobbyist, please inform the Committee. Please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. If you are here to provide testimony, please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. And then once you're done testifying, you'll be asked to disconnect from the call; however you can . . . you're always welcome to continue to view the remainder of the meeting on Akakū Channel 53, Facebook Live, or on MauiCounty.us. Participants who wish to view the meeting only, without providing testimony, please also disconnect at this time and instead view the meeting on Akakū Channel 53, Facebook Live, or visit MauiCounty.us/agendas. Only Councilmembers, Staff, and designated personnel will be connected to the video conference meeting once testimony concludes. I'd like to remind Committee Members, Administration, and the public to please be patient if we run into any technological issues.

. . . BEGIN PUBLIC TESTIMONY . . .

CHAIR SINENCI: So, I'd like to proceed with oral testimony. Staff has been monitoring people. Looks like...we have three testifiers. Our first testifier is Jack Truesdale. Mr. Truesdale, are you here to provide testimony?

COUNCILMEMBER PALTIN: Oh he might be the...(inaudible)...media. I think he writes for somebody.

CHAIR SINENCI: Oh he's . . . okay. Next, we have Wello. Is this Ms. Consuelo? Are you here to provide testimony this afternoon? Can you hear us? No? Ms. Wello? Just jumping on today, just joining us? Okay. Staff do we have anymore testifiers signed up? Is there anyone else wishing to testify? Okay. Seeing none, Members, I will now close oral testimony. If there are no objections.

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Okay. Any objections to receiving any written testimony?

COUNCILMEMBERS: No objections.

. . . END PUBLIC TESTIMONY . . .

ITEM 57: WATER USE AND DEVELOPMENT PLAN FOR MAUI
(CC 19-162) (CR 20-128)

CHAIR SINENCI: Okay. Great. All right, so like our GREAT meeting we might have a quick meeting this morning . . . this afternoon, excuse me. Okay, Members, we have one item on the agenda. APT-57, The Water Use and Development Plan for Maui. The Committee is in receipt of the following County Communication 19-162, from the Director of Water Supply, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING AN UPDATE TO THE WATER USE AND DEVELOPMENT PLAN FOR THE ISLAND OF MAUI." Attached to the proposed bill is a document entitled "Maui Island Water Use

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and Development Plan DRAFT, MARCH 2019.” The purpose of the proposed bill is to adopt an attached document as an update to the Maui County Water Use and Development Plan, in accordance with Section 14.02.040, of the Maui County Code. Okay. So, Members, prior to the Budget Session, our APT Staff incorporated the addendums to the Water Use and Development Plan for Maui. They were already voted on and attached to the Plan. The addendums can be found in the correspondence dated August 13, 2020, from the Director of Water Supply, with guidance from the Department of Water Supply. I believe Kasie will share the link in the chat. Thank you, Ms. Apo Takayama. The Addendum 08-10-2020, provided updated information on water resource supply and demand that developed after the draft WUDP was submitted to the Board of Water Supply, August 2018. And also approved without revisions by the Board of Water Supply on January 22, 2019. And submitted to the Maui County Council on March 22, 2019. There were major changes that impact water resources during the development of this plan. Including the ending of the sugar cane cultivation and the reopening of contested cases. I think we might just show some screens shots of a couple pages of the addendums. Ms. Siegel.

MS. SIEGEL: Chair. Which page did you want to start with?

CHAIR SINENCI: I believe page 15, was included. No, page 11 included some of the contested cases. We just wanted to show and remind the Members on what was included from the addendum.

MS. SIEGEL: Just one moment, Chair.

CHAIR SINENCI: Okay. While we’re waiting, also included was the establishments of the Interim Instream Flow Standards. Was this page 11? Ms. Siegel.

MS. SIEGEL: This is page 11 from the correspondence from Water Supply, 08-13-20.

CHAIR SINENCI: Oh okay. I was looking for the addendum. Also the Interim Instream Flow Standard assessments and decisions on page 15. Oh yeah, that’s the, that’s the correct one. Okay, and then we’ll go to page 15, scroll down to page 15. Okay also included, Members, was the adopted revisions to aquifer sustainable yields on page 26 and 27. Thank you, Ms. Siegel. And finally the published agricultural plans and irrigation projections for Mahi Pono LLC, on pages 18 and 19. So these were . . . just some screen shots of what was included into the actual plan that was part of the addendums. Okay, mahalo, Ms. Siegel, for sharing your screen. So, Members, as you recollect from the . . . since funding was not available to hire outside consultation, the Committee voted on February 16th, be using OCS Staff to help with this task. So again, mahalo, Staff, for working on that simultaneously during the Budget proceedings for that one. And just as a reminder, Members, due to the size of the document, will not be uploading a new draft every meeting. Instead we’ll share the updated draft halfway through our process. Most, most likely in our first meeting in July, so everyone can see what the document looks like. And then we’ll post the fully updated draft after all our further amendments on one of our final APT Committee meetings dedicated to the WUDP probably in late August so the Committee may vote on the updated draft. Okay, so with

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that moving on to the fourth item that's listed on the agenda today, correspondence dated May 26, 2021, from myself, includes the stream flow and surface water data tables from the Water Use and Development Plan for Maui and the addendum. It also includes table F-21, of the Hawaii Water Plan, Water Resource Protection Plan 2019 update. Members this table up . . . provides an inventory of surface water resources and Interim Instream Flow Standards throughout Hawaii. If you . . . our memo posted today highlights just the Maui sections of the Resource Protection Plan. In discussions with community members and continuing in our efforts to update the Water Use Development Plan brought to my attention that the table and the WUDP needs to be updated to reflect the data provided in the 2019 update of the State's Water Resource Protection Plan. So Kasie can you share the link. If you don't have it from Granicus, Kasie will share the link in the chat. Thank you, Kasie. Okay, so for Members information, for each of the meetings, I'll transmit a similar memo posted on our agenda. So the Members, the public can view only the parts of the plan that I intend to focus on for each APT meeting. Later today I'll also share with the Members my plans for each meeting dedicated to the Maui Island Development Plan through the end of August. But if Members want to speak to any items, please let Staff know if we can place it on the agenda. Question from Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a quick question regarding what Ms. Apo Takayama, the link that she shared in the chat. So on page 3 it starts with Addendum. Is this an update to the Addendum or is the Addendum being incorporated into the Plan itself or the WUDP itself?

CHAIR SINENCI: Yeah. And thank you for the question. Yes. All of the addendums been included into to the Plan. However, we can't show you the . . . the act . . . where, where it went in the plan till we, we finally vote on it. So, in the meetings ahead we'll just probably get consensus from all the Committee Members, and then probably in August we'll go ahead and vote on all of the amendment. Mahalo, for that question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR SINENCI: Yeah. So with that, Members, we've invited Mr.—

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair. . . *(inaudible)*. . .

CHAIR SINENCI: Oh, we had a question from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I didn't read through the incorporated addendum. But my community just had a milestone event and I...I'm not assuming that they had a chance to incorporate it yet, but Honokohau got some IFS from the CWRM. And that's a huge thing. I don't know if you watched some of the testimonials, super heart touching. But just wanted to make sure that we could get that in there before we vote on stuff.

CHAIR SINENCI: Okay. Will do. And we can, we can check in with Mr. Kimura, since he'll be coming on next. So we can ask him that question.

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COUNCILMEMBER PALTIN: Oh cool.

CHAIR SINENCI: Yeah.

COUNCILMEMBER PALTIN: Thank you.

CHAIR SINENCI: Okay. Mahalo, Member Paltin. So from the Commission on Water Resource Management, today Mr. Kimura is here to educate us on the 2019th update, Table F-21, Other Stream Related Data. So, I understand Mr. Kimura brought a few members of his team with him today as well. So, Mr. Kimura, would you go ahead and introduce your Staff who's with you today?

MR. KIMURA: Sure. Thank you. Good afternoon, Chair and Councilmembers. Thank you for having me back again. You mentioned that I'm here to educate you guys, but it sounds like you guys are up to speed with everything. So, I'm just probably adding just a little more information on the top. But, yeah joining me today is the head of our Acting Branch Chief for our Water Resource Planning Section, Neil Fujii. And also the Branch Chief for the Stream Protection and Management Branch, Dean Uyeno. So, I assume that you guys will have a lot of questions for him and he'll be able to answer a lot of your questions in terms of stream monitoring data as well as our IIFS process. So with that, I also . . . I have a PowerPoint really quickly I wanted to share. So if it's okay I'll go ahead and share it?

