

# WATER RESOURCES COMMITTEE

Council of the County of Maui

## MINUTES

October 1, 2014

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:05 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll  
Councilmember Donald G. Couch, Jr.  
Councilmember Stacy Crivello  
Councilmember Don S. Guzman (in 9:15 a.m.)

**EXCUSED:** VOTING MEMBERS:

Councilmember Mike White, Vice-Chair

**STAFF:**

Kimberley Willenbrink, Legislative Analyst  
Raynette Yap, Committee Secretary

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

**ADMIN.:**

David S. Taylor, Director, Department of Water Supply  
Paul J. Meyer, Deputy Director, Department of Water Supply  
Holly Ho, Fiscal Officer, Department of Water Supply  
Helene Kau, Assistant Waterworks Fiscal Officer, Department of Water Supply  
Edward S. Kushi, First Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:**

Nadia Koole, Manager, Maui Touch Ranch  
Francis Koole, Manager, Maui Touch Ranch  
Pauahi Lozano  
Sydney Smith, President, Maui Coffee Association  
Bobbie Patnode  
Rosemary Robbins  
Plus (2) Others

**PRESS:**

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

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CHAIR VICTORINO: . . .(*gavel*). . . Good morning, the Water Resources Committee meeting of October 1, 2014 is now in session. I would like to first of all ask everyone in the gallery and our Members also to please mute their cell phones or turn them to the off position. We will hold decorum in the Chamber at all times. At this time I'd like to introduce the Members. First of all I'll introduce myself, I'm the Chair, Michael Victorino. I'd like to introduce our young lady from Upcountry, our Council Chair, Ms. Gladys Baisa.

COUNCILMEMBERR BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning, Chair. And I would like to introduce the gentleman from East Maui, our Vice-Chair of the Council, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: Good morning. And then I'd like to also introduce the gentleman from South Maui, Mr. Don Couch.

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our lovely young lady from Molokai, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha and good morning, Chair.

CHAIR VICTORINO: Good morning. And excused at this time is Don Guzman, hopefully he'll be joining us late, later I should say. And also excused today is the Vice-Chair of the Committee, Mr. Mike White, he's unavailable. And I see no non-voting Members present but they're welcomed if they come, I will definitely recognize them. From the Administration today we have Mr. Dave Taylor, the Director of Water Supply.

MR. TAYLOR: Good morning.

CHAIR VICTORINO: Paul Meyer, the Deputy Director of Water Supply.

MR. MEYER: Good morning.

CHAIR VICTORINO: Helene Kau, Fiscal Officer and Holly Ho, Finance...Fiscal Officer for the Department. They're in the gallery and will be called up a little bit later. From our Corporation Counsel, and I'd like to welcome him back from his surgery, Mr. Ed Kushi, First Deputy Corporation Counsel.

MR. KUSHI: Good morning.

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CHAIR VICTORINO: Thank you, Ed, for being here. I know how difficult that is with a back situation, and I've told Ed if he needs to move around or if he needs a recess to let me know and I will grant that. From our Committee, our valuable Committee, our Legislative Analyst, Ms. Kimberley Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: And Rayna Yap, our Committee Secretary which I think she, oh she's over there passing out something. Oh just move people move fast around me. And now I'd like to check with our neighbor island and outlying District Offices. From the District Office in Hana, Dawn Lono, are you there?

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

CHAIR VICTORINO: Good morning, Dawn. From our Lanai Office, our sister city in Lanai, Denise Fernandez, Denise are you there?

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

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

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

CHAIR VICTORINO: Thank you, ladies, and I will be getting back to you shortly as far as public testimony is concerned. Today we have three items. Before we start with public testimony, I'd like to make sure that our public testimony is limited to those three items. I wish everyone who wishes to testify please sign up at the back desk in the lobby area. You will be allowed three minutes and one minute to conclude upon request. When testifying, please state your name and organization or if you're just speaking on your behalf, please state that. We've established connections as you know with our District Offices; and, to be fair, I will try to rotate through the sites each and every three or four testifiers I have here in the Chamber. So at this time, with no objections, I'd like to start with public testimony. But before I do that, let me say the three items that we will be speaking on today: WR-21, the Waiver of Minimum Gross Income Requirement for Agricultural Water Rates; and then we have--hang on, 12 I think, let me make sure I get 'em all in order--WR-12, Optimizing the Investment of the Countywide Mainline and Water Infrastructure Improvements; and, finally, we have WR-20, the Department of Water Supply's Drought Plan. So those are the three items for which we will be addressing today, so public testimony in that area will be accepted. So at this time again, with no objection, I'm gonna start public testimony. And I will start with Nadia Koole, and followed by Francis Koole. Okay, Nadia, would you come up, please? And they're with Maui Touch Ranch, she's the manager...they're both the managers, okay. I think this is a husband and wife team, I don't know why I believe that. Yes, right there, please. And again, oh let me explain since you're new. You have three minutes; at two and a half, the yellow light comes on; at three minutes, the red

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light comes on; and then if you need another minute to conclude, I will allow that. Okay. Go ahead, Nadia.

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

MS. KOOLE: Good morning. My name is, Nadia Koole, and thank you for the opportunity to speak here. As you said we are the manager, we are the owner, Francis, there my husband and we own the Maui Touch Ranch and that's why I'd like to speak today. We got this property below Haliimaile and we made some copies, photocopies if you would like to grab them afterwards, we made some black and white copies to explain the situation briefly. We are newly farmers here on Maui, we originally come from Europe, been on Maui since '95 and took on this big project. So our intent today is little bit to talk about how that works for the people there in the field and how we see the situation. The first picture is just a basic picture of where the property is located; you've probably seen it from Baldwin Avenue with all the white fencing. We bought this about two years ago from HC&S and started to have the dream to bring it back and share it with people. We started to clean the fields; that's the picture how it looked like in the beginning with eucalyptus, pipe, a lot of trash as you can see. We hauled about 60 vans of trash, brought it to the landfill. We cleaned up with A&B 40 containers. The gulch was used as landfills of trash. So this has the pictures, as you can see later, how we started, Francis and us with the shovel in the field, 35 acres and pretty much a breakdown both of us. It was tremendous work, we started chain sawing just the two of us, chipping because there was a lot of wood that we wanted to integrate organic matter into the ground and realizing soon that we don't get anywhere fast. So EKO Compost, a big machine came on the property and literally tons of mulch was integrated in the ground to improve the soil. Our big dream from the beginning was that we bring it back and plant a lot of fruit trees that we can use, show it to people, make an area, drive people around. The other dream was that we brought in horses for several reasons. We wanted to do a business with carriage ride and we wanted to improve the soil which horses, the horse poop manure is used very well in this acidic soil, depleted soil. So here the next picture is a field, brown field that's how it looked like probably half a year after cleaning the fields and the horses standing there, no grass. First step is to plant grass and that's another big study for horses because tropical grass is not always suited. We worked with irrigation, we brought a lot of water to the land to make it all green and we were granted to have the ag water for our land which was a really good gift to water and replant 35 acres, it takes a lot of water. So as you can see it takes a lot, there's pictures of a barn, it's not just bringing horses, we had to care for the horses, we had to build a barn, like the pasture looks green after maybe a year, it's a long process. What I would like to talk a little bit more is about our horses and our breeding program. We brought in this Friesian horses, they originated from Holland, the Netherlands, and we brought them in because they're suited for carriages, they're very versatile horses. It's not horses that are here like quarter horses, they, they're quite highly priced horses and for the purpose that we saw them, that's what we wanted to do. We struggled a lot, you know this is a newborn foal that we had last year, it takes about seven to ten years to be able to sell a horse. It's a long . . . *(clears throat)* . . . excuse me, it's a long process. We went to the Upcountry Fair, we showed the horses. And it's cute the little foal, but people cannot buy that, it needs training, it needs education. And especially Friesian

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horses that take a long time until they're mature; they mature at six, seven years. So yesterday, we just sold our first horse and that's an adult mare, just to explain how we deal with that situation--it's just pictures--but we do riding and carriage rides. And we really depend on the ag water. If we don't get the ag water, with new planting we spend--if we have the water running all the time--\$15,000 a month and that's a lot for us to take. So just a brief explanation of what's going on, our vision of the property and what we doing; and I want to give Francis an opportunity, too, and if any more questions we are there for answering questions.

CHAIR VICTORINO: Thank you, Nadia, before I ask the Committee members, I'll ask you this question, are you presently getting ag water rates?

MS. KOOLE: That's correct, we are presently get ag water rate, we got granted the first year that we had because we are breeding and that was the reason why we could get ag water selling horses. Last year...this year, sorry, we got a notice that we not qualify for the ag water and that was for us a little bit of shocking, so we were forced to sell crop. And crop is like we plant trees, three gallons, two gallons it didn't work for us. That's why we had to go through the whole procedure and we've been granted again for the ag water, it was just very complicated for us to prove that. We don't want to fake it, we're not the type of people that want to make a vegetable garden, sell the vegetable crops just to get the ag water. That's our intent to bring forth what we really want to do.

CHAIR VICTORINO: Thank you, Nadia, I mean you bring a unique perspective and I think this is something that we need to hear as a Committee. Questions for the testifier? Seeing none, thank you very much. And I'd like to recognize Mr. Guzman for being here.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR VICTORINO: Okay. Thank you, Nadia.

MS. KOOLE: Thank you very much and I'll leave some pictures at the exit there.

CHAIR VICTORINO: Yes, please.

MS. KOOLE: There's all colored pictures if anybody wants to see.

CHAIR VICTORINO: Yeah, I think the colored pictures, leave it with this young lady right here, Rayna, yeah.

MS. KOOLE: Yes, excellent. Thank you.

CHAIR VICTORINO: You know, color is a lot easier to see than these black and whites. Thank you so very much. And now I'd like to call up Francis. Go ahead, Francis.

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MR. KOOLE: Thank you as well, Council members, for having us here and letting us testify; and I'm glad that my wife, Nadia, shared the experience of how we are all setting this up. I want to go a little bit more in detail about the ag water rate and the consequences for us. Like she explained, we got that granted and we got that granted twice, and then this year June we got a letter that we don't qualify under the current law for continuing our ag water rates. And we were...we changed the direction of our ranch a bit, like Nadia said. We started growing vegetable, we dedicated ¼ acre to growing beets, salads, greens where we could show direct income; that was the contact we had with the Department of Water. We were in contact with the Director and Vice Director of the Water Department. And where we see us going a little bit away from our original intent of the ranch which is breeding horses, which like Nadia said, takes time. A horse only gets sellable after an age of three years and you get the most profit when a horse is well trained, when you get it to the age of five or six years, that's when it really starts becoming a valuable product. The other thing, you saw how big a challenge it is to bring overgrown land back to good land where you try to replenish the soil, where you start with small trees, grow them. We planted...the best way to start trees is starting with three gallon ones. We planted some bigger ones that will go into production maybe in two years, but it all takes time before you get income from the kind of agriculture we do. So we had a feeling that the two years that is currently the law for granting a waiver of income was not sufficient for us. We found a solution so far by doing something that we're not set up for and that we don't intend to do with the land. It is a solution for us but we see this bill as an opportunity to go back and focus on what we really want to focus on, that is the breeding of our Friesian horses and that is the prime purpose of our land. So that's why we want to come here and testify and answer any questions that Council members might have for us. Thank you.

CHAIR VICTORINO: Thank you very much, Francis. Questions for the testifier? Yes, Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you. Francis, just a quick statement. Thank you for meeting with me last week. But as a starting out in the agricultural business or industry, how many years have you been conducting the breeding?

