

**WATER RESOURCES COMMITTEE**  
Council of the County of Maui

**MINUTES**

**November 19, 2014**

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

**CONVENE:** 9:04 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair  
Councilmember Mike White, Vice-Chair (in 9:07 a.m., out 10:58 a.m.)  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll (out 10:24 a.m., in 10:50 a.m., out 11:25 a.m., in 11:39 a.m.)  
Councilmember Donald G. Couch, Jr.  
Councilmember Stacy Crivello  
Councilmember Don S. Guzman

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Raynette Yap, Committee Secretary

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)  
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  
David C. Goode, Director, Department of Public Works  
Paul Meyer, Deputy Director, Department of Public Works  
Edward S. Kushi, First Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Brittany Smart, Marketing & Public Affairs, Maui EKO Compost  
Brett Fahnestock  
Rosemary Robbins  
Warren Watanabe, Executive Director, Maui County Farm Bureau  
Plus (2) Others

**PRESS:** *Akaku Maui County Community Television, Inc.*

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**CHAIR VICTORINO:** ...*(gavel)*... Good morning. The November 19, 2014 Water Resources Committee will come to order. I'm the Chair, Michael Victorino, and I want to welcome everyone to the meeting. Before we get started, I would like to ask everyone to turn off their cell phones, put 'em on silent or vibrate or whatever so that their noise won't be made. Decorum will be held in this Chamber. I'd like to introduce the Members that are here this morning. First of

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all we have the, will join us momentarily, the Vice-Chair of the Committee, Mr. Mike White. We have the Chair, the Council Chair for our Council, Ms. Gladys Baisa. Good morning.

COUNCILMEMBER BAISA: Good morning.

CHAIR VICTORINO: And Vice-Chair of the Council, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: Good morning. And from South Maui, Mr. Don Couch.

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR VICTORINO: Good morning. From Molokai, our lovely lady, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR VICTORINO: Good morning. And from Kahului, our Member, Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR VICTORINO: Good morning, sir. No non-voting Members are here. If they do show up, I will recognize them at that time. I will also recognize from the Administration, David Taylor, Director of Water Supply. Good morning, Mr. Taylor.

MR. TAYLOR: Good morning, Chair.

CHAIR VICTORINO: And Corporation Counsel, First Deputy, Ed Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning, sir. Also going to be in the Chamber this morning for our next presentation will be Brianne Savage and David Goode. Bri is the Interim Director for Parks and Recreation and Mr. Goode is the Director of Public Works, and they'll be coming in to, on matter of WR-18, okay. Let me introduce our Committee Staff, Ms. Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: And Rayna Yap, our Committee Secretary. Invaluable people that I know we cannot do without. Let me check now to make sure that our District Offices are online. Let me start, excuse me, with Hana. Dawn Lono, are you there? Are we on?

MS. WILLENBRINK: Oh.

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CHAIR VICTORINO: Okay, wait, we didn't put it on. Hold on, one second, technical...while I'm doing that, I can, like to recognize the Vice-Chair of the Committee, Mr. Mike White.

VICE-CHAIR WHITE: Good morning, Chair.

CHAIR VICTORINO: Good morning. We were almost ready. Okay.

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

CHAIR VICTORINO: Thank you, Dawn. I glad you was watching. Thank you. Now from our Lanai Office, Ms. Denise Fernandez. Denise, are you there?

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

CHAIR VICTORINO: Good morning. And from the island of Molokai, Ms. Ella Alcon. Ella, are you there?

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

CHAIR VICTORINO: Good morning, ladies. Thank you very much for being prompt and on time. Our agenda items today are just two and we will be discussing just those two items. Public testimony will be limited to those two agenda items today. You will be allowed three minutes, for which we have a lighting system. At two-and-a-half minutes, it will turn yellow. No, at three minutes, excuse me, it will turn yellow. At four minutes, it will start blinking red. I will then at that point ask you to conclude with one sentence to finish up your presentation. When testifying, please state your name and any organization for which you represent. We have established connections, as you see, with our Districts Office, so to be fair I will try to rotate, maybe every two or three testifiers here, I will check with our Districts Offices to see if there's anyone wishing to testify. The two items today we have is WR-22, the Waikamoi Renovations and we'll have an update on that and the other one is WR-18, Water Conservation and Control of Water Usage During Water Shortages. Those are the two items to be discussed today. With no objections, I would like to start public testimony.

COUNCIL MEMBERS: No objections.

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

CHAIR VICTORINO: Okay. Thank you very much. First testifier will be Brittany Smart and she is speaking on WR-18, and she is representing Maui EKO Compost, followed by Brett Fahnestock.

MR. FAHNESTOCK (*from gallery*): Fahnestock.

CHAIR VICTORINO: Okay, got it, Brett, sorry. Okay, go ahead, Ms. Smart.

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

MS. SMART: Good morning, Committee, and Council members, really appreciate the opportunity to speak before you again today. My name is Brittany Smart, representing EKO Compost. I actually wrote my testimony this morning and you all have copies of that provided to you. Thank you for giving me the opportunity to testify in front of you this morning. I'm here once again to talk to you about increased compost use and some benefits the use of compost provides. I'll be focusing my testimony on the proposed language, specifically the line that states, "...using any other technique that provides or recaptures water that is acceptable to the State of Hawaii, Department of Health". To support my testimony today, I have provided all of you with a copy of an article from *Biocycle*, which is a composting industry trade magazine, which discusses various policies being adopted around the country that use compost to solve environmental problems. Maintaining and replenishing our water resources is crucial for a healthy environment and a healthy community for without water, very little life can be sustained. Healthy soils play a crucial role in sustaining our natural water reserves. The use of compost in soils has proven to be a valuable tool in managing, retaining, and cleaning storm water runoff. On construction sites where compost was used, storm water runoff was reduced by 50 percent. Additionally, as the compost helps the soil work like a sponge, landscape irrigation can be reduced by 50 percent on soils that have been amended. As the article states, organic-amended soils sustain plant life, filter and retain rainwater, trap metals and nutrients and biodegrade contaminants, and ultimately reduce the quantity of chemicals and water applied for landscaping purposes. I urge the Committee and the Council to pursue and support such policies. According to the Waste Composition Analysis, Maui's waste stream is composed of 18 percent greenwaste and wood waste and 18.5 percent food waste. If fully diverted from the landfill, 36.5 percent of Maui's current waste stream could be composted, which could then be used to create healthier soils, resulting in a healthier and more robust water resources. Maui is not the only area facing these issues. Please, when you get a chance, read the article about the various programs and policies that other areas of the country are using to address these problems. Mahalo for your time.

CHAIR VICTORINO: Thank you Ms. Smart. Questions for the testifier? Seeing none, thank you very much for being here. Next testifier is Brett Fahnestock and followed by Rosemary Robbins. Good morning Brett.

MR. FAHNESTOCK: Good morning. My name is Brett Fahnestock. I'm representing myself. I live at Southpointe, a condominium association in Kihei, and I'm testifying on WR-18. One of the outcomes of WR-18 is to charge people that use a lot of water higher rates in a water shortage and the reality is it doesn't do that in some situations. It targets specifically condominiums to charge extremely high rates whether they're high users or low users of water. I live in Southpointe. If I use 15,000 gallons of water at Southpointe at my unit with my two kids and my wife, we pay \$83 a month for 15,000 gallons. If I live across the road in a house, that 15,000 gallons of water would cost me \$63. That's \$20 less if I lived in a house across the street. Now you guys voted a few months ago that \$20 to you doesn't mean anything. It's not a large sum of

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money. Three hundred thirty-six units at Southpointe times \$20 is about \$7,000 a month. That's the premium one condominium association pays for living in a condominium, \$7,000 a month, \$84,000 a year, one condominium association. That's the premium we pay just because we're under the "all other" category in the water. But we are residents, I live there, I work here, I raise my kids here, they go to school. Why should I pay a premium over someone who lives in a house? Reality is I shouldn't. Yes, the condos do subsidize the water for homes, which is what I've said in here numerous times. So here's the part of WR-18 where it's absolutely crazy. This is a part of that bill that I hope you will amend or change is that in a water shortage, say we have one, the Kihei sand turns to dust. That home across the street from me, that 15,000 gallons, it still pays \$63. They don't have to conserve a bit. Now for me in a condominium, that 15,000 gallons, it goes to \$112. That's \$52 a month difference and I'm still using only 15,000 gallons of water. So the home across the street, it stays 63 and for me it goes to 112. And so that's \$17,000 a month. That's \$210,000 a year in a water shortage. So Southpointe will have to have a special assessment just to pay for water in a water shortage while the home across the street, they're still showering, they're doing whatever they want, it's, the kids go, Mom it's a severe drought. I know, we only use 15,000 gallons. Who cares, you know, they don't pay any difference. So that's the part of the bill that's crazy. So Dave says the whole reason for the higher rates is to charge the higher user. So I took Southpointe's bills for a year, one year, and I looked, we used 9,000 gallons of water on average per month per unit. So are we high users of water at Southpointe? No, we're conservers of water over a one-year period. We're doing what you want already before having the higher rates. So does it make sense that you would put extremely higher price on our water? No, it doesn't. So the average house, Dave says uses 16,000 gallons of water and we're using about nine. So we're already where you want us to be. And so, we're conservers. The idea that WR-18 is going to target the high users, that's not true. So we're low users, we're going to jump up in cost, it's not a true statement. So we need to take that out of your language. I would ask you to do that, Dave, to target the high users, it's not true. So it's not, this is to target condo owners. I almost feel like there's an underlying hatred of, in this Committee and this Council of the people in Kihei and the condos in the West side. And so, why is Oahu, with all the people, able to have a multi-family rate for water that keeps 'em pretty even with houses and we can't? We have like a 150,000 people here and they have 600,000 and they're able to have a multi-family rate and we're not. And so, it's, you know, the deal is with this bill, if you pass it and it goes into place then the condo people will, they'll fill this room. Most condo people don't understand the water rates. It's paid by a managing agent and so they don't really understand that we're already paying a premium. I live there, I'm on the Board there, I'm not representing the Board, but I watch our cost. We survived 2008-09 downturn. We still have 20 foreclosures at Southpointe. We have 10 employees. We try to pay our employees good money. We try to take care of them. We have long-term employees. Does this extra money affect us? Sure it does. And so I just really wish that you would, WR-18...

CHAIR VICTORINO: Can you, can you conclude?

MR. FAHNESTOCK: I'm concluding. WR-18 was extremely, poorly written. It's been on the books here for years, that we're working on it. It needs to be...

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CHAIR VICTORINO: Can you conclude, please?

MR. FAHNESTOCK: I'm done.

CHAIR VICTORINO: Thank you very much. I appreciate it.

MR. FAHNESTOCK: Okay.