CHAIR SINENCI: Okay, hold on real quick. Members, I'd like to designate Mr. Kimura and his resource persons under Rule 18(A) of the Rules of the Council, if there are no objections.

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Okay, great. Yeah, okay. Go ahead, Mr. Kimura.

MR. KIMURA: All right--just a second here--okay, I hope everyone can see that. And so, I'm just going to really briefly talk about our update to the Water Resource Protection Plan. And it will just be very brief as I mentioned. Then we can go straight into your folks questions regarding the stream data for Maui Island. So, you know, just talking about the Water Resource Protection Plan update and we'll just go straight into Maui Island IFS after that. As I've shown last time, and you are all familiar with, this is the diagram of the Hawaii Water Plan Components. And in red here, we're talking about the Water Resource Protection Plan. And the way it's set up here, the way the plans' fit together, the Water Resource Protection Plan is as you folks are using it and the, and the County's using it as a reference document to really outline what the limits of the quality and quantity are of the fresh water resources. It lays out how we're managing those resources as well. So, that's, that's how the Water Resource Protection Plan is used in this fashion, feeding down into the County Water Use and Development Plans which you guys are dealing with now. So, we started it in 2014, our update, we had it adopted by the Commission in 2019. Some of the things that were included in this update of the Water Resource Protection Plan is we wanted to, and I'll talk a little bit more about

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this in a second. But, as opposed to being just a reference document which the 2008 Water Resource Protection Plan is where it's like a catalog of our management, management tools, and sustainable yields and things like that. We want it to be more of a plan for the Commission itself where we can sort of in a . . . say in our visions and goals and, and really chart out the next five years to improve water resource management in the State. We also . . . but, but in recognizing it is a reference document, we've updated our Sustainable Yields, Instream Flow Standards--excuse me--and any rulings and directions, we included in there as well, you know, Supreme Court rulings, contested case hearings as well as new DHHL reservations that are in there. So, just really quickly this was sort of the logic with developing this new plan that we had in 2019 was that we would use sort of like a broader data gathering process to inform our actions going forward for the next five years. So, we . . . besides in addition to updating the 2008 document with the information that was in there, we also sought input from the Commission. We held Water Workshops which some of you may be . . . been aware of. We had one on Maui, Moloka'i, and Lāna'i. Where we could get . . . identify what we called water resource issues at these workshops. And then also stakeholder input from people who were, who were experts in things like fish and customary rights, water resource experts from the University. So, all that information kind of fed into a development of what we call these major water resource issues and goals which came out to maybe about ten of these. And really things where the management, currently, of water resources in the State, are really lacking. And so, what are we going to do to meet those, meet those things. You know, some are really obvious. Responding to climate change, for example, protection of publisher's resources are lacking, clear enforcement policies. Those types of things were, were . . . came out and identified. So what we did was we looked at our existing tool . . . toolbox of management tools, basically, and said okay, well, what, what fits and what doesn't, what don't we have to meet these goals that were identified to us that we need to be meeting to improve our protection of water resources. And so, that's where we came up with sort of a five year action plan and you'll see that in the Water Resource Protection Plan now, that's listed. But like I said, it's also a reference document that the other components of the Hawaii Water Plan reference for their, for their information and development of those individual components like the Water Use and Development Plan that you folks are working on. So, in that regard, there's updated sustainable yields. And if I could clarify really quickly, you know, I know the focus today is on surface water but I think there's . . . I've heard in the past some confusion about the sustainable yield setting process. So, if you look at Appendix F of the Water Resource Protection Plan, it's a great table to show what sustainable yield number we're picking and why that number was chosen. In many cases, the policy for the Commission is that as you know sustainable yield is developed by looking at the latest groundwater recharge estimates for the State, right? So, usually it's the US Geological Survey doing those estimates. And so when they, they come up with an updated study, we take that information, those recharge estimates, and compute new sustainable yields. Now, sometimes, what we've seen in many cases, is the sustainable yield estimates actually increase. And, and there's two reasons for this; one is because the estimation and measurement method for looking at what water goes into the ground to recharge our, our, our aquifers is getting better. And so, there have . . . you, you get a better idea of the different components like land cover, forest, right, forest changes, and, and as well as stream flow, you know, of recharges the aquifer

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as well. So, they get a better idea of that. And they also . . . they're also able to measure it on a smaller time scale. So instead of estimating rainfall for a month, they can estimate rainfall by the hour for some of these places. So because of that, many places the sustainable yield goes up; however, the policy for the Commission, Commission Staff anyways, we recommend the lower number even though those recharge estimates might be outdated. And that's just because we're trying to be precautionary on the, the resource because we, we know like in most, most cases the, the science is, is still to be determined in many cases. And they're, and they're . . . we're still learning things about our geology and hydrogeology of our island. So, we choose the lower number unless there's a robust monitoring network, if there's a deep monitor well in that aquifer or data that justifies going away from that lower sustainable yield. So, that's laid out in Appendix F, Table F-10, of the Water Resource Protection Plan. So you can see where we've deviated from that number and . . . or what the new number is. We also updated the Water Use Demand. So, this comes directly from the Water Use Development Plans that you folks are working on. So, as well as increase the water use reporting information that the Commission will have. And as, you know, we're getting better. People are starting to report their water use. It used to be very abysmal for a long time, but people are getting better with reporting their, their, their water use information which is a requirement legally for anyone who has a well or stream diversion. In case anyone asks, it's, it's, it's a legal requirement. And also, as we will focus on later, you guys will have questions on today as updating the Instream Flow Standards that's in Appendix F. So, I won't talk about this because, I think, Chair, you gave a very good summary of the timeline. But I just wanted to put it here in case, just for reference but we're . . . we adopted in reference to the other components that you folks are working with. So you can see in July 2019, we adopted the Water Resource Protection Plan after you guys got the first draft, I guess, submitted to you folks. But before these addendums were submitted August of 2020. And just below, here on this slide, I have a link to where you can see the component. The Water Resource Protection Plan is a very, very big document. We've broken it up into sections. So, you can go to our website and download specific sections you might be interested in such as the monitoring of the resources or sustainable yield IFS or, or legal . . . our summary of the legal decisions that are impacting water resource management for the Commission. So getting back specifically to Instream Flow Standards for Maui island, you . . . I, I just put this here because, Chair, your correspondence, it, it summarizes what's in, what's in the Water Resource Protection Plan. And then two things, and, Dean, the head of our Stream Protection Management Branch can talk about this more, but many of you probably know this. But a lot of the streams, this . . . the Interim Instream Flow Standard that was adopted, was basically the status quo in 1988. You see it referenced here in the Rules. So, when you see this HAR 13-169 listed as the IIFS, just know that it's the status quo at that time was set. And Dean can speak more, more about this. But the Commission, as was mentioned, is moving to setting more IFS. So, what's the limitations of the 2019 update? For one, we don't have any streamflow data in the Water Resource Protection Plan. So, current information about streamflow data is not there. We just have the Interim Instream Flow Standards if they were set at the time. For, for reservations for the Department of Hawaiian Homelands, we only have at 2019 . . . in 2019 when we adopted the plan, we only looked at . . . at the time we only . . . had only worked on groundwater reservations. But, we are working on surface water reservations

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for the Department of Hawaiian Homelands. As . . . those of you who have tuned in to our last Commission meeting when I've heard, heard some of that, that discussion around that. But . . . and then the other thing is, there were additional Instream Flow Standards that were Interim Instream Flow Standards that were adopted after the plan. And those would be in our Instream Flow Standard Assessment Reports (IFSARs). All these, all these great acronyms. So that came after 2019. And so, as I mentioned, Dean can speak, speak more to that. I will mention, since it was brought up about most recently for Honokowai, the IIFS that was adopted by the Commission, we were waiting for the minutes of that meeting to be adopted for all intents and purposes that, that IFS is set from the date of the adoption of the meeting. But, we'll get the full discussion and any amendments and recommendations when the minutes come out at this month's . . . or when the minutes are approved at this month's Commission meeting. So with that, I'll go ahead and entertain any questions. And I'm sure you have a lot for Mr. Uyeno.

