

WATER RESOURCES COMMITTEE

Council of the County of Maui

MINUTES

Council Chamber

November 13, 2013

CONVENE: 9:01 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair
Councilmember Mike White, Vice-Chair (arrived at 9:15 a.m.)
Councilmember Gladys C. Baisa (left at 10:13 a.m.)
Councilmember Robert Carroll
Councilmember Donald G. Couch, Jr.
Councilmember Stacy Crivello
Councilmember Don S. Guzman

STAFF: Kim Willenbrink, Legislative Analyst
Pauline Martins, 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.: Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

David Taylor, Director, Department of Water Supply

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

Paul Meyer, Deputy Director, Department of Water Supply

OTHERS: Darren Strand, President, Maui County Farm Bureau

Bobbie Patnode

Annette Niles

William Jacintho, President, Maui Cattlemen's Association

Sydney Smith, President, Maui Coffee Association

Craig Rasmussen, President, Paradise Flower Farms, Inc.

Erica Rasmussen, General Manager, Paradise Flower Farms, Inc.

Richard Pohle, Founder, UMLA

William Greenleaf, Owner, Greenleaf Farm

Lloyd Fischel, Lanikai Farms

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Rosemary Robbins
Debbie Von Tempsky
Dick Mayer
Simon Russell
Sandra Takishita, Howard's Nurseries
Howard Takishita, Howard's Nurseries
Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*
Melissa Tanji, The Maui News

WR-18 BILL 13 (2013), RELATING TO WATER USAGE DURING WATER SHORTAGE DECLARATION

CHAIR VICTORINO: . . .(*gavel*). . . Good morning and welcome to the Water Resources Committee meeting of 11/13/13. The meeting will come to order at this time. I will ask everyone in the gallery and my Members to please put their cell phones on silent mode or another mode so that it doesn't make any noise. Decorum will be followed in the Chamber, please. At this time I'd like to introduce the Committee members that are present. I'm the Chair Michael Victorino. Also present is our Council Chair from Upcountry Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our East Maui representative and Vice-Chair of the Council, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our South Maui representative Mr. Don Couch.

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our Molokai representative Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our Kahului representative Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR VICTORINO: Good morning. Everybody's bright and early and all in big smiles, and hopefully the end of the day will end with still big smiles, okay. From the Administration of course our Director of the Water Supply, Mr. Dave Taylor.

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MR. TAYLOR: Good morning, Chair.

CHAIR VICTORINO: Good morning. Mr. Goode from the Department of Public Works is unable to be here today, but he did send us a statement of concerns in the binder so we'll go over that a little bit later. Brianne Savage, the Deputy Director of the Parks and Recreation is on-call and will be available. And this morning we do not have Mr. Kushi. As you can well see we have a very lovely young lady, but you know what, I forgot your name so you're going to have to introduce yourself. I apologize. You know my memory went blank.

MS. OANA: Good morning, Chair. Jennifer Oana.

CHAIR VICTORINO: I knew that, Jennifer, but I just wanted to make sure you remembered it. Thank you, Jennifer. When you make mistakes you gotta learn how to crawl back out of 'em. Our Legislative Analyst is Ms. Kim Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our Committee Secretary Pauline Martins. Of course they're very invaluable and thank you for all what you do. Our District Offices, let me double check, see if they're connected. Yes, I have it off mute. Dawn Lono from our Hana Office. Dawn, are you there?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office.

CHAIR VICTORINO: Good morning. Denise Fernandez from our Lanai Office. Denise, are you there?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai.

CHAIR VICTORINO: Good morning, Denise. And of course Ella Alcon from our Molokai Office. Ella, are you there?

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

CHAIR VICTORINO: Good morning. And thank you all, ladies, for being there. We will get back to you as far as testifiers in a few moments. However, before I start public testimony today, I wanted to make a few things clear. I've gotten a lot of e-mails, and thank you, I know when I do something people are going to respond. I don't just do things for no reason at all, c'mon. However, today I want all of you to understand it's the beginning of a process. We're combining the two bills that we had water shortage and we had the conservation bill, and we're trying to combine the two. And to work out with your manao, with your advice, with your information along with what we believe here, to come up with something that's workable and fair to all, especially protecting our ag clients, our ag consumers. So that's very, very important. Secondly,

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when it comes to Hamakuapoko Wells, the revision in it suggesting the word “drought” and changing it to the word “water shortage”, just to make it consistent with Title 14. So we’ll talk a little bit more about that. Even though the bill repeals the chapter relating to water conservation, water conservation measures have been incorporated in this new bill. So we’ve tried to make instead of working on two separate bills, working on one bill so that everything is concise and to the point. And finally, the bill includes water shortage that the Committee has been reviewing since the last term; however, I have made further revisions giving agriculture 90 days exemption which I know is still not the end-all. And we will discuss other ideas that have been brought forth from the agriculture community. So I want you all to know that today is the first step in a process of trying to find what I call a reasonable way of handling water shortages. The best way of course obviously is to have wells available where we never have a water shortage, but that is very costly and Mr. Taylor has said that in many cases. Haven’t you, Mr. Taylor? You’re looking at me like you want to say something but you’re not up yet.

MR. TAYLOR: No, Mr. Chair, I’m just listening.

CHAIR VICTORINO: Okay, thank you. No, but I mean wells are what we call more expensive than the low-hanging fruit which is surface water, isn’t that correct?

MR. TAYLOR: Costly and takes time to implement.

CHAIR VICTORINO: Thank you. I think we’ve waited 20-30 years, time has been against us since the day one, so we gotta start moving on this. Anyhow, so I just want clarification so that the public is comfortable with today we are taking our first step. We want to hear from you, that’s why we’ll have many more meetings in the future trying to work out the situations, trying to work out amicable solutions and again, with the emphasis on our ag producers in the Upcountry area, okay. So with that being said and now that I’ve set the tone, let’s start public testimony. All of you know that public testimony is limited to three minutes. Please sign up on the table out in the front on the eighth floor. You’re requested to finish in three minutes. You have one minute, if you need more to conclude. We use the lighting system. When the yellow light comes on it is three minutes, when the red blinking light comes on it is four minutes, at that time I will ask you to conclude your testimony. If there’s no objections, ladies and gentlemen, we will start public testimony.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. First one is Darrel [*sic*] Strand, and Darrel is representing Maui County Farmers [*sic*] Bureau, he’s the president, and he’ll be followed by Bobbie Patnode. Good morning, Darren.

... BEGIN PUBLIC TESTIMONY ...

MR. STRAND: Thank you, Chair Victorino and members of the Committee. Maui County Farm Bureau representing our commercial farm and ranch families and organizations on Maui

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continues to oppose rate increases for agriculture during drought events. It is very clear from discussions with our membership that any increase in production costs will create financial hardships for farmers and ranchers while most likely leading to a decrease in production. The key message from nearly all of the farmers and ranchers in our group is we oppose drought rate increases and penalties to agricultural consumers. The rate increases will occur when we are hurting the most. The increased production cost will happen at a time when production may already be down and operations are already burdened. To penalize agricultural producers on one side and on another support efforts to increase locally grown foods and products is at a minimum incongruent. We would like to see a shift of focus from penalties to source development. A similar effort to that that's expended on drought rate increases should be expended on source development. We appreciate the Committee's position to increase the duration of the exemption from 60 to 90 days for agriculture, but we feel there are still some discussions that need to happen. As such, we request that this Committee table the item and allow a working group of farmers and ranchers and agricultural economists to review the impact of rate increases on our agricultural operations and the production and competitiveness of our local agricultural products. Maui County Farm Bureau appreciates your willingness to work with us to advance agriculture in Maui County. I feel that we're gaining momentum with our Grown on Maui programs, our new farmer initiatives, improvements to facilities like the vacuum cool plant in Kula, the startup of the Food Innovation Center at the Maui College. So please help us continue to support programs and policies that help existing farmers and create additional opportunities for new growth in our agricultural communities. I thank you for the opportunity to speak today.

CHAIR VICTORINO: Thank you, Mr. Strand. Questions for the testifier? Seeing none, thank you --

MR. STRAND: Thank you.

CHAIR VICTORINO: --very, very much. Next is Bobbie Patnode, and that will be followed by Annette Niles. Good morning, Bobbie.

MS. PATNODE: Good morning. Aloha, my name is Bobbie Patnode. Today I'm testifying for myself but I think you know I'm also vice-president of the Kula Community Association, and I'm also a member of the Agriculture Working Group which provides input on agriculture issues to Don Guzman. And I am also on the water meter list. I understand that Director Taylor considers this bill a requirement to issuing more Upcountry meters so he can control water usage in a drought. My concern is that we need to realize that without water for farms there will be no local food supply. In a drought we should be concerned that the food supply is secure. Raising rates will not ensure water conservation as was proven in Atlanta in 2007 where wealthy homeowners continued to water their landscaping and the lake that provided water to the city went dry. I believe the way to ensure adequate water for essential purposes such as agriculture in a drought is to create the means to conserve, including the use of grey water, catchment, drip irrigation, mulch, et cetera, as well as prohibiting non-essential uses such as lawn watering and washing cars. How can we make this a better bill? Let's start by adding a policy statement E to say, in a water shortage Maui County prioritizes water for human health and agriculture use above non-essential uses. This policy would be supported by an existing policy in the Island Plan. On Page

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7-5 in the section on Challenges to Agricultural Lands it states, a reliable and inexpensive source of water is particularly important to keep agricultural lands in production. On Page 7-10 there's a policy which says, to give priority and delivery and use of agricultural water to cultivation of food crops for local consumption. Next, let's have an Agriculture Impact Study for this bill, let's know the real cost to our community, to farmers, and to taxpayers. If we truly believe in supporting local farmers we need to do this. Then let's get the County departments to work together to manage water resources wisely. Currently, homeowners on Ag land must have a farm plan to obtain a Building Permit even if they don't intend to farm, so they put in crops and use water. And if you're managing your land during a drought and don't pasture animals in dry areas you lose your ag tax rate. A comprehensive water shortage bill should look at and address these discrepancies. I do think there are steps which farmers should be taking. Conservation methods for agricultural consumers include wastewater reuse, irrigation management, and soil management. Perhaps the Department of Water Supply could work with farmers to ensure these methods are in place for ag consumers. Let's get more of these ideas into WR-18. Right now I think it needs more work before it's ready to be voted on. Thanks for listening.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you, Bobbie. Next testifier is Annette Niles, and she will be followed by William Jacintho.

MS. NILES: Good morning, everyone. My name is Annette Niles. I'm here to testify like I did the last time on how our water system is, and I have these pictures that I sent in. And we're talking about pumping from wells when this reservoirs are down up there, two of 'em that should be totally fixed and used instead of the wells. I agree with not using the wells. If this is fixed we wouldn't have problems, we wouldn't have problems. I really looked at it and thought maybe the County was, this was the new golf course for the County on this reservoirs. Now this is, you're looking at 15 million each reservoir and no water, no water, no water in it. So my question is why? And again, it's being pumped from the other one from down, up. When water comes from up...we had this beautiful rains. If we had this fixed we would have all the water in the world in this reservoirs, but it's not, it's gone, it's thrown away. And again, water pumping from down up instead of just gravity flow down to this reservoirs would save a whole ton of money. That's all I've got to say.

CHAIR VICTORINO: Ms. Niles, if I may ask, what is the location of these two reservoirs?

MS. NILES: Up in Waikamoi.

CHAIR VICTORINO: Waikamoi, okay. Just so that the public and I...

MS. NILES: And I, and this is, I don't go trespassing, you know, I'm above on air.

CHAIR VICTORINO: And these wells, how much their capacity? What do they hold?

MS. NILES: Fifteen million each.

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CHAIR VICTORINO: Fifteen million?

MS. NILES: Yes.

CHAIR VICTORINO: Okay.

MS. NILES: Each reservoir.

CHAIR VICTORINO: Okay.

MS. NILES: That looks like a golf course right now.

CHAIR VICTORINO: Okay. We'll ask Mr. Taylor more details on this as we proceed.

MS. NILES: Okay.

CHAIR VICTORINO: Okay.

MS. NILES: Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Yes, Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thanks, Ms. Niles, for being here. When you say fix the reservoirs, what is wrong with them?

MS. NILES: Repair. I mean they're totaled, they're full of mud. This is water, just here, this is the line. This is their measurement, okay. This is dirt, this is all sucked down, grass growing like golf course on the top here. You know these need to be fixed, relined, re-cemented, re-fixed or done, something. I mean if this is fixed we don't have to worry about water but it's not, and we don't have to be using well water. We should be fixing this and putting the water back in this to help our Upcountry people, our farmers, our ranchers, because for me, 90 days ain't gonna cut it for animals, it ain't gonna cut it. We need to be exempt completely. This be fixed and we'd be having no problems.

COUNCILMEMBER COUCH: Okay, thank you.

MS. NILES: Thank you.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. Thank you, Ms. Niles, very, very much.

MS. NILES: Thank you.

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CHAIR VICTORINO: Okay. Next testifier is Mr. William Jacintho, he is the president of the Maui Cattlemen's Association, followed by Sydney Smith.

