

**AGRICULTURE AND PUBLIC TRUST COMMITTEE**  
**Council of the County of Maui**

**MINUTES**

**June 14, 2022**

**Online Only via BlueJeans**  
**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 1:32 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Shane M. Sinenci, Chair  
Councilmember Kelly Takaya King, Member (In 1:47 p.m.)  
Councilmember Alice L. Lee, Member  
Councilmember Michael J. Molina, Member  
Councilmember Tamara Paltin, Member  
Councilmember Keani N.W. Rawlins-Fernandez, Member

NON-VOTING MEMBERS:

Councilmember Yuki Lei K. Sugimura

**EXCUSED:** VOTING MEMBERS:

Councilmember Gabe Johnson, Vice-Chair

**STAFF:**

Alison Stewart, Legislative Analyst  
Kasie Apo Takayama, Legislative Analyst  
Richard Mitchell, Legislative Attorney  
David Raatz, Deputy Director of Council Services  
Maria Leon, Committee Secretary  
Yvette Bouthillier, Committee Secretary  
Jean Pokipala, Council Services Assistant Clerk  
Lei Dinneen, Council Services Assistant Clerk

Dawn Lono, Executive Assistant to Councilmember Shane M. Sinenci  
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 Sexton, Executive Assistant to Councilmember Kelly Takaya King  
Sarah Freistat Pajimola, Executive Assistant to Councilmember Keani Rawlins-Fernandez  
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama  
Lois Whitney, Executive Assistant to Councilmember Tasha Kama  
Evan Dust, Executive Assistant to Councilmember Tasha Kama

Zhantell Lindo, Council Aide, Moloka`i Council Office  
Denise Fernandez, Council Aide, Lāna`i Council Office

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Mavis Oliveira, Council Aide, East Maui Council Office  
Christian Balagso, Council Aide, West Maui District Office  
Daniel Kanahele, Council Aide, South Maui District Office  
Anabelle Hernandez, Council Aide, Makawao-Ha'ikū-Pā'ia District Office

**ADMIN.:** Sandy Baz, Managing Director, Department of Management (APT-1(6))  
Moana Lutey, Corporation Counsel, Department of the Corporation Counsel  
Richelle Thomson, First Deputy Corporation Counsel, Department of the Corporation Counsel  
Christie Trenholme, Deputy Corporation Counsel, Department of the Corporation Counsel  
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel  
Caleb Rowe, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Lucienne de Naie (APT-1(8), -1(6))  
Toni Eaton (APT-1(6))  
Dick Mayer (APT-1(6))  
Robin Knox (APT-1(6))

Resources

Lindsey Wilcox, Water Resources Engineer, Woodward & Curran (APT-1(8))  
Jonathan Likeke Scheuer, Water Policy Consultant, Department of Hawaiian Home Lands (APT-1(6))  
Lucienne de Naie (APT-1(6))

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

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CHAIR SINENCI: . . .*(gavel)*. . . Aloha 'auinalā and ób'ówie kākou. Welcome to the Agriculture and Public Trust Committee Meeting of Tuesday, June 14, 2022. It is 1:32 p.m. I'm Shane Sinenci, your Committee Chair. Currently, I have two Staff members with me, Gina Young, Mavis Medeiros. Members, in accordance with Sunshine Law, if you are not in the Council Chamber, please identify by name who, if anyone, is present with you. Joining us today we have...well, Councilmember Gabe Johnson is excused. And Councilmember Kelly King is monitoring the meeting, but will join us shortly. So with us, ób'ówie, Council Chair Alice L. Lee.

COUNCILMEMBER LEE: Hello, Mr. Chair. I have to tell you that ób'ówie means good morning.  
So --

CHAIR SINENCI: Oh.

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COUNCILMEMBER LEE: -- hello is West African means kóyo...not means, but is kóyo. So kóyo to you and to everyone, our Councilmembers, and the public. I'm here in the Chamber with our Staff, and there's no one here to testify. Thank you.

CHAIR SINENCI: Mahalo for that correction, Chair Lee. And kóyo to you. Next we have Councilmember Mike Molina. Kóyo. Aloha 'auinalā.

COUNCILMEMBER MOLINA: Aloha and...what was that word again? Sorry, Chair Lee, that greeting for today.

COUNCILMEMBER LEE: Kóyo.

COUNCILMEMBER MOLINA: Kóyo. Kóyo. Okay. All right. Aloha and kóyo to you, Mr. Chair, and my colleagues and everyone else joining us for our APT meeting today. For the record, I'm transmitting from my home in Makawao, and there is no one present. And to my knowledge there is...there are no testifiers at the Pā'ia District Office. Aloha.

CHAIR SINENCI: Aloha. Mahalo for that update. Back to Chair Lee here, are you at the Chambers, Chair Lee, or you're at home?

COUNCILMEMBER LEE: I'm at the Chambers.

CHAIR SINENCI: Oh, okay. Thank you. Next we have Councilmember Tamara Paltin. Kóyo and aloha 'auinalā.

COUNCILMEMBER PALTIN: Aloha. Wrong button, again. Aloha 'auinalā. And I just wanted to clarify I'm not saying 'Ōlelo Hawai'i ki'ō (*phonetic*) but the other language kóyo. So then transmitting live and direct from the Council Chambers, and we have no testifiers at the West Maui District Office.

CHAIR SINENCI: Thank you for that, Member Paltin. Up next we have Council Vice-Chair Keani Rawlins-Fernandez. Kóyo to you, and aloha 'auinalā.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Moloka'i nui hina. I'm at the Moloka'i District Office alone right now, but I think soon I'll be rejoined by my Staff, my Legislative Analyst Mahina Poepoe. And good clarification that there is no 'okina in kóyo and it's not ki'ō. Good clarification, Member Paltin. Mahalo, Chair.

CHAIR SINENCI: Yeah, the difference a glottal stop would make, yeah. Mahalo, Member Rawlins-Fernandez. Next I do see we have a Non-Voting Committee Member, Councilmember Yuk Lei Sugimura. Aloha 'auinalā and kóyo. Welcome to the APT. Thought I saw her. Okay. And of course, Pro Tem Kama is always welcome to join us, should she choose to. From the Administration, we did invite Director of Management Sandy Baz, and from the Corporation Counsel we have Christie Trenholme today. Aloha 'auinalā and kóyo.

MS. TRENHOLME: Aloha, Chair.

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CHAIR SINENCI: Mahalo for joining us. Other resources joining us today is Ms. Lindsey Wilcox, Woodard & Curran; Dr. Jonathan Likeke Scheuer from Kahālāwai Consulting. From the Staff, today we have our Legislative Analysts Alison Stewart and Kasie Apo Takayama. Aloha ‘auinalā and kóyo.

MS. APO TAKAYAMA: Kóyo, Committee Chair and Members.

CHAIR SINENCI: Also joining us we have our Committee Secretaries, Maria Leon and Yvette Bouthillier. Aloha and kóyo.

MS. LEON: Aloha, Chair. Aloha, Members.

CHAIR SINENCI: Then, of course, we have our Assistant Clerk and Legislative Attorney, Jean Pokipala and Mr. Remi Mitchell. Aloha and kóyo.

MR. MITCHELL: Aloha, Chair and Members.

CHAIR SINENCI: Hi, Remi. Okay, Members, we have two agenda items today, APT-1(8) Water Authority Management, and APT-1(6) the Proposed Charter Amendment to Establish East Maui Community Water Authority. Let's begin with public testimony. Testifiers wanting to provide video or audio testimony have joined the online meeting via the BlueJeans link or the phone number noted on today's agenda. Written testimony is encouraged and can be submitted via the eComment link at [mauicounty.us/agendas](http://mauicounty.us/agendas). Oral testimony is limited to three minutes per item. If you're still testifying beyond that time, I will kindly ask you to complete your testimony. When testifying, please state your name, and if you're testifying on behalf of any organization or if you're a paid lobbyist. If you're logged into the meeting, Staff have already added your name to the testifiers list, so you may indicate in the chat if you do not wish to testify. However, chat should not be used for discussion or additional comments. Please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you're done testifying or if you do not wish to testify, please disconnect BlueJeans and continue viewing the meeting on *Akakū* Channel 53, Facebook Live, or [mauicounty.us/agendas](http://mauicounty.us/agendas). You may be disconnected after oral testimony. Okay, Staff, are there any testifiers wishing to testify? If so, can you please call the first (*audio interference*)

**. . . BEGIN PUBLIC TESTIMONY . . .**

MS. STEWART: Chair, there are three names on the list of testifiers. The first is Lucienne de Naie, to be followed by Toni Eaton.

CHAIR SINENCI: (*audio interference*) Ms. de Naie.

MS. DE NAIE: Aloha, Chair Sinenci and Committee Members. It's Lucienne de Naie again, your favorite correspondent. I'm here testifying as an individual today, just talking

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about the lands where I live, and addressing the provisions in both of your agenda items. Having to do with Item 8, the actual management authority, I just want to say that it's important to keep in mind...oh, I'm getting an echo. Are you folks getting an echo? Okay. Well, I'll continue. It's important to keep in mind that this is just a step in a process, the creation of a water management vessel. In other words, the County saying, we would like to do water management at a level that we are not currently doing it, is an important first step. It's really important because our watersheds are shrinking in their capacity, not growing. And although the County does provide funding for care of portions of the watershed, there is more we can do. And it's not just about funding, but it's about engagement, and intention, and creating a water management authority that is local. That is not saying we're only waiting for the State to do something, or we're only waiting for the Federal Clean Water Act to do something, but that we, locally, are stepping up to our kuleana to care for our watersheds, to grow our future waters by increasing the capacity of our watersheds. It's just a very, very important first step. So I urge you just to view this in that framework. This is not just about, you know, all the permutations of how will we pay for this, and who would be in charge of that. Those are things that get figured out step by step. But just having the vessel of a water authority gives a chance to look at those things. If it doesn't work out, you have a water authority that's never used, and you dissolve it. But if it does work out, you really have given yourself a chance to tell the residents of Maui County that we want to be your voice and care for the land. You elected us, we want to take care of these places that are supporting the water security of our community. So mahalo for your consideration on that agenda item. And then the second agenda item, the proposed charter amendment. Well, pretty obvious, if you want to have a water authority, and we don't have one now, we're going to need to find a way to add that to our operating structure here. And in that case, it's our County Charter. So the Charter amendment is important. Getting the wording right, and the scope right, is important. I, personally, do support having a water authority that could be designed to then have expansion into different regions of our island because there is a need for management in every one of the regions of our island and where water is being produced...and including on the Islands of Moloka'i and even Lāna'i, which is mostly privately owned. There is some State land there, and there may be an opportunity to help partner with the private landowners and manage the water resources better. But we're just entering an era where there needs to be the mana'o, the knowledge, the 'ike of the boots on the ground, of the people who live in the community, of the people who spend time in the watershed, who spend time observing these systems that exist, and can be the arms, and the legs, and the eyes, and the ears to guide where we need to go for our water future. So mahalo for your consideration of both these important items. And if I need to stick around to...you know, be around to answer any specific questions about East Maui, I would be honored to do so. Mahalo.

CHAIR SINENCI: Mahalo, Ms. de Naie. And, yes, Members, I've asked Ms. de Naie if she could stay on as a resource for our second item, 1(6), if there are no objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR SINENCI: Okay, great. Thank you. Mahalo, Ms. de Naie. Next we have Ms. Eaton.

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MS. EATON: Aloha, Chair. Aloha, Members. My name is Toni Eaton. I am a member *(audio interference)* but *(audio interference)* on my own behalf. The last meeting my phone got too hot so *(audio interference)* I got a new phone so I don't think *(audio interference)* but I just wanted to reiterate what I was, you know, trying to get across the...at the last meeting. You know, the appointment of the administrator by the Mayor will not do...I mean it won't be any *(audio interference)* management *(audio interference)* --

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

MS. EATON: Are we having problems?

CHAIR SINENCI: Yeah, you're going in and out, and looks like some of the Members can't distinguish what you're saying.

MS. EATON: Okay, let's try and turn off my video. Is this better?

CHAIR SINENCI: Okay. Yeah, better.

MS. EATON: Okay, so...good. Okay, so what I was saying is that, you know, the administrator being appointed by the Mayor would be just like the Board of Water Supply, you know...I mean the Department of Water Supply, the Department of Planning Director, the Environmental Management Director, they'll be doing the Mayor's bidding. So, you know, Councilmember Paltin asked me the last time if...what I would suggest. And I would really suggest that the administrator go through the civil service process, get through...not . . .*(inaudible)*. . . but the County...you know the County hiring process and get reviewed every year. So that's one part I wanted to say about this. But another thing is that of the 50,000 acres of the lease area...I mean, not the lease area, but the whole collection area, 33,000 acres is on State lands. So that's two-thirds of the whole collection area that is on State lands. Mahi Pono...or privately-owned lands is only about 17,000 acres. So the cost of running the system, of course, it's...it is a big deal, but like I said the last time too, the cost of what? You know, what are we giving up in order to have Mahi Pono, a foreign-based corporation, take control of our water for 30 years? We giving up a lot. I mean, we already did it for 144 years. There's no way that we can afford not to pursue this system. And, you know, I just wanted to mahalo the Council, the Members. You guys are doing a awesome job. And this is the only County Council that I've been through that is starting to, you know, buck the system, buck the status quo, so I mahalo you guys for that. That's it. That's all I wanted for say. Mahalo.