CHAIR SINENCI: Mr. Kimura, did you want Mr. Uyeno to provide some comments before we go to Q and A?

MR. KIMURA: No, I think, you know, he . . . Dean, feel free, I don't know if you want to say anything. But I, I think maybe the best use of your folks time might be to . . . if you have specific questions on stream data or Interim Instream Flow Standards. And, I'm probably not the best person to answer them. So, Dean can answer them directly.

CHAIR SINENCI: Okay. Mahalo, Mr. Kimura. And I just had a quick question. When . . . what's the timeline on the Water Resource Protection Plan? Do they go every five, ten, 15 years, updates?

MR. KIMURA: Yeah, we're . . . we . . . we're . . . we try to do every five years but as you know, government moves like molasses and the State's no exception. So, yes, we'd like to keep it on a five year update. I will mention though that as you can see, you know, all these plans, they're moving targets. And, already we've identified in the Water Resource Protection Plan, we're lacking in terms of things that weren't addressed then and we didn't do quite a good job on. But, the, the plans as a whole, there's a guidance document which we call the Hawaii Water Plan framework. And that's like the sort of guides the preparation at each of the Hawaii Water Plan components including the Water Use Development Plan. And so what I think what we're working on now is updating that guidance document so you can really set the standard for all the Hawaii water plan components like the Water Resource Protection Plan, like the Water Use Development Plan. So there's a more clear direction to each of the preparers on addressing issues such as public trust protection and obligations, agriculture, better estimations and its impact. Things like that. So anyway, that's what we're working on currently and we expect to complete that first maybe in . . . probably the next year or so. And then, we'll probably move on to doing the next update of the Water Resource Protection Plan. However, we can always do a partial updates especially when it comes to things like sustainable yield. So, for example, on the Big Island, there's been a request to look at how two aquifers there, Waimea and 'Anaeho'omalu, which are two aquifers on the Big Island. How the sustainable yields are handled and would they be

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combined. And if the Commission makes an action to combine those aquifers, combine the sustainable yields, that would be considered an update to the Water Resource Protection Plan and we would do public hearings. And then do a partial update then. So that website link that I listed there, this is where we're cataloging all of our addendums to the Water Resource Protection Plan. So that's probably the best place to get the most update . . . updated information on that.

CHAIR SINENCI: Okay, great. Thank you for that. Okay, Members, we're going to open it up for questions for both, Mr. Kimura, Mr. Uyeno. We have a question from Committee Vice-Chair Councilmember Johnson. Go ahead.

VICE-CHAIR JOHNSON: Thank you, Chair. Good afternoon, gentlemen. Thank you for your very scientific answers. I have some questions. So, I . . . we're, we're measuring surface water, how much is there? Do you guys measure how much the rain versus fog drip add to surface water or is it just one encompassing number or one encompassing measurement?

MR. KIMURA: Maybe I can answer from the groundwater side. So, for groundwater, yes. Fog drip, rainfall is part of the larger water budget. So, you know, the water cycle, if you can picture that, right. So, that component or the input component like Lānaʻi is a good example of where, you know, as we update the vegetation information and knowledge for what type of vegetation's on there, yeah, the fog drip goes into that. That also feeds into, I believe, and Dean, you can, you can correct me on this. But for the US Geological survey, who do, who do the bulk of this . . . these estimations, that, that water budget plays into the base flow that feeds the surface . . . that feeds the streams. So, that's how they getting, you know, 'cause there's some water goes into the container, right, from the recharge, and then any excess usually comes out as baseflow, right. So, it's kind of like the bucket filling up, and then overflowing, and then feeding the streams and stuff. So, that . . . in that way, fog drip and rainfall is part of the streamflow estimates.

VICE-CHAIR JOHNSON: Okay. So, it . . . all right, so you're saying it's, it's almost . . . I see how you're saying. You're putting them in together as one then, yeah? Fog drip and rainfall together as one?

MR. KIMURA: They're measured as separate components as part of the larger water budget, right. So, precipitation in general is a component of the water budget. But, they measure the fog drip component of precipitation--

VICE-CHAIR JOHNSON: Okay.

MR. KIMURA: --as well as just the rainfall component.

VICE-CHAIR JOHNSON: I got ya. So, in, in your Department, do you have Arborists? The guys who are, you know, scientists for, for trees. Are you watching the forest as well?

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MR. KIMURA: So, in the Division of Forestry and Wildlife is primarily where our forest folks reside. In the Water Commission, we rely on the expertise of the University of Hawaii as well as US Geological Survey to help us understand how these land cover changes. So, you might be familiar with the study that the East-West Center has been doing with the USGS looking at how land cover changes over time are affecting the water budget. So, that's one way. So, we're going to take that . . . use the information to inform our Management decisions.

VICE-CHAIR JOHNSON: Okay. You're, you're . . . if I heard you correctly, you, you outsource the forestry experts or do you have a forestry expert in, in your Department?

MR. KIMURA: In the Division of Forestry and Wildlife, are Arborists and Foresters there. But in terms of Commission, decisions that we do directly, I guess, is maybe . . . it's . . . if that's kind of your, your question, we rely on . . . so, I guess you could say we outsource. We rely on the expertise of the US Geological Survey and the University that was informed those decisions.

VICE-CHAIR JOHNSON: Okay. Okay, those are all my questions. Thank you, Mr. Kimura. Thank you, Chair.

CHAIR SINENCI: Mahalo, Council . . . Committee Vice-Chair Johnson. Members, any other questions for our resource personnel? Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. And good afternoon, Mr. Kimura. You know when collecting this data, have you folks experienced any jurisdiction challenges such as obtaining permission to enter private property or needing special permission in any other way?

MR. KIMURA: I'll let Dean speak to that specifically. But, from my experience, I've seen, yes, that's, that's been something that's happened.

MR. UYENO: Good afternoon, Committee. Thank you, for your question. Typically, we don't experience a lot of issues with private landowners. As far as our gauging goes, when we do a lot of our contracting with the US Geological Survey as, as Jeremy mentioned. And in those cases, the USGS is the one that, that handles the permitting issues related to their gauges. And so, there are times when they do meet with landowners and landowners don't want, you know, landowners have certain conditions on the installation gauges or may not, may not allow a gauge to be installed. In those cases, we try to work with the landlord as best we can to get those gauges installed.

COUNCILMEMBER MOLINA: Okay, thank you. Okay. Thank you, Mr. Uyeno. And, one more question. And has that . . . the data, the measurements, has it been determined where on the island the most water is being used?

MR. UYENO: I don't think we . . . we haven't done that type of assessment in comparison of, of the water. But, I mean, in general, if you consider just the size of the system, I mean, East Maui clearly, previously, it's diverted most of the water just because of the size and

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the length of the system. But, in recent years, with the cutback in, in sugar or . . . and, you know, the transition to a diversified ag there . . . the numbers have gone down considerably. And so, at this point, I couldn't give you off the top of my head an exact comparison between, you know, Eastside, Westside or Central.

COUNCILMEMBER MOLINA: Okay, and thank you, Mr. Uyeno. Thank you, Mr. Chair.

CHAIR SINENCI: Mahalo, Member Molina. Members, any other questions? I don't see all of you. So, if you can go ahead and just unmute if you had any questions.

COUNCILMEMBER PALTIN: Chair, I got a question.

CHAIR SINENCI: Oh, go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Kimura, and Mr. Uyeno. My first question was when Mr. Kimura was talking, he said Honokowai. Just double checking that you meant Honokohau?

MR. KIMURA: Yeah. Sorry, excuse me. I misspoke. Honokohau.

COUNCILMEMBER PALTIN: Okay.

MR. KIMURA: Yeah, that's right, Dean? That's right, yeah, Dean?

MR. UYENO: Correct. Correct.

MR. KIMURA: Sorry.

COUNCILMEMBER PALTIN: And then--

MR. KIMURA: Yes?

