

AGRICULTURE AND PUBLIC TRUST COMMITTEE

Council of the County of Maui

MINUTES

June 29, 2021

Online Only via BlueJeans

CONVENE: 1:34 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 1:35 p.m.)
Councilmember Michael J. Molina, Member
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member

STAFF:

Kasie Apo Takayama, Legislative Analyst
Nicole Siegel, Legislative Analyst
James Forrest, Legislative Attorney
David Raatz, Supervising Legislative Attorney
Keoni Shirota, Committee Secretary
Jean Pokipala, Committee Secretary
Lenora Dineen, Council Services Assistant Clerk
Kristeena Locke, Council Services Assistant Clerk

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

Zhantell Lindo, Council Aide, Molokaʻi Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lānaʻi 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 of Water Supply, Department of Water Supply
Eva Blumenstein, Planning Program Manager, Department of Water Supply
Stephanie Chen, Deputy Director, Department of the Corporation Counsel

OTHERS:

Lucienne de Naie, President, Haʻikū Community Association
Phillip Lowenthal, Haʻikū Community Association

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Scott Werden, Ha'ikū Community Association
Laf Young
Terrill James Kaneali'i Williams
Maile Magalianes
Others (1)

PRESS: *Akakū: Maui Community Television, Inc.*

CHAIR SINENCI: . . . (*gavel*) . . . God aftermiddag kākou and aloha 'auinalā. Welcome to the Agriculture and Public Trust Committee meeting of Tuesday, June 29, 2021. It is 1:34 p.m. I'm Shane Sinenci, the Chair of the APT Committee. With us today, we have Committee Vice-Chair, Councilmember Gabe Johnson. God aftermiddag.

VICE-CHAIR JOHNSON: God aftermiddag, Chair Sinenci, and all Members. I hope I didn't butcher that too bad.

CHAIR SINENCI: We need to get a score from Ms. Blumenstein. Next, we have Councilmember Kelly Takaya King. God aftermiddag.

COUNCILMEMBER KING: God aftermiddag--I hope that's right--Eva . . . Eva, and everybody else.

CHAIR SINENCI: And, just in time, we have Council Chair, Alice Lee. God aftermiddag. Thanks for joining us.

COUNCILMEMBER LEE: Let's see . . . what did I say . . . sabai di. Sabai di.

CHAIR SINENCI: Sabai di.

COUNCILMEMBER LEE: Yep.

CHAIR SINENCI: Yep. Next we have--

COUNCILMEMBER LEE: And that is from Laos, Laos.

CHAIR SINENCI: That one's from Laos. Yeah, we weren't sure if that--

COUNCILMEMBER LEE: Yes.

CHAIR SINENCI: --that one pertained to the afternoon. So, we do have--

COUNCILMEMBER LEE: No.

CHAIR SINENCI: --a afternoon . . . oh, that was all day?

COUNCILMEMBER LEE: Yeah, now I'm picking for both, morning and afternoon.

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CHAIR SINENCI: Oh okay.

COUNCILMEMBER LEE: So, it's more like hello. Yeah.

CHAIR SINENCI: Okay. Sabai di, Chair. Next, we have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Good afternoon, and Sabi da [sic] to you, Chair, and to my colleagues, and everyone else tuning in today. Aloha.

CHAIR SINENCI: Aloha. Mahalo for joining us. Next, we have Councilmember Tamara Paltin. God aftermiddag.

COUNCILMEMBER PALTIN: God aftermiddag. Sabai di. Bon apres midi. A me aloha 'auinalā kākou.

CHAIR SINENCI: Aloha 'auinalā. Up next we have Council Vice-Chair Keani Rawlins-Fernandez. God aftermiddag. Aloha 'auinalā.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Molokai nui ahina. And god aftermiddag and. . .*(inaudible)*. . .back in 2003.

CHAIR SINENCI: Oh, okay. See, we're, we're . . . you're one up on us. Thanks for being here this afternoon. And, Members, as usual we have presiding Pro Tempore Tasha Kama, Councilmember Yuki Lei Sugimura, who's Non-Voting Members, but they're always welcome to join us if they so choose. Today, from the Administration, we have Director Jeff Pearson. And also, all the way from Sweden, we do have Ms. Eva Blumenstein. It's god aftermiddag here, but I think it's at night, 1:30 at night, there. So, mahalo for joining us Ms. Blumenstein. From the Deputy . . . from the Corporation Counsel, we have Deputy Stephanie Chen. God aftermiddag. Sabai di. Our . . . from our resource people, we have Ms. Lucienne de Naie, the President of the Ha'ikū Community Association as well as some of her Board Members that will be joining her today. For our Staff, we have Ms. Kasie Apo Takayama, our Legislative Analyst; Keoni Shirota, Committee Secretary; Mr. James Forrest, our Legislative Attorney; Nicole Siegel, Legislative Analyst; and Ms. Kristeena Locke, Council Services Assistant Clerk. So, welcome everybody. Again, Members, this online meeting is being conducted in accordance with the Governor's most recent emergency proclamation on COVID-19. Please see the last page of the agenda for information on meeting connectivity. Members, today we have one item, the Water Use and Development Plan for Maui, APT-57. Staff, do we have testifiers? Look like we do.

MS. APO TAKAYAMA: Yes, Chair, we currently have five individuals signed up to testify.

. . . BEGIN PUBLIC TESTIMONY . . .

CHAIR SINENCI: Okay. Mahalo, Ms. Apo Takayama. So, Members, let's begin with public testimony. Oral testimony via phone or teleconference will be accepted. Testifiers

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wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link at [Bluejeans.com/411641115](https://bluejeans.com/411641115), as noted on today's agenda. Testifiers wanting to provide audio testimony should have participated via phone conference 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 be found at [Mauicounty.us/testify](https://mauicounty.us/testify). Moving on to oral testimony. Oral testimony is limited to three minutes. If you are still testifying beyond that time, I will kindly ask to complete your testimony. When testifying, please state your name and if you're testifying on behalf of an organization or if you're a paid lobbyist, just let the Committee know. 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're here to provide testimony, please be courteous to others by turning off your video, muting your microphone while waiting for your turn to testify. Once you are done testifying, you'll be asked to disconnect from the call; however, you're always welcome to continue to view the remainder of the meeting on *Akakū* Channel 53, Facebook Live or on [Mauicounty.us](https://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](https://mauicounty.us/agendas). Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. Just a reminder, Committee Members, and Administration, to the public, to please be patient if we run into any technical difficulties. Members, I'd like to proceed with oral testimony. Staff, could you go ahead and call the first testifier, please.

MS. APO TAKAYAMA: Thank you, Chair. The first testifier is logged in under the letters PHL, and that testifier will be followed by Scott Werden.

CHAIR SINENCI: Great. PHL, go ahead and unmute yourself.

MR. LOWENTHAL: Okay. I think I did it. Can you hear me?

CHAIR SINENCI: Yes, we can hear you.

MR. LOWENTHAL: Okay. Well, good afternoon, everyone. My name is Philip Lowenthal. And I'm testifying on behalf of the . . . as an unpaid Board Member, on behalf of the Ha'ikū Community Association. This came to the attention of the Association when the Draft WUDP came out. And we saw that the Plan was . . . included the idea of getting water from the Ha'ikū aquifer and had a number of statistics in there that seemed to indicate there was plenty of water in that aquifer to transfer and divert out of Ha'ikū. And that was a matter of concern 'cause this had come up in the 2010 and had also in the subject of years of litigation leading to the Consent Decree. And so, the Ha'ikū Community Association decided to take another look at this and to let you know that . . . of our concerns. And, first I'd like to remind you the seriousness of the WUDP. I know it's a long-term plan, but the problem with these plans is if, if it's included in this plan that there's plenty of water in Ha'ikū that'll be taken as a given, and plans from here out, and that can't be really a given. The problem with the WUDP are . . . it's not the idea but it's the numbers. Many of the numbers in the WUDP just are not reliable. They're

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not backed up by the adequate data. And those numbers are the sustainable yield of water resources in Ha'ikū which is really an unknown. The WUDP says, okay, there been some monitored downstreams, but not most streams and not most water sources. So, the sustainable yield is not really known. The demand in Ha'ikū is not really known. We know we've had . . . for years, we had a long list of people trying to get water that was like 400 people on the list looking for water meters. But then now . . . and now they don't even give you a list. So, what is the demand in Ha'ikū? People have managed, I mean, we have catchment, we have springs, and wells. But, if water was available from the County, what would the demand be, we don't know. And so, in your making an assessment, you don't know the demand, what would the cost be? Well, I mean it's fairly easy to figure out the cost of transmission lines. But, take someone like me who has a little spring, and we live off that, if drilling diminishes that water. . . *(inaudible)*. . . to a point where we don't have water anymore, you better add that to the cost of people who are injured by the drilling and the problem is you have no idea what that, what those injuries would be because there's no information on that. And no one's every asked me where I get my water. I know this, the County doesn't know. And I'm sure I'm not alone. The demand in Ha'ikū has not really been studied, but on . . . and the cost hasn't been studied because you should add to the cost what would cost you to get me water if you drain it by accident. The law is another factor here and so the--oh, is my time up already? Got a minute? What, I heard a beep.

CHAIR SINENCI: Mahalo, Mr. Lowenthal. Let's see if we have any questions for Mr. Lowenthal. We have a question from Member Paltin.

MR. LOWENTHAL: Oh, okay. Hi.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Lowenthal, for your testimony. My question was--excuse me, sorry--I'm not a water expert or anything, but I thought that they arrive at the sustainable yield numbers based on the science that they use with water stuff. And so, I just was wondering when you say that the Sustainable Yield is inaccurate like what is that based on, if you could clarify?

MR. LOWENTHAL: Okay. They'll be other testifiers, Scott Werden, in particular. But, let me just say this, even when you look at the WUDP, you see that there aren't really monitors in Ha'ikū. There have been no serious, in-depth studies as to demand or supply in Ha'ikū. Now, the drilling that they said was necessary to find out about the depth of the aquifer hasn't occurred even though it was recommended ten years ago. Also, we know that the sustainable yield numbers that they've come up with, even though they've reduced them, in the last ten years, aren't based on real studies. And the problem is that there's so many things going on between the State organizations and the County, and they all rely on each other's numbers. None of which are based on sufficient studies. And the studies that need to be done, are . . . well were, one, listed and a written statement we gave to you and, two, will be described further by Mr. Werden, who I think is going to be following me. I hadn't quite finished. I heard a beep and I didn't know what that meant. I was . . . I just wanted to say--

COUNCILMEMBER PALTIN: I think that means your time is up. But, thank you for your

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answer.

MR. LOWENTHAL: Okay. Sure. Any other questions?

CHAIR SINENCI: Seeing no other questions. Mr. Lowenthal, I believe you're also on for slated to be a resource as part of the Ha'ikū Community Association. So, you'll have some time later to continue or speak to the items today. Okay?

MR. LOWENTHAL: Yes. Can I just toss in one quick idea? Not sure if--

CHAIR SINENCI: Okay, go ahead really quick.

MR. LOWENTHAL: Okay, yeah. I was just going to recommend to you folks 'cause I know you don't have the expertise. And the law in this area is complex and been going on for years, I would strongly recommend if you can contact the water professor at UH Law School and ask him to give you an hour tutorial. I think it would help you tremendously in performing your duties as trustees. Thank you.

CHAIR SINENCI: Thank you. Okay, next, Apo Takayama.

MS. APO TAKAYAMA: Thank you, Chair. The next individual signed up to testify is Scott Werden, to be followed by Terrill James Kaneali'i Williams.

CHAIR SINENCI: Well, Mr. Werden, go ahead and unmute yourself.

MR. WERDEN: Hello, can everybody hear me okay?

CHAIR SINENCI: Yes, we can.

MR. WERDEN: Okay. My name is Scott Werden. I'm on the Board of the Ha'ikū Community Association, also unpaid. Last week, we submitted several proposed amendments of the Maui County Water Use Development Plan that is being considered by this Committee. So, I'm going to provide a brief summary of why we think those amendments are important. The WUDP is long and complex, but there is a repeated claim within . . . that the Ha'ikū aquifer is one potential source of water for other water districts on the island. The Ha'ikū aquifer has many factors that need to be resolved in order to come up with an accurate assessment of its sustainable yield and its cost effectiveness as a significant water source. You know, cost effectiveness is demanded by the Consent Decree to resolve that . . . those issues there. And sustainable yield, as the previous question pointed that out, is extremely important metric that must be accurately determined so that proper planning can happen. So, some of the factors that go into properly determining what the sustainable yield is, is water quality. Not all Ha'ikū water is the same. Some Ha'ikū groundwater is known to have pollution levels at or above acceptable levels due to the years of agricultural activity and, of course, this can be treated but that does come at a cost and we'll go into the cost effectiveness calculation. It basically is incorrect to think that all Ha'ikū groundwaters immediately potable. Hydrology - the Ha'ikū aquifer has not undergone the same rigorous studies

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as the Wailuku Aquifer Sector has. For instance, nobody really knows what the recharge rate is, how thick the lens is, and how extracting groundwater will affect surface water existing wells. Climate change - the sustainable yield keeps getting downgraded by the CWRM and anecdotal evidence is that rain amounts have decreased over the last 50 plus years. I find it remarkable that we have no network of rain gauges throughout the Ko'olau Aquifer Sector so that we can accurately know how rainfall is changing since the water that is available to us from the Ha'ikū Aquifer is critically dependent upon how much rain falls into it. Ecology - native plants and animals, including near-shore sea life, are dependent upon natural water flow, mauka to makai, by the aquifer, nobody has assessed this. And then, local and cultural issues. There are close to 100 wells in the Ko'olau area, as well as people using surface water. Nobody really knows how they will be affected if we pump millions of gallons per day from the ground. So, the Ha'ikū community would like to see a rigorous scientific base study of these issues before any assumptions. . . (timer sound). . . are made about the use of that source for other parts of Maui. The good news is that none of this is really rocket science. This is all readily . . . can be figured out some with the help of the USGS, but we believe it is important to get these issues clearly documented in the WUDP so that we're all on the same page as to what needs to be done. Thank you.

CHAIR SINENCI: Mahalo, Mr. Werden. Members, any question . . . Werden? I . . . oh, we have a question from Member Johnson, and then Chair Lee.