MR. KOOLE: The breeding--my wife is the horse person of us two, she's been dealing with horses since the age of three, four years old I guess and I come originally from Belgium--and the Friesian breed is pretty well known in the lowlands there, it's actually more of Holland. But I have grown up with seeing those horses doing carriage drives and being used for dressage in the lands and they're an amazing breed, very friendly. It was amazing, we brought them to the Upcountry Fair and we could bring children next to the foals, three months old, put them on the back; and everybody had a blast seeing our horses and foals at the Upcountry Fair, they are very sweet horses.

COUNCILMEMBER GUZMAN: They're beautiful horses, in fact I think, Chair, you've ridden on the carriage, yeah?

CHAIR VICTORINO: Yeah, absolutely and I've been in this area and I've seen what they've done, you know, and it's amazing, it is amazing. So you know this only reinforces in my mind what we're

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trying to accomplish here. But thank you, Francis, for being...any other questions? Thank you, Francis. And would you mind sticking around in case we need some resources, resource person, maybe about an hour or so? I know you gotta get back to work, I know you got things to do but we...

MR. KOOLE: Okay, yeah.

CHAIR VICTORINO: Okay please. I'd like to call upon you if I need to, okay. Thank you. Okay. Next testifier is, okay, Pua, Paulani Lazano.

MS. LOZANO: Pauahi

CHAIR VICTORINO: Pauahi Lozano. Okay, you guys gotta practice your guys' writing. Sorry eh, Pauahi.

MS. LOZANO: That's okay. Good morning, everybody.

CHAIR VICTORINO: Good morning.

MS. LOZANO: Thank you so much for allowing me the opportunity to testify this morning. I'm here to share my personal experience, but more importantly I'm here to help to pave the way for our future generation who is interested in doing agriculture as a business and contributing to Maui by providing local produce and helping us to be more sustainable with our island food. Last March I gave testimony supporting and encouraging the Council to adopt a unified definition of agriculture in a single farm plan that all departments can access. During that testimony I spoke to you about my experience with the Water Department not giving waivers for agricultural water rates and how I felt that this would be an obstacle to new farmers. I want to thank you, Mr. Victorino, for not only hearing my voice at that time but also hearing the voice of other farmers who need more than one year to make the necessary income on their farm to qualify for ag water rates and for writing this bill. Unfortunately, I believe that this bill, as written, will make it more difficult for new farmers, and it discriminates against crops that take longer than three years to grow such as coffee, macadamia nuts, and avocados just to name a few. I'm a small coffee grower and I had this discussion with the Director of the Water Department back in March. I was encouraged at that time--like it sounds like the other testifiers--to diversify my crop and grow other things just so that I can qualify for the water rates. I feel that this bill inadvertently may force a farmer to use more water than is actually necessary by requiring a 51 percent area of cultivation for agricultural production for a year. Farmers nowadays are using more modern growing techniques that require less square footage and people who grow microgreens or hydroponics that use less square footage for example it seems would be impacted by this bill just based on the square footage requirements alone. I thank you for hearing our voice; however, I'd like to just say that I think that this bill as written, makes it a little bit more harder for new farmers and small farmers who are currently doing agriculture as a business. Thank you.

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CHAIR VICTORINO: Thank you. Thank you, Pauahi. Any questions for the testifier? I'll say this, let me start by saying, this basically is what the Department has wanted more than anything else, this is not what I wanted nor, I think, some of the Members. But I felt like it was important to bring it forward, let the public see it and let us make the changes that are needed, and I do agree that you need a timeframe in there. Without a timeframe, you really handcuff those true farmers who are trying to get to a point. And like you say, 51 percent, not everybody can do that, you know, not everyone can do that at that point in time; and another example is the people that spoke before you. So I agree with you wholeheartedly, we're still...this is a work in process, it's not completed and it's not at its end at this point, so let me assure you more work is gonna be done with this.

MS. LOZANO: I thank you.

CHAIR VICTORINO: Thank you very much. Anything else? None, okay. Next testifier, Sydney Smith, and Sydney is with the Maui Coffee Association and followed by Bobbie Patnode.

MS. SMITH: Good morning, Chair.

CHAIR VICTORINO: Good morning, Sydney.

MS. SMITH: And good morning, Council. My name, as Mr. Victorino introduced me, is Sydney Smith, I'm the President of the Maui Coffee Association. I also own Maliko Estate Coffee Farm in Makawao, I'm also a member of the Ag Working Group. I'm testifying this morning regarding WR-21. The intent of this bill originally was to allow ag water rates for farms and ranches that take more than one year to bring their harvest to market. I'd like to thank Councilman Mike Victorino and the Water Resources Committee for hearing our call for change and addressing our concerns. I'm speaking here this morning on behalf of all farmers, not just coffee farmers. Because one, two, or three years is not enough time for many agricultural crops as you've already heard. Because while coffee farmers need at least four years to bring in their coffee harvest, olive farmers, citrus farmers and agave farmers need more two or three years as well. A grape vineyard takes a minimum of three to four years. Cacao, a crop that has a lot of potential here in Maui County takes four to five years. Citrus and olive trees take seven to eight years. Agave takes seven to nine years. Avocados and macadamia nuts take eight to ten years. This past July, Governor Neil Abercrombie, the four County Mayors including, Alan Arakawa and the Office of Hawaiian Affairs jointly launched the Aloha+ Challenge. That challenge is to at least double our local food production by the year 2030. You need to really think about what that means, because while there are some subsidies through tax rates and special water rates that are meant to encourage agriculture, there are more and more restrictions and other challenges imposed on us every day. More vandalism, more theft, more paperwork and more regulations and compliance issues that make it more and more difficult to farm. Water is a fundamentally important component to successful farming and ranching. And we seem to have a continual shortage of it. About ten years ago, the Director of Water Supply at the time was complaining to me that every time he sent out a notice to cut back on water usage, farmers always ended up

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using more. He seemed to be taking it personally. I explained that when the end of summer rolls around and it's dry with no rain that's when we need the water the most. And it wasn't personal or a conspiracy at all. When it stops raining, the Water Department runs out of water and that's right when farmers and ranchers need it. It has placed the agriculture community at odds with the Water Department for decades. The year 2030 is only 16 years from now, 16 years ago it was 1998. If you're as old as I am that doesn't seem like that long ago and we were all talking about the same water issues that we still have today. Almost nothing has changed except that now we have even fewer farms to grow our food. 2030 will be here before you know it. Maui County has an amazing group of hard-working farming families. I believe we can make the goal that our Mayor has set for us, but we can't do it alone. We need your help, we need your commitment, and we need water. WR-21 needs to be crafted to help all farmers and ranchers. If we're going to have a goal of doubling our food production we need to double and triple our efforts to make that possible. The Ag Working Group would be willing to assist lawmakers and Department staff in revising the bill into a more workable form. Thank you.

CHAIR VICTORINO: Thank you, Sydney. Any questions for, Sydney? Thank you very much. And again, like I said earlier, this is their version and I'm not too keen about it, but we're gonna discuss it in a little bit more detail.

MS. SMITH: Thank you so much, Chair.

CHAIR VICTORINO: Thank you, Sydney, very, very much. Bobbie Patnode, and she's speaking on her behalf, followed by Rosemary Robbins.

MS. PATNODE: Aloha.

CHAIR VICTORINO: Aloha.

MS. PATNODE: My name is Bobbie Patnode and I am testifying regarding WR-21. I am the moderator for the Ag Working Group. The Agriculture Working Group has been closely reviewing Department rules related to agriculture. The Water Department rules are very clear with respect to how agriculture water rates are determined, and it is clear that the Council wishes to support the commercial agricultural user. The Ag Working Group was able to discuss the newest version of the bill at our meeting last week. While I think this bill is intended to help farmers and especially farmers who are just starting, the latest language which attempts to clarify when a waiver may be extended doesn't really help the situation. In particular, the new wording which requires the farmer to put 51 percent of their cultivatable land in production will confuse the process. In order to achieve the \$1,000 of income, farmers may not need to plant 51 percent of their land. If ranching, they probably wouldn't be cultivating anyway, but I think the intent is for the farmer to be doing something with their land that would produce at least \$1,000 of income at maturity. I see this as an opportunity to improve the rules by involving an educated, experienced agriculture inspector in the process. When a waiver is granted, it makes sense to do this in the context of a farm plan. A knowledgeable County employee could validate the need for a waiver given the nature and age of the crops or animals in the plan. The Director shouldn't have to

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make the decision without knowledge of the ag business in question. I would suggest a wording change, taking out the 51 percent language and having the new wording say something like, “a waiver shall be granted upon a consumer’s request pursuant to this section, if the consumer does not meet the minimum gross annual income requirement to qualify as an agricultural consumer for a given year and the consumer’s inspected” agriculture, “agricultural operations will produce a minimum of \$1,000 of income at maturity.” The Ag Working Group is in favor of what you’re trying to accomplish with this bill. Just like you, we’d like it to be simple and fair. Thank you for keeping us in the loop and thank you for your support of agriculture in Maui County.

CHAIR VICTORINO: Thank you, Bobbie. Questions for, Bobbie?

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR VICTORINO: Questions?

COUNCILMEMBER GUZMAN: Yes question.

CHAIR VICTORINO: Yes. No comments I know, I’m gonna stop you here because I really want questions and that’s important cause other people what to ask questions, go ahead.

COUNCILMEMBER GUZMAN: Okay. You just made me forget my question. Now I know.

CHAIR VICTORINO: Okay. Go ahead.

COUNCILMEMBER GUZMAN: Bobbie, do you have that in writing for the...

MS. PATNODE: Yes I do, and I brought a extra copy with me.

COUNCILMEMBER GUZMAN: Okay. Can you submit? Yes, thank you because we worked on that language; and, Chair, you were supposed to be there too, but I guess there was a conflict.

CHAIR VICTORINO: She sent it to me and it was going to be passed out to you guys, but give her the copy.

COUNCILMEMBER GUZMAN: Yeah, okay. Thank you. Aloha.

CHAIR VICTORINO: Any other questions for Bobbie? Seeing none thank you very much, Bobbie, for all your help and your working group. It’s been a pleasure working with you guys when I could.

MS. PATNODE: Thank you.

CHAIR VICTORINO: Thank you. And the last testifier to sign up in the Chamber is Rosemary Robbins, and she is just another concerned citizen.

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MS. ROBBINS: Good morning, everybody.

CHAIR VICTORINO: Good morning.

MS. ROBBINS: Just another concerned citizen?

CHAIR VICTORINO: A wonderful concerned citizen, how's that sound? Okay.

MS. ROBBINS: Take it where you will.

CHAIR VICTORINO: Alright, Rosemary.

MS. ROBBINS: Okay. I'm not a farmer, never have been. Thank you for the education, those of you who have been providing that. I'm hearing stuff come up about the language: water being a huge element in agriculture, in horse raising. The language that has happened as defining water has been pretty jumbled. I remember the drought situation was identified as not just being long-term lack of water, it was also changed to indicate operator error and failure of equipment. I couldn't find that in any of the dictionaries, but it's in the bill that we have here. Okay, as of August of this year 2014, there was a three-page press release that was in the binder, one of the binders that I worked with yesterday, and it says in there that the Hamakuapoko Wells are not ready for service at this time and have a capacity of 1.5 million gallons a day. So we still, Upcountry, are in bad to worse situations in terms of that. The process identified draft as being an average within three months, and I'm hearing this morning that those three summer months are down anyway, those of us who live there are pretty well aware of that. But then, what? If that's going to be an average of those three non-wet months that's obviously going to be a continuing decline, and to penalize people for something that they have no control over doesn't seem very fair. That's under the WR-20, and then WR-21 written testimony from some of the people who were here was part of what I read yesterday, and one of the things that was in there was that not all agricultural requestors were in favor of having other things come in for the use of the water. And one in particular was very clear about saying that it should be for food grown for human consumption. So we've gone beyond that in terms of raising horses, cattle. Okay and there was a difference as to whether or not it was going to be a time extension for two to five years or from three to six years, so some way that was not clearly understood by some of the people who were caring enough to write in, so hopefully that will be clarified this morning. And also in the paper within the past week, front page, "*Water Not Returned to All of the Na Wai Eha Streams*", keeping in mind that water is...