CHAIR SINENCI: Mahalo, Ms. Eaton. Hold on. Let me check if there's any questions. But before I do, I'd like to recognize Member King. Aloha and kóyo.

COUNCILMEMBER KING: Aloha. Thank you so much for allowing me to come in late, Chair. I was just on my way back, I had two meetings during lunch, so...but we had no testifiers at the Maui District Office. And now I'm at my home office with my husband in the next room, Bob King.

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CHAIR SINENCI: Aloha to Bob. And then I do see Member Sugimura as well. Aloha and kóyo.

COUNCILMEMBER SUGIMURA: Aloha. I'm at Upcountry, and thank you for letting me attend this meeting.

CHAIR SINENCI: Okay, mahalo. Did anybody have any questions for Ms. Eaton? Mahalo, Ms. Eaton, for your testimony and always providing your mana'o nui. Thank you. Staff, can you call the next testifier?

MS. STEWART The last testifier on the list is Dick Mayer.

MR. MAYER: Good afternoon --

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

MR. MAYER: -- nice to see you all after a long lunch break. I just want to let you know that the Kula Community Association Board had a vote where we...and we sent you a letter stating that we would very much like to see this on the ballot. Obviously, Upcountry Maui, and particularly in Kula, we suffer from drought conditions almost annually, and we have restrictions almost annually. And we are very concerned about how the water is managed, which we depend on, from East Maui. We feel that a public authority would be better able to handle potential problems than a private company, which could conceivably...for example, because they operate a large agricultural operation in the Valley, could prioritize getting the water to their growing crops, which might also be suffering from drought, rather than taking the need...the care of 35,000 Upcountry residents who depend on the East Maui water system. And I'm not going to give you a long testimony, you know the thrust of it. Basically, it is something that we are very interested in, and supportive of your effort to put this on the ballot, and let the voters of Maui County decide if this is the best way. And we are appreciative that the East Maui residents will have a majority of the members...a large majority of the members on the Community Advisory Board because it's from their area that the water is coming. So that's a very fine part of the proposed amendment. I'll leave it at that. And there's no public testimony tomorrow morning, but you'll be taking this up in the GREAT Committee, so I thought I'd do it today.

CHAIR SINENCI: Mahalo, Mr. Mayer, for your testimony this afternoon. Members, any questions for Mr. Mayer at this time? Seeing none. Again, thank you.

MR. MAYER: Thank you.

CHAIR SINENCI: Ms. Stewart, any other testifiers?

MS. STEWART: Chair, I believe Robin Knox has logged in.

CHAIR SINENCI: Aloha, Ms. Knox.

MS. KNOX: Hello. I'm sorry, I always have this trouble. Hi, there. I just wanted to speak in

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favor of the Charter amendment because it's so important. We're going to have less and less water supply, is the predictions, as we go forward into the future due to climate change. So I think anything that gives the County more control over our own destiny when it comes to water, to assure that we have adequate drinking water and adequate water supply to grow food for our local population, I think we should do. So I support the amendment. Thank you. Or the...yeah, Charter proposal.

CHAIR SINENCI: Mahalo, Ms. Knox, for your testimony. Members, any question for Ms. Knox? Seeing none. Again, thank you. Is there anyone else wishing to testify, Ms. Stewart?

MS. STEWART: Chair, there are no other individuals on the list, if you'd like to make a last call?

CHAIR SINENCI: Okay, last call for testimony, please go ahead and unmute and identify yourself. Okay, Members, seeing there are no more individuals wishing to testify, without objections, I'll close oral testimony and accept any written (*audio interference*) the record.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR SINENCI: Okay, great. Thank you.

**. . . END PUBLIC TESTIMONY . . .**

**ITEM 1(8): WATER AUTHORITY MANAGEMENT** (Rule 7(B))

CHAIR SINENCI: Okay, Members, moving onto our first item, the Water Authority Management APT-1(8). Ms. Stewart, is our resource person available with us? Oh, okay, I see her. Okay, let me do the introductions. I scheduled this presentation as part of our series on water system financing and management. We're not the first community to recognize the need to take hold of our water future and to negotiate with State agency, private infrastructure owner (*audio interference*) manage the upgrade of a dilapidated system and to set water rates and allocation schedules. As we hear, shortly, climate change and drought conditions have bolstered many communities to action. They have successfully taken over old systems, used public financing to upgrade them, providing additional water or certainty of water availability. To help us understand how to best meet our challenge, we have another expert who can assist us as we make this necessary transition to managing our water resources for today and tomorrow. Ms. Wilcox, Lindsey Wilcox, has 16 years of experience specializing in water resource planning, program management, and funding. She provides clients with assistance from the planning stages through system operations and capital improvements, has managed and successfully acquired...the successful acquisition of State and Federal grant and loans from the California Department of Water Resources, from the U.S. Bureau of Reclamation, from the California State Water Resources Control Revolving Fund Program. Her employer, Woodard & Curran, also provides assistance with water system negotiations and acquisitions, rate and allocation setting, and operations management.



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Ms. Wilcox is a licensed professional engineer in New York State. So, Members, if there are no objections, I will designate Ms. Wilcox as a resource person under Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR SINENCI: Thank you, Members. Okay. With that, Ms. Wilcox, do you have a presentation to share?

MS. WILCOX: I do, yeah. Thanks for the introduction. So Chair, is it okay if I share my screen now?

CHAIR SINENCI: Yes, go ahead.

MS. WILCOX: Okay, let's see here. Okay. Okay, can you all see it?

CHAIR SINENCI: Yeah, we can see it.

MS. WILCOX: Okay, great. Thank you. All right. So I'm Lindsey. I'm with Woodard & Curran, as he said. And just to give you the background of who is Woodard & Curran, you probably haven't heard of us. We are an integrated science, engineering, operations, and design build firm. We have experience securing local, State and Federal grants and loans for our clients throughout the country. As you can see on this map, we have about 30 offices spread across the nation, and we've secured about \$3 billion for our clients in grants and loans. And in California alone --

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

MS. WILCOX: -- it's been about 1.8 billion.

CHAIR SINENCI: Oh, do you have a map to show? All right.

MS. WILCOX: Do you see my screen?

CHAIR SINENCI: We don't see a map.

MS. WILCOX: You don't see a map. What do you see?

CHAIR SINENCI: Your title page.

MS. WILCOX: Okay, hold on a second. Let me see if I can try something else. What do you see now?

CHAIR SINENCI: You're not sharing anything.

MS. WILCOX: It says I'm sharing the screen. You're not seeing anything? Okay. Let's try it again. Do you see my screen?

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CHAIR SINENCI: No. Staff, is Ms. Wilcox able to share screen?

MS. STEWART: Chair, if you like to take a brief recess?

CHAIR SINENCI: Okay.

MS. STEWART: Thank you.

CHAIR SINENCI: Members, we'll take a quick three-minute recess. And we'll be back at 2:02.  
...*(gavel)*...

**RECESS:** 1:59 p.m.

**RECONVENE:** 2:07 p.m.

CHAIR SINENCI: ...*(gavel)*... Aloha kākou, will the APT meeting *(audio interference)* June 14 please *(audio interference)* back to order. It is 2:07. Mahalo, everybody, for your patience. And looks like we...back on track. So we'll go ahead and continue with *(audio interference)* Wilcox.

MS. WILCOX: Thank you. Can I share my screen, Chair?

CHAIR SINENCI: Yes, go ahead.

MS. WILCOX: Okay, thank you. All right, do you guys see a map?

CHAIR SINENCI: Yes, we can see the map.

MS. WILCOX: Excellent. Okay, third time's the charm. So Woodard & Curran, we're a consulting firm. We have offices...California up to Maine, about 30 offices. And my work over the years has focused primarily in California. I worked in the California offices for about seven years, and I'm now a virtual employee working out of New York State. I had specialized in funding and our company has secured about \$3 billion for our clients, with 1.8 billion in California alone. So the folks in...during testimony, sort of echoed this information already. I think we all know why locally-controlled supplies are so important, and locally-controlled water systems. Water systems everywhere are facing this right now, especially in the face of climate change with increased drought and more unpredictable weather patterns. But in California, there's a lot of water systems that are dealing with pretty similar issues. While they might own their own system, they're not necessarily in control of their water supplies. A lot of them will import water supplies, especially in Southern California. They'll be importing water from Northern California. And they're experiencing challenges by not having that locally controlled supply where they know how much they have, when they have it. If they're relying on imported supplies, they might not get to decide how much they're going to get any given year because there's so many other interests at stake, and other people that are ultimately making decisions for them. So a lot of agencies are taking a closer look at

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the best path forward and how to increase local supplies, diversify their water supply portfolio. And then in these examples, you know, in California they're trying to import less and have a stronger locally-owned supply. So you're not the only one dealing with this, it is...it's happening everywhere. I know that this isn't all about funding, but one of the benefits of a municipality owning and operating the system is that you can tap into funding sources that maybe a private entity can't. And I understand that Quantified Ventures and RCAC presented to you before, so I don't really want to repeat much of what they already informed you about. But I just want to kind of highlight some of this, and then get into a little bit more of how do you actually get the funding, and what other things need to be in place in order to access it. So a few of the biggies for municipalities are U.S. Environmental Protection Agency; U.S. Department of Ag., they have their Rural Development Program. You can access Clean Water and Drinking Water State Revolving Fund Program through the Hawai'i DOH. And they have grants and loans for planning and construction. And then there's the U.S. Bureau of Reclamation, they have a whole slew of grant programs under what they call the WaterSMART Program. So there's a lot of funding out there. And each one is a little bit different, but generally, you can fund planning, design, environmental, permitting, construction of new facilities, repair and replacement of existing facilities. You can fund the construction management and the engineering services during construction, as well as the construction itself. And then generally...you know, there's a list of ineligible costs, but usually look on the top of the list is operation and maintenance of the system. We'll get into that a little bit more. So when can you actually apply for funding? There isn't a hard and fast rule, but the general guideline is that you need to know enough about the project that you're trying to get funding for. So you want to be able to describe your project, explain what the grant funds are going to be used for, and how much funding you need. So you need to have a pretty decent cost estimate. Usually it can be pretty high level, but you have to have a ballpark estimate of how much money you're going to be asking for. And I know that you all have talked about how you don't really know how much it's going to be, and it could be in the order of hundreds of millions. And the idea would be to develop, like, a discrete list of projects that you could apply for funding in order of priority so that you're not completely overwhelmed by all of these things that need to happen. And they can't all happen immediately, so how do you figure out what to do first. So like I said, you need a project cost, you need a project description, and usually it's also good to have...to be able to identify what the benefits are because that helps describe the need for your project to the funding agency. So I wanted to go through a process example, and this is for a Drinking Water SRF. So the SRF program is a really wonderful program that municipalities leverage all over the nation. USEPA provides funding to every single state, and then the state administers their own SRF program. So each program is administered slightly different in every state, but there's a lot of similarities too. And we support a lot of our clients accessing these funds. In Hawai'i, step one is you submit a project report to the DOH. They review and approve your project. Then you submit an environmental document, they review and approve that. Then you submit your plans and specs, so the actual design documents. DOH reviews and approves that. And then once they've reviewed and approved all of your stuff, they send an approval letter. That's what they call a planning phase. The project report has to include...it has to follow the state's outline, and it has to include these main topics. So projects, project needs and benefits, description of the project, an alternatives analysis, the description of the

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selected alternative, and then capital and O&M costs. So those are the things that we already talked about, right. So what are the project needs and benefits, what is the project, what is the cost. So those are, like, your biggies. And so that would all be written into this project report that you would then submit to *(audio interference)* how do you get to the project report? Obviously, some stuff has to happen before you can even get there. You don't necessarily know what the projects are yet, or what improvements are needed to your...to the system, so this is one potential process. This is something that an engineering firm could assist you all with. So this is an example...doesn't have to be the way that you would do it, but just as a potential example, is you would perform a condition assessment. So this would be where engineers actually go out, they see your system in person, they assess it, they itemize it, they describe it. And then from there, they'd be able to understand what facility improvements are necessary, develop some high-level cost estimates, you know, describe what needs to happen. These facility improvements are essentially your projects. And then you could prioritize the projects. So you could develop different criteria . . . *(inaudible)*. . . for example, maybe is there a risk to public health? Is there something that could fail within the system if a project isn't implemented? And then from there, you would have a nice prioritized list of projects, and you could prepare a Drinking Water SRF project report for those highest-priority projects. And that would give you a really nice roadmap of what projects you should do in what order, and it would be something that could be vetted by stakeholders or interested parties. So you all have an agreement on, okay, these are the highest-ranking projects that we need to do as soon as possible because of these criteria that we all agreed upon, and then you have a plan for the next 5, 10, 20 years to repair and rehabilitate the system. I'm going to go through a couple of case studies for you as examples of things that we helped our clients do. So the first is Coachella Water Valley District, a Drinking Water SRF grant. So this SRF grant was through the State of California. Coachella Valley Water District is in Southern California. So you can see *(audio interference)* nice little map here of California. Coachella Valley Water District is way down here. They have a pretty large service area of about 1,000 square miles, and they serve water to 300,000 people, lot of people. It is a desert. The water is...while they have water, they have to be very intentional and plan accordingly for potential droughts, and how they use their water, and what they charge for their water. So within the system...let me back up to this map. So within their service area, they're...they have pipelines, pumps, wells that serve their customers, but there's also about 100 small water systems that are privately owned that are not connected to a public water system. And these tend to be mobile home parks, low-income households, maybe migrant workers that rely on a private groundwater well that might be failing, it might have arsenic in the water. They may have really poor water quality, and poor water supply reliability. There have been people in these communities that don't have water to bathe their kids. They don't have water to cook, drink. So these small water systems are just in poor condition. And so Coachella Valley Water District applied for a planning grant from the California State Water Board, and they secured \$500,000 to do this planning study. Excuse me. So we assisted them with this. It consisted of identifying the small water systems in their service area, prioritizing the systems to come up with a list of priority projects, and then we prepared preliminary engineering reports. Excuse me. And those preliminary engineering reports could be used to apply for construction funding from the State Water Board SRF

