

WATER RESOURCES COMMITTEE
Council of the County of Maui

MINUTES

January 30, 2013

Council Chamber, 8th floor

CONVENE: 9:02 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair
Councilmember Mike White, Vice-Chair
Councilmember Gladys C. Baisa
Councilmember Robert Carroll
Councilmember Donald G. Couch, Jr.
Councilmember Stacy Crivello
Councilmember Don S. Guzman

STAFF: Kimberley Willenbrink, Legislative Analyst
Yvette Bouthillier, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: David Taylor, Director, Department of Water Supply
Edward S. Kushi, First Deputy Corporation Counsel Department of the Corporation
Counsel
Jennifer M.P.E. Oana, Deputy Corporation Counsel, Department of the Corporation
Counsel

Seated in the gallery:

Pamela Pogue, Planning Program Manager, Water Resources Planning Division,
Department of Water Supply

OTHERS: **WR-18:** Rosemary Robbins
Warren Watanabe, Executive Director, Maui County Farm Bureau
Others (2)

PRESS: Akaku: Maui Community Television, Inc.
Chris Sugidono, *The Maui News*

CHAIR VICTORINO: . . .(gavel). . .Good morning, and welcome to the first of the new term
2013-2014 Water Resources Committee meeting. This is January 30, 2013, and just in case
someone didn't recognize I am the Chair, Michael Victorino. I've been proud to be the

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Chairman of this Committee for the past two terms and hopefully in the third term we'll accomplish some of the major challenges that we face. Isn't that correct, Mr. Taylor?

MR. TAYLOR: Yes, sir.

CHAIR VICTORINO: Okay, good. I just wanted to put that on the record right darn early. Okay, first of all I would like to welcome all the Members to the first Committee meeting. I would like to ask everyone in the gallery and as well as our Members and including myself, just reminding myself, turn off your cell phones or put 'em to silent whichever is more convenient. Okay, there you go. At this time, I would like to introduce the Committee. First of all, I'd like to introduce my Vice-Chair for this term, Mr. Mike White.

VICE-CHAIR WHITE: Morning, Chair.

CHAIR VICTORINO: Good morning. Our Chair of the Council and the lovely lady from Upcountry, Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our Member from East Maui, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Morning, Chair.

CHAIR VICTORINO: Good morning. A new Member not to the Council, but to this Committee from South Maui, Mr. Don Couch.

COUNCILMEMBER COUCH: Morning, Chair.

CHAIR VICTORINO: Good morning. A new Member for the Council as well as to this Committee, the lovely young lady from Molokai, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR VICTORINO: Aloha. And of course, our youngest Member and the Member from the Kahului seat and a new Member to the Council and this Committee, Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR VICTORINO: Good morning. I wanna welcome all of you to the new term, and welcome those returnees. You know, the returnees will have lotta historical perspective. So if you have questions, don't fail to ask some of those Members that have been around like Ms. Baisa and I, and Mr. Carroll, and Mr. White. Some of us were here when the dinosaurs roamed. I'm talking about myself and no one else. Okay, moving right along. From the Administration, we have the Director of Water Supply, Mr. Dave Taylor.

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MR. TAYLOR: Good morning.

CHAIR VICTORINO: From the Office of Corporation Counsel, Mr. Ed Kushi, First Deputy.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. And Jennifer Oana, Deputy Corporation Counsel and I think she's sitting right next to you. Good morning, Jennifer. All right. Our Committee Staff, of course, invaluable, and that's another one, if you new Members have any questions this young lady has a lot of historic perspective also, Ms. Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: And our Committee Secretary, Yvette Bouthillier. Thank you, Yvette, for being here also. Okay, now we all know that we've gone to our new system where all of our district offices are interconnected. And I would like to confirm that they are connected right now. From the Hana Office, Dawn Lono. Are you there?

MS. LONO: Good morning, Council Chair. This is Dawn.

CHAIR VICTORINO: Thank you. From the island of Lanai, from the Lanai Office, Denise Fernandez. Denise, are you there?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office.

CHAIR VICTORINO: Good morning. And then from Molokai, the Molokai Office, the lovely Ella Alcon. Ella, are you there?

MS. ALCON: Good morning, Chair. This is Ella on Molokai.

CHAIR VICTORINO: Good morning. Good morning, all of you and welcome. Before I start public testimony I would like to set the parameters for giving oral testimony and discuss receipt of oral testimony from Hana, Lanai, and Molokai. Testimony again will be limited on the agenda item today. If you wish to testify, please sign up at the desk located at the back of the 8th floor lobby or at one of our district offices listed on the agenda. Testimony will be limited to three minutes and upon that I will allow one minute to conclude. This term the Committee Staff will be setting the timer in a different...a little differently. At three minutes the light will turn yellow and you are requested...if you request an additional minute, the light will blink red at four minutes for which then I will ask you to conclude. In this manner, everyone in the gallery and the TV viewing audience will know when the four minutes is up. I ask the testifiers if you're still talking after four-minute mark, kindly stop and in essence the new timer will simply be like a traffic signal. So when red, you don't run the red light, you stop. And if you do, I going be like

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the traffic cop and give you the ticket. Of course, the money will stay here, Ms. Baisa. We will not be passing that on. Those fines stay right here in the Council Chamber.

COUNCILMEMBER BAISA: Thanks, Chair.

CHAIR VICTORINO: Okay. Members, as you're aware after the General Election held on November 6, 2012, Maui County voters approved the amendment to the Charter to provide interactive communication access to our residents of Hana, Lanai, and Molokai. Individuals from the Hana, Lanai, and Molokai Offices will be able to testify from those offices through a speaker phone which is right on my right-hand side in the Chamber. I wanna thank our Staff at the district offices for assisting us in this area. Members, please remember their participation from the district office depends on you speaking loudly, clearly, and directly into the microphone, okay. Mr. Couch is very aware of that, he's good at that. We will have to establish connections...we have already established connections to our district offices, and to be fair, we will rotate from each site. I have right now I think three testifiers who have signed up, Ms. Willenbrink? Are we having technical problems?

MS. WILLENBRINK: Didn't turn the mic on.

CHAIR VICTORINO: Oh, oh. Okay, you want me check the district offices if they can hear us?

MS. WILLENBRINK: Would you ...*(inaudible)*...

CHAIR VICTORINO: Again, Hana, can you hear us?

MS. LONO: Loud and clear.

CHAIR VICTORINO: Thank you. Lanai, can you hear us?

MS. FERNANDEZ: Loud and clear.

CHAIR VICTORINO: And Molokai, can you hear us?

MS. ALCON: Loud and clear.

CHAIR VICTORINO: Okay, no problem. We got it. We're ready. Okay, this morning we have just one item on our agenda and that is WR-18, Water Use During Water Shortage Declaration. The Committee is in receipt of the following: 1. County Communication 12-217, from the Director of Water Supply, transmitting a proposed bill relating to the declaration of water shortage; and 2. Water Resource Committee Report 12-146, referred from the Council Chair for this term beginning January 2, 2013, recommending the passage of the revised proposed bill entitled, A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO THE DECLARATION OF WATER SHORTAGES. Okay, at this time I would like to begin public testimony with no objections.