VICE-CHAIR JOHNSON: Good afternoon, Mr. Werden. Thank you, Chair. Quick question about your . . . you're mentioning about how the . . . some of the farming, the historical farming has affected the, you know, the quality of the water, is that . . . can you, can you speak on that? Is that forever chemicals or is that the, the, I mean, can you speak on like what particular . . . is it a high nitrogen rate, or is it . . . what is in the water that's from the farming?

MR. WERDEN: Yeah, so those are rubinite chemicals from the herbicides primarily that were used so it's not nitrates which are more associated with livestock. But, I don't know off-hand what there are, what the specific chemicals are, but I have seen reports from some of the wells, and some of them are hovering right at the acceptable level. So . . . and it gets worst for wells that are dug near where pineapple activity was going on.

VICE-CHAIR JOHNSON: Okay. All right. Thank you, Mr. Werden. Thank you, Chair, I have no further questions.

MR. WERDEN: Yeah. Okay.

CHAIR SINENCI: Mahalo, Councilmember Johnson. Chair Lee, did you have a question? Okay. All right. And I believe Mr. Werden would also . . . oh, are you going to stick around as part of the Community Board? Okay. All right, great. Thank you. Next, from the list, it looks like Terrill James Williams. Aloha, Mr. Williams.

MR. WILLIAMS: Aloha kākou. Can you folks hear me?

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CHAIR SINENCI: Yes, we can hear you.

MR. WILLIAMS: Aloha. My name is Terrill James Kaneali'i Keiki O Ka 'Aina Williams. I'm testifying as a kuleana land owner in the ahupua'a of Kuiaha in Ha'ikū. I'm actually testifying from our kuleana property here, Land Commission Award 3336 Royal Patent Number 2194, we're the heirs of Nalopi. Just to give you a sense of where this is located, it's off of Ha'ikū Road, between East and West Kuiaha. And so, I wanted to share . . . here's the bridge actually. I want to ensure that this water plan includes specific language that focuses on the restoration of the streams in the Ha'ikū area. As a kuleana land owner, we have priority interest to the water that's encoded in the State law that the County is supposed to adhere to. That would be found in HRS Code 174 C-101 or 101 on Native Hawaiian Water Rights. Specifically, our appurtenant water rights to the water in order to sustain our kalo farming, as well as our other cultural practices, from . . . I can show you my river right now and explain the impact that has been happening due to diversions from East Maui Irrigation. So, from right over there on the other side of the bridge is Lowrie's Ditch. There's a wall here that I had to build up. So, this section of our river has been super low actually, and I had to build this wall in order to raise the water level high enough for it to get into our lo'i. That was on May 23rd of this year. This lo'i right here and the two following had full water. Now, over the span of a month, there has been a drastic decrease due to the diversions and the lack of restoration to the streams of Ha'ikū. I could actually stand on this pohaku right here and lunge myself into this area without getting hurt. That's how much water I was able to build up in just this one section. That's not representative to the whole stream though. And so, as you can see, our awai is empty, there's no water flowing into it, the water's extremely low, this impacts the life that once existed here. We had 'o'opu, we had opai living in here. There was . . . on some of these pohaku, actually, there was algae grown which was sustaining the life in this river. But as we go into the dry season, as kuleana land owners, we're particularly impacted very directly by the diversion. So, we're unable to sustain ourself, feed ourselves, or we had to find our ways around certain obstructions that have to do with the amount of . . . the volume of water that comes into our river. Kuiaha Stream is not the only one that's impacted like this. Throughout Ha'ikū, many of them look like this. . . (timer sound). . . or are less. And so, I just want to make sure that there is specific language that focuses on the restoration of the streams in alignment with the kuleana rights to the water. And that should be a good measurement because we do have priority interest to the water. That should be a good measurement of whether or not this plan is actually adhering to the restoration of the streams. So, mahalo.

CHAIR SINENCI: Ae, mahalo, Kaneali'i, for coming on today. Members, any questions for Kaneali'i? We have a question from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you for your testimony, Mr. Williams. I just was wondering, if you weren't satisfied with the existing language or if this was more that you wanted to make sure that it is in there and you didn't necessarily read the existing language?

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MR. WILLIAMS: I haven't had an opportunity to read the existing language. I just wanted to make sure that the language that I'm suggesting is included. And that is also with the understanding of the kanawai and the already existing laws that are in place by the State as far as the HRS Code that I referenced.

COUNCILMEMBER PALTIN: Okay, thank you. I would need to look more into the Ha'ikū section but it is pretty well represented in the Lāhainā Aquifer Sector. So, I'll check if it's similar in the Ha'ikū Aquifer Sector. Thank you.

MR. WILLIAMS: Mahalo.

CHAIR SINENCI: Members, any other questions for Kaneali'i? Seeing none. Kaneali'i, we are . . . the Committee will be addressing Appendix 10, The Cultural Usage of Wai, and so, if you can contact our . . . I would share or we'll try and get your contact so that we can . . . we'll send you that meeting. We're going to have Appendix 10, and we'll have a deeper dive into the cultural usage particularly 174C.

MR. WILLIAMS: Okay. Also, I do have, as far as the comments I've made of the impacts that have been happening here, I do have documentation of those changes in the water level over that time period. So, if you need photographs and timestamped dates and everything, showing the changes of the water, I can provide that as well.

CHAIR SINENCI: Okay. Mahalo. We'll . . . yeah, that'll be great. Staff, can we--

MR. WILLIAMS: Yep.

CHAIR SINENCI: --if we can get Kaneali'i's contact. Mahalo. . .(inaudible). . .

MR. WILLIAMS: Yeah, I can put it in the chat. Yeah, mahalo nui.

CHAIR SINENCI: Thank you. Ms. Apo Takayama.

MS. APO TAKAYAMA: Next testifier is Laf Young, to be followed by Ohana Tabura. And, for your reference, Chair, the Appendix 10 is scheduled for July 27th at 1:30.

CHAIR SINENCI: Mahalo, Mr. Young, go ahead and unmute yourself. Go ahead and--

MR. YOUNG: Can you hear me?

CHAIR SINENCI: Yeah.

MR. YOUNG: Can you hear me?

CHAIR SINENCI: We can hear you now.

MR. YOUNG: All right. Fine. Thank you, Chairperson Sinenci, and Committee Members. My name is Laf Young. I'm a member of the Ha'ikū Community Association Board. I'm a

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47 year resident at Honopou. We live with rainwater catchment. With the time we settled the land, I befriended Stephen Cabral of EMI. EMI's rainfall records dated back nearly a century. Average rainfall in the 1970's approached 160 inches a year at our location. Since the turn of our century, annual average rainfall has dropped to about 80 inches per year. The Ha'ikū-Ko'olau aquifer no longer receives the recharge rate that once was. The rainforest is undergoing a huge metamorphosis. The understory is being uprooted by huge numbers of feral pigs and axis deer sightings are now commonplace. The assumptions about the sustainable yield of the Ha'ikū-Ko'olau aquifers found in the 1500 page WUDP document need to be rigorously revisited and confirmed. Within the Ha'ikū-Ko'olau sector, the Commission on Water Resource Management data illustrates that there are 150 known well and tunnel diversions in the region. Only about 50 percent of these known resources or sources report monthly on their water withdrawals. It is interesting to note here that the County of Maui, EMI, Mahi Pono and A&B do not report their water withdrawals to CWRM on a monthly basis. The reporting that occurs, comes from private citizens and developers. Their investment and resource must be protected. Also at risk are a number of properties and households in the region that get their water from naturally occurring springs. These spring fed properties need to be identified to ensure that a wholesale withdrawn [sic] water from the region does not leave them high and dry. I wanted to touch on these anecdotal issues to try and put a face on the community that will be at risk if the sustainable yields found in WUDP are soon to be valid. Please insist that the geotechnical studies be undertaken soon to verify the nature of the Ha'ikū-Ko'olau aquifers and that strategies be developed to protect the region in place well before water is exported. Thank you for your considerable interest in protecting our singular, most regional resource.

CHAIR SINENCI: Mahalo, Mr. Young, for your testimony. We have a question from Member King.

COUNCILMEMBER KING: Aloha, Laf. Long time no see. Good to see you. You look great. Lot of people don't know that don't know that you're one of the first people in the County to bring PD's to our community. But, I wanted to go back to something because you repeated something that Phil Lowenthal said about the springs, the individual springs. Do you know if any of those are like officially registered as water sources for those homes?

MR. YOUNG: I don't believe so. I've got a nine page document from the CWRM yesterday, and I've looked through it and springs are not an identified source. Generally, it has to do with wells, and the type of well, or perhaps, whether it's a tunnel.

COUNCILMEMBER KING: Okay. Do you think that they can be? Is that what you're saying in your testimony? That they can and--

MR. YOUNG: A what?

COUNCILMEMBER KING: That they can and should be official registered sources.

MR. YOUNG: I think if we reached out through the Community Association and perhaps other

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media, we could find spring users who would be willing to be identified and private . . . it's a little hard to report your usage on the spring because you generally only divert a portion of it into your domestic use and the rest goes into agriculture or further downstream. It would be difficult to quantify the amount of water. Probably more important would be to quantify the number of spring users and their location, elevation wise, within the community.

COUNCILMEMBER KING: It's very interesting. Okay. Well, thank you for being here and for your testimony.

MR. YOUNG: You're welcome.

COUNCILMEMBER KING: Good to see you.

CHAIR SINENCI: Mr. Young, are you also part of the Ha'ikū Community Association?

MR. YOUNG: Yes, I'm on the Board.

CHAIR SINENCI: Oh, okay, great. So, we'll see you in a little bit. Thank you.

MR. YOUNG: Thank you.

CHAIR SINENCI: Next it looks like we have Ohana Tabura signed up to testify.

MS. MAGALIANES: Aloha. My name is Maile Magalianes, Ohana Tabura, residing in Ha'ikū. And we would like to testify in support of the Water Use Plan having clear language that Ha'ikū streams need to have a plan to be restored, ultimately, as soon as possible. And also we support accurate language be added to the Water Use Plan about the Ha'ikū aquifer and all the many studies that must be completed and have not yet been done. The Plan shouldn't include that the Ha'ikū aquifers have plenty of water to send to Central or South Maui when no firm facts have yet been presented. So, we live right off . . . *(inaudible)*. . . above "Rice Camp" and the ditch has, I mean, it's been dry which has been kind of causing a health risk to the neighborhoods, to the houses in the area with stagnant water from rainfall, you know, mosquitos and such. EMI hasn't been held responsible to clean the ditches in this area even though it hasn't been flowing, I think that the management is poor on the ownership of the dams or diversions. Like, what was previously said about, previously said about private wells, there may be so many under the radar sucking up from the aquifer, not reporting their usage, contributing to, you know, taking and not leaving any for the rest of the County, or even . . . their just contributing to taking this and EMI, you know, not stealing in a sense, but not reporting it as well, registering their wells. We're mostly concerned about traditional uses like how taro farming, as well as stream life, native stream life. The streams need to flow from mauka to makai to ensure the kanaka have continued their natural ways of life. There are still many of us that gather, you know, our grandparents used to gather from the streams that we are no longer to gather from because there is nothing. And so, you're starved . . . we're being starved, basically. So, we would ask that you quickly restore the streams as soon as possible. The Plan's need to be set in motion. The

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language needs to be clear. That's all we have to say. Thank you for your time.

CHAIR SINENCI: Mahalo, Ms. Magalianes. Members, questions for the testifier? Seeing none. Again, mahalo, for. . .*(inaudible)*. . .and providing your testimony. Was there anybody else there that wanted to provide testimony, Ms. Magalianes?

MS. MAGALIANES: I think I said most of what my husband wanted to say. Thank you.

UNIDENTIFIED SPEAKER: I'm sorry.

CHAIR SINENCI: Okay. Okay. Okay, next. Thank you. Next, we have Mr. Moore signed up to provide testimony. Mr. Moore. Mr. Moore, go ahead, and unmute yourself. Okay. Staff, is there anyone else wishing to testify? Mr. Moore, the last one on the list to testify.

MS. APO TAKAYAMA: Yes, Chair, no other individuals have indicated that they would like to testify.

CHAIR SINENCI: So, just go ahead, and unmute yourself or let us know in the chat. Okay. All right, Members, seeing there are no individuals wishing to testify, without objections, I'll now close oral testimony.

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Any objections to receiving written testimony?

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Okay. Thank you.

. . . END PUBLIC TESTIMONY . . .

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

CHAIR SINENCI: Okay. Great. Moving right along, Members, today we have one item, the Water Use Development Plan for Maui. Okay. The Committee is in receipt of County Communication 19-162, from the Director of Water Supply, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING UPDATE TO THE WATER USE AND DEVELOPMENT PLAN FOR THE ISLAND OF MAUI." Attached to the proposal bill is a document entitled Maui Island Water Use and Development Plan Draft March 2019. The purpose of the proposed bill is to adopt the attached document as an update to the Maui County Water Use and Development Plan in accordance with Sections 14.02.020 and 14.02.040 of the Maui County Code. So, with that, Members, today we have representatives of the Ha'ikū Community Association regarding the topics sections that are listed on today's agenda including Ha'ikū streams, Ha'ikū well development, Ha'ikū

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aquifers, and the Upcountry Water Meter List as it pertains to the Ha'ikū community. As you all remember, the Ha'ikū Community Association held their townhall meeting last year on September 24, 2020, where they discussed the County Water Use Development Plan as it pertains to their community. They subsequently sent in testimony to the Council regarding the Ha'ikū well development, it's streams, it's aquifer systems and the Upcountry Water Meter List. Members, today we will . . . we'd like to revisit these items and kind of go through each of those topics. I know our resource people have prepared some comments on the relevant sections of the Draft WUDP, with possible amendments for you to consider. They did send in their testimony from the Ha'ikū Community Association. So, if you haven't gotten them now, I believe it is on your Granicus. And, of course, we'll just go ahead and discuss as a Committee, you can ask questions of our resources and we also have the Department here as well, Director Pearson, Ms. Blumenstein. Depending on the conversation and the discussion from the Members, we can decide to include or not include any of the proposed amendments and the proposed updates to the draft. Members, I know the WUDP is a huge document unlike the CPAC document that we just completed. So, after each meeting, I plan to post them an updated draft that incorporates the changes supported by the Committee's thus far. For example, the next APT meeting agenda will include a revised draft Maui Island Plan from your Chair which will incorporate the proposed amendments we discuss and support today all other amendments made prior to today's meeting. Okay, so, with that, Members, today I've invited Director Pearson from the Department of Water Supply, and Ms. Eva Blumenstein along with Ms. Lucienne de Naie, the President of the Ha'ikū Community Association, and her team, in order to discuss some of the agendized topics. Ms. de Naie, would you mind introducing some of your Board that you've brought with you today.

