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

Chair and Members:

Your Water Resources Committee, having met on June 2, 2009, makes reference to the following:

1. County Communication No. 05-46, from former Councilmember Michelle Anderson, relating to the rules and governing policies of the Department of Water Supply (Department).

2. Committee Report No. 09-33, from your Water Resources Committee, recommending that the following proposed bills be passed on first reading and be ordered to print:

   a. "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.01, MAUI COUNTY CODE, RELATING TO WATER".

      The purposes of the proposed bill are to (1) clarify the Director’s authority to promulgate rules, and (2) codify rules and regulations of the Department relating to definitions.

   b. "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

      The purpose of the proposed bill is to codify the Department’s rules and regulations relating to water meter issuance for the Upcountry water system.

Your Committee notes that in 2002, the Revised Charter of the County of Maui (1983), as amended, was further amended to transfer the authority to adopt rules and regulations having the force and effect of law relating to the County’s water systems, from the Board of Water Supply to the Director of Water Supply. Your Committee has been making recommendations on proposed bills relating to this matter as they are
received from the Department of the Corporation Counsel, for consideration and possible action.

Your Committee notes that Committee Report No. 09-33 was recommitted to your Committee at the Council meeting on March 20, 2009, due to concerns relating to the definition of “subdivision” in the proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.01, MAUI COUNTY CODE, RELATING TO WATER”. There were no concerns relating to the proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM”.

Your Committee considered the proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM”.

Your Committee notes that the proposed bill codifies the Department’s Water Meter Issuance Rule for the Upcountry Water System, Title 16, Chapter 106, which has been in effect since October 4, 2002.

Your Committee voted 4-0 to recommend passage of the proposed bill. Committee Chair Victorino, Vice-Chair Pontanilla, and members Kaho‘ohalahala and Medeiros voted “aye”. Committee members Baisa, Mateo, and Molina were excused.

Your Water Resources Committee RECOMMENDS that Bill No. (2009), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM”, be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

JOSEPH PONTANILLA, Vice-Chair
ORDINANCE NO. ____________

BILL NO. ____________ (2009)

A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Title 14, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER 14.13

WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM

Sections:

14.13.010
14.13.020
14.13.030
14.13.040
14.13.050
14.13.060
14.13.070
14.13.080
14.13.090
14.13.100

14.13.010 Scope. All areas provided water service from the department's upcountry water system shall be within the scope of this chapter.

14.13.020 Purpose. The purpose of this chapter is to provide uniform handling of applications for water service from the priority list.

14.13.030 Definitions. For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases are defined as follows:

"Priority list" means the compilation of premises in the order received by the department pursuant to a legal notice published in The Maui News, November 2, 1994, for applicants denied new or additional water service.
"Upcountry water system" means all water improvements associated with the department's Upper Kula, Lower Kula, Makawao (including Pukalani, Haliimaile and Maunaolu College area) and Haiku water systems.

14.13.040 Water service requests. A. On March 16, 1993, the upcountry water system was found to have insufficient water supply developed for fire protection, domestic, and irrigation purposes to take on new or additional water services without detriment to those already served in the regulated area. Since November 2, 1994, the department has maintained a priority list of premises, organized by the date applications for new or additional water service were received for such premises.

B. The director shall continue to maintain the priority list of premises applying for new or additional water service from the upcountry water system.

C. Premises on the priority list that are unable to fulfill departmental requirements for water service or who refuse water service shall be removed from the priority list. A new application must be submitted in order to be placed back on the priority list.

D. Requests for new or additional water service shall be limited to one meter size upgrade to the next larger meter size or a single 5/8-inch meter per request or planned subdivided lot but shall not exceed the number of lots created by the subdivision.

14.13.050 Procedure for processing applications for water service from the priority list. A. An applicant requesting new or additional water service for a premise shall be notified in writing by certified mail, return receipt requested, at the address submitted on the application.

B. The applicant shall be given thirty days from the date the certified mail was received by the applicant to complete and deliver to the department an application for water service or to reserve an allocation of water service in accordance with the department’s established rules, regulations, and procedures.

C. Failure to respond or the return of an unsigned return receipt will be treated as a refusal of water service.

14.13.060 Issuance of water meters. If additional source for the upcountry water system becomes available, the director shall process applications for water meters in the order of the priority list up to the average day capacity of any additional source with allowance for the department’s operational standards.

14.13.070 Exceptions. The provisions of this chapter shall not apply to applicants using source credits developed in the upcountry water system through a previous agreement with the board or the department, which agreement was executed before the effective date of this chapter.

14.13.080 Waiver or modification. The director may waive or modify the provisions of this chapter when not contrary to the public's health, safety or welfare, and when the director finds:

1. Strict application of the provisions of this chapter would cause an absurd, unfair, or unreasonably harsh result;

2. The director finds the circumstance or condition is unique or exceptional, and the director would grant the same request if made by every similarly situated applicant; and

3. The resulting action of the director will be without detriment to existing users.
14.13.090 Partial waiver of water system development fee. Water system development fee rates as of April 1993 will apply to requests of applicants on the priority list as of October 31, 2001 up to a maximum of three lots.

14.13.100 Applicability. Prior to the enactment of this chapter, the board promulgated an administrative rule known as the "Water Meter Issuance Rule for the Upcountry Water System", which rule is codified as chapter 106, subtitle 1, title MC-16 of the rules and regulations of the department of water supply, County of Maui. No provisions contained in this chapter shall affect the rights, privileges, remedies, requirements, or duties of any applicant or the department in accordance with said chapter 106 that have accrued prior to the effective date of this chapter.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

[Signature]
EDWARD S. KUSHI
Deputy Corporation Counsel
County of Maui
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