CHAIR VICTORINO: Rosemary, I'm gonna stop you here, again, that is not part of the agenda items today.

MS. ROBBINS: It's water.

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CHAIR VICTORINO: No, no, we have specific items that we're going to be discussing and that is not one of them. There is an item in our Committee about the Na Wai Eha and that will be bringing up that very soon. So I'm going to ask you to stay on these subject matters, please.

MS. ROBBINS: Okay we're in disagreement about that but I will --

CHAIR VICTORINO: Well whether you disagree I am the Chair and I'm asking you, please.

MS. ROBBINS: -- and I'm saying --

CHAIR VICTORINO: Thank you very much.

MS. ROBBINS: --I'm going by that. But with water being the issue for all of these people that's why we're here and that's why that's under water resources identification on today's agenda to be able to make sure that we don't forget that water is an issue.

CHAIR VICTORINO: Thank you, ma'am. Questions for the testifier? Seeing none, thank you again, Rosemary, for being here.

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: Okay. Let us check with our District Offices and I went with six testifiers, I apologize, I was supposed to stop but, ladies. Hana, do you have anyone ready to testify, Dawn?

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

CHAIR VICTORINO: Thank you, Dawn. Lanai, Denise, do you have any testifiers waiting to testify?

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

CHAIR VICTORINO: Thank you, Denise. And Ella, on Molokai, anyone waiting to testify?

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

CHAIR VICTORINO: Thank you. Anyone else in the gallery who would like to give public testimony who hasn't to this point? Seeing none, with no objections, I will close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Thank you, ladies, have a great day.

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

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**ITEM WR-21: WAIVER OF MINIMUM GROSS INCOME REQUIREMENT FOR AGRICULTURAL WATER RATES (CC 14-217)**

CHAIR VICTORINO: I got em. I got it. Okay. So let's start right from the top. We'll start with our first item which is WR-21, Waiver of Minimum Income Requirements for Agricultural Water Rates. The Committee is in receipt of the following: County Communication 14-217, from myself, Councilman Victorino, transmitting a proposed bill relating to the waiver of agricultural water rate income required. The correspondence was dated September 25, 2014, from the Committee Chair, myself, transmitting a proposed bill entitled A Bill for an Ordinance Amending Section 14.10.010(A) [sic], Maui County Code, relating to the waiver of minimum gross income required for agricultural water rates. As you have heard, the Department now has brought forward their version, and I have accepted that for the purpose of discussion today. So at our last meeting, we had covered several options including increasing the total time to ten years for crops and livestock and having a tiered structure based upon pre-production of crop and livestock. After several discussions with the Department I would like to discuss today the proposed bill, A Bill for an Ordinance Amending Section 14.10.105(A) [sic], Maui County Code, Relating to the Minimum Gross Annual Income Required for Agricultural Water Rates. The bill that you have in front of you is basically what the Department would like to see. Their version was 51 percent or of cultivated land mass or acreage that you control and the \$1,000 minimum gross income. So at this time I would like to have Mr. Taylor and/or Mr. Meyer who would like to take a few minutes. Also I will direct your attention to our new screen, isn't that beautiful? And we will be putting up, I hope Ms. Willenbrink is about prepared...this is not the one, the next one, I'm sorry. Excuse me, was the next one. Anyhow on our next item we will be having the screen, usage of the screen. I'm kinda excited 'cause this is the first for our Committee, only the second time. So, Mr. Taylor, would you like to go ahead and explain the rationale behind the Department's desire to have the 51 percent inserted.

MR. TAYLOR: Thank you, Mr. Chair; and thank you, Members, for taking this up today. Let me back up and say what we're trying to accomplish. And the 51 percent is an idea that came up based on the goals we're trying to meet. There's really three main goals I think we're all trying to meet. We're trying to deal with sort of this big picture strategic plan, we're trying to give fairness to everyone and have clarity within the law, three things. One of the testifiers was very wise when she said, the problem is when the rain stops, the Department doesn't have enough water and that's just when the farmers need more. That is the root of the problem and I think we can all agree that is the root of the problem. It's not easy to solve and that's where this strategic problem lies. Rates and fees are not penalties they are simply a way for us to gather money to pay our expenses. So we're trying to balance revenue and expenditure, we're trying to balance the water we have versus the water people's needs. And our strategic plan we've gone over in this Committee has gone through that. A couple of numbers you've heard before, just want to throw out here, our average cost Countywide to provide water is about \$4 per 1,000 gallons. Upcountry, it's about \$5 per 1,000 gallons, Ag rates are about \$1 per 1,000 gallons. Okay so financially obviously, you know, we're losing a lot of money on ag; if we're going to have more people qualify for Ag rates, we have to raise everyone else's rates. If that's what you decide to do, that's fine. Just keep in mind these aren't just penalties, that if we're gonna have more

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people qualify for Ag rates we're gonna have to raise everyone else's rates to make up that difference, which is fine. Upcountry where this is mostly the issue, about 50 percent of the water goes out at Ag rates. So again if more people qualify for this and during times of drought, more people can't cut back that means that non-ag customers have to cut back even more. Because the fact is how much water we have is, is just not up to us, it is what it is. Whenever I say things like this, people say well the County should, you know, build more wells or build more reservoirs. If we're having an increasing volume of water go out at \$1 per 1,000 gallons where it costs us \$5 per 1,000 there's really never any revenue to build more wells, build more reservoirs so all these are part of the same strategic problem. Right now the last time we did some calculations Countywide, agricultural customers use about 11 percent of the water Countywide and pay about 3 percent of the total operating costs. So if we're gonna have more people use agricultural water, qualify for that, that'll go up to you know let's say 12 or 13 percent of the water and maybe 2 percent of the costs. Again if that's the policy the County, the Council wants we can do that, just remember that the more people qualify for Ag rates and the more of that water there is just the less there is for other people and the higher rate increases for the other people. It's not good or bad, that's your choice but we have to balance the money. So that's the big picture strategically, just keep in mind: fairness. One of the concerns we have is when you get Agricultural water rates even if you're, let's you're say selling \$1,000 worth of products and you have a two-acre lot. Two acres is around 90,000 square feet so let's say 5,000 square feet of your lot is in ag and you're making \$1,000, so the other you know 80,000 square feet or so of grass, landscaping you're getting Ag rates to do your landscaping. I don't think that's anyone's intention, I think the intention is what would you all really like to do and say look we want to give you your water for ag at Ag rates but your water for landscaping at landscaping rates. But there is no way to do that, right, you either all ag or you're not. The 51 percent came out of this idea of saying how do we find people that are really using the majority of their water for ag and not using it as a way to get cheap water for expensive landscaping. I think we all would like to separate those and it's not easy to separate because it comes through the same meter. So that's this fairness aspect. Then this other issue is obviously you guys have to deal with it. Is this for food production, animals, flowers, trees for lumber, you know, is that ag or is that forestry, who do you want to qualify for this and under what conditions? Okay, so the fairness is something that I think we all struggle with and the 51 percent was an idea we had to say, if you're willing to put 51 percent of your land into ag, then you know the other 49 percent, you can irrigate your grass for cheap. I mean that's essentially was the fairness we were looking for. Finally, clarity and consistency, there's probably just under a 1,000 applications a year for ag water rates, so the Deputy and I can't look at each one, we certainly can't go to each of these properties so it's line staff that are going through these. And it's not gonna be just one person, there's going to be multiple staff who have to go through these. So we want to make sure that we are consistent and have clarity for our staff to tell them what's okay and what isn't. So that's another issue we need is we don't have ag specialists like one of the testifiers had, we don't have anyone with those skills. So we need some clear, concise rules that our staff can look at and say, yes qualifies, no doesn't. The issue of how many years is it going to take for this particular crop to mature, we don't have any staff that is remotely qualified to make those determinations. And we are afraid of having two different staff members look at two almost identical applications and make two very different determinations unless there is clarity. So this is very difficult, we're not strongly pushing for one

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thing or another, but again we have the strategic business plan that has to be balanced, the more people that qualify for ag, the more we have to raise other people's rates so we can do that but just be aware that's the other side of the equation. The more people that qualify for ag, if we're not going to cut them back during drought that means everyone else has to cut back even more. If that's what we're going to do, that's fine, just remember there's another side to that equation. Fairness and clarity, so those are the issues we're struggling with, I don't think there's any easy answer, I think we all have a vision of what we want, cheaper water support, real agriculture, how we separate that from hobbyist agriculture or small agriculture which is on the same property of nice lawns, I think that's the struggle we all have and our 51 percent was an idea to try to have a quantitative, measurable description that our staff can process to have clarity and consistency that tries to meet these factors. So we're very open, we don't have strong feelings about how to implement this, we agree that Agricultural rates should be cheaper than you know some of the other rates but just again we have to find some way to balance it. So I hope that gives some background of all the pieces we have to look at and the things we're going to have to do outside of this Committee. If we make it easier and have more people qualify for Ag rates, there is gonna be another shoe that has to drop or we're going to have to raise everybody else's rates or cut everybody else more in drought. So just be aware that that's hanging you know outside of this 'cause rates and fees are not penalties, they are just simply a way to gather operating costs. Thank you.

CHAIR VICTORINO: Thank you, Mr. Taylor. And before I allow the Committee members to ask questions, I'll make a simple statement to you and maybe to the Working Ag Group and to all those out there. I really believe it has come time--and I think Ms. Baisa agrees with this--that we have an agriculture department and a ag director; or I, you know, give 'em whatever name you want, you know what I mean, because we are at that point, Maui is very ag oriented, we've got over 38 percent of our total land mass in ag and I think it's time. I think we sit here and we try to find Band-Aids to all these problems and it's getting very frustrating. Okay and then the second thing is, and very simply, dedication. And we have that bill, we still sitting on that bill for two and a half years. If we dedicate land to ag, poom! Done, over, seal the deal, close the envelope, send it out, it's done. And all that inspector has to do or that department has to do is go and check that, that land you've dedicated is being used for ag. Seems simple enough to me but we seem to try to find all these little nuances for this end, for that end, I mean for you who raise animals like horses that take in between five and six years to mature to a point where you can even sell them, how much cost is involved over those five and six years? And I'll ask you that question in a little bit. You know that's a lot of costs sitting there waiting, same thing with cattle, livestock takes time to get them to a point of maturity where you can sell and recoup your costs if you even recoup your costs. And what happens in the interim? And I agree with you, Mr. Taylor, that you know somebody's got to subsidize the farmers and the ranchers, but all of us have to eat, all of us continuously say we want more local product, all of us say we worry that if that beautiful islands of ours--and you can look at the screen right there--is cut off from the rest of the world, what happens then? So I think we all want what we want and I think we're all on the same page for that needs, now is trying to get what I call the easiest, most simplest solution. Dedication is probably the best that really solves most probably, like in your terms, Mr. Couch, 80 percent, that's 80 percent, probably more like 90 percent, 90 percent of the problems are

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solved there, there's still some nuances. And having an ag department that does the work because like you said and I've heard this from Real Property, I've heard this from Planning, we don't have anybody who's a farmer, who understands farming. Okay, well let's do that and maybe that's something we gotta push the Administration I mean we can institute it, but we can tell the Administration this is what we need today, let's get it done today. And no offense to Mr. Yamamura, he's the Ag Specialist but get a department that does all these so that he can say, Water, this is a farm; Real Property, this is a farm; Planning, this is a farm. It's done, you know, or it's a ranch or whatever it might be. I think this simplifies the whole process. Again I don't like what the Department brought forward, but I agree to let it come so that we could all discuss it. And no offense to you, Mr. Taylor and Mr. Meyer, I know you guys are so concerned that people are going to take advantage of the situation. Well I have an old saying, if somebody wants to cheat, they're going to find a way to cheat; but most people are very honest. In fact, when we did that with Real Property--remember when we sent the letters out?--I think five or six hundred--if Ms. Baisa and I remember that, that discussion--said, we're not farmers anymore. They never realized they were not farming, they didn't even realize what they were getting until they sent the letters. So I think if we do it and we make it simple and we get it to dedication and just real simplistic approach, I'll bet you a nickel on a quarter we'll get most of these problems, 80 percent, 90 percent of it done, and then we can probably work on the "outlying issues". But we seem to try to fold it on the outlying district--district, excuse me--outlying issues instead of the issues which is water and how do we provide water to our true farmers out here in the gallery, our true ranchers out here in the gallery. And I also, by the way, did not ask you guys and I apologize, we did have some written testimony this morning and also we got one from, Mr. Jacintho from the Cattlemen's Association and with your permission I'd like to put that in the records with no objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Alright I've got off my...I'll get off my soap opera [*sic*] right now and sit...get back down on my...on a tear and I'll start with, Ms. Baisa, because her area is probably the most adversely affected; then you, Mr. Carroll, after that, okay. Ms. Baisa.