MS. dE NAIE: Thank you, Councilmember Sinenci. Yes, I'd be happy to. Our Vice-Chair, Phil Lowenthal, whom you heard speak a little bit earlier. Phil, can we see you on camera briefly here. And then, our Secretary--

MR. LOWENTHAL: Hello, can you hear me on camera? I think I unmuted myself. Is the camera on?

MS. dE NAIE: You . . . we can hear you but . . . you click that little thing that looks like a camera at the top of your screen.

MR. LOWENTHAL: I did. I did. Nothing happened.

MS. dE NAIE: Oh, well.

MR. LOWENTHAL: Anyway. Anyway, you don't want to see me anyway.

MS. dE NAIE: All right. Well, we know you're here. There's our Secretary, Scott Werden. And Scott's a retired Engineer. You can tell he's precise that way--oh, we're looking at you, Phil, that's great. Okay, Scott, can you show yourself here for purposes of introduction.

COUNCILMEMBER KING: He's on, Lucienne, we can see him.

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MS. dE NAIE: Okay. Very good. You have to speak, Scott, to be--

MR. WERDEN: Okay. All right.

MS. dE NAIE: I think for the picture to come up.

MR. WERDEN: All right. I just waved.

MS. dE NAIE: All right. Very good. And then we have Laf Young, who's also one of our long time Board Members. And Laf is also an Engineer. So, we've had a lot of good analytical minds here, look at this document. And that's why you have, you know, long, precise list of things. That's how we do it there in Ha'ikū. In general, our approach was that we looked at sections that made statements about--

CHAIR SINENCI: Oh. Lucienne.

MS. dE NAIE: Yeah. Yeah.

CHAIR SINENCI: Okay. Oh, so, just Scott and Phil will be . . . oh, and Laf, okay.

MS. dE NAIE: Yeah, Laf, yes.

CHAIR SINENCI: Real quickly, before we move forward, Members, I'd like to designate them as our resource persons under Rule 18(A) of the Rules of the Council, if there are no objection.

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Okay, thank you. Go ahead, Lucienne.

MS. dE NAIE: Oh, I just wanted to give a brief intro, all you guys have work to do. But, we looked at this Plan in terms of how could we make it comply with the reality that we don't know a lot about Ha'ikū aquifer until all these, you know, wide ranging studies and tests are done, and make our language reflect the fact that not only are they going to be done in the future, but that we can't assume that the water is there until they're done in the future. Right now, the WUDP does refer to hydrological studies being done, absolutely, but it doesn't say . . . and, you know, we have some doubts about the aquifer because we don't have information. It just says, well, there should be plenty of water because we have this sustainable yield figure, but sustainable yield and practical available water can be very different, and those tests are what we need to have the practical part. So, that's . . . we happened to discuss section by section as they come up but that was our overall philosophy.

CHAIR SINENCI: Mahalo, Ms. de Naie. Up next, we have Director Pearson, from the Department of Water Supply. Director, did you want to provide any opening comments?

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MR. PEARSON: Yes. Thank you, Chair Sinenci, and Members of the APT Committee. Jeff Pearson, Director of Water Supply, here. Before I get too far, I want to thank Eva there in Sweden, 12 hours away. Appreciate this, Eva, she's my go-to woman. So, without her, I'd be fumbling even more than I usually do. So, thank you. Yeah, we're here to, I think, you know, as you designate as a resource person, and we're here to listen to the Ha'ikū Community Association, and work from there. When questions arise, I'm sure, at least, Eva can answer them. So, we'll be here to help and support the process that's going forth now.

CHAIR SINENCI: Mahalo, Director, and we appreciate Ms. Blumenstein all the way from Sweden jumping in on the meeting to provide us with her expertise. The Ha'ikū Community Association did send in their testimony. And so, I was just wondering if you guys got to see that or if . . . it is on Granicus should you need to access their . . . some of their issues that they have today. Okay. Members--

MS. BLUMENSTEIN: Chair Sinenci, did you want to hear from me on the testimony or?

CHAIR SINENCI: Yeah, go ahead, Eva, sorry.

MS. BLUMENSTEIN: Oh, no, that's okay. No, I just want to just had an opportunity to look at it today, this was just two hours ago. But I wanted to address a few things, so keep in mind that the Water Use and Development Plan does not really make an assessment of available water resources, right, it's based on or it rather it has to be consistent with the Water Resources Protection Plan, right, that was just adopted by CWRM and is put together by Commission on Water Resource Management Staff. So, there are a lot of discussions about sustainable yield uncertainties specifically for Ha'ikū needed hydrological studies, etcetera, but, at the same time, we threw out the first Chapters in the Plan which is a lot to read but that's kind of just the background of what is sustainable yield and what is . . . it's not . . . we can't really make an . . . we don't make reassessment or adjustment to sustainable yield in the Plan. We explain what it is. This is based . . . it's a fraction on natural recharge whether it's hydrologic data missing, recognizing that sustainable yield is set. Within a range for Ha'ikū it's 24 million gallons a day to 31 and it's conservative to set at that lowest scale. So, just want to bring that attention that it's clearly recognized what the . . . in order to further consider Ha'ikū as a strategy that there are hydrologic studies needed. And, also the strategies are considering any well development must be well within sustainable yield and based on community input have a generous buffer to sustainable yield. Yeah, just want to bring that up.

CHAIR SINENCI: Mahalo, Eva, for those comments. Okay, Members, before we get started, I did want to inquire of Mr. Forrest, if he's available. We know that we are . . . we did not agendize the East Maui Consent Decree, however we are speaking to Ha'ikū wells, streams, aquifers. So, we just kind of wanted to get a . . . his comments, recommendations on how much can we go into the decrees. Forrest, are you available to provide us some input, legal advice?

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MS. APO TAKAYAMA: Chair, this is Kasie, I spoke with our Legislative Attorney, Forrest, and he let me know that it's okay as long as we speak to it with regards to the Water Use and Development Plan. We don't have the item agendaized but as long as we relate the conversation to, you know, the update of the Plan, or the information of the Plan, we're within our bounds.

CHAIR SINENCI: Okay, great, thank you, Ms. Apo Takayama.

MS. APO TAKAYAMA: Thank you.

CHAIR SINENCI: Members, did you have any just opening questions before we kind of jump into . . . did everybody get to see some of the Ha'ikū Association's proposals that we have today for discussion? Questions at this point. Okay, all right. And then just stop if you do have questions. Okay. So, moving right along, and we're not going to follow . . . we're just going to jump around. So, if you have that handy as your guide for . . . and then we'll try and share screen to if . . . so that the Members can see what we're . . . what graph we're looking at or what verbiage are we considering for you to have consensus. Okay, with that, Members, we were going to look at some of the addendums, and as you are made aware, Staff has been worked to implement the addendum items of the WUDP into the document. So, with the Council's intent to revise the Plan with the most updated information, so that we've done. One such change is on page 23 of the Executive Summary ES 5.3 and, Staff, if you can share this page. Yep. Thank you. So for, Members, at this one it says revisions to the sustainable yields were adopted in 2019. The decrease from 175 million gallons a day to 152 million gallons a day. So, the current ground water pumpage is about point five percent of the total 152 million gallons a day sustainable yield. So, this was one of the changes in the addendum that was included, however, it looks like I don't see the changes to the 152. Oh yeah, there it is, on the blue. Do you see 152 is the first bar on the bar graph in blue. Thank you, Staff. And so, that was the change that was made that we incorporated into the document, however, these changes were not included in other areas of the Plan, including tables 11.1 and 11-2. So, I don't know, Staff, do you have . . . and this is what the Community Association had just brought to our attention that on page 270 of the WUDP, Table 11-1, if you could share that. 11-2. These changes were not made. So, here, when you look at . . . this is one change that we wanted to go ahead and make on the Ko'olau section it looks like the . . . where it says 172, this is a change that we wanted to go ahead and put 152 to reflect those changes that was on the previous graph. Okay. Then also--

COUNCILMEMBER LEE: Mr. Chair.

CHAIR SINENCI: Yes?

COUNCILMEMBER LEE: Could we get comments from Eva on that, please?

CHAIR SINENCI: Okay. Ms. Blumenstein.

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MS. BLUMENSTEIN: Thank you. I think when we did the . . . there was three revisions in the appendices from June, July last year that the changes to . . . we did include a separate table with the updated sustainable yield because the Water Resource Protection Plan was adopted after the Draft WUDP came out, right, and we made revisions in the appendices in . . . for each regional chapter, Water Use and Development Plan has to have a regional plan, right, so for each aquifer sector. I don't think we went through the intro, Chapters 1 through 13, to make . . . to incorporate all the changes from the Water Resource Protection Plan. So, they are in each regional chapter but this one is in the Chapter 11, right, Island Wide Water Resource Adequacy.

CHAIR SINENCI: Yeah so, Ms. Blumenstein, is this . . . is it okay for us to make those changes here to comply with the other sections?

MS. BLUMENSTEIN: Yeah, I mean, so this is reflecting, I think, that the narrative above probably states that this is based on 2000, the existing Water Resource Protection Plan at the time, yeah, the 2008. So, perhaps then it needs to be reflected in the narrative as well, but I don't have an issue with updating the table. It should probably have the reference to the 2019 Water Resource Protection Plan.

CHAIR SINENCI: Okay. Thank you for that. All right. Great. Members, is this something that you . . . did we want to go ahead with those references to change these numbers--

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

CHAIR SINENCI: --from 175 to 152 million gallons a day? Is that something you guys are consensus on?

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

COUNCILMEMBER LEE: Mr. Chair, could we at least put down the source of that information so it can be checked.

CHAIR SINENCI: Okay. So, Chair, refer to the appendices. You want to site the appendices where it was changed as Ms. Blumenstein has said? Okay. All right. Okay, thank you. Okay. Any other comments from the . . . Lucienne, any comments? Was this one of your . . . go ahead.

MS. dE NAIE: Yes, thank you for making the change. You might find that the Hāna aquifer also had some changes. But, you know, we wrote about our sector. And I believe that what Councilmember Lee was saying is that it . . . the language should reflect that these figures are from the 2019 Water Resources [sic] Protection Plan because currently it says it's from the 2008. So, I think when she referred to the reference she meant the source reference that that number is derived from.

CHAIR SINENCI: Oh, okay.

MS. dE NAIE: It's in the text there.

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COUNCILMEMBER LEE: Yeah, correct. Correct.

MS. dE NAIE: Near the charts, there will be a text.

CHAIR SINENCI: So, are . . . did the . . . are . . . is the Community Association okay with keeping it at 175?

MS. dE NAIE: Oh, no, it should be changed.

CHAIR SINENCI: Oh, okay.

MS. dE NAIE: And a reference should be made where that information came from.

CHAIR SINENCI: Okay.

MS. dE NAIE: Which is the 2019 Water Resource Protection Plan.

CHAIR SINENCI: Okay, and, Members, is everybody in consensus with that, Staff?

COUNCILMEMBERS: Consensus.

CHAIR SINENCI: Okay. Great. Thank you. Okay. Also, Lucienne, the Ha'ikū Community also had concerns about this addendum change. One of it is on page 105 of ES 5.3. So, I don't know if this is--

MS. dE NAIE: Yes. I'm going to have...I'm going to have Scott speak to that a little bit. I think you mentioned that it was reflected that because the entire capacity of the Ko'olau aquifer was downgraded by what, 20 million gallons, the percentage of pumping changed too, and you reflected that in the addendum that that figure was reflected and that, I think you said you were bringing that into the rest of the, you know, like the Executive Summary. Our map, I believe, showed it was six percent. Scott, do you want to speak to that at all?

MR. WERDEN: Yeah, because the figure did get downgraded, there's a very slight change on the percentage.

MR. LOWENTHAL: I think it went point six.

MS. dE NAIE: Yeah, point six, yeah. So, that's all we brought up. It appears that there is a version where that did get addressed. I think it said point three or something before, point four. It was a bit of a change as I recall because it's, you know, 20 million gallons different. So, that's not chump change. We also wanted, in that particular section, besides changing that figure, is the idea that you're assuming that groundwater transport of up to 9.4 million gallons would . . . can be supported by sustainable yield established at 20 . . . like we have no problem with the fact that the Water Commission says there's 27 million gallons a day just like they said there was 31 million gallons a

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day in 2008 and now they say there's 24 million gallons a day in 2019. If we understand the County needs to use figures that come from the Water Commission, however, the County doesn't have to assume that it can absolutely depend on those figures. And I have to say the old Water Use . . . Water Resources Protection Plan from 1990 had a very clear statement in it that Mr. Mink and Mr. Yuen put in. And it said, the sustainable yield should not be the. . .*(audio interference)*. . .amount that could be reasonably developed from the aquifer. Far more testing would need to be done to determine what those accurate amounts should be, and really, this plan should reflect that philosophy. We know so little about this aquifer and we just would like this plan to reflect the fact that we don't know a lot about it, but a sustainable yield has been set based on this ram model that's kind of one-size-fit-all. But, for people who don't know-

CHAIR SINENCI: Okay, Lucienne--

MS. dE NAIE: Yeah.

CHAIR SINENCI: Let me stop you there, and I want to go back to the language in six, the Consent Decree.

MS. dE NAIE: Yeah.

CHAIR SINENCI: So, in Section 16.11 *[sic]*, if Staff can show that section of your testimony about the 2003 Consent Decree issue and what are some of the issues that you guys from the Consent Decree want to include in the WUDP. And then we'll revisit some of that language.

MS. dE NAIE: Okay. Well, Scott--

CHAIR SINENCI: Screenshare.

MS. dE NAIE: Scott worked on this section and he spoke to it in his testimony but, Scott, anything additional that you, you know, I think if people have questions, we'd be happy to answer them but--

MR. LOWENTHAL: Lucienne, can I, can I weigh in just for a moment on the Consent Decree?

MS. dE NAIE: Sure.

CHAIR SINENCI: Okay, just a minute. Let's have, Kasie, can you share for the Members where we're at, Section 16.1.1.

MS. SIEGEL: Just one moment, Chair.