CHAIR VICTORINO: Questions for the testifier? Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you very much for being here this morning. I hear you loud and clear.

MR. FAHNESTOCK: Thank you.

COUNCILMEMBER BAISA: What would you propose as an alternative to the language that we have in the bill now?

MR. FAHNESTOCK: You know, Gladys, thank you, and I appreciate it because I feel like Don represents Kihei and he doesn't, he's not listening to me on this and I don't know why.

CHAIR VICTORINO: Could you keep the question, answer the question and not get personal on this? I would ask that favor of you, please.

MR. FAHNESTOCK: It's not personal. It's the truth.

CHAIR VICTORINO: Thank you very much then.

MR. FAHNESTOCK: Yeah.

CHAIR VICTORINO: Thank you, sir.

MR. FAHNESTOCK: Yeah. You know, Gladys, when you look online and you look this stuff up about WR-18 and you look, there's municipalities all over the United States that have done this. In nowhere does it say it's up to the Director and the Mayor, right. This is scientific stuff. I studied engineering, like Dave did. I don't have a degree in it but I have a lot of mathematical capabilities. This is Stage 1, Stage 2, Stage 3. There's so much in this bill. If you Google this online, we Googled it a few times, and you look at places like Boulder and \_\_\_\_\_, I mean, people have done, where there's really engineering to be done. This is an engineering thing that needs to be done. Stage 1, Stage 2, there's no, Dave said it's a gut feeling. There's, you don't, you can't do gut feelings on the mainland.

COUNCILMEMBER BAISA: Let's try to get to the answer --

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MR. FAHNESTOCK: Yeah.

COUNCILMEMBER BAISA: --to the question. What would you propose in language instead of what we have?

MR. FAHNESTOCK: Well, as first thing, the water rate structure, I'm not an "all other" user. That needs to be changed, which I brought up here before.

COUNCILMEMBER BAISA: Okay.

MR. FAHNESTOCK: Right? There needs to be a rate for multi-family housing. If you put this on top of water rate structure that's already right, then it would probably work but there's so many things in this bill that, I couldn't begin, you know, to go into that. It's, there's no, there's just so many things. I mean there's just, I just asking you don't pass it like it is because it needs engineering. It needs ...

COUNCILMEMBER BAISA: Sir, thank you. I think you've tried to answer my question but, you know, I would really appreciate it, if you feel that, you know, there's language in here that can be improved, if you could put that in writing and send it to the Chair, I would really appreciate that. We want an alternative.

MR. FAHNESTOCK: Yeah.

COUNCILMEMBER BAISA: If we're not going to do this, then what are we gonna do?

MR. FAHNESTOCK: Yeah.

COUNCILMEMBER BAISA: We've been beating on this for a long, long time and we need to get it done. So if you could.

MR. FAHNESTOCK: Yeah.

COUNCILMEMBER BAISA: Thank you.

MR. FAHNESTOCK: Thank you.

CHAIR VICTORINO: Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And do you have that study you did, the year study? Can we have that data?

MR. FAHNESTOCK: I'm not, can you remind me of what it was?

COUNCILMEMBER COUCH: The one you just told us about, about your units.

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MR. FAHNESTOCK: You mean the water rates?

COUNCILMEMBER COUCH: Uh-huh

MR. FAHNESTOCK: You mean the average of --

COUNCILMEMBER COUCH: Yes.

MR. FAHNESTOCK: --what we use? I just, I have it on a little spreadsheet. It's not much, right. It's not really a study. I just typed in --

COUNCILMEMBER COUCH: Right.

MR. FAHNESTOCK: --month-to-month.

COUNCILMEMBER COUCH: Do you have that information?

MR. FAHNESTOCK: I'll be, I can give you anything I have. I will give you anything, you know. So ...

COUNCILMEMBER COUCH: Okay, and unfortunately you weren't here for the meeting that we discussed this for a long time. So I would appreciate it if you'd not spread falsities about not paying attention to you. We talked about it for a whole meeting and you weren't here.

CHAIR VICTORINO: Okay, I'm gonna stop, you know, I don't want to get into you said, I said this.

MR. FAHNESTOCK: I'm not.

CHAIR VICTORINO: We're trying to keep to the subject matter --

MR. FAHNESTOCK: Absolutely.

CHAIR VICTORINO: --is WR-18, okay. Any other questions for the testifier? Seeing none, thank you very much.

MR. FAHNESTOCK: Thank you so much.

CHAIR VICTORINO: Okay. Next testifier is Rosemary Robbins. Yeah, you are next. Somehow I misplaced the paper when I moved some papers around. I apologize. Rosemary?

MS. ROBBINS: Still Rosemary. Good morning everybody.

CHAIR VICTORINO: Good morning.

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MS. ROBBINS: I'd like to start out with a comment that I certainly did not launch, totally agree with, water is a public trust, okay. So working on WR-18. This morning, I got down yesterday and went over the stuff in the binder, your submissions, written submissions from a number of concerned citizens in there. So I hope you've had an opportunity to read that. Oh. Okay. For the ordinance number that you're going to be working with today, first item on there, Hamakuapoko Wells and it says they shall only be used for the following and I'm sure that you're going to be reading this when you go down so the folks that are at home will be able to catch on what you're saying.

CHAIR VICTORINO: It will be on the screen for people to read also, Ms. Robbins, so go ahead, please.

MS. ROBBINS: Perfect, thank you. Okay, on item B --

CHAIR VICTORINO: Uh-huh.

MS. ROBBINS: --of 14.01.050, it speaks about water quality sampling schedules, and timely sampling is crucial. If we take the amount of water and measure it after downpours, we're not getting a true picture of what's happening on there. If we're taking averages and we do that by a process of a mean average and a process of a median average, we get two different numbers. So we need to make sure that we're facing the facts and the remediations for the purpose of the well-being of people in Maui County. It mentions in here that they're going to be operating under the guidelines of the Department of Health and the U.S. EPA. I'm a little nervous about some of the stuff from the Department of Health when all the molasses got spilled over on Oahu. They said we'll let nature take its course. Egads. They changed that but that's very, when the water is polluted like that and this is not effluence, but this is certainly a problem. With the water, we need to make sure that we keep an eye on all of that. We need to make sure that we're dealing with regulations that are up to date and timely sampled. Okay, under 14.01.060, right underneath the first page of this, I would ask us to make sure--Gladys, you were asking about things that we would recommend--that not only to trust and verify before doing that to vet. If we're going to be hiring people from elsewhere, that doesn't have to be a problem, but we need to know who it is that we're hiring to do that, and just as a reminder and maybe new information for some people, the Federal to State revolving fund money can be had by private entities who know enough to apply and follow its rules. When the EPA came here for training, two of us on the Upcountry Oversight Committee for the contaminated water Upcountry, two of us went to that training. So we got to hear it firsthand. Okay, over onto Page 3, same document, the Department, at Section B of 14.06A.040, it says under C, when available. It says under Section B of the .050, when available. One of the other concerned citizens had submitted a list of recommendations that was in the binder yesterday and that concerned citizen, not I, asked that "when available" be deleted. Make it available. Okay, then over on page ...

CHAIR VICTORINO: Ms. Rosemary, can you conclude please?

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MS. ROBBINS: Sure.

CHAIR VICTORINO: I'll give you another minute, another two sentences and I have to ask you to stop please.

MS. ROBBINS: Okay. Talks about exemptions down on .00, page four, the bottom of the page. We need to make sure that also trespassing, malicious vandalism is included as an exemption for that. Somebody doesn't get penalized because somebody else trespasses, vandalizes on their area. So again, to that, and to trust, and to verify, and to carefully go through what the written testimony is in addition to what you're going to hear this morning.

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

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: At this time, I'd like to go to our District Offices, if I may. Hana, Dawn, do you have anyone wishing to testify?

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

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

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

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

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

CHAIR VICTORINO: And I'll give one more opportunity to anyone in the audience who has not testified, to come forward, and you can sign up later. Seeing none, with no objections, I will close public testimony.

COUNCIL MEMBERS: No objections.

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

CHAIR VICTORINO: Thank you very, very much.

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

**ITEM WR-22:            WAIKAMOI FLUME RENOVATIONS (CC 14-280)**

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CHAIR VICTORINO: Okay, we will first take on WR-22, Waikamoi Flume Renovation. The Committee is in receipt of Communication 14-280, from myself, Councilman Victorino, relating to the Waikamoi Flume Renovation. The Committee may consider filing the County Communication 14-280 and all related actions if they wish. At this time I would like to call upon Mr. Taylor to give a quick overview of the Waikamoi Flume Renovation, and we have on the screen, pictures for you to get an idea what it was and where it is at the end of the process. Okay, Ms. Willenbrink and Mr. Taylor, go ahead.

MR. TAYLOR: Thank you, Mr. Chair. The Waikamoi Flume project is about 90 percent complete and it is a total cost of about \$11½ million. It's at, the project exists at just above 4,000 feet up in the Waikamoi Forrest Reserve. And, Kim, you can just keep flipping through these things. So here's the old flume, we've seen pictures of this before. It was old and leaky. That's some stuff during construction. I think a number of you've been up there. There's another 10 photos will show this. So, Kim, if you can just quickly go through these. So this old wooden flume that captures water from about 17 intakes and delivers it through a reservoir system to our Olinda treatment plant. The Olinda treatment plant provides about 1 million gallons a day for Upcountry users. So this represents, about 10 percent of the water use comes through the Upcountry, or through the Olinda plant, some of it through here. Here's the Haipuaena intake, where the first intake is, and you can see how much it was leaking. So, keep going through. So here's the old, this is still the old flume. You can see why it needed to be replaced or upgraded because we were losing a lot of this water. The reservoir system is actually filled by the dam directly, where most of the water is filled, and then this flume, after it stops raining, this flume could work for weeks or months longer to take water seeping out of the ground and delivering it to our plant. So, you can keep going. This is just the old flume, some pieces. Okay, so here's the new...could you go back one, Kim? Okay, so this is a cross section of the new flume. It's built out of aluminum so it will, should not corrode and should also be strong enough to survive any sort of, or most kind of damage from flooding and things like that. Also it's built to be field repairable so it was constructed in this box section. It's also, we decided to go with a flume rather than a pipe. When we looked at a round pipe, we would still have to walk on it so it would've been a pipe plus a catwalk, which would've ended up being more expensive than just walking right on it. So essentially it's a rectangular pipe so we can walk on it. That ended up being more cost effective. So built out of aluminum. Here's the prefabbed structures, all aluminum. You can just keep going. So the whole thing, it was prefabbed in sections and shipped out here. While it was being built, sections were bypassed so that we could keep the water flowing while construction was ongoing. So here's some bypassing of where the flume was torn out. Same. Same. So bypassed piping. You can see the old, next to the old flume as it's being demoed. The new sections being sent in through, it's a rigging system the contractor built out there. There are no roads. This thing's about a little over a mile long and it's out into the forest reserve. There is no road along here and there's no way to get trucks or cranes. This whole thing had to be built with this sort of technology. It was really a difficult project, something we had never really done and so it was very difficult to estimate the prices and field conditions 'cause it was really outside of our normal work. Keep going. So the construction company, KAI Hawaii, or I'm sorry, Global Construction, did a fantastic job of rigging this and