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Program, as well as USDA's Rural Development Program. So basically, we used this planning grant so that we could get the projects identified, prioritized, and then prepare the planning documents needed for the next phase of funding. So like I said, there's...we identified 83, there's actually closer to 100. So we identified the systems, then we prioritized them. We worked with a group of stakeholders to identify what the criteria is, what do we care about. We applied weights, we scored the projects, ranked them, and then we ultimately selected the highest-ranking projects. For the two highest-ranking projects, we developed the preliminary engineering reports. And what we did is we did it using the State Water Board's outline and USDA's outline so that we knew we were preparing reports that would satisfy both funding agencies that we could submit directly to them and use as part of the application process. We also did the environmental documentations, so in California it's CEQA, but it would be HEPA for you, the Hawai'i Environmental Policy Act. We would prepare your HEPA environmental document, your project report, and you would have what you need essentially to start the application process. So for Coachella Valley Water District, we then submitted a Drinking Water SRF application and a USDA application using the PER and the CEQA documents we had prepared for the two highest-ranking projects. We did that because we weren't really sure how much funding we were going to be able to get from either entity, and we really wanted to maximize funding to reduce impacts to the low-income households that were being consolidated. The California State Board ended up approving the highest-ranking project for \$23 million in grant funding, so we didn't have to go after USDA after all, which is great. It made things very easy for us. And now CVWD is going after additional grant funding for the second highest ranking project, their Valley View Project. So this is a really nice process that has allowed them to develop a road map for implementing these projects, and a process for preparing the PERs, the preliminary engineering reports, the environmental documentation, and then pursuing funding from either the State Water Board or USDA. The other example I wanted to give was also for Coachella Valley Water District through USDA, their Rural Development Program. This is, like, a more typical water main replacement project where they have their existing water system that they're operating, they had a lot of corrosion issues due to some corrosive soils. And their...some of the pipelines were failing, they were leaking extensively. They were leaking so much they were causing sinkholes in roads, retaining walls were falling down. If they had to close off a pipeline to repair it, the people that that pipeline served would be out of water for hours, so it wasn't ideal. So they had these two projects they were planning on doing. And so we prepared a preliminary engineering report, the environmental report. We submitted it to...we submitted both reports to USDA, the U.S. Department of Ag. We had a lot of back and forth. Once they approved those documents, we submitted...we formally submitted an application through their system, RDApply. And Coachella Valley Water District was awarded, think, about 22 million in a low-interest loan, and about 4 or 5 million in grant funding for the project. So another funding success story with the preliminary engineering and environmental work that led up to that. So for you, you've got a lot of options, and this...I could have put in way more than two, but I just wanted to give you an idea what your next steps could look like. For both of these, a great next step would be...assuming a water authority is created, would be to communicate with DOH and others. And I know that that...those conversations have already started with the help of RCAC, which is wonderful. Option 1 shows that you could go out and you

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could do a planning study, you could fund that out-of-pocket. You could prepare a project report, submit it to the State Revolving Fund, and then you could apply for construction dollars. And oftentimes...and we would confirm this when you speak to DOH, but oftentimes, you can get reimbursed retroactively for all of the planning work. So the planning, the design, the environmental, the development of the project, for all those things, you could get reimbursed for. The Option 2 shows that you would apply for SRF...to SRF for planning dollars. And then the planning grant or loan, you could then prepare engineering documents, and use those to either go after construction dollars from the State or from the Feds. So there's...like I said, there's just so many different scenarios, but engaging your funding agencies is a really good first step. So earlier, the second or third slide, I mentioned that an ineligible cost is...for funding is typically operations and maintenance. And I believe I had tuned into one of these calls previously where operations was something in question of, well, who would operate the system and, you know, how would that happen? So the water authority could contract out operations and management of the water system, and that's something that Woodard & Curran actually does. We operate and maintain over 80 treatment facilities and water systems and wastewater systems throughout the country. And we can do everything from operating the treatment plant to maintaining the pipelines, the pumps, the meters, the tanks, all of the facilities. We also can handle the customer service and billing, and other functions like those. We can train and recruit staff. We can relocate staff. We can do cross training between our operation staff, between plants and systems, and we've got hundreds of certified operators across the country. So this is something that we do, and a lot of other agencies and firms do it as well. So generally the way that it works, or it could work, is you would actually contract it out for a specific term. So whatever you wanted to do and what you felt comfortable doing. You could do three years, five years, ten years. You know, you could try it for a few years and see how you like it, or how it goes, and always extend the term and renew it. And then the existing operators that are currently most knowledgeable about the system, they could actually become employees of the contracted operator. So there's a lot that goes into all of this, but I just wanted to kind of give you the overview of how that could potentially work. And then another piece I know that is going to need to be an undertaking is the water...the lease agreements. And we have experience supporting our clients with water sales agreements, which seems similar. A lot of times, in California specifically, this is related to recycled water. So a wastewater entity will produce the recycled water or advanced purified water for potable reuse. And then the water agency will deliver that water. And so there's a lot of terms that need to be negotiated and sorted out in those agreements. And while we don't draft the actual agreements, that's something that lawyers would do and legal counsel, we can support pieces of that, and help figure out things like cost, who owns what, how do you share costs for . . . (inaudible). . . and those sorts of things. We also can be involved and just kind of be a sounding board of, okay, well, how will this work? So a couple of examples is, again, related to recycled water, but we assisted Del Puerto Water District in the Cities of Modesto and Turlock in developing water sales agreements where Del Puerto would be buying water...recycled water from them for 40 years. And so we helped figure out what's the fixed fee, what's the cost that Del Puerto's going to be paying, as well as the cost that would escalate over time to account for increased own and cost. We figured out, well, what if they get financing, and there's a low-interest loan component? And what if they get grant

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funding, how should that affect the cost of the water? And then Carpinteria Advanced Water Purification Project, we've got a water agency and a wastewater agency. And there was a lot of institutional agreements that needed to get taken care of to figure out who owns what facility, where do you draw the line between the wastewater, recycled water, water delivery. Again, debt financing, who can take on the debt, does that mean that affects who owns what facilities and staffing. And so we've got a lot of experience. And again, a lot of firms have experience doing this sort of thing. So while it might not be exactly what you're going through, there are certainly similarities and lessons learned. And that is all I had for you. I'm going to stop sharing my screen, and I'm happy to answer any questions.

CHAIR SINENCI: Mahalo, Ms. Wilcox, for your presentation. We have several questions for you. One from Member Paltin, Chair Lee, and then Member King. Go ahead.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Wilcox. I guess one of my questions is, when you are working in a water authority--and I'm not familiar with the continental water laws, but are they still regulated by the PUC? And is water over there considered like a public trust resource?

MS. WILCOX: Uh-huh. Yeah, so some agencies are regulated by the California Public Utilities Commission. I believe it's private water agencies. So I'm not sure...I don't...I haven't done work in Hawai'i, so I don't know the differences or similarities between the Continental U.S. and Hawai'i law. So we would...you know, there would be experts who know those sorts of differences and similarities, but I don't.

COUNCILMEMBER PALTIN: Oh, okay. Thank you.

CHAIR SINENCI: Chair Lee.

COUNCILMEMBER LEE: Thank you, Mr. Chair. Ms. Wilcox, how many municipal clients do you have?

MS. WILCOX: You guys are asking some really great questions, and I am not doing very well answering them. I don't know how many municipal clients we have, but a lot. I can definitely find out that number for you and get back to you, but a lot.

COUNCILMEMBER LEE: Okay. And then of these clients, how many legislative bodies run or operate water systems? Or are they handled by the administration?

MS. WILCOX: I'm not sure I understand the question.

COUNCILMEMBER LEE: You're talking to the Legislative body of the County of Maui.

MS. WILCOX: Uh-huh.

COUNCILMEMBER LEE: And so I'm asking you, your clients, are they legislative branches of various counties, or are they the administrative branches?

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MS. WILCOX: Well, I think it depends. Our clients range from cities, counties, water district, special district. So I can circle back with an answer on that for you as well.

COUNCILMEMBER LEE: Okay. And one last question. Do you ordinarily bid for these projects? Like normally in Hawai'i...and I would imagine most states have a procurement process.

MS. WILCOX: Uh-huh. Yeah, it depends. Every agency has its own specific procurement requirement. So we do receive some sole-source work, but we competitively bid for projects as well.

COUNCILMEMBER LEE: Thank you.

CHAIR SINENCI: *(audio interference)* Chair Lee. Member King.

COUNCILMEMBER KING: Thank you, Chair. Great presentation. Thank you, Ms. Wilcox. What I would have liked to hear...because you said a lot of you can do this, and you can do that, and I don't what you mean by you. If you mean the legislative body, the administrative body, the Board of Water Supply, which is the administrative department that handles water, and then we could do this, and we could do that. So that part was a little unclear, I was wanting to kind of find out. But my main question is, you understand...have you been briefed on our system of our Department of Water Supply, how that works with our Board of Water Supply *(audio interference)* --

MS. WILCOX: I have a general understanding, but not the breakdown that you just described.

COUNCILMEMBER KING: Okay, because we have an advisory Board of Water Supply that's supposed to be advising the Department of Water Supply. They don't generally interact that closely.

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: And personally, I'd like to see them interact a little more closely because, you know, we have one of the most active Board of Water Supplies we've had in my history of watching the Administrations. But how does your...how does the water authority differ from the Board of Water Supply and the Department of Water Supply that we...you know, from that understanding of what our Administration looks like?

MS. WILCOX: I am not up to speed on the details of the water authority and what your purview and responsibilities would be. And since I don't have the background on that...the existing set up, I don't know the answer to that question either.

COUNCILMEMBER KING: Oh, okay. I'm sorry about that, I thought you were maybe briefed on that a little more. But...so I'm...you know, I'm really interested in a lot of the agencies that you named, because we do have, of course, the Department of Health, and we do have the State Revolving Fund, and they may be a little bit different, but the processes



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and the qualifications for those funds, I think, are similar across the nation.

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: And (*audio interference*) talking to the Department of Health about the State Revolving Fund, is it rarely gets used to the full extent every year.

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: So we're leaving a lot of money on the table. When you were talking about the entity, and I think it was the Coachella Valley Water District Board --

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: -- that was applying for a Federal grant, and then got State monies --

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: -- was that for the State Revolving Fund?

MS. WILCOX: It was.

COUNCILMEMBER KING: Okay. So that was...then that money was approved by the Department of Health. And I think...I thought I saw 23 million?

MS. WILCOX: Yeah. Yeah, so in California, the SRF program is administered by the State Water (*audio interference*) so the State Water Resources Control Board approved that grant amount because it exceeded the cap that was actually written into their guidance document. But yeah, it was 23 million in grant dollars.

COUNCILMEMBER KING: Okay. And then when the board was doing the assessment...the engineering assessments and prioritizing the different projects, did you...you hired an engineer for that? I'm assuming the board didn't do it themselves...or did they?

MS. WILCOX: That's right. They hired Woodard & Curran to do it.

COUNCILMEMBER KING: Okay. Oh, okay. So you guys were the ones that did the evaluation.

MS. WILCOX: Right.

COUNCILMEMBER KING: And you also do maintenance and management?

MS. WILCOX: Yeah, we do it all. We do a lot. So we do the planning, design. We do environmental documentation. I don't think I've done it in Hawai'i, but we've done NEPA, the National Environmental Policy Act, and then California environmental documents. We do design builds, so where a project is designed, and construction kind

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of begins during the design process. And then we do operation and maintenance of systems. Obviously, those are all different groups of people that specialize in those areas of expertise. We have about 1,100 staff people, so I think about 800 are office staff, and then the remainder are operation staff.

COUNCILMEMBER KING: Okay. And so if you...when you're talking about management, you're saying you can train . . .*(timer sounds)*. . . you could do that as a separate entity helping a county like ours, possibly, wanting to have local management.

MS. WILCOX: Yes. Yeah. So...and you're...when you say management, are you speaking about system operations and maintenance?

COUNCILMEMBER KING: Right. Right.

MS. WILCOX: Yeah. Uh-huh. Yeah, so I don't have experience in this realm, but my understanding is that we work with the local...the people that have the local knowledge. So it's really a collaborative team effort to understand the system. So we sort of...we bring in our experts from operating other systems, we've got the local experts who have been operating the system, and work together to come up with an even better operations plan, and can train them on things that maybe they weren't doing, or different ways of doing it, while keeping the good things that they've already been doing in place.

COUNCILMEMBER KING: Okay, I think my time is up. Thank you so much for your responses. Thank you, Chair.

CHAIR SINENCI: Thank you, Member King. And Members, yeah, as the Legislative body, we're just trying to establish a water authority, which then would be working on the system *(audio interference)* legislators, we won't be running *(audio interference)* any other questions for *(audio interference)* I did have a question for you, Lindsey. Are private corporations able to apply for these grants?