COUNCILMEMBER BAISA: Well, I don't think there's a whole lot more that I can say that you haven't already said, but I can say, amen. I got the same kind of reaction that I guess most of us got to the draft bill. And I got the same questions about the 51 percent and about the interesting word, cultivable, anyway --

CHAIR VICTORINO: Close enough.

COUNCILMEMBER BAISA: --that can cultivate it, okay. The concern was of coming from people like livestock people who say we don't have a crop to cultivate so that would mean we would be excluded, so we gotta find another word other than that. The other thing is I just want to get on my soapbox, I want my turn. What we're hearing is, if we give all these breaks and we continue to have a lot of people having Ag rates on water, then we're going to have less income and so we're going to have to charge the people that pay regular rates more. Well, I'm going to get on

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my soapbox again about this whole idea of paying for water and for the infrastructure and improvements we have to make in water, and that becomes unfortunately related to the next item we'll be talking about and that is finding money from other sources. And I strongly believe and I'm gonna keep saying this and hopefully I have a friend who says if you say it often enough people will believe it, and that is that we need to find more money to take care of water improvements and providing water to the people of our County and I do not think that water rates are sufficient. I really believe that we have to put revenues from this County and I am assuming most of it would come from property taxes or whatever else we can get money from but we need to invest in our water system. I don't think that rates alone can handle it, I think that while we set aside money to build gyms and build parks and take care of all the other things in our County that we also have to set aside an amount of money to help improve water and pay the bills. And that's where I'm coming from, I think it's important as the number one commodity which seems to stymie everything that we want to do and keep us here for hours and hours and hours arguing about rates and things that we need to as a County decide that water is a priority and put our revenues there to take care of it. And that's really where I'm coming from on all of this. I think this bill needs more work, Mr. Chair, I know that you put it out for discussion and I think you got good direction, you'll get plenty of it today, so thank you very much.

CHAIR VICTORINO: Thank you, Madam Chair. Mr. Carroll, our Vice Chair.

COUNCILMEMBER CARROLL: Thank you, Chair. As you said it's difficult and I wish we did have a department that could advise us, of course Economic Development does have a person inside there that handles ag matters. Maybe hopefully someday they can expand that to make a department which would help us a lot. But I really like what we came up with in the 9/17/14 meeting in our binder over here, the criteria that's set up in here. When we get the most difficult things, seems to be the 51 percent and that was inserted there for several reasons, for one thing there was so many abuses, people having a chicken coop and putting down they made a \$1,000 a year to get a water rate. And although I sympathize with that, our purpose here is to encourage agriculture not the minimum agriculture, but we want to at least have at least half of a person's arable land used. And the idea is to get more agriculture out there not set up conditions where you can have less agriculture just to get the water rate. And although I realize some people might qualify inside there and it might be nice for them, but overall I think we have to be very sensitive to that because people historically have taken very unfair advantage of the County by having the minimum requirements met and taking care of their place and just using 90 percent of the water for things that weren't agriculture. So I find that very difficult that 51 percent I don't see how we can go below that and still keep the integrity of the County and the Department being able to do what we intend, which is to promote more agriculture. I would hope that what we came up with 9/17 is we can incorporate that somehow. I, although again, I am sensitive to their concerns about the 51 percent, I do not see how we can go below that and not dig ourselves into a same hole that we started having with the finance on Ag rates for tax purposes. We're gonna fall into the same hole if we go below 51 percent. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Carroll, and again, you know, more work needs to be done on this; and I every time I think I'm getting close, I get pushed backed on something or another, but

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that's the process we're working on. And I think the Working Ag Group understands that there is so many dynamics that it's not just one simple answer, but we gotta make the simple answer and again I go back to the word "dedication". And I think once new, I have a revised bill coming out very shortly and that hopefully address the 80 percent low-hanging fruit, Mr. Couch. I like using his term all the time. So anyhow, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair.

CHAIR VICTORINO: And I'll just move right down the line.

COUNCILMEMBER CRIVELLO: Thank you, Chair. You know, it's I think what we all agree is that we want to promote the long-term vitality of agriculture. And you know, on Oahu, I think on the Big Island, Hawaii island and Molokai, we do have ag water. And I don't know if Maui or as well as the Department have looked into developing water resources for agricultural purposes only. And you know cause you mix the potable water versus ag, and if we truly want to support the long term vitality of agriculture then maybe that's one of the water resources that we should look towards developing whether it's to put back a reservoir that needs repairs and just have that designation for ag water and then we're not competing with the potable rates versus the Agricultural rates. Also too, you know, growing up in a rural area when we look agriculture it also includes livestock, it also includes tree crops. Tree crops becomes permanent agriculture, most of it anyway, once it's in full growth. So part of the actual growing of the tree crops takes time. So like the rancher that testified before us, farming, ranching or the pastoral world, or the tree crop or whether it's just growing vegetables or what have you, everything takes time and it's a risky, risky business if you want to look at it that way. So for me, I appreciate us having the opportunity to dissect the bill more. You know, I listen where our Director says, you know, you have these 1,000 applicants for Ag rates and how they don't have the manpower or what have you and we need rate and fees to upkeep maintenance and that's reality. I would like for the Water Department or for consideration--and maybe they have and maybe they are doing this--is to try and find where we can designate strictly agriculture water and use that as for development of our water resources and then there is what you call fairness in the sense of what is fair. But in the meantime, we have to determine how much of a support are we going to support our agriculture climate on Maui as a whole? But I believe we still need more work on the bill. Thank you.

CHAIR VICTORINO: Thank you, Ms. Crivello. And if I'm not mistaken, Molokai and Big Island, you had State who put in systems and Hawaiian Homes who put in systems.

COUNCILMEMBER CRIVELLO: It's the agriculture, Department of Agriculture --

CHAIR VICTORINO: Yeah, Department...State, yeah.

COUNCILMEMBER CRIVELLO: --so, you know consideration...

CHAIR VICTORINO: But we don't have that here.

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COUNCILMEMBER CRIVELLO: But that doesn't mean, Mr. Chair...

CHAIR VICTORINO: Well we have the water line that they've been working, the ag water line, for the past...Ms. Baisa, 15-20 years? How long they've been working on that water line?

COUNCILMEMBER BAISA: Maybe longer.

CHAIR VICTORINO: Maybe longer.

COUNCILMEMBER CRIVELLO: I realize that and if that's the trough we need to go to, then maybe we need to go to that trough.

CHAIR VICTORINO: I'm just saying we've been trying that. But also I've gotta make another clarification. Today, if you grow any leafy vegetables, you no longer can use non-potable water. That is a new act that the FDA and EPA has put into act; so now that is been a new crinkle into this whole issue. But that's just, you know, just to give you an update that, yes, you're absolutely correct, we have been waiting for over 20 years to get our ag water line in place like you have in Molokai. I wish I could get that done right now.

COUNCILMEMBER CRIVELLO: Clarification? And maybe you can help me with your years of background. When you said you've got to irrigate with potable water, isn't the actual preparation and cleaning of potable water that has to be in place?

CHAIR VICTORINO: You now have to irrigate with potable water. Yeah you have to because of the outbreaks that they had and both the FDA and the EPA mandating that.

COUNCILMEMBER CRIVELLO: Okay.

CHAIR VICTORINO: So that's leafy vegetables, that's not all vegetables. Leafy vegetables: lettuce, cabbage and there may be some others. I'm not really, you know, but...

COUNCILMEMBER CRIVELLO: Okay. Thank you

CHAIR VICTORINO: I go to these conferences and these are the things that I learn so I'm very appreciative of that. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I would ask that you stop reading my notes, 'cause you keep saying things that I want to talk about.

CHAIR VICTORINO: I get bionic eyes.

COUNCILMEMBER COUCH: I would like to ask, Mr. Taylor, you know, you talk about how much it's gonna cost that we would have to, the folks who aren't paying for ag water, the regular rates,

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how much dollar...what is the dollar amount that we would have to make up if you know from the people who we give the ag rates to, to the people who don't pay ag rates? Do you have an idea of what that dollar amount is?

MR. TAYLOR: It really depends on how much easier or harder you make this. Like I mentioned earlier...

COUNCILMEMBER COUCH: Currently, you've got the 1,000...

MR. TAYLOR: Well, I think the, you know, that 11 percent, 3 percent is really the ratio, right; 11 percent of the water goes out at Ag rates --

COUNCILMEMBER COUCH: Right.

MR. TAYLOR: --they pull in 3 percent --

COUNCILMEMBER COUCH: Do you have a dollar amount?

MR. TAYLOR: --exactly what that dollar value is, I mean so that's a difference of --

COUNCILMEMBER COUCH: Approximately.

MR. TAYLOR: --8 percent of \$60 million a year, I mean whatever that is.

COUNCILMEMBER COUCH: Oh, okay. So it's a substantial amount?

MR. TAYLOR: And we bring in \$60 million a year, so it's I mean that's the delta --

COUNCILMEMBER COUCH: Okay.

MR. TAYLOR: --so it should be roughly equivalent to that.

COUNCILMEMBER COUCH: Okay. So that's about \$4-\$5 million then, about 8 percent of 60.

CHAIR VICTORINO: Four point eight.

COUNCILMEMBER COUCH: Yeah. So you know, Mr. Chair, that speaks to the volumes as to if you have a...well, first of all, if you have dedication, that's the first thing. If we can do that, that pretty much solves everything. We have issues apparently with getting dedication going on, including the farmers; I remember that's why it's kinda stuck right now. But barring dedication then, a department, not necessarily a department of ag, cause you don't want to set up a whole new department, at least a division of some sort, probably somewhere that can oversee all different departments; because, you're right, we have this issue in three...people have to give three different farm plans to get their farming done, that's crazy. So you know for \$4.8 million

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we certainly can fund three or four positions and you know you have to have at least three or four, you don't need a supervisor or anything like that if especially you make it as underneath Department of Management or something like that because it is touching different departments. Because of 1,000...there are 1,000 applications a year and however many applications Planning Department has and how many however many applications the Real Property Tax Department has, so you're gonna need a few people. But that will solve it and it's gonna cost us a whole lot less than the money that we're having to deal with, with all these different things that are going on, so I think that is a point that you may want to push towards. I don't know how we do it. Probably Policy?

CHAIR VICTORINO: Probably, I'll get a PFF [*sic*] to the Policy and then see what --

COUNCILMEMBER COUCH: Okay.