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doing this very difficult project. Pieces were flown in by helicopter. Here's some flume sections being built. You can see the supports are also aluminum, so the whole thing is of aluminum construction. Keep going. So there's the new flume, functional. There's, pieces being built while the bypass pipe is running. Foundational work. All these had to be poured by hand. Again, you cannot get concrete trucks back in here. All of this was done by hand. So here's the trestles, also aluminum construction. You can see each one of these has footings. Each of the footings had to be designed very specifically so that they were in locations. They spanned the streams. We had to stay away from all sorts of indigenous forests. Obviously it's a pretty protected area so the, had to be very careful during construction and make sure that none of this was damaged. So again, aluminum with standard aluminum trestle construction, safety railings. Keep going. So it'll be safe to walk on, should last for many, many decades. That's it. And so the original contract price was about 11.2 million. There have been about 450,000 in change orders, about 4 percent. Normal construction of regular projects like this building, would be around 5, 8 percent change orders. I was personally expecting somewhere well over 10 percent for a project like this, which was unique. We are ecstatic that change orders were only 4 percent. I think that is incredibly low and it shows that the design team, our engineering team, and the contractor did a fantastic job. A third of the change orders were just from the access road, which blew out during some big storms. So doing work out in the middle of nowhere like this has its risks. I think this has been a very successful project. Again, 90 percent finished. I just want to caution everyone because there's been so much talk about how great this will be. It will be great but not as great as maybe some people are thinking. As I mentioned earlier, the total flow Upcountry is about 8 million gallons a day. The Olinda treatment plant, where, all this water goes to the Olinda treatment plant, is only 1 million gallons a day. Most of the reservoirs get filled from the dam. So you're talking about, even if this captures 100 percent of the water that was lost, you're really just keeping one plant that processes 1 million gallons a day, reliable a little bit longer. It's not as important as the lower systems, the Piiholo plant, which processes 5 million gallons a day and has a 50 million gallons reservoir and the Kamole plant, which does 5 or 6 million gallons a day, or can do that much, that has no reservoir. Every drop of water is precious. This is an important project, especially because it's at high, high level, so if we catch more water up there, we don't have to pump it. But I don't want everyone to think that just because this is done, all of a sudden all of the Upcountry water woes will be over. It is an improvement. There are a lot more improvements to make. It's just important to keep this in perspective. There is no one single project that is going to solve all of our problems. This will do its part but it is not the end-all, be-all to everything. So with that, Mr. Chair, I'm finished my presentation.

CHAIR VICTORINO: Yeah, thank you very much, Mr. Taylor. And I think, in looking upon this and all the work that has been done, especially the intricate [*sic*] difficulty to get into these areas, I've gotta commend the Department and the design team first and foremost and also the construction company for getting the job done in an expedient manner. In fact, you remember, when we talked about it, we had mentioned \$13 to \$15 million was some of the numbers we bantered about, so we stayed well below those estimates initially. So I wanna compliment you, Mr. Taylor, and your Department, and Global Construction for a job well done. And, like you said, if this is gonna last us for decades, many decades, I think this is important, also, because

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this is--even though you may disagree with this statement--this brings in the water, a lot of water, that really helps the Upcountry system. Now we're gonna see a consistent level, and I think that's what we're looking for more than more water, is a consistent level instead of when it was drying out, more water was being lost before it got to the end, to the treatment plant. So, again, I wanna thank you, Mr. Taylor and your Department, and Global Construction for a great job. Terrific pictures, at least, and like all of us, pictures worth a thousand words, right there. Okay. I'll open up the floor for questions for Mr. Taylor. Seeing none, wow, Mr. Taylor, you did a fantastic job. Let's give Mr. Taylor a big hand. . . . *(applause)* . . . So, with no objections, I'd like to recommend, I would like to entertain a motion to file County Communication 14-280.

VICE-CHAIR WHITE: So moved.

COUNCILMEMBER COUCH: Second.

CHAIR VICTORINO: It's been moved by Mr. White, seconded by Mr. Couch, to file County Communication 14-280. Any discussion? Seeing none, all those in favor, say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed? Let the record show seven "ayes", no "nays"; that's it. Thank you very much. One of those good news stories today, good news stories. Thank you, Mr. Taylor.

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: FILING of communication by C.R.**

**ITEM WR-18: WATER CONSERVATION AND CONTROL OF WATER USAGE DURING WATER SHORTAGE (MISC)**

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CHAIR VICTORINO: Okay. We will now move onto our second item, which will be a little bit more encompassing, is the WR-22, I mean WR-18, Water Conservation and Control of Water Usage During Water Shortage. The Committee is in receipt of the following: a Bill 13 (2013), amending Chapter 14.06, Maui County Code, relating to the declaration of water shortages (Recommitted). 2. Correspondence dated November 13, 2014, from the Committee Chair, myself, Michael Victorino, transmitting a revised proposed bill entitled A Bill for an Ordinance Relating to Water Conservation and Control of Water Usage During Water Shortage. The purpose of the revised proposed bill is to implement a water conservation and water shortage program that includes: (1) providing consumers of the County water systems with leak detection tablets, high efficiency faucets and shower fixtures, and outdoor hose nozzles; (2) establishing a water conservation educational program; (3) requiring the County to retrofit all County facilities with high efficiency toilet and plumbing fixtures where applicable; (4) authorizing the Director of Water Supply, with the approval of the Mayor, to issue declarations of water shortage based upon three stages of severity when water supplies become inadequate in any area of the County; (5) clarifying the Director's authority to control water usage during water shortage, including the application of water shortage rates; and (6) providing a partial exemption for Agricultural consumers and a full exemption for water shortage due to human error. That was a mouthful if I ever had to go through one. Okay. You all have, and on the screen here, I've put the Ramseyered version up so that it would be easy for everybody to work off of and also to have the public see what changes are being recommended. So, Ms. Willenbrink, would you start with section, well, start from Section 1 and just go right through. No, not to read it, but to make sure that Section 1 is just to amend, okay. And this includes 14.010.050 Hamakuapoko Wells, and, you know, you can read...I don't think, any, much was changed in that area if I'm not mistaken. Right?

MS. WILLENBRINK: That's correct, Chair.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: You've already agreed to all of these revisions.

CHAIR VICTORINO: Okay, so we agreed to that. Is there any questions in Section 1? Okay.

COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: Mr. Couch, you had a question?

COUNCILMEMBER COUCH: No, it needs to be bigger for them to see.

CHAIR VICTORINO: Well, bigger, can we make it bigger for --

COUNCILMEMBER CRIVELLO: Larger font.

COUNCILMEMBER BAISA: Kupuna font.

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CHAIR VICTORINO: --Kupuna fonts, as we've been told in the past?

COUNCILMEMBER CRIVELLO: Kupuna font.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: That's at 16.

CHAIR VICTORINO: Can you go to 18? Let's see what happens when you go to 18.

COUNCILMEMBER BAISA: More.

MS. WILLENBRINK: Zoom...

CHAIR VICTORINO: The world of technology is not perfect, yet.

MS. WILLENBRINK: How's that, is that any better?

CHAIR VICTORINO: How's that?

COUNCILMEMBER COUCH: Yeah, go to 120.

COUNCILMEMBER BAISA: There you go.

MS. WILLENBRINK: That's 20.

COUNCILMEMBER COUCH: 120 percent zoom.

COUNCILMEMBER BAISA: There you go.

COUNCILMEMBER COUCH: There.

MS. WILLENBRINK: Like that?

CHAIR VICTORINO: Can we see now? Mr. White, can you see?

VICE-CHAIR WHITE: I've got good eyes, but my younger friend here...

CHAIR VICTORINO: Oh, okay. Mr. Carroll, can you see it clearly?

COUNCILMEMBER CARROLL: No.

COUNCILMEMBER BAISA: Glasses.

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CHAIR VICTORINO: No?

COUNCILMEMBER BAISA: Glasses.

VICE-CHAIR WHITE: He hasn't resorted to assistance like we have.

CHAIR VICTORINO: Oh, okay.

COUNCILMEMBER CARROLL: . . . (*inaudible*) . . .

CHAIR VICTORINO: Well, in the not-too-distant future, I understand, there'll be another screen somewhere over here so that, you know, inside of the room has their own screen to look at, but (*Chamber phone rings*) for right now...can you, seriously, can you see, Stacy, can you see it now, are you okay with it now?

COUNCILMEMBER CRIVELLO: Okay.

CHAIR VICTORINO: You sure? Okay. Okay, Section 1, move on up to Section 2, please. We have a challenge?

MS. YAP: They can't hear the Members.

CHAIR VICTORINO: Okay. Can you test?

COUNCILMEMBER COUCH: Nobody's been talking into the...

CHAIR VICTORINO: Can...try check, Don.

COUNCILMEMBER COUCH: Check, check it.

CHAIR VICTORINO: Okay?

MS. YAP: Yeah, I guess while they were speaking amongst each other about the screen...

CHAIR VICTORINO: Okay. Okay, remember now, it's very important, especially when we're talking and discussing any item, that you speak into the mic, because when you don't, this is what's happened and *Akaku* will call us right away and say, I can't hear you. Okay? So, Mr. White, can you make sure the mic is close to you, please? Stop it. Okay. Section 2, okay. Chapter 14.01.060, Maui County Code, is amending to read as follows.

MS. WILLENBRINK: Chair? This is a section that was previously in the Water Conservation Plan chapter that is getting repealed. It's simply a housekeeping measure to make sure that it stays in the County Code.

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CHAIR VICTORINO: And I think we had approval on this, right?

MS. WILLENBRINK: Yes, last meeting.

CHAIR VICTORINO: Okay, so go, continue on. I just wanted to make sure that...okay, what about Chapter 14, Section 3, Chapter 14.03?

COUNCILMEMBER BAISA: Nada.

CHAIR VICTORINO: That's one we repealing.

MS. WILLENBRINK: Yes.