COUNCILMEMBER PALTIN: --you know, I really, I really thank you folks because, you know, from 1988 till today is almost like . . . seems like close to 40 years, over 30 years. And, and we've been waiting not so patiently for those updated IFS. But a complaint I kind of get from my constituents is, you know, now that these IFS are set, that they're not being met, they're not being enforced. And after waiting for, you know, 30 years and all the due diligence to get the IFS to what they are, it's beyond disappointing that they're not being enforced or measured to be what was set. And so, I just was wondering in us creating this WUDP, would it be appropriate to put consequences or some sort of a mechanisms that these great actions or IFS's or whatever it may be has, has consequences when they're not meet . . . met? I think, you know, one posting was Kauaula is supposed to be 3.4 million gallons a day or something and it's not. Just wondering about that.

MR. UYENO: Yeah, I couldn't speak to putting anything in the County Water Use and Development Plan because that's for the County. This is . . . this would be enforcement

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of the State Instream Flow Standards. So, legally, I think that would be up to the County to determine whether or not to enforce. I couldn't say so. As far as enforcement on our side, we are constantly struggling with that. We don't have specific rules that relate to, to enforcement. And that's something that we are working on. The complexity of monitoring and enforcing Instream Flow Standards is difficult because, just to give you an example, we don't have streams on every gauge--excuse me--gauges on every stream. As you may be aware, you know, we fund . . . we cooperatively fund USGS gauges. And that cost, I think, total was 24,000 for each gauge. And we pay a bulk of that, that funding. And this is for statewide. I think statewide we maintain on the order of 20 something gauges statewide. And there's are . . . there are other co-operators, you know, Department of Water Supply. For example, City and County Public Works, I think, funds some. And the Emergency Management Departments. But the difficulty in enforcement, often lies in, you know, especially for streams, one good storm can change the stream profile. And then, that throws the gauge off. And then that throws into, you know, then our Staff has to go out or USGS Staff has to go out reinspect the gauge. Redevelop a rating curve which gives us accuracy rate of how . . . or gives us the measurements that we need to know what the gauge is measuring, how accurate it's measuring over time. The other thing too is, you know, the . . . when we have low flows. Oftentimes it's . . . unless you have a gauge that's both on the diversion as well as the stream, to be able to determine the difference between a low flow day where, you know, we're starting to enter summertime and drought conditions are starting to take fruit. And so, being able to tell the difference between okay so divert, taking too much water, or is it just a matter of there's just a lot less water in the stream because of lack of rainfall. So, there's all these considerations that we're dealing with. And as we develop Instream Flow Standards, our knowledge is getting better as far as how to what exactly we need to make these determinations. And therefore we're . . . we are working on enforcement rules and, and incorporating what we learn from each of the Instream Flow sensors that we set in order to improve or revise these rules . . . these proposed rules that we're working on.

COUNCILMEMBER PALTIN: And, just to follow up on your answer, it was my understanding that the County turns the WUDP over to the CWRM. Is that correct? But you still don't care whether the County puts enforcement type of things? It doesn't matter to you folks, we just turn it over to you.

MR. UYENO: Jeremy, if you want . . . how that . . . the exact transition. . .(inaudible). . .is.

MR. KIMURA: Yeah, so . . . so, correct. Yeah, we take the acceptance when you folks are comfortable with the Water Use Development Plan in the shape that you would like. Then it comes to us. And then we would do . . . then do our public hearing process before taking it back to the Commission to either recommend approval, or modifications, or whatever. And then it's up to the Commissioners, obviously, what they, what they want to do. But, yeah, maybe just reiterating Dean's point in terms of the. . .or maybe I can speak to, Councilmember, your, your point about what's in there. Yeah, I mean, you folks can . . . we want the document to be useful for the County first and foremost, right. And so, if that's something that you see . . . I'm not going to comment on, on what

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you guys legally can enforce. I can't cause I don't know. I'm not a lawyer, you know, sorry.

COUNCILMEMBER PALTIN: Even--

MR. KIMURA: But, yeah, Dean mentioned it. It's . . . the IFS is a State thing. But if there's, if there's . . . if you see ways for . . . and, you know, I think this, this . . . a term of enforcement, is . . . there's kind of two sides of it - is education and enforcement as well. So if maybe there's components in there that's might help with education as well as, you know, Dean kind of alluded to this a little bit. But, you know the data collection side and, and working with the community to help us, in terms of data collection. And I will just say this too, you know, if, if members of your constituency are saying that we're seeing impacts in the streams, this is a concern like please refer them to us like immediately, you know, with . . . that's, that's information that we want to know right away instead of in the news. And which by then it might be too late. There might be a fish kill or something like that, right. So, you know, refer it to myself or, Dean. Sorry, Dean, you know, put you out there. You can call him too. But, cause Staff, Staff needs to know these things. And so, getting back to the enforcement thing, yeah, we, we just want to make sure that for the Commission Staff, you know, our lens or their filter of the Water Use Development Plan, when you folks submit it to us is, are you meeting the Statutory requirements that's laid out in the code, and are you meeting the guidance that we've laid out in the Hawaii Water Plan framework document which guides the preparation of the Plan. And then, what do the public say when we took it out to public hearing. Is it overwhelmingly in opposition, is it in support, and then all that goes in front of the Commission. And the Commissioners, as a body, will decide whether to adopt, adopt the Plan.

COUNCILMEMBER PALTIN: And, I guess to just follow up on your point as to working with the constituents and those who the stream flow affects most, when we were doing water quality sampling of nearshore waters in West Maui, the Department of Health Clean Water Branch, wouldn't initially take the data that we collected until a QAPP was designed. So, there's nothing like that with CWRM's Staff? You have no problem with taking community gathered data or does there need to be some sort of Quality Assurance Protocol and Procedure?

MR. KIMURA: Yeah, Dean, you probably can speak more to this. But, yeah, we are . . . we're working on designing . . . you know, there's different levels of data quality and depending on the purpose, right. I'll just say internally Dean folks they have their set standards that they're working with. But, we're . . . they're not at the level of what we would say USGS is using which is super high quality. And there's nothing to say that observational data that's relayed to us from the community or maybe like they . . . maybe they see a . . . *(inaudible)*. . . that the Commission has put in that has a gauge at it, that has some . . . they, they've noticed, you know, fluctuations and stuff, that's not to say that's something we can't accept for us yet. Dean, did you want to add?

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MR. UYENO: Yeah, if, you know, in those cases if... we, we rely heavily on citizen complaints. If, if constituents have noticed that a stream has gone dry, and it's supposed to be running, then, you know, certainly, let us know. And, we'll follow up on that.

COUNCILMEMBER PALTIN: Do you have a preferred method of contact? Is it e-mail, telephone? And what, what would that be?

MR. UYENO: Right now, our e-mail address for the Commission is [dlnr - Department of Land and Natural Resources, dot cwrn - Commission on Water Resources Management](mailto:dlnr-cwrn@hawaii.gov). So [dlnr.cwrn@hawaii.gov](mailto:dlnr-cwrn@hawaii.gov). That's our generic account. It gets checked at least weekly. And then we can forward the complaints to the people. Yeah, just because of the current conditions and we're, you know, a lot of us are working out of . . . not in the office. E-mail is probably the best.

COUNCILMEMBER PALTIN: So, that's the preferred method of contact?

MR. UYENO: Yeah, best communication.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you, Chair. Thank you for the leeway and the extra time.

CHAIR SINENCI: No worries. Mahalo, Member Paltin. Members, any other questions for our panel? Yes, Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you so much for being here, Mr. Kimura, and Mr. Uyeno. Yeah, my . . . what, you know, I don't know if you know this but we're looking at potentially, potentially purchasing Wailuku Water Company. And I know there's been some talk about EMI as well. And, I have questions about, about the prices that are being charged for water right now. The leeway that the entity . . . the current entities have as private entities because, you know, we, we view water as a public trust. And yet, specifically for Wailuku Water Company, some farmers are being charged 50 cents per thousand gallons and some farmers are being charged 85 cents. So, I'm told that that's allowable under Hawaii Revised Statute right now. But has there ever been any . . . ever been a discussion about standardizing water use so that there's not that question of discrimination?