MR. JACINTHO: Good morning, Maui County Council members. My name is William Jacintho, president of the Maui Cattlemen's Association. Many livestock producers and friends have read the proposed bill and find that they would prefer an Agriculture Impact Study before going ahead with this proposal. In addition, a full ag exemption is a must for the survival of the industry. I have reviewed the proposed bill, and provide my comments and suggestions. Bill 13 still has a lot of problems for ag, as well as extra additional cost to the County, that we taxpayers will end up paying with higher rates or RPT funds collected from us, so you can expect more increases on the horizon, and still won't solve the supply problem. The H'Poko Wells we've discussed before and are reluctant to the idea of escalating costs of pumping all the way Upcountry when it could be possibly used for lower ag sugar fields, and other sources of water further up in elevation be used for upper lines. At the same time, the pesticide use is still a concern to some, even with filtering. On the Policy Section D, nonessential needs during times of shortage may endanger essential needs. These nonessential needs should be identified, and usually they are luxury wants. Makes me think that this is a bill for all of Maui, and hotels and landscapes and gentlemen estates are in this category, all very high users of water, you fill in the blanks. The high efficiency plumbing, Section A and B, to retrofit all County facilities, up-to-date fixtures, not a bad idea, but again at cost to taxpayers. And has anyone run the cost of the numbers yet? The educational and incentives section, providing high-efficiency fixtures to public at no charge. Again, taxpayers provide the cost of this, and has anyone run the numbers also? The Declaration of Water Shortage without consultation with the board of directors, and the Mayor issues the declaration of water shortage. The board should be involved is what we feel. Section where control of water usage has been removed and replaced with stages of water shortage. The old deleted section has language that has been proven to work in the past by eliminating the nonessential use. This should be put back into the bill. The new language sets up a 5 percent voluntary for water shortage advisory, 5 percent for the warning and 10 percent for emergencies. Does anyone know what the word "emergency" means? Ten percent does nothing, compared to the old conservation rule prohibiting use for irrigation, lawns, and other types of nonessential needs. I'm going to jump down because the light is blinking. There's no mention of grey water. And we have met with Mr. Victorino and Mr. Taylor at various community meetings and provided many good ideas of non-pumping water development and conservation methods, and they're not included here. So in closing, this doesn't seem to be achieving the goal, and that the Water Committee and the Water Board should meet with our agriculture producers to share concerns and look toward future solutions that will be effectively achieved in this goal. I also have a second, like an insert I think you guys got with like the listing of the waters, and I want to quickly run to the bottom where it says ag rates. The red column is the current rate now, this is kind of an older piece of paper but anyhow. In the categories, the gallons, 1 through 5,000, 5,000 through 15,000, and 15,001 gallon and up, the prices are interesting. It's, first one is 1.80, the next one is 3.35, the next category is \$1.15. The 3.35 line item kind of throws in almost like a non-water conservation. It makes users want to use more, and maybe kick that up to 15,000...16,000 gallons so they fall into the 1.15 rate instead of the 3.35 rate. Maybe you guys might want to look at that and kind of correct it. I would suggest

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along with my fellow farmers to maybe just set one rate for all, that way everybody pays the equal amount. We all have expenses and it kind of puts people in kind of odd situations. Thank you.

CHAIR VICTORINO: Thank you, Mr. Jacintho. Questions for the testifier? Yes, Mr. Couch.

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Jacintho. You mentioned that the rate down there, if it goes over 15,000 that it goes down to 1.10. Is it your understanding that that's for all the gallons used? Because it's my understanding if you use between 5,000 and 15,000, that much is at the 3.35 rate no matter how much you use.

MR. JACINTHO: I'm not clear as how the whole rating system --

COUNCILMEMBER COUCH: Yeah, that...

MR. JACINTHO: --and that would be nice to know.

COUNCILMEMBER COUCH: Yeah, we'll check with Director Taylor --

MR. JACINTHO: Okay.

COUNCILMEMBER COUCH: --but I'm pretty sure that --

MR. JACINTHO: But is it...or...

COUNCILMEMBER COUCH: --if you use 15,000 gallons it's going to be 3.35, if you use 15,001 it's going to be 3.35 for the 5,000 to 15,000 gallons, and then for the extra gallon over 15,000 it's 1.15.

MR. JACINTHO: So do they charge you, you know, according to the increment? So like say I use 16,000 gallons.

COUNCILMEMBER COUCH: Right.

MR. JACINTHO: The first 5,000 will be at 1.80.

COUNCILMEMBER COUCH: One eighty, correct.

MR. JACINTHO: And then the next up to 15 --

COUNCILMEMBER COUCH: Will be 3.35.

MR. JACINTHO: --on my bill will say that rate, and then if I go over. So any gallons beyond that --

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COUNCILMEMBER COUCH: Right.

MR. JACINTHO: --will be charged a different rate.

COUNCILMEMBER COUCH: Right.

MR. JACINTHO: So it's all lumped in one bill then?

COUNCILMEMBER COUCH: Yeah.

MR. JACINTHO: Okay.

COUNCILMEMBER COUCH: So and that kind of looks like it would help the farmers in this case, but I'm not sure. We'd have to...

MR. JACINTHO: Yeah, it kind of gives a big jump --

COUNCILMEMBER COUCH: Yeah.

MR. JACINTHO: --in the middle. But anyway, if you guys can please take a look at that.

COUNCILMEMBER COUCH: Okay, thank you.

MR. JACINTHO: Thank you.

CHAIR VICTORINO: Thank you, Billy.

MR. JACINTHO: Thank you.

CHAIR VICTORINO: Anything else? Okay, thank you. All right, next testifier is Sydney Smith, and Sydney is also with the, or with the Maui Coffee Association. Excuse me, I almost thought it was cattle, I apologize. I read it wrong.

MS. SMITH: It's okay.

CHAIR VICTORINO: Coffee Association. Followed by Craig Rasmussen. Go ahead.

MS. SMITH: All right. As I was introduced, my name is Sydney Smith and I'm the president of the Maui Coffee Association. I'm also a part of the Ag Working Group. I also own a coffee farm Upcountry. You know on June 15th of this year I arranged with Andrea Kawabata, the Kona Extension Agent from CTAHR on the Big Island to come to Maui and do a CBB Workshop. And CBB is the acronym for coffee berry borer which has been a devastating pest on the Big Island in the coffee growers. It was well attended and informative, and we learned that it's not a matter of if but when this pest will arrive here on Maui. I asked Andrea what, if anything, we could do to

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mitigate the impact on our farms here, and she said grow tea. And you could have heard a pin drop in that workshop, 'cause we did not expect her to say that. And I want you to know that the coffee growers here are doing very well. Water issues aside, we could all be selling ten times what we're growing right now. We could be increasing our farms, buying property to put coffee in, we're not doing that because of this water issue. Not all of us are going to want to grow tea, but I thought it was a good fallback position for us because they, you can grow tea and you don't have to worry about the coffee berry borer. So I asked if the people on the Big Island from CTAHR could run tea workshops for us here like they do on the Big Island and she said of course. She set up a program where they plant the starts and get them going for us here on Maui that would be free of charge, all we had to do is fill out this form and sign it and the tea plants would be delivered to us. This is the form, and I gave everybody a copy of this form. I highlighted everywhere where it says daily watering required. You have to agree to that and sign an agreement that you're going to do it. You know I just couldn't do that with the situation that we're in right now. I can't agree to do something that I'm not sure if I am going to have the water to do it. So, you know, I've read all the provisions and the proposed changes and, in February 18, and I believe, Mr. Chair, it is 18, is it 18 or 13? I've heard people refer to this as WR-13 and WR-18.

CHAIR VICTORINO: WR-18.

MS. SMITH: Eighteen.

CHAIR VICTORINO: Yes, ma'am.

MS. SMITH: You know the farmers and ranchers I know have cut back all that they can, they're just isn't anymore that we can do, and any more increase is going to push the farmers over the edge. But, you know, everyone here today thinks sustainable agriculture is a great deal and necessary for Maui County, but we need the confidence to plant and to plan ahead and to put more coffee in and to put more orchard crops in, to manage our herds, and none of us have that confidence right now. But in Section 12-102-8, Paragraph D of the Maui County Code it says, failure to maintain the farm in accordance with the unilateral agreement and declaration of restrictive covenants shall constitute grounds for the County to revoke or suspend any building permits issued under Chapter 16.26, Maui County Code. Are you amending the Code as part of this? If we're required to cut back 5 percent, or 10 percent, or even 30 percent, is the State farm plan requirement going to be reduced as well? Is Real Property Tax going to penalize us for complying with the mandatory cutbacks? And which department has precedence over the other departments? Which one do we comply with, drought declarations or the Maui County Code? Amendments have to be made to the Code and every department has to be up-to-date on those amendments including Real Property Tax. And since those Codes comply with State law then it will have to start with a bill in the Hawaii Legislature. We do need an exemption for agriculture. And at the very least like Bobbie Patnode said, we need an Agriculture Impact Study to estimate the damage these proposals will have on our already struggling farms and ranches. Thank you.

CHAIR VICTORINO: Questions for the testifier? Seeing none, thank you very much.

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MS. SMITH: All right, aloha.

CHAIR VICTORINO: Next testifier is Craig Rasmussen, he is with Paradise Farm, Flower Farms, Inc., followed by Erica Rasmussen.

MR. RASMUSSEN: Good morning. I'm Craig Rasmussen, president of Paradise Flower Farms located in Kula. We operate on 60 acres of land, most of which is in the Kula Agriculture Park. The farm currently employs 26 workers. I would like to thank Chairman Victorino and the Water Resources Committee for taking time to try and fix the problems with the proposed ordinance relating to water usage during a Water Shortage Declaration; however, I do not think that any amount of changes will fix a fundamentally flawed ordinance. Let me explain what I'm talking about. Maui farmers do not just compete with other Hawaiian farmers but we compete on a global market. On my farm I have competition from Thailand, the Philippines, and most of South America. Water is my second largest input cost behind labor. We've weathered many droughts in the 35 years of farming on Maui with the system that is currently in place, so the ordinance is not for limiting the usage of water but rather a roundabout way to get water rate increased. During a Stage 2 drought my water rates would go up 20 percent under the original ordinance. I cannot just pass on these increased costs. The last drought emergency lasted seven months, which would have put me paying higher rates for four of those months. I'd have been forced to decide to raise my prices and lose market share or plow my crops under and limit my losses. I do not think that the Water Board, the Administration, or the County Council has been given all the facts when it comes to ag water usage and the cost of delivery. I am asking you to table this ordinance and send it back to the Water Department. If a rate increase is what they are after then ask for a straight-forward rate increase that the public can understand. If this ordinance is passed, even amended, it will slowly price Maui agriculture products out of the market. Maui agriculture cannot withstand more rate increases in the water. Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you. Before I go on to...hang on, Erica, if you don't mind. I will, let me check with the District Offices first and then I'll get back to you. District Offices, Hana, do you have anyone wanting to testify?

MS. LONO: The Hana Office has no one waiting to testify.

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

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

CHAIR VICTORINO: Thank you. And, Hana, is there anyone...no, excuse me, Lanai. Excuse me, got myself. Lanai, is there anyone wanting to testify?

MS. FERNANDEZ: There is no one waiting to testify at Lanai.

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CHAIR VICTORINO: Okay. When I get completed with the testifiers here in Maui, I will come back one more time to check with you three ladies, okay. All right, so, Erica, I'm sorry, Erica. Erica Rasmussen, she's the general manager of Paradise Flower Farms, followed by Richard Pohle.

MS. RASMUSSEN: Thank you. Aloha and good morning, Chairman Victorino and members of the Committee. My name is Erica Rasmussen, I'm the daughter of Craig and Tina Rasmussen, and I'm now third generation to work in the flower farm that my grandparents started. I was born here and raised on the farm. I left Maui after high school to attend college and received a Business Management Degree. After several years of working on the mainland, my parents asked me if I would consider coming home and working in the family business. I returned to Maui at the age of 24 and have worked at the farm for the past 4 years. Recently I became the general manager of Paradise Flower Farms. Being the third generation to run a family farm is a huge responsibility and not one that I take lightly. Now that I see daily what it takes to operate the farm, take care of our 26 employees, and pay our bills, I appreciate more and more every day the sacrifice that my grandparents and parents have made over the past 35 years. During our last fiscal year our company paid \$52,000 on water bills. Water is one of our largest expenses. I can assure you that water conservation is always on our mind, and we under no circumstances would waste water. No farmer has an incentive to waste water. When a drought is declared, we always strive to do our share of water conservation without damaging or putting our crops at risk. During a drought declaration, we cannot plow, we cannot plant new crops or consider expanding even if we have the market for it, so you can see that under a drought farmers are already put at risk. They cannot operate normally. By further punishing them by instituting premium rates on 100 percent of their water during a drought is like double jeopardy, heaping punishment on hardship. My grandparents often talked of the fact that when they started their farm there were 30 carnation lei farms in Kula, today there are 2. One of our main competitors of tuberose production on Oahu, they pay agriculture water rates of 50 cents per 1,000 gallons, we pay \$1.15 per 1,000 gallons. We had a 5 percent water rate increase this year, and the Department of Water Supply tells us they're going to raise our rates 5 percent every year. How will we ever remain competitive even within our own State, let alone the global competition we have? Chairman Victorino, we appreciate you amending this ordinance to a 90-day exemption for farmers, we know you're trying to help us, but the truth is we cannot afford these rates even for one day. Farming is incredibly challenging, and I don't want to be the generation in my family that makes the decision to close up. We're asking you, the Council, to please save us. Have trust that we as farmers are the best stewards of water. I would like to respectfully ask that you exempt all farms from any drought premium rates and any further water rate hikes. Thank you.

CHAIR VICTORINO: Thank you, Erica. Questions for the testifier? Seeing none, thank you. And I apologize immensely, before I introduce you, Mr. Pohle, our Vice-Chair of the Committee Mr. White is here and I think he stepped in a little bit, a little while ago and I forgot to introduce you. I apologize, Mr. White.

VICE-CHAIR WHITE: No problem.

CHAIR VICTORINO: Sorry about that.

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VICE-CHAIR WHITE: Good morning, Chair.

CHAIR VICTORINO: Mr. Richard Pohle, Dr. Pohle is here, and he's the founder of UMLA. Dr. Pohle.

MR. POHLE: I am Richard Pohle, a Doctor of Physics, protea farmer, and founder of the Upcountry Meter List Association and the website www.UMLA.ws. For the past five years, this website has been a journal of Upcountry meter issues. I have included a printout of the first page and invite you to log on. I support the bill under consideration. Director Taylor states that a rate increase during shortage to encourage conservation is a requirement to begin issuing meters. He made a good case and I agree. I want to thank the Director, the Chair, and this Committee for their efforts. Comments on this bill under consideration, there are errors in numbering of 14.06.060. In that section you impose mandates to reduce water consumption by 10 percent. Mandates are counterproductive. They encourage a more liberal usage to allow for reduction during water shortage periods, and they rely on some kind of water police for enforcement. The bill's prohibition of water usage during various times, places, and purposes are more properly conservation measures. Do you really want to give the Director to halt all irrigation, construction, subdivision, meter installation, and service? How can anyone plan a major project, hire people, or grow crops if project water is completely shut off for a temporary water shortage? A rate increase for the water shortage is far less damaging than such draconian measures. This bill should be simple and rate increase publicized, not hidden. Please remember the purpose of this bill is to increase rates to encourage conservation. Works every time. The main water users, farmers, are exempt from all mandates for 90 days, the duration of most shortages. It is not hard to get agricultural water rates. It does not matter if human error caused the shortage. Conservation is needed then as well. The agricultural rate structure proposed during shortages increases from \$1.15 to \$1.38 while rates for residential users increase from 5.65 to 11.30. Well, cry me a river for the farmers. Farmers also need to show some civic responsibility. On 18, September 2012, Director Taylor demonstrated how a short-term reduction in demand produced by short-term rate increases was necessary to issue meters. On February 15, 2013, you responded with an excellent bill, simple and elegant. Then the farm and anti-development lobbies descended on you. They played this Committee like a violin and they twisted this bill like a pretzel. So here we are three revisions and nine months later without the bill that Director Taylor says is necessary to begin issuing meters. Without this bill will he even issue them? He is a cautious man. Have these changes satisfied anyone? I call on this Committee to quickly approve this bill. A shortage rate structure is needed. I call on this Committee also to be more proactive in the monitoring of DWS decisions. Without any public explanation and without any objection from the farmers, they have refused to require the 1.7 mega [sic] gallon Piiholo South Well offered to them for free. They insist on ripping up perfectly good 6-inch lines in rural areas when the 8-inch lines to replace them cost between 200 and 700 dollars a foot--an expense that the County will have to share. These lines should be grandfathered in. We need an independent technical opinion and cost benefit study for these unjustified decisions. Thank you very much.