CHAIR VICTORINO: --what goes from there. You know I'm not sure but...

COUNCILMEMBER COUCH: That being said, until that kind of stuff happens, which might not happen for a little ways, we do have to deal with something around here. And, Mr. Taylor, you heard about the comments, you know, if you say 51 percent what about the pastures that...these pastures they're not using so it's not really in production right now or farmers who rotate their crops, so you know 51 percent may not be a valid number. Do you...can you think of other things that you...might be able to help you, 'cause you guys aren't, like you said, you guys aren't farmers and they don't know?

MR. TAYLOR: While the Members were having this discussion and you were giving some ideas, Deputy and I were sort of brainstorming on this. We came up with a couple different ways. And the first way--our fiscal officer and his assistant fiscal officer are gonna scream as I say this because we've never mentioned it to them--but the engineering solution would be to have two meters: to have a meter for domestic and a meter for ag, and everybody would have to do their plumbing improvements so that they separate those. And, you know, you have this meter and if it's only 5,000 square feet it's just for that meter, you know, and that's how it's plumbed that that meter, that ag meter only can go for what qualifies in some criteria of you know things you're growing to feed livestock or agricultural crops, and everything else, grass has to be on this other meter. That is one way to do it, which let me look at their faces they're just pouting, they don't want to do that. 'Cause you know that's gonna be another 1,000 meters that have to be read every year, that kind of thing. The other thing could be some sort of a simpler version of that where the applicant every year has to show, through some calculations and drawings, here's how I'm plumbed, here's my calculations of domestic and grass versus this other thing and just have something where they're doing...you know I don't want to do this whole thing about having a licensed engineer stamp it, they're going to complain about the cost. But what we're all trying to do is to say the water for ag, Ag rates, and the water for not ag, not Ag rates; and there's a couple different ways to do that. The cleanest way is a second meter and say, you know, anybody who wants Ag rates has to go through the cost of doing that and we'll have to read that extra meter and that kind of thing, and that would limit this idea that people are using ag water for grass or

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for expensive landscaping or for showers or anything. So in a perfect world that's how I would build it, 'cause then you would know.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR VICTORINO: Thank you. I don't know if I like that idea but I understand, you know, in a perfect world that would probably be the best way to do it. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. And I also would like to thank my colleagues for recognizing the need for having more employees or an Agricultural Department as I've been tooting from the time that I took over the Agricultural Committee, that's what I've been pushing all along. The creation of the Ag Working Group was because of the lack thereof working with any type of agricultural department. So they've done a wonderful job, they're in the process of going through all of the administrative rules for each department and they're almost complete in terms of finding the or at least streamlining it to become more efficient. This is all of it for the end result of identifying the or at least coming up with the definition of agriculture so we're almost there. The one thing about this bill is when we were able to, the Ag Working Group was able to discuss this last week, one of the major concerns was the 51 percent as we all know; and if the Department is using the 51 percent as a gauge to prevent abuse, I think that it's the wrong, you know, not think, but I think it is the wrong condition to prevent abuse. I think what we need to be looking at is how each department uses or identifies what is agriculture. You have the Planning Department that uses the 51 percent and then you've got RPT that says usable or unusable lands, so you've got two different types of, I guess, checks or conditions to verify what is agriculture. What this language...language that is being proposed from the Ag Working Group specifies that an inspector would be the one to identify what is agriculture and what is not; and so that's the key for this language and a qualified inspector. And if we're not gonna put money into developing an agricultural division or department, we definitely need to be looking at appropriating money for qualified inspectors; because what I hear from each of the Departments, they do not have qualified inspectors in Planning...for agriculture, Planning, RPT and Water. So if we could create one central assigned inspector, and I'm sure it's gonna cost us less than creating an agricultural department, that would be very essential in resolving I guess the prevention of abuse, and then we could delete this 51 percent language. The other one is, I know our Ag Working Group is looking into examining dedication, and so that's another avenue in which hey, if we can dedicate all of these lands to agriculture and the owners are willing to dedicate, hey, dedicate it, you get the water rates, you get the tax rates, boom, we're done, no more of this inspection every year, you know you're done. So I think our Agriculture Working Group is looking into that and seeing whether that's a viable option. And so I thank the Chair for opening up this issue and addressing the many, many issues that have concerns with the agricultural community, but thank you very much, Chair.

CHAIR VICTORINO: Thank you, Mr. Guzman. And, again, the dedication issue has been around for quite a number of years and it's been the lack of resolve; and that's why we are re-doing and gonna be bringing something very, very soon and then the Ag Group can bring in the definition of ag. But dedication pretty much like Mr. Couch's famous 80 percent of the bill, 80 percent of

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the problem is solved and we can move on, you know, we can move on to the fringe, you know, issues and get those taken care of. So I thank you and I thank all of you. But I did want to call the...I forgot how to pronounce your last name.

MR. KOOLE: Koole.

CHAIR VICTORINO: Koole, yeah I mean you know that's pretty close to Hawaiian, but I know you're not Hawaiian, but close enough. Why don't you come up, I want to ask you a couple of specific questions since I asked them to be here as a reference. So if, Francis, you would come up or, Nicole, whoever wants...Nadia, I said Nicole, Nadia whichever, or both of you, okay, how's that sound? I have some specific questions and I'll open it to the Committee members. First of all, you do livestock which are horses, not cattle right, no cattle?

MS. KOOLE: Horses.

CHAIR VICTORINO: Just horses. Okay and you had mentioned when you first made your statement that at about three years old you could probably sell a foal, right, but it's not trained and you really don't get the real economic benefit of that foal, right?

MS. KOOLE: Yeah.

CHAIR VICTORINO: Okay. So let me ask you this question, you have this ranch and you're going to breed horses. Number one, annually--and you can give me an overall estimate--if you had just five horses to breed, right, what is the cost involved in keeping those five horses fed, housed, everything? Just give me a quick idea how much you would spend, an average year. Okay.

MR. KOOLE: For an adult horse --

CHAIR VICTORINO: Yes?

MR. KOOLE: --per horse to have it, to take care of it, farrier, that's where you need to have farrier costs --

CHAIR VICTORINO: Yeah.

MR. KOOLE: --where you have the grazing, maintenance, vet, support, I think more or less around three to five thousand per horse.

CHAIR VICTORINO: Per horse?

MR. KOOLE: Per horse.

CHAIR VICTORINO: So if you had five, you talking around --

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MR. KOOLE: Fifteen to twenty-five thousand.

CHAIR VICTORINO: --fifteen to, you know, twenty-five thousand, okay.

MR. KOOLE: A bad year, 25,000.

CHAIR VICTORINO: And so when you have the foal and you wait three years, that's pretty much the same amount of money you're spending on the foal as you would spend on a regular horse, right, a mature horse?

MR. KOOLE: Selling a three year old, untrained horse, you get to a selling price around 20,000.

CHAIR VICTORINO: Twenty thousand.

MR. KOOLE: Uh-huh.

CHAIR VICTORINO: But if you wait till it's five or six years old, what would the selling price more or less be at that point?

MR. KOOLE: Then you go towards forty, fifty thousand.

CHAIR VICTORINO: Okay. Go ahead.

MS. KOOLE: Yeah, I just want to say that's...

CHAIR VICTORINO: Come close to the mic so that people can hear you please, Nadia.

MS. KOOLE: Yeah, I just want to say that's our breed, our Friesian horses are a little bit more exclusive or a little bit more expensive than other horses, it's hard to compare.

CHAIR VICTORINO: Yeah. No, no, no, I'm asking you in what you're doing and I think that's what I wanted the Members to hear.

MS. KOOLE: So we have horses in the price range, the cheapest was 20,000 and the most expensive is 100,000; that's the span we're talking about.

CHAIR VICTORINO: Whew! That's a lot of money for a horse. Whoa.

MS. KOOLE: I also would like to say, you know, the reason about the discussion, the money coming back; and that's why we put the money in, it's a risky business, yes --

CHAIR VICTORINO: Yes.

MS. KOOLE: --but we do get a lot of money in if the business works.

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CHAIR VICTORINO: Right. Well like any other farming, any other livestock, it's risky.

MS. KOOLE: Yeah.

CHAIR VICTORINO: You know, you're at the whim of nature and other issues that can come up. Also, as was mentioned earlier, someone mentioned vandalism and theft, and I think that has been on the rise throughout this County, especially our farmers because of the fact that a lot of times you're in isolated areas and people...I mean you don't know who comes in. And so I think that's another issue that has become more prominent in agriculture you know. So, anyhow, thank you very much. Do you have questions for the testifiers, for the resource person?

COUNCILMEMBER COUCH: Yes.

CHAIR VICTORINO: No, I not going recognize you, I going check first everybody. Okay, go ahead, Mr. Couch.

COUNCILMEMBER COUCH: Yeah thanks. Thank you guys for being here and for the stuff. I've seen your horses, they're very nice horses.

MS. KOOLE: Thank you.

COUNCILMEMBER COUCH: The question I have that I get asked a lot--and I'm not sure how I can answer it because I'm not in agriculture and I'm not a farmer, but I get asked by people who also aren't in farming or agriculture--is how is...how are horses...how should they or why should they be listed as agriculture because they're pets? They don't do anything with agriculture except for maybe you know some who help wrangle the cows essentially, they don't pull plows anymore or anything like that, and I don't know how to answer them that. I do say, well it's ag because it's ag. I mean horses are always associated with ag, but they usually don't buy that answer. So can you help us out with that?

CHAIR VICTORINO: Either one, go ahead.

MS. KOOLE: I would like, yeah, that's an excellent question and actually really glad you're asking that, thank you. There's the crop, the production and then there's livestock that you slaughter cows, we obviously don't slaughter our horses. The reason why we do have them, as I mentioned earlier, is the manure, too. We see the whole project as a...we call it holistic approach. But we want to bring the whole property back, so part of it, of the horses, what they produce is the manure which we use to grow plants. The other thing, yeah, breeding horses and selling them and the way we use them in the carriage, we not doing simply trailers, we doing carriage rides, that's an income from the horses that we get directly ag related; that's the way we see it. Without our horses, we could not do the carriage ride and not have that income.

CHAIR VICTORINO: Mr. Couch?

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COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR VICTORINO: Okay. I think I appreciate that answer, thank you. Other questions for the testifiers or for our resource people? I apologize. Seeing none, thank you very much and I appreciate you being here and spending a little extra time to be questioned about specifics on your type of operation. Thank you very, very much.

MS. KOOLE: Thank you and just one sentence if I can add? Regarding the long, you know, the project seeing it all together, because we're talking about the 50 percent, and for example, we doing a windbreak of bamboo just to break the wind that saves a lot of water. We're thinking a lot how to do this with the limited water because we're talking limited water; and so we having...we coming out with concept that save a lot of water long term but that's what we're working on, everything takes time. In the two years since we had the property, there's a lot changed, yeah, and we're saving a lot of water long term, that's our intention.

MR. KOOLE: Any farmer here can testify --

CHAIR VICTORINO: Can you get close to the mic please?

MR. KOOLE: --any farmer here can testify that they're really concerned about the resource that the water is, and I think everybody, every farmer can say that they do their utmost to make maximum benefit out of the water they get out of their water meter.

CHAIR VICTORINO: Thank you. Thank you very much. And let me say this in closing for you folks and those are out here, this problem or this challenge with water usage exists all over the United States. I am the Chair of the RAC, the Rural Action Caucus, and this has come up in many of our meetings because water is now being competed not only for ag but domestic use, industrial use, but more domestic because more and more people have chosen to live in these outlying areas and want to build homes and really not really wanting to be farmers, they just want to live there. But they take the same water sources as the farmers so it's a problem that exists all over the United States; so thank you very much for being here today.