CHAIR SINENCI: Okay, thank you. So, the Consent Decree places many requirements upon the Maui Department of Water Supply before groundwater can be taken from the Ha'ikū aquifer, and so one of these requirements is for rigorous cost-benefit analysis, another

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is for consistency with the County WUDP. The Ha'ikū community feels strongly that the sustainable yield is being used to justify many of the plans involving Ha'ikū aquifer groundwater, and that it be reliably and accurately determined in order to meet the requirements of the Consent Decree. And so, you guys have included a list of things so if you can . . . studies and considerations that must take place in order to determine a high-confidence figure for the sustainable yield of Ha'ikū aquifer includes the following. And, Kasie, if you can scroll up. So, Members, this is some of the language that the Ha'ikū Community wanted to include that is from the 2003 Consent Decree. And, I believe, we the Committee is in receipt of testimony from Mr.--

MS. dE NAIE: Mr. Hall.

CHAIR SINENCI: Was it Mr . . . yeah, Mr. Isaac Hall. I don't know if Members got that testimony, it's . . . I believe it's also on Granicus on the Consent Decree. So, Mr. Lowenthal, did you want to go ahead and--

MR. LOWENTHAL: Just, I'd like to give you some background on the Consent Decree if I may. It doesn't come out of a everybody just oh, let's get together and come up with an idea. This came out of years of litigation and it represents what the County had to agree to. It represents the law. This is a distillation of the law that starts with the Constitution, goes to the Water Code, it goes . . . it's in the HRS, it's in the HAR, and this is . . . this comes out of the Courts. So finally, this gets reduced to writing. This is the law and the County is bound by it. And, it's not because they just decided they want to be nice guys, it's because that's what the law in Hawaii is and--

CHAIR SINENCI: Okay, thank you.

MR. LOWENTHAL: --you are bound by this.

CHAIR SINENCI: Mahalo, for that clarification.

COUNCILMEMBER LEE: Mr., Mr. Chair.

CHAIR SINENCI: Chair Lee, go ahead.

COUNCILMEMBER LEE: Yeah. If I'm not mistaken, this section states that water's developed in Pā'ia-Ha'ikū will remain in Pā'ia-Ha'ikū?

CHAIR SINENCI: Director.

COUNCILMEMBER LEE: Mr. Chair, isn't that the correct interpretation?

CHAIR SINENCI: From the--

COUNCILMEMBER LEE: Regardless is if this a Consent Decree issue or not. The lines that are underlined to add to the WUDP say, that the waters developed in Pā'ia-Ha'ikū will remain in Pā'ia-Ha'ikū. Is that correct?

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MS. dE NAIE: May I speak to that, Chair Sinenci?

CHAIR SINENCI: Yeah, I'm not seeing that verbiage in that section.

MS. dE NAIE: Yeah, the Community Plan makes a reference that groundwaters developed in Ha'ikū cannot be used outside Ha'ikū, and the Hana Community Plan has exactly the same language, until the needs, the groundwater needs of the residents of the community plan district are met. So, it does not say no water can ever leave, it sets a fair condition by which you make sure that we're not giving away something that's needed there locally, and then the extra we can talk about. The amended language that we're suggesting merely states the obvious that additional studies are needed to determine if the projected population growth can be met with available resources under normal and drought conditions. We don't know if Ha'ikū is going to need more water than is currently in this plan because very little is known about the needs of Ha'ikū. And then, we go on to say that groundwater transport from Ha'ikū, and rather than just assume that it could just be transported, we say it needs updated and accurate assessment of the sustainable yield and impacts of substantial groundwater pumping from the aquifer which is really true. Now, the County may not feel that there needs to be any update to the sustainable yield, but obviously the Commission has updated it three times in the last 20 years and it may happen yet again. But, really that should be known first rather than just assuming that since the number is so high if we use some they'll be no problems as long as we do a hydrological study. More than a hydrological study is needed.

CHAIR SINENCI: Okay.

MS. dE NAIE: And that's why we said please--

COUNCILMEMBER LEE: Okay, Mr. Chair. Mr. Chair.

MS. dE NAIE: --see 16.1.

CHAIR SINENCI: . . .*(inaudible)*. . .

COUNCILMEMBER LEE: Yeah, I really don't want to debate this issue with anybody other than the Councilmembers. I appreciate the information but, you know, I don't feel I need to defend myself to others who are there for resource purposes.

CHAIR SINENCI: Okay, and--

COUNCILMEMBER LEE: I'm seeing that I don't believe this is something I can support because I'm not looking at only Pā'ia-Ha'ikū, I'm looking at the entire island, and water as a resource is a public trust to share with the entire island. So, and the way the water is . . . there's an abundance of water in Pā'ia-Ha'ikū and in Hana unlike any of the other areas. So, I think we have to be...give this a lot of thought whether we should support a policy that retains water in a certain area until they don't need it, until there's extra.

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Now, that's pretty arbitrary. Until there's extra. So, you know, if there was just a small amount of water in Pā'ia-Ha'ikū, that's one concern, but since there's an abundance of it way more than any other section of Maui County, then I don't know that that's going to be a good policy to apply not only in Pā'ia-Ha'ikū, but to adopt for all areas.

CHAIR SINENCI: Thank you.

COUNCILMEMBER LEE: I mean, that means Central Maui . . . the water developed in Wailuku, should stay in Wailuku. Then, who's going to supply Kihei? So, those kinds of issues have to be thoroughly vetted amongst ourselves because . . . and there's no disrespect to any . . . to Lucienne or anybody else, it's just they are advocates for their areas and that's understandable. We are supposed to be advocates for all the areas. So, please keep that in mind as we move forward through the process. That's all I'm saying, Mr. Chair, thank you.

CHAIR SINENCI: Thank you, Chair. And, we do have the Ha'ikū-Pā'ia Community Plan in other sections. I didn't want to bring . . . with this, with the Consent Decree, we just wanted to make sure, moving forward, that we were complying with the Consent Decree. Now, when you brought up the Ha'ikū Community Plan, Lucienne, in your list it says requirements of the Ha'ikū -Pā'ia Community Plan. Now as I see it, that language is not in the Consent Decree but just in the Ha'ikū-Pā'ia Community Plan, is that correct?

MS. dE NAIE: The Consent Decree refers to compliance with the policies of the Ha'ikū-Pā'ia Community Plan and that exact language is in the Ha'ikū Community Plan, the Hana Community Plan, and even more stringent language is in the Upcountry Community Plan, and they were adopted as law whether you, you know, supported or not, they were adopted as laws.

CHAIR SINENCI: Right, and so, what, I believe, what Ha'ikū Community Association is requesting is that this language here with this list that studies and considerations take place in order to determine the high confidence figure of sustainable yield of Ha'ikū aquifer should include the following: USGS Geology and Geohydrology Analysis Recharge Model. And so it looks like these are some of the things that came out of the Consent Decree, and so, moving forward we don't know, and like Chair Lee says she doesn't support where in the Consent Decree it has this reference on fourth to the last requirements of the Ha'ikū-Pā'ia Community Plan because that language about keeping it within is not like the Consent Decree refers to the Community Plan but the Community Plan has that language in it.

MS. dE NAIE: Yes, it does.

CHAIR SINENCI: Okay. All right. So--

MS. BLUMENSTEIN: Chair, may I clarify something from the Plan, please?

CHAIR SINENCI: Ms. Blumenstein, go ahead.

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MS. BLUMENSTEIN: Thank you. I do want to clarify that obviously all the policies and strategies in the Community Plans are listed and addressed in the beginning of each chapter for each sector. Also, the policies in the Pā'ia Community Plan, to make sure that groundwater within the region is serving that community plan district, that they're not mutually exclusive. They're strategies for Wailuku, for Central Maui and there's strategies for Upcountry which Upcountry system serves Ha'ikū community, right. Where Ha'ikū groundwater is needed for both areas so it's not a strategy that prioritizes water being sent to South Maui before serving Ha'ikū, it's two strategies. But, there are additional policies within Ha'iku-Pā'ia and the other Upcountry Community Plan; Makawao, Pukalani, Kula, that prioritizes the most affordable source. So, there's additional strategies to look at the additional surface water if that's available with groundwater as a reliable backup. I do want to clarify that. And also, the list of these proposed additional studies here, those are not reflected in the Consent Decree.

CHAIR SINENCI: They are not.

MS. BLUMENSTEIN: Thank you.

CHAIR SINENCI: Okay. So, the questions is, Ms. Blumenstein, is the WUDP compliant with the Consent Decree of 2003 in its current state?

MS. BLUMENSTEIN: Yes, the Plan does mention multiple times both for Central strategies and for Upcountry strategies that compliance with the Consent Decree is required including hydrologic studies. So, there's no, the Consent Decree itself, of course, also has the provision that any source development in Ha'ikū must be consistent with the Water Use Development Plan. So, there's the, you know, a list of things, cost benefit studies, et cetera, that are provisions of the Consent Decree that need to be met before the next step. But, the Water Use Development Plan is kind of the first step. This is just the guidance document saying that this is a good location to look for reliable groundwater, we looked at all these other alternatives and this is one of those places where it makes sense to invest in cost-benefit studies, investing in hydrologic studies, et cetera.

CHAIR SINENCI: So, prior to doing any new wells in the Ha'ikū area, would those well development need to adhere to the Consent Decree?

MS. BLUMENSTEIN: Oh, of course. And plus some, right, I mean, a new EIS that we are talking ten years before there's any, you know, reasonable, actual well developments--

CHAIR SINENCI: Okay.

MS. BLUMENSTEIN: --to take place in Ha'ikū. Yeah.

CHAIR SINENCI: All right. Thank you. And so it sounds like, Members, this was just something that the Ha'ikū Community wanted to include taken it from the, you know, and just making sure that if there should be any proposed well development in Ha'ikū that it comply with the Consent Decree. Okay. Okay, moving right along.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair.

CHAIR SINENCI: Oh, we have a question from Member Rawlins-Fernandez.

MS. dE NAIE: Wait, Councilmember Sinenci.

CHAIR SINENCI: Hold. We got a question from Member Rawlins-Fernandez. Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just real quick I just wanted to clarify to make sure I understand. So, regardless of whether we put language from this Consent Decree or not, it's something that we have to follow so it would behooves us to make note of that here. And it sounds like Ms. Blumenstein agrees with that.

CHAIR SINENCI: Eva said that. . .*(inaudible)*. . .

MS. BLUMENSTEIN: Chair, can I respond?

CHAIR SINENCI: Yeah, go ahead, Eva.

MS. BLUMENSTEIN: Yeah, I was stating that the WUDP does address the Consent Decree and the requirement to comply with the Consent Decree in multiple places. So, there's no such statement saying that we think we can just go ahead and develop eight mgd regardless of what Consent Decree, no. All the provisions of the Consent Decree will need to be followed and, in fact, we are working on one of those right now, the Cost-Benefit Study.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Blumenstein. Mahalo, Chair.

COUNCILMEMBER LEE: Chair.

CHAIR SINENCI: Thank you, Member Rawlins-Fernandez. Lucienne.

MS. dE NAIE: I just wanted to clarify a number of these exact statements are in the Consent Decree so it's not fair to say that they don't come from the Consent Decree. It does require a study of the interaction of ground-surface water interactions, it does require a biological studies of stream life and marine life, it does require Ha'ikū Stream Restoration Plan and some studies, and it does require a cost-benefit analysis that looks at the needs of the communities, the cost of looking at water from other sources and so forth, it does require compliance with the community plan, it does require a study to satisfy native Hawaiian traditional and customary uses, the climate change might not be in there because that was not on people's radar but, of course, it's on everyone's radar now, and I have to say that I've read this whole Plan, and basically, if you just read the plan and didn't know what was in the Consent Decree, and it's not delineated clearly in the plan, you'd think that what is needed is a hydrology study. And like wow, we'll just do that, no problem. But, that's not really the case, and that's our point here that, yes, we assume the County will comply with the Consent Decree. But the Plan

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should make it clear what that means so that policymakers when the County asks for funding for x, y, and z, they go yeah, that's in the Water Use and Development Plan. We knew we were going to have to do that.

CHAIR SINENCI: Okay. Mahalo, Lucienne. Eva, some of these things are in the Consent Decree. Is it redundant? Should we use . . . cause it sounds like the Ha'ikū Community Association for the Ha'ikū sector wants to include some of the language that are actually in the Consent Decree in a few areas. Not everywhere in the Ko'olau sector. But a few areas where it addresses aquifer and wells. So, Eva--

MS. BLUMENSTEIN: Yeah.

CHAIR SINENCI: -- is this something that the Department could support?

MS. BLUMENSTEIN: What I think if...like Lucienne said too, , certain things are in there and some are not, and it should probably clarify it because the way I read this, the testimony, the page two it says the following takes--

CHAIR SINENCI: Okay, we're just discussing. We're not adopting anything just yet.

MS. BLUMENSTEIN: Right.

CHAIR SINENCI: So, are you--

MS. BLUMENSTEIN: Yeah.

CHAIR SINENCI: Is the Department open to including language that are actually in the Consent Decree particularly for the Ko'olau-Ha'ikū sector? That's . . . I think that's what they're asking.

MS. BLUMENSTEIN: I think if those are the issues perhaps including the Consent Decree itself as an appendix since it's referred to as with other studies.

CHAIR SINENCI: Oh, okay. All right. Consensus--

MS. BLUMENSTEIN: But, I'm not . . . I just wanted to mention the . . . in the testimony it says the following text in its entirety should be added from this--

CHAIR SINENCI: Yeah, that's just for reference, Ms. Blumenstein. Thank you. Just for discussion today. Thank you. So, Members, we okay with including the Consent, the 2003 Consent Decree as a reference within the WUDP? Is that something that we all can agree up on? Consensus?

COUNCILMEMBER LEE: As an appendix? As an appendix, sure.

COUNCILMEMBERS: Consensus.

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CHAIR SINENCI: Is there a question? I can't see everybody. So, was there a question? Okay. Consensus from the Members. Mahalo.

COUNCILMEMBER LEE: Just for clarification, Chair, Chair

CHAIR SINENCI: Yes, yeah.

COUNCILMEMBER LEE: Okay, we're talking about adding the Consent Decree as an appendix and not interspersing them within the document itself, various lines here and there, right?