CHAIR VICTORINO: Thank you, Dr. Pohle. Questions for the testifier? Yes, Mr. Couch.

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COUNCILMEMBER COUCH: Thank you, Mr. Chair. Yeah, thank you, Mr. Pohle, for being here. When you said pass this bill, is it this current bill or the old bill that it seems like you...

MR. POHLE: I would prefer the old bill with the words like irrigation taken out because it is draconian, I mean it gives the Director the power to cutoff farm irrigation as well as irrigation of lawns. So the first bill was far superior in my opinion than this twisted thing that we see now, twisted and complicated. Although I agree that conservation measures have been moved into it and H'Poko.

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR VICTORINO: Any other questions?

COUNCILMEMBER GUZMAN: Chair, did Mr. Pohle put this in writing, his testimony?

CHAIR VICTORINO: Yeah, you have it here.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: It's the testimony is in your packet. There's a lot of testimony, gang, but it is there, it's there.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: And if you don't have one we'll make a copy for you, Mr. Guzman. Thank you, Dr. Pohle. Next testifier is William Bill Greenleaf from Greenleaf Farm, followed by Lloyd Fischel.

MR. GREENLEAF: Good morning, Chairman Victorino and Council members.

CHAIR VICTORINO: Good morning.

MR. GREENLEAF: My name is Bill Greenleaf and I'm in my ninth year of farming. I understand that this conservation bill suggests that there should be cutbacks based on rate increases, and I know that that process has failed in Atlanta dramatically. I remember seeing the reservoir lake was so low that it was literally 150 yards from the boat docks out to where the water was. What really concerns me about this, I've heard a lot of other comments and those all concern me, I think we should have an Ag Impact Study. I personally don't think ag rates should go up, I think the County, I would really like to see in these discussions the County recognize the amount of energy and community support for sustainable agriculture for food sovereignty, for Hawaii to grow more of their own food, and use this bill to make a statement for agriculture. My biggest concern is that when we have drought and we put in conservation measures that don't work, we end up in an emergency situation where mandatory cutbacks are required. And as I've gotten to know the ranchers through working in ag, you just can't tell a cow they can't have their full 10 or 12 gallons of water a day, they just aren't going to accept it. And for farmers it's, when we're in a

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dry season the air is dry, there's not much moisture in the grasses that hold it close to the ground and the shade under the trees. It's our most dangerous time for having crop failures, and probably wouldn't even put in as much crop as we would for selling at our biggest time of the year which is November and December 'cause August, September, and October are going to be our heaviest drought times. What I really think the solution is, is to look at cities that constantly face drought. Tucson, Arizona would be a good one, LA would be a good one, San Diego would be a good one. We could go across the world. We would look at places in Israel where they have terrific water resource management. And I'd like to see as you go further, I understand from what you said, Chair Victorino, that the decision is not going to be made now, this is a process, and I'd really like to see in the process more consideration given for how areas that deal with extreme drought how they deal with it and how effective it is. So I thank you today for this chance to testify on this really important subject.

CHAIR VICTORINO: Thank you, Mr. Greenleaf. Any questions for the testifier? Seeing none, thank you very much. Next testifier is Lloyd Fischel with Lanikai Farms, followed by Rosemary Robbins.

MR. FISCHEL: Good morning, Mr. Chair, Council. Thank you very much and for making the strong effort towards improving the bill that originally came to you which was rather draconian as has been stated many times. The Chair in the press has made the good intention to provide a higher level of Council oversight, but we need to ask ourselves how can oversight not require the Department of Water to provide a clear definition as to what actually triggers each of the three stages of drought? Protecting the people's water means clarifying these specific metrics that must be met if the Department head and the Mayor are allowed by law to declare a drought. The benefit to farmers as has been stated so many times of a 90-day grace period is really meaningless. What the bill today really means is that a farmer has 90 days to find another job. When there is a drought, farmers need more water, not less, to produce the food that we all eat. If there's a drought in California or Mexico at the same time there's a drought here, or if there's a tsunami, an earthquake that destroys the port, 90 percent of the vegetables and fruits we eat, Mauians and visitors, will dry up. Even those with large homes and storehouses will be in deep trouble. We must do better and admit on the altar of truth and for our grandchildren that we love that farming is an essential water usage. How can producing food not be considered an essential water use? Are we blind? In this day and age, how can enhanced conservation measures written in the bill not include catchment education? Somebody earlier mentioned soil conservation or management. These are fundamental to any agricultural committee in the, or community in the current age. In Petra, Jordan 3,000 years ago, over 150,000 people survived on 3 inches of water because of cisterns that were created. How can we today say we don't have enough money to protect water resources, the public's resource? We can't. In the penalty section which is, was more extensive than it is today but it still is a focus of this bill, penalty, not conservation, not catchment, not principles of creating more water but penalty. In the penalty section the bill references "any person violating the schedules". Is a, do we consider businesses like golf courses, hotels, resorts, restaurants, and car washes a person? It's not clear in the bill, it needs to be clear for the public to be able to support and have confidence in what we're doing here. We must establish a clear understanding where the law is going and where it will be applied. Adding

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such detail means that we really believe that water is a public research, resource. The current language seems to be vague about the area, and it's important that this be cleared up. Lastly, we are not consumers, we are people first. The bill should make reference to people and not use the epitaph consumer to describe our humanity because we are human beings first. Three years is two and a half years too many between reports. People can only live a few days without water. Idle hands do the devil's work. We can do better, we must be better, do better, table this bill. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. Fischel.

MR. FISCHEL: Thank you.

CHAIR VICTORINO: Questions for the testifier? Seeing none, thank you. The next testifier is Rosemary Robbins, concerned citizen, followed by Debbie Von Tempsky, five Kula farm and rancher.

MS. ROBBINS: Good morning, everybody. For years there have been people who have come to this microphone who have identified themselves as concerned citizens. It's pretty darn nice to see how many of them have shown up today. They've giving you their livelihood statistics which are particular and yet shared among them concepts that all of us should be paying attention to. In the WR-18 description on the bill, second side of today's agenda, when we talk about purposes of the bill include implementing a water conservation and water shortage program, and yet the items that are given as technique, strategies, whatever, all seem to put the onus on the people of Hawaii, not necessarily on the Department or the two people that are making the decisions on all of this. That's a crazy ratio. I mean that just doesn't hold up. And when we talk about having a declaration issued on water shortage, there has been a lot of testimony here at this microphone about creative terms. I mean nowhere could we find a definition of drought as being some of the stuff that has been testified before right here. A particular one about human error, back in the day when this was before the current Water Department's head, but you and I, Chairman, were working together at that time when you were on the Board, and the Board is cut out of these decisions, recommendations now, were using a publication from the State Water Department called *The Water Spot*. Ring a bell maybe? Yes, I guess. And it identified in there that so many of the people who tried to test into employment in the water departments Statewide couldn't pass the test in tests. The educator in me just cringes about that, and we now are in a situation where our education system is still having so many people drop out and then people presuming that they can drop into County government jobs. If we're not training them in the schools, we had better be training them when they get into the job application process. And yes, our current Water Director has said many times that we have no time to do training. Well if you're getting applicants that don't have the backgrounds, they need to be trained. Somewhere along that continuum, we need to be able to make sure that the people who are doing the address of these problems are qualified to do that. Couldn't test in then, how do they test out now? Failing to do the training, to have the testing is one way of not having to face it. Don't think that's a good idea. So when we talk about resources, we know that a couple months ago here we had a list of assets and liabilities when we were talking about the bond issuing. The Water Department was

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the second most wealthy of our departments, and yet the corrections that are in here are pretty low-hanging fruit about giving out...that's a good idea but it doesn't get anywhere near the depth of what needs to be done about giving out water filters and those kinds of things, leak detection tablets in our toilets. The picture is far more huge than that, and the Water Department is somebody that needs to do the training, that needs to do some corrections on their part for their operations and not just leave the responsibilities to the people who come and testify. Thank you.

CHAIR VICTORINO: Thank you, Ms. Robbins. Questions for the testifier? Seeing none, thank you very much.

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: Next testifier is Debbie Von Tempsky. I guess five Kula farmers and ranchers, I guess that's what you're representing?

MS. VON TEMPSKY: Yeah.

CHAIR VICTORINO: I was trying to think, I says I don't remember this business. But okay, I apologize. And followed by --

MS. VON TEMPSKY: Yeah.

CHAIR VICTORINO: --Dick Mayer. Go ahead, Debbie. Sorry.

MS. VON TEMPSKY: All right. Aloha, Council members and Council Chair. My name is Debbie Von Tempsky. My family has ranched and supported ag for five generations in Kula. I'm here today to speak for five of the farmers and a rancher that lease property now on 900 acres of land in Kula. Actually they would have been here to testify but they're busy on the land working the crops and couldn't get away. This bill will greatly affect everybody. The farmers, yes. From the agriculture standpoint this bill will put some of the farmers that actually lease from us probably out of business, they're on the edge as it is. Water is one of their biggest expenses, and they're having a hard time paying for it now. My concern, I'm willing to stop watering my yards and washing cars and all that, that's not a problem. We can sustain that. But what I'm concerned about mainly is the economic impact on everyone for local fresh produce. It's, the price of it will skyrocket, it will be reflected because less people will be able to farm and there will be more demand. There's demand right now for fresh produce, it's supposed to be healthier for you. And I'm just worried that it's going to have this trickle-down effect where even fresh local produce sold in Costco will skyrocket. Tourists will have to pay more to eat. Local diners will have to pay more in restaurants. The whole economic trickle down with just the farming piece is really important. I've been watching a lot of documentaries, drought is here, it's not going to change. There's one documentary on the Grand Canyon and how it's dried up in all these years. I have this memory of a farmer about 25 years ago that was leasing at the time on our property, and I was kind of just going around for a ride to check on things and I looked over, Yoshi Arakaki was his name, I looked over and I saw like his seedlings dead and I'm like what's going on here, why

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are all these seedlings dead? And he goes well it's a drought and we're conserving and so we can't plant these crops, and so everything is the next crop and the next crop and there's a whole plan how they work it out. And I was really sad to just see all these dead seedlings. Well he, you know, chose that he couldn't afford the water and that was his way to conserve. And so I urge you all please support ag. My family has for five generations. Heaven forbid there be a natural disaster that would close down the port. Not to get into the scare tactic end of it but we need to protect and support our food supply. Thank you for listening. Aloha.

CHAIR VICTORINO: Thank you, Ms. Von Tempsky. Questions for the testifier? Seeing none, thank you very much, Debbie.

MS. VON TEMPSKY: Okay, thanks.

CHAIR VICTORINO: Next to testify is Dick Mayer, and he'll be followed by Simon Russell.

MR. MAYER: Hello, my name is Dick Mayer. I'm going to ask the Council members, I put a handout out and I'd like if possible you could take it out. I'd like to go through it. I'm not going to talk about the global issues about agriculture versus other things but rather about some of the wording that's actually in the bill itself that I hope that when you actually review the details that you'll look at. And I put the things down there. It asks the County that, on County construction that wherever a building goes up certain conservation measures be put into effect. I think you should also include the word "and grounds", for example, the County may start a new park and this would keep the park out of it. I think it's very important, the irrigation systems, because the irrigation probably uses more water than the toilets and the, perhaps a bathroom. Second item, where you talk about natural disaster, there are many events that are not disaster but rather things like climate change, sea level rise, saltwater intrusion, other things that may affect the ability of the County to deliver water. And I would hope that you change the word natural disaster which is usually sudden event like a hurricane or earthquake to something that expresses the real reason why or one of the reasons why we may have a water shortage. One of the most important items which I think really needs clarification, it talks about a 5 percent and 10 percent reduction, but it doesn't say 5 percent or 10 percent from what base. Are we talking about the previous month? Are we talking about a monthly average? Are we talking about the same month a year before? In other words, if the reduction is going to take place it should be very specific as to what the reduction is from. Next item, you talk about the actions that can be taken by the Director or the Mayor, et cetera, and with regard to No. 3 on that list there on 06.060, you should, please add the words "with the approval of the Mayor". In other words, you've given a lot of authority for the Mayor and the representative to take care of the advisory and the warning, but when it actually comes to taking action in a crisis, you only have the Director doing it. And I think the Mayor probably should be involved in that more than necessarily with the advisory. With regard to 3.b in 060, you use the word "subdivision" without clarifying what you mean there. Is it that you shouldn't build a subdivision? That the whole subdivision has to take action? It needs, the word by itself doesn't mean anything in that particular sentence. You talk about notification by newspaper. We may not have a newspaper when this bill is going... *The Maui News* as like *The Honolulu Advertiser* previously, and I think you need to put some provision and this probably

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goes for almost all your ordinances where you refer to newspaper of wide circulation. You should always...it's something you may want to consider is how do you notify the public if we do not have a Maui newspaper anymore. And that could happen, the circulation there is about 25 to 30 percent down already. With regard to water shortage emergency, it doesn't define that word anywhere and I think you need clarification on what actually constitutes an emergency. When you talk about the specific duration of a thing, use the word...it...you ask...you say that the emergency or the thing be for a specific duration. It really probably should say until the emergency situation is over rather than saying because you...when an emergency occurs you have no idea how long it's going to last. So you can't say oh, it's going to be one month, then it goes longer. So until the water shortage is over it's really how long it should last. With regard to agricultural water consumers, that's very vague. Is it somebody who's on Ag...is it land, State Land Use Ag-zoned land? I think what you really want to say is people who are now using ag water and the consumers who are paying agriculture water rates. That's the group that you're talking about, not a homeowner who happens to be growing crops. Where...with regard, and I have two others here, any area affected by the water shortage due to infrastructure or mechanical malfeasance caused by human error by a County employee. Really I think you really want to say is when the pumps aren't working or there's a leak in the pipe, that's when you wanna, have a malfunction that you want to consider. It doesn't matter who caused it, it should be left out, those words should be left out. And lastly, what seems to be an oddity, if somebody does not, has an offense you charge them a \$500 fine. If they have a second offense they take away their water meter but then you give them the ability to reinstall the water meter for only \$100. In other words, the second offense has a lower penalty really than the first one. So I think you may want to recalibrate those amounts, and you may also want to indicate how a person can get a water meter reinstalled. Would it just mean that rather than let's say it's under my name it goes under my spouse's name, my son's name.