MS. KOOLE: Thank you.

CHAIR VICTORINO: Aloha. Okay at this point in time, what I would like to do is, with no objections, I would like to defer this matter because I would like to continue to work on it. And, again, thank you all those that came today to testify, your mana`o is really, really appreciated. And I'm gonna try to incorporate it and come up with something that, at least for now, will take care of the fairness that we've spoken about today. So, with no objections, I will defer Item WR-21.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (MV, GB, RC, DC, SC, DG).

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**ACTION: DEFER pending further discussion.**

CHAIR VICTORINO: No objections, thank you. Okay. At this point in time, I've been informed that we haven't had our morning break so I will tell you let's take our morning break and can we please, please, please be back by 10:35? 'Cause we have a few more items that I want to discuss. And I'd like to try and get done before this afternoon so that we don't have to go all day, but if it...we will go all day because that's what I had planned. Thank you very much. This meeting is now in recess. . . .(*gavel*). . .

**RECESS: 10:24 a.m.**

**RECONVENE: 10:42 a.m.**

CHAIR VICTORINO: . . .(*gavel*). . . The Water Resources Committee will reconvene. Thank you.

**ITEM WR-12: OPTIMIZING THE INVESTMENT OF COUNTYWIDE MAINLINE AND WATER INFRASTRUCTURE IMPROVEMENTS (MISC)**

CHAIR VICTORINO: The next item on our agenda is WR-12, Optimizing the Investment of Countywide Mainline and Water Infrastructure Improvements. I am very thankful that, today, we have the opportunity to actually see and also the...and *Akaku* can now show the community some of the issues we're dealing with. And so, at this time, with no objections, I will turn it over to Mr. Paul Meyer; he is the expert and he will be helping us in this area. Mr. Meyer?

MR. MEYER: Thank you, Mr. Chairman. You asked...the Committee asked that we outline a couple of examples of the water system improvements that were necessary for meter issuance. We did that in our letter to you as Chairman dated September 24, and it's a two-page letter explaining in words the ordinances that govern the requirements for water system improvements. And then we provided two exhibits: Exhibit 1 was the water system requirements for subdivision and the second is just for basic water service to a parcel. This really is an issue in particular in remote areas where the ordinances require that a subdivider or someone who wants water service must install the main lines to the point of adequacy of the existing system, and it's at their expense. There are, in the ordinances, there are provisions for reimbursement of certain of the costs over a period of time. But basically, in connection, perhaps you'll recall, that in connection with the Upcountry meter list, the Department did a very rough estimate of the costs of providing mainline service to all the people on the Upcountry meter list; and that was when the meter list only had about 1,800 people on it. And that cost, estimated cost of that mainline extension throughout the Upcountry area, ran into the hundreds of millions of dollars. With the meter list as it is today, it's much higher than that. So that's not something the Department with our current budget of about \$30 million a year capital expenditures can countenance at this point, and that's

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the reason for these ordinances which require that the actual people getting the service pay for the improvements. Any questions?

CHAIR VICTORINO: Okay. Thank you. And if you will look at the exhibits, they're in the book but we're able to put it on the screen today. Mr. Meyer, maybe you can go over these examples and so that we can at least have a better understanding what you're referring to. I know what's in the book, but maybe you can give us some detail and cost factors of having that. Stop playing with your toy and give it to him, do you have one? Do you need one?

MR. MEYER: Thank you. No, I...

CHAIR VICTORINO: Do you need a pointer?

MR. MEYER: The Exhibit 1 is basically requirements for a subdivision, and these are basically Maui County Code provisions required in an agricultural district, a minimum line size of six inches and others eight inches. So, in this scenario, we've got a subdivider who is approximately 1,250 linear feet away from the point of adequacy, and you can see that on the lines. The point of adequacy is the eight-inch line which snakes along the main road there and the blue line is the required installation. Again, that's 1,250 linear feet of six-inch ductile iron pipe, and fire service required for that subdivision would require two fire hydrants. Those would be the improvements necessary for that parcel to obtain subdivision approval. And, again, that comes straight out of the County Code. That would probably cost on the order of \$1.5 million. Any questions?

COUNCILMEMBER COUCH: What about the other one?

CHAIR VICTORINO: Do you have any questions on this one? Then we'll look at the next one. If you would, Ms. Willenbrink, will you go to...oh, you have a question on this one before I move on? Hold on. Okay, Ms. Baisa.

COUNCILMEMBER BAISA: Is this a family subdivision or what are they gonna subdivide it into?

MR. MEYER: It doesn't, the family subdivision or just a straight subdivision, not restricted to immediate family, really comes into play with the reimbursement. The reimbursement provisions of this same section of the Code provide that if someone else can use this same line, the same main line that is being installed--say a, neighbor wants to do a subdivision as well or wants to do a water hookup to that main line--then half of the costs of the main line itself, the main line extension itself, can be reimbursed over a five-year period. In other words, 20 percent a year, and those costs have to be inspected and approved, the engineering drawings need to be approved and all that sort of thing. It's more beneficial for a family subdivision, if somebody wants to do a family subdivision--and again the main line can serve a neighbor--75 percent of the costs can be reimbursed of the main line itself; and it's reimbursed over two years. In other words, 50 percent each year over a two year period; so that's pretty beneficial.

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COUNCILMEMBER BAISA: That's why I asked the question about what kind of a subdivision it is, 'cause it matters in terms of final costs to us.

MR. MEYER: Correct. Yeah. Exactly. Again this is designed to encourage people to, in effect, share the cost of the main line improvements while they're improving and receiving higher value for their property, getting a subdivision. The second exhibit we have, Exhibit 2 is not a subdivision, this is just a straight service. And a developer or a party who wants water service is responsible for bringing in the water service from the nearest point of adequacy. And you can see here again it's 1,250 linear feet of six-inch ductile iron pipe...oh I'm sorry, I was looking at the wrong exhibit. This is 2,900 linear feet of four-inch ductile iron pipe which is the smallest grade of mainline; and that runs again along the roadway, it would have to be buried to departmental standards, and that would be again very expensive, probably \$2 million worth of pipe. There is an alternative, which the Department does allow to...an improvement to County standards and that is to have a remote meter. This would be Option 1--it's listed on this exhibit--would be to have the meter located at the point of adequacy and then to have the customer install his own pipeline to his property. You see that a lot in a lot of cases Upcountry. If that happens, they would need, the customer would need to obtain an easement for that waterline across the property. It does cross, and that would be all of the intervening neighbors. People are pretty good about that, historically. They don't usually mind someone putting a plastic pipe, HDPE or Driscoll pipe along the property, and that would allow them to save the cost of putting a County-standard pipeline in the road. But, again, it's something that the customer, the applicant for service, would have to provide for. Those are the two sort of generic examples: one's a subdivision and one is just water service. These are dramatic examples in terms of the distance involved, the linear footages. We felt it best to show you a couple of scenarios here that would have fairly large extensions, fairly large distances to the point of adequacy for sake of an example. There are many more where the distances are not that far. We have people on the meter list on a regular monthly basis who've got fairly short distances or no distances involved, but there's a lot of these that are quite a distance from the point of adequacy as well.

CHAIR VICTORINO: Ms. Baisa, are you done?

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: Oh okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, Mr. Meyer, thank you this is perfect examples, these are perfect examples. The question I would have is, for instance, you have the parcel that is installing that line if they did the Option 2.

CHAIR VICTORINO: Exhibit 2.

COUNCILMEMBER COUCH: No, Option 2 on Exhibit 2.

CHAIR VICTORINO: Okay.

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COUNCILMEMBER COUCH: Then the parcel next door to them closer to the existing line, if they wanted a water meter, all they would have to do is tap in to that existing line. Now would that be...would the Department care as to who pays for...I mean could the person who got the existing parcel, could they say, look I paid \$2 million to get this thing put in here, you're gonna have to pay to tap into my line or help me with some of those costs?

MR. MEYER: That's a good...

COUNCILMEMBER COUCH: Is that something that the Department handles or is that just between the two owners?

MR. MEYER: That's a good question. The short answer is, it's between the two owners. Once that line, that four-inch line is dedicated to the Department, to the County, it becomes a County asset; and any citizen can elect to request service at that point of adequacy. So what you've done is you've changed the point of adequacy for water supply from all the way back down at that road –

COUNCILMEMBER COUCH: Right.

MR. MEYER: --junction to the parcel that's being served by the four-inch line. There are times, quite a number of times, where people will partner up and share the expenses. Many times they will share the net after reimbursement of the costs of the mainline extension; so there's a bunch of different ways that people can sort of hui up or partner to share the expenses.

COUNCILMEMBER COUCH: So thank you for that. The issue there then is, for instance, the parcel that's highlighted, say that's number 85 on the water meter list, but the one next to 'em is number 185 on the water meter list and then everybody else, I'm assuming, is probably on the water meter list and they're not gonna want to all chip in unless they're really close together. Is that part of the issue you've been, you have with this, I mean with the whole system?

MR. MEYER: Yeah. There --

CHAIR VICTORINO: Oh, wait, wait, wait before you answer the question, let me get the question straight so that you know. What you're saying is, this is Upcountry meter list, right?

COUNCILMEMBER COUCH: Yeah, yeah.

CHAIR VICTORINO: You're talking about the Upcountry list, okay we not talking about anything else because remember this covers the entire County.

COUNCILMEMBER COUCH: Right.

CHAIR VICTORINO: So we're talking Upcountry meter list so let's start with that premise first, right.

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COUNCILMEMBER COUCH: Sure.

CHAIR VICTORINO: So let him explain what that comes up to. Okay, go ahead, Mr. Taylor.

MR. TAYLOR: Okay, thank you, Mr. Chair. It's two items, Upcountry specifically and then in general. You're exactly correct, one of the difficulties we have is that somebody gets called up, hey, you're next on the list. He may have some more neighbors who are shown here, they're so far down the list they're not sure, because we can't promise them, whether they'll be offered. So the first guy has to agree to pay or not but his neighbors don't know if they'll be offered meters so they don't really want to pony up the money, because they may not be offered meters. This is why in our original plan we introduced about a probably a year and a half ago, what we wanted to do is, and it didn't include this mainline extension, we wanted to try to get through the list. If people in situations like this said no, then so be it. We'd pass them by, we wanted to get rid of the list; that's why the Council voted to, you know, end signing up for the list. Then hopefully, if we still had water left, then there'd be no more list or we could make some different list with different rules so that in round two these people would be able to hui together because we could find some way to offer the meters at the same time. So that was exactly why, that was our overall strategy to try to get through the list under its current rules, then we could deal with situations like this otherwise. In the other areas other than Upcountry, there are no such rules. And you're correct, so everyone's waiting for their neighbor to be first in because if your neighbor pays no one else has to. I want to mention I'm not exactly clear on how MECO does it, but I recall that we've gotten reimbursements from MECO when we've built County facilities. I remember this from Wastewater. We had to put in all sorts of line extensions to serve our facilities; and years later, MECO would call and say, hey, one of the people served by that thing you put in hooked up so MECO collected that money from them and gave it back to us. So Maui Electric seems to have some...a very different way of dealing with this. And that the first-in still has to pay, but they're in the middle for future hookups, somehow collect the impact fees and give it back. So that would take some legislation from this body to build a system like that. But, you know, your question was saying, you know, do we do that? No we don't, but I'm certain we could find a way to do that. If you wanted the Department to say, look, if we put this line in, in the past 20 years or something and now you're hooking up, you have to pay, you know, some share of it. So if there was some legislation that had us do that, you know, that is something that could help us, you know, sort of have somebody front the money but other people might have to help pay it back later.

COUNCILMEMBER COUCH: Okay, thank you for that. Of, if a follow-up if I may, Mr. Chair?