MS. WILCOX: Some of them, some grant opportunities are available for private entities, but not all. It depends on the program and the funding source. I think that the SRF Program, specifically, sometimes allows private applicants, but a lot of the other programs are for publicly-owned facilities.

CHAIR SINENCI: Okay, great. Thank you for that. Members, any other questions for Lindsey? Okay, if not, thank you for your presentation this afternoon. Okay, we have...oh, we have a follow-up question from Member Paltin.

COUNCILMEMBER PALTIN: Chair, thank you. Ms. Wilcox, I was wondering, with the RCAC, they were like a nonprofit, and so it was like free service. How do you folks bill?

MS. WILCOX: Yeah, so great question. We are not a nonprofit. We are a consulting firm that usually charges time and materials, so it would be how other engineering or consulting firms bill by the hour, and each staff person has a different hourly rate. So depending on the number of hours spent, that's what we end up charging. And something else I

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had wanted to mention too, because I did see the RCAC presentation, is that RCAC actually operates in the State of California too. So I had heard of them, and I've...we've worked with them. They...we've crossed paths with water districts and clients before where RCAC will assist with certain pieces of the application, or sometimes they'll do, like, an income survey to help support the status of understanding the median household income of the project area. And so they definitely can provide a lot of support at no cost, and are a really great resource to take advantage of. I know, from my experience, it seems like RCAC can help with certain pieces, and then sometimes the client might need even a little more support beyond what RCAC provides.

COUNCILMEMBER PALTIN: So you guys can work together, kind of.

MS. WILCOX: Uh-huh.

COUNCILMEMBER PALTIN: If they get us started on things that we're going to need, and then prioritize it, and then utilize --

MS. WILCOX: Yeah.

COUNCILMEMBER PALTIN: -- you guys, or Quantified Ventures, or one of the many --

MS. WILCOX: Right.

COUNCILMEMBER PALTIN: -- funding helper...getters.

MS. WILCOX: Yeah, or the engineering pieces too. So I don't think RCAC can do the preliminary engineering. I think they do more of the funding, but I could be wrong because I don't know everything about them. I know they do provide some technical assistance too. And I think it...I can't remember the woman's name that presented, she said they focused on the technical, managerial and financial; making sure that you have all of those things in place to operate, and manage, and administer as a water authority. So a firm like Woodard & Curran would come in to do whatever RCAC can't do. And that might be the engineering, the design, the environmental documentation.

COUNCILMEMBER PALTIN: And then I guess, my follow up might be for Ms. Trenholme. If it's because we set up the water authority that we don't have to worry about utilizing Woodard & Curran, or Quantified Ventures or whoever consultant, engineers, we don't have to worry about the union aspect of, like, outsourcing because the water authority is set up? . . .*(timer sounds)*. . . That would be for Ms. Trenholme. Is she the Corp. Counsel?

MS. THOMSON: And this is Richelle, I think that I can answer that question. Are you referencing the *Kona* decision, and whether the water authority would need to have union employees or whether they could be nonunion?

COUNCILMEMBER PALTIN: Yeah, because like when Kalima was...they had like some lawsuit because Kalima was doing jobs that our union employees could do.

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MS. THOMSON: I'm going to give you the lawyer answer, it depends. That depends on how it's set up and how it's staffed. But I think that the current version of the water authority is basically like another executive department. So the director probably will not be required to be civil service, but as you get it down into the staffing, that would likely be civil service.

COUNCILMEMBER PALTIN: But if we contract out with a water venture folks like their agency, the people running the authority would be unionized, but you can contract with outside engineers? Because we're kind of short on engineers --

MS. THOMSON: Right.

COUNCILMEMBER PALTIN: -- in this County.

MS. THOMSON: I think that it would depend on, you know, what type of services you're procuring. But it sounds like a...probably a services contract, a complicated one. . . .*(inaudible)*. . . there are different structures, you know, but currently the water authority is a County entity, so it would be civil service staffed. And then parts of it, potentially, could be done by service contracts with outside providers or private providers.

COUNCILMEMBER PALTIN: 'So even if it needs to be staffed by union County employees, and you cannot find any engineers, still yet we got to abide by that? Like if we put it out and we're trying to hire engineers and there's no engineer?

MS. THOMSON: If you ask the union, they would probably say yes. But I think that's where, you know, as this progresses and gets further along, I think there will be union consultation on, you know, which positions would be required to be unionized. It's not...I don't want to get too far into the weeds, but it's not simply whether we can get the positions filled or not that would dictate that.

COUNCILMEMBER PALTIN: Okay, I think I heard the timer.

CHAIR SINENCI: *(audio interference)* Paltin *(audio interference)* Member King for a second line of questioning.

COUNCILMEMBER KING: Thank you, Chair. So I'm just going to...I wanted to ask you about...you know, we had this idea come up that we've heard in this Committee a couple of times, with a group that's focusing on ESG investments. And we talked about the possibility of having a community-operated business to do things like manage the operations for a water system. Have you ever help set that kind of a model up before in any other community?

MS. WILCOX: I don't think so, but there's a lot of work that Woodard & Curran has done that I don't know about, so it's possible. And I can ask our CEO Alyson Watson what she knows about that, if we have specific experience in that. I don't.

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COUNCILMEMBER KING: Okay, that was one of the things I wanted to ask about. And have you worked with a community-owned business before that was operating or managing a system like this?

MS. WILCOX: I don't think so.

COUNCILMEMBER KING: Okay. So you would...you've worked with either your own firm managing or a...you know, some outside entity that was hired as a management entity, I guess, corporation or something?

MS. WILCOX: Yes. Again, if we're talking about water...some operations itself, it would be the...it would depend on the system and the client. But the...typically, the water systems are operated by the city, county, district that owns that particular system unless they contract it out.

COUNCILMEMBER KING: Okay. I think that...and, you know, if there's...I don't know if you're going to...how in touch you are with this Committee or our Chair, but if you were so inclined to maybe do a little more research into our system, and were able to give, like, a clear...you know, give us a clear picture of how the water authority differs from our Board of Water Supply entity and our...you know, and our State Department...I mean our County Department of Water Supply, that would be...that could be really helpful, just to get...have folks understand the difference between those two entities and the water authority that we're discussing.

MS. WILCOX: Yeah. It would be helpful for me to understand that, for sure, and be able to answer your questions better. Because it's...it is a really unique set up. I've worked with water authorities before, but not where there's also a Board of Water Supply and the other departments that you've mentioned. So I don't understand the differences . . .*(inaudible)*. . . --

COUNCILMEMBER KING: I know *(audio interference)* sounds like . . .*(timer sounds)*. . . it's not a fair question *(audio interference)* check into it and you could give us kind of a clearer picture, that would be really helpful.

MS. WILCOX: Uh-huh.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

CHAIR SINENCI: Yeah. Thank you, Member King. Yeah, great idea. Next we have Member Molina.

COUNCILMEMBER MOLINA: All right. Thank you, Mr. Chairman. And thank you very much for your presentation, Ms. Wilcox. And I spent a little time in San Diego years ago, and what came to mind was the San Diego Water Authority. Now, certainly that's quite gargantuan compared to, you know, our community. Have you had a chance to, maybe, do an analysis as to what would be a good fit in terms of the size and scope of a water

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authority for Maui County?

MS. WILCOX: I have not. Well, the size and scope can vary between water authorities and the area that you're providing service to. Like you said, San Diego County Water Authority, huge. City of Coachella has a water authority as well. So I...the case studies I was talking about is Coachella Valley Water District, but right next to them is the City of Coachella, and Coachella Water Authority serves the City of Coachella its water, and that's got a population of about 45,000 people. And then they...their kind of partner body is Coachella Sanitation District that does the wastewater. So they've got City of Coachella, and Coachella Water Authority and Coachella Sanitation District. So that water authority is a little less monstrous than San Diego, but I haven't specifically looked at Maui yet.

COUNCILMEMBER MOLINA: So basically the type of service your company would provide is, you know, you could recommend a model --

MS. WILCOX: Uh-huh.

COUNCILMEMBER MOLINA: -- for our community then, that would be the best possible fit.

MS. WILCOX: Uh-huh, yes. Yeah, we could certainly help look at that.

COUNCILMEMBER MOLINA: All right. Okay, thank you. Thank you, Mr. Chair.

CHAIR SINENCI: Mahalo, Member Molina. Any other questions for Lindsey? Lindsey, I just had one. We've been hearing horror stories about some California counties where they're depleting their aquifers to the point where they're collapsing.

MS. WILCOX: Uh-huh.

CHAIR SINENCI: And once they (*audio interference*) and once they collapse, they...that aquifer cannot be used or it can't...that they lose the capacity of building or storing water into those aquifers. Does...have you done any work with...I know you mentioned about pipelines and the physical infrastructure, what about the protections of aquifers and watersheds?

MS. WILCOX: Yeah, absolutely, we do a lot of work in that realm as well. So in California there is the Sustainable Groundwater Management Act that was adopted a few years ago...or enacted, I should say. And that's requiring California water agencies to prepare sustainable groundwater management plans or groundwater sustainability plans. So we've prepared numerous GSPs. We do groundwater modeling. We have assisted with projects related to groundwater aquifer storage and recovery and watershed restoration and protection, yeah.

CHAIR SINENCI: Oh, great. Thank you for that. Any other questions for Ms. Wilcox? Okay, again, thank you, Lindsey for coming on and presenting to our Agriculture and Public Trust Committee. We appreciate it. Mahalo (*audio interference*) --

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MS. WILCOX: Yeah. You're so welcome. Thank you so much for having me and I'll get back to you on those questions.

CHAIR SINENCI: Yeah, we'll keep in touch.

MS. WILCOX: Okay. Thanks.

CHAIR SINENCI: Thank you.

MS. WILCOX: Bye.

CHAIR SINENCI: Okay, Members, without objection, I'd like to defer this item.

**COUNCILMEMBERS VOICED NO OBJECTIONS (**

**ACTION: DEFER pending further discussion.**

CHAIR SINENCI: Okay. Okay, with that, Members, it looks like we're ready for a ten-minute break. Then our next item, we'll have another presentation by Dr. Scheuer. So with that, the APT Committee is now in recess till 3:05. . . .*(gavel)*. . .

**RECESS:** 2:53 p.m.

**RECONVENE:** 3:10 p.m.

CHAIR SINENCI: . . .*(gavel)*. . . Aloha kākou, and welcome back to the APT Committee of Tuesday, June 14th. It's 3:10 p.m. Mahalo, Members, for your patience. And then I can refer to...Member Paltin is in transit. If she wanted to state who's with her. If they're children, I don't know if you need to say . . .*(inaudible)*. . . --

COUNCILMEMBER PALTIN: I'm on route to the County building. I'm in the parking lot, and my son is with me, Nahiku Paltin-Vierra.

CHAIR SINENCI: Okay, thank you for that, Member Paltin. Okay, Members...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, you're...Chair? Chair?

CHAIR SINENCI: Sorry. Thank you.

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

CHAIR SINENCI: Let's go to our last item of the day, a Proposed Charter Amendment to Establish the East Maui Community Water Authority APT-1(6). In accordance with Rule 7(B) of the Rules of the Council, the Committee intends to discuss a proposed Charter

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amendment to establish the East Maui Community Water Authority Board. And so, Members, I've transmitted an ASF to the GREAT Committee with a revised proposed resolution that is also available to this Committee as Item Number 14 in Granicus. This revised proposal is for a Countywide water authority and community board. As suggested by Managing Director Baz, other Councilmembers, members of the public, I have submitted an amended bill with Countywide water authority with local regional community boards. This bill will facilitate the County acquisition and management aging and private water systems for the benefit of the public good, to also help to ensure a sustainable future for our residents, for our farmers...and our farmers. By allowing all communities in Maui County to govern the management of their watersheds empowering both the watershed and the people that it sustains. We're also supporting Hawaiian Home Lands and the protection of traditional Hawaiian water uses in all areas of Maui County, not just East Maui. Now, this bill allows for the County acquisition and management of other private systems under the review of regional community boards. Now, these regional boards will bring transparency, sustainable resource management guided by area-specific generational knowledge and local expertise. It allows for all communities to participate in water resource management. It establishes one dedicated County agency staffed with experts in water system management, grants, and public financing, and in community agreements and engagements. This is a good governance bill for management of our most precious...our water resources. We can no longer sit back and hope for a foreign for-profit private entity that will look out for us for our future. We must take responsibility, and we must do it now while we can. While I submitted the new bill in Granicus, we have discussed a notice with the Office of Information Practices, OIP, who has advised us that we should wait until a future meeting to discuss the bill. This will allow adequate notice. But in light of this, I would like to proceed with our earlier bill, with Corporation Counsel's amendments, the East Maui Water Authority Board in today's APT meeting, and in tomorrow's GREAT Committee meeting. I encourage the passage of this bill due to our Council deadline. If we later decide to make the water authority bill Countywide, it will build off what we vote on tomorrow so that our discussions are very much relevant. To consider the Countywide bill, we could have a special meeting after next Wednesday's Chair meeting, if the Members want, if the GREAT Chair is willing. Or the other option is to post a new bill for the July 1st Council meeting for your consideration. Members, I'd just like to first let...ask the GREAT Chair Molina if this is a possibility, if he could comment on it.