CHAIR VICTORINO: Mr. Mayer, Mr. Mayer, are you just about done?

MR. MAYER: The last item.

CHAIR VICTORINO: Okay, please.

MR. MAYER: And then so you may want to clarify that.

CHAIR VICTORINO: Just complete your...

MR. MAYER: Thank you, I'm all done.

CHAIR VICTORINO: Thank you very much. Questions for the testifier? Seeing none, thank you, Mr. Mayer, for being here.

MR. MAYER: Thank you.

CHAIR VICTORINO: Thank you. The next testifier is Simon Russell.

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MR. RUSSELL: Thank you, Chair Victorino. Good morning, honorable Councilors. It's my privilege to be here before you this morning just to speak on my own behalf as a second generation farmer here in Hawaii. We have a shortage of farmers and I think penalizing them for using too much water or what they would consider the right amount of water is going to be a disincentive to farm, so I would speak against quotas for farmers. And also I would speak for an Agriculture Impact Study of what raising the rates on farmers is going to do. That being said, I also would like to bring to the attention of the Council and the esteemed audience here the fact that we're only talking about 20 percent of the water, the usable water on Maui. I went to a hearing by Water Commissioner Jonathan Starr last year and he talked about the County only having 20 percent of the available water on Maui, and that's what we're talking about. Just for kind of a macro perspective on water use on Maui. So 80 percent of the water on Maui is either in the environment or being controlled by the three big ag companies, HC&S, Maui Land, and Wailuku Water. So that should be thought about a little bit, in my opinion, you know, the total amount of water available in Maui. But I would definitely speak as a farmer against having my rates increased because it will drive us out of business. I mean we're only growing 10 percent of our food here in Hawaii and that's definitely not enough. And there's a huge push legislatively from the State level to grow not only more food in Hawaii but more farmers, and so if farmers can have stable water rates that's something that we can plan on. So thank you very much for your time.

CHAIR VICTORINO: Thank you, Mr. Simon. Questions for the testifier? Seeing none, thank you very much. Let me check with our District Offices at this time. Hana, do you have anyone who would like to testify?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR VICTORINO: Lanai, do you have anyone wanting to testify?

MS. FERNANDEZ: There is no one waiting to testify at Lanai.

CHAIR VICTORINO: Thank you. Molokai, do you have anyone who's wanting to testify?

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

CHAIR VICTORINO: Thank you very much. We have two more testifiers signed up, Howard Takishita and Sandy Takishita, and they're with Howard's Nurseries. So whoever wants to come up first. It's a family thing so I give you guys choices.

MR. TAKISHITA: We're going together.

CHAIR VICTORINO: Oh my. Do I have to double the time since you're both together?

MS. TAKISHITA: Yeah. Good morning, Mr. Chairman.

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CHAIR VICTORINO: Good morning.

MS. TAKISHITA: My name's Sandy Takishita and this is my husband Howard. We have a nursery in Kula. I think we remember all of you from the last time we were here. And good morning. I know that...I came late so I don't know who exactly came to speak today, but I did speak to a lot of farmers in the last three weeks about coming down to support Farm Bureau and in general ag's opposal to increasing the water rates. But more than that, we not only oppose the water rates being increased but we also want to get down to the fundamental thing that's happening here. It's a pivotal point for ag when you take the farm exemption that's been in place for I don't know how many years and you start altering it. You know the, I've been on Maui since I was a year old. My family, most of them were born and raised on Maui. We've had water problems from the very beginning. From Mayor Tam, that was the only time I remember was the first mayor that I was alive with was Mayor Tam. From that time on, Cravalho, Tavares, Lingle, we've always had these water problems but never once did they fool around with the ag exemption. This is the first time, and you open that door...and this is what the farmers think, we open that door and that's going to lead to more and more. This is just the beginning, and this is what we're afraid of. I think this is what all ag is afraid of. Like I say, this problem has been around for many, many administrations, and things have happened in the past, just giving you a little bit of a history. I mean most of you are much younger than me or most of you haven't lived on Maui as long as me, so you haven't seen what one action can do in the history of a community. In 1962 they built the Royal Lahaina Hotel, in 1963 the Sheraton Hotel. Everyone on Maui was ecstatic, we were so happy, we could finally have a junior prom in a hotel like the Honolulu people. And look at what's happened? It's wonderful what's happened to Lahaina. My father was a Lahaina boy, Shimokawa, and they were all so happy because it was bringing jobs, it was bringing all kinds of things to the island. But it also brought other things and that's what this is all about is balance. But look at what's happened, that one action of starting that one thing, when, I think it was Mayor Cravalho was the mayor when they put in that big, the Japanese put in that big 14-inch waterline from the Maalaea thing all the way to their hotel, the Maui Prince. And from that, look at what happened, Kihei finally had water, we got Wailea, we got Maui Meadows, we got all this development there. That was something that happened way long ago. If you fool around with the ag exemption, you will be the Administration that will pretty much destroy ag on this island. Not big ag, I'm not talking about HC&S or Monsanto or any of those people, those people have power, they have money, they have influence. The small farmer, these people that talk today, they don't have anybody, none of us do. We have, we have you, we have you. And this water exemption is the last thing that we have from the government. Over the last I would say 40 or 50 years systematically we have destroyed the sustainability of Maui. It used to be that we had 15 slaughter houses. I think William Jacintho said there used be 15 slaughter houses on Maui for beef. We have I think one or maybe two left. We used to have a very thriving pork industry. We had so many pigs on this island. We had a huge chicken industry, we had all island chicken, we don't have any of that anymore. We had our own eggs, we had our own milk, and we had the biggest produce industry in the State. This island used to feed this State and that's why the last time I was here Gladys said people used to call the people from Upcountry cabbage heads 'cause we did grow all the vegetables for the State. You know so

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here we have six things that we used to have on this island and we used to support ourselves. Today you don't have any pork hardly, it's gone. I think Ah Fook's Supermarket is one of the last ones. We don't have chicken. We don't have eggs. We don't have milk. You have a beef industry that's like maybe one tenth of what it used to be. I think they slaughter...it's a microcosm of what it used to be. And then you have this produce industry that used to feed the whole State maybe producing something around 5 percent of what we used to. We can't even feed our own people much less the State of Hawaii. So this when I spoke to another farmer ...(*inaudible*)... who used to be the, probably the largest exporter of protea from this island, in the world, he said this will be the last nail in the coffin, and he's right because you have of those six big things that support and sustain a community you have two left and only a shadow of what it used to be. And the boys are going to give up, these young boys that are farming now, we can't lose our water exemption, we have to find another way. All the other administrations did, everybody did, this is the first time they're fooling around with it. Please don't do that. We don't want the end of ag to begin here. We just...because it will start to happen. I can hear it in the voices. Please think about that. Thank you.

MR. TAKISHITA: Thank you.

CHAIR VICTORINO: Oh, you don't have anything to say, Howard? No, no, wait, wait. Maybe they have question. Any questions from the...seeing none, thank you, Howard and...

MS. TAKISHITA: Thank you.

CHAIR VICTORINO: That was our last testifiers that have signed up. Is there anybody else in the gallery who would like to testify who has not testified? Seeing none, I will make one more round in the neighbor islands. Hana, anyone there to testify?

MS. LONO: The neighbor island of Hana has no one waiting to testify.

CHAIR VICTORINO: You don't have to get smart about that, okay? Excuse me. You know what I meant. Districts then I'm going to use, then I won't hurt, offend anybody. Molokai, since you're a neighbor island district, do you have anyone there to testify?

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

CHAIR VICTORINO: Lanai, anyone there to testify?

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

CHAIR VICTORINO: So with no objections from the Committee, I will close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

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

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CHAIR VICTORINO: Thank you very, very much. And thank you, everyone, for your testimony today. At this time we're close enough to take a mid-morning break because I think everyone sat here diligently for almost an hour and 15 minutes. So I'll take a ten-minute recess. Please be back by 10:25. This Committee meeting is, stands in recess. . . .(gavel) . . .

RECESS: 10:13 a.m.

RECONVENE: 10:29 a.m.

CHAIR VICTORINO: . . .(gavel) . . . The meeting of the Water Resources Committee will reconvene. First of all I'd like to thank all the testifiers this morning. I really want to thank them for bringing their manao, their information, their advice, their suggestions to us. I think this is important, and we are continuously working on it. It's a work in progress. I think some of the, many of the changes were made in respect to what they've said in the past, and hopefully we'll add to it. I want to make sure a couple things, questions that were brought up that maybe we can get some answers to right now if you don't mind, Mr. Taylor. One question was...I'm sorry?

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

CHAIR VICTORINO: Okay. That's okay, you know, that's fine. Mr. Taylor, there was a testifier that brought up that if this bill doesn't pass that you will not be able to issue water meters. Is that true?

MR. TAYLOR: Thank you, Mr. Chair. We have made it clear, this Administration, that when the H'poko Wells are certified for use which is looking like around the end of the year, we intend to issue meters off on the Upcountry water system. I have previously told this Committee that if this Committee feels that that water should be held in reserve for, basically for drought relief, then this Committee or this Council would need to pass an ordinance restricting us from issuing those meters, and saying something like until firm well capacity is X percent of Upcountry use, no more meters should be issued or some bill that said something like that. Otherwise it is our intention to issue meters off of the system availability once the H'poko Wells are online.

CHAIR VICTORINO: And that is my understanding that when we had pushed forward to get H...Hamakua back online, that wells were for that particular purpose, and so any other changes would have to be legislatively made by us.

MR. TAYLOR: That is our position.

CHAIR VICTORINO: Okay, thank you. And then the other parts that I had heard and I just wanted some clarification. You know someone brought up the fact that instead of consumer it should be people on the water, not water consumer or ag consumer, it should be people. There is a definition of consumer, and that's what we followed based upon Corporation Counsel's advice. It is something that because of what is the usage of the product that consumer has been put in

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there. So just want that clarified with the public that consumer has a definition and it is incorporated because of the usage of the water. The, water is a public trust, that is absolutely correct, but there is a fee to get it from where it is to your tap so when you open it up you have water. And that's what the consumer definition is all about, yeah. Secondly, at this time, Members, you all have an e-mail from Mr. David Goode, I don't know if you have it, I know some of you were having a hard time, and there is a lot of stuff here, I agree, a lot of testimony. And also I would like to ask before I go any further, before I go onto Mr. Goode's e-mail, there was a lot of other e-mail testimony for today's meeting and I would like to, with no objections, accept and put in the record the other testimony that was just e-mailed to us. Is there any objections to that?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. So that will be also inclusive in the record, yeah. Have you found Mr. Goode's e-mail to us dated 11/12/13? And as you can see and these are not real substantial changes but he has two, 14.06.020A, and it reads, when are fine...we are fine, excuse me, when, excuse me. We are fine with the 2018 end of, end date, but we...understand better what are to be considered "high efficiency" fixtures. Are we supposed to upgrade whenever a new model comes out? What about after 2018? So I understand what Mr. Taylor is saying...I mean Mr. Taylor, Mr. Goode, excuse me, Mr. Taylor, I'm getting you two guys mixed up. And then the second one was 14.06.020B, building construction requirements are typically found in the Building Code, and for plumbing fixtures, in the Plumbing Code. Having requirements related to building construction should be left to the Building, Plumbing, and Electrical Codes, which are modified from time to time. We note that the bill has general policy language in Subsection .010 that gives the Water Department guidance to work with our Department to comment on water use efficiency, efficiently [*sic*] on proposed changes to the Building Codes. We therefore suggest this subsection be stricken. And then the last three, last two is we would ask the County facilities that we maintain not be subject to violations in this section. And the last one, we will send this bill to our subdivisions [*sic*] for further comment. So, you know, I just wanted to make sure I read that into the record that Mr. Goode has some concerns and we need to also look at that along with others that had been brought up today. So, Members, I will let Mr. Taylor have a moment now. He sat very quietly throughout the testimony, and let him comment on the revisions and what else we need to discuss. Again, we're talking about a Bill for an Ordinance Amending Section 14.01.050 Relating to Droughts, Repealing Chapter 14.03, Maui County Code, Relating to Water Conservation, and Amending Chapter 14.06, Maui County Code, Relating to Water Shortages; and the filing of Bill 13, 2013. Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Chair. And I appreciate the opportunity to comment on basically what is now a new version of this bill. We appreciate that so many members of the public came out today. We've been trying to get some of these issues front and center, and I think at least that is at least moving this community forward where we're not hiding from these issues. And I very much appreciate all of the public, you know, including the people that don't agree with us, you know, bringing these things to light. As far as this bill, I think there's really four sections I need to comment on. So the first part about the Hamakuapoko Wells, it just seems like legal