MR. UYENO: Yeah.

MR. KIMURA: I think . . . oh, sorry, go ahead, Dean. Do you want to?

MR. UYENO: No, I think that's really a question for the PUC, the Public Utilities Commission. We don't deal with water rates directly.

COUNCILMEMBER KING: Okay, so you . . . are they supposed to go to the Public Utilities Commission before they have that disparity in rates?

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MR. UYENO: Yes. My understanding is that Wailuku Water Company was . . . there is a docket that's . . . number that's been assigned for Wailuku Water Company. They did file documentation, however, that PUC has deferred any rulings on that until the Instream Flow Standards and the Water Use Permit, Permit issues have been settled in our current contest case hearing, Na Wai Eha

COUNCILMEMBER KING: Okay. So, until that gets settled, they can charge whatever they want to whoever?

MR. UYENO: My understanding is that their rates are frozen at this time. And so, I, I wouldn't . . . sorry.

COUNCILMEMBER KING: . . .*(inaudible)*. . . Yeah, what I was talking about are, are rates that are fairly new over that last couple of years that are in disparity with previous rates. So, apparently their not frozen because they're able to raise the prices.

MR. UYENO: Yeah. So, I'm sorry. I can't speak to that. I'm not familiar with the . . . what's going on with the PUC side.

COUNCILMEMBER KING: . . .*(inaudible)*. . . PUC usually? Okay. And the other thing that I'm worried about, you know, just 'cause we haven't been getting all the information that we need in order to make a purchase like this. And, as far as repairs of things like water meters or the systems, is that not the responsibility of the utility owner? Like the water company would be the ones responsible for fixing meters just like with the electric utility. You wouldn't, you wouldn't expect them to call you up and say your electric meters broken, you need to fix it.

MR. UYENO: Yeah, I'm not, I'm not fully certain but I would, I would believe so. That it would be the responsibility--

COUNCILMEMBER KING: That would be the responsibility the utility. Okay, so, I guess the, the, the questions that I'm asking, are those all PUC questions?

MR. UYENO: I believe so.

COUNCILMEMBER KING: Okay.

MR. UYENO: PUC questions, correct.

COUNCILMEMBER KING: Okay. I thought, I thought they might be related to the allocation of water because it does, it does bother me that we have people in the same category of water use that are paying different rates. And this been going on for some time. So, I know, it's, it's probably not something you can do anything about at this point. But, I'm . . . I'd like to see us resolve some of this . . . these issues before we talk about purchasing these, these entities, you know, because it's really not fair for one thing. And it could lead to . . . especially if a government entity owns it, it could lead to accusations of discrimination. And then if we change the rates and we lower the higher

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rates than we're going to be looking at a much lower payback rate than we might . . . we may have thought about. So, there's just a lot of things with these two private entities that need to be worked out before we can actually take control. I think in a, in a smart business way, you know, buying a business like that. But, yeah, sorry, I just thought maybe that you guys as a State, you know, Commission on Water Resources, you might have had a discussions about . . . but you don't get involved at all, it sounds like, in the water rates.

MR. UYENO: Right. Our focus is on the, I mean, we, we do take into account water rates when we do look at our Instream Flow Standards. But as far as how they're set and all that, we don't--

COUNCILMEMBER KING: Okay.

MR. UYENO: --we don't deal with.

COUNCILMEMBER KING: All right. Well, thank you. I guess I'll . . . got to take it up with the PUC. Thank you.

MR. UYENO: Thank you.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR SINENCI: Mahalo, Member King. Members, any other questions for our panel today? Okay, I just had a couple questions. So, just piggybacking on Member Paltin's question, Mr. Kimura, so, there is a general process for counties to update our long range plans? Or, or we just need to, to approach the Commission? Is there a . . . like a process to update our plans?

MR. KIMURA: So, maybe if I could just split it, I guess, into two answers. The process, there's a guidance document which is called, which is called the Hawaii Water Plan Framework guidance document. That's also . . . you can find it on our website. But that has the recommended guidance for what should be in the Water Use Development Plan. And it also recommends the five year updating of the Water Use Development Plan, you know, to kind of keep this, the quote unquote, "living document," approach, right. But in terms of transmitting it to the Commission . . . so, we in the past, what's usually done is someone from the Water Department, or whoever's the main county entity that's responsible for preparing the Plan, submits it to us. It can be to any . . . it can be to me, it can be to anyone. But as soon as we get that e-mail or we get it in the mail, it arrives in our office, then that's like the date of submission to us.

CHAIR SINENCI: Okay. Mahalo, Mr. Kimura. And, Members, we just like to recognize Chair Lee. Aloha 'auinalā and kalimera.

COUNCILMEMBER LEE: Yeah. Kalimera, Mr. Chair. Thank you.

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CHAIR SINENCI: And, I'm getting texts' that we also have Member Sugimura. I, I'm sorry, I can't see her online . . . my screen.

COUNCILMEMBER SUGIMURA: Oh, kalimera. Aloha, everybody.

CHAIR SINENCI: Thanks for joining us. Just as a . . . for a catch up, we're . . . we have questions for Mr. Kimura and Mr. Uyeno, from CWRM. They're here. And we're just . . . we're going to share screen right now the, the State . . . the Manage . . . the Resource Management Plan . . . Protection Plan. Ms. Apo Takayama, can you share the memo at this time. Okay, so if Mr. Kimura or Mr. Uyeno wanted to just kind of . . . these were . . . it's just some of the updates, yeah?

MR. KIMURA: That's correct.

CHAIR SINENCI: Okay. The, the--

MR. KIMURA: Yeah. So--

CHAIR SINENCI: Go ahead.

MR. KIMURA: I'm sorry. Oh no, I think, I think you, you folks have talked about it and you've summarized it well. Chair, yeah, this is just directly from our Water Resource Protection Plan, Appendix F. The updated, at the time in 2019, the updated Interim Instream Flow Standards.

CHAIR SINENCI: Okay, and then--

MR. UYENO: Chair Sinenci, if I may? Comments. It's Dean Uyeno.

CHAIR SINENCI: Oh, go ahead, Mr. Uyeno.

MR. UYENO: Yeah, in the only comment as Councilmember Paltin raised is the recent amendment to the Honokohau and Honolua watershed units. We can provide updated numbers on that. Largely due to the pandemic, we haven't been able or we didn't really set any Instream Flow Standards in 2020. And so, as we been able to adjust to these times, we've, we did start setting Instream Flow Standards this year for, for area's around the State. So, the most recent ones were Honokohau and Kaluanui streams in the Honokohau watershed unit and then Honolua stream. So that would be it.

CHAIR SINENCI: Okay. And we could . . . we'll probably definitely bring that up at, at a future meeting as well.

MR. UYENO: We can work--

CHAIR SINENCI: So that we can make those necessary changes. Members--

MR. UYENO: So we can work with--

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CHAIR SINENCI: Go ahead.

MR. UYENO: Oh, sorry. We can work with Maui Department of Water Supply to update those numbers.

CHAIR SINENCI: Oh, okay. Great. Thank you, Mr. Uyeno. And, Members, it's a long document. And so, Ms. Apo Takayama had just highlighted the Maui sections of the updated 2019 plan. Just scroll through those, yeah. So, this is, this is what we're, what we're going to be inputting into the plan. So, Members, can I ask for consensus on updating the tables in the WUDP to reflect the data provided in the 2019 update of the State's Water Resource Management Plan?

COUNCILMEMBERS: All voiced consensus.

CHAIR SINENCI: Okay, great. Thank you. And then, Mr. Kimura, so, you're okay with us updating the Plan so that it's reflected . . . what is reflected in the State Resource Management update.

MR. KIMURA: Yes, that's correct.

CHAIR SINENCI: Okay, great. Okay, mahalo for that. Thank you, Members, and so with that if there . . . Chair Lee or Member Sugimura, you have any questions for our panel today before I excuse them?

COUNCILMEMBER SUGIMURA: I do not. Thank you.

COUNCILMEMBER LEE: No questions. Thank you.