COUNCILMEMBER MOLINA: Okay, Chair. Well, it's...kind of feeling on the spot here, but I'll be honest, I really can't give you an answer at the moment. But you're talking about if we going to do a special GREAT meeting after the Chair's meeting. Is that what you're asking us to consider?

CHAIR SINENCI: Yeah, potentially the June 22nd afternoon meeting.

COUNCILMEMBER MOLINA: Okay. Okay, I just need some time to --

CHAIR SINENCI: Okay.

COUNCILMEMBER MOLINA: -- consider it all. But...thank you. But I will let you know soon.



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CHAIR SINENCI: Okay, Chair Lee.

COUNCILMEMBER LEE: I would be happy to take this up at a Council meeting because I think it's important that the public understand...you may cause confusion. I think the public needs to know that this is a separate proposal...a new proposal, and that they have the opportunity. Because nobody has spoken on this in the public, anyway. And it's just the East Maui Water Authority that people have been testifying on. So in all fairness to the public, perhaps you should have this as a separate item. Thank you.

CHAIR SINENCI: *(audio interference)* thank you, Chair *(audio interference)*

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR SINENCI: Oh, can you hear me? Oh, Member Molina.

COUNCILMEMBER MOLINA: So thank you, Chair. So as I understand it now...or maybe if Chair Lee would like to chime in. So we would basically have a discussion at Council and then take a vote on, I guess, putting this as a Charter amendment...or do we take...or is it...is...your goal is to take action on tomorrow's East Maui Advisory Charter Amendment, and then down the road we then change it, or modify it, if the Members willing, to a Countywide water authority. Is that the plan as how it's going to work?

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

COUNCILMEMBER MOLINA: So I...maybe...maybe as I see it, you're looking at we take...make the decision...Committee decision tomorrow. And if it moves forward, then I guess we could do it on first reading at the Council then, on July 1st. Is that an option, and make it that amendment?

CHAIR SINENCI: Yes, I believe the...for July 1st Council meeting, but I'm not sure if we would need discussion on it. We have Staff...is Staff available to give us a timeline? Kasie, are you available?

MS. APO TAKAYAMA: Yes, Chair. So posting for the July 1st Council meeting would be June 24th. If we held a special meeting to hear this item in Committee on the 22nd, as you proposed, then the CR would need to be posted by the 24th.

CHAIR SINENCI: Okay. Thank you, Ms. Apo Takayama. When do...would we need to post for the 24th...22nd?

MS. APO TAKAYAMA: The posting deadline for the 22nd would be Thursday.

CHAIR SINENCI: Okay, thank you. Chair Lee.

MS. APO TAKAYAMA: The 16th, sorry.

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COUNCILMEMBER LEE: That would be June 16th? Oh.

CHAIR SINENCI: Yes.

MS. APO TAKAYAMA: Yes, that's correct.

COUNCILMEMBER LEE: My goodness. Okay, and today's the 14th. My concern, Mr. Chair, is the people of Upcountry and East Maui have discussed this multiple times, and we are very familiar with their input. People in West Maui, as far as I know, have not discussed this at all. I don't think they even know about it. And then I'm not sure about any other places. But we've only focused on East Maui, and that's why the people from East Maui and Upcountry have come up to testify a lot. And we know...you know, they've had ample opportunities, and we haven't given everybody else that same amount of opportunities. Thank you.

CHAIR SINENCI: Thank you, Chair. Yeah, we won't be discussing it today. Member Paltin. Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Sorry, I was...wrong button...so excited to be the first to announce that CWRM just unanimously designated Lāhainā Aquifer Sector a ground and surface water management...special management area. And to say...I think that's what some of the feedback we got was when Councilmember Sinenci proposed the East Maui Water Authority. The feedback that we got from our Managing Director was to be broader. And from what I heard from some of the testimony today is this wouldn't create the authority, it's just allowing for the structure. It's a tool. And so, you know, I don't know that we need a West Maui Water Authority now that we have a ground and surface water special management area. But the framework is there should anyone need one in...is...is, I think, the point of Member Sinenci, what he...in listening to the feedback from the Managing Director in going broader. We haven't discussed this issue at all yet in the GREAT Committee. We've taken testimony, and we've taken testimony here. And the testimony that we heard was to go broader...well, one of the testifiers. So I don't know that it's so different. We haven't discussed it in the GREAT Committee as a Charter amendment, we've just taken testimony, and one of the testimonies from somebody running the County right now was to go broader. And...and I thought that's what Committee work was about, hearing the different points of view and then adjusting the Legislation in response to the testimony. So I'd be open to meet after the Chair's meeting or at any other time because e ola i ka wai (*phonetic*). Thank you.

CHAIR SINENCI: Mahalo, Member Paltin. Member King.

COUNCILMEMBER KING: Yeah, I agree with Member Paltin. I'd be willing to meet, you know, in another Committee meeting. I think the thing about tomorrow's meeting is it's a reconvening, so nobody can come and testify because I think...well, we...Member Molina, we closed testimony on that. So I think we do need to have a discussion in Committee. So if you wanted to do it on the 22nd...I'm going to be on the mainland but I'll log in...make myself available. That's all. Thank you.

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CHAIR SINENCI: Okay. Thank you. Thank you, Member King. All right. Okay. Thank you. It looks like Member Rawlins-Fernandez, would you be able to meet?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I fully support your proposal, and I'll do whatever it takes to get it through...onto the ballot.

CHAIR SINENCI: Mahalo, Member Rawlins-Fernandez. Members, we got everybody's input. Thank you for that. So for today's meeting, we'll just focus on the current bill as proposed under Granicus Item Number 8. This bill was...has updated language, mostly from the Corporation Council, to clarify the bill and to reduce redundancy. They also added an Upcountry resident board seat as suggested by Upcountry testifiers. So the specific list of changes, which I presented the last time in the GREAT Committee, can be found on the ASF form listed in Item 8 on Granicus. Okay. With that, Members, Dr. Jonathan Likeke Scheuer, who had joined us in a previous meeting on this item, but we were not able to receive his presentation, we're sorry about that, at that time. So we've since invited Dr. Scheuer back. He is the water policy consultant for the Department of Hawaiian Home Lands, and he has worked closely with the Hawaiian Homes Commission Beneficiaries across Hawai'i pae 'āina the development and implementation of the Hawaiian Homes Commission's Water Policy Plan. So Members, if there are no objections, I will designate Dr. Scheuer as a resource person under Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR SINENCI: Thank you, Members. Okay, Dr. Scheuer, go ahead.

MR. SCHEUER: Aloha mai kākou, Chair Sinenci and Members of the Council. Thank you so much for having me here. The brief presentation I just want to share with you, and I really appreciate that you asked and reached out to DHHL, is that DHHL has some particular interests related to water leases. And so this presentation is just about the background and history of that relationship so that you can consider it as you take up this item related to East Maui, as well as potentially, following your discussion, to other areas. I'm going to pull up my presentation, and hopefully, we'll do this successfully. But if not, the Council Staff has it. Are you able to see my presentation?

CHAIR SINENCI: Yes, we can see it.

MR. SCHEUER: Okay. So just really briefly, I want to share with you three basic topics. First...and I'm not sure that this has been addressed directly in your discussions, but what are State water leases? Why is the State leasing water? Where are they being pursued by the State and by private entities? Second, what are the Hawaiian Homes Commissions' and the Department of Hawaiian Home Lands' particular interest in water licenses and leases? Those terms are sometimes, in law, used interchangeably. And third, what are our specific interests in the East Maui Irrigation System? So...and e kala mai, if these are things that you already know, but hopefully, at least for members of the public perhaps, they might be new. It is governed by a particular set...section in Hawai'i Revised Statutes, primarily Section 1...Chapter 171, Section 58, as well as a few

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other sections, managed by the Department of Land and Natural Resources, particularly the Land Division. Ian Hirokawa's name has been mentioned. He's an employee within that Division. It's been subject to almost annual attempts for the last decade by the Legislature to amend this particular section on how the State manages water leases, and actually it was amended at one point, but there was a reversion clause. And after a few years, it went back to its original form. But despite the complexity, in its simplest form, it is an agreement with the State to allow usually a private water user to have access to water, often water that is emanating from State lands. And throughout different parts of this section, as well as other sections in State law, it's subject to different time limits. Section 171-36 specifies leases can't be more than 65 years long. Section 171-58(e) requires that before a lease is issued by DLNR, a watershed management plan and funding for that plan has to be agreed to. There's a requirement for environmental impact statement approvals prior to the leasing of water. There's a specific provision, which I'll talk about more, which requires a reservation of water be made for DHHL's future use. And then also, there's a requirement that an appraisal be done by a real estate appraiser for how much that water license should be appraised at for the monthly or annual cost. While East Maui Irrigation's proposed lease is the largest, in terms of volume, that's being considered in the State right now, it is by no means the only water lease that's being pursued. On Kaua'i, along the Wailua River, a particular set of streams, sometimes referred to as Wai'ale'ale, there's a couple of hydroelectric projects, sometimes referred to as the Blue Hole Hydroelectric Project, which are operated now by Kaua'i Island Utilities Cooperative. They are operating them now, and are seeking a long-term water lease for those waters. There's a small groundwater well dug by the plantation in the forest reserve in Molokai. Also by Kaua'i Island Utility Cooperative, they're seeking to do a pump storage hydro project on the West side of Kaua'i associated with the Waimea River, known as the West Kaua'i Energy Project or WKEP. And then until a few weeks ago, Wai'oli...North Shore of Kaua'i, Wai'oli kalo farmers were pursuing a long-term lease of water until the Legislature passed, and Governor Ige just signed, a bill that specifically exempts traditional and customary taro farming from needing a water lease. On Maui, of course, you know well about East Maui Irrigation's proposed water lease. And on Hawai'i Island, Hawaiian Electric Light Company is seeking a long-term water lease for hydroelectric purposes for the Wailuku River in Hilo. And in Ka'u, there are a number of small Legacy plantation systems which are used for both ranching and domestic purposes. Moving to the second of the three parts, DHHL has three really distinct interests whenever these leases are being considered by the State of Hawai'i. First of all, has to do with this idea of reserving water for DHHL. It is essentially a kapu, a protection of DHHL's future uses...as you know, sometimes it takes a long time for DHHL, due to capital limits, to develop its lands. But it sets aside water so that when we're ready to develop those lands and homestead those lands, there's water still available. So that water is reserved for future use. We also recognize that our beneficiaries may exercise traditional and customary practices associated with the source waters in these areas. So that's a second of our distinct uses. And third, and finally, 30 percent of all the fees charged by these water license or leases go into what is called the Native Hawaiian Rehabilitation Fund. And actually, that last part, this idea that some water lease license funds go to DHHL, is actually part of the original Hawaiian Homes Commission Act, and was actually hard-fought provision. And if you'll forgive me just a couple of minutes of history, I

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think it's important to keep in mind as we go forward in the discussion in public of these water licenses. Specifically, there was a lot of resistance to these licenses in the overall Hawaiian Homes Commission Act because it was supposedly going to be funded out of the pockets of the White taxpayers of the territory. And I'll share with you, in this photo, a few of the key actors who were involved in this discussion. This is...last Saturday was Kamehameha Day. This is Kamehameha Day from 108 years ago. And going from left to right in this photo, the person on the far left in the maile lei is Hawai'i Supreme Court Chief Justice A.G.M. Robertson or Alexander G.M. Robertson. He was also a member of the Honolulu Rifles that helped overthrow the monarchy, then became Hawai'i Supreme Court Justice. Later, he retires from the Supreme Court and resumes private practice. Behind him, in the row, is Mayor Weise (*phonetic*) of...the Mayor of Honolulu. Next to him is his wife, Ululani McQuaid Robertson, acclaimed opera singer. Mayor...excuse me, Mayor Fern and Mayor Fern's wife is next to him. Then over here is Elizabeth Kahanu Kalaniana'ole, then John 'Aimoku Dominis, our Queen, and Jonah Kūhiō. And so they're all hanging out here at Kamehameha Day in 2014 [sic]. But they come back together--at least Kūhiō and A.G.M. Robertson do--six years later in December of 1920 as the Hawaiian Homes Commission Act is being considered by the United States Senate Committee on the Territories. And A.G.M. Robertson...Kūhiō is there as our delegate. A.G.M. Robertson travels from the Territory all the way to D.C. on behalf of his client. He's now in private practice and he's representing Parker Ranch, who stands to lose approximately 100,000 acres of land if this bill is enacted into law. But what's very interesting is A.G.M. Robertson doesn't actually stop and confine his remarks to saying, hey, my client's economic interest are going to be impacted by this proposed law. Senator Ted...Senator Nugent--not Ted Nugent--of Idaho is the chair of the committee, and he asks Mr. Robertson, as he's talking about his...giving his testimony. He says, do you object to these things? And Mr. Robertson says, we certainly do, Senator, absolutely. These monies, mind you, come out of the pockets of the white taxpayers of the Territory and are to be handed over or to be used for the benefit of the Hawaiian population...as we find it stated in the bill here, of one-thirty-second Polynesian blood. At that time the provision in the bill, which Kūhiō had originally sought, which was a one-thirty-second blood quantum, was still there. Kūhiō manages to get a word in edgewise and says a little while later, Mr. Chairman, may I say just a few words right there? Mr. Robertson says these monies are to come out of the white taxpayers' pockets of the Territory, it's not correct. They are to come out of the leases of the cane lands, that is if the land board sees fit to lease them. Robertson interjects, I was coming to that point further in my argument. It doesn't make any difference where that \$1 million come from, it's money that comes out of the pockets of the white taxpayer of the Territory. Later in the hearing, Mr. Kalaniana'ole says, no, Section 213 of the bill provides for the creation of a revolving fund that would be derived from 30 percent of the Territorial receipts derived from the leasing of cultivated sugar cane lands and water licenses. So why is this significant? First, water license revenue was an original and very, very hard-fought provision to fund the Hawaiian Homes Commission Act. And this exchange in front of a U.S. Senate Committee makes it clear, opposition to the Act and all funding from the Act kind of illustrate the forces that Kūhiō had, and to fight...and the compromises that had to be reached. And it becomes clear--to me, at least--why Kūhiō couldn't get general tax revenue for this, but had to set aside certain revenue sources, including the leasing of cane lands and water licenses, for the functioning of