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wordsmithing, so as long as Corp. Counsel has no problem with it. It doesn't seem to affect our operation at all, so I have no comments on that. The second part, Section 2, Chapter 14.03, Maui County Code, is repealed. Chapter 14.03 is the existing Conservation Ordinance, but hidden there in 14.03.025 in the existing bill is a...or yeah, I'm sorry, in the existing ordinance is a section that covers water source development agreements. Basically it says if we make a deal with a private developer, how does Council approve it, how does that work. So if 14.03 in its entirety is repealed, then that section or something similar establishing what those procedures are would need to be established in Code somewhere to make sure we're not caught, 'cause we are working with some private developers to move forward on this, and I would hate to be caught in the middle where there is no such way to move forward. So that's just another sort of housekeeping thing that I know Ms. Willenbrink and I have already discussed. I just wanted to bring that up publicly. Third--getting more into the meat of this--the water conservation portion of this. Most of the things in the water conservation portion we already do, and I think most of what's in here you, was taken either out of our budget of what we do or something that our Planning Program Manager wrote to the Council explaining what our programs do, and it codifies it. I think codification of what we normally do could be a little dangerous. It's essentially an unfunded mandate on yourselves, because now you are obligated to fund all of these things regardless of what they cost. What we do now is we come in on our budget every year, and mostly it's in our B Account, perhaps in our CIP account, in our CIP budget, and say we'd like to do this. It's discussed in Budget, it's approved, not approved, you give us money and then we go do it. This would legislate that we have to do these things, and it wouldn't, it doesn't seem to me that it would really be talked about in Budget anymore and there's almost no limits. And then when you look at it that way with some of the language, for example the Department shall make high-efficiency faucet and shower fixtures and outdoor hose nozzles available to the public at no charge. Well what if somebody asks us for 1,000 of them and they intend to sell them on eBay? Do we have to give them 1,000? Is it limited to one a year? You know when you look at all of these things, you know, best practices and design principles, who's defining any of these things? So it worries me a little that one, it's an unfunded mandate on us and on yourselves, and all of sudden it, we're not allowed to say no even though these things aren't defined. I'm not sure that the system right now is broken where we say this is what we're doing, we talk about it in Budget, we have these discussions, and every year the Council decides how much money to give us, to watch what our results are, that kind of thing. So I would ask you to just be careful about whether or not you really want to codify this, or whether or not you want to continue to just work with us during Budget about what our next year's goals are. And finally the meat of this, the water shortage portion. Listening to the testimony which again focused a lot on agricultural users, I think somehow the conversation has veered away from what this was supposed to be. It's never, it was never supposed to be any commentary on support of agriculture or lack thereof. It's not about raising money. It's about what do we do when the water available is less than what we normally have in that area? And I'm going to walk you through Upcountry of sort of a November 13th that almost was. A few weeks ago...I think as most of you know we have three surface water treatment plants and three pumps, three pump systems. When H'poko comes online you'll have four pump systems. Normal usage Upcountry...and I'm not going throw too many numbers at you so it'll be pretty easy to track these. Normal usage Upcountry is about 8 million gallons a day. The three surface water

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treatment plants when they have water can produce far, far more than that. So as long as there's surface water we have plenty of water. The three wells produce less than 4 million gallons a day. Even when H'poko comes online, our total well capacity will be less than 4 million gallons a day. So if all the surface water is dry, we have less than half of normal usage. So a few weeks ago, one of the treatment plants was completely dry, the one up at Olinda which had been dry for a couple of months. There was very little rainfall. The midlevel plant, the Piiholo Plant, the reservoir was being brought down, it was draining faster than we were able to fill it, so that was heading towards being dry. And the Wailoa Ditch which runs almost all the way from Hana, feeding the lowest-level plant in Haliimaile was getting lower and lower every day. We were tracking towards if there wasn't going to be rain that we might have a situation that we basically had no surface water treatment plants and only had the pumps. A couple of weeks ago, this got so bad we got together, looked at the numbers, and we issued a 20 percent voluntary reduction, saying we're in trouble and if people don't cut back we could really run out of water. We got excellent response from the community and the next day water use dropped like about a million gallons a day. That lasted for about two days and went right back. And I say that to show that the voluntary request doesn't seem to work. It works for a day or two maybe, but without some stricter form of push and/or penalty something, that voluntary thing just didn't work. So now a week ago, a week ago we were looking at the situation getting worse and worse, and we were looking at a real situation. When I saw what was on the agenda today, I thought it was very likely I was going to come here today in this meeting and tell you that we were, only had 4 million gallons available and that's how Upcountry was running right now today. I'm very glad to tell you that everything's full because the huge rain we had this weekend filled everything. We'll be putting out a press release later today that yanks back all of the voluntary restrictions. We just made it. So let me walk you through what would have been happening today if we had not had that rain this weekend. It's very likely all the surface water treatment plants might have been dry, we would have only had the wells, less than 4 million gallons a day. The highest well outputs is the Piiholo or the Pookela Well that fills the tank just above Makawao Town, that's the highest one. So what happens, how these systems work is the wells fill the tanks, people below those tanks draw off distribution lines just by gravity so they get water. Now how we get water higher is we have a series of booster pumps that come off of these tanks and pump higher to the next tank, to the next, to the next, et cetera. That's how we get water from the roughly, Makawao Town is probably around 1,600-1,800 feet elevation, somewhere around there, how we get it up towards the 3,000 and 4,000 foot level. So just imagine that we're filling these tanks but we don't have enough to meet demand from the people below there. If we can't keep enough level in those tanks to keep enough pressure into the pumps, the pumps will just suck air, they won't pump anything. So all of a sudden we could have been in a situation today where people below Makawao Town had pressure but no one above did and we could not get the water up there. It doesn't matter what we write in an ordinance about ag or this or that, lower people will have pressure, higher people won't. What we might have had to do is tried to do what I would just call analogously rolling blackouts, where you could shut off portions of the system, use that water and try to get it pumped up high so no one could drain it. And then, you know, move crews around to open and close valves to try to make this work and sort of have a, sort of a radio-coordinated effort to try to have sort of rolling brownouts, blackouts of water to try to juggle water around so everyone got some. What this would do is first of all I don't know if we could

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even do this, none of it's automated, it would have to be people in the streets opening and closing valves, I don't even know if it would work. We'd also have, would have had portions of the system going dry. When portions of the system depressurize and go dry, they create negative pressure or a vacuum which sucks in water from property owners if they don't have proper back flow. Now besides the fact of you have lack of water volume you can now have contamination and water quality problems. So what you do not want to do when you have lack of volume is have these sort of rolling blackouts, because not only do you not have service but now you've got water quality problems, and they just multiply. The goal of this bill and the reason I walked you through that, that is not a science fiction scenario, we were about a week away from having that happen, and we are lucky that that is not happening today. It is just by the hair of our chinny chin chin that that is not the situation today. And I didn't want to come here and say I told you so, and I'm really glad I don't have to do that. But we came really close, and we also came close last year. The National Weather Service predicts that this is the new normal. We're getting more rain in shorter time periods with longer drought and heavier rain in the winter. But they're predicting that or what they showed is the last decade or so has these longer droughts with more intense winter rain. If this is the new normal, this drought period is longer, we might come up against this every year, and it's only a matter of time until sometime we're not going to have enough. The sole purpose of this bill is to preauthorize an emergency plan that if we don't have enough to meet demand, we have some way to get everybody to back off their usage so none of the system goes dry. Because as I went through, you know, the scenario that almost happened today, when pieces of the system start going dry it doesn't matter what we write in ordinances about who should get water and who shouldn't, et cetera, if there isn't enough, lower level folks are going to get service and upper levels aren't. As far as volume goes, just to wrap this up, agricultural rate consumers Upcountry use about 40 percent of the Upcountry water, everyone else 60. So just imagine it's very realistic that we have a 50 percent water emergency. Okay. So if we only have 50 percent of our normal usage and 40 percent of the consumers, users don't have to cut anything, that means the other 60 percent have to cut 95 percent of their usage to make the math work. I find it very unrealistic in the Upcountry situation that everyone below Makawao is going to cut 95 percent of their usage, so probably that plan that we'd have enough to pump it up is probably unrealistic. An emergency plan has to be realistic, there's nothing worse than having an emergency plan on the books that you know isn't going to work. Nobody wants to diminish the agricultural users use of water during drought. Nobody wants to do that. If we only have half as much water as we normally use and 40 percent of the users don't cut back, it's just not going to work. So that is still my concern, 90 days, it's not going to work. The fact is the math doesn't work, and so I think we need to go back to the language in our original bill which as unpopular as it was can manage the problem. We can look at some longer term things about putting more money into the Upcountry water system and, you know, that'll be a whole nother discussion. But in the medium term meaning the next, you know, five to eight years we're going to have to live with the situation where if we have long droughts we might have to get by with half the normal water, and we need a plan to do that, because we do not want to come up to a day like today with no plan and be forced into some sort of half-baked measures that we have to throw together at the last minute. Under the existing ordinance we did put together a plan of what we would do, and I can guarantee you would think it's draconian, because the existing ordinance does allow us to do some very awkward things but that's what we

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were going to do. And I'm very, very happy to announce that we probably skated for another season. We have until probably next summer to figure this out, so in one way there isn't a rush, but I would urge the Council to take this seriously, look at what almost happened today and let's focus that say by next July or August we really need to know that we have a solid plan. Because we should not put ourselves in this position again next year. So thank you for the moment, and I appreciate the time, Councilmember Victorino, to explain all that.

CHAIR VICTORINO: Thank you, Mr. Taylor. Again, you always are very eloquent and give very good dissertations as far as...and the rationale behind the, what you're trying to accomplish. I think it's our responsibility to do this and get it taken care of, and we have to protect the people Upcountry and the entire County for that matter. Questions for Mr. Taylor? Go ahead, Mr. White.

VICE-CHAIR WHITE: Thank you, Chair. It sounds like we really need to have a crisis management system for the Upcountry water distribution. If we were to have gone into a 50 percent water availability today, you'd really have to be managing that supply very, very differently than your day-to-day operations. And do you have a sense of whether shutting or what impacts there would be with closing parts of the system down and, you know, doing your rolling washouts or brownouts or whatever you like to call them?

MR. TAYLOR: We currently...no one's ever done it before. We don't have any computer modeling to model it. It's basically just the people who know the system discussing this, what would we do. We've had little pieces of this happen when we've had electrical outages, you know, which we commonly have, and I think everyone's seen what we do. We park trucks and we juggle water here and there. It would be that on a more major scale. So we certainly...and most of the utilities within the County, Public Works and Environmental Management, I think we've all run through various scenarios in our careers where we've had these emergency management things. So we basically know what to do, but something on that scale, I don't think anyone has any actual knowledge of what would happen.

VICE-CHAIR WHITE: Yeah. 'Cause I think it's pretty clear that no matter, you know, no matter what, if we're down to 50 percent water availability, everyone's going to take the hit, ag and...it would be very difficult just to funnel it all just to ag users anyway. Isn't that right?

MR. TAYLOR: That's correct. Like I said, the water is going to flow downhill, and, you know, an ag user that's up at 3,500 feet, it's very unlikely regardless of what your policy is and how important you think that ag user is, it's very unlikely we're going to be able to get them much water in that situation. It's just going to be very...especially if they're far away from Makawao, you know, laterally and up another thousand feet or two, that's going to be the area that's going to be very difficult to get water to regardless of who they are or how important anyone thinks they are. The geography and the physics is just going to govern how the system works.

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VICE-CHAIR WHITE: So it boils down to storage and to some degree additional source. One of the testifiers suggested that we had been offered the Piiholo Well for free. Can you comment on that?

MR. TAYLOR: Well first of all let's be careful about what free is. When people offer us wells it's usually for source credits. They want to give us a well and though they...they basically get an IOU water meters, to make it simple. So that well in particular is just a hole in the ground possibly with a pump, it's not connected to our system, there's no electricity, there's no tank, there's no disinfection, so there's still money that has to go into it. Also, when you give water source credits, that means that they get those meters, it's not, they don't go down the list, it's whatever they want to build. So you're giving up your chance to work down the water meter list for whoever they choose the new consumers are. So first of all, that's what we're talking about with any new development. That particular acquisition needs to be looked at with all the other Capital Improvement Countywide. We hope to sometime before budget put on for you our latest version of our 20-year all County, all asset projection 20-year plan of supply and demand for all the different areas. We're really just working out the final details of that, and we'll be able to answer questions like yours specifically to show here's what we think we should do over the next decade or more, here's how that will affect rates and fees. If you want something more than that, either cut something else or raise rates and fees. We've got almost everything tied into this master plan so that we can answer questions like that. The answer will always be if we're not doing something it's because we're doing something else that we think is more important. So in this case I can tell you that the Piiholo South Well is not on that list not because it wouldn't be great to have but because there's, with limited resources it does not over prioritize, it's not a priority greater than some of the other things on there. And when we get to the point of putting that on, I'll be able to make that more clear by looking at the whole big picture.

VICE-CHAIR WHITE: The other question if I may, Chair, the other question I had was that one of the comments I remember you making a number of months ago was that we were going to, that adding a reservoir is a very big, big cost, and that we would be potentially better off if we were pumping water up to the reservoirs as the levels dwindled. Is the current situation one that has resulted even though we have been pumping uphill as much as we could, or could we have pumped more earlier and satisfied some of the exposure or limited the exposure by doing so?

MR. TAYLOR: Thank you. And we try to pump up from the Kamole Plant in Haliimaile up to keep the reservoir full at the Piiholo Plant which is the midlevel plant, to keep that reservoir full. We want to keep it not quite full because we don't want to lose the rain when it comes in because that's free water but we try to watch the weather, we try to pump water in there to keep it as full as practicable so that we don't lose, you know, the free water. But absolutely, we try to keep water at the upper elevations as much as possible by pumping earlier. So that's something that can hopefully get better. As we are working on a project, I think I briefed the Council on it a couple of times, to change the disinfection at the Olinda Treatment Plant, our highest plant, so that that water can mix, that would give us another option to juggle water a little differently and to help save some of the water for when we need it. But that is something that I think our staff

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works on daily, the operational folks who are trying to minimize the occurrence of this happening.

VICE-CHAIR WHITE: You mentioned the Piihola Reservoir, what about the Kahakapao Reservoir?

MR. TAYLOR: There is no way to get pumped water into the Kahakapao Reservoir right now, so that water comes from either the Waikamoi Stream directly or from the Waikamoi Flume. But there is no current way to get any pumped water into that reservoir.

VICE-CHAIR WHITE: And is the same case for the Waikamoi Reservoirs?

MR. TAYLOR: Yeah. The Waikamoi and the Kahakapao Reservoirs are all basically at the same elevation. They start with a 15, another 15, and then two 50s, but they're all in series basically, so it's essentially one reservoir system of 130 million gallons.

VICE-CHAIR WHITE: Is there any plan or any way to get pumped water up to that elevation?

MR. TAYLOR: There's ways to do everything. And again, I'll go back to, I don't want to jump ahead to try to show you...we can do any one thing, the question is can we do all things. And when we start looking at rates and fees and how much we can afford and what the priorities are and the General Plan and all these kind of things, we've tried to sort all that through with some of the feedback we've gotten from you and laid out what we think is a realistic plan to meet most of what people want mostly within what they're willing to pay, you know, that fit into the financial and other priorities of the Council. Again, we're wrapping that together, we are going to be presenting that at some point before budget so that when you look at our budget next year you'll be able to look that in context with what our anticipated Capital Improvement Programs and budgets are for the next 15 to 20 years. So we're finished with all the work, we're just fine tuning it to get it into a presentation that doesn't take two hours.