CHAIR VICTORINO: And Section 4, 14.06, Maui County Code, we repealing. We okay with that?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Okay, and Section 5, Article 1, Maui County Code, is to amend by adding Chapter 14.06A to read as follows, and then Water Conservation and Control of Water Usage During Water Shortage. And here's the sections that will follow. Okay? Okay, so let us start with 14.06A.010, the Policy Statement. Any questions in that section? A, B, C, D, any questions? I mean I think we agreed upon it but I'm just asking if there's any questions now. Seeing none, Members, moving down to 14.06A.020, Definitions. And I think at this point, we have water efficient toilets, plumbing. I have Mr. Goode and I'd like to give him a moment to give comments 'cause we asked him to be here, both Mr. Goode and Ms. Savage, and she's not here but Mr. Goode is here, because he has a 10 o'clock meeting with the Commission, Public Works Commission, and unfortunately his Deputy is home sick today, so we'd like to ask, if it's alright with you, let him speak in this area now. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay, go ahead, Mr. Goode.

MR. GOODE: Thank you, Chair. Good morning, members of the Committee, Dave Goode here, Department Director for Public Works. And this language here would pertain to our Department as well as other Departments, primarily Parks and Housing and others that have facilities, Police, Fire, and we're not necessarily against having the most efficient fixtures available. It's when we have, you know, potentially an unfunded mandate like this appears to be and also we're not sure exactly what the mandate would be. We're not sure what "water conservation design principles available at the time of retrofit" would be and so those were just questions for us. I think, need to get answered, I guess, as you guys move through with this bill, but in general, if you're looking at having rates somewhat tied to drought situations, those rates and rates going up, those rates would affect us as well. So as prudent managers of our facilities, if we have fixtures that

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could be upgraded with significant savings, that's something we would probably want to do anyway just as a good business practice. So, again, our concerns are an unfunded mandate and not sure exactly what we would be required to put in.

CHAIR VICTORINO: Thank you, Mr. Goode.

MR. GOODE: That's it.

CHAIR VICTORINO: Questions for Mr. Goode? Ms. Baisa, and then Mr. White.

COUNCILMEMBER BAISA: A couple of questions. One is, could we solve that, Mr. Goode, by putting something in there, something like, where practicable? And the other is to us, what is the penalty if you don't do this? You know, it's kind of a mandate, you gotta do it by this date. So if we don't do it, what happens?

CHAIR VICTORINO: Mr. Taylor first.

MR. TAYLOR: Sorry. Ms. Baisa, I think what Mr. Goode was saying is that there's no measurement to say what is expected. For example, best principles, some places re-pipe water, like from your internal air conditioning down into your toilet.

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: That's a best practice.

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: I mean is that expected to be done? So if you don't know what's expected to be done, how do we measure the, that anyone's even complied? I think that's what Mr. Goode was saying is what exactly is the benchmark? We're unaware of any national standard that could be adopted, like the Uniform Plumbing Code that's the uniform irrigation code or something. We're unaware of anything like that, which you could adopt, and say these are the measurements. So there's just this vague idea of water efficiency but there's nothing to measure it against to say you've made it or you haven't and I think that's the concern.

COUNCILMEMBER BAISA: So what I'm hearing is the concern about the language referring to water conservation design principles available.

MR. TAYLOR: Correct.

COUNCILMEMBER BAISA: So is there a recommendation as to what we might change that to? I think we all know what we trying to do. We're trying to say that if there's a way to have fixtures that are more, you know, more into water conservation, like we're putting in our homes, you know, low-flow toilets and things like that, how would you say that, in, replace this language?

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MR. TAYLOR: I think if you said, the County or all County Departments shall analyze their facilities, grounds and operations and implement water conservation principles to the extent practicable, you would really cover it. You want everybody to take a look at it, see what they can do, and it might be physical installation and it might be just changing how they go about their operation, take a look at it all, make changes where needed, and try to be practical. I think that would be a clear statement that wouldn't lock anyone into anything in specific.

CHAIR VICTORINO: Try say that again so that we can put it up on the board, Mr. Taylor.

MR. TAYLOR: Doubt I'll be able to.

CHAIR VICTORINO: Yeah, doubt it too but that's okay.

MR. TAYLOR: If, no later than January 1<sup>st</sup>, 2018, all County Departments shall analyze their irrigation systems, or analyze their water use and irrigation systems and implement water efficient operations and/or fixtures to the extent possible, something like that.

CHAIR VICTORINO: Or extent practical, or whatever, yeah

COUNCILMEMBER BAISA: Thank you, Mr. Chair. I think, well that's what I'm hearing.

CHAIR VICTORINO: Okay. Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. I think it may make more economic sense if we were to say something along the lines of any new installations or replacements of existing systems shall be brought up to ...

CHAIR VICTORINO: Well, that's why that thing, at time of retrofit, and that was supposed to cover that part.

VICE-CHAIR WHITE: Okay.

CHAIR VICTORINO: At retrofit. So we will erase the other parts, you know, and Department shall analyze water use and irrigation systems to implement --

VICE-CHAIR WHITE: But...

CHAIR VICTORINO: --water efficiency. Okay.

VICE-CHAIR WHITE: The problem I have is that it says "shall retrofit".

CHAIR VICTORINO: Yeah.

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VICE-CHAIR WHITE: So that means that as of 2018, everything needs to be retrofitted.

COUNCILMEMBER BAISA: That's, yeah, that's the way I read it.

CHAIR VICTORINO: May be retrofitted.

COUNCILMEMBER BAISA: The way I read it, it has to be done.

VICE-CHAIR WHITE: Yeah, so, I, my sense is if, if we're going to have a new installation, that should all be low ...*(inaudible)*...

CHAIR VICTORINO: But it's not only new installation.

VICE-CHAIR WHITE: No.

CHAIR VICTORINO: It's retrofitting --

VICE-CHAIR WHITE: Yeah, if you --

CHAIR VICTORINO: --old installations.

VICE-CHAIR WHITE: If you can let me finish my sentence ...

CHAIR VICTORINO: Okay.

VICE-CHAIR WHITE: What I was going to say is that either a new installation or as things need to be replaced, they should be retrofitted with the right, you know, with --

COUNCILMEMBER BAISA: Right.

VICE-CHAIR WHITE: --the best practices --

COUNCILMEMBER BAISA: Right.

VICE-CHAIR WHITE: --but not right now, because we may have installations of irrigation systems that just went in this year --

CHAIR VICTORINO: Uh-huh.

VICE-CHAIR WHITE: --and to say they all have to be retrofitted with best practices by 2018, I think might be unnecessary.

CHAIR VICTORINO: Okay. So, Kim, so take out the rest and then --

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COUNCILMEMBER BAISA: Just do it now when we pass this and do what you're saying, do what we can.

CHAIR VICTORINO: --okay, and then just put at the end, fixtures...what, Mr. Guzman, you have something you want to say?

COUNCILMEMBER GUZMAN: Yes, sir.

CHAIR VICTORINO: Okay, well raise your hand, let me know. Come on, let's go.

COUNCILMEMBER GUZMAN: Alright. Why don't we put, upon retrofit, we then change, I mean, we do the new facilities and the grounds so that the new plumbing, fixtures, you know, when you retrofit or when you replace, just like what Mr. White is saying.

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: You know, I have a suggestion. I'm not even sure this is necessary.

COUNCILMEMBER BAISA: Yes.

MR. TAYLOR: The reason this is, this would be necessary for the public because you have no control over them. But every year we go through Budget and in every operations budget there's a line item, water utilities. You ask every Department why do you want \$40,000? Oh, to pay my water bill. What have you been doing? What are you going to do? You guys control the purses in the B account of every Department's water usage. So I think you've got the authority there to push them to do this or hold them, their feet to the fire. I don't think you need language and a law, I think you control their budgets.

CHAIR VICTORINO: Okay. So you guys wanna strike all of that?

COUNCILMEMBER COUCH: Yep.

CHAIR VICTORINO: Okay, go ahead and strike it. I don't care. I don't give a rip right now. I just, whatever it needs to get it done, okay. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Yeah, I think that, you know, we can strike it. The idea here is that we're going to adopt water conservation principles and we're going to do everything we can to do that and this is just one of the ways.

CHAIR VICTORINO: Uh-huh. Okay, moving along. Now let's go with leak detection. I think this was the one that we \_\_\_\_\_ it, yeah? Oh, yeah, you can go, sorry, Mr. Goode, thank you.

MR. GOODE: Thanks for accommodating \_\_\_\_\_.

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CHAIR VICTORINO: Alrighty. Thank you. Thank you for being here today. I appreciate it. Okay, thank you very, very much. Okay. Okay, 14., well that would be .030 now yeah, Ms. Willenbrink? Wouldn't that be 14.030 now 'cause we just strike...

MS. WILLENBRINK: Yes, if --

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: --the Chair would allow, I would make the nonsubstantive --

CHAIR VICTORINO: Okay, okay.

MS. WILLENBRINK: --revisions later.

CHAIR VICTORINO: Okay, thank you. I just wanna make sure we not getting all confused, okay. Any question, because we made the change over there, when available the Department shall reasonably distribute leak detection...that was one of the, what-do-you-call, changes that you guys requested. So any questions in that one? Are we okay with that?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Okay, moving right along. Going to, for now I'm just going to read the number that's there and then we'll make the changes later. 14.06A.050, Education and incentives, and again, basically we changed it to the words, when available the Department shall reasonably provide water-efficient faucets, you know, the changes that we had all discussed. Any questions in that one? Seeing none, moving along to 14.06A.060. Now this one was pretty extensive and we also put in a B, the way the determination of water shortage would be conducted by the Director. I think that was your request, Mr. Guzman, but that was actually from, the Working Group, I think, was the one that actually brought that recommendation or that question forward. So it is there, so look at it and tell me what else, whatever, what else you guys think we should add. Mr. Taylor, you may want to explain how we came to this, B especially.

MR. TAYLOR: B came up because Member Guzman, you know, rightly noticed that we didn't have any indication there about how we were calculating this. And \_\_\_\_\_ explained that there's no way to come up with an equation. These are the primary items that we take into account. So I would add Operational status of County facilities as number 5, meaning --

CHAIR VICTORINO: Number 5, Kim?

MR. TAYLOR: --you know, if two wells are, have broken shafts or something like that. I mean, we need to also take into account what's working and what isn't, whatever the right language for that.

COUNCILMEMBER CRIVELLO: Can you ...

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CHAIR VICTORINO: Can you repeat --

COUNCILMEMBER CRIVELLO: Chair?

CHAIR VICTORINO: --that again?

COUNCILMEMBER CRIVELLO: Yeah,.

CHAIR VICTORINO: Yeah, I'm sorry.

COUNCILMEMBER CRIVELLO: I was gonna ...

CHAIR VICTORINO: Yeah, that's why. Can you repeat that again please, Mr. ...

MR. TAYLOR: Operational status of water production facilities.

CHAIR VICTORINO: Okay. Are we clear with that, Members? The intent? Okay, alright. Any other questions on the other, on all five, 1 through 5? I think he covered most of the important points on, that was brought up. Anybody have any questions?