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COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay, thank you. I would like to call up our first testifier, and this young lady is well known in these Chambers and for the new Members, you'll remember her very quickly. She comes almost all, to all of our meetings, and we appreciate her mana`o. This is Ms. Rosemary Robbins, and she's a concerned citizen, and she has been with the Upcountry Oversight Advisory Committee that was established by the EPA and the Department of Health. Good morning, Ms. Robbins and Happy New Year.

...BEGIN PUBLIC TESTIMONY...

MS. ROBBINS: Good morning. Happy New Year to you and to everybody especially Don and Stacy and to the folks that are able to be with us this morning from Hana and Molokai and Lanai. What a happy scene that's been spoken about right from this podium over the past and it's just wonderful to see that happen, so special, special welcome. In terms--

CHAIR VICTORINO: And please speak right into the mic 'cause they need to hear you also, Rosemary.

MS. ROBBINS: Are we okay now?

CHAIR VICTORINO: Can you hear her?

UNIDENTIFIED SPEAKER: Yes.

MS. ROBBINS: Okay.

CHAIR VICTORINO: Okay, go ahead.

MS. ROBBINS: Yeah, thank you. In view of what's on the agenda this morning, the 14.06 has substrata to it, the last three being first of all, 010 and that's draft five, there's been a lot of work that has been done. It's been all around the place trying to get it right. One of the things that really has concerned the people out in the community is to not have drought as the first need mentioned in terms of dealing with this. Mechanical malfunction and human error came in as more serious concerns than the lack of water. Calling a drought a drought according to the *American Heritage Science Dictionary*, so here's the authority. A drought is a long period of abnormally low rainfall lasting up to several years. So this is not a case of hitting a pipe and having it explode and spewing water all over the place and have that be the thing that we're looking for or the fact that there has been a malfunction of infrastructure that has been neglected for so long. The EPA was very concerned about that when they gave the Maui County a half a million dollars in order to address Upcountry--but we would like that to be for everybody--Upcountry water concerns in terms of neglected infrastructure and the facts that there was so much difficulty with health that went on in that ramifications of water coming through, water

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that had been treated by pesticides, insecticides, the rest of the cides that are gonna be death causing, and not just being primarily addressed. So that's on the 010 of that bill. Then the 020 end of it talked about people who were in violation would be clued by newspaper delivered in the area. And I'm wondering if anyone did anything about the percentage of people in the area who actually get *The Maui News*? That would be a yes or no answer for somebody. Were they...was that mathematical reality addressed? Then in the 030 end of it, one of the areas that was cloudy was about the notifications that would be bi-monthly which means every two months. So is that still standing? It is something that other people wanna know too. I don't have a water meter so I don't need one so I'm not familiar with that. And the 040 end of that was that there would be--

CHAIR VICTORINO: Rosemary, can you conclude please?

MS. ROBBINS: Uh-huh, uh-huh. That people who were in farming would be excluded from whatever the costs would be. Has the budget got laid out for that? So if the final draft five has them exempt, the community doesn't know that yet.

CHAIR VICTORINO: Okay.

MS. ROBBINS: So thank you very much, and hopefully not only those adjustments that we had but to also get on with the pono and see if you can convince Marion Higa to come over here.

CHAIR VICTORINO: Okay, we'll keep on the subject matter and that's not part of the subject matter please. Would you do me a favor and put in writing the requests that you just put out today and I will follow up and find out those answers for you.

MS. ROBBINS: Okay.

CHAIR VICTORINO: Okay, thank you. Any questions for the testifier? Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Ms. Robertson, [sic] thank you very much. You were saying in 14.06.010 that drought shouldn't be listed first? Is that...did I...

MS. ROBBINS: No, drought should be listed first.

COUNCILMEMBER COUCH: Should be listed first. Okay. Okay, I see what you're saying. All right, and then you were talking about, you were concerned about the published in the newspaper, your concerns there about not enough people possibly getting *The Maui News* which is the only newspaper that is...that apparently fits this notice. Is there any other way that you think we can get notice to people?

MS. ROBBINS: Well at one point in the drafts, and that it said, or they could be...could be notified by mail, and I don't know how that has panned out. Does it end up being either/or? I haven't been able to find that anywhere.

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COUNCILMEMBER COUCH: All right, thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. Any other questions for the testifier? Seeing none, thank you, and again, Rosemary, will you forward that to me, please?

MS. ROBBINS: You're welcome. I will.

CHAIR VICTORINO: Thank you.

MS. ROBBINS: He just answered some of them.

CHAIR VICTORINO: Okay. Next testifier is Mr.--

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

CHAIR VICTORINO: I'm sorry?

MS. WILLENBRINK: Hana.

CHAIR VICTORINO: Oh, I'm sorry. That is correct, yeah. Thank you for reminding me. First of all, we'll go to the Hana Office. Is there anyone wishing to testify?

MS. LONO: Chair, I have no one waiting to testify at the Hana Office.

CHAIR VICTORINO: Thank you. Lanai, do you have anyone wishing to testify?

MS. FERNANDEZ: Chair, I have no one waiting to testify at the Lanai Office.

CHAIR VICTORINO: Thank you. Molokai, do you have anyone wishing to testify?

MS. ALCON: No one's here waiting to testify.

CHAIR VICTORINO: Okay, thank you. All right, now we'll move on again back to the Chamber. We have Mr. Warren Watanabe, and Warren is with the...he's the Executive Director for the Maui County Farm Bureau. Mr. Watanabe? And he also submitted written testimony. I think you all have a copy of it, yeah? Happy New Year, Mr. Watanabe.

MR. WATANABE: Happy New Year, Chair Victorino and Members of the Committee. My name is Warren Watanabe and again, I'm the Executive Director of the Maui County Farm Bureau. The Maui County Farm Bureau on behalf of our commercial farmers and ranchers recognizes the need to manage water during drought events. As solutions are identified, we must make sure that unintended consequences do not occur. The Maui County Farm Bureau is concerned that a current proposal will jeopardize farms and ranches that are already under threat during droughts.

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Farms and ranchers cannot be shut down and restart based on availability of resources. Farms and ranches across Maui have endured many droughts. They have done so by reducing their plantings and cutting herds. This happens as the public asks for locally grown products. The proposed restrictions and increased costs literally cuts our farmers and ranchers at their knees when they're already struggling. This does not seem to support the State's and the County's statements to increase our level of self-sufficiency. Our understanding is the water shortage rates will be assessed when the 15,001 gallon threshold is reached. Most of our agricultural producers easily reach this threshold as they are commercial producers with significant acreage. It has been stated that a water shortage declaration should be for a very short time, but the profit margins in agriculture are very slim. This will be coupled with a reduction in revenue. Currently, farmers on state irrigation systems pay 50 cents per 1,000 gallons while our farmers on the County system a \$1.10 per 1,000 gallons. This may seem insignificant and we recognize that, you know, the County's, you know, supportive of us and try to keep the impact to farmers at a minimum. But when you total all of your expenses that go into producing a crop or raising, you know, livestock, the labor, water, fuel, and other impacts will make it difficult for our farmers to stay in business when you...when you put...when you make a cumulative impacts on these agricultural producers. I wanna make it clear that we are not requesting that agriculture be exempt from water use restrictions. We ask for consideration of an exemption from the proposed water shortage rates and penalty. As highlighted during our prior testimonies, parallel actions need to occur as these water restriction policies are implemented. And some of these measures are provide water rate structures that recognize agriculture's needs during droughts, strong support of drought mitigation and other irrigation infrastructure initiatives during the 2013 legislative session, activation of the Hamakuapoko Wells, promotion of increased storm water capture capacity, reevaluate original storage proposals associated with the Upcountry dual line, and pragmatic recognition of agriculture's need in the Maui Water Use and Development Plan. We recognize the various water needs of the community and we need to work together to find a resolution to this issue, but it should not be at the detriment of existing users. We are willing to work with you to develop policies and actions that will expand agriculture as a key contributor to the economy. Thank you.