VICE-CHAIR WHITE: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you for your comments, Mr. Taylor. You know you mentioned in your comments it says, you said something about if we had that old language, that would help to alleviate some of this issue that we almost had. My question is, how would that do that when you got plants that aren't going to say well I'll cut back my 20 percent or whatever and you got cows that aren't going to stop drinking water. How do you expect that the farmers are going to be able to cut back when they really, they don't have a lot of choice in the matter?

MR. TAYLOR: This is maybe the most difficult part of this business, and I think I've told you before when Chair Victorino and I were in Dallas last year, they were going through this in Texas. The

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river, the Colorado River was dry...I think it's the Colorado River, is that the Colorado River that goes to Texas?

UNIDENTIFIED SPEAKER: Yes.

MR. TAYLOR: And the water authority had these massive cutbacks, I don't know, 60 or 80 percent cutbacks, and the ranchers, you know, obviously there's huge ranchers down there, were saying the same thing. And the water authority were saying there is no water, you know, there's nothing we can do, no water is no water, and whatever business decisions you have to make to either pay more or let some of your assets--I'm not sure what the right word is--cease to exist...no one wants to do that, but again, the basis of this is when there is no water...we don't need the money, there's no way to buy our way out of this. The issue isn't financial, it isn't social values, it is that there just isn't enough, and no one wants this to happen. The question is, is what are we going to do, and I think one thing that we need to recognize is that if we can be clear about a long-term policy, then these private business owners can make better decisions about what to expect from us. So you heard a lot of agriculture users this morning talk about, you know, when they want to expand and these kind of things. If we could be clear that we were definitely committing to a billion gallons in reservoir no matter what it costs, well they could make their business decisions based on that. If they heard from this body that look, we're not going to do that and we are going to include agricultural users in these cutbacks. And, you know, for example, I know this has never been floated but let's say you said look, we're going to start raising agricultural rates to be 80 percent of normal rates. If they knew you were going to do all those things, they would make different business decisions. Not knowing what we're going to do is probably the worst thing for business because they have no idea what to expect from us. So whatever we're going to do, I think being, having long-term vision about what the capital program is, what the rates and fees are going to be, what these policies are going to be with ten-year look-aheads, at least these business owners can make their best decisions for themselves knowing what to expect from government.

COUNCILMEMBER COUCH: Okay. Thank you for that. You mentioned Texas, and a couple testifiers said, you know, let's see how other people are doing it. How are other people...somebody mentioned Tucson, how are they dealing with this kind of drought situation? You told me Texas or they basically said let your cattle go. What are other places doing to try and conserve water?

MR. TAYLOR: The American Water Works Association which is the primary industry research and sort of education organization in the water field publishes a document about water rates and fees that I brought to a previous Council meeting, I don't have it today. There's about a 300-page manual that goes through how to set up water rates, and there's a whole chapter called water shortage rates or drought rates or something, whatever, it's Chapter 23 or something like that. I don't remember. And it lays out exactly what we're doing for exactly the reasons we're saying. This is industry standard. This is what the major utilities do, and there may be isolated stories, maybe a lot of stories where rich people didn't do it or even despite this it just didn't rain and they still ran out. I have no doubt all of those things are true. The problem is, there really isn't

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anything better, because the only thing other than doing massive infrastructure to prevent these, the only way through it is to get people to cut back by either charging them more or fining them. And fining them is just charging them more. I mean there's really no difference between writing a ticket and getting a \$500 fine and adding \$500 to their bill, it's really the same. What is different is that the existing ordinance makes it essentially a criminal offense, which means our prosecutors would have to go after and get the money, and then any money collected would go to the State. Under what we're proposing, we wouldn't need the prosecutors, it would just be on the bill and we would get the money. So if you're going to charge people anyway, it seems to make a lot more sense to do it easier without needing, you know, the prosecutors to spend \$5,000 in time to collect a \$500 bill that we don't get anyway. Also just a, you know, to follow up on what you said, Mr. Couch. We ran some, a couple of scenarios, a couple numbers with our, some of our large ag users to look at our stage one and stage two rates and what that would mean versus the \$500 fine. And even a very large user which is somebody who tends to come here a lot who's using 1.8 million gallons in a month. Under the stage two rates their increase would only be \$407, so that's opposed to a \$500 fine if we said you may do this and may not do that. So it just shows...and some of the stage one for general ag is maybe \$100 to \$200, something like that. I'm just comparing it to the \$500 fine that's in the current bill. So my point is that what we're proposing is much, much less than what the current ordinance already allows us to do. The current ordinance already allows the Water Director to set up a schedule that says ag users can only water on Monday, Wednesday, Friday, and if you water on Tuesday, you know, we fine you \$200 and, or \$500 and yank your meter. That's much more draconian than what we're asking to be added. So what we're asking to be added is something that's easier to implement, that is less financially aggressive on the agricultural users, and the money at least stays with the County. But it still meets the same basic goal is no one wants the money, we want people to cut back for the reasons I talked about earlier. We feel that what we originally proposed is a much, much better way to do that. Maybe it doesn't work well enough and we find we need to inch those numbers up, but the bottom line is as I noted earlier, if we only have half the amount of water and it could be Upcountry, it could be Molokai, it could be Hana, it's unlikely it's going to be Wailuku because there's so many small sources that feed Wailuku and Kihei, but it could easily be one of the other areas which have a smaller number of larger sources. We could run into this in any of these locations, and if we don't have a way to manage it, pieces of the system will go dry and there won't be much we could do. We need some way to really push everyone to back off their water conservation, to back off their water usage when these things happen. There is really no other way to manage through it, and that's essentially the, what you'll hear from every water utility in the country when they're out, they're out. Everyone who's got an expensive alternative source will go that first, everyone will do that, but most utilities just don't have that. There's no emergency source that usually we wouldn't tap that we can tap in emergencies, that just doesn't exist. So you either have enough or you don't, and there is no, you know, huge...it's not like the National Petroleum Reserve or whatever it's called where there's billions of gallons of something of gasoline in case we go to war. There is nothing like that for local water utilities, there's no emergency reserve to tap.

COUNCILMEMBER COUCH: Thank you. And lastly, it was mentioned about ag rate consumers versus...and I forgot what they wanted to say. Who are ag rate consumers? Are they just people

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who grow food or are they people who grow food and flowers or are they anybody who applies for an ag rate use even though they're just doing a garden in their home?

MR. TAYLOR: Agricultural rate consumers are defined in I don't remember which County Code, somewhere in Chapter 14 which is our Code where it defines by ordinance what you have to do in your application and what the constraints are. I don't remember exactly what those are, but I can see Member Couch looking it up as I speak. There's five or six various things. I think you have to make \$1,000 a year.

MS. WILLENBRINK: Chair?

MR. TAYLOR: I don't remember all the details.

MS. WILLENBRINK: I could read that.

MR. TAYLOR: But it is defined by Code.

CHAIR VICTORINO: If the Members want, Ms. Willenbrink has it available if you'd like to hear it. Would you read it please, Ms. Willenbrink.

MS. WILLENBRINK: Yes. This is in the Definitions Section 14.01.040. Agricultural consumer means a consumer that actively engages in crop production, livestock raising, dairy farming, or aquaculture for commercial production, and whose minimum gross annual income from such activities is \$1,000.

COUNCILMEMBER COUCH: Okay, thank you. Because that kind of, didn't know where the cutoff was, where we were selling, giving the ag rates. That just brings up another quick question is what happens is if in a year there is a drought and they can't make the \$1,000? Do you give them the ag rates or...

MR. TAYLOR: The procedure is such that they reapply, I believe every year they reapply for that, and we have a staff procedure that goes through that. And I think the Director may waive that requirement for three years, I think that's what that ordinance says. And if they don't like the Director's decision they can appeal that to the Board of Water Supply and make their case. So there is a multilevel procedure for people to apply. If they don't like what we say they can go to the Board and state their case to the Board of Water Supply, who would override a decision our Department would make.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR VICTORINO: All right, thank you. Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Mr. Taylor, you mentioned that the reservoir would be too costly to pump or even to repair. Could you provide, not now, I know you don't

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have those figures now, could you provide cost, what it would cost to have the reservoir repaired, restored, or even pumping?

MR. TAYLOR: Member Crivello, I think there might be some confusion based on some testimony of one of the testifiers today who showed some photos --

COUNCILMEMBER CRIVELLO: Right.

MR. TAYLOR: --of the Waikamoi Reservoirs dry. Those were dry because there was no water coming in, not because they're out of service. They're back in service today, they're full today. We also are putting a project out to bid next time it's dry to get that grit out and the do the structural repairs. So that's actually a project that was already funded by this Council in last year, in the previous year's budget that's already being implemented.

COUNCILMEMBER CRIVELLO: Okay, so --

MR. TAYLOR: So...

COUNCILMEMBER CRIVELLO: --you have the funds to do --

MR. TAYLOR: Yes, we do.

COUNCILMEMBER CRIVELLO: --the repairs. Repairs are necessary if I understand you, what you're saying now.

MR. TAYLOR: Repairs are necessary and we are making those repairs.

COUNCILMEMBER CRIVELLO: Okay.

MR. TAYLOR: Because those are only 30 million out of the 130 million and that system is more sensitive to how much water is coming in than how much might be leaking, it will help but it's not going to, I don't agree with the testifier's assertion that if you just fix this everything would be okay. It will certainly be better but it's not going to be a game changer.

COUNCILMEMBER CRIVELLO: Okay. So you also mention about, you know, the business owners will have to make some decisions during that time on their operations or losses, what have you. And I think I've heard part of some testimonies that said consider an ag working group or look at the ag impact, come up with an Ag Impact Study. And even for the ag uses and lost of delivery or cost of delivery, would that be something that would be worthy to consider?

MR. TAYLOR: I think discussion on these items is always worthy to consider, and if there was a, sort of, some sort of larger ag working group, of course we would participate. I think for this issue the management of the water system is really what we're talking about, and again, just the basic math that if they're using 40 percent of the water and we only have 50 percent of normal water,

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even if the cutbacks were catastrophic, the cutbacks are going to even, are either going to happen in a planned way or an unplanned way based on the geography of the system. It's, I think what a lot of people are confused on and I see it in the testimonies, we've gone through this again and again, there seems to be a belief in some of the community that this would be a choice we would make, that we have water that we're choosing not to give. This is about a situation where there just is no water, we're running everything we have at full steam and all we have is half as much of what people need. So I don't know what a working group would really do other than identify what have already been identified is various pump systems and reservoirs systems that could be built which continue to run into funding issues, because the bottom line of funding is that the Upcountry system or Upcountry users in general pay about 80 cents off every dollar it costs to run that system. And the agricultural users Upcountry pay about 20 cents for every dollar it costs to run that system. So everyone knows what needs to be built, there's a shelf of various options of wells and reservoirs and things, the problem is the people that want it are already not paying enough or not paying as much as their own service provides, so someone else would have to pay more to subsidize that. If that's something the Council wants to do, we have no problem implementing that. You know another quick ratio to memorize is that ag users Countywide use about 10 percent of the water and pay 3 percent of the total cost. If the Council says look, let's have them use 10 percent of the water, only pay 1 percent of the cost or let's have them use 15 percent of the water and only pay half a percent of the cost and just shift those costs to hotel or residential or whatever, we can do that and we can add that into our Capital Program of what do with that money. So that's really the, I think the key issue for this body to discuss is are you happy with the 3 percent, 10 percent ratio, 3 percent of the cost at 10 percent of the use or do you think that should be more or less. Because that's really the constraint that drives this whole discussion, and where, if that's going to change significantly then our whole Capital Improvement budget would change with it along with our rates and fees. But I've watched this being discussed over the last, you know, 10 and 20 years, and it seems like we have these discussions and have these discussions and end up basically in that same place. So I haven't seen a lot of movement in general to change how we balance who we charge, how much we charge, what we do, what our priorities are, but, you know, maybe this is the discussion that does change that balance. We are not trying to propose ideology. This bill is really just a pure operations, math kind of thing, and we're not trying to push anyone in one direction or the other. But the discussion you're bringing up I think is vital, and I think that would be a valid discussion for some sort of working group, especially if it's going to be about the philosophy of future rates and fees. Frankly I think Chair Victorino has been running that working group here every other Wednesday, but, you know, if you need more advice for that, you know, you may choose to do that. But we will be part of any group that wants to discuss these issues.

COUNCILMEMBER CRIVELLO: Thank you. Thank you, Chair.

CHAIR VICTORINO: All right. Any other questions? Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I also would like to go along with my colleague in terms of requesting or supporting an Ag Impact Study. I think that would be useful in terms of how this type of crisis management system would affect agriculture as a whole. I have some

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specific questions in regards to Section 14.06.30. I believe one of the testimonies, testifiers mentioned the base rate in which the 5 percent and the 10 percent would be coming from. Is that from a previous usage, the current usage? How would that work out?

MR. TAYLOR: This language I believe, Chair Victorino, this is new in this version, right? This is basically copied of the language in the existing ordinance, is that correct? This is something that is in the existing ordinance that we tried, is our intention to get rid of in our version of the new ordinance because it's so difficult to deal with. Essentially what it's trying to do is if you were the customer and we were going to start a water shortage today, essentially we're supposed to get a reading of your meter today. And then when the drought is over, you know, two months from now, we look at what your usage was over those two months, compare that to what your usage was the six months before or the year before or the, that same month last year, whenever it was, and use that 5 or 10 percent difference. The difficulty with it and the reason we want to move away from that is we don't have any ability to remotely get data from meters, somebody has to drive around, and although we don't have to physically read most of the meters, they have to drive their vehicle next to it. So we don't have any way when a water shortage or drought starts to get a today reading on everyone. So then and then the computer system in order to try to do that math, it's just not built to do it. So it's a very well meaning and it may be a very mathematically precise way of doing this, but there's just no easily implementable way when you've got 5,000 or 10,000 people affected by it, which is why we wanted to move away from the 5 and 10 percent. Essentially it came down to our customer service folks having to manually calculate everyone's individual bill. So we said look, to make this work it has to be automated. So we wanted to move towards, what we recommended is just these tiered rate structures so that we could just automatically have the bills be generated and not have to look at each individual customer, look at their readings during these times and do individual calculations on perhaps thousands and thousands of customers. It's just too unwieldy from a management perspective. So that's why we're trying to steer away from that. Even though we like the concept of it, it's, there is just, the technology does not exist right now to implement it in a way that we think would be anywhere near reasonably efficient.

COUNCILMEMBER GUZMAN: So basically in so many words this is not implementable? I mean this language here.