CHAIR SINENCI: At this point, it's, right, as an appendix.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR SINENCI: Thank you, Chair. Okay, moving right along. Thank you, Members. Okay, next, Members, other updated information was from the 2019 State Water Resource Protection Plan of which we received consensus at the last meeting or previous meeting and in that Water Resource Protection Plan, the Ko'olau and Hana aquifer sectors sustainable yield figures were decreased between 2008 and 2019. Staff, could you go ahead and share figure 15-29. Again, this is one of the items that the Ha'ikū Community Association had referenced. Okay, so, and in their testimony they referenced the bottom line Ko'olau groundwater Ha'ikū aquifer sustainable yield looks like 24 million gallons a day. Ms. Blumenstein, was this figure changed just recently from the State Water Resource Protection Plan?

MS. BLUMENSTEIN: You, you . . . the Ko'olau ground . . . the last row on the table? Ko'olau?

CHAIR SINENCI: The . . . yeah.

MS. BLUMENSTEIN: Yeah, so the 24 mgd is . . . that reflects the Ha'ikū updated sustainable yield.

CHAIR SINENCI: And did you . . . do you know what previous number it was at that it was lowered from?

MS. BLUMENSTEIN: 27.

CHAIR SINENCI: 27 million gallons a day. Okay. So, that was corrected. These are one of the...the ones that this Committee . . . that we had consensus on was to update the 2019 State Water Resource Protection Plan. And it's down below in the green graph or green line in the bar graph. Lucienne, did you guys have . . . this was one of your--

MS. dE NAIE: Yeah, if it's corrected, you have to realize that we started these comments several months ago. And then, version two came out and it's very confusing for the public to know what's where, when. So, we did our best to point out places that just needed that updated information. So, if it's been changed, wonderful.

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CHAIR SINENCI: Okay. Thank you. Great. Okay, so it's something that the community is okay with. Okay, thanks.

MS. dE NAIE: We . . . okay, with those decision, however, I'm just going to say that.

CHAIR SINENCI: Okay. Thank you, Staff, for sharing. Okay, now we did bring this up earlier and we can go ahead and revisit it. This was the page and Executive Summary page 105, 5.3. Staff, if you can share. This was one of the Ha'ikū Community Association's proposed language. We had this discussion earlier. Staff, could you share page 105, ES 5.3.

MS. SIEGEL: One moment, Chair.

CHAIR SINENCI: Okay. Then, Members, after this discussion, maybe we'll take our mid-afternoon break, after this. Okay.

MS. SIEGEL: Chair, is that the correct one?

CHAIR SINENCI: This one was from the Ha'ikū Community Association.

MS. SIEGEL: Okay, one second.

CHAIR SINENCI: Members, if you're . . . for your reference, it's page 105, ES 5.3. That looks like it's on page . . . oh, the first page of the Ha'ikū Community Association. So, again, we referenced this earlier in the meeting where we came down from 175 million gallons a day to 152 million gallons a day of sustainable yield. And so, from the Association has proposed additional studies as needed as we refer to the Consent Decree. At the bottom of this, it says needs updated and accurate assessment of the sustainable yield of the Ha'ikū aquifer and impacts of sustainable groundwater pumping from the aquifer. Please see necessary assessment tools. If we can have some opening comments from Lucienne, and then we'll go to Eva.

MS. dE NAIE: Well, I think we're going to agree to disagree with the Water Department here. They feel that they don't need to say anything other than this looks like a pretty good source, and we're going to do a hydrological study, and we're counting all the water because it's in all of our charts. We feel that's misleading the public. This is a very, very expensive proposition. If there are other combinations of ways to find water that don't involve a place that may appear to have abundant water, I mean, the snow job has been great. Ha'ikū does not have abundant water. Sometimes it has abundant water and most people in Ha'ikū can tell you that they're hurting for water a lot of the time. So, we ask that just realistic language be put in rather than the assumption that we have a sustainable yield, and it's the right one, and we can just assume that there won't be any harm done by doing something that's way within the sustainable yield. We would like language that just says the truth. That we need an updated and accurate assessment of the sustainable yield, and the impacts of substantial groundwater pumping from the aquifer. I want to say one thing about sustainable yield, it talks about

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kind of like it's a, you know, it's an equation so it doesn't like look at what's really under the ground. You use test wells for that and we don't have data from Ha'ikū on test wells. And the Water Commission, the USGS studies done in the 90's, theorized that the aquifer was thin, so a lot of water passes through but it doesn't pull. And so, if you try to drill a well, it can't be a very robust well. It can only pump a certain amount. We have one good well in Ha'ikū, but could we come up with seven more? We don't know. And yet, this is assuming that this is the only best strategy we have. We just think that that's very short sided regardless if we didn't live in Ha'ikū, it's a short sided strategy to use in a long range plan. So, we suggest this language that obviously you don't want our assessment tools even though similar statements were made in a plan that was adopted in 2010 as the Water Use and Development Plan. It listed the concerns that citizens had. And the test that needed to be done that were from the Consent Decree. And it listed them in the Plan, it didn't put them in an appendix. It put them where people who read the plan could see them as they were evaluating the information in the plan. Every single environmental impact statement that is done and environmental assessment is going to refer to this plan and it's going to say there's plenty of water in Ha'ikū, and it's going to make their plans based on that. What happens if that isn't true?

CHAIR SINENCI: Thank you. Eva. Do you have any comments on this proposed language?

MS. BLUMENSTEIN: Yeah, I think Lucienne is at right, we have to agree to disagree. I don't really want to debate this. I want to repeat what was said before.

CHAIR SINENCI: It's okay, can just speak your guys minds--

MS. BLUMENSTEIN: Yeah, yeah, yeah.

CHAIR SINENCI: --we're here to listen to both of you.

MS. BLUMENSTEIN: Well, for one thing, I mean, there are the concerns of the community including the Ha'ikū community and the Community Plan policies that came out from the public process are documented and defined in the Plan. So, I want to make sure that that's, you know, it's not true that the community was not heard and those are outlined in the Ko'olau and the Central Aquifer Sector.

CHAIR SINENCI: We're just--

MS. BLUMENSTEIN: So, we're very aware of that. And in terms of, you know, making some assumptions about what sustainable yield is or is not, the definition of it and knowing, you know, that this is . . . makes up a fraction of actual natural recharge, they are revised every few years which is the duty and the responsibility of the Commission on Water Resource Management. I don't know if it's fair for...to put out requirements for CWRM Staff what to consider in updating sustainable yield when that comes around the next time. The Water Resource Protection Plan does enumerate the most immediate needs, which are, of course, climate change impact on recharge, assessment of fog drip on precipitation, other things, but it's not pollution, chemical pollution of Ha'ikū aquifer.

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Those concerns are just in the plan, but I don't think it's fair to put those recommendations or requirements, that is something that CWRM should address when they update sustainable yield to make it more accurate. So, again, I think we kind of had to go with the science that's there today recognizing that, yes, there all these additional studies that needs to be done. And one of the reasons we are looking at Ha'ikū is because the low-hanging fruit has been picked. We are concerned about recharge, climate change impact on recharge in Iao and Waihe'e, Kahului, and Kihei. So, I mean, those are definitely some valid concerns in other areas.

CHAIR SINENCI: Okay. Thank you, Eva. And, Members, I just want to make the disclosure, we are happy to have Lucienne and both, Eva, in the same meeting. And we don't want . . . and they come with great experience and expertise and years that we haven't been part of this. So, we acknowledge and respect your comments on this, in this process. So, you don't have to refer to each other or, you know, just speak to what we're proposing. And then, I think the Members are happy to hear from both of you. And so, because we're ultimately are going to make this decision. So, Members, any discussion on this verbiage after hearing both Lucienne and Eva, Eva's view?

COUNCILMEMBER LEE: Chair.

CHAIR SINENCI: Go ahead.

COUNCILMEMBER LEE: Okay. Eva, yeah, I too expect there to be additional studies, but what bothers me a little bit about some of these change...proposed changes are the deletions that come along like, for instance, where it says ground water about midway through the paragraph it says ground water transport from Ha'ikū of up to 9.4 million gallons a day is proposed to be deleted to meet population growth needs in the Central Aquifer Sector, et cetera. So, what are your comments about those deletions?

MS. BLUMENSTEIN: Well, yeah, I'm not comfortable with making changes to demand projections in the Plan unless there's a Land Use Policy change behind it. What I mean is that we . . . there was a testifier who mentioned that we don't know what the demand is, but it's true we don't know all water uses especially if water users are not reporting they're pumpage or their diversions, but we based the demand for Ha'ikū and elsewhere on the social-economic forecast, and that's the basis for population growth in each district. So, that is what it is. We don't make, you know, we don't recommend any changes to that in the plan, and of course I don't want to go in through the whole method of the demand projections but it . . . that's the predicted need for each region, you know, again, looking at alternative resources within Pā'ia, Kahului, Waihe'e, Waikapu aquifers. I promise you the Department wouldn't even make this effort to go through put in the money for a cost-benefit study if there was something more. . .*(inaudible)*. . . available that is affordable. It just wouldn't make sense, so, I know I sound kind of like hanging on to the Ha'ikū, but I really feel like this is one of the few options that are left after we consider aggressive conservation and alternative resources that you have that come at a reasonable cost. So, this is certainly worthwhile to further explore it before writing that off.

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COUNCILMEMBER LEE: Thank you, Eva.

CHAIR SINENCI: Member Molina, you have your hand up.

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Chairman, and I agree, we're blessed to have both Lucienne and Eva and even though they may be on opposite ends of the spectrum on this. But for me, I'm okay with the implementation of the language being proposed because, one, water's not an exact science. I mean, what seems to appear available today, may not be tomorrow. And so, and, you know, studies and technology changes over time so I don't think it hurts to include language such as this to consider additional studies to see what's really available to match what was initially assessed at, you know, for example, yield of 24 million gallons in 2021 come ten years from now, that may change. So, there may be other forms of methodology to study and make assessments. So, I think for the communities level of comfort, I think including this language for me would not be a problem. So, that's just my take and this is a difficult science to make assessments on. So, we don't know how much more straws will be put into the drink so to speak, yeah, how much more water would be drawn out, how much more water we'll get, and of course, you factor in climate change, it can get pretty complex. So, anyway, my thoughts, Chair. Thank you.

CHAIR SINENCI: Mahalo, Member Molina, for your comment. Members, so, of like we said we already added the 2003 Consent Decree, and it looks like some of the language at the bottom here is just mirroring what may be stated in the Consent Decree. I know some Members might not support from Ha'ikū. So, any other thoughts, or Members, did you want to change some of the language that you could support? Yes, or propose any changes.

COUNCILMEMBER LEE: Chair.

CHAIR SINENCI: Oh, go ahead, Chair Lee.

COUNCILMEMBER LEE: Okay. I don't see any problem in leaving the proposed additional studies are needed to determine such and such, but to reinstate groundwater transport from Ha'ikū of up to 9.4 million gallons a day to meet population growth needs in Central aquifer sector. So, whatever was deleted to restore, but to also retain the additional language on requesting impacts and studies and so forth.

CHAIR SINENCI: Okay. Thank you, Chair. Members, is there consensus on adding the line, additional studies are needed to determine it? Are we on consensus with that language?

COUNCILMEMBERS: Consensus.

CHAIR SINENCI: Okay, consensus. Okay. All right. We got consensus on the line, additional studies are needed. We won't bring up the Ha'ikū one. I don't know if we've reached . . . and we can look up what was deleted there prior to that amendment. At the end it says, needs updated and accurate assessment of the sustainable yield of the Ha'ikū aquifer. We already have set sustainable yields in the . . . as set of the Ha'ikū

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and impacts of substantial pumping from the aquifer. Any input about that section? Is that something we want to revisit?

COUNCILMEMBER LEE: Yeah, revisit.

CHAIR SINENCI: Okay, we got one revisit. Councilmember Rawlins.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have a question for Ms. Blumenstein. Okay, mahalo, Chair. You know, so, the proposal to remove the 9.4 mgd to Central aquifer, I'm sorry, I don't have the entire WUDP memorized, but, doesn't the Central aquifer have enough water to sustain itself like Nā Wai 'Ehā?

CHAIR SINENCI: Right, and we're going to--

COUNCILMEMBER LEE: No we don't.

CHAIR SINENCI: Members.

COUNCILMEMBER RAWLINS-FERNANDEZ: No?

CHAIR SINENCI: We have other meetings that we'll have the Central . . . we can address Central and Wailuku aquifers. We can bring that up in a second meeting, upcoming meeting.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so, we'll revisit that.

CHAIR SINENCI: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then, we'll also, the other language, is that what's being proposed right now?

CHAIR SINENCI: Yes.

COUNCILMEMBER KING: Chair.

CHAIR SINENCI: We had consensus on, additional studies are needed to determine it. We had Member King, and then Member Paltin.

COUNCILMEMBER KING: Yeah, just a quick question. I just wanted to . . . I think I want to confirm that South Maui is part of the Central Maui aquifer in this context?

CHAIR SINENCI: Okay. All right, thanks.

COUNCILMEMBER KING: I just want . . . I'm asking to . . . is that confirm? Cause I think that's how we addressed it when we went through the WUDP. This is part of Central Maui.

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CHAIR SINENCI: Yes.

COUNCILMEMBER KING: Okay.

CHAIR SINENCI: So, part of our revisits we'll go ahead and look at what constitutes the Central Aquifer Sector, yeah.

COUNCILMEMBER KING: But that may be the answer, partial answer to Member Rawlins-Fernandez' question is that no, we probably don't have enough all throughout South Maui which is part of that. . .*(inaudible)*. . .

CHAIR SINENCI: Okay, Member--

COUNCILMEMBER LEE: Mr. Chair.

CHAIR SINENCI: Go ahead, Chair Lee, and then, Member Paltin.

COUNCILMEMBER LEE: Yeah, and then, I'm sure Eva can confirm that the Iao aquifer is under designation so we can only use so much water and that includes Central Maui, that's Wailuku, Kahului, and Ma'alaea, Kihei, Makena, Wailea, that's all part of the Central Maui system. Thank you.

CHAIR SINENCI: Member Paltin. Is that your--

COUNCILMEMBER PALTIN: I don't want to beat a dead horse, but I concur with Alice and Kelly, that's kind of what I was going to say as well.

CHAIR SINENCI: Okay, Staff. . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: That's how it was explained to me by Mr. Frampton.

CHAIR SINENCI: Okay, we'll, Staff, we'll go ahead and mark that as a revisit. Okay, Members--

MS. APO TAKAYAMA: Will do. Thank you, Chair.