CHAIR VICTORINO: Thank you. Question for the testifier? Mr. Watanabe, I will say, thank you very much for first of all giving us some examples of areas where we can consider, and secondly, your willingness and your people willingness to work with us. Most of us, I think all of us feel that farming is a very important...ranching and farming is a integral part of our society and we need to preserve and protect it, and we have and you know I've stood fast on some of the issues when it comes to farming and water. However, you know, like everything else we've gotta come to some real what I call logical and fair conclusions so that all are taken care of when we have these water shortages. So I'm thanking you for your willingness to work with us, and we will definitely call upon you and your group to help us in these areas as we formulate our policies. Thank you very much. Now I will move onto Hana Office, do you have anyone that would wish to give testimony?

MS. LONO: No sir, there's no one here waiting to testify.

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CHAIR VICTORINO: Lanai is there anyone wishing to testify?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR VICTORINO: Molokai Office, do you have anyone wishing to testify?

MS. ALCON: There's no one here waiting to testify.

CHAIR VICTORINO: Thank you. At this time, I don't have any other signed...anyone else signed up to testify. Is there anyone in the gallery who wishes to testify? They may come up and testify at this time and sign up later. Seeing no massive charge to the podium, and knowing that there was no one in the district offices waiting to testify, I will ask the Committee with their permission to close public testimony for today, January 30th.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections. Thank you very much. And thank you our district offices. I will now turn off the system. Oh, I didn't blow it up, okay. This is all new. I mean all of us having really exciting times, but I had Mr. White to watch as an example yesterday, so thank you, Mr. White. Your leadership has had me at least funnel through the system. Okay, moving right along. We do have one and I'm not sure if we have any other written testimony, but we do have a letter from Mr. Jim Smith we received this morning. So I know it was passed out to all of you. So if you have a copy, this is written testimony and I ask if we can include that in the records for today's meeting with no objections.

COUNCIL MEMBERS: No objection.

CHAIR VICTORINO: Okay, thank you.

...END OF PUBLIC TESTIMONY...

**ITEM NO. 18: WATER USAGE DURING WATER SHORTAGE
DECLARATION (CC 12-217, CR 12-146)**

CHAIR VICTORINO: All right, let's move on. At our last term, the Committee recommended the passage on first reading for a bill entitled, A BILL FOR AN ORDINANCE--wait, did I...yeah, I did say we can close public testimony, I'm sorry, okay, going back to what I was starting. Last term this Committee recommended the passage on first reading a bill entitled, A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO THE DECLARATION OF WATER SHORTAGE. The bill attached in the Committee...is attached to the Committee report. We do have a bill and the current bill that we'll be discussing is dated in your binder and has been tabbed, January 22, 2013, and I had the Staff tab it for you so that you know exactly what bill to read or to follow with us along with. When the bill was discussed in the full Council it was decided that it was a good idea to receive recommendations from the

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Board of Water Supply before passing the bill. The Committee voted to refer the bill to this Council term for consideration. The Board of Water Supply met on this matter and their comments are also attached to the letter dated January 22, 2013 that is in your binder. At this time, I would like to recognize Mr. Taylor for a summarization of the bill that is being considered today by this Committee. Mr. Taylor?

MR. TAYLOR: Thank you, Mr. Chair. Before I get to the summary of the bill, this bill was discussed in this Committee on October 30th and on November 26th of last year. And just a correction...in the Committee...you call this a Committee report that's in front of us. On Page 1, it's dated December 7th. The last paragraph states "the Mayor and the Director noted that agricultural consumers are the highest users of the County's water supply". I'm not sure exactly what we said or what we meant, but I, I was reading this yesterday in preparation of the meeting and that statement is not correct. We may have said that but it's not factually correct. Currently in 2011-2012 agricultural customers accounted for 10 percent of Maui County's total water usage, and Upcountry agricultural users account for 38 percent of the total water usage. So I'll...because that may be a fact that some of you take into account, I just wanted to be clear that I corrected that because the Committee report...again I'm not sure what we said but the facts that I said today are, are correct.

CHAIR VICTORINO: So one moment, I wanted clarification again just so that the public and we all understand. Ten percent is the total usage for the entire Countywide?

MR. TAYLOR: That's correct.

CHAIR VICTORINO: And that 38 percent is strictly for the Upcountry area?

MR. TAYLOR: That's correct.

CHAIR VICTORINO: So we don't have anything broken down for like say areas like Molokai who uses a large amount of agricultural water? We don't have anything broken down for them?

MR. TAYLOR: We...I did not go into that because in the other areas it's not as much. Most...I don't think there's that much agricultural water off of our system on Molokai.

CHAIR VICTORINO: Okay.

MR. TAYLOR: Remember this is off of the Department of Water Supply's system not off ditch systems and things like that. So--

CHAIR VICTORINO: Yeah, and again, the same question I would have for Central Maui especially Wailuku, Waihee, Waikapu where have a lot of farming that goes on, but okay, maybe I'll Ms. Pogue later on when I bring her up if she can give us more definitive answers in that area. If not, then we can look into the matter. But go ahead, continue. I apologize.

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MR. TAYLOR: Yeah, I just wanted to correct that. So again, Upcountry 38 percent of total water use in the Upcountry system is for agricultural users. I just wanted that to be clear because it may not be clear from reading the Committee report that that's --

CHAIR VICTORINO: Thank you. Thank you for that clarification. Continue.