MR. TAYLOR: I don't want to say it's not implementable. We've worked through how we would implement it. It's not easily implementable, it would be a lot of overtime, other things would have to be pushed to the side. It's, I mean anything is implementable with resources. It's something that, again, I would say that if we had, if our water meters had real-time connections to our central computer and the central computer could do all these calculations, it would be fine. But because none of that exists --

COUNCILMEMBER GUZMAN: Right.

MR. TAYLOR: --it just becomes one challenge after another to implement.

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COUNCILMEMBER GUZMAN: Follow up, Chair?

CHAIR VICTORINO: Let me clarify that so that you understand why I put it back in is because the uncertainty of the tier and an arbitrary and capricious decision made by the Department, and that was one of the reasons why. At least you have some kind of history to go back on when you're looking at things, but that was my thought process in that.

COUNCILMEMBER GUZMAN: Oh, I see.

CHAIR VICTORINO: And many people agreed with that versus the tiered system because there was no way of actually saying oh, this is right or wrong because this was by the Department. So that was the methodology I put it back in, and that, I mean that's discussable issues, you know, that's not something --

COUNCILMEMBER GUZMAN: Right.

CHAIR VICTORINO: --that's in concrete. And then many of the areas we'll be working on, but I just wanted to put my side back so that, you know, it is implementable, we've done it in the past. Yes, it is extra work, but there was some certainty behind of it versus this tier system which again, there are a lot of people that question that as being accurate or not. So that was my rationale, Mr. Guzman.

COUNCILMEMBER GUZMAN: Okay. Thank you for that clarification, Chair. Also, in terms of...and I'm going to think outside the box here. I completely understand where this ordinance is coming from in terms of conservation and storage in times of drought, and the need for people, at least the ag community or the whole community to conserve. But when we're dealing with agriculture I think the main fear of the industry is the rates going up, that's what I'm hearing, and that they can't sustain the additional monies to pay for a time period wherein their production is low because of the drought. Is there anyway instead of going across the board on an increase of the drought, is there any way to bifurcate just the agriculture consumers and treat them in a fine, fine penalty section wherein you're actually fining them for overuse instead of doing an increase across the board? Does that make sense to you?

MR. TAYLOR: I completely understand what you're saying, and of course, you could do that just by writing down exactly what you said.

COUNCILMEMBER GUZMAN: Yeah. And basically this goes to the stewardship of agriculture farmers, because they are the steward of our land. So if we give them that confidence to say hey, we're not going to increase the drought rates across the board for you guys, but we are going to fine you if you go beyond what is required, and just putting them in a separate section. I don't know, I'm just trying to think outside the box here.

MR. TAYLOR: It will work, I just want to say, again, and I know this concept, I've raised a couple times and I still think there's a number of members of the public who don't understand that

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sometimes, you know, if A equals B and B equals C then, you know, A equals C. Whether you say here's your normal usage, cut it by 10 percent or we fine you, or we say here's your normal usage, we're going to have a drought rate that above this you get fined, you get an extra charge. It's the same thing. It's saying cut back this much or you get an extra bill. We just built that fine that you're talking about into the water rate so that we don't have to issue a citation, we don't need the prosecutors involved, we don't have all these man hours which cost more than the money we're collecting, and it's just all automated. So we can do exactly what you're saying and it will work, it's just more work to get exactly what we feel, anyway, is exactly the same, really the same impact by telling people look, cut back this much or here's your financial impact. So it will work, it's just a matter of how we go about doing it and explaining it.

COUNCILMEMBER GUZMAN: No, Chair, and I think my line of reasoning is basically because you want to show a deterrence, so this a deterrence type ordinance, and whether it's an increase across the board or a fine it's still a deterrence. And that's the, you know, the whole nutshell right there, the summary. It's a deterrence ordinance. And I think it's easier to accept if it's done by hey, policing, a fine, instead of hey, an across-the-board increase. I think it's psychologically easier to accept as well, economically as well, and it may work. I mean we might need to talk about it through an agricultural group and see how they feel.

MR. TAYLOR: And that's fine. And like I said, it's got the same intention. I want to tie that together with something I said earlier about just imagine our emergency operation procedure. We're in this time where we have much, much less water than usual. So in order to do it we're, we've got crews out there juggling valves 24/7, you know, trying to juggle water. Our normal operation of just five days a week where everything's on automatic nights and weekends is not going to be happening. So now we're at a time when we've already got everybody on overtime running around doing these, their normal preventative maintenance and operations plus all this specialized emergency response water juggling. So now who are the people driving around checking, reading meters? We're, now we've got an emergency situation where we're just adding duties upon duties. If there were some, if we could like borrow everyone from Council Services during this time to do this, I mean I'd be okay with that, but, you know, I have to look as a manager of where am I pulling resources from. There's really nothing to shut down and say look, we're going to do this instead, and so we'd already be looking at, you know, almost constant overtime for certain folks. And then how do we do more policing? So that's really my concern is that during these times really trying to minimize the human element, because the human man hour element is already going to be ramped up. And it's not even, again it's not about the money, there won't be any bodies. And I've been part of some of these emergency operations that have gone day after day after day, and I can tell you once you've shifted your whole crews into 12 hours on, 12 hours off with no break, you just can't do that forever. You know you're not just talking about normal day and some overtime, I mean the only way to do this is 12 on, 12 off with no breaks. There's just not enough people, especially if something goes on more than a week. And so you have to start thinking about what if this goes on for two months, how are going to do this, where are these people going to come from, when are they going to sleep. And so just having been part of a lot of these emergency operations, I'm very sensitive to not the first and second and third day but what are you going to do in the second

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week, and that's when things can really start breaking down because you just don't have, you know, human resources to do this.

COUNCILMEMBER GUZMAN: Chair, can I have a real simple question? In terms of the, in the past history, how long do you usually, the drought, when the County declares a drought how long does it usually last on average?

MR. TAYLOR: We don't have data for that because what's been called a drought and not called a drought and voluntary reduction and all this has not, I'm not sure it's followed any precise methodology. So we looked into that and because it went, you know, from the Board and then the Council and the Mayor and all these various things and then the systems have changed, I don't know that we can really nail that down. We tried, there was an official request from this Committee before, and I don't think we were able to get enough data to really look at those things.

COUNCILMEMBER GUZMAN: No, the reason why I was asking is that the 90 days exemption for the agriculture, I was wondering how that was determined. I know it went from I believe 60 to 90 but was there any, is that just a random number?

CHAIR VICTORINO: Mr. Guzman, it was mine.

COUNCILMEMBER GUZMAN: Oh.

CHAIR VICTORINO: I changed it to try to help the farmers even further.

COUNCILMEMBER GUZMAN: Oh.

CHAIR VICTORINO: It was nothing to do with the Department. In fact, the Department would rather have zero than anything at all. So it was really something that I put in trying to help the farmers, trying to find some happy medium, because they want zero, farmers want no exemption. I'm trying to find something that will work for all when we have these extreme shortages, and it may never come to fruition but I'm just trying my best to find some happy medium so that everybody walks away with a win-win. Not somebody getting everything and somebody not getting anything. So that was my whole predication. Remember, I originally proposed 60 and they said 60 is too short, you know, some said don't put at all, others said well if you've got to put something in there then I choose 90, and I figured that way it gave somebody 3 months to decide what crops they're...like that, Takishita I think was the one that mentioned about, oh no, no no, somebody else mentioned about...oh, Von Tempsky, that's who. Ms. Von Tempsky mentioned that she had gone to one of her lease farming areas and they had let a whole bunch of seedlings die because there was no water to plant it, so these are the choices farmers have to make if we have an extreme issue with water shortage. Do you plant new crops, do you harvest what maybe, maybe you need another month or two but maybe you can get something done now. I mean in talking with farmers there's never an easy answer to any question, you know, so I was just trying to find some methodology and some means to help them even further without...Department

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wants zero, they want no, I mean they want to be exempt, Department wants no exemptions. I'm trying to find some happy medium between all the parties, and that's something I'll continue to work with. Something...I'll mention the rest of what I plan to do after the, after you get through. Go ahead, Mr. Guzman.

COUNCILMEMBER GUZMAN: Oh, thank you. Yeah, it would have been nice if the Department came out with an average of three months for a drought, yeah. And it would be like on average the drought declaration usually lasts three months and but, you know, that's hopeful thinking.

MR. TAYLOR: Unfortunately, not only do we not have that data from the past, I know we have anecdotal data of these things happening long in the past. The data we do have from National Weather Service just shows that current precipitation of annual sort of rainfall data just doesn't look like what it used to look like, it's a new normal. You know that's an overused term, but what the next 10 years is going to look like is very unlikely to look like what the 30 years previous looked like. So that's part of, you know, when we don't know exactly what's going to happen, rather than just trying to sharpen our pencils and say okay, this is what's going to happen, 7.381 or, you know, 31 days, we're saying look, we need an emergency plan that whether it lasts 2 days or 200 days just what are we going to do. And I just need to throw in and disagree a little bit with Member Victorino.

CHAIR VICTORINO: That's not unusual.

MR. TAYLOR: He likes this. It's not what the Department wants versus what agricultural users want. The Department is sort of neutral on this. This is about the agricultural users versus the other Upcountry users. It's about the different users on Molokai, the different users in Hana, the different users in West Maui. This is about their priorities versus each other. What we're really just trying to do is say look, this is what we can do, and somehow, you know, it's really the elected officials through policy that are going to have to put some weight on these various citizens' needs. It's not that we want something, it doesn't matter what we want, I mean we're here to serve the customers. It's here's what we can provide and there isn't enough to meet everyone's needs. So the question is who is going to be the tie breaker and how are they going to break that tie. What we do want is some sort of mathematical-based, preauthorized tie break, because when this happens we won't have time to talk about it in Committee. And that is really what the Department wants is that before next drought season, we develop some preauthorized by Council relatively quick to implement, understood methodology that we can implement at the drop of a hat if this happens. Whatever that is is okay with us, and if this goes in a different direction, that's fine, we just want it to be workable, clear, and quick, so we don't have to schedule under Sunshine Law a Board meeting and a Council meeting and, you know, two resolutions, et cetera, et cetera, that'll be too quick, that'll be too slow. So that's what we want, and what's difficult here is the citizens want things that are not really mutually compatible with their neighbors.

COUNCILMEMBER GUZMAN: Chair, I just want, you know, I also liked the comments that Mr. White made in terms of was there a crisis management system study specifically for the

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Upcountry area. It just sounds as though that, yeah, this ordinance would in fact be the low-hanging fruit in implementing some type of crisis system. But more specifically needed is a crisis system management study for Upcountry. I think that would probably be more helpful in the long run.

MR. TAYLOR: What there are is there's a series of various disaster manuals that cover all the departments. I'm not sure if, I'm not sure how often Civil Defense gives overviews of what they do, it may be during budget or something, but most, I think all of the departments have various emergency operations plans of some sort. What ours is is, and this is in my 20-something years here at the County these have really moved away from the scenario driven, just imagine you have a Category 3 hurricane that hits this area and these two things are damaged. There are so many permutations of that, those things become useless, because whatever happens isn't what you scenario'd out, and you can't write every scenario. So the plans are more basic saying what is your organizational structure, how do you triage, how do you gather information, what is the decision making structure, what do you do if various elements of your human resource team aren't available, who takes their place, how a decision gets made, how decisions get bumped up. And it's essentially a realization that you're going to have to get data in a real time manner, make decisions quickly, and it's how to do that rather than what do we do if these six things happen, because the number of scenarios is just too many. And so we definitely have those, and those get implemented and yanked out every time there's an emergency operation center standup and a lot of times when there isn't and we just have our own sort of internal emergencies.

COUNCILMEMBER GUZMAN: I'm okay. Thanks, Chair.

CHAIR VICTORINO: Thank you. Yes, Mr. White. And I'm going to make this done one question 'cause I get all these hands coming up, so one question, and no follow-up questions.

VICE-CHAIR WHITE: Well I got...

CHAIR VICTORINO: A quick question to ask.

VICE-CHAIR WHITE: So I gotta choose now.

CHAIR VICTORINO: You have to choose. Yeah, 'cause it's getting late and I want to make sure everybody gets a chance.

VICE-CHAIR WHITE: Okay.

CHAIR VICTORINO: Please.

VICE-CHAIR WHITE: Thank you, Chair. I guess my question is based on this crisis management issue, as you're looking at the eventuality of a November 13th we're out of water scenario, how much in advance of that date would you have had to implement what measure in order to smooth out the usage or would we have run out of water by that time anyway?

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MR. TAYLOR: What might have happened today I'm not sure. What we're trying to do is...that's where the seven days comes in. The seven days in our original ordinance says we would have to publish these stage one or stage two water shortage rates seven days before they get implemented. So that would really be our cutoff line of saying we're always going to be looking seven days in advance, and this is what we do, we look at as water levels are coming down...and you can watch it. I've only even been here three years and even I have gotten, watching three yearlong cycles, I've even gotten pretty good about seeing the trends. So you can see the ditch levels coming down, you can see the reservoir levels dropping a little quicker than you should. Then you start looking at the National Weather Service predictions, is there precipitation coming, and you can get sense of are things going to kind of stay where they are, are they likely to yank back up, are they going to start dropping really quickly. But we have those meetings, we get the senior people together who look at these things, and as a group, I get a lot of advice and it ends up being the Director decision of is it time to kind of switch on that seven day, you know, we're going to do this. And that's the intention the original bill is we'll, we'd love it to be 24 hours, I mean that would really be better for us. We're certainly open and willing to try seven days because we think we get enough data that we can make pretty good decisions and give everyone seven days notice. So ultimately that's why we presented that in our original bill. So we though seven days is a reasonable time to give people notice, to give us a reasonable way of, you know, looking in the future without trying to be too crystal ball.

VICE-CHAIR WHITE: Yeah but my question is...I'm sorry but he didn't answer my question so I get a follow-up right?

CHAIR VICTORINO: That's a decision that I'm going to have to make now, you know, and I may say no, but go ahead.

VICE-CHAIR WHITE: My question was based on the potential --

CHAIR VICTORINO: Yeah of the crisis.

VICE-CHAIR WHITE: --lack of water --

CHAIR VICTORINO: Yeah.

VICE-CHAIR WHITE: --on November 13th, what you're talking about is a week. But what I'm guessing is is that you probably would have had to implemented something six weeks out or two months out, in order to start reducing usage so that we maintain a certain amount of capacity in the, in our storage.