COUNCILMEMBER MOLINA: Chair.

CHAIR SINENCI: Go ahead, Staff. Member Molina.

COUNCILMEMBER MOLINA: Yeah, so I just a clarification, so that 9.4 million gallons a day that was bracketed out, was that the intent of that was to augment the existing amount that's being distributed from the Central Maui aquifer to South Maui. Is that was intent for adding that additional 9.4 from Ha'ikū? Maybe Ms. Blumenstein could clarify that for me.

CHAIR SINENCI: Ms. de Naie, was that part of the Association's intent.

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MS. dE NAIE: Well, 1.4 million gallons is supposedly for somewhere Upcountry and 8 million gallons is for Central Maui although it appears to be pretty much for South Maui. But, you know, don't you guys want to change that so, instead of saying established at 27 million gallons a day in 2008, that's old news. Just say it is 24 million gallons a day.

COUNCILMEMBER MOLINA: Okay. Thank you for that clarification. Thank you, Chair.

CHAIR SINENCI: Member Molina, did you want to . . . is that something you want to propose?

COUNCILMEMBER MOLINA: Are we going to revisit this, Mr. Chair?

CHAIR SINENCI: Okay, we can re . . . okay, all right. But that was one of the Association's proposal to change the 27 mgd to 24 mgd and we can go ahead and revisit--

COUNCILMEMBER MOLINA: Yeah, I'm fine. Just want to propose that, yeah. Put it at 24 mgd's.

CHAIR SINENCI: Okay. Is that something the Members want to have consensus on? Just to delete the 27 mgd in 2018 as we have spoken earlier on it. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I actually think that it helps the cause to show that it was 3 mgd higher 11 years prior and so it's showing a trend which supports the community's argument that we should be very careful in how we are using and distributing the water. So, I actually would prefer to leave that in. And we're going through the same thing here on Moloka'i where the Kualapu'u aquifer initially was thought to be about 5 mgd and, you know, with USG studies, it's showing that it might be less. And so, I think showing that trend downward might be a good note to keep in.

CHAIR SINENCI: Is that something that the Association is agreeable to, Ms. de Naie? Just to show--

MS. dE NAIE: Well, first--

CHAIR SINENCI: --to show historical...

MS. dE NAIE: Yeah, but it's not proposed at 24 million gallons a day, it's adopted at 24 million gallons a day.

CHAIR SINENCI: Oh.

MS. dE NAIE: We have a Water Resource Protection Plan that was adopted that says 24 million gallons a day. So, if you want to leave the other one is as contrast, okay. But, it shouldn't say proposed, that confuses people. People think it's proposed when they read that, and it's not.

CHAIR SINENCI: Member Rawlins-Fernandez.

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MS. dE NAIE: It's an adopted sustainable yield.

CHAIR SINENCI: Member Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I see what Ms. de Naie is saying where the word proposed so if, you know, what we have to consider is leaving the 27 in just for historic context and then removing the word proposed and having the word . . . and just leaving it at 24 in 2019. So, established in 27 and 24 in 2019.

CHAIR SINENCI: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: So, established at 27 mgd in 2008, and 24 mgd in 2019.

UNIDENTIFIED SPEAKER: Chair.

CHAIR SINENCI: Did you want to change the word proposed to adopted?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, the established would carry over from, established at 27 in 2008 and 24 mgd in 2019.

CHAIR SINENCI: Oh, okay. So, no need adopted. Is that something the Members can agree on, consensus?

COUNCILMEMBERS: Consensus.

CHAIR SINENCI: Consensus to take away the word proposed, okay.

MS. BLUMENSTEIN: Chair, excuse me, can I just clarify something?

CHAIR SINENCI: Ms. Blumenstein.

MS. BLUMENSTEIN: Real quick. The addendum, the ES 53 that is mentioned doesn't have that language. That the current addendum just states the revised sustainable yield is 24 mgd.

CHAIR SINENCI: Oh, okay. All right. Okay, thank you for that. And, we'll follow up with that language, yeah. Staff, can we go ahead and just look at the actual language that's there. Thank you, Ms. Blumenstein. Okay. Thank you, Members. Sorry, I took you past our mid-morning [*sic*] mid-afternoon mark. It's 3:24. So, with that, we'll take a quick break and come back at 3:35. Of the APT Committee meeting of Tuesday, June 29th, is now in recess. . . . *(gavel)* . . .

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RECESS: 3:24 p.m.

RECONVENE: 3:36 p.m.

CHAIR SINENCI: . . . (*gavel*) . . . Aloha kākou. And welcome back to the APT Committee meeting of Tuesday, June 29th. It is 3:36 p.m. And, Members, mahalo, it's been . . . we'll just keep going until . . . I'll try and get you out before the 4:30 meeting. I just wanted to tell you some of the challenges of us moving forward and working with the Ha'ikū Community Association has been the different . . . there's several different versions of the WUDP. So, some of us, and so, if you've noticed, some of us, some of the changes were already done and some hasn't. So, we still have to kind of combine and look at 'cause we've been working on two different drafts, whether an older draft or the most recent draft. So, and that pertains to Staff as well. So, I just wanted to let you know that if you see some discrepancies, it's us working on several different drafts. Okay. So, moving right along, do we still have our . . . did we lose our Community Association? Go ahead and open their screens, Staff. Okay, moving right along, Members, we kind of briefly touched on Ha'ikū wells and as we've been hearing the Ha'ikū Community Association is making sufficient data to ensure their residents. And I get it, you know, they want to make sure that their residents that are on private, domestic use, or use private wells, personal wells for their farm use of springs, streams, wells. So, you know, they're definitely wanting to make sure that their community is set prior to other communities having those water resources, yeah. So, again, mahalo for this in depth discussion that we're having with all community members. So, moving right along, we did have, Staff, could you go ahead and share Table 14-41. This was one of the addendums that was addressed by Staff and Ha'ikū Community Association had a proposal. So, you can go ahead and share addendum 14-41.

MS. SIEGEL: Chair, am I sharing their suggestion or the actual Table?

CHAIR SINENCI: The actual Table okay.

MS. SIEGEL: Okay, one moment.

CHAIR SINENCI: Thank you, Staff. And Ms. de Naie, these were one of the addendums of potential changes that the Community Association was proposing if you wanted to go ahead and speak to or give us is that strategy number five in the first column. Ms. de Naie, go ahead, and unmute yourself.

MS. dE NAIE: Thank you. Once again, we can't imagine, that this Council wants to go on record saying that this is our only strategy that will work. It's the only water left because we don't believe that's true. We believe that there are combination of strategies that would work to provide a reasonable amount of water. We believe that the up to date information on the demand side, I mean we just had a whole project go away in Central Maui, Waiale was going to be a what 2,500 units. It is not being built. It's use is factored into our plan. I noticed that Makena Resort

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has just drilled a well. Are they going to be supplying their own water or are we figuring that water from Ha'ikū needs to go there? Do we really have the right demand figures? I appreciate all the work that Ms. Blumenstein and. . . *(audio interference)*. . . this is really . . . I think that the numbers of demand are highly inflated, and this is just from my own personal studies of looking around and seeing what else is on the boards. So, we suggest that this strategy rather than only being focused on East Maui be focused on the idea that a . . . a range of options. And we believe the Plan actually says that this is what it wants to do. That it wants to seek out viable strategies. The County is drilling a new well out Waihe'e side. I'm sure that's to spread pumpage, and to maybe get a little bit more available water there. The Plan has language saying that potable water that's being used for non-potable use is in the Central Maui district should be repurposed for potable uses. That gains water there. There are a variety of sources that need to be put together to meet a demand and that demand, I think, really needs to be looked at realistically. In general, the figures that we have here in the report that were extrapolated for 2020 are not what the current use is. Our current use is lower. So, we just suggest this simple change that we introduce the idea of we explore a combination of all viable strategies in consideration of a reliable capacity for planned growth areas including the Central System. And then we initiate a range of hydrological and other needed studies to determine any negative impacts consisting ground surface water, springs, fisheries, et cetera, because it's more than just the hydrology. It's really the ecology. And I think we heard that at our Ha'ikū Community meeting. So, everyplace that is looked at as a viable source of water should have the same level of information, not just Ha'ikū. It's the standard we should seek for every area. So, that is our consideration in this language.

CHAIR SINENCI: Mahalo, Ms. de Naie. Just to clarify, is this strategy number five? Staff, are we on the correct strategy? Staff. . . *(inaudible)*. . .

MS. dE NAIE: I believe it's strategy number five. Let's see.

CHAIR SINENCI: Oh, okay. So, right, continue expiration of East Maui well development and consideration reliable for planned areas including Central Maui.

MS. dE NAIE: Yeah.

CHAIR SINENCI: Okay, and so, Members, the language, a combination of all viable strategies including the initiate a range of hydrologic and other needed studies.

MS. dE NAIE: And, of course, this does not preclude Ha'ikū being included in that, but it doesn't make it the only focus. That's all we're saying. So, we're not saying, oh, you don't even look at Ha'ikū. We're saying you do the proper studies and you look at all the viable options.

CHAIR SINENCI: Okay. Mahalo.

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MS. dE NAIE: Which is what the Consent Decree says too.

CHAIR SINENCI: Okay. Members--

COUNCILMEMBER LEE: Chair.

CHAIR SINENCI: Go ahead, Chair Lee.

COUNCILMEMBER LEE: We could say in combination with other strategies, continue exploration of East Maui. Is that good enough?

CHAIR SINENCI: Okay, so Chair Lee, you wants to add, in combination of other--

COUNCILMEMBER LEE: No, in combination with other strategies, continue exploration of East Maui well development, as a suggestion.

CHAIR SINENCI: Okay. Thank you, Chair Lee. Any other suggestions, comments from the other Members? So, Chair Lee is just combination of other strategies including exploration of East Maui well development. Is this something that the . . . we have consensus on? Any comments from Eva or Lucienne?

MS. dE NAIE: I'd like to have a comment, I don't know if Eva wants to say anything first.

CHAIR SINENCI: Eva.

MS. BLUMENSTEIN: Sure. Thank you. Okay, so I just want to clarify we are . . . I know that Member Rawlins-Fernandez had a question before about the 9.6 for Central Maui. So, we are not talking about Central Maui system and this is the Wailuku Aquifer Sector demand and supply options that we are discussing. So, in that chapter, of course, there is a range of different supply options included in Table 14-40 where Ha'ikū is one of them, right, so some of them are lao, some of them are further wells from Waihe'e. This Waikapu aquifer just conservation recycled water, et cetera. So this is kind of like the portfolio of supply to meet demand on the Central system and one of them is potable ground water import from Ko'olau aquifer or Ha'ikū aquifer 8 mgd. So, I think the Table 14-41 is just a summary of the strategies of that chapter. I don't have a problem at all with it adding, you know, that that's one of many, but I do think that that's already reflected in the table before, Table 14-40. Thank you.

CHAIR SINENCI: Okay. Thank you, Eva. So, Members--

MS. dE NAIE: So, our comment is that the Consent Decree says you don't conclude that East Maui wells are one of your strategy until you do the cost-benefit study that determines that it would be the most cost-benefit and reliable option and studies not done yet so it just seems really premature, it's kind of like oh we're

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going to do the study but we already know what it's going to say. That doesn't feel good and maybe it's true, but I would hate to say that, you know, that's how the County does business.

CHAIR SINENCI: Lucienne, will you--

MS. dE NAIE: So, that's one of the reasons we changed this language. As Mr. Hall said in his letter, these things that we've asked for in the Consent Decree since 2003 are not complete yet. When they are complete we may know better what our best options are. So, it just seems more honest for this plan to not conclude that East Maui is one of the strategies until those Consent Decree terms have been met and the Consent Decree says clearly, after you've . . . if these studies determine that this is the best way then you go forward and do an EIS and you do all these studies for the EIS. It prescribes the studies that have to be done in the EIS, which were the studies that were listed in our table, you know, Section 16.11.

CHAIR SINENCI: Lucienne, are you referring to the feasibility study?

MS. dE NAIE: Well, this has become now a feasibility study, but it is meant to be a cost-benefit analysis. It is clearly defined in the Consent Decree as a cost-benefit analysis. And it needs to look at all the different aquifer sections. Just what this is saying, explore combination of viable strategies and then, you know, decide what would be the best fit for reliable capacity for planned growth areas.

MS. BLUMENSTEIN: Chair, may I add something?

CHAIR SINENCI: Okay, go ahead, Eva.

MS. BLUMENSTEIN: Yeah, so that's correct. There's a lot of different provisions that needs to be met both in these Maui Consent Decree and beyond that studies, you know, before any wells would put in in any aquifer so, but part of the Consent Decree is also that such a well plan has to be consistent with the Water Use and Development Plan. So, all this additional cost-benefit studies, et cetera, that are needed for other places, it's not in lieu of, this is the guidance document, this is kind of the first step saying, yeah, we don't have all the answers here but we're looking at all this different, this range of supply options to meet predicted demand and this is one of them. So, I think this is true for every aquifer or stream or any resource we look at that we don't have 100 percent of the data there. This Plan which is 30 years overdue is sort of like the starting point and all of these projects whether there's watershed management restoration needs further scoping out and, you know, before it becomes in front of you as a CIP project.

CHAIR SINENCI: Okay. The second column, Eva, it says planning objectives. Are you open to having a, you know, some of the whether it be the feasibility studies or the Consent Decree be added somewhere to just to let, you know, kind of looking at, I understand that this is the strategy, but I want . . . the Ha'ikū Community is asking is that, you know, prior to that that, you know, we comply with some of

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the different . . . the Decree and also feasibility studies. So, I don't know if we could possibly put language in there.

MS. BLUMENSTEIN: Chair.

CHAIR SINENCI: Members, any questions on this item? Go ahead.

MS. BLUMENSTEIN: Let me just clarify that the column in Table 14-41, this table is at the end of each regional chapter, right. It just summarizes the planning objectives that are island wide that were established through the public process so these were . . . so these are just summarized from the three years of public meetings. So, just want to know that . . . so you understand where they're coming from. They're not individual for each strategy. Just summarizing, you know, where that is reflected whether that's coming from community plan, Maui Island Plan, or additional public input in the Water Use Development Plans from 2015 through 2017. They just summarized in this table.