MR. TAYLOR: And, Mr. Chair, one other thing.

CHAIR VICTORINO: Sure, go ahead.

MR. TAYLOR: In, somebody from the public in the documents provided, provided to me from the city of Boulder, that's in your packet that you may have seen. And it's interesting that what the city of Boulder does is almost exactly what we're recommending. And, in fact, on Page 4, the bottom paragraph of that, it talks about all the factors that might be included and it's very similar to ours. So it's these same kind of factors, other than just what is the snowpack at the city of Boulder and the reservoir level, it also includes these kind of things, city water system operational constraints, et cetera. So I think what you're seeing us propose is very, very similar to what this city of Boulder is doing, that somebody sent to you as an example.

CHAIR VICTORINO: Okay. So you're, if I hear you correctly, you don't want us to put, includes snowpack levels?

MR. TAYLOR: Not in this case.

CHAIR VICTORINO: Okay, thank you. I just wanted to ask. Okay, Mr. Taylor, thank you. Any other questions? If not, I'm gonna move on. Okay, next. 14.06A.070, Stages of water shortage. Okay, Mr. Taylor?

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MR. TAYLOR: We originally, when we proposed our bill had just two stages. I think we broke it, less than 20 percent, more than 20 percent. Looks like Member Victorino is suggesting three stages, that's fine. They're clear, they're mathematically specified and it's fine with me. Just remember that if we get into tiers for rates, there are now three different categories versus the two categories we had suggested. But that's fine, we can just, you know, play with the numbers.

CHAIR VICTORINO: Can you raise it a little so that they can see the three different stages because you only have one there. Okay, wait, go back down, sorry. Go back down, please. Okay, thank you. Okay, this is Stage 1. Any questions on Stage 1? Okay, go to Stage 2, please. Okay, right there, Stage 2.

MR. TAYLOR: And, Mr. Chair, I would note that the language, I worked with your Staff putting this together.

CHAIR VICTORINO: Yeah.

MR. TAYLOR: The language defining what it is is identical to the original language that we specified. The numbers are different but the template of the language is the same language we've been talking about for the last couple of years.

CHAIR VICTORINO: Okay. So we tried to stay, and I tried to give more latitude to the Department with having a second and third stage, which is the most severe, third, Stage 3 is the severe stage and where we know that when we gotten to that point, we're in big trouble, you know. So, any questions on the three stages? Okay, moving right along. The other change was C. Mr. Taylor? This was the other suggested change, under C.

MR. TAYLOR: Under C.

CHAIR VICTORINO: Yeah, prohibit the ...

MR. TAYLOR: Oh ...

CHAIR VICTORINO: Yeah. Okay, go ahead.

MR. TAYLOR: Yeah, this is where we had talked in the previous meeting about prohibiting installation of new meters and I commented that new meters are more of a long-term thing but construction meters are a short-term issue. So that's why that was changed.

CHAIR VICTORINO: We made a change to read, temporary construction meters, okay. Any questions? That's what had been suggested and what I had done. Oh, yes, Mr. Couch? I'm sorry. I'm looking up and down and, gotta raise your hand quick.

COUNCILMEMBER COUCH: Thank you.

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CHAIR VICTORINO: Sorry.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. This also says that you may also apply, the Director may also apply other schedules, restrictions or measures as follows. Is that only in Stage 3? I'm not quite sure where ...

CHAIR VICTORINO: Yeah, I think was only Stage 3, if I'm not...Dave?

MR. TAYLOR: This is something that needs to be discussed by this body. I mean --

COUNCILMEMBER COUCH: Yeah.

MR. TAYLOR: --what I had suggested last time is that if we're going to define Stage 1 being different than Stage 2, being different than Stage 3, there have to be, there has to be clarity of what the Department is authorized to do in each of those stages.

VICE-CHAIR WHITE: Yep.

MR. TAYLOR: If, if Stage 1, Stage 2, Stage 3 all allow all four of these things, but we're going to put in the Budget a shortage rate structure then when we take the Budget up, we can put different numbers in for Stage 1, Stage 2, Stage 3, so you would define that in the Budget ordinance. If it is your intention to limit our authority in other ways during Stage 1, versus 2, versus 3, you're going to have to define how those are different.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: Well, that's what I'm trying to figure out because the way it appears to be written here, this is only Stage 3 that you're allowed to do this and I think we want to be able to do it in all the stages. But my concern is in D, institute water shortage water rates as set forth in the annual budget. Is it shall or may? I mean, this, it reads that you also, you can apply if you feel like it, other schedules, restrictions or measures and then it lists these, including the water shortage water rates.

MR. TAYLOR: It is our intention that as soon as we call the Stage 1 or Stage 2 or Stage 3, we would want immediately to implement the rate structure for that stage. That would be our primary tool to deal with it. So we would like the language to clearly indicate that each of the stages automatically, within whatever, you know, time period is set, implements those rate structures, that it is shall, not may.

CHAIR VICTORINO: Mr. Couch and Mr. Taylor, one of the things, you know, and again, I left this open because I wanted to discuss it today. I really would like to see us implement rate changes for Stage 2 and 3, the severe stages. Stage 1 is not that severe. I mean 15 percent, you're asking for conservation. I don't believe we need to, at that point, declare or have a rate change in Stage 1 and that's my feeling. I mean, I'm just expressing my feeling and it's up to you folks, but 2

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and 3, I have a different take on that and I believe because of the severity now we're getting into, where that may be applicable and that would also, for budgetary purposes, really only make it for only 2 and 3. And originally you had only two rates for two, you know, for the two stages but I really believe Stage 1 is really warning, it's a warning, you know, we're not bad off yet but, hey, if we all help conserve, we'll be okay. But when we get to Stage 2, we've passed the warning point, it's eminent, you know, we have a shortage, you know, and we need to address it, whether by rates or by other, Mr. Couch, other means, you know. So that was my presentation to you guys. I didn't put it there because I wanted to discuss it. I wanted to open it to the floor to discussion. So that is my idea, my proposal is really to have any rate implementation on Stages 2 and 3, not in 1. But I leave it open to discussion. I'll leave the floor open.

MR. TAYLOR: From an implementation standpoint, if that is what the Council wants to do, our recommendation would be to implement the Stage 1 rates as soon as Stage 1 is declared and in the budget ordinance, the Stage 1 rates would be identical to the normal rates. It would say it and it would just have no changes. That's how we've always built this thing so that you can, by changing those numbers, year after year, you never have to go back to this ordinance. This ordinance is always correct. You can tweak it just by changing the numbers in the budget ordinance, saying what the Stage 1 drought rates are. So you can make that decision as you go, you can tweak it, but it would allow them identically for all the different stages in this ordinance.

CHAIR VICTORINO: Mr. Guzman, you have some ...

COUNCILMEMBER GUZMAN: Oh, no, no, I would agree with you, Chair. I support that. Thank you.

CHAIR VICTORINO: Okay. Any...Mr. Couch?

COUNCILMEMBER COUCH: I agree with your desired outcome and I think the way to do it is the way Mr. Taylor said is, if at some time in the future the Council decides that, you know, Stage 1 we have to ask for rates, that the rates would already be there and you just change 'em at the time. So it makes sense, it's kind of a compromise between the two.

CHAIR VICTORINO: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: I'm okay. I think, like I said, the discussion and the hard part will come in the budget process.

COUNCILMEMBER COUCH: Yep.

CHAIR VICTORINO: Exactly. And I'm trying to just make it easy enough for whoever the Budget and the Department and Budget and us, when we get to that point, to have the discussion, okay. So, you're putting up something. Okay, Mr. Taylor, you have ...

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MR. TAYLOR: So, Mr. Chair, it sounds like what you're saying is you want this a, b, c, d to apply to all three stages --

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER COUCH: Uh-huh.

MR. TAYLOR: --without, in this ordinance, splitting hairs on what the differences are --

COUNCILMEMBER BAISA: Yes.

MR. TAYLOR: --and the only differences would be the schedules we might make as a Department or the actual rates that the Council makes in the budget? So this language would not specify the differences ...

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: I understand the second part of that statement --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --but not the first part .

CHAIR VICTORINO: Yeah, I'm confused too. I was gonna, yeah. You know, David, I think what we're trying to say--and you always tell us set policy, so we're trying to set policy--is in the first stage, you're saying that it would remain the same rate as the normal rates or whatever the present rate would be. Is that what you're saying?

MR. TAYLOR: That would be up to...if this body doesn't change them in the Budget ordinance, it would be the same.

CHAIR VICTORINO: Okay. And then in Stage 2 and 3, then you would have what we call a accelerated rate for Stages 2 and 3?

MR. TAYLOR: If that is what this body passes. I mean, what this ordinance would set up is sort of a template in the Budget ordinance that had normal rates, Stage 1, Stage 2 and Stage 3, and what you fill in in Stage 1 and Stage 2 and Stage 3 is up to you during Budget. You could leave all the numbers the same. You could change some of them, not change others, whatever, but what this ordinance would do is set that template up that that's how we would do Budget every year, it would be in there, and how you, which stages actually have changed numbers would be up to you during Budget.

CHAIR VICTORINO: Okay.

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MR. TAYLOR: But the other two items, under the Director may also apply schedules, restrictions, et cetera, those also apply under all three so even in a, even if the Council decides that during a Stage 1 there are no rates, the Department, the Director can still put out some schedules, you know, Monday, Wednesday, Friday watering or something.

COUNCILMEMBER BAISA: Sure.

MR. TAYLOR: So I just want to be clear that that part applies to all three stages.

COUNCILMEMBER BAISA: Sure.

CHAIR VICTORINO: Are you guys alright with that?

MR. TAYLOR: So essentially all the parts would apply to all three stages.

CHAIR VICTORINO: Okay. Mr. White?

VICE-CHAIR WHITE: I think the adjustment that's been made as we've been talking --

CHAIR VICTORINO: Yeah.

VICE-CHAIR WHITE: --handles it because it breaks the options out of just Stage 3 --

CHAIR VICTORINO: Uh-huh.

VICE-CHAIR WHITE: --and they now apply to all three stages.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER COUCH: Yep.

VICE-CHAIR WHITE: So I think we're good.

CHAIR VICTORINO: Okay.

VICE-CHAIR WHITE: If we can --

CHAIR VICTORINO: So what I proposing there ...

VICE-CHAIR WHITE: --just, you know, stop talking now, we'll be all set.

COUNCILMEMBER BAISA: Yes, don't talk anymore.

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CHAIR VICTORINO: Okay, so what I put up there, Mr. White, what I put up there is okay with you guys?

VICE-CHAIR WHITE: I think so.