CHAIR SINENCI: Okay. Mahalo. And so, with that, Members, we just wanted to mahalo, Mr. Kimura, and Mr. Uyeno, for joining us today. And we appreciate their assistance with us implementing the updated State Resource Management Plan into our Water Use Development Plans. So again, mahalo for joining us today. And looking forward to having some great discussion in the future. Mahalo.

MR. KIMURA: Okay. Thank you, Chair. Thank you, Members. Aloha.

MR. UYENO: Aloha.

CHAIR SINENCI: Thank you. Okay, Members, and so we're really going by quickly. So, we have . . . next, we have on . . . we're going to talk a little bit about the Wailuku Water System. Director Pearson was nice enough to take myself and some of our office Staff to look at some of the infrastructure that would be eventually purchased by the State should we confirm the second reading of, of the budget. So we do have Director Pearson and Ms. Blumenstein online. We do have them scheduled for a June 29th meeting. And so, we just wanted to kind of give Members a heads up for that meeting if you guys had any questions that we could formally transmit from the Committee to the Department

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prior to that June 29th meeting. So, if Ms. Blumenstein is on and she wanted to provide some opening comments.

MS. BLUMENSTEIN: Aloha, Chair. Are you referencing comments in terms of update on the Wailuku Water Company?

CHAIR SINENCI: Well, yeah and, and so we were just going to look at Table 14-41 as an example for . . . just to begin our . . . just to look at some of the discussion, some of the strategies that the acquisition of the water system might potentially change or influence some of the strategies moving forward. So, if, if you had any input about where you think the most changes with the acquisition would . . . we'll have a deeper dive later in the month but since we have you here today.

MS. BLUMENSTEIN: Yeah, no, no, no sure. Well, I mean, we addressed it briefly in the draft Plan, right. More the management or the alternative management of the system. There's no proposed changes or anticipated changes to strategies . . . to supply strategies because of the designated surface water management area as well as the designated groundwater management area. So, in terms of allocating water to land use and for different types of end uses, those are all allocated to Surface Water Use Permits by CWRM. And so the plan, of course we don't, we don't have the contested case results today, so the plan includes the latest recommended or the proposed decision and order by Dr. Miike, back in 2017. And the Plan reflects those proposed allocations for various end uses. So with the acquisition of the system itself, I mean, it certainly has a lot of implications and rates, repairs to the system, and what not. But, for the Water Use Development Plan in allocating water to specific uses, I don't think that will make a, a difference because all those allocations are by CWRM, and because the surface water management area is designated. So, there's nothing the owner or the operator of the system can . . . we cannot influence or change those investors and transfer of those Water Use Permit Applications, right.

CHAIR SINENCI: I see. Okay. Director Pearson, did you want to provide some opening comments?

MR. PEARSON: Good afternoon, Chair Sinenci, and the Committee Members. Yeah, I think it was important that what Eva just said is a huge . . . is the fact that although Department of Water Supply, or the County of Maui, or whoever may be managing this Wailuku Water Company transmission system in the future, the strategies are going to stay the same. What is the variable that has been defined so it's no longer a variable is the Interim Instream Flow Standards. They have to be met no matter who's diverting the water. So, those stream flow standards will be met. Once they're met, then additional water can leave the stream at the registered diversions and be provided to the customers of whoever is managing the Wailuku Water Company ditch system. So, that, that's important. And I didn't have to repeat it cause Eva spoke . . . *(inaudible)*. . . but I just wanted to reiterate. So, yeah, I . . . as Member Sinenci said we did a little tour last week. And I didn't focus on the Wailuku Water Company, but I tried to focus on what Department of Water Supply has as far as sourced in the Central area. So, we went to some well sites. We did go to the diversion that provides water to our Iao treatment

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plant, and we went to the Iao treatment plant also. So, it was a good, short trip. We didn't have to go down too many miles or walk too far. And they were able to get a better understanding of the Central Maui System. So, I'll, I'll let you guys move on from there and I'll be quiet.

CHAIR SINENCI: Okay. Thank you, Director Pearson. And then, I did have a question about, you know, prior to acquiring the system, how important it is for the County to receive an updated appraisal of the system?

MR. PEARSON: Yeah, we do have an old appraisal that's true. We're in the midst of getting a consultant on board. Actually, two separate consultants. One consultant is going to do a desktop analysis of the Wailuku Water Company business model or how they're operating business today. The second consultant proposal we're working on is to do an evaluation of the Wailuku Water Company, boots on the ground, wander through tunnels and ditches, and try to determine the condition assessment under the system. So, I'm not really going to comment on the need or the lack of need for another appraisal. I think that's going to work itself out as we gather additional information.

CHAIR SINENCI: Okay. Mahalo, Director Pearson. Members, do we have any questions for either Ms. Blumenstein or Director Pearson? Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Jeff. Good to see you. Yeah, I, I . . . just in going back to the Wailuku Water Company, what information have you gotten this far as the needed repairs and maintenance, and the monthly or annual expenses that they've been expending for R and M?

MR. PEARSON: What I was, Chair, what I was discussing was getting a proposal and a consultant on board to evaluate the, the issues that . . . within the Wailuku Water Company. How, how . . . what the condition is at this time. So, we don't really have the answer to that question yet. Do I--

COUNCILMEMBER KING: Did they not have provided us with any information as far as what they've been spending annually on repair and maintenance?

MR. PEARSON: Yeah, I think so. That's the whole idea with our . . . the other desktop evaluation of their operations. So, yes, that's . . . yeah, we need to know what the business is like before we, the County, considers purchasing the system.

COUNCILMEMBER KING: I, I know that. But what I'm asking you is what information are we getting from Wailuku Water Company because we tried this several years ago. And they gave us nothing, basically. So, how are we going to get that information if they're not forthcoming with what they've been spending and what their operational repair schedule is. And most companies of this caliber would have an operations manual that has standard operating procedures. It has, you know, a list of employees. It would have backup parts and things like that that they might have in stock. And then, the audit have what they've been spending monthly and annually on repair and maintenance.

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There should be a written record of that for a company like that, I would assume. So, have you gotten any of that information.

MR. PEARSON: No. Not that I'm aware of. But again, hopefully, this . . . a lot of this information will come out when we do this request and work with our consultant to earn . . . to learn this information. I mean--

COUNCILMEMBER KING: Well, I thought . . . *(inaudible)* . . .

MR. PEARSON: . . . *(inaudible)* . . .

COUNCILMEMBER KING: --this purchase. I mean, I thought they were, they were in favor of the purchase. So, I don't know. I'm not clear on why they're not giving us that information. We have a non-disclosure with them.

MR. PEARSON: Okay, well, I'm going to also leave . . . the majority of the negotiations are also between the Administration and the Wailuku Water Company. So, I'm not privy to all the information that's even out there, what has been shared to date.

COUNCILMEMBER KING: Okay. But they do . . . they are seeking Counsel approval, isn't that right? So, we're going to be asking those questions like we did, you know, wouldn't be my first. . . *(inaudible)* . . . and hoping to get some answers. But, it's just really disturbing that nothings forthcoming at this point. And we've actually got, you know, we actually been moving along and getting funding from the State as well. So, you know, I know that's not your fault. But it's just . . . it's really disturbing to me as a businessperson to think that we would even consider a purchase like this when we have zero information on how much it's going to cost us to fix things. And then I know from personal experience that they've been asking tenants to fix water meters which, to me, is their responsibility as the utility. So, those are some of the things that, you know, I wouldn't, just personally, I wouldn't approve of this purchase without that kind of information. So, I'm not sure how they expect me to move forward with this. Okay, well, yeah, I just don't know what to say. It's just really disappointing to find ourselves at this point. The same point we were three years ago. But, yeah, share with us what you can when you get it. We'd appreciate that. Thank you, Chair.

CHAIR SINENCI: Thank you, Member King. And maybe we can inquire with the Administration, Mr. Baz, as well.

COUNCILMEMBER KING: That would be good, yeah, if we can get that kind of information.

CHAIR SINENCI: Okay.

COUNCILMEMBER KING: They're basically asking us to purchase this thing blind. And we could get in and we could spend 10 million dollars fixing the whole thing up, which is way more than it's even worth.

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CHAIR SINENCI: Okay, Staff has gone ahead and recorded those comments. So, Members, any other questions for Ms. Blumenstein or Director Pearson?