MR. TAYLOR: Okay, so the bill in front of you today I think a lot of people have linked to this to Upcountry specifically and it's not. It's a Countywide bill. It was originally presented as part of our Upcountry solutions analysis, because while we were looking in detail at the Upcountry system supply and demand over long periods of time, it's there that we recognized that we had no plan to deal with severe short-term water shortages. And it was during that we realized we need a plan to deal with those types of shortages in all areas. So although this bill came out of an analysis of the Upcountry system, it is not just for Upcountry, it's needed everywhere. So essentially what we recognized during the analysis is that in all of our areas, there is some possibility that due to whether drought from nature, mechanical failures, human error, intentional sabotage, whatever other reasons, there may be periods of time where the demands of our customers cannot be met by our available ability to produce volumes of water. So like many, many, many of the other municipalities in the United States, we thought it would be a good idea to come up with a water shortage management plan which is basically rates, special rates that kick in during certain shortages to nudge people for conservation and efficiency. So that's what this bill is. The purpose of this bill is to recognize that there will be times due to a number of factors we cannot meet demand for short periods of time and to enable some activities that will help curtail that demand. This is meant to be...I've called it before housekeeping. It enables water shortage rates, but the water shortage rates are not in this bill. The water shortage rates would be in the budget bill. When we presented this, at the same time, we sent a companion bill which was a Fiscal Year 2013 budget amendment with those rates. At this time it seems unlikely that's going to be heard as a Fiscal Year '13 budget amendment, but the same rate structure will be in our Fiscal Year '14 budget which you'll get in about two months, just under two months. So some of the testimony this morning, for example Mr. Watanabe, you talked about what the agricultural rates would be. Exactly what rates would be is something that you'll deal with in the budget bill. What this bill does in front of you today establishes the Stage 1 and Stage 2 drought situations. The companion bill in the budget will list special rates for those, for those water shortage stages. Now you can for example, I'll use agriculture as an example. You could say in a Stage 1 water shortage or Stage 2 water shortage the agricultural rate stays exactly the same. You could have it go up one penny. You could have it go down. All this bill does is allow there to be a Stage 1 and Stage 2 drought or water shortage, I'm sorry, with special rates. It doesn't say what those rates will be. It is our intention that every year during the budget deliberations, the Council look specifically at these actual numbers and raise or lower them as the Council sees fit. So this bill if you pass it, you know, today, by the time it goes through second reading, there is no immediate actions that will happen with drought rates, because there are no water shortage rates until you pass them in the budget. So our urging is to treat this as enabling there to be changes in the budget, and whatever policies you want to enable, that will...you'll enable those with specific numbers in the Stage 1, Stage 2 drought...Stage 1, Stage 2 water shortage rates in the budget. So that's where the real rubber hits the road. This just enables there to be that

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template. So our strong recommendation is to, is to pass this because again the real discussion needs to be what should those water shortage rates, if any, be, and that's something we'll handle in the other ordinance in the budget. So I hope that's a big picture. That's what this is for, that's where it really fits in, and there is more to come. The companion in the budget is probably more important from a policy standpoint than this bill. So I hope that gives clarity. I know most...I think all the Council members have, you know, heard most of this before.

COUNCILMEMBER CRIVELLO: Mr. Chair?

CHAIR VICTORINO: Especially...hang on...especially, I want some clarification for the new Members that are on this Committee. When it comes to rates and...that really is discussed and set in Budget and Finance, so just so that...we normally discuss the aspects and the policies that would set forth so that we can then set the rates in Budget and Finance. So there's that, that difference. So I just wanted that clear especially for the three new Members. Those of us who have been here kinda understand that. I just want that clear and just so that when you start discussing you really don't get in...dwelling into the rates structure itself. It would be basically the way the rates may be set by policies we set here. Okay, Ms. Crivello, you had a question?

COUNCILMEMBER CRIVELLO: Thank you, Mr. Chair. Just for clarification, when you mentioned that the water shortage management plan, we talk about rates for conservation, is that your management plan or is that just a component of your management plan for conservation?

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: Thank you. That is the basically the total of the demand side management plan. We'll do what we can on the operational side to juggle water between different locations and things like that, but from the demand side to try to get people to recognize that we don't have enough water, we feel it's best to have the rates make strong statements rather than what I call water police actions by saying you can only water your lawn on Tuesdays and Thursdays, that kind of thing where we have to drive around and ticket people. We're really trying to deal with what I call...deal with our customers wholesale. We have 20...we have 35,000 individual meters. They're scattered so far and wide. We don't think it's realistic that we can adequately enforce measures...individual measures that people change their behavior that we can be on top of. So we feel the best way to do the demand side portion of management is through water shortage rates.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR VICTORINO: Okay. Mr. Carroll, you had a question?

COUNCILMEMBER CARROLL: Thank you, Chair. One of the concerns of the farmers of course is aside from the rates, the volume of water allowed to farmers during a shortage. If you have a house and you have a...you can only use 15,000 gallons or whatever that threshold would be, your lawn dies, you can raise a lawn three months later. A farmer goes one week without

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adequate water for his crops, he's dead. And that's one of the main concerns that I have for if there is a drought is consideration going to be in there somewhere and somehow can we address that we have a farm that uses maybe five times the amount because of the acreage that they have farming that they still need a minimum amount to keep their crops from absolutely disappearing, and is this going to be addressed somehow?

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: Thank you, Member Carroll. And right from the beginning, we in the Department recognized that was an important issue. What you'll see in the Fiscal Year '14 budget request with those potential rates and fees is very similar to what we presented in the budget amendment as far as how much each category, whether it's residential users or general users or ag users, how much to bump those Stage 1 and Stage 2 rates. And what you saw in the last...in the budget amendment we sent for the FY '13 was a very, very small bump in agricultural fees, and a much, much, much larger bump for the others. So already agricultural rates, water rates are much, much below cost. They're far, far lower than cost, they're far, far lower than the other categories, and the proposed increases for the Stage 1 and Stage 2 water shortages are much, much smaller percentage increases than for the other categories. So that's basically how we're suggesting a policy to say this is everyone's problem, everyone has to be a part of it, but we recognize that lawns dying is not nearly as important as crops dying which is why the base rates as well as the rate increases for residents and other commercial is much, much more where agriculture are much, much smaller. And again, those are decisions that ultimately the Council can modify those numbers to change that, but we completely agree with what you said and the proposal you'll see recognizes that and you'll be able to see that in the math.

COUNCILMEMBER CARROLL: Thank you, Chair. Because I think we all realize that if the...aside from the cost, if the volume isn't available it's gonna be for naught.

CHAIR VICTORINO: Yeah thank you, Mr. Carroll. And I think before I recognize Ms. Baisa, I think one of the biggest, big challenges I think the farmers and the e-mails I got from farmers was the comment our Mayor made that one farmer can use all of the storage capacity of one area. And I think all of our...a lot of the farmers that emailed me said, you know, that's...we'd never do that in the first place. We're cognizant of that aspect of storage and the capacities, and that we work hard to conserve water in the first place. So I think that what created some of this stir and I think, you know, I believe our farmers and Mr. Watanabe has written and as well as addressed that to us. They work hard to conserve water. They understand the importance of it for their products and as well as the usage of our citizenry. So I think we gotta make sure that there is something in there, Mr. Taylor, that assures them that when we have shortages that they can continue and they will conserve also. I don't think they're not gonna help, but work hard because they need to keep going and you can't stop a crop right in the middle of a planting and say, oh okay, that's it, no more, we're not going to water you, and let it die. Not like Mr. Carroll mentioned, a yard. Oh, my yard's brown when it's summer. Okay, who cares 'cause winter it gets green again. Ms. Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair. And I share the sentiments about the concern for farmers. We have to make very sure that we don't hurt our agricultural industry. It's very fragile as it is already.

CHAIR VICTORINO: Absolutely.