CHAIR VICTORINO: Okay, alright, moving along. Any other questions on that before we...okay, moving along. Go ahead, Ms. Willenbrink? Notice and publication. Okay, this was a good one. This is the one we had a lot of discussion.

COUNCILMEMBER GUZMAN: ...*(Inaudible)*... what stage.

VICE-CHAIR WHITE: We haven't gotten to that yet.

COUNCILMEMBER GUZMAN: I know.

CHAIR VICTORINO: Okay. Are you okay, Mr. Guzman?

COUNCILMEMBER GUZMAN: No ...

CHAIR VICTORINO: No, no, I mean, you know ...

COUNCILMEMBER GUZMAN: I'm just gonna, I'm talking about something down the road.

CHAIR VICTORINO: Oh, okay, okay.

COUNCILMEMBER GUZMAN: Yeah, yeah.

CHAIR VICTORINO: Yeah, 'cause I don't want ...

COUNCILMEMBER GUZMAN: Preparing.

CHAIR VICTORINO: I don't want to leave nobody behind now, okay?

COUNCILMEMBER GUZMAN: Yeah, yeah.

CHAIR VICTORINO: I may snap but I'm not leaving anybody behind. Okay, here we go. 14.06A.080, this was notification and publication of declaration of water shortage. Mr. Taylor? 'Cause I know we worked on this one quite a while.

MR. TAYLOR: It seems reasonable to me.

CHAIR VICTORINO: Okay. Any questions in this area, Members, 'cause this was part of your suggestions? Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Mr. Chair. Still have the concern about requiring it in a newspaper of general circulation. There's potential and we've already lost one newspaper of weekly circulation and there's only two left. So, you know, we have to figure out a way to move into the future on this one and I don't know that I have an answer, I'm just saying that should there, you know, something unfortunate happen to a newspaper and we don't have a newspaper here in Maui County, you know, we have to come back and discuss. If we can put language in now that anticipates something like that potentially happening, then we wouldn't have to come back here and continue or figure out what to do next.

CHAIR VICTORINO: Mr. Taylor? I mean, Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. Mr. Taylor, how many email addresses of customers do you have?

MR. TAYLOR: Very few. You know, it's one of the reasons that, with the billing, why we're not able to, you know, once we move to paperless billing, each of those people will have some contact, but at this point we don't have anywhere near enough communication through email that I could say, you know, we would have, able to do that.

VICE-CHAIR WHITE: Is that the direction that, in which you're moving? Because that would ...

MR. TAYLOR: We would like to move in that direction. In the interim, what I would suggest is what if this just said something like, available media to the extent practical, or something. I mean, the County has a website and a Facebook page and all this other kind of stuff. When we do press releases, we just blanket it to every sort of media we can. And so it would really be the same way we get messages out when there's line breaks and road closures. I think if this just was sort of a general statement about the media to the extent practicable or something, I think that would cover whether there's newspapers or, you know, Twitter or whatever, whatever is, whatever we're using at that time.

CHAIR VICTORINO: Well, she just put up, or other available media. Yes, Ms. Baisa? But before you start, I'm gonna finish. Public media, so that everyone would be inclusive, yeah, anybody has to be included 'cause some of these medias you pay for and if you gotta pay for, some people don't have it. So must be public. In other words, anyone has access to it. Okay, Ms. Baisa?

COUNCILMEMBER BAISA: I like the idea of, you know, referring to this in terms of using available media but, the public media, whatever you want to call it.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: But as an alternative, how difficult is it to get a notice inserted into the water bill envelope?

MR. TAYLOR: It's a little difficult but more importantly --

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COUNCILMEMBER BAISA: But then everybody would get it.

MR. TAYLOR: --it's too late.

CHAIR VICTORINO: Yeah.

MR. TAYLOR: It's too late. It's gonna come way too late, you know, if we just billed you --

COUNCILMEMBER BAISA: People get billed every month.

MR. TAYLOR: --last, but if we just billed you yesterday --

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: --and we're not going to contact you for four more weeks. So basically there's just these gaps every four weeks that we're not contacting you.

COUNCILMEMBER BAISA: You know, when we have a water shortage, unless it's one of these mechanical things that you talk about, we usually see it coming. It gets drier and drier and drier and we don't see any rain and things are falling apart. I think there's some time that you have to work with, although and I understand, you know, you wanna do it within weeks or days or whatever, but something could be in the bill that says, you know, we're heading down the road here, we're probably going to be calling a shortage, watch the TV or watch the news or whatever, you know, because everybody gets a bill. I get two every month so.

MR. TAYLOR: The reason I'd be afraid to commit to that is that, as you may know, we don't, the bills are not printed in the State of Hawaii. The bills are printed on the mainland and shipped here. The billing cycles, people are getting bills every day. There's meter readers every day reading meters, downloading that information. Some bills are being printed every single day and they're not all in the same areas. So to hit the area Upcountry, for example, there's people Upcountry every day getting bills. They're not all on the same cycle and so some days people are getting bills Upcountry, other people in Wailuku. So in order to coordinate with the printing company to stuff certain bills and not other bills, with this time delay thing, I think it's just going to be a logistical difficulty that I would be very afraid to commit to until, because we just have, we have no direct control over the printers. We don't even, that's not even our contract. It's City and County of Honolulu's contract. So I would be afraid to write something, that in here where we just do not have direct control over stuffing things in the bills. It may not be able to be done in a timely manner.

COUNCILMEMBER BAISA: The reason why I pursue this is I have learned a lot recently about the media. Not everybody is in touch with the media. You know, people like us are on Facebook, we're on Maui Watch, we're on internet, we're on whatever, we're watching the blogs and we read the papers and there's people who don't at all, at all, at all. They just, you know, they're not

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in the world of media, so there's that whole group out there. I see Member Crivello nodding her head. You know, it's really interesting. I've had people who ask me questions in the last week and I'm appalled and I'm thinking my God, didn't you read the paper? But they don't. So we have an issue. The only way we reach everybody is by mailing them something.

CHAIR VICTORINO: You know, Ms. Baisa, we could and take the or out, put a comma there, go back to or, please, Ms. Willenbrink, you know, or other, just put, oh no, you have a comma there, I apologize.

COUNCILMEMBER BAISA: Yeah, you ...

CHAIR VICTORINO: Go down, sorry, excuse me. Go down to public media and put, and where practical, insertion in billing system, where practical. Would you accept that, Mr...I mean, so we saying when practical. I mean, maybe down the road it will be practical, maybe we can do it, but right now it's just another option on the table. Would you be okay with that, Mr. Taylor?

MR. TAYLOR: I would be okay because I'm imagining, you know, if we have a billing system at some point where we can just code everybody Upcountry and somehow that information gets connected to the printer and when that particular bill gets stuffed, that goes in there. If that's possible, it's very practical. So I don't know that that's possible today but that may be practical within next couple years. So I'm not against, I'm certainly not against the concept and I agree with that concept, so I wouldn't be against that language.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Well I, it's obviously a good compromise and, you know, that's where I normally come from, you know.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: If we can do that, that's good. But in the meantime, I'm gonna tell you there's a lot of people will not know about it and a lot of people will be very upset 'cause nobody told me.

MR. TAYLOR: To add on to that, you know, I don't remember, when we changed from bi-monthly billing to monthly billing. We put stuffers in what, maybe three bills in a row and have to admit that I didn't read mine. I open those bills and there's just some colored paper in there. I didn't even read it in my water bill and so I'm not really surprised that other people didn't read that. But a lot people don't read those stuffers and I'm guilty. I'm one of those who don't read those stuffers either.

CHAIR VICTORINO: Mr. Kushi, you have something you want to add?

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MR. KUSHI: Yeah. About this notice thing, I would advise that you take out the or and leave in the mandatory publication in the newspaper of general circulation. The reason why is if you go forward to the penalty provisions, there has to be a standard where the Department did their due diligence, by whatever reason, for you to enforce the penalty provisions. Unfortunately, you know, some papers go out of business or whatever it is but, again, you know, the Circuit Courts deal with this issue also, notices of foreclosure where they can't find the person and if you don't publish it in that general circulation, the process stops. So, you know, there's a due process issue here. So I would say you need to publish in some sort of standard --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --and, if available, some other public media. Again, the last paragraph under this section --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --Section D as in dog --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --also references, to the extent possible, the Department shall also notify by mail, but the non-receipt of that notice does not affect the notice itself.

CHAIR VICTORINO: Okay.

MR. KUSHI: That's my two cents.

CHAIR VICTORINO: No, no, thank you. I mean, you're the...Ms. Crivello, you had something you wanted to add?

COUNCILMEMBER CRIVELLO: I'd just like to add that I have to agree with Chair Baisa on the, at least to look into it and see how we can work out on the logistics to include in the monthly billing because you would, if you're gonna declare some major water shortage or request some kind conservation, it's going to happen before that one month billing comes out, I would think so. So I would ask the Department to look into it more detailed because then everyone who subscribes to the utility have the access to the notice.

CHAIR VICTORINO: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Two things. One is can there be a mass mailing, say you declare that there's gonna be a water shortage, do a mass mailing of a postcard, 'cause you have the address list of everybody? I know it's a little more expensive. And the reason I bring that up is 'cause then it happens right when you need it and it goes to every customer.

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COUNCILMEMBER BAISA: Right.

COUNCILMEMBER COUCH: Even if we say that the newspaper of, you know, general publication, published in newspaper in general circulation, there's only 18,000 people who get the newspaper --

COUNCILMEMBER BAISA: On a good day.

COUNCILMEMBER COUCH: --on a good day. So, and there's 80,000 homes. I don't know how many customers you have on the list. So I, you know, I just have a problem with requiring the newspaper in that it's not the \_\_\_\_\_.

CHAIR VICTORINO: But again, again, again, you remember now, Mr. Kushi is saying, and I agree with him, there's legal standards that have to be met.

COUNCILMEMBER COUCH: Understand.

CHAIR VICTORINO: Legal standards have to be met so, you know, we can add more to it but I don't want to, you know, take out something that could be or would be considered a legal standard, you know. So if you want to add that to it, that's fine.

COUNCILMEMBER COUCH: Yeah, I'd like to certainly add, if you can, do a mass --

CHAIR VICTORINO: What do you say to that, Mr. Taylor?

COUNCILMEMBER COUCH: --it's a bit more expensive but it could happen.

CHAIR VICTORINO: Definitely more expensive and it has to be targeted because it's a target area.

COUNCILMEMBER COUCH: Right.

CHAIR VICTORINO: Okay. So, again, could that be done, Mr. Taylor?

MR. TAYLOR: Yes. Yes. We do mass mailings --

CHAIR VICTORINO: Okay.