COUNCILMEMBER SUGIMURA: Chair.

CHAIR SINENCI: Oh, yes.

COUNCILMEMBER SUGIMURA: Yeah, I know you can't see me. So, I just have a point of information. I don't see Wailuku Water Company on the agenda, but you're taking this because it's part of the Water Use Development Plan, or where is it?

CHAIR SINENCI: Yeah, correct. So, this was just . . . and we'll show you . . . we were just going to talk about the field trip that Director Pearson took myself and Staff on to look at some of the infrastructure and just to prepare Members for deeper dive on June 29th. We'll go deeper into the Wailuku Water System acquisition. So, Staff is recording your questions, and if you want additional questions to forward to the Administration, we'll have that prior to that 29th meeting. So, we're just . . . and we'll show you our plans later, Member Sugimura, on how we're moving forward on the Water Use Development.

COUNCILMEMBER SUGIMURA: Oh, thank you. I just don't see it on the agenda. So, I was wondering how we're legitimately, Sunshine Law wise, talking about this. But, thank you.

CHAIR SINENCI: Oh, okay. Oh, we had Table F-21 on the Item B of Number 4. We'll show . . . we're going to show . . . excuse me, not F-21 but 14-41, I believe. Okay, we had a . . . I had a question for Ms. Blumenstein. Oh, did you have any more questions, Member Sugimura? Was that it? Okay. And so, I had a question for Member . . . Ms. Blumenstein, if . . . I understand that we're taking 1.7 million gallons out of Iao stream. And so, I just had a question. If we were to increase that, that draw, would we . . . would that require another permit from CWRM? Or for another IIFS?

MS. BLUMENSTEIN: So, the Water Use Permits has not been granted yet, the Surface Water Use Permits. So, there's an existing Water Use Permit for about 1.7 mgd. And then, we had requested additional . . . *(inaudible)*. . . called a new Water Use Permit for up to 3.2 million gallons a day. So, until those permits have been awarded, there isn't one or the other. So, that's the resolution on the contested case that, that we are awaiting. So, the plan, the Water Use Development Plan strategies include surface water for municipal use up to 3.2 mgd which is our requested new use permit, right.

CHAIR SINENCI: Oh, that's the new request? The new plan.

MS. BLUMENSTEIN: Yeah, the total. So, the existing plus the new use. Total is 3.2 mgd.

CHAIR SINENCI: Okay. Thank you. Thank you for that. And then a question for Director . . . oh go ahead, Director.

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MR. PEARSON: Yeah, if I may add, Chair. In the contested . . .the mediated contested case of 2014, that issue was discussed and as Eva said, we have a permit request. They call it a WUPA, Water Use Permit Application, for the additional flows above 1.7. But in the meantime because the contested case hasn't been resolved, since a year ago, last February, I've directed Staff to, as much as possible, treat up to 3.2 million gallons a day. So, when we can, we've been treating 3.2 million gallons a day. Of course when the contested case comes forth, and there's an actual value to what our WUPA is going to be, our Water Use Permit Application, then we may have to reduce it, you know, below 3.2 or whatever the contested case determines that permit to allow us to treat.

CHAIR SINENCI: Oh, okay. Mahalo, Director Pearson. And then, do we have a number that the County pays to the Wailuku Water System for our municipal usage in Wailuku?

MR. PEARSON: Yes, we do. And we had an agreement prior. But because of the ongoing efforts at, you could call it, sale or purchase of the Wailuku Water Company, we do not have an agreement right now. But we're paying the rates that were, you know, in the earlier agreement that has expired.

CHAIR SINENCI: And, and we're not the only customers of the Wailuku Water . . .the County is not the only customer, correct?

MR. PEARSON: Yeah, that's correct. When we were on our tour, if you remember, we discussed a big folder full of other customers that Wailuku Water Company has. And they have, I think, Member King actually referred to other members and different rates that they were paying Wailuku Water. So, yeah, there's other customers out there. And the rates vary.

CHAIR SINENCI: And of which these customers, the County would now be the governing body to those other customers.

MR. PEARSON: I would think so, yes.

CHAIR SINENCI: Okay. Thank you for that clarification. Members, any other questions before we excuse Director Pearson and Ms. Blumenstein.

COUNCILMEMBER PALTIN: I have a question, Chair.

CHAIR SINENCI: No questions?

COUNCILMEMBER PALTIN: I got one.

CHAIR SINENCI: Oh, okay. Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thanks. I just was wondering, then would the County continue on with those disparate rates, or would the Council be responsible for setting the rates and fees every Budget Year? And, and not have disparate rates? Or would we

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just . . .because the PUC case froze the action, we wouldn't do anything until then? And then the PUC would set the rates?

MR. PEARSON: Chair, I'm not a PUC lawyer. But from what I understand, if the water . . .control of the water and the control of metering and charging customers, falls under the Department of Water Supply, with us being an enterprise fund and we would, therefore, not be subject to PUC. But I would be sure that we would likely have to have a better . . .a consistency of the rates. We have to be transparent. And I don't know what's going on with the other rates, and I don't want to comment on that, it's not my business, but I'm sure that we would be consistent and transparent. And I'm sure that the Council would be well aware of what the rates are and who's getting charged and so forth.

COUNCILMEMBER PALTIN: And, and, just to follow up on that, we would be obligated to keep the contracts. Whoever was being provided water by Wailuku Water Company, we would have to still provide them regardless if their water meter was broken or whatever, right?

MR. PEARSON: Again, I'm not going to go into the specifics, but I would think so. And then, what . . .there may be clauses in these agreements with these users that I'm not aware. So, you know, it's going to be messy no matter what.

COUNCILMEMBER PALTIN: And, sorry, one last one. Does . . .it being a designation area, like Wailuku being like a surface water designation area play into us purchasing the system and affect it? Or, it, it doesn't really matter?

MR. PEARSON: Well because it's designated, any request for any permits that . . .back to that WUPA word, the Water Use Permit Application, these requests have to go in front of the State Water Commission, CWRM, and be reviewed publicly. And, of course, back to what I reiterated when Eva spoke, is, you know, now that the Interim Stream Flow Standards are set, only "x" amount of water after the Interim Stream Flow Standards are met, can be diverted for use off stream. So, that's not going to change and that's, you know, set in stone, more or less, it can be revised. But, so--

COUNCILMEMBER PALTIN: And, and we currently have systems that are in designated areas and we're, we're . . .we as the County are familiar with that process that Wailuku Water Company is subject to. With this being a designated surface or groundwater area, we have similar area's and we're familiar with this process as the County?

MR. PEARSON: Yes, I think so. The whole island as Member Rawlins-Fernandez knows the whole island of Moloka'i is groundwater designated. I'm sure she's well aware that and she knows how that game is played. Iao aquifer, the groundwater is designated due to over pumping back in the early 2000's that was a trigger to designate. And as we're talking about now the ground . . .surface water for the Wailuku area, Na Wai Eha, is being designated, and is under contested case to evaluate who gets what water under this designation process.

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COUNCILMEMBER PALTIN: Essentially there's no difference whether it's a surface water designation or a ground water designation, you're comfortable with the process?

MR. PEARSON: I would never kind to be an expert but, of course, the difference is our pumping versus pulling water from the stream to the diversions registered at CWRM.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you so much, folks, for your indulgence, my questions.

CHAIR SINENCI: Mahalo, Member Paltin. Members, any other questions for the Department?

COUNCILMEMBER MOLINA: Chair.

CHAIR SINENCI: Oh, Member Molina, go ahead.

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Chairman. Good afternoon, Mr. Pearson. You know, on the topic of repair and maintenance, you know, I've been hearing in the news about the skyrocketing cost for materials for houses. Now, with our own water systems to prevent leakage in our pipes and replacing pipes and so forth, do you foresee a major spike in cost of materials for piping as well? And maybe possibly considering or asking this Council for a water rate increase down the road?

MR. PEARSON: Thank you, Member Molina. At this time, I would say a brief no. I know that when Council reviewed our rates and fees, they did notice some odd changes to us that we're charging for materials and for, you know, workmanship. So, there have been changes. I would like to think that Department of Water Supply manages our Fiscal responsibility enough that we'll be able to not come to the Council and ask for a rate increase due to material costs that's what I would say at least today.