CHAIR SINENCI: Yeah, I was wondering if we could consider under planning objectives comply with any Consent Decrees or something just to show that 'cause it says maintain sustainable resources, provide adequate volume of water supply, maximize reliability of water service, minimize adverse environmental impacts, minimize cost of water supply. So, is this where we could put some kind of verbiage about the Consent Decree, or I think it's the Association had some kind of initiate or range of hydraulic and other needed studies. This where we could kind of put some of that language in here. Ms. de Naie.

MS. dE NAIE: Well, we wanted to be a little bit more specific about the studies that are needed because if someone reads this document, the conclusion is, yeah, they did a hydrology study, they're done. I mean this column, estimated cost, it has a cost from 2013. I mean it's really just saying like Consent Decree, yeah, we'll just get that behind us and this is what it's going to cost us. We don't know. We don't know any of this. I mean, to me it's just completely misleading and that's one of the reasons that the Association ask for the language. I don't think by changing this, you would make it so that the WUDP does not discuss the fact that there is a possibility on wells in East Maui. It's discussed 34 times so I don't think you wouldn't be compliant with the Water Use and Development Plan in the Consent Decree. I just think that these are foregoing conclusions as are, you know, our former testimony said by Mr. Lowenthal, you can't under the law, assume you're going to use a resource when you really haven't complied with everything you need to do in order to know if it's going to be harmful to other public trust purposes. And we don't know that, and we haven't found that out. So, you know, to me, I would just like to see the language we suggested added under that strategy. And it should apply to anyplace that we look at for water as I said earlier, you know, those are good values to pursue.

CHAIR SINENCI: Okay. Thank you, Ms. de Naie, and Eva. So, we'll go to the Members. Members, we have a suggestion. We have the Community's Association's

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language that they would want to get rid of East Maui well development and put a combination of viable strategies. We also have a suggestion from Chair Lee that has both combination of other options including East Maui well development. So, you guys want to see if we can get consensus or revisit on this item? Any comments from Committee Members?

COUNCILMEMBER LEE: Chair. Chair.

CHAIR SINENCI: Go ahead, Chair Lee.

COUNCILMEMBER LEE: Okay. Ms. de Naie, how many more proposals do you have?

CHAIR SINENCI: It . . . Chair, it looks like we have--

MS. dE NAIE: The same strategy five in several other tables. Actually, in one other table, in 15-39. And then, amendment to page 31 in Chapter 16.

COUNCILMEMBER LEE: Okay. I was just wondering because we need to move on. So, if this is non-substantive, I mean, you know, we may as well vote on it now and go on to the next one.

CHAIR SINENCI: Okay. Thank you, Chair.

COUNCILMEMBER LEE: And, I'll just withdraw my suggestion as it didn't seem to be accepted by the Community Association anyway. Okay.

CHAIR SINENCI: Thank you, Chair. Okay, Members, are you okay with accepting the Community's language to remove East Maui as a potential area for . . . and again, this is in the Wailuku and just go ahead . . . it doesn't mean that we can't go ahead and still consider East Maui. It just says that we want to go ahead and explore a combination of viable strategies. Then do we have--

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

CHAIR SINENCI: --consensus. We have two.

COUNCILMEMBER MOLINA: Consensus.

CHAIR SINENCI: Consensus.

COUNCILMEMBER LEE: Consensus.

CHAIR SINENCI: Okay. Great. Okay, we have consensus on this language. And, of course, it does include a range and other needed . . . do you also have friendly amendment to the additional language of range of hydraulic and other needed studies, springs, fisheries, and impounded waters? Is that something you want to include? Member Paltin.

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COUNCILMEMBER PALTIN: Oh, I just had a clarification question. I'm not familiar with what impounded waters are.

CHAIR SINENCI: Lucienne.

MS. dE NAIE: Eva may want to jump in here, you know, she's the recognized expert. But, oh you want to say . . . you wondered why I put that in. Impounded waters are waters that are held within geological formations so they're not generally part of the overall aquifer, but they are tapped for...by development tunnels and used as part of water resources. And lot of springs are the result of the impounded waters. Water will be impounded in a geological formation. They'll be . . . it'll be held within and not seep all the way down into the main aquifer. And then, you'll have a little spring coming out of a rock for instance or a rock face.

COUNCILMEMBER PALTIN: Oh, for me, I don't think I'd like to include impounded waters, in that case. I mean, it just...

MS. dE NAIE: It's in the general . . . it's already in the language that's in the draft. It says dike impounded waters. And, so, it's not impounded waters. It's dike impounded waters is the whole thing. We just took the "s" off of dike and it said dike something waters. It had a different word. But, the usual term is dike impounded. There's dikes of rocks that impound the waters. So, you would look at any negative effect on the dike impounded waters along with the fisheries, the springs, the streamflow's, et cetera.

COUNCILMEMBER PALTIN: Oh, okay. All right, yeah, okay. Got it.

CHAIR SINENCI: Okay.

MS. dE NAIE: Hope that clarifies, yeah.

COUNCILMEMBER PALTIN: Yeah, yeah. I was looking at it the other way I guess.

MS. dE NAIE: Oh, yeah, no, no one wants to hurt them.

CHAIR SINENCI: Okay. Members, any other concerns about adding the other language, range of hydraulic and other needed studies. Also, adding springs, fisheries, and impounded waters. Okay. Consensus?

COUNCILMEMBERS: Consensus.

CHAIR SINENCI: Okay, great. Thank you, Staff. Noted. Okay, mahalo. Moving right along, our next proposed amendment for consideration is Section 14.8.3, Strategy #5. Ms. de Naie, did you want to go ahead and...

MS. dE NAIE: It's exactly the same thing. All those strategy fives basically say we're

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going to continue the East Maui well development, and what we're saying is that we think because the Consent Decree says that we're going to decide that after we do a cost-benefit analysis, and that is not done yet that what this plan . . . we hope this plan is adopted, and adopted soon, that those feasibility studies will be done in a year or a year and a half, we don't know when. But, let's just say we're evaluating a combination of all viable strategies which would include East Maui. And East Maui has its own section where it is discussed in the Central Maui, you know, that's not under the strategies. So, it's definitely mentioned and brought up in the Plan, as I said, many times. But, we just feel that, you know, this is a more consistent statement. So, it's exactly the same statement. Now, we did ask that in this one that the potential yield is more than the needed 8.69 million gallons a day, okay, you know, the Water Department wants to say that, we just don't agree that that should be said until we understand all the impacts that would be had if you pumped 8.6 million gallons a day. We don't know that. Those studies are not done. And so, that statement to us in Ha'ikū, is not one that's verifiable.

CHAIR SINENCI: Okay. Thank you, Ms. de Naie. So, you're also adding all the underlined items in Strategy #5 and the bracket is--

MS. dE NAIE: Yeah, we added a few more in this one with the rainfall gauges and so forth needed to determine the reliable capacity and any negative impacts on existing ground and surface water sources --

CHAIR SINENCI: Okay. Mahalo. Comments from the Department, Ms. Blumenstein, any comments for this proposed language?

MS. BLUMENSTEIN: I think it goes back to my previous comments about guiding CWRM Staff and the confidence of sustainable yield and, you know, how this would apply differently than to other aquifer systems. And I think about the consequences to it because we are really mostly discussing Ha'ikū aquifer which of course is subject to the Consent Decree and your resource person is a plaintiff for . . . on the Consent Decree. So, this language at some point will have to be presented to CWRM on behalf of the Department so I think we just have to think about those implications too, how this is later presented 'cause this is, you know, not the Department's recommendation that is coming from the . . . East Maui Consent Decree plaintiffs. So, just keeping that in mind. Thank you.

CHAIR SINENCI: Okay.

MS. dE NAIE: If I may correct, it actually came from the Ha'ikū Community Association Water Committee. I am a plaintiff, no one else there is a plaintiff. And believe me, these are a bunch of smart people that wrote good language.

CHAIR SINENCI: Okay, thank you. Chair Lee.

COUNCILMEMBER LEE: Yeah. I just want to make sure, Lucienne, that what you're

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trying to accomplish here is not something that will delay exploration of East Maui wells necessarily. That all these added words and language is not meant to be an impediment going forward because it sounded like, in the beginning, you said that the focus shouldn't be East Maui but it should include East Maui. So, East Maui would be --. . .(inaudible). . .

MS. dE NAIE: It would include East Maui.

COUNCILMEMBER LEE: Huh, pardon me.

MS. dE NAIE: Yes.

COUNCILMEMBER LEE: It would.

MS. dE NAIE: It would include East Maui 'cause it says all viable strategies, however, the Consent Decree says please look and see very, you know, robustly whether East Maui is a viable strategy compared to all these other possible options you might have. And please keep in mind that the Consent Decree was written in 2003 right after Wailuku Agri Bus had gone out of business and they told the County they had 23 million gallons a day of unallocated water that the County could buy.

CHAIR SINENCI: Okay.

MS. dE NAIE: Okay. Yeah, anyway, so--

COUNCILMEMBER LEE: Mr. Chair, I wasn't finished yet. I wasn't finished yet.

CHAIR SINENCI: Go ahead. . .(inaudible). . .

COUNCILMEMBER LEE: So, I just wanted to get that on the record that East Maui would be included as a strategy but not the focus necessarily.

MS. dE NAIE: It would be included as a strategy. Yes.

COUNCILMEMBER LEE: Okay. Thank you. Thank you.

CHAIR SINENCI: Okay. And again, mahalo for the additional comments. Again, we're very appreciative of everyone comments. And Ha'ikū is . . . the thing with the Ha'ikū sector is that it has the Consent Decree and that is, you know, that is law that came out of that litigation. So, we, I think as the responsible Council want to make sure that we're complying with whatever laws are out there particularly if it pertains to this particular sector in East Maui. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to . . . two things. One, so, I guess the way I understood our previous decision was that East Maui would be included, but it wouldn't start off as the conclusion but that

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this is where we're going to go. It would start off as one of the options. And the second thing is Ms. Blumenstein mentioned that this is coming from those on the opposite side of the County in developing that Consent Decree but--

MS. dE NAIE: It's a Consent Decree.

COUNCILMEMBER RAWLINS-FERNANDEZ: I guess the way I understand the Consent Decree is that once it's formed, it's a consent between the opposing parties. And so, I'm not super sure what Ms. Blumenstein was referring to when talking about an opposing party when the Consent Decree is the outcome that both parties agree to.

MS. BLUMENSTEIN: Can I respond? Yeah, my concern was because some of these are not specifically . . . the strategies as proposed all assume compliance with the Consent Decree. So, that's not really an issue the way it . . . the language is in the plan now. My concern was this additional, I would say, changes or revisions to the adopted Water Resources Protection Plan and the recommendations from the Ha'ikū Community Association or how Lucienne worded this. How sustainable yields should be revised and the assumptions that should be taken into consideration. I'm saying that the WUDP has to be consistent with the Water Resource Protection Plan and those concerns that CWRM Staff have enumerated that are most immediate to address in revising sustainable yield which is done every few years, as you know, those are different. So, now with a plan at some point being adopted and presented to CWRM, my concern is we coming, the Department would be presenting the plan, that was my concern, I was just thinking about the implications with recommendations of how sustainable yield should be revised, and my concern is that that doesn't really represent, I mean, this is Ha'ikū Community Association, including the plaintiffs of the Consent Decree, their concerns, not the broader community that we try to represent in the Plan. Like these concerns about sustainable yield are addressed for each region not just for Ha'ikū, but these additional list of things that were enumerated here would be new and I'm not sure really how that should be.

CHAIR SINENCI: Okay. Thank you, Eva. Did she answer your question, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, the concern, Ms. Blumenstein, and I really want to say how impressed I am that it's, what, four o'clock in the morning there, and you're still like very articulate and on it. So, mahalo, I really appreciate that. So, your concern is that the sustainable yield is not accurately known, that part?

MS. BLUMENSTEIN: From the testimony that I read earlier this morning, this evening I guess, there was a list of issues--let me just look at it so we're clear on what I'm talking about here--the studies and consideration that must take place in order to determine the high-confidence figure for the sustainable yield of Ha'ikū aquifer and it includes this list of things, requirements of the Ha'ikū. . .*(inaudible)*. . .

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CHAIR SINENCI: But we did not, yeah, but we did not adopt any of those. . . (inaudible). . .

MS. dE NAIE: We didn't do that.

CHAIR SINENCI: So, I'm just, Eva, are you looking at--real quick, Member Rawlins-Fernandez--influences potential yield is more than the needed 8.68 mgd. Is that what you're referring to in this particular--

MS. BLUMENSTEIN: No. No, this was on page 223.

CHAIR SINENCI: No, no, we're on Strategy 5 right now. So, you spoke about not . . . about sustainable yield. I don't see sustainable yield. I do see potential yield in here. So, this is something . . . are you speaking against the potential yield in Strategy #5?

MS. BLUMENSTEIN: No, I'm saying that the concerns that I hear from the Community Association is their confidence in sustainable yield and what studies would be needed to--

CHAIR SINENCI: I think you, I think you established that early that their . . . we've already set the sustainable yield. So, we've gone past that and so we're looking at Section 14.8.3 Strategy 5, you're okay with . . . but it doesn't seem that you're okay with the potential yield is more than the needed 8.69 mgd. This is where you have concerns about, yeah?

MS. BLUMENSTEIN: No, I mean that's just the math in terms of sustainable yield than, than --

CHAIR SINENCI: Oh.

MS. BLUMENSTEIN: -- what was needed for the greater demand. I don't have an--

CHAIR SINENCI: Issue with this.

MS. BLUMENSTEIN: I didn't refer to the . . . no.

CHAIR SINENCI: Okay.

MS. BLUMENSTEIN: I was just responding to Member Rawlins-Fernandez question on when the Department presents the plan in our role and the concerns that are behind these changes.

CHAIR SINENCI: Yeah. Thank you, Eva.

MS. BLUMENSTEIN: Yeah, we can go . . . that's a long talk in itself.

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CHAIR SINENCI: Yeah, we understand. Right, the Commission on Water Resource Management will be receiving the plan. Thank you. So, if she didn't have any, Members, Strategy 5, this some kind of language that did you guys want to have consensus on or revisit? Again, it's the same as . . . it's being proposed at . . . we . . . a combination of all viable strategies and then deleting the exploration of East Maui well development with the intent that all viable strategies would include East Maui well development. It's just not at the main . . . the focus.

COUNCILMEMBER MOLINA: Consensus.