CHAIR VICTORINO: You may.

COUNCILMEMBER COUCH: Okay. Thank you. Of all these situations that you have here or similar situations, how many of them exist in the County now, do you know how many people are in this situation? Okay.

MR. MEYER: Of the people on the Upcountry meter list...

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COUNCILMEMBER COUCH: No, I'm talking in general, the whole County 'cause you guys were talking about the whole County.

MR. MEYER: There are many, many parts of the County where people live and don't receive service from the Department of Water Supply.

COUNCILMEMBER COUCH: Okay.

MR. MEYER: Good example is you know Kaupo area, they don't have potable water service out there. There are many, many areas.

COUNCILMEMBER COUCH: But are they gonna be serviced by you if they wanted to be serviced by the County? They would have to put in the lines, is that what you're saying?

MR. TAYLOR: It depends on how aggressive this language is. If it says, there's no limit it can be 40 miles, well then they're all gonna want to be serviced by the County. I mean that's exactly the point is if you look geographically at the areas that the County line served, it's a very small percentage of the island, all the rest of the land is owned by somebody. So unless there are some limits, you know, that this mainline extension is meant to only go 100 feet or within the Urban Growth Boundaries or something, then somebody from Kaupo could come in and say, you know, I want to connect to the line in Ulupalakua and it's, you know, how ever many miles. So that's why it's really important that the Council be clear about how long an extension are they looking to pay for. And unless there's some limits, what Mr. Meyer said of a few hundred million dollars probably won't even come close.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR VICTORINO: And this is what this is all about –

COUNCILMEMBER COUCH: Yeah.

CHAIR VICTORINO: --is to try to, again, plant in our minds what limitations we would like to bring forward. I mean this is important. And the reason I distinguish between the two, Mr. Couch, is to make it clear that anywhere else in the County outside of the Upcountry meter list, if you put in a line, anybody else can tap in. Upcountry, you cannot because you have to have been...your meter had to come up on the list. So there's really big dynamic differences in that respect. Also, the fact is if somebody who does this Upcountry like...and is this a Upcountry meter extension, Mr. Meyer? Would this be an example?

MR. MEYER: Yes.

CHAIR VICTORINO: Okay. So that person that you just put in all that, that would be the only person that would be charged at that point in time and we reimburse only that person; so anybody who

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subsequently 20 years, 10 years, whatever down the road comes on, they don't pay for that. And so that's why I'm also...I checked with MECO and I'm trying to get a response back from them as far as how they do it. 'Cause I already found out from MECO that they do have a methodology of recouping their costs at a later date for improvements done to one property and then the others connecting from that point. So I think maybe that's something we have to look at legislatively also. But I just want you clear that's why I separated the two, I just wanted that to be clear, because it makes a big difference if you talking Waihee or Molokai or Upcountry. Yeah. Talking about Molokai, I will ask Ms. Crivello next, you have a question?

COUNCILMEMBER CRIVELLO: No, I don't.

CHAIR VICTORINO: Okay. Mr. Carroll? None? Ms. Baisa, again any questions?

COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: No. Mr. Guzman?

COUNCILMEMBER GUZMAN: Not at this time.

CHAIR VICTORINO: Okay. You know, again, this gives us a better understanding of what we need to work on and this is what this was all about. I wasn't planning to take any action today; again, this was just to keep that ball moving. And I think this is going to be another one of those long, arduous worked out to get something done; however, it is very clear that if we start giving 75 percent and have no limit that like Mr. Meyer said two, three, four people, done, there's all the money 12.5, \$12.6 million has been used up. And we want to spread that money to as many people as possible. So, with no objections, I'm going to defer this matter.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (MV, GB, RC, DC, SC, DG).

CHAIR VICTORINO: No objections. Thank you very, very much.

**ACTION: DEFER pending further discussion.**

**ITEM WR-20: DEPARTMENT OF WATER SUPPLY DROUGHT PLAN (CC 14-189)**

CHAIR VICTORINO: So let's move on to our last and final item for today's agenda, WR-20, The Department of Water Supply's Drought Plan. The Committee is in receipt of County Communication 14-189, from the Director of Water Supply, transmitting correspondence dated June 26, 2014, detailing the Department of Water Supply's action plan in the event that a drought is declared pursuant to the provisions of County Code 14.60, 06 excuse me, Maui County Code. So, at this time, I would like...and the reason for this being brought up today and it's very ironic

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'cause I decided a couple weeks ago to bring this up to bring this up and then we got this Upcountry voluntary cutback of 10 percent; and I thought, how apropos to get something like this on the agenda today. So, at this time, I will turn to Mr. Taylor. And, Mr. Taylor, this is your opportunity.

MR. TAYLOR: Thank you, Mr. Chair. Chapter 14.06 of the Maui County Code...

CHAIR VICTORINO: Excuse me, Mr. Taylor, you all have that. I think...do we have that copy in their binder, Ms. Willenbrink? I think I asked you to put one in their binder, right?

MS. WILLENBRINK: Chair, the correspondence is dated July 22<sup>nd</sup>.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: And the last page of the correspondence has the Chapter 14.06 Maui County Code attached.

CHAIR VICTORINO: Have you all found it?

COUNCILMEMBER COUCH: No.

COUNCILMEMBER CRIVELLO: Yeah.

CHAIR VICTORINO: Okay hang on, one said no.

COUNCILMEMBER COUCH: July 26<sup>th</sup>?

MS. WILLENBRINK: July 22, 2014.

CHAIR VICTORINO: July 22<sup>nd</sup>.

COUNCILMEMBER COUCH: Nope.

CHAIR VICTORINO: I just want to make sure everybody's on the same page.

COUNCILMEMBER COUCH: I don't have it.

CHAIR VICTORINO: Okay. Can you assist, Ms. Willenbrink?

COUNCILMEMBER COUCH: All I got is this one. What...yeah.

CHAIR VICTORINO: You found it?

COUNCILMEMBER COUCH: It's June 26<sup>th</sup>, it's, it's...yeah.

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COUNCILMEMBER BAISA: June 26<sup>th</sup>?

CHAIR VICTORINO: You said July.

MS. WILLENBRINK: Oh, I was referring to the cover letter.

CHAIR VICTORINO: Oh, June 26, 2014.

COUNCILMEMBER COUCH: Don't have the cover letter. I've got what's behind the cover letter.

MS. WILLENBRINK: I apologize.

CHAIR VICTORINO: Okay. We all make mistakes. Thank you very much. No problem.

COUNCILMEMBER COUCH: That's alright, no worries.

CHAIR VICTORINO: So now everyone has it, June 26, 2014.

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Okay. So we're all on the same page. Mr. Taylor, go ahead.

MR. TAYLOR: Thank you, Mr. Chair. So Chapter 14.06 of Maui County Code titled, Control of Water Usage During Droughts basically says, that the Director of Water Supply, if the Director feels there's going to be a drought, has to consult with the Board of Water Supply and then get approval from the Mayor and then issue a drought. And once that process is done, the Director of Water Supply has authority to make whatever schedules for water restrictions and things that the Director feels appropriate doing. So that is the procedure, consultation with the Board and approval by the Mayor, doesn't have any action by Council. So what we did is in order to be ready for a drought, we did the consultation with the Board of what we intend to do if there's a drought, essentially leave this in our back pockets so we're ready if there's a drought all we need to do is go back to the Board, consult with them on whether or not there is a drought; if they agree, then we've already debated what the schedules are going to be, how we're going to deal with it, that way it can be much faster. So essentially, within Sunshine Law, we have to follow to schedule that Board meeting; so essentially within seven days of deciding hey, I think we're gonna have a drought, we could have a meeting with the Board and an agreement by the Mayor and issue these schedules. So this is our current plan that has already been consulted with the Board of what we would do in case there's a drought, primarily Upcountry. I want to say that from the beginning, from a couple of years ago, we didn't think the tools within this ordinance were really the best way to deal with this. We don't think this is a very elegant way to deal with drought. We have thought that the best way to deal with water shortage or drought is through drought tiers that we've presented previously in this Committee. And that's the water shortage bill that we have presented that you know there's been a lot of discussion but has never been

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passed out of this Committee. Along with tiered rates that have also obviously never been implemented. We still think that is a much, much more elegant way to go about that, but without that ordinance being passed we need to have something ready. So this is the best we feel we could come up with that we need to have ready in case there is a major water shortage especially Upcountry. What I would ask all the Council members to do is look at what we're suggesting, which is essentially just a 20 percent mandatory cutback for everybody with mandatory fines and pulling meters, it's pretty draconian. We think it would be better if the water shortage bill was passed with the tiers for increasing stages of drought. We think that would be much, much more elegant than this and less draconian. So one of the purposes for showing you this is to show you...so you're not surprised if we end up having to do this, but also to make another pitch saying, we would prefer if this body recognizes that as much as they don't like that water shortage bill we proposed, maybe you like it better than you like this plan because we like it better than we like this plan. We need to have something ready. This is the best we're allowed to do under the current ordinance, we would absolutely prefer that; but, otherwise, we're also open to any helpful suggestions. We could always go back to the Board and re-consult with them if something comes out of this Committee meeting that we say, hey, that's a great idea, we should add that; so we're also open to that. So, in general, I think that's why we're here, what we're trying to do, we want to be ready and we're, you know, we would like to do this cooperatively with you and that's, you know, why we're asking that we just have this discussion. Thank you.

CHAIR VICTORINO: Thank you, Mr. Taylor, and before I let the Members ask you questions, I just wanted to make one thing clear. This bill that's in front of us, is really a drought, is that correct, a drought?

MR. TAYLOR: That is correct.

CHAIR VICTORINO: Okay. And the water shortage bill was much more extensive 'cause it does not talk about only drought, but it talked about extreme cases of water catastrophes, if I could use for a lack of a better term at this point. Mr. Taylor?

MR. TAYLOR: And that is correct, because regardless of the cause of it --

CHAIR VICTORINO: That's correct.

MR. TAYLOR: --our action plan is identical. Whether the equipment blows up or whether it doesn't rain, the impact to the customers is the same, there is less water than they would normally have. So although our response plan to fixing mechanical things would be unique, how we have to deal with the community if we don't have enough water to meet demand is identical whether it's act of God, act of sabotage, mechanical, weather, et cetera. That's why what we prefer is to go from a drought ordinance to a water shortage ordinance, because again this is about serving the customers, the service to the customers is identical regardless of the root cause.

CHAIR VICTORINO: Okay, thank you. I just wanted that clarified so that people are listening right now understand that the WR-20 is the Department of Water Supply drought plan, and the other

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one was a water shortage plan which was really in my mind still two different items, even though they may encompass the same or be based upon the same issues of not having enough water. But I think the biggest hang-up that people had was the two things and I think number one if I remember the discussion is if due to the Department's failure to maintain equipment and there's a breakdown or a pump goes down then why should I pay much higher rates during that period of time? I think that was one of the main issues in that, okay, Mr. Taylor. And, Members, correct me if I'm wrong, but I think that was one of the big issues in that one. And the second one was that the fact that the higher tiers would then damage if there were shortages of water Upcountry, our farming community. I think those were the two, and there were other issues; but I remember, those were the two top issues. And, again, correct me if I'm wrong, Members, I think that was what I heard right, Ms. Baisa? That was the overlying one. So, at this point in time, I will allow you to ask questions starting with Ms. Baisa and I'll just work right down the chain again. Okay, go ahead, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair. I think the question that I have first of all is if I understand correctly we are in a drought situation right now?

MR. TAYLOR: We are not in a drought situation right now. We have, the Department has asked for a voluntary 10 percent cutback in the Upcountry area. So that is not a declaration of any requirement, it was a request.

COUNCILMEMBER BAISA: So when did that go into effect? I know it was fairly recent.