MR. TAYLOR: --under specific circumstances. When there's a violation of a certain level, DOH requires that we do mass mailings. When we switch disinfection Upcountry, every year we do a mass mailing to those people. So we send, we can send a separate notice to all, to, you know, some sector of our customers to the same address the bill goes to, of course we can do that.

COUNCILMEMBER BAISA: Good.

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CHAIR VICTORINO: Okay. So we'll take that out, we'll take the billing part out, and even go to the point where, when possible, take that out. Yeah, right there. Okay. What about the public media? I mean, or other available public media, Mr. Kushi? Should we take that out or leave that in? I mean, to me, I mean, it's, if we put the other two, I think we're covering most of it, but, you know, there is the public media.

MR. KUSHI: Well, you know, Mr. Chair, I would say on paragraphs A --

CHAIR VICTORINO: Yeah, yeah.

MR. KUSHI: --a notice of declaration of water shortage shall be published in a newspaper of general circulation --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --comma, and if available, and --

CHAIR VICTORINO: Okay.

MR. KUSHI: --to the extent possible, other available public media.

COUNCILMEMBER COUCH: To the extent possible.

CHAIR VICTORINO: Which would include mass mailing?

MR. KUSHI: Yeah.

CHAIR VICTORINO: Which, and then maybe put down ...

MR. KUSHI: No, the mass mailings would come under Section D.

CHAIR VICTORINO: Oh, Section D, okay.

MR. KUSHI: You have it covered already.

CHAIR VICTORINO: Okay, okay. Okay, are we okay with this now?

COUNCILMEMBER BAISA: Yep.

CHAIR VICTORINO: Okay, moving right along. Now we go down. Ms. Willenbrink? Okay, let's, okay, any questions on B or C? Okay, now, C, a notice shall be published in a newspaper of general circulation in the County when water shortage declaration stages are changed and when water shortage declaration ends, okay.

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COUNCILMEMBER COUCH: Mr. Chair?

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COUCH: Probably should reflect similar language out of A.

CHAIR VICTORINO: Yeah, that's why, that's exactly what I wanted to put in, other public media. Could we add that, Ms. Willenbrink?

MS. WILLENBRINK: Yes.

CHAIR VICTORINO: And again, we'll change and clear up the gramatics [*sic*] later but...okay, if we can finish D, I'm gonna take a break at that point for all of us. But are we okay with C? I basically tried to copy the exact that we had in A, right? C is almost identical to A. Okay. Everybody okay with that? Okay, then D, provide that non...okay. So are you saying, Mr. Kushi, this would cover the mass mailing and all that?

MR. KUSHI: Yes.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: Seems ...(*inaudible*)...

CHAIR VICTORINO: Okay. Everybody okay with that? Okay. So we're gonna start when we resume on 14.06A.090, Agricultural consumers. This meeting of the Water Resources Committee is in recess. Please be back at 10:35. ...(*gavel*)...

**RECESS:           10:24 a.m.**

**RECONVENE:    10:40 a.m.**

CHAIR VICTORINO: ...(*gavel*)... ...(*Inaudible*)... the recess we were closed out on 14.05A.090. Oh no, I'm sorry, 14.06A.080--there's too many numbers up there. I apologize. So we're gonna start with 14.06A.090, Agricultural consumers.

COUNCILMEMBER COUCH: His voice carries everywhere.

CHAIR VICTORINO: Yeah. I'm gonna say, my voice, I mean they hear me down in Paukukalo right now. Good night. Anyhow, so this is the area for which we had much discussion, much public testimony and I think this is the area where we're gonna spend some time, okay. And so let's move into the first area, Agricultural consumers, and I don't have to read it. It's the same as it was presented. I think there was the question, I think they came up, the Working Group, I think they were, one thing was in, to the extent practicable mandates and imposed by this section for

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the first 90 days after publication. And, again, we'll change that to meet what we have said on the other ones, okay. Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, and I wanted to catch you before you got too far into this. There is no spot other than maybe between these two to ask for a request to send to the Budget Chair, the next, but, or can we do that?

CHAIR VICTORINO: No, no.

COUNCILMEMBER COUCH: Over term, over terms?

CHAIR VICTORINO: No. This would, whatever we pass here will become applicable and it's up to the Budget Chair.

COUNCILMEMBER COUCH: Well, no, a request to the Budget Chair to again discuss the multi-family rate.

CHAIR VICTORINO: That would be something that, yeah, we can, I can do that for, you know, for --

COUNCILMEMBER COUCH: Yeah. I just wanted to get ...

CHAIR VICTORINO: --the next term.

COUNCILMEMBER COUCH: Yeah, thanks.

CHAIR VICTORINO: Okay, I see what you saying, okay.

COUNCILMEMBER COUCH: Thanks.

CHAIR VICTORINO: I thought you was talking about in here and I'm like, no, okay, okay. I apologize. You confuse me, Mr. Couch, sometimes. Okay, anyhow, back to the subject matter at hand, 14.06A.090 A. Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, was, have a question.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: On the, since we're going with three stages and basically the first stage is kind of a warning stage --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER GUZMAN: --does the 90 days apply to the first stage or does it start on the second stage, when the actual rates increase in the second stage 'cause there's no language in

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here in terms of when this 90 days starts? Does it start on the ...

CHAIR VICTORINO: Mr. Taylor, I'll let you have the opportunity to answer that question, 'cause I know what I'd like to do but I'll let you answer it first.

MR. TAYLOR: First of all, I think to answer Member Guzman's question, the first stage at this point is not, I mean you can call it a warning stage, whether or not the Council decides to make a special rate during first stage is up to Council at a future time. There's nothing that says that we can't do other types of restrictions, so it's not just a warning, it's no different than the others. The decisions will be made later, either by the Department in the case of restrictions or by the Council in the case of rates whether or not there'll be changes or not. So there's no language that specifies Stage 1 as just a warning where nothing happens. I just want to, we should be clear about that. My understanding of this 90 days is it begins the day it's declared, I --

COUNCILMEMBER GUZMAN: Right, right.

MR. TAYLOR: --think that's what it says.

COUNCILMEMBER GUZMAN: But then--Chair, may I?

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER GUZMAN: But in Stage 2, that is a requirement that the increase of the rates go up. I mean it's indefinite as to Stage 1 but Stage 2, it seems as though there is going to be an increase. So the 90 days may just be nothing for the first stage, you know, nothing could, nothing affects them really until the second stage, where the 90 days would be more important to them, to be applicable in. Does that make sense?

CHAIR VICTORINO: I think I know where you're coming from because you're saying, basically when we get to Stage 2, you're talking seriousness now.

COUNCILMEMBER GUZMAN: Yes.

CHAIR VICTORINO: You know, and where, you know, where we're asking and actually mandating conservation, mandating different aspects and the Director has the options to add the others in there, whereas Stage 1, as Mr. Taylor, you've said, you would set that basically with the existing rates and then when we have Budget, you know, if you want to add, change the existing rates at that point in time, then you would do that. So I think what Mr. Guzman is asking is do we start this from Stage 1 or do we start it from Stage 2? And, again --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR VICTORINO: --we only put 90 days as a point for which we would exempt Agricultural consumers. My feeling was, to be very honest with you, it starts the moment, Stage 1, or the

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warning, because to me that's to give them an opportunity, also see, and I wasn't talking about rates at this point, I was talking about, hey, now, maybe you won't plant new, you may cut back, you may harvest early, you may send to slaughter, cattle. I mean, this gives you 90 days from that point to start planning out. And, again, as Mr. Taylor had mentioned a number of cases and I went back to check the history, most droughts, severe droughts, lasted about 30 to 45 days, most severe droughts, okay. When I say severe droughts, what we had mandatory cutbacks. So this 90 days was really extending the time to be fair to our Agricultural consumers, you know. And this is what I'm trying, so if you want to change it, that's fine. But, again, I'm trying to say, Stage 1, we gotta start someplace and I think Stage 1 is where I'd like to see it started but I'll leave it up to the Committee. Ms. Baisa, you had something you wanted to add?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. Obviously this is the crux of the matter with this ordinance. I noticed that we have Mr. Watanabe in the audience and I was wondering if we could ask him to comment on the 90 days before we, you know, make a decision, if nobody has objections.

CHAIR VICTORINO: Mr. Watanabe, would you come down? In fact, he and I had a discussion in the back of the room.

COUNCILMEMBER BAISA: Well, no, let's have it on the floor now.

CHAIR VICTORINO: Okay. Well you were talking to him too so I know you had that, but go ahead, Mr. Watanabe.

COUNCILMEMBER BAISA: We weren't talking about the 90 days.

CHAIR VICTORINO: Okay, go ahead. Mr. Watanabe, could you identify yourself and who you represent?

MR. WATANABE: Okay. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau and, you know, this water shortage bill, you know, is a lot of concern to the ag community. I think one thing, you know, I see where Chair Victorino and the Water Department is going on this but also I think, you know, for us, the bigger concern will be when you guys bring up the rates in the Budget. Ninety days, you know, I, and I'm glad, you know, Councilman Guzman brought it up because I didn't even think about, you know, his question. I didn't even cross my mind but personally, you know, without, you know, this is just my personal opinion. I would prefer probably have it start at Stage 2. And I think, again, it gets back, you know, historically Upcountry we have had water shortages and I know when I was farming, when you start hitting to the summer months, lot of us would cut back on our plantings, you know, it's an automatic response and, because of the historical history of Upcountry. And so, you know, that, you know, again, impacts their pocketbooks. The ranchers, you know, they cut back their herds and, you know, it take them years. I understand, you know, Maui Cattle Company, they're really short on beef because of the drought and it would take them years to recover. And I think, you know, that's where, again, the County sets policy on how much

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support you're gonna give to agriculture. I think you've all heard us say that agriculture is struggling to be viable and so anything you guys can do to help to maintain that, because everybody talks about increasing local agriculture and we all know, without water there will be no agriculture. And so, you know, that's, I think, you know, offhand, you know, again without even thinking about it previously, that's my gut reaction. The 90 days is a good, I think, compromise. But, again, you know, further on, you know, as we get into the water rate structure, the fees, I think that's where we will come out with suggestions. I know it is a big concern. We appreciate that our water rates was reduced but the other issue is when hopefully the dual line gets in place, you know, that'll help also with the farmers because then we'll go to a State rate structure. So, you know, at this point I would say yeah, I would prefer that it start at Stage 2.

CHAIR VICTORINO: Okay. Thank you. Questions?

COUNCILMEMBER BAISA: Thank you very much, Warren. So you're saying Stage 2. Just inform me 'cause I need to know. What is the story on that dual water line?