COUNCILMEMBER BAISA: And so that's a big...item of big importance to me, but I understand and I'm waiting, willing to wait until we see what the proposal is on the rates. Interesting we've had, you know, some farmers very concerned about it, and we've had some farmers who have said, okay, we agree. So you know, let's wait and see where the rates go, but what I wanna take us back to is the reason why this bill was brought back to this Committee, and one of those reasons was that we wanted to see what the Board of Water Supply was gonna say about it, and we have that letter now. So I was wondering, all I see in here that, you know, they said was they're concerned that in hardship cases there's no recourse for the consumer, and therefore they're asking us to include a provision to address this issue, if Mr. Taylor could comment?

CHAIR VICTORINO: That's fine. Go ahead, Mr. Taylor, on the Board of Water Supply's recommendation.

MR. TAYLOR: I can comment because I was at the meeting though I'm not on the Board and that was their decision to put that in. The concern they thought about is what happens when you have-- I'll just give an example--you have 10 people living in one small house and who only have one wage earner, how does this affect them? And the idea was, you're taking people who already are really struggling, and now during drought where they really can't cut back their water, let's say they're not watering their lawn, it's just pure domestic water for many people in one house, and now you're essentially raising their rates and they also can't cut back. So the idea of the Board, the member who brought that up specifically, he, he wanted our Department or sorta me personally or the Director personally to have some discretion to be able to look at individual situations and waive them from, from the drought or the water shortage rates. So that is what their intention was. I will also share with you my comments at the Board meeting where I was not very supportive of that. I felt that having the Director have such broad authority with no criteria is just going to make a line of people outside our office and myself personally or staff, I mean, I don't know if we're gonna...how we could possibly go knock on every door and try to assess who actually lives there. And I think as soon as you give that kind of power to one person, I think people are gonna start questioning the ethical decisions that are being made and unless there were some specific criteria about what those applied to and what those didn't, I would be very uncomfortable with myself having such broad authority with no legislative direction of how to use it. So I'm not very supportive of that unless the Council felt strong enough that you put in some very clear constraints to guide us in making such decisions.

COUNCILMEMBER BAISA: Mr. Chair, thank you very much. It sounds like they're almost thinking like a lifeline rate where you would have a special class of people who would qualify not to be affected by this because of their income status or you know, their inability to pay or their size of their family or whatever, and I agree with Mr. Taylor that this of course creates another layer of

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stuff for him to deal with 'cause...but then I also am concerned about the idea that it could, you know, it could affect people who can't pay already that are in trouble. So I don't know how this Committee feels, but you know, being that we wanna recommend...we wanted a recommendation from the Board, we have one now so I think it's worth discussing.

CHAIR VICTORINO: Thank you, and also since we brought that one up, we also have Mr. Kushi, and I'm going to have him chime in now because if we're gonna discuss, let's discuss everything on the table.

MR. TAYLOR: Excuse me, Mr. Chair? Could I...I think I could address Chairwoman Baisa's last comment with something else if I could just finish with a couple last sentences?

CHAIR VICTORINO: Sure, go ahead, but I want to address the other part too, but go ahead, Mr. Taylor.

MR. TAYLOR: We also share that concern, and to give you some...to look into what you're probably going to get in the budget is...I think as you all know residential rates have four tiers.

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: I will all but guarantee what you will see in the proposed budget is the Stage 1 and State 2 water shortage rates will have no increase for the first two tiers of the residential rates. So basically as long as these people are using less than 15,000 gallons, it's our intention to have no increase in Stage 1 or State 2 water shortage for these people. So that's...that's basically the philosophy of how we put these water shortage rate increases together is saying look, if you're barely using any anyway, this lifeline rate, first of all, your base rate is less than the actual cost. So the other people are subsidizing you which is fine. And also if there is a water shortage, your rates don't even go up during that time because you're using that...this barely enough to survive type of water. So it's our intention to deal with that with the actual math in the rates to make sure the people in those conditions, as long as they keep it under 15,000 gallons a month, there are no increases. That's what you're gonna see in our rate proposal, and that's what you saw if you look at the, the previous proposal that's how the Stage 1 and Stage 2 water shortage rates were structured.

CHAIR VICTORINO: Okay, thank you, Mr. Taylor. I hope that helps a little bit, Ms. Baisa, and your concerns.

COUNCILMEMBER BAISA: Yes it does, and I think like I said it's important to have this discussion because you know we had moved this bill out of Committee and we wanted it gone until the subject of, you know, the Board of Water Supply, we don't know what they want. Well, now that we know what they want, we either say well, we heard what you say, but we're going ahead anyway or we somehow modify it, and what I'm hearing from the Director is it's gonna be handled in the proposed rates. So looks okay to me.

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CHAIR VICTORINO: Okay. And the other question that came up and I think you all have the written testimony of Mr. Derek...Darrell Tanaka and in essence, Mr. Tanaka is saying that raising rates during drought may violate the Hawaii Revised Statutes during an emergency. And so at this time, I would like to ask Mr. Kushi if he would comment on that or Ms. Jennifer Oana, if you want to...and you all have a copy from Jennifer about the Hawaii Revised Statutes. You have that copy with you? I made sure the Staff...does everybody have it? Okay, go ahead, Jennifer, please.

MS. OANA: Thank you, Mr. Chair. HRS 209-9 is not likely to apply to a situation of a Maui water shortage, and water shortage rates. HRS Chapter 209 essentially is the State Disaster Relief and Rehabilitation Statute which authorizes the Governor to do certain things to aid the people of the State of Hawaii when there is a State disaster. HRS 209-9 which I believe Mr.--

CHAIR VICTORINO: Tanaka.

MS. OANA: --Tanaka refers to is a anti-price gouging statute. However, it provides that whenever the Governor declares a State disaster for the entire State or any portion thereof or when the State or any portion thereof is the subject of a severe weather warning there shall be prohibited any increase in the selling price of any commodity whether at the retail or wholesale level in the area that is subject of the disaster declaration. However, before that section or that statute kicks in, the Governor has to make a determination of a State disaster. And if you look at the materials we provided, if you turn to 209-2, Governor's Determination, it provides that after the occurrence of any sudden and extraordinary event which causes losses and suffering, the Governor shall make a determination as to whether a State disaster has occurred and thereafter may declare a State disaster for the entire State or any portion thereof. The Governor has to make this determination and shall consider whether the effect on the health and safety...health and living standards of a substantial number of persons and the effect on the economy of the State are of such a nature as to warrant assistance from the State government. If you turn to the Definition section of that chapter it defines a State disaster, and State disaster is defined as any unfortunate, sudden, and extraordinary occurrence declared by the Governor to have caused losses and suffering of such character and magnitude as to require and justify rehabilitative assistance from the State. Therefore, it is not likely that the typical Maui water shortage would apply or it is not likely that this statute would apply to a typical Maui water shortage. I also checked whether there's any case law with regard to 209-9, and there is no case law on 209-9 as well as no Hawaii or Federal case on Chapter 209 in general. I did check other states and there are about half the states in the country who have similar statutes as the one we have, and there are case law for those other states' statutes, and those case law basically have to do with major state disasters such as Hurricane Katrina that virtually wiped out communities and dealt with gas prices and generator prices increasing during those State disasters. So it is not likely that this statute would apply in our situation.