MR. TAYLOR: I don't have the date, but it was certainly within the last month or so.

COUNCILMEMBER BAISA: Do we know how that's working, how is the voluntary cutback working? I'm curious to know if voluntary cutbacks work.

MR. TAYLOR: This one was interesting, the first three days or so after, usage went down dramatically. And it was I think the fourth day that it was up higher than ever, so what we saw is this case...and usually and that's better than usual; usually, the next day it goes up. So it went down for a few days before it went up to a maximum. So that is historically what the Department sees every year, and you can get wider...we've been following very closely what's been happening in California which is in just a historical drought they've never seen before. The Governor asked for you know voluntary 10 percent cutbacks or something and usage went up. And all these different municipalities are trying different things, and it seems that the only people who are really making headway are the ones who are doing tiered water rates. I mean we read about that in our industry journals and it's being widely covered; that seems to be what works. So there is a huge experiment going on in California about what gets people's attention; and it's what we've been hearing before, in that, voluntary things just don't work and that you've got to somehow tie fines and money to it to get people's attention.

COUNCILMEMBER BAISA: That's the reason for my question is, I know that we've been asked to do it voluntarily; well, obviously we don't do it. So in lieu of that, then we have to have some kind

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of a stick here, and the stick is the 20 percent that we're looking at and the penalties that come with it. That's what it seems like it.

MR. TAYLOR: That's what it is. And it would be once a drought was called, there would be these penalties and possibly, you know, having your meter yanked, those kind of things. I just want to say, in our alternative that we asked for, the water shortage bill, the 20 percent cut or pay a penalty is basically equivalent to 20 percent cut or pay higher tiers. It's just a different way of collecting the money. The reason we like the tiers is, rather than going to your house, reading your meter and sending you a fine, we're saying look, if you don't cut back under the new tier, when we get your reading, we'll know you're over and your fine is built into your bill. So we use the existing communication system of, we get your reading, we send you a bill anyway; so that's why we think it's a much more elegant situation. It's really the same thing; it's saying, cut back or you get charged.

COUNCILMEMBER BAISA: Okay.

MR. TAYLOR: It's exactly the same, it's just a more elegant way to do exactly the same thing.

COUNCILMEMBER BAISA: One more question. This is across the board so it includes ag users?

MR. TAYLOR: What is in our draft plan is across the board.

COUNCILMEMBER BAISA: This thing we have in front of us.

MR. TAYLOR: That's correct.

COUNCILMEMBER BAISA: So it's across the board, everybody –

MR. TAYLOR: That's correct.

COUNCILMEMBER BAISA: --and it doesn't exempt ag.

MR. TAYLOR: That is correct.

COUNCILMEMBER BAISA: Okay, those were my questions, thank you, Chair.

CHAIR VICTORINO: Thank you. And, Mr. Taylor, maybe a more efficient plan than elegant. I don't know, the elegant doesn't sit well in my mind. It's like if this is a better, you know, a better plan or, you know, I guess I just wanted to take the elegant out of this whole equation.

MR. TAYLOR: I will do that. I had a professor back in graduate school that used to use that term for efficient engineering processes, and maybe in an Australian accent it sounds better so I'll stop using it.

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CHAIR VICTORINO: Okay. Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing at this time, thank you.

CHAIR VICTORINO: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. So, Mr. Taylor, you heard Mr. Victorino's comments on the reasons why the water shortage bill hasn't gone through yet because of the two concerns. Those two concerns are...exist in here as Ms. Baisa just kinda alluded to. They exist here so as it stands now those guys, the agricultural guys have to cut, period, end of story or they're gonna get fined. Is that right?

MR. TAYLOR: That's correct. And those two concerns will exist whether we write them down or don't write them down.

COUNCILMEMBER COUCH: Right.

MR. TAYLOR: Those two concerns are just part of the physical world that we can't get rid of with words on a piece of paper. Agriculture, agricultural use, like we heard early in this meeting, represents 50 percent of the use Upcountry. There's about 10,000 meters in the Upcountry region, half the water goes out at Ag rates. If there's a, you know, a 25 percent shortage and we're gonna leave 50 percent of the users out of it, that means everyone else is gonna have to cut back, you know--I can't do that math in my head, is it 75 percent?--some enormous amount. There is no way when you've got 50 percent of the users in one class that you can leave them out of any water shortage situation. And I certainly understand, just like in California, the farmers are saying, we can't make it. The water suppliers are saying, we just do not have that much water. And that is my concern is that we're sort of putting off the good in search of the perfect, and the perfect will never exist because the real situation on the ground is bad and we have to be ready for it.

COUNCILMEMBER COUCH: There's your 80 percent again, Mr. Chair. So how are they handling it in...like it's my understanding, Colorado has an issue and Texas and California, the farmers are just out of luck, they're not getting the water or they're giving them the water and charging the other rate payers higher, how is that working?

MR. TAYLOR: And I'm not going to claim to be an expert on California water, but it's so many different entities deliver water wholesale, municipalities and utilities, but if you follow this you'll see all kinds of farmers are completely out of business. It was just on the news last week that California grows 80 percent of almonds in the world and basically not to expect that there's going to be any almonds in the world next year, because they're just they're dry, they're not getting water. I can tell you that in Texas, I was at the national conference with Mr. Victorino in June and I talked to somebody who he was either a Texas Congressman or...and he used to be on the regional water board or vice versa but he was very knowledgeable. He said that what they did is when they were in this major water shortage, they looked at it economically. There's a

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certain crop, I can't remember what it was rice or soybeans or something, that was using 20 percent of the water that was only generating, you know, 2 percent of the GDP of water users; so they just said, look, we got to cut that. Anybody whose average...anybody whose ratio is negative, they said, look, we have no choice, we've got to cut you for the people that have positive ratios; and that's how they did it. There are no...farmers are going belly up. There is just nothing a water supplier can do when the supply falls far, far, far below the average demand. Somebody's not going to get water, and if we take 50 percent of the users and say you're safe, there is not enough in the other 50 percent to make it up. So as hard as this is...and that's one of the reasons for putting...we didn't put this together to try to make a point, we put this together to show to have a plan and it's really the best we can do. I still think the tiered rates are a much better way to do this, but there's no way to leave ag out of any situation; and if we don't have a bill, they're gonna be left out anyway. Because if we can't pressurize the systems, people who don't have pressure just aren't gonna have pressure, there won't be anything we can do about it. It's better to have a plan that we know we can implement and at least try to manage it rather than just saying, look, there's not enough water, we'll pressurize the pieces we can and the higher levels just won't have water and there's nothing we can do; so that is our concern. I want to be ahead of this and I want to be ahead of this with Council's cooperation and not just end up in a situation where we're at, you know, 60 percent our usual water and we're just, you know, making things up as we go along. I think that'll be worse for everybody.

COUNCILMEMBER COUCH: And yet that still leaves out another segment, too, and that's the multi-family issue, multi-family condo issue as well.

CHAIR VICTORINO: Well, let's not get into that, okay, Mr., I stopped a testifier so I'm gonna stop you because that is not the issue...well I mean, yeah, but...Ms. Crivello?

COUNCILMEMBER CRIVELLO: I have no comments.

CHAIR VICTORINO: No, not at this time? Mr. Carroll?

COUNCILMEMBER CARROLL: No. I think it's been covered adequately, thank you.

CHAIR VICTORINO: Thank you. Again, you know what the two main concerns were and that's why we didn't take action on the plan that was brought forward. I mean it's not myself, was all of us that decided that more work needed to be done. I think the other reason for bringing this up is because I had this gnawing feeling that another drought may and may occur Upcountry, and sure enough I'll be danged if it didn't. And so, you know, again Upcountry has a real propensity, because of all the surface water that is utilized up there. Because I did a quick math on all the ground sources, and right now if you just went with the ground sources...and this is on...then the pages, oh, page...no, then the pages are not numbered, but it's actually the third page on the press release, Page 3, I'm sorry Page 3 of 3, I'm sorry, it's right there. It says groundwater, you have Kaupakalua Well that produces 700,000 gallons; you have the Haiku Well that produces about 400,000 gallons; you get Pookela Well which is producing 1.3 million gallons; and then

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you have Hamakuapoko which, Mr. Taylor, I was...the testifier mentioned that it wasn't on-line yet and I thought I heard you say differently at one of the meetings a few weeks ago.

MR. TAYLOR: The Hamakuapoko Wells are fully functional from a pumping standpoint.

CHAIR VICTORINO: Yeah.

MR. TAYLOR: The actual carbon has not arrived, we're expecting that in the next couple weeks. So we can't use the...we can't pump the water into the potable system yet, but we expect to have that on-line basically as soon as the actual carbon arrives for installation.

CHAIR VICTORINO: Okay. So once that carbon arrives then we'd have 1.5 more. So if you do the quick math, we have approximately 4 million of the normal average of 7.1 million, this is the Upcountry area; and the past week when this press release was sent out, they had used 8.9 million gallons. Okay, that also changes depending how much rain occurs Upcountry or not. And so we are just about 50 percent, maybe less of what we need from ground sources to be adequately covering the Upcountry area, and I think that's another issue that I'll talk about later but since it was there in the report. So my feeling is, I'd like to know what you guys would like to do, defer this matter and really consider Mr. Taylor's water shortage plan. I mean I think that's what we need to look at, the drought plan. The reason for this is this is the plan that is in existence right now; and, as you can see, it can have really dire consequences. But I think his shortage plan, his water shortage plan, has more validity and I think it's broader in its base; and we need to look at all the aspects of the penalties, I think that was the main concern, the type of penalties that were being proposed. So if it is alright with the Committee, I would like to ask Mr. Taylor, I would like to defer this matter. And at, hopefully, our next meeting which will won't be till the 29<sup>th</sup> of October, because on the 15<sup>th</sup>, the week of the 13<sup>th</sup> through the 16<sup>th</sup>, I will be out of the office. I will be at a couple of conferences. One is the HWWA Regional Fall Conference in Kauai, and so I know this will be one of our discussion matters because drought has become a problem not only here but on all the islands, Big Island and Kauai also. It's funny, we have a lot of rain and then we don't have no rain at all, it's just really weird. But anyhow, with no objections, I'd like to defer this matter with the aspect that I would like to have Mr. Taylor also bring back his water shortage plan for us to take a look at and discuss. No objections?

MR. TAYLOR: Question, Mr. Chair.

CHAIR VICTORINO: Yes.

MR. TAYLOR: My recollection is that, that was deferred last time; so if you want to check with Ms. Willenbrink, I believe that you can just put it on the next agenda I think it's on your --

CHAIR VICTORINO: Well, no, that's exactly what I'm say.

MR. TAYLOR: --Committee...okay.

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CHAIR VICTORINO: Yeah, yeah. Mr. Taylor, relax, I got it. That's exactly what I was going, but I going defer this matter at this time, if that's okay with you, Mr. Taylor?

MR TAYLOR: Yes sir.

CHAIR VICTORINO: Okay. Now can I ask my Members, if that's all right with them?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections, thank you.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (MV, GB, RC, DC, SC, DG).

**ACTION: DEFER pending further discussion.**

CHAIR VICTORINO: Well, I had planned a whole day meeting, but I think we've been able to cover pretty, pretty in depth the different issues that we had listed, the three items today. So if there's no other comments or discussion, then I will adjourn the meeting of the Water Resources Committee, October 1, 2014. This meeting is now adjourned. . . .(gavel). . .

**ADJOURN:** 11:27 a.m.

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Water Resources Committee

wr:min:141001:cvk

Transcribed by: Cheryl von Kugler

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CERTIFICATE

I, Cheryl von Kugler, 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 22<sup>nd</sup> day of October, 2014, in Kihei, Hawaii

  
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Cheryl von Kugler