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus. Yeah, I just want it to not so much--

CHAIR SINENCI: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Not so much focus, just not the conclusion.

CHAIR SINENCI: The last sentence, Member Rawlins-Fernandez, you're not--

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, yeah, I'm just saying that it's not predetermined what the answer is going to be before these studies are conducted.

CHAIR SINENCI: Okay. Thank you. So, and then, if we have consensus on that, there's also additional language, initiate needed hydrologic studies, monitor wells, stream studies, rainfall gauge stations needed to determine the reliable capacity of any negative impact on existing ground and surface water sources, streamflow springs, and dike impounded waters in any areas considered for future groundwater pumping. And again, this is part of the Consent Decree and specific to the Ko'olau-Ha'ikū sector. And I believe this is why the Association wanted to just add this additional verbiage for the Commission on Water Resource Management. Consensus? It's similar to the last one.

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

CHAIR SINENCI: Okay. Okay, great. Thank you, Members. Did you guys want to include . . . Lucienne, we won't include please see our comments on Ha'ikū aquifer in Section--

MS. dE NAIE: We--

CHAIR SINENCI: --'cause we didn't adopt that one.

MS. dE NAIE: We understand.

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CHAIR SINENCI: Yeah, so--

MS. dE NAIE: We understand that that was not adopted. So each of these would have that taken off, yeah.

CHAIR SINENCI: Right, so, Staff, we won't be including, you know, on some of the amendments that had this final verbiage. Okay. Mahalo, Staff. It looks like we just have a couple, couple more minutes. Are you guys, if you guys are okay with doing one more easy one? Okay. All right, great.

COUNCILMEMBER MOLINA: Is easy.

CHAIR SINENCI: Okay. So, under our aquifers, you know, the community felt that each aquifer area is unique and long-term data collection is the only reliable means to acquire accurate aquifer information in order to ensure responsible water resource planning. So, Lucienne, you guys propose additional language in Section 16.22 [sic] about the 22.5 percent decrease in the Ha'ikū aquifer sustainable yield projections. So--

MS. dE NAIE: Well.

CHAIR SINENCI: Go ahead, and provide your comments.

MS. dE NAIE: Okay. Yeah. This is the statement that's already in the Plan. It talks about the sustainable yields and so forth, and how Ha'ikū aquifer was ranked. And, we felt that it would be important the WUDP mentions a change in 11 percent between the last time the aquifer was . . . had sustainable yields set. And the current number of 24 million gallons a day, we just felt that it was more informative kind of like Councilmember Rawlins-Fernandez is saying to see that since 2008 when this was 31 percent, no actually, 31 million gallons . . . it started at 31 million gallons a day and it is now 24 million gallons a day which is a 22.5 percent decrease. We understand that the Commission does not want to appear to challenge anything the Water Commission Staff has done to work hard to set sustainable yields, however, I've heard many citizens testify that the sustainable yield should be changed for Kamaole too. I hear people testify that it should be changed for Iao aquifer. So, citizens do have the right to speak up about what they feel is going on and I understand this is not a citizen plan, this is a Water Department Plan, but we didn't think it would be disrespectful for the Department to say that they have heard, you know, community concerns and that the confidence ranking of the Ha'ikū aquifer may need to be reconsidered. It's ranked two now but there is no monitor well, there's no real long-range data, there's just some equations, and maybe it should be a confidence level of one like every other aquifer in the Ko'olau sector which equally don't have any monitor wells and don't have a lot of data. So, our suggestion was about this very specific part of the Water Resources Protection Plan that is called the Confidence Rating of an Aquifer. The highest rating, you know, would be that it's really well tested and, you know, it's number one, and the least confident is number three. All of

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Ko'olau sector is number three except Ha'ikū aquifer which is rated two as moderately confident and we have no reason . . . we have no real trust that enough is known to have that confidence rating. So, we'll probably will have the Department disagree, but we suggested that that paragraph express the fact that since the Water Protection Plan was first begun the sustainable yield has changed 22.5 percent on this aquifer. And, it's, you know, it's possibly should be reevaluated for its confidence level, not just it's capacity but how sure we are of that capacity, that's what the confidence level is.

CHAIR SINENCI: Okay. Mahalo, Lucienne.

MS. dE NAIE: So, this is very nit-picky, but, you know, Scott Werden reads these things very closely and he suggested this language and there's, you know, there's merit to it.

CHAIR SINENCI: Okay. Thank you, Lucienne. Chair Lee.

COUNCILMEMBER LEE: Ms. de Naie, how many County wells have been drilled since 2003? It's, what, 18 years ago. How many county--

MS. dE NAIE: How many County wells have been drilled?

COUNCILMEMBER LEE: Yeah, yeah, in Paia-Ha'ikū.

MS. dE NAIE: No.

COUNCILMEMBER LEE: None, right?

MS. dE NAIE: No County wells. No.

COUNCILMEMBER LEE: Yeah, no County wells.

MS. dE NAIE: Only in Makawao. Yeah. The County wells, the new County wells are Makawao.

COUNCILMEMBER LEE: Okay.

MS. dE NAIE: Po'okela well.

COUNCILMEMBER LEE: But, how many private wells have been built in 18 years?

MS. dE NAIE: Oh, a lot, because no one can get a water meter.

COUNCILMEMBER LEE: A lot.

MS. dE NAIE: Yes. Well--

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COUNCILMEMBER LEE: So, it's these private wells that have been proliferated over the last 18 years.

MS. dE NAIE: Well, Chair Lee, if the Water Department tells you you can't get a water meter, what are you going to do? You drill the well.

COUNCILMEMBER LEE: No, no, no, because you always, which rightly so, talk about monitoring and, you know, getting a handle on what's actually there in terms of--

MS. dE NAIE: Yes.

COUNCILMEMBER LEE: --you know, water capacity. And, the only wells that have been drilled are the ones that have gone to private owners, right?

MS. dE NAIE: Well, there was a monitor well drilled in 2002, a County monitor well, as a result of the first lawsuit that resulted in the Consent Decree, and it took about eight years to get it drilled. And, it was drilled and it's kind of used, but it wasn't drilled in a proper way where it really tells us everything a monitor well needs to tell us maybe. I don't know.

COUNCILMEMBER LEE: Right.

MS. dE NAIE: It just doesn't seem that it provides us a lot of data.

COUNCILMEMBER LEE: Right.

MS. dE NAIE: But, there is one County monitor well there.

COUNCILMEMBER LEE: Right. So, I just wanted the rest of the Members to know that in 18 years, we don't have a new well in terms of, you know, a production well. Maybe an experimental well in 2002 but no production wells. So--

MS. dE NAIE: But, Chair Lee, you couldn't because the Consent Decree.

COUNCILMEMBER LEE: It shouldn't have been that much of a change. There shouldn't have been that much of a change in 18 years unless the private wells made a difference of some kind.

CHAIR SINENCI: Okay. Thank you.

COUNCILMEMBER LEE: Okay.

CHAIR SINENCI: Member Paltin, did you have a question?

COUNCILMEMBER PALTIN: Thank you, Chair. I was wondering if I could ask Ms. Blumenstein if she could share the rationale for the confidence level of that well being different from the other ones without the monitoring well being . . .

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CHAIR SINENCI: Ms. Blumenstein.

MS. BLUMENSTEIN: Thank you. There has been some additional . . . there are additional data for Ha'ikū compared to the other aquifer systems in Ko'olau aquifer sector. There's very little known about Waikamoi and on Honopou aquifers. Ha'ikū aquifer does have a monitoring well as well. So, the . . . I mean that it's obviously it's Commission on Water Resource Management that sets the confidence level. So, it's not one thing, it's a range of information; existing pumpage records, the number of well owners that report, the number of wells in the aquifer, underlying hydrologic studies, et cetera, so it's a multi-prong answer.

COUNCILMEMBER PALTIN: And, I guess a follow up to that is, if CWRM sets the confidence level, are we allowed as Councilmembers to change it?

MS. BLUMENSTEIN: I'm sorry, Councilmember, can you repeat the question.

COUNCILMEMBER PALTIN: I thought in your answer that you had said that CWRM sets the confidence levels and I just was wondering if you knew if it was in our authority as Councilmembers to change the confidence level of . . . in our own counties?

MS. BLUMENSTEIN: Well, you obviously can't change CWRM's opinion that they have adopted in the Water Resource Protection Plan, but I think the County Council can have your own opinion or, you know, as reflected by Lucienne and other community members up there, and I think that's actually already reflected in the plan in multiple places for these two for Ko'olau and Central that there is concern among the community that we know very little about, not just Ha'ikū but the aquifer systems in Ko'olau Aquifer Sector in general. So, there's no doubt about that, but in terms of changing the confidence level that CWRM has categorized, you know, of each aquifer system throughout the State, that's already . . . that's adopted.

COUNCILMEMBER PALTIN: So, I guess then--can you still hear me all right? Am I on?

CHAIR SINENCI: We can still hear you.

COUNCILMEMBER PALTIN: Yeah, oh, sorry, my computer was saying something. Or had a message for me. I guess my question is if CWRM sets these confidence levels at two and then we were to change it, then that would be kind of like a disconnect, right, I mean, it doesn't--

MS. BLUMENSTEIN: Well, yeah, I think in, I mean, the sustainable yield is established by CWRM. That's by State Water Code, we cannot change that. And the rationale for each individual aquifer system is a little different and there's little footnotes in those tables in the Water Resource Protection Plan that explains some of whether it was based on the. . .*(inaudible)*. . .model or where there were USGS

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studies available and what not. And each time there's a new USGS study or UH study, that confidence level probably goes up little bit. So, or certain aquifer systems have additional monitoring wells. So, I don't think how the community feels or how the County Council feels, you know, in terms of how confident we are in sustainable yield is not really changing what they adopted or sustainable yield and the confidence ranking it was based on at the time which was the 2019 Plan.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. Okay, Members, so it looks like let's go ahead with this one and maybe our Staff can go ahead and reach out to CWRM and talk about the degree of confidence. So, if no objections, we'll go ahead and do a revisit on this particular one. And then, with input from CWRM. Consensus?

COUNCILMEMBERS: No objections.

CHAIR SINENCI: No objections for revisit. Okay. Thank you, Members. And so, Members, we're quickly coming up on the end of our meeting. We do have a couple more including Ha'ikū streams, and some of the native stream life, so I'm thinking if it's okay with Ha'ikū Community Association, I can bring those up during Appendix 10, on cultural usage. Those items that the Community Association has concerns with. So, we'll have another meeting on Appendix 10 that we'll include in that meeting and also, we'll definitely have another meeting on the Upcountry Water Meter List. Is that okay, Lucienne?

MS. dE NAIE: That's acceptable, but we do need to state for the record that the only streams in the Ko'olau sector that are referred to as, you know, restored streams, it says in the Hana ASEA restore streams. And it says in Nā Wai 'Ehā and West Maui restore streams. There is nothing that specifically that I could find in the Plan, maybe Eva has something hidden somewhere that says restore streams in Ha'ikū area. Not East Maui, not Honopou, but Ha'ikū. So, we would very much like to have that in the Ko'olau strategies as well as Appendix 10.

CHAIR SINENCI: Okay. Okay.

MS. dE NAIE: So, if that could somehow happen, that would be good.

CHAIR SINENCI: Okay. We can go ahead and Staff can follow up on that one with . . . and I know Eva . . . we'll let Eva go to sleep and then she'll--

MS. BLUMENSTEIN: Thank you.

CHAIR SINENCI: In a couple weeks she'll be back with us.

MS. BLUMENSTEIN: Can I make a quick recommendation before I fall asleep here.

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CHAIR SINENCI: Okay. Go ahead.

MS. BLUMENSTEIN: I thank you, Lucienne, for that comments 'cause there are island wide strategies that recommend stream restoration of all diverted streams and we're all . . . it's the squeaky wheel gets degreased because CWRM has only two Stream Branch Staff and they're working really hard. But they tend to listen to whether it's a lot of community concerns. So, we did ask in the public process for specific streams and those are reflected in Lahaina Aquifer Sector and other places. We asked for Ko'olau but we didn't have names of specific streams requested. So, my recommendation would just be to name those specific streams if those are priorities within that aquifer sector.

CHAIR SINENCI: All right. Great.

MS. dE NAIE: Thank you. Well, we've heard from the community that there are some priorities. So, they're out there.

CHAIR SINENCI: All right. Okay. On that note, thank you that we're leaving on a good compromised note. Again, we just wanted, before we end, we wanted to mahalo the Ha'ikū Community Association for their due diligence. I think we don't expect any further meetings to be this detailed, but you definitely raised the bar for our Water Use Development Plan meetings. So again, mahalo for joining us today. Mahalo to Ms. Blumenstein for staying up late. We'll see you in a couple weeks. Mahalo.

MS. BLUMENSTEIN: Mahalo.

CHAIR SINENCI: Okay, with that, Kasie, can we quickly share screen before we end our meeting. Real quick. Oh, and real quick if there are no objections, the Chair would like to defer this item, Members.

COUNCILMEMBERS: No objections.

ACTION: DEFER pending further discussion.

CHAIR SINENCI: Thank you. And so, we'll be dedicating our next meeting to the Wailuku Water System. And we're expecting Eva to be back on island and water for agriculture we can go ahead and still get some representation from Mahi Pono to express their farm plan. Then of course, we did hear in the news about the Nā Wai 'Ehā settlement, so we're hoping to reach out to the Wailuku sector. And so, that'll be for our next July 20th meeting. So, we just wanted to prepare the Committee.

COUNCILMEMBER LEE: Okay.

CHAIR SINENCI: And if you had any questions for those guys. Chair Lee.

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COUNCILMEMBER LEE: Oh no, could you just e-mail us that or e-mail me that.

CHAIR SINENCI: Okay.

COUNCILMEMBER LEE: Thank you.

CHAIR SINENCI: Okay, will do. Any other questions, Members? Okay, again, mahalo for joining us. That brings us to the end of our agenda. Mahalo to all of you, Members, and the Administration. It is 4:35, sorry took you five minutes over. And this June 29th, Agriculture and Public Trust Committee meeting is now adjourned. . . . *(gavel)* . . .

ADJOURN: 4:35 p.m.

APPROVED:

A handwritten signature in black ink, appearing to read "Shane M. Sinenci", is written over a horizontal line.

SHANE M. SINENCI, Chair

Agriculture and Public Trust Committee

apt:min:210629

Transcribed by: Keoni Shirota