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the Act. Despite that hard-won victory, the recent history of funding for the Native Hawaiian Rehabilitation Funds for this has been very challenging under State management. This is data that the Department has in its Accounting Division of monies transmitted to it from water license revenue. They went as high in the 1980s as over \$140,000 a year, but in recent years they have declined to barely over \$10,000 a year. And the reason for that is, in part, that none of these water licenses or leases have been converted from revocable permits into long-term leases. In addition...and this raises a question of equity. There's a number of places in Hawai'i where unquestionably, water is emanating from State lands, but the State is not pursuing or asking private parties who are taking those waters to pay a lease fee or enter into a lease. This includes the Kahena Ditch on Hawai'i Island, both the Department of Agriculture and the County's water systems that come from the North Kohala Mountains. Richard Ha owns a hydroelectric plant, the water comes half from a stream owned by...a stream half underlying it owned by the State, there's no water lease that's been required. The proposed Hū Honua Bioenergy Plant has four large permitted water...groundwater wells--and by large, I mean like tens of millions of gallons a day--no proposed lease. On Maui, the Honokōhau Ditch, which at least partially takes water emanating from State lands, is not...been ever approached for having a water lease or license. The Wailuku Water Company, while emanating primarily on privately-owned lands, is taking a public trust resource, and nobody has ever pursued that. On Moloka'i, both the mountain water system and Moloka'i Irrigation System derive water from State-owned lands and deliver it to private parties. On O'ahu, the Waiāhole Ditch and groundwater, with the small exception of that small well in Moloa'a, everywhere has not been subjected to these water licensing provisions. So for DHHL and its beneficiaries, there's equity issues of tying up water via leases for 30 years, perhaps up to 65 years. There's the concerns over whether or not this is evenly or unevenly applied. There's an ongoing question of how these water license fees are appraised by a real estate appraiser, which is difficult because in Hawai'i, of course, there's no market in water. There's no private purchase or sale of water rights, so there's no comparables that you could go to. And then for DHHL, while we have reservations in many areas of future use of water, turning them into wet water, water . . . *(inaudible)*. . . that can be delivered into our communities, remains a significant challenge. And so that brings me into the last bit of what is our particular interest in the East Maui Irrigation System. DHHL has, after beneficiary consultation, requested from the Commission on Water Resources Management approximately an 11 million gallon a day reservation for our lands at Kēōkea and Waiohuli, and I will talk about those. But we recognize that we still need infrastructure to get it from the edge of the East Maui Irrigation System to our lands. And we also have no idea what the license revenue may or may not be from these systems. Very briefly, the way that DHHL calculates its future water reservation requests is based upon two main things. The Hawaiian Homes Commission acts, in a essence, sort of like a County Council in terms of its ability to designate future land uses. So the Hawaiian Homes Commission, after beneficiary consultation, says this many...this area will be for residential homesteading, this will be for pastoral homesteading, maybe some for commercial use. And then using either County Water System Standards or other applicable standards, we multiply the number of units or the number of acres by the Water System Standard to come up with a proposed water need that will allow these lands to be fully developed in the future. For Kēōkea and Waiohuli, particularly, what

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you see in these lower areas, these brown and dry areas, we would need up to ten and a half million gallons a day of additional water to make those lands available for the homesteading purposes of the Hawaiian Homes Commission Act in fulfilling Congress's directives . . . *(inaudible)*. . . and then at Pūlehunui, there is an approximately additional one million gallons a day needed for agricultural purposes at Pūlehunui. And these lands, just incidentally, at Pūlehunui were historically irrigated from water from East Maui. So that brings me to the end of this, is what is hopefully after an already long day for you all, a brief presentation. What do we know, and what we don't know. We don't know if the Water Commission will grant our full reservation request or not. We're hoping they will take action on it this year. We don't know exactly what the infrastructure will cost us to move water from Upcountry, near the intakes, to our lands at Kēōkea and Waiohuli. And we don't yet know, including with this proposal that the County's considering, what the license revenue might be, if any. What we do know is that for our lands at Kēōkea and Waiohuli, if we're going to fulfill the promise that Congress made, and that the voters of Hawai'i accepted as a condition of statehood, at Kēōkea and Waiohuli, this is the only practicable source of water. These lands will not be successfully settled without water from this particular area. It is also the most viable source for Pūlehunui, and would mean that we would not have to rely on groundwater from the County's water system...the Central Maui Water System, which primarily takes water from Ūao Aquifer. And finally, what a private entity's obligations to fulfill the Hawaiian Homes Commission Act are is legally unsettled. But is very clear that the State and all subdivisions of the State, including the County, have an obligation to help fulfill the Hawaiian Homes Commission Act. So in our eyes, there is that distinct advantage if the County steps forward and decides to, rather than relying on a private party, try to operate this system for the best interest of its citizens. I am pau. I will stop screen sharing and defer to any questions at the discretion and direction of the Chairperson. Mahalo nui.

CHAIR SINENCI: Mahalo, Dr. Scheuer, for that presentation. Okay, I see a bunch of hands, but before we go to questions, Members, we did ask Managing Director Baz *(audio interference)* Ms. de Naie to stay on as a resources as well. So if there are no objections, I'd like to designate them as resource people under Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR SINENCI: So they're *(audio interference)* as well. So I did see Chair Lee *(audio interference)* Rawlins-Fernandez, Member King.

COUNCILMEMBER LEE: Mr. Chair, I also have questions from our Corp. Counsel, Caleb Rowe. May I ask him to come to the...join us in the call? But in the meantime, may I ask Dr. Scheuer...you had a slide there that showed reservations. So you have reservations, but how much do you actually receive, meaning ...you, meaning DHHL --

MR. SCHEUER: Thank you . . . *(inaudible)*. . .

COUNCILMEMBER LEE: -- in millions of gallons per day?

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MR. SCHEUER: So thank you very much, Chair and Chair Lee. So we have a pending reservation request for water related to the East Maui Irrigation System. That process was, we went through beneficiary consultation, we met with our beneficiaries. They heard from representatives of EMI, as well as us. We took that recommendation to the Hawaiian Homes Commission, they approved it, we then formally requested it in a petition to the Water Commission, but the Commission has not yet acted on it. So right now, we have no reservation associated with the system. But we are hoping . . .(inaudible). . . --

COUNCILMEMBER LEE: How much do you pay? Do you pay anything? When I say you, I mean actually DHHL, okay.

MR. SCHEUER: I appreciate the distinction, and I understand when you say you. The Department does not have to pay for water reservations, it's actually an obligation that the State has under a number of laws, including Section 101 of the Water Code, that specifies that the Water Commission is not supposed to make any major decisions about water without simultaneously assuring that there's sufficient water for fulfillment of the Hawaiian Homes Commission Act.

COUNCILMEMBER LEE: Okay. So DHHL does not pay for water, nor the transmission of . . .(inaudible). . . --

MR. SCHEUER: Correct.

COUNCILMEMBER LEE: -- to its site.

MR. SCHEUER: If I may, we do not pay for the water reservations. We don't pay --

COUNCILMEMBER LEE: Okay.

MR. SCHEUER: -- for the water rights. However, if there are costs associated with the transport of water, or the servicing of water by the Department or our beneficiaries, we'll pay a fee. There is...and if I can just can briefly...just make sure...because there's a little bit of complexity in the law around this. There's a provision --

COUNCILMEMBER LEE: . . .(inaudible). . . if I can interrupt you. I'm really sorry, just that I'm on a time limit. So if I can go onto the next question. So you don't pay for the water, however, you do receive 30 percent of lease proceeds from leases to and rents to other people, correct?

MR. SCHEUER: That is correct.

COUNCILMEMBER LEE: Okay. So I just wanted to make that clear. And I'm not sure what benefit DHHL would derive if the County were to assume the management and control of EMI. Could you tell me?



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MR. SCHEUER: So thank you very much, Chair. While our discussions with East Maui Irrigation have been amicable, we do not know what kinds of conditions they might place on this, whether they might resist the amount of water that is...we are seeking for reservation. We understand that the County has an obligation, as a part of the State of Hawai'i, to uphold the Hawaiian Homes Commission Act.

COUNCILMEMBER LEE: Okay. So I just wanted to be sure that...you know, what the pros and the cons are of DHHL having to continue with the same structure now, as opposed to the County taking over. Because my concern is, of course, cost. And right now, since 1963, the County has been paying 6 cents per thousand gallons. So my concern is...this is 59 years later, that cost is going to go up, and that's what I'm afraid of, the County having to pay more. Thank you. Mr. Chair, thank you. And Mr. Scheuer, thank you.

CHAIR SINENCI: Mahalo, Chair Lee. Next we have Member Rawlins-Fernandez, followed by Member King.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Dr. Scheuer. Mahalo for that excellent presentation. And before I ask my questions, I'll also clarify, and I'll let you finish your thoughts on this, that on Moloka'i we have homesteaders here that are on County water and DHHL water. For the homesteaders that are on DHHL system, they pay water rates to DHHL. For homesteaders that are on County water, they pay their water bills to the County. So no one gets free water, everyone pays for the transmission of the water that they receive when they turn on their faucet. Is there anything else you'd like to add to that?

MR. SCHEUER: That is correct. There's different costs associated with different systems, and that is one of the reasons why the rates differ. There's a provision in the Hawaiian Homes Commission Act that says that water shall be provided free of all charge, but that's specifically a reference to DHHL, if it went for a water lease, would not have to pay a fee.

COUNCILMEMBER RAWLINS-FERNANDEZ: *(audio interference)*

MR. SCHEUER: That does not refer to the price that a homesteader might pay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification. So my first question is similar to Member Lee's, but it's as an expert of *(audio interference)* in Hawai'i *(audio interference)* the benefits of creating a water authority being?

MR. SCHEUER: Having reviewed the bill and its various permutations, I think the clearest expression of what the benefit would be to the County is that it wouldn't necessarily be dependent on the good will of a private company who might have profit and other motives. And it would not necessarily be limited to a certain level of allocation in competition with private desire. So I certainly understand there's...not just for DHHL, but for other housing purposes, a lot of demand for water, and there is a cap by contract on the amount of water that can be delivered under your existing agreements. And if you control the system, you would have a far greater ability to control how much water

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is available for County purposes, as opposed to private commercial purposes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for your response on that. There seems to be a little bit of conflating the issues of owning EMI and this proposal. This proposal that Member Sinenci introduced basically is another tool for us, it's an option. It wouldn't automatically mean that we would own EMI. Is that what you understand, Dr. Scheuer?

MR. SCHEUER: That is my understanding of the proposal that's in front the Council now. I liken it to you're trying to decide whether or not you want to buy a car...whether you need a car, you're going to keep taking the bus. And then should you have, like, the things in place so that you can buy a car. We're not down the level of what kind of upholstery and radio you want in the car yet.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Dr. Scheuer. And how do you understand the authority operating, and how it would interact with the Department of Water Supply and the Board of Water Supply?

MR. SCHEUER: Thank you very much. The delivery and the management of the Legacy Plantation Systems, including EMI, it's really a separate kind of business activity than the managing of a drinking water system. Drinking water systems are really highly regulated, which is great because, like, you can kill people if you don't manage them well. And irrigation systems, while regulated, are differently regulated and less regulated. And it's really a separate set of expertise, including the watershed management aspects, than the management of a drinking water system. So I see this differential, when I've read the bill, as similar to you have different agencies within the County manage wastewater treatment versus the drinking water system. Not that they don't all deal with water, but they're sort of different lines of business.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for your responses. . . .*(timer sounds)*. . . And then you said that...Chair, do you mind if I finish asking my last question?

CHAIR SINENCI: We can go for a second round, Member Rawlins-Fernandez. I can come back to you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

CHAIR SINENCI: . . .*(inaudible)*. . . yeah. Okay, Member King, followed by, I believe, Member Paltin.

COUNCILMEMBER KING: Okay. Thank you, Chair. Aloha, Jonathan. One of the smartest guys I know in the County of Maui. But I...it's great to see you again after a couple of days. I have some...a couple of sentences that...I mean questions that I wanted to ask. When you were going over water license fees, and then the issue of the requested reservations for DHHL. If we create this County Water Authority, in your opinion, would we have the authority to solidify those reservations, and also to create water license fees in those areas that you said are not paying water license fees? Or is that still going to

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remain with CWRM?

MR. SCHEUER: The setting of fees is actually with the Board of Land and Natural Resources ultimately, rather than the Commission on Water Resource Management. That would be up to them. They've made some indications that they believe a County agency or another Government agency wouldn't be subject to those fees. I don't know whether or not that is the case or not. In terms of the water reservations, absolutely. I would suspect that a sister Government agency would fully acknowledge and embrace the water needs of the Department, particularly when our business is to provide housing on Maui to people with absolute ties to this island.