CHAIR VICTORINO: So you have definite case law that have determined what our law would be as far as going to court and being ruled on?

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MS. OANA: Well, there's no Hawaii case law at all.

CHAIR VICTORINO: Yeah, Hawaii, yeah but--

MS. OANA: But for similar statutes in other states, the case law has basically dealt with major state disasters. So the Governor would have to first declare a major State disaster such as maybe Hurricane Iniki and then this price gouging statute would apply.

CHAIR VICTORINO: So let me ask you a couple of real quick questions, and then I'll open the floor up to the Committee. When we have had and we continue to have what we call drought on the Upcountry and many parts of this State, drought conditions, drought declarations, those are not considered major disasters as far as the terminology you have just given us?

MS. OANA: No, and if you look at other parts of the...of Chapter 209, if the Governor were to declare a State disaster, he has to also appoint a coordinator to basically take care of, you know, the people in need of relief, and he has to do a bunch of other things. It's to aid and help the people who suffered losses in a State disaster.

CHAIR VICTORINO: Okay so let me give you another example. For example, here in Wailuku a major storm hits us, a tremendous amount of rain and our shaft...and we're working on Shaft 33 to replace it, but Shaft 33 was to collapse which Mr. Taylor would tell you would be a major disaster for our water system, in the near future it won't be, but at this time it still holds. I don't know how much gallons...how many millions of gallons a day we get out of that still yet, Mr. Taylor?

MR. TAYLOR: Honestly, I don't remember.

CHAIR VICTORINO: Yeah, okay, okay. Anyhow--

MR. TAYLOR: Many millions.

CHAIR VICTORINO: Yeah, okay. And that would be devastating to the entire system for Central Maui if I'm correct, right, Mr. Taylor?

MR. TAYLOR: That's correct.

CHAIR VICTORINO: Okay, so with that in mind, would this be applicable because part of this whole discussion is for short-term disasters like that, that would cause a major shortage in an area anywhere in the County of Maui not just Upcountry. We focused on Upcountry but really it could be right here in Wailuku if Shaft 33, and I'm using that as an example, was to collapse and all of a sudden, whoop, we don't got eight, ten, whatever million gallons a day that we are presently drawing from. So would that consider...would that be considered a disaster because it was created by tremendous storm, rainfall, it wasn't a hurricane, but it still created a problem?

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MS. OANA: If the Governor declares it a State disaster.

CHAIR VICTORINO: So we'd have to turn to the State to have them declare?

MS. OANA: Yes.

CHAIR VICTORINO: Just like when...then the Governor turns to the Feds to ask them to...a Federal disaster for whatever.

MS. OANA: Yes, sir.

CHAIR VICTORINO: Okay, okay. So just so that the public and the Council is clear that we are really in two different domains at this point, but I'm glad Mr. Tanaka brought it up because it's good for discussion. I'll open the floor up to questions from our Members? Mr. White? Oh, I thought your hand was twitching.

VICE-CHAIR WHITE: I was thinking about it.

CHAIR VICTORINO: Oh, okay. If you about it...anybody else have questions for Ms. Oana, and specifically on this disaster issue? Mr. Guzman, you're thinking and I'm watching.

MR. GUZMAN: Thank you, Chair. I believe that the language that you're using is major and I don't see that in the statute. I see sudden and extraordinary event that occurs. I think that Corporation Counsel is maybe suggesting or shedding light on case law jurisdictions on the mainland that have used major disasters as their example, but the language that I see is sudden and extraordinary. I think that needs to be addressed in terms of...'cause you're saying to the public, a major disaster. So I think it just needs to be sudden and extraordinary. I think that's...it's two different.

CHAIR VICTORINO: Well, I think a lot of people sit out there when you're talking sudden and extraordinary, tidal wave first thing comes to their minds. How often and if we do? And again that would be coming right down to the ...(inaudible)...premise would the State declare a disaster of that area and would the Feds also jump in and I guess then, you know, a whole different gamut of issues at that point, yeah?

COUNCILMEMBER GUZMAN: Yeah. And case law is just persuasive.

CHAIR VICTORINO: Yeah. Thank you. It's one thing good about having an attorney on the Council, we can always turn to them, but I still listen to my Corporation Counsel.

COUNCILMEMBER GUZMAN: Just to clarify.

CHAIR VICTORINO: Thank you. Thank you, Mr. Guzman for that clarification. Other questions for Ms. Oana? Mr. Taylor, you had something you wanted to add?

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MR. TAYLOR: Just from a practical standpoint.

CHAIR VICTORINO: Yes.

MR. TAYLOR: When some sort of disaster happens that affects everybody, the Emergency Operation Center is activated. There starts being conference calls with State Civil Defense, and that's what leads to these declarations by the Governor. When any individual utility whether it's water, sewer, power has operational problems, we don't even notify Civil Defense, much less activate. So anything that's really water supply specific, we wouldn't even go down the road to get the Governor to do anything to declare a disaster. And so the intention of this ordinance is really to deal with our operations, not emergencies because emergencies follows a whole different road. So I think just from a practical standpoint, I don't think there's going to be any uncertainty about what to do with this. It's really clear when it's an emergency and when it isn't because the EOC is activated and a whole other plan gets put into process.

CHAIR VICTORINO: Well, thank you, and again, I thank Mr. Tanaka for his questions and I thank the Board for their bringing to light their concerns. I think it's good we have that total discussion so there is nothing left open. And I think when we discuss different bills many times we have this real challenge. Can we...anyhow when we have total discussion, we cover like you said yesterday, Mr. Guzman, we cover all the aspects so that something doesn't come up and bite us later on. It's important and I think Mr. Tanaka brought up some good points and I'm glad it was addressed by Ms. Oana. Now we're clear with that. Also, the Board of Water Supply, I think Mr. Taylor has made an effort to rectify or to at least address that problem. And so I'm comfortable in what I see, and let me assure the farmers, I think all of us assure the farmers that whatever we do, they will always be top priority as far as consideration for water especially during drought. We understand crops do not just stop in the middle of a...or a middle of a planting or even in the middle of a growth season or even during a harvest. Oh, okay, we don't need to water for a little while because it's okay. And again, we appreciate them and we want to preserve and protect them in every way possible. So I think this legislation from what I've been hearing and I haven't heard anything that's really making me concerned except for the fact that I will await the water rates when you bring that forward, and I think that's gonna be pivotal and there maybe you'll have a fight with some of us if it's not what we call justified. That's gonna be in our minds. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. As a new Member of the Committee, I do have some follow-up questions for Mr. Taylor.

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER GUZMAN: Just reiterating, I haven't been on the Committee but I do wanna ask was there, is there a technical difference between what the statute was or the Code was before when the Director of Water would have to proclaim the drought and then go to the water...I guess the Board of Water Supply versus the existing proposal where the, where you would then

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seek the approval of the Mayor? Is there a checks and balances that is being circumvented here or...why, why the difference? That's my question.