MR. TAYLOR: See that's the question I didn't want to answer. I did a pretty good job not answering it but you called me on it.

VICE-CHAIR WHITE: You did a dance.

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MR. TAYLOR: Look and I will take 100 percent responsibility. I blew it because what we were going through in the last couple weeks we should have done two months ago. I even put my hopes on this bill passing, and we weren't as prepared as we should have been a week ago today because I didn't prioritize that enough. And I was more scared than anyone that this was going to happen and it was going to be my fault that we weren't better prepared, and I am not going to let that happen next year. And pardon sort of this in my voice, I'm one of the people that got out of this because it would have been on me that we weren't well enough prepared for what might have happened today, because I was counting on this bill for the last couple months and not preparing enough under the old bill. And I am committed to not letting that happen next year.

VICE-CHAIR WHITE: Thank you. Thank you, Chair.

CHAIR VICTORINO: And thank you for your honesty, Mr. Taylor. And I told you so, never mind. Mr. Couch.

COUNCILMEMBER COUCH: Oh jeez. Thank you, Mr. Chair. Mr. Taylor, you mentioned the, one of the biggest or the biggest user of water at ag rates would have had essentially a \$400 a month increase over however long the period lasted. I believe you said that. In calculating the rates, I brought it up to one of the testifiers who gave us this sheet, when they use 1 to 5,000 gallons you charge 'em 5,000 gallons at 1.80, and then from 5,001 to 15,000 gallons you charge 'em that extra 10,000 gallons at 3.35. We're talking ag rates here. And then anything over 15,000 gallons it goes back down to 1.15. Is that how that works? You don't charge everybody 1.15 if they go over 15,000 gallons and all of their usage is now 1.15, is that correct?

MR. TAYLOR: My favorite thing about your question was how Member Couch disassociated himself with any decision making. You charge him, you charge him, the Council sets these rates. I think it's you that are charging these people, not me. But I think your explanation is correct in that it's...and what you said to the testifier I think was accurate in that they get charged that much and if they go one gallon over only that one extra gallon is at the higher tier. That's correct. And ag rates specifically are set up the way they are to show that the first two tiers are just like residential, recognizing that people are supposed to have, you know, a house on this property, and so they're charged under the first two tiers normal residential but the third tier drops significantly recognizing that any water more than that is for ag. So that's why it goes up, up, and then drops.

CHAIR VICTORINO: Are you clear now, Mr. Couch?

COUNCILMEMBER COUCH: I was clear.

CHAIR VICTORINO: That you decided the rates, not Mr. Taylor?

COUNCILMEMBER COUCH: Yeah.

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CHAIR VICTORINO: Thank you. Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I didn't...

CHAIR VICTORINO: Oh, I thought you were looking to ask questions.

COUNCILMEMBER CRIVELLO: No. Thank you, Chair.

CHAIR VICTORINO: How about you, Mr. Carroll? Okay. And I will then say thank you. First of all let me summarize where we're at. I think Mr. Taylor was looking forward to his original bill being passed by this time, unfortunately the public sentiment across the board has not been supportive, and we're dealing with that part. Secondly, I think there's a lot of holes in all of these versions, and as we keep bringing up a new version or a revised bill, we find out different things that people feel strongly about. So I will, with your approval, defer this today, but before I do that, let me say historically we've battled this like the testifier said, Ms. Von Tempsky, for way back when from Eddie Tam on. And the problem with Maui has always been they built all the agriculture in areas where they had very little water. The water systems there were not capable of handling agriculture. Agriculture in the big picture was built in Central Maui and water transmitted in, but when it came to the Upcountry areas...and if you go up in Huelo...I mean not Huelo, Piihola and...not Piihola, Omaopio and on up, if anybody knows that area as a kid, I remember going there, there never was much rain. Whatever water you got you had to bring it in somehow, someway, and that's what the sugar and pineapple did, they brought water in. Well today we have a real challenge because the County has...and even when I was on the Board of Water Supply was negligible in trying to make changes. We did not make the changes that needed to be made back then. We'll take the responsibility, you know. I don't think anything was done with malice but it was not done, and so now we face the problems we face today. People want to live Upcountry, we got family land up there, people want to build homes but they can't, we have a water meter list, trying to get rid of that. And we have agriculture up there and it's diminished quite substantially, that is correct. I remember whenever you wanted carnations in Hawaii, Maui is where you got it. My first prom, my aunt sent me a triple carnation lei for the prom I was the only kid 'cause I was in Hilo that had a carnation lei for my date. Let me tell you, other than maile, there was no other talk in the room that night. So, you know, I was proud to have family here that said yeah, you want carnation, you got it, but went from 30 farmers down to 2, 1 or 2, whatever it is. A lot of changes. You know and history is not all within people that live here, I didn't live here but I had my family here and I came here every summer and I saw what was going on, I learned. I remember the burlap bags on the water when you open it and you had to clean it out every so often 'cause you had all that sediment in there. History has not been kind in that respect. But we've got to make the changes, and Rosemary Robbins has been on my case for how many years that I've been sitting here about quality water Upcountry. Not quantity but quality. But then I have the quality, I mean the quantity issue for the farmers, it's a different issue. I mean farmers don't really care what's in the water, they can take it right off the stream if they had the chance to. They could use grey water, they could use catchment, you know, but those are State issues, not so much County issues as far as the State is the one that's been banning us from doing some of the grey water and other areas of usage of our

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water. R-1 water, we pump it into the ground, how can we not get it to these areas. I don't know, it'd be costly but it can be done, right, Mr. Taylor? Anything can be done in your words so long as you're willing to pay the price. Is that not what you said, Mr. Taylor? More or less.

MR. TAYLOR: And consistent with the laws of physics I'd say, all that.

CHAIR VICTORINO: Thank you, Mr. Taylor. So again, today was again to start up conversation. We're moving, and I want to move in a positive direction. We do need a drought "water shortage" you know "conservation". We need all of that, and I think we can have one bill and encompass all of that. The fear out there and I think this is where, you know, like Roosevelt said, we have nothing to fear but fear itself. We fear the fact that if there's a rate increase because you use too much water especially if it's substantial for residential, residential would be very substantial. For ag it would be somewhat an increase. They fear that. They don't want to know that if they get caught or if they accidentally or by miscalculation use more water than they should have that they gotta pay a big price for it. I think that's the big fear out there. But we also have to realize that we are to a point where our systems are maxed, and unless we expand, develop new sources, and was well as utilize R-1 water, this problem will promulgate itself and continue. It's a fact. And I go to the all the AWWA conferences, I can tell you we had a meeting with a group, a peer group, right, Mr. Taylor, about conservation and water rates, you know, water rates that would be exponentially higher when there was droughts. And many of the municipalities we went through have gone through these changes or they have these rates in place, but they happen only once every six-seven years, right, Mr. Taylor?

MR. TAYLOR: That's correct.

CHAIR VICTORINO: Yeah. Not every year like Upcountry. It's an annual event. Usually it bites July, August, we're in water shortage again, and come September, October, November, boom we get big rain. And according to Mr. Taylor and USGS and NOAA and all the other agencies are stating that we're going to be dryer for longer and we're going to have more intense water events whether it's rain or whatever kind of storm and they're going to be more intense and immediate. Now do we build water storage? Do we built more reservoirs? Well now if you know reservoirs now have become very, very expensive to maintain. They're very, very expensive to operate, and they're very restrictive ever since Ka Loko on Kauai. It's been another real challenge. And the courts just recently ruled that the company that had owned it before the owners still could be held responsible. Do you not think that HC&S and Maui Land and Pine, if they have any reservoirs that may be a problem that have nobody living down there now but could in the future, do you not think they want to keep those reservoirs? So we really face some real dynamics, it's not just this is the answer, press this button and we fix it. I know, Mr. Guzman, you've been working on the definition of ag, but this is all different, this is really a water issue. And we did put specific language under ag consumer of what an ag consumer, a definition for that, and I worked on that for almost two years to get that one done. So, you know, I can say whether it's UMLA, whether it's the Upcountry residents, whether it's somebody here in Wailuku or anyplace on this County, water is a precious commodity. We have not done what we need to do. It's a political decision. Thank you, Mr. Taylor, you notice how to give that. Whenever you have no

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other answer you say it's a policy decision, you make it up, you decide. You decide, Mr. Couch and Mr. White and the rest of us, you decide. Okay, thank you, Mr. Taylor, I like that, 'cause I will decide, we will work on this you know. And I think this is what I'm committed to do with your help. Not my bill, it's for the people. It's not for me, it's for everyone out here. And the Administration has to come along with us, I think that's the key right now. We have to like Mr. Guzman uses a few times, think out of the box. We can't think too far out of the box 'cause you gotta, you know, you got, you know, challenges. But that's right, you know, we have to think a little differently, we have to change the mindset, it is a political issue. Unless we all want to do...and if you remember, Rosemary and the rest of you in this room that were around a long time, you decided by Charter Amendment to take away the autonomy from the Water Board and give it to the Council and the Mayor. Wasn't me, wasn't us, it was the people of Maui County who said we wanted the Water Department under the Council and under the Mayor. So it all amounts to one simple thing, we're at this point of the road, we're at this crossroad, where do we want to go? I will with my, with the assistance of Mr. Taylor get together with some of the people not only from Upcountry 'cause I cannot just include Upcountry, I cannot just include ag, 'cause this is a water issue. What about the condominiums? I got that one still lurking in the wings. I've got other issues all related to water, all intertwined with each other. Maybe we should have a referendum on a vote, what do the people want. Higher rates? Better water? Make sure our farmers are taken care of? Are we willing to spend the money? Maybe that's time for something like that. Put it on the ballot and say what do you want, people of Maui County, so that Mr. Taylor don't blame us and we don't blame Mr. Taylor. You the people decide. Your hands is up, wait, mister, I get my chance, I gave everybody, I didn't say anything all this time, my chance, please, Mr. Couch. But all said and done, I'm happy what we've talked about today. Thank you, everyone, again, for what you bring to the table. It's not a simple matter. And if I thought it was simple, if I thought it would be solved real easy I would have done it a long time ago. Every one of these and you mentioned that, Mr. Taylor, this Committee has continuously tried to educate and make people understand what water and the water issues throughout this County. Whether they're cultural, whether they're agriculture, whether they're residential, I don't care what it is. . . .*(hits mic)*. . . Oh, excuse me. Being Portuguese you move the hand. We need to really have a plan of action. I agree with you, Mr. White, a catastrophic event, we don't have that in place. If Shaft 33 had collapsed when we were totally dependent on it, Central Maui and Kihei would have been in dire need. It wouldn't have been 50 percent. How much were we getting out of that shaft at one time, Mr. Taylor?

MR. TAYLOR: It's 5 million gallons, but we now have two wells online that --

CHAIR VICTORINO: No, no, I know, I know what you've done --

MR. TAYLOR: --back it up.

CHAIR VICTORINO: --but back then it was a substantial amount for Central Maui.

MR. TAYLOR: Yes, it was.

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CHAIR VICTORINO: Yeah. So we never had a plan of action if that had occurred. So I agree, maybe that's another issue, and that'd be totally different from what we're working on. But a catastrophic scenario or a catastrophic policy when something like that would happen in any particular area or Countywide, we could work on something like that. So I want to thank everybody. This is very good. I feel at the end of the day, you the public is much more abreast with what's going on. Upcountry, I want you to know I'm trying real hard to make sure we be fair to you, because, again, as he stated, you know, you're paying 20 [sic] percent of the actual cost of the water that's being produced and delivered to you. And I have Central people and I have West Maui people and I have South Maui people saying why we paying more for there? We've always been one County, we all share. The moment we break up and we become area based or regional based then Maui is no longer no ka oi, and I hope by God I'm not alive to see that day. I would never want to see that day. I would rather have the system we have in place where we all bear the cost of what we do, every one of us throughout the County. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Just real quickly, one of the things you mentioned and I wanted to stress was if we want to go with sustainability and food sustainability and whatnot, in essence we need to exempt ag from rate increases and this situation. And what that will do as Mr. Taylor said will put the burden on the rest of the County which is, I think it's something I think we do need to decide. I think in this room you can go and ask or we can go and ask our constituents, but we need to decide whether or not we want to put ag in a special place and use them to be our sustainable method of getting food if in need and exempt them from all of this. And then figure out how the rest of us can pay for the new storage or a new source and the pumping. So that's one of the things that it's going to be a very difficult decision for us to make, and I think we need to make it. We can go out to, you know, take us on a road show again and ask is everybody willing to do it for the sake of sustainable ag here on Maui. And I think you hear that through all of our constituents saying oh yeah, we want sustainable ag. Okay well then it's time to put our money where our mouth is, and this is one way that we can do that. In order to build the source we need to increase the rates but we want to exempt the ag guys. That's the decision we have to make, I mean, you know.

CHAIR VICTORINO: Well I think that's, again, quoting Mr. Taylor, a policy decision.

COUNCILMEMBER COUCH: Yes.

CHAIR VICTORINO: Okay. I'm quoting everybody today, I'm in this quoting mood, you know. What have you said to me lately, Stacy, that I can quote you saying? Whatever, you know, I go. Mr. Taylor, you had some comments to make on Mr. Couch's statement.

MR. TAYLOR: Just one quick comment, you know, 'cause so many people are paying attention to this issue. If we're going to talk about sustainability, everyone who's going to talk about agricultural sustainability needs to think about is pumping water where most of our electric generation on this island is fossil fuel based, is agriculture that is based on pumped water with fossil fuel shipping and utilization, is that inherently sustainable or inherently unsustainable. You cannot talk about pumped water and ag and sustainability without looking at all those aspects.

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CHAIR VICTORINO: Thank you, Mr. Taylor, for that clarifications. I think we've had a productive meeting. Ladies and gentlemen, thank you very much, I appreciate it. I want to thank the Staff. I want to thank all the public for being here today, and again, bringing your experience, knowledge, and manao to the table, I appreciate that. Thank you, Mr. Taylor, very much for being here. Our Corporation Counsel, thank you. It was wonderful to have you and not have Mr. Kushi, oh, I missed him. And, Pamela, next time I'm going to make sure that you're brought up to say a few words. I left you over there quietly but I will bring you up. With no objections and no further comments, this meeting of the Water Resources Committee of 11/13/13 is now adjourned. . . .(gavel). . .

ACTION: DEFER.

ADJOURN: 12:00 p.m.

APPROVED BY:



Michael P. Victorino, Chair
Water Resources Committee

wr:min:131113:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, 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 21st day of November, 2013, in Kula, Hawaii

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Daniel Schoenbeck