COUNCILMEMBER KING: Okay. Thank you for that. And so for the water license fees, we might be...if we had our own water authority, we might be in a situation to petition for those water license fees to be in...you know, in place. We wouldn't be the authority to actually make that happen.

MR. SCHEUER: That is correct.

COUNCILMEMBER KING: Okay. We would be in a position--correct me if I'm wrong--to...especially if we had a County water authority, to stabilize the prices so that some people aren't paying a whole lot and some people aren't paying a whole little, which is what's happening now, the rates are very different. So if we made a Countywide water authority, we could stabilize those prices so they're fair across the County.

MR. SCHEUER: That is correct.

COUNCILMEMBER KING: Okay. Those are my two main questions. Thank you very much. And if I can, I'll give my extra time back to Member Rawlins-Fernandez.

CHAIR SINENCI: Mahalo, Member King. I'm not sure if I saw Member Paltin's hand or Mr. Molina's hand. Member Paltin, do you have any . . . *(inaudible)*. . . --

COUNCILMEMBER PALTIN: I didn't raise my hand, but I do have questions.

CHAIR SINENCI: Okay, go ahead.

COUNCILMEMBER PALTIN: Okay. Mr. Scheuer, I was wondering if you knew the answers to the questions that I asked to Ms. Wilcox about if the water authority would be regulated by the PUC and so on.

MR. SCHEUER: That particular question, I do not believe that you would be regulated by the PUC. As a County authority, you're exempt from the Public Utilities Commission is my understanding. For instance, on Maui County...in other counties it's the water boards, and in Maui County it is the Council that has exclusive authority on setting rates. And there is a specific exemption in State law for the Departments of Water Supply to not be regulated by the PUC, but to retain that authority within the counties. I believe that would be the same with a proposed water authority.

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COUNCILMEMBER PALTIN: And have you seen examples of water authorities being run in other locations where water is looked at as a public trust resource?

MR. SCHEUER: So...thank you. Hawai'i is...it's an overused term, but Hawai'i is unique when it comes to water law, right, we do not have a private market in water law. And the origin of the public trust doctrine in Hawai'i doesn't just stem, as it does in other U.S. states, from Roman and English common law, but from Hawaiian Kingdom law. Specifically, water was never privatized when land was at the māhele. So we stand alone in water law and, to some degree, comparisons with other states have to be taken with very significant lumps of pa'akai.

COUNCILMEMBER PALTIN: And do you think it would be able to work with water as a public trust and a water authority set up?

MR. SCHEUER: To me, the...thank you for the question. I actually see a greater conflict and have seen a greater conflict between private operating entities in Hawai'i and public trust responsibilities than I have between the counties. Not that there's been no conflicts between counties weighing their public trust responsibilities and their other desires and duties, but it's been always more difficult for private entities to navigate through that system. So I would suspect there would be less conflict.

COUNCILMEMBER PALTIN: So like a municipal water authority on the continent would be similar to our public trust responsibilities over here because the municipality is like run by the people.

MR. SCHEUER: It's...Councilmember, sorry, there's a lot in your question. So I'll try and be clear and brief in my response. The public trust option does, to a degree, exist elsewhere. And so, for instance, the southern...the Los Angeles Department of Water and Power is subject to its public trust responsibilities and had their diversions from the Eastern Sierras curtailed because they were violating their public trust duties by drying up Owens Lake. So there's some . . . *(inaudible)*. . . . *(timer sounds)*. . . but . . . *(inaudible)*. . . --

COUNCILMEMBER PALTIN: The bell is just for me, not you.

MR. SCHEUER: Oh, okay. A public entity is more likely to have clear obligations and a clear inclination to fulfill its public trust duties than a private commercial entity will, who's going to naturally, by the...inherent to their desire for profit, want to maximize that profit.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. Member Molina, did you have any questions for our resources?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. Just one question. I was thinking

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about, you know, water authorities on, like...for example, on Native American lands. Dr. Scheuer, are you aware of any...well, how their water authorities would work? Because I see a parallel with what happened with colonization and the effects on Native Americans as the effects of what happened to Native Hawaiians. Any thoughts on that...any potential models that you see, you know, a water authority in Native American lands and how...what we can learn from what's happening there and apply it here?

MR. SCHEUER: Thank you, Councilmember. It's a really thoughtful question. And while I've done a little bit of work on it, I'm in no means an expert, and couldn't give you any sort of meaningful opinion on it, though, I'd be happy to search out relevant examples for you if you so desired.

COUNCILMEMBER MOLINA: Okay, yeah. I was just...I know you're so well versed in these issues, so I thought I'd ask you...kind of look into that as well. But thank you for that presentation. Boy, that 1914 photo is just awesome, it's tremendous. Thank you for sharing that historical perspective on that. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Molina. I had a question for Ms. de Naie. And I understand there has been questions about the difference between the East Maui Water Authority Board and the Department of Water Supply. Department of Water Supply delivers drinking water to its users, and *(audio interference)* water authority would *(audio interference)* the watershed that will be supplying Department of Water Supply *(audio interference)* that water. Can you speak to the difference between the two, Ms. de Naie? Oh, you're muted.

MS. DE NAIE: There we go.

CHAIR SINENCI: Oh, yeah.

MS. DE NAIE: The third click --

CHAIR SINENCI: Oh, yeah.

MS. DE NAIE: -- is the charm. Thank you. Yeah, I'd be happy to speak to that question. As some of you may know, our water...Board of Water Supply used to offer tours of our water system. And so I took advantage and toured every single facility in our County water system when those tours were offered, and it's really an eye opener. It'd be a great --

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

MS. DE NAIE: -- thing for *(audio interference)* to do. Yes.

CHAIR SINENCI: Do you have a fan *(audio interference)*

MS. DE NAIE: Oh, do I need a microphone?

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CHAIR SINENCI: No, there's a fan. It sounds like you might have a fan that's blowing.

MS. DE NAIE: Oh, yes, I'm sorry, I do. I have --

CHAIR SINENCI: Okay.

MS. DE NAIE: -- my fan on. All right. And I can put my microphone in too. At any rate, what I was saying is that I'm pretty familiar with the layout of the County system, and I toured all the treatment plants and so forth. And in essence, the County system is about drinking water, and it's about the processing of drinking water. The County also does supply, through an agreement with EMI, water to our Ag Park in Kula. And so that utilizes a EMI ditch. That ditch is in this lease area, the Hāmākua Ditch. So there's two types of water that the County gets from the East Maui lease area. There is drinking water from Wailoa Ditch, the highest elevation ditch, and there is ag water for the Kula Park from the next lowest elevation ditch that's right below the Wailoa Ditch. The County also contracts with EMI to supply water to the community of Nahiku through a little pipeline that goes to a tank from a tunnel. So that area...those functions would, in essence, remain. The new water authority would not probably manage any tank services for Nahiku. They would not manage any, you know, services for the County treatment plant at Kamole. They would not manage, you know, any of the County wells, or pipelines or set any rates for anything. That all remains under the purview of the Water Department, who has the staff, expertise, and kuleana to do all those things. And the County Department of Water Supply also does research studies, and they also give support to existing watershed management and restoration partnerships. Now, the Board of Water Supply is very different. The Board of Water Supply advises the Water Department on policy. They advise on water budgets. They hear appeals on water meters. If a meter owner feels that their meter was unfairly taken away, they can appeal to the Board of Water Supply. So the Board of Water Supply is very different from a water authority. They are basically concerned with policy. A water authority would actually be managing parts of our potential water supply that are now being managed by private entities. And I think Mr. Scheuer referred to this in his description as well, and we have many of these private entities. There's five private water systems in West Maui. And, of course, here in East Maui and Central Maui, there's one large private water system, the EMI System. So the water authority would not take over all the duties of the EMI System. They would take over the management of the EMI System as it passes through the lease area because they . . . *(timer sounds)*. . . would be a lease holder. And --

CHAIR SINENCI: *(audio interference)* Ms. de Naie.

MS. DE NAIE: -- yes, that's the difference.

CHAIR SINENCI: Okay. Thank you for that clarification. I do see...Member Sugimura, did you have any questions for our panelists?

COUNCILMEMBER SUGIMURA: No, thank you. I'm listening. Thank you.

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CHAIR SINENCI: Yeah, mahalo for joining us. Okay, Members, a round two. Question from Member Lee.

COUNCILMEMBER LEE: Thank you, Chair. I have a question for Caleb Rowe, Deputy Corporation Counsel.

CHAIR SINENCI: Mr. Rowe.

COUNCILMEMBER LEE: Mr. Rowe, I'm assuming you're on the call --

MR. ROWE: Yes, I'm here.

COUNCILMEMBER LEE: -- let me just go right into the question. There has been talk of acres and acres of lands, and then...so that we can have a visual of exactly the width and breadth of the areas that we're talking about, managing the water as it passes through the lease areas, can you give us a visual of that, Mr. Rowe?

MR. ROWE: Yes. And we did provide a pdf of a slideshow that...I believe we had been asked to give in the GREAT Committee that has those documents. So I think those documents should be in Granicus. But if the Chair would allow me to share my screen, I'd be happy to do so.

CHAIR SINENCI: Go ahead, Caleb.

MR. ROWE: Can you see it?

COUNCILMEMBER LEE: Yes, the first page.

MR. ROWE: Okay. So basically what we're looking at here is the ditch system. This map comes from the Commission on Water Resources Management's 2018 decision on the interim instream flow standards of 21 East Maui streams. If you kind of look through this, you can kind of see where the relevant ditch systems are that run through the license areas. The license areas themselves are represented by these yellow sections, which, you know, would be these portions of the ditch system. These green sections are properties that are specifically owned by East Maui Irrigation Company, which is a subsidiary of Alexander & Baldwin that is also partially owned by Mahi Pono. These orange sections are lands that are owned by Alexander & Baldwin itself. And then these kind of additional white areas are, you know, various other private landowners.

COUNCILMEMBER LEE: So Caleb --

MR. ROWE: Yes.

COUNCILMEMBER LEE: -- I need to ask you because I'm on a time clock, how many properties would we have to work with in terms of easements or purchases in order to operate and manage the entire system?

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MR. ROWE: So I can kind of go real briefly. So the...these...the ditch system runs over these white areas as well as these green areas when it originates. And throughout it, you can kind of see it kind of snakes in and out of the State land as well as private land. And at least for our purposes, this is where the lease area ends, and this is where...the pink arrow is where the Kamole Weir Water Treatment Plant, which is the main system that distributes water for Upcountry Maui is. Again, I don't know...we would have to, you know, get surveyors out and get some sort of accounting to determine who these additional kind of white portions belong to. But at least from . . . *(timer sounds)*. . . this area is owned by East Maui Irrigation Company, and this portion is owned A&B. So there's at least two landowners that we would have to either enter in negotiations with or condemn land in order to at least connect it to our Upcountry system.

COUNCILMEMBER LEE: So are we talking about 50 to 70 miles that the system traverses?

MR. ROWE: I believe it's closer to about 50, I don't know those figures right off the top of my head, but yes. And I believe there was testimony earlier about the portion of which is State land versus what is private land.

COUNCILMEMBER LEE: Okay, thank you. My time is up. Thank you.

MR. ROWE: Would you like me to stop sharing, Chair?

CHAIR SINENCI: Yeah. Thank you, Mr. Rowe. Yeah, just following up on Member Lee's questions. Would the County have rights to do eminent domain on these specific properties? Is that an option?

MR. ROWE: Yeah. So there are a couple of options that the County could pursue. You know, we could try and enter into some sort of contractual agreement with the various landowners and, you know, maybe pay them some sort of fee. But yes, the other option would be to initiate eminent domain proceedings in court in order to ensure that we have long-term access.

CHAIR SINENCI: Okay, thank you. Or possibly trade water for the use of those systems. Would this affect --

MR. ROWE: . . . *(inaudible)*. . .

CHAIR SINENCI: -- would this affect the State's ability to give the County the lease for the license areas?

MR. ROWE: I don't believe that it would. I believe that there...I believe that there was a letter from the Attorney General's office regarding, you know, the use of the ditch system, and whether or not that we would be able to use the ditch system. However, as...there are kind of two methods that the State could give it to the County. It could either be by virtue of direct negotiation because we are another Government entity, or it can be through the same lease and auction process that EMI is currently going through.



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CHAIR SINENCI: They also mention in that letter gratis rent. What is gratis rent?

MR. ROWE: So gratis rent...generally, under the provision for long-term dispositions of water, the Department of Land and Natural Resources sets rates for the use of land, such as these for the license areas. Under direct negotiation, which is a separate provision that we're allowed to...that we have the potential to utilize because we're a Government agency, the Board does have the option to waive rentals...rent fees.

CHAIR SINENCI: Oh, okay. Thank you for that, Mr. Rowe. Sorry, Members, for taking up your time. We'll go to a second round of questions, if you have, for our panel. Okay, Member Sugimura, go ahead.

COUNCILMEMBER SUGIMURA: *(audio interference)* if no other member has a question, I would...I have one for Caleb Rowe.

CHAIR SINENCI: Go ahead.