MR. TAYLOR: Thank you. That's an excellent question that goes back ten years. When the Department operated under the Board, I think it's pretty obvious why the Board had to approve things that the Director wanted to do. When the Department moved under the County, I believe that the Board became advisory and it became a little nebulous perhaps about specific authorities of the Board versus the Council versus the Mayor. I know there was a lot of discussion with Corp. Counsel and...during that time. From a practical standpoint, when these issues happen because of the Sunshine Law, and notice, and posting, and having meetings with either the Board or the Council, there just isn't time, and the bottom line is what we looked at from a practical standpoint is when these things happen we don't have 14 days to put notice, and come to a meeting, and wait for the next meeting. These are decisions that have to be made very, very quickly. So from a practical standpoint we felt we wanna have some checks and balances--

COUNCILMEMBER GUZMAN: Right.

MR. TAYLOR: --and the check and balance is the Director and the Mayor. The Director is appointed by the Mayor and confirmed by the Council so there has to be some trust in this position. But the bottom line is there is just no time to either go to the Council or the Board to make these operational decisions, and so that's why based on all that, we felt this was the best way to assure that there's some checks and balances and balance with speed and that's the Director and the Mayor, and we felt really that's the only practical way to go about that.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: And just so you understand and I've had the years of being both as the Water Board as a decision maker and we did have the budget as well as all aspects of water came to us. The only thing the Council approved was the rates, then in 2002 that changed with the Charter amendment and then we became advisory. And for almost five years we grappled with what the Council, the Mayor, the Water Board was doing. And over the last three or four years with the prior Councils we've codified the rules. We've made it now addressing how we do the work here that the Board used to do, here in the Council. Also, we've also given back to them adjudication powers for appeals to the Director's decision. We felt that was something that they should do, not come to us and you know and have to do that. So we've worked this whole circle to where we are today, and good question because this also helps the newer Members that haven't been a part of all this change that now the Board is really advisory, but it still states in the Charter all water matters must be referred to them. So that's what this brought...this what brought this all about is because in the Charter it says all water matters should be related to them so they could advise us and the Mayor, the Administration, on their thoughts, and that's exactly what happened here. But what happened was with this one, we kinda had put it for them, they had to cancel their meeting I think just so that I get this historic perspective. In October they were scheduled for a meeting but didn't have quorum so they canceled it. We worked on it in October, November, so they never had a chance to comment. So when it came to the full

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Council it was then said please can we send it them for their scrutiny and their recommendations and that's what this was, that's what this was all about. But in the future, the Board still can advise us, but their only real what I call power is their adjudication of decisions that the Director makes. So just so that...and if you have any more questions any time stop by and see me.

COUNCILMEMBER GUZMAN: No, no, Chair, I just was concerned about whether any, you know, checks and balances was being circumvented.

CHAIR VICTORINO: No, no.

COUNCILMEMBER GUZMAN: I'm very satisfied with the response of Mr. Taylor. Thank you.

CHAIR VICTORINO: Okay. Just so that everybody's clear. So that the public's also clear on all this, yeah. Any other questions? Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Mr. Chair. To Director Taylor, I just need some clarification on my thoughts are. For Molokai, of course, we have a State irrigation system that is solely for ag. And I think when you think about County water users it's not so many ag users for that. My first concern would be I think most of our domestic users will automatically, you know, take the initiative to conserve. The reason I ask about your conservation management plan I would hope or you probably have all this in place if there's the conversation with the ag users as far as what measures can be taken or have something like that in place to be assured that the...and I know you're not policing the matter, but perhaps the ag team can help to put together some sort of measurements that they are, that they may take to conserve water from the agricultural side. I'm thinking you know they already pay a high rate as ag users and then to add another rate if they're not meeting and I have the feeling as ag users they want to protect their resources for the tomorrows. So is there something that could be before you make that declaration as to no use of irrigation, you know, according to the...the Director may prohibit the use of water for irrigation and I look at irrigation and ag going hand in hand.

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: Thank you, Member Crivello. And very difficult questions, there's a lot to that because there are...this bill is just...is solely meant for our Department's authority over County water systems and County water users. The County water users, our customers represent really just a small fraction of total water use in the County. A great majority of it comes through agricultural system, ditch systems, systems we don't operate, et cetera. So this bill only applies to what we, our Department, has authority over. The State Commission on Water Resource Management is I believe in the final stages of their Statewide Drought Management Plan. I may have that name not quite right which actually addresses a lot of the bigger picture issues you've just named. So we communicate with them. We are a small part of that whole thing, but the systems that aren't ours, their plan is supposed to address this bigger picture. So I hope that answers that...to it may not be us that's looking at that, but I can assure you the State Water Commission, they have a special plan to address these wider issues.

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COUNCILMEMBER CRIVELLO: Thank you.

CHAIR VICTORINO: Thank you. Any other questions for Mr. Taylor or Ms. Oana? I have Ms. Pogue here too if anybody has any specific questions for her. Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Real quickly Mr. Taylor, the cost of removing and then reinstalling a meter is it...is \$100 enough to cover that?

MR. TAYLOR: The cost of that is purely staff. It's...I think that dollar value is really just to make it...if it was free people wouldn't care and our staff would be running around.

COUNCILMEMBER COUCH: Right.

MR. TAYLOR: It's supposed to be, you know, high enough that people think twice about getting into that situation, but not so high that it's really unnecessarily punitive.

COUNCILMEMBER COUCH: And you think \$100 is enough?

MR. TAYLOR: It hasn't proved to be a big problem. I mean, most people don't want their water service cut off for a number of reasons. So that may be something that as we move forward, we may wanna come back and raise that to a 150 or 200 or whatever it turns out to be, but at this time it's really just a semi arbitrary number that's again, not so high that it's crazy, but not so low that people ignore it.

COUNCILMEMBER COUCH: And the same with the \$500 is that...

MR. TAYLOR: Yeah, I'm sure our fiscal people...every year with the budget, there's a few sheets that have detailed costs of what we charge people based on our actual costs of those services. So we'll get that with the FY '14 budget this year, and if it turns out some of these things are far out of...out of integration with real costs, you know, maybe we'll recommend changing those. But again, they're relatively...they're not numbers that are used a lot. We're not generating lots of income. It's just meant to tell people, look if you get into this situation, you're gonna have to write us a check, but again, it's not supposed to be unnecessarily punitive.

COUNCILMEMBER COUCH: Okay, and lastly, your notice for...notice and publication of declaration of water shortage, are you going to...are you...is part of your plan to actually mail out to all water users at the time or you're gonna rely just on...I know it says you could mail here and it said to the extent possible I guess.

MR. TAYLOR: It depends. The section you're talking about talks about a seven-day notification and possible methods of notification. We really struggled with this while we were writing this because obviously as it's changing rates we wanna give people notice. On the other hand, we may not get seven days notice. We may...something may happen this afternoon and we're in

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trouble right now so by the time we notify people, you know, seven days later even if we notify them immediately we may just...the situation may be over by the time the rates kick in. You add generating a mailing list and getting those letters to people and you can add another five days. So this is a struggle. We would love to have immediate notification. But again, then there's, you know, we're raising rates without notification kind of thing. For the change in the Upper Kula water system, 'cause we just did this, there's something like 1,200 people or something and it costs, I think it costs about \$50 a person or something to do direct mailers. With 35,000 customers, doing a special direct mailer that isn't part of their bill, you know, that's very expensive and this is tens of thousands of dollars. So it's very unlikely that we're gonna do large direct mail because it takes too long and it's very expensive. It's more likely that this would be...we would focus primarily on radio, media, newspaper, and just let people know, website, things like that just because direct mailing takes too long and it's pretty expensive.