COUNCILMEMBER MOLINA: Okay. And then, and tying this in to the possible purchase of the Wailuku system too, of course, what . . . and which is why I think we need that report from them to see what needs to be repaired and so forth. And take into consideration the cost of materials to upgrade that system to the County standards. So, it's certainly a worthy topic to keep in mind. So, anyway, thanks again for your input, Mr. Director. Thank you, Mr. Chair.

CHAIR SINENCI: Mahalo, Member Molina. Any other questions before we excuse the Department? Okay, seeing none. Again, we wanted to mahalo, Director Pearson and Ms. Blumenstein, for joining us this afternoon. And safe travels home, Ms. Blumenstein. Mahalo, for being here. Members, any need to take a quick break? We don't have . . . I was anticipating more or even some testimony today. So, we just have a couple other items if you guys want to just plow through and possibly finish early? Okay, I've got . . . okay, couple thumbs up. Okay, let's plow through, and then hopefully we can get some afternoon session in. Okay, so with that, we'll have . . . Ms. Siegel, do you have Table 14-41 to screenshare for the Members?

MS. SIEGEL: I do, Chair, just one moment.

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CHAIR SINENCI: This is in Section 14. And just to address Member Sugimura, we do have the WUDP listed, as far as Sunshine Law, we do have the entire WUDP listed under number 1 of today's agenda. So . . .which covers our discussion on the Wailuku Water acquisition, and we just wanted to go ahead and prep you guys for a deeper dive. At the beginning of the meeting, we did say that at each meeting we'll have a memo of all the details of each section that we're going to be addressing. And so, this is just in preparation of the June 29th meeting where we'll have an actual memo to share with the Committee. Okay. So I did want to . . .if you can . . .this is on page 122 of the . . . of Section 14 of the WUDP. And we just kind of want to use the summary of recommended strategies as a, as a starting point for, did we say for any additional questions that you might have for the Department on June 29th. And I did want to go ahead and look at number two, strategy number two: To establish a diverse working group to address alternative structures for future management of the watershed lands and sustain operations of the Wailuku Water System ditch, the ditch system. And we do have different agencies like the Aha Moku. Ms. Blumenstein mentioned the contested case with Na Wai Eha. We have OHA and the Maui County. So, the previous APT meetings, we did have the, the issue of community ownership in previous meetings. So, I just wanted to see . . .it's a large system. Director Pearson just took us to Iao Valley and the Iao Treatment Center and a couple of the Wailuku Wells. But, he didn't take us to all of the different . . .the other wells around. So, the system is, is a large system. And so, if this . . .we just wanted to provide you with some of these. This is a starting point for some of your questions you might have. And then, if you scroll down, number four says explore new basal well developments. The southern portion of Waihee aquifer. Then on the next page, Ms. Siegel, strategy number five; continuous exploration of East Maui well development. And so, I guess the questions are, you know, if we are going to be acquiring the system, how are other areas of the Water Use Development Plan affected should we go up to 3.2 million gallons a day out of the Iao river. Number seven, monitor outcome of East Maui streams, the contested case. So, again, Ms. Blumenstein also talked about the outcomes of the contested case prior to getting those new IIFS's, yeah. So, we just wanted to share with you this table to see some of the long term strategies of the Wailuku sector, Section 14. Strategy number ten, explore the Waiale Road at a cost of 10 million dollars for storm water drainage. Potential to offset stream diversions associated with the Spreckles and Waihee ditches. And as you know, Members, the WUDP is also for us as a Council to create policies that come with, you know, with water usage, the County. So, we're just looking at should we have some care ordinances or policies that can go with some of the items within the Water Use Development. Okay, so, with that if the Members want to go ahead and send any questions to Staff and then we'll formally send them from the Staff through . . . to the departments. Then, we can have a deeper dive on June 29th on some of your questions about the acquisition. I know there's some liability and some maintenance questions that we'll definitely . . . on rates, water rates, questions that we'll definitely forward to the Administration.

COUNCILMEMBER PALTIN: Chair.

CHAIR SINENCI: Yes, go ahead, Member Paltin. You had a question?

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COUNCILMEMBER PALTIN: Yeah, thank you for the opportunity. I just was wondering what is the timeframe that you want the questions by?

CHAIR SINENCI: Oh, okay. Staff, did . . . were . . . and again, we're still waiting on a lot of questions that even the Departments had. So, you know, if we need to move back the Wailuku Water acquisition meeting to maybe a meeting in July, that's also an option. But, maybe by next week. Staff, is there a preference for us to send questions to the Department.

MS. APO TAKAYAMA: Chair, the earlier the better just so we can give them some time in case they need to collect information from other agencies, or from, you know, from different divisions as well.

CHAIR SINENCI: Yeah, I would think at least, at least a week to ten days, Member Paltin. And then with that, the last thing we had . . . we wanted to share with the Committee was just a quick timeline for the . . . for this Committee moving forward through the summer. I know this was something that we'll definitely formally share during the Chair's meeting as requested by Members' at our last Chair's meeting. So, just a quick plans for the APT Committee meetings through August 31st. Water Use and Development Plan for Maui updates. So, we're anticipating the Haiku Sector. Then the section of the Honokohau for the West Maui Sector area. We'll put that on the June 22nd meeting, Member Paltin. Then again, questions for the departments for June 29th. That's . . . the 22nd is the special meeting. Then, July 20th we have Upcountry Water Meter List and Water for Agriculture. So, we'll definitely prep you maybe on the 29th for different sections of the Water Use Development Plan for agriculture. The Upcountry Water Meter List. Then, July 27th is a special meeting. We've been meeting with all of the Aha Moku groups about cultural usage of water. So, we'll have all those findings for the Committee on July 27th on Appendix 10. Then, August 3rd, we have East Maui Irrigation System planned for that one. And then we've given ourselves a couple dates in August to adopt the proposed draft as amended. Then, if we need any additional meetings, we've secured August 31st for a follow up meeting. Any questions on our . . . the Committee's . . . we'll share that with Chair Lee on our next Chair's meeting. Oh, okay, and we might have . . . we might include some of the West Maui plans as well. Staff, was there anything else we had? Any questions from the Members? Apo Takayama.

MS. APO TAKAYAMA: Chair, I don't see anything else other than if we're just going to defer this item.

CHAIR SINENCI: Members, any other . . . Member King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I have another question. I saw . . . I know on the 29th we're going to be looking at the Wailuku Water Company. And I just wondered if we were going to . . . what the plan was for moving ahead with looking at the COC? The Community Owned Company. . .(inaudible). . .

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CHAIR SINENCI: Okay, if we can have that . . . okay, we can look into that as well, right, that was one of the strategies. Strategy number two in that table.

COUNCILMEMBER KING: Yeah.

CHAIR SINENCI: So, with . . . you know. . .*(inaudible)*. . .

COUNCILMEMBER KING: If we had a . . . if there was an actual plan, it would be good to see, you know, because we had that one presentation. Then there wasn't the follow up so I just wondered how far along.

CHAIR SINENCI: Right. And we had a possible ordinance as well. So, we'll look into that Member King.

COUNCILMEMBER KING: Okay, great.

CHAIR SINENCI: Okay, thank you for bringing that up.

COUNCILMEMBER KING: Sure.

CHAIR SINENCI: Okay, Members, so with that . . . shucks, this is thrifty Tuesday it looks like we're kalimera. If there are no objections, the Chair would like to defer this item.

COUNCILMEMBERS: No Objections.

ACTION: DEFER pending further discussion.

CHAIR SINENCI: Okay, awesome, with that, Members, that brings us to the end of our agenda. Wow. Thank you to our resource presenters, and the Administration. It is . . . whoa, 3:09 p.m. on this Tuesday, June 1st Agriculture and Public Trust Committee meeting. And meeting is now adjourned. Mahalo, Members, for joining us. . . . *(gavel)* . . .

ADJOURN: 3:09 p.m.

APPROVED:



SHANE M. SINENCI, Chair
Agriculture and Public Trust Committee