COUNCILMEMBER SUGIMURA: Is that all right? Okay, thank you. So, appreciate your presentation and your map that you had, that white section. So the scope of what we're talking about is from where to where, is one question. And the other thing is we don't acquire the East Maui water leases that you're referencing, how can we ensure that we have the supply of water we need at a reasonable cost? And that would affect the residents Upcountry . . . *(inaudible)*. . . many, but I'm . . . *(inaudible)*. . . --

MR. ROWE: Yes, that's a great question. So the license areas themselves span from Nahiku to...I believe it's Honopou Stream, which is near Huelo. As far as ensuring continued access to water--and this is something that I have discussed with the Department of Water Supply--there is going to be a contested case hearing on the long-term . . . *(inaudible)*. . . of the lease that EMI is currently pursuing. So in any contested case hearing, after that, the Board of Land and Natural Resources can set certain conditions on these leases. And one of the things that we've discussed with the Department of...within the Department of Water Supply and our office is having specific provisions in the lease about continued access to water by the Department of Water Supply and, you know, language that, you know, kind of sets a method by which EMI can set their rates for what they charge us. So those are things that we have been discussing, and those are things that...assuming that this...the contested case hearing with EMI goes forward, are things that we would be looking in to do. And that...you know, I don't believe that we would get a whole lot of pushback from EMI on because one of their arguments in favor of being able to secure this lease and securing that it's in the best interest of the State is them saying that they're providing the County with water for a protected public trust resource, which is domestic water for the Upcountry Maui...for Upcountry Maui citizens. So because of that, you know, it's...it would...it would be...they certainly might, but I don't anticipate that there would be a lot of feedback because they kind of need us to...in order to at least partially justify why the lease would be in the State's interest.

COUNCILMEMBER SUGIMURA: I've always heard that, and that because of the agreement

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that A & B--is this correct, A & B has an agreement...or had an...or--has an agreement with now Mahi Pono that our water rates are set at a certain cost. With this, then going forward, would that be jeopardized?

MR. ROWE: So there is...there is a current agreement between us and . . . *(timer sounds)*. . . East Maui Irrigation that does set rates, as Chair Lee mentioned, that are similar to what was set in the original kind of 1970s agreements that the...that the Department of Water Supply had with them. From, you know, my recollection, off the top of my head, under the terms of that agreement is that those are to apply with...EMI would have to give us a one-year notice if they wanted to change any terms of the agreement. So that's one of . . . *(inaudible)*. . . but yes, they are currently contractually obligated to deliver us water at a certain rate for a certain price. Sorry, did that answer your question?

COUNCILMEMBER SUGIMURA: Thank you. Thank you. I have more questions, but thank you very much, appreciate it.

MR. ROWE: Yeah.

CHAIR SINENCI: Mahalo, Member Sugimura. Members, any other questions? I have one more questions for Caleb. Caleb, has...do you know if the current leaseholder has proposed any upgrades to the system?

MR. ROWE: Thank you. So just to clarify, there is no current leaseholder. It's being...it's under a revocable permit system, which are...yeah, which are one-year permits. There are conditions that have been placed in...so every year when the revocable permits are issued, the Department of Land and Natural Resources places certain conditions on it. Some of those have include up...included upgrades to the system. The most recent ones also includes certain upgrades to the system. But I'm not aware of if...of whether or not EMI is currently, I guess, voluntarily looking at upgrades.

CHAIR SINENCI: *(audio interference)* questions, Members? Okay, we have one more from Chair Lee.

COUNCILMEMBER LEE: Thank you, Chair. Just one more question, Caleb. Do you...or has the County ever undertaken any kind of feasibility study? I'm sure the thought of acquiring the system has come up before, so has anyone done a feasibility study? Have we any idea how much money we would have to invest in the system?

MR. ROWE: I do know that the Board of Water Supply did do the TIG study, but I don't think that that went really in depth into, kind of, what the actual system is, what it entails, and what upgrades would be included. And, you know, I personally have gone during the contested-case hearing on the interim stream flow standards to see some of the diversions, but, you know, I think I went to go see about 20, and I believe they said that there are 388 separate intakes throughout the system. So it's a very large, complicated system that I don't believe anybody in the County really knows very much about at this point.

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

CHAIR SINENCI: *(audio interference)* Chair Lee. Okay, Members, seeing no more questions...oh. Okay, Member Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. This question is for Dr. Scheuer. Dr. Scheuer, do you know if there would be...if there's a provision where the County could ask for a fair use of the water . . .*(inaudible)*. . . or, yeah.

MR. SCHEUER: Thank you --

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

MR. SCHEUER: -- Councilmember. What I think you might be referring to, and correct me if I'm wrong, is that in the response to Chair Lee's very helpful letter to DLNR and the response to it, there was an indication that under at least one previous agreement, East Maui Irrigation obligated itself to transmit any State water to...for its uses to...free of charge. So, you know, there's pluses and minuses to being part of a subdivision of the State. And there should be...you know, minuses are you have the same obligations, including to DHHL. One of the pluses should be, I would assume you could step into the State's shoes, whether through the East Maui Water Authority, or perhaps not, and say, like listen, we have legitimate County needs, we are part of the State of Hawai'i, we'd like to transmit this...have this water emanating from State lands transmitted to us without a charge from you. Is that responsive to your question, Councilmember?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo *(audio interference)* and I wanted to clarify, in your presentation you mentioned some of the revocable permits. And because EMI has a revocable permit, it has not paid that 30 percent to DHHL.

MR. SCHEUER: So there's a very small fee that's paid under the revocable permit based on what they were paying when the lease was set over three decades ago. At our request, a tiny increase related to the Consumer Price Index was added to the revocable permit process a few years ago. But it is a very, very small amount of money. I don't have the figure immediately at hand, but it's a very small amount of money recognizing . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Mr. Rowe?

MR. ROWE: Member Rawlins, I thought this question might come up, so I do have those figures available, if you would like. So in the proposed decision that the Board is consider...is currently looking at, the total cost for the four license areas is...the rental payments, is \$19,860.47 a month, which amounts to \$283,361.64 per year. As a new condition that was placed on the proposal for the first time, the Board also placed a watershed management fee to be paid to the Department of Forestry within the Department of Land and Natural Resources in an amount that is equal to the current rent. So the...under the proposal that the Chair...that the Board is currently considering, the amount would be \$566,723.28 a year.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Rowe. So that goes to DOFAW though, not to...how much goes to DHHL? . . .(timer sounds). . .

MR. ROWE: That I don't, specifically, know. I know that those are...that's the total of what the State is charging to EMI. I don't know, off the top of my head, and Mr. Scheuer might, what percentage of that or how much of that is going to DHHL.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Rowe. Dr. Scheuer?

MR. SCHEUER: Caleb, with all the time . . .(inaudible). . . in front of the LUC, you still can't get my last name right.

MR. ROWE: I know. I'm constantly doing that, I apologize.

MR. SCHEUER: So it would be 30 percent of the rental fee, and one...just to be explicit, one of the concerns DHHL has had is that the Department of Land and Natural Resources seems to be trying to transfer as much to the watershed management fee side rather than including it in the rent, which then reduces the funds that are available and transmitted to the Native Hawaiian Rehabilitation Fund, which funds...by the way, the Department doesn't hold onto that money. It funds grants to homesteaders around the State for, like, community development and farming development activities. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Dr. Scheuer. But...so for this permit, the revocable permit, as far as the 30 percent being paid to DHHL that...you're not able to confirm if that is actually paid.

MR. SCHEUER: No, though I...they have been good at paying what is due, so if that is the new rate. But that is considerably larger than the rate has been and might be . . .(inaudible). . . --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo . . .(inaudible). . . --

MR. SCHEUER: -- smaller than what would be achieved at an auction reflecting the actual economic benefit.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Okay. And so the...but what...just to clarify, Chair, one more time, the 30 percent to DHHL that's mandated has been likely reduced because of the amount of water...sorry, money going toward the watershed?

MR. SCHEUER: That is correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Dr. Scheuer. Mahalo, Chair.

CHAIR SINENCI: Mahalo, Member Rawlins-Fernandez. Okay, Members, before we...we're coming down to the end of our meeting, but before we end, I did want to go to our panel just for a couple minutes if you want to share some last-minute thoughts. Dr. Scheuer.

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MR. SCHEUER: Thank you very much, Chair Sinenci. I just want to thank the Councilmembers. Being a nonelected but public servant in an appointed role, I have a lot of sympathy for the things you try to navigate through. And just...to me, there's a lot of interesting and compelling questions about future costs. But I just think that the question in front of you right now is, do you want to make...give the County voters the option to give you the clear authority that you can create these water authorities? What they'll look like, how you enter into these leases, whether you apply them to different areas are important questions, but I don't know that they're necessarily the questions in front of you right now. It's do you want to have a nonambiguous authority to take actions outside of standard Board of Water Supply and Department of Water Supply functions to secure your water future? So that's the perspective that I try to speak to, and I . . .(inaudible). . . presentation and I hope it was of some service. Mahalo nui.

CHAIR SINENCI: Mahalo for that, Dr. Scheuer. Ms. de Naie, did you have closing comments?

MS. DE NAIE: Oh, mahalo nui. I echo what Dr. Scheuer says. This is really about, do we need a new tool in the toolbox? Because we have all these aging private systems, the County would benefit from having the option to be the primary beneficiary of these systems, but it doesn't have that mechanism right now. A water authority is a mechanism, and it is one that's used differently in different areas, but we are forging our own Maui version here. And just thank you all for your patience, and listening, and learning from all of this. It's not easy to make history, so mahalo.

CHAIR SINENCI: Mahalo, Ms. de Naie. I do...I did see Director Baz on. We did invite him to join our meeting, if he wanted to say a few words.

MR. BAZ: Thank you, Chair Sinenci, Members. It's been a very interesting discussion. And Dr. Scheuer, always appreciate your knowledge and expertise that you share. You know, I think this is good discussion, and we'll have some more tomorrow and in the future, obviously. One thing that I did want to note is the confusion during the CWRM Committee earlier today. One of the Members brought up that, you know, there's the Maui County Council, there's the Board of Water Supply, there's the Department of Water Supply, there's the Mayor and the Executive...you know. And, you know, specifically with the designation for the systems in . . .(inaudible). . . West Maui there was differences of opinion, right. So they weren't sure who was saying what and, you know, where the County, as an entity, stood. So I do want to work with you all and kind of help to clarify that. But I'm also concerned that creating another water authority or board may create even more confusion. And I would hope that that wouldn't happen, but I think we can, you know, discuss that...details and hopefully overcome that piece of it too. But just the comments for now, Mr. Chair, and we can...future discussions. Thank you.

CHAIR SINENCI: Yes. Mahalo, Director Baz. And we'll go ahead and make that more clear for the electorate, educate everybody on those differences. With that, Members, I did want to remind you of...so the ASF for tomorrow that we're presenting in the GREAT Committee is under Granicus Item Number 8. So we did review it the last time, and so

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that's what's before us for tomorrow. Then we'll look forward to hearing from the GREAT Committee Chair Molina for that future date and time. Okay. Members, that brings us to the end of our meeting. Staff, is there anything else before we adjourn today?

**ACTION:      DEFER pending further discussion.**

MS. STEWART: No, Chair. You may want to clarify that the ASF is not actually before the GREAT Committee.

CHAIR SINENCI: Oh, not the other one, the one that was presented at the first meeting, Ms. Stewart.

MS. STEWART: Yes. Of course, yes.

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

MS. STEWART: There are two ASFs, so the previous one, yes, was . . .*(inaudible)*. . . --

CHAIR SINENCI: Yeah, the Item Number 8.

MS. STEWART: -- to Granicus.

CHAIR SINENCI: Yeah, ASF on Item Number 8. Yeah. Okay *(audio interference)* that, Members --

COUNCILMEMBER SUGIMURA: Chair.

CHAIR SINENCI: -- oh *(audio interference)* --

COUNCILMEMBER SUGIMURA: I have a question. Yeah, thank you. So what...in Granicus, what item is Caleb Rowe's presentation? I looked and I didn't see something...a presentation from Corp. Counsel. So was it part of another meeting or --

CHAIR SINENCI: Yeah, he posted it on the GREAT Committee Granicus.

COUNCILMEMBER SUGIMURA: Oh, okay. So it's from --

CHAIR SINENCI: Yeah.

COUNCILMEMBER SUGIMURA: -- Mike Molina's meeting...from his last meeting.

CHAIR SINENCI: Yes.

COUNCILMEMBER SUGIMURA: Thank you. Okay.

CHAIR SINENCI: Well, yeah, on the GREAT Committee.

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COUNCILMEMBER SUGIMURA: Thank you.

CHAIR SINENCI: Okay, with that, Members --

MR. ROWE: Yes. And sorry for that, I did mean that it was part of the GREAT...the documents for the GREAT Committee tomorrow.

CHAIR SINENCI: Yeah. Okay, Members, it's 4:31, and this Tuesday, June 14th meeting of the Agriculture and Public Trust Committee is now adjourned. . . .(gavel). . .

**ADJOURN:** 4:31 p.m.

APPROVED:



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SHANE M. SINENCI, Chair  
Agriculture and Public Trust Committee

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Transcribed by: Tricia Higa

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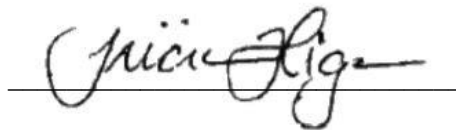
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CERTIFICATION

I, Tricia Higa, hereby certify that pages 1 through 48 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 7th day of July 2022, in Mililani, Hawai'i

A handwritten signature in black ink, appearing to read "Tricia Higa", is written over a horizontal line.

Tricia Higa