COUNCILMEMBER COUCH: Okay, and the only reason I ask is because the newspaper circulation is around 22,000 and there's over 70,000 homes...houses and condos. So you're...if you just do the newspapers, it's not very effective.

MR. TAYLOR: I'm sure *The Maui News* doesn't want to hear this but I don't get the paper, I just read it online for free. So I'm sure a lot of other people do that too.

CHAIR VICTORINO: I was just going to mention that, that you are right about the subscription, but online usage is way up.

COUNCILMEMBER COUCH: Yeah.

CHAIR VICTORINO: You know, so what a lot of people have just done is not get the newspaper and read it online. So no offense to *Maui News*. You know, I just...and that's true with a lot of publications. I stopped the *Star Advertiser* 'cause I can get it online. So, you know, who has time to read every article in the paper, but you can get it online when you need to read something and I think that's what a lot of people depend on.

COUNCILMEMBER COUCH: That's just points out, Mr. Chair, my concern about getting the notice out to people 'cause if we mark it in the Code that newspaper is the way.

CHAIR VICTORINO: Well, that's one of the ways and Mr. Taylor mentioned that, that's one of the ways, you know. And again, still at this point in time *Maui News* is the largest publication in the County. Okay. So we've gotta address that. I mean, we gotta find the best methodology and I appreciate Mr. Taylor bringing that forward. Again, the newspaper still is the largest means of getting communication. And so, again, we're gonna look for every way possible, but he brings a good point if there's an emergency, you know, again, I go back to Shaft 33 collapses and that's instantaneous, there's no seven-day notice that can go out and even, you know, newspaper tomorrow morning will print that up and you know, we could send out that hey, now please cut back, Wailuku, Kahului Paia, all the areas that are affected. South Maui would be drastically affected 'cause Shaft 33 serves the Central system. So I agree with you Mr. Taylor.

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MR. TAYLOR: So another, another thing that may help this is why we don't wanna be too specific. For example, I think everybody knows, everybody on the County water system knows or any public water system, every summer you get a Consumer Confidence Report from your water supply utility. A little booklet that says, you know, here's the quality of your water. Those by Federal law had been direct mailed through the U.S. Postal Service. EPA has just recently changed their position and they're allowing direct e-mail. What they're not allowing and this is being regulated through the Department of Health, they're not allowing us to just put it on our website and tell people to go find it on our website. So if we have a direct e-mail list of, you know, just assume we had all of the customers, we could directly e-mail their things. It will almost certainly be our intention to start building an e-mail list. Our new billing system which just went online last week has a place for direct e-mail. I'm sure we're gonna be building an e-mail list in hopes of migrating direct mail of the Consumer Confidence Reports to customers. So over the next several years, it's likely that we will especially with online billing and things it's very likely that a greater and greater percentage of our customers, we will have direct e-mail contact with them, and once that's in the database that will certainly be our priority choice of notification. I can't imagine any set of circumstances where we have to notify thousands of people and everyone...and there isn't a few who say, hey I never heard. That is going to happen. We're trying to minimize that. I can't think of any way to avoid that, but again, direct mail...even direct mail, people it goes to their post office box, they don't get it for weeks at a time. So...and it's very, very, very expensive to do direct mail, special mailers that aren't in the bills. So we're just trying to balance those things and balance quick reaction with letting people know.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

CHAIR VICTORINO: Okay, any other questions before I make my recommendation?

COUNCIL MEMBERS: Recommendation.

CHAIR VICTORINO: Oh, I think that was pretty quick. Before I do that, Mr. Kushi, is there anything else you'd like to add before I make my recommendation?

MR. KUSHI: None, sir.

CHAIR VICTORINO: Thank you very much. Okay, the Chair would like to recommend that we entertain a motion to pass on first reading a bill entitled A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO THE DECLARATION OF WATER SHORTAGE; the filing of County Communication 12-217; and the filing of Committee Report 12...excuse me, let me correct that, the filing of County Communication 12-217, and the filing of County...Committee Report 12-146.

VICE-CHAIR WHITE: So moved, Chair.

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COUNCILMEMBER COUCH: Second.

CHAIR VICTORINO: It's been moved by Vice-Chair White, and seconded by--

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes, I made a mistake? No?

MS. WILLENBRINK: Quick recess.

CHAIR VICTORINO: Quick recess. Okay. They moved and they seconded so let's leave that at that, okay. It was moved by Vice-Chair White and seconded by Member Couch. Meeting will stand in a two-minute recess. Don't leave your seats. . . .(gavel). . .

RECESS: 10:13 a.m.
RECONVENE: 10:15 a.m.

CHAIR VICTORINO: . . .(gavel). . .The meeting of the Water Resources Committee for January 30, 2012 [*sic*] will reconvene. Just as a reminder we have a motion on the floor made by Vice-Chair White and seconded by Member Couch to bring forward and pass A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO DECLARATION OF WATER SHORTAGES"=. Is there any more discussion? Seeing none, all those in favor say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed? Let the record show seven "ayes", no opposed.

VOTE: AYES: Chair Victorino, Vice-Chair White, and Councilmembers Baisa, Carroll, Couch, Crivello, and Guzman.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FIRST READING of revised bill; and FILING of CC 12-217 and CR 12-146.

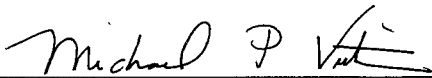
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CHAIR VICTORINO: Mr. Taylor, we have started our trek for water shortage declarations and I think this will be a good step in the right direction. If you...Members, if any Member has any questions or any other concerns that they may have, they can address it to the Chair with a letter or e-mail, and I will follow up with either Corporation Counsel or the Department for further advice or answers to your questions. Anyhow, thank you very much for a first productive meeting of the new year. And again I wanna thank all the testifiers, I wanna thank all our district offices, and thank you, Members, for being patient with us with this. And again all of us are going through this new system and we're all learning together. So with no other...any other comments? Nothing? This meeting of the Water Resources Committee January 30, 2013 is adjourned. . . .(gavel). . .

ADJOURN: 10:17 a.m.

APPROVED:



MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:130130:ctc

Transcribed by: Carolyn Takayama-Corden

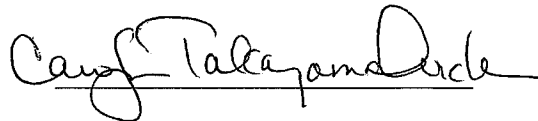
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Council of the County of Maui**

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CERTIFICATE

I, Carolyn Takayama-Corden, hereby certify that 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 19th day of February, 2013, in Makawao, Hawaii

A handwritten signature in cursive script that reads "Carolyn Takayama-Corden". The signature is written in black ink and is positioned above a horizontal line.

Carolyn Takayama-Corden