MR. WATANABE: Right now, it is proceeding. We did get Legislative funding from the State. The issue is more on the Federal level. I mean, as you know, the Federal budget, you know, is really, has been cut back. I believe last year we did get some funding. I'm not sure, may check with Representative Yamashita, how much money was put in the Budget. State Farm Bureau, again, in our Legislative package, will be asking for more financial support for water systems across the State. Part of it is probably because it's done in stages so, you know, we cannot advance until all the, you know, all the, you know, easements and all that kind of stuff is taken care by the State. The State is the one that's leading the project.

COUNCILMEMBER BAISA: So we don't have any idea when that would come online? I mean, even a wild estimate. I know it's been going on for years.

MR. WATANABE: Yeah. I would, hopefully I would say, because one of the issues also is the State has to designate irrigation districts before we can utilize that. I would like to see it within the next two years 'cause if not, again, you know, agriculture in Upcountry will suffer and, you know, again getting back to the rates, we need to lower the rates for agriculture.

COUNCILMEMBER BAISA: Thank you. Well, it sounds to me like that's not something we want to bank on anytime soon so it's, just would be nice if it came along but I'm not going to count on it. Thank you.

MR. WATANABE: Thank you.

COUNCILMEMBER BAISA: Thank you very much, Chair. Thank you.

CHAIR VICTORINO: You're welcome. Any other questions? Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Watanabe. The question from the dual

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line system, it's my understanding it comes from the same source so if we have a water shortage, the dual line system isn't going to help. Are you saying just the dual line system is going to help during regular water times?

MR. WATANABE: Well again, you know, the big issue and, you know, I mean, you know, this discussion has occurred years already in this County and I think it's, you know, source development.

COUNCILMEMBER COUCH: Uh-huh.

MR. WATANABE: The original concept, yeah, we did, Farm Bureau lobbied hard to get Kahakapao built. You know, at that time was Water Director Ray Louie and we worked hard to get that support. Until you can increase sources I think it'll be a problem because, again, part of the issue with agriculture too is that, you know, in a water shortage situation, public health and safety comes first, even before agriculture, so.

COUNCILMEMBER COUCH: That was my next question, Mr. Chair, is in the calculations, at least according to Mr. Taylor, 40 percent of the water use Upcountry is Ag, something like that, Mr. Taylor? And if we have to cut back, you know, when we have a water shortage there and start pumping, we only get 50 percent of the water. So you gotta, there's going to be a little bit of a conflict between health and safety and ag and, you know, while we all want to try and get ag to go on and continue, there's gotta be some sort of, for 90 days, there's gonna be essentially no, if ag can't cut back on their water, there's essentially no water for the health and safety.

MR. WATANABE: Well I think, again, you know, as a body, you know, again, County policy, State policy, you know, how much are you gonna support agriculture and maybe you can set, you know, a percentage, one allocation for, reserved for agriculture. And again, you know, that deals with, you know, you know, making sure things, you know, 'cause we talked about this in the General Plan process, you know, where is the County really gonna support agriculture? And I think that's what we're looking for, that commitment from policy makers that, you know, this is gonna be for agriculture. So, I mean, set up a reserve of ag water possibly.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR VICTORINO: Yes, Mr. White?

VICE-CHAIR WHITE: You know, Chair, I think he may have hit on something that if there's a percentage that ag is using during regular times then maybe we would want that percentage to remain the same, because there's no reason why they should be hit any harder than other users and so maybe as the production drops, they may, the ag people get the some percentage or same rough percentage of the water that they normally have. That way everyone's expected to cut back at similar levels. I don't know whether that creates --

CHAIR VICTORINO: Mr. Taylor?

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VICE-CHAIR WHITE: --more challenges or not.

CHAIR VICTORINO: Yeah. Mr. Taylor to respond to that.

MR. TAYLOR: Our proposal, which you can really back calculate from our shortage rates we've proposed has been the opposite of that. What we've said is that a single-family homeowner has something easy they can cut, lawns, they can take shorter showers. So when you look at our, our proposed water shortage rates, we tried to hit single-family homeowners at a greater percentage than ag. We also had ag included but at a lower percentage. We felt, look, if everybody, if we need to cut back 25 percent, we said let's try to get 30 percent of that or 35 percent from single-family homes and a lower percent from ag. We recognized from the beginning that ag has much more difficulty cutting back than a single-family person. We still need single-family homeowners to be able to do health and safety, you know, shower and cook and these kind of things, but we were really trying to get a majority of the conservation out of single-family and less of it out of ag and not try to keep them the same.

VICE-CHAIR WHITE: Thank you.

CHAIR VICTORINO: I think, what I, you know, the concern I have with what you've just said, Mr. White, if it drops down, right now we get 10 million. So let's say we save 40 percent, or 4 million goes to ag, right? It drops down now to 8 million, so 40 percent will still, so they would only get 3.2. They would lose that 800,000 right off, the percentage would fall with what actually happens around us. Now the way I structured this is that they have time to reduce without any percentage of decrease. This gives 'em 90 days, whether Stage 1 or Stage 2, and we haven't come to that conclusion but, to give them a chance to reduce their crops, reduce their herds and all that because, again, if we drop to 8 million, like I'm saying if that's what happen and they only got 40 percent, they would automatically lose 800,000 right off the top. So, again, setting a percentage can be somewhat dangerous if that percentage of the water availability was to drop drastically, okay. So, again, I'm just trying to put all the math on the table. The other part I'm gonna say is, the dual line does have an effective result because we're not treating the water. That water would be diverted straight into the dual line. It's not treatable water so that expense is not borne by the consumers, the County consumers. So there is some advantage, that's when, again, when we have a lot of water. When we don't, well, then, you know, it's the same problem. I agree with you, Mr. Watanabe, source development is key to this whole equation and I've said that for years and years and years and we haven't done anything but I don't want to get into that now. It's not something I want to walk into but the whole idea here is to make sure that the Agriculture consumer, Stage 1, Stage 2, the reason I said Stage 1, and no offense to you, Mr. Watanabe, the only reason I said Stage 1 is because that's the starting point, okay. Now do we go to Stage 2? If we never get to Stage 2, it's not a problem but it's a warning right there, it's a starting point, right. We see that there may be drought coming and that's what this was all about. And so they know now, hey, we gotta start cutting. I'm not even setting rates now. This is not the issue about rates. That's something that will go back to Budget, you know, that will go back to whoever is doing Budget as far as rates are concerned and how, where they

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want to, you know, that can be done in Budget saying we'll start rate changes at Stage 2. Ninety days is really when everybody starts to really think, we're coming and going, and maybe coming into a major problem, okay. Mr. Couch? Oh, I thought you had something to say.

COUNCILMEMBER COUCH: I have something on that but it's not for Mr. Watanabe, it's for Mr. Taylor.

CHAIR VICTORINO: Okay.

COUNCILMEMBER COUCH: Whenever ...

CHAIR VICTORINO: Anybody have anything else for Mr. Watanabe? And thank you for being here. Oh, you have one more thing? Go ahead, I'll allow you, go ahead.

MR. WATANABE: Yeah. For agriculture, I think the key points is reliability and affordability of the, of water.

CHAIR VICTORINO: Okay. Thank you. Thank you very much, Mr. Watanabe. Mr. Couch, you had something for Mr. Taylor?

COUNCILMEMBER COUCH: Yeah. You mentioned, you know, if we go along 90 days, we're in trouble. Can I ask Mr. Taylor, it seems like 90 days is an awful long time. Usually we're not in a severe drought for that long or is that, am I mistaken on that?

CHAIR VICTORINO: Mr. Taylor, you can go ahead and answer the question please. But again, let me stop you right here by saying, I'm starting in Stage 1. I'm not saying when it's severe, okay.

COUNCILMEMBER COUCH: Understood.

CHAIR VICTORINO: Again, so let's make it clear so the public understands your question. You're saying the drought, when it become severe. I'm saying when we start to have the challenge of water.

COUNCILMEMBER COUCH: Let me rephrase my question.

CHAIR VICTORINO: Okay. Then maybe that might be the way I want it.

COUNCILMEMBER COUCH: From the minute of the declaration, which is usually Stage 1 --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER COUCH: --to the end of our situation, usually it's all over in 90 days, is my understanding and then there's a severity that's gonna come up. If there is a severity, if it keeps going, we're well within the 90 days before you start declaring, I mean when you declare the

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severity, right?

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: That was a lot of stuff with a right at the end.

COUNCILMEMBER COUCH: I know.

MR. TAYLOR: That's not a yes or no question. First of all, I think there's some misunderstanding, confusion, with all of us about what we're talking about with these stages. There is nothing in this ordinance that says we go from nothing to Stage 1 and then to Stage 2 and then to Stage 3 and then back to 2 then 1 and then call it off. Everything can be fine and we could go right to Stage 3.

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: We could be at Stage 1 and then skip to Stage 3. We could be at nothing, go to Stage 3 and then just back it off to Stage 1. There's almost an infinite number of combinations. So when do you want these 90 days, what do you want it to be about and then to your question specifically, look and I've said this before, you're tired of me saying this but Mr. Couch is right. These events are less than 90 days. If you're going to leave 90 days in here, there's just no point even doing this. It won't work. The thing's over in less than 90 days. So I don't, I recognize that people want 90 days head start. I wish we could give them 90 days head start. When you look in your packet about what Boulder does, they're looking at snow pack in February and that is a great indication of where they're gonna be in August. Our rain comes all through the summer. We don't know 3 months before what's going to happen. We have no way to predict that and frankly, from an implementation standpoint, if this is put in, whoever the Water Director is, is almost going to have no choice but to declare a drought every June 1<sup>st</sup>, regardless of the situation because they're going to have to get the 90 days ticking, 90 days before it happens. And so this is just going to be this perfunctory, you know, May 1<sup>st</sup> or June 1<sup>st</sup>, Stage 1 kind of thing to get the 90-day ticking. And I think it's just going to happen every year because we don't get 90 days' notice. So the 90 days will become one of two things, either perfunctory, you know, June 1<sup>st</sup>, Stage 1 drought call by the Department or it will be, never be used. I mean, it's just going to be one or the other. It's just not going to work.

CHAIR VICTORINO: Mr. Couch? That's it? Oh, okay. Any other questions for Mr. Taylor? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: I heard what the Water Director said and he said well, if we do the 90 days then we automatically, you know, would declare a shortage or whatever, beginning a Stage 1 every June 1<sup>st</sup>. Well, if you look at the criteria --

CHAIR VICTORINO: Yes.

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COUNCILMEMBER BAISA: --that he has to look at in order to declare that, now I'm beginning to wonder, current and predicted weather patterns, I mean, we could probably do that right now because we all kind of know how weather works here. But then when you look at reservoir water levels, that's another issue. Surface water flow, that's another story 'cause it's going to be based on what is happening in June not what is going to happen in September. So it gets very complicated. It gets very complicated and Mr. Guzman, you know, of course, wanted these criteria spelled out. Now when you look at the criteria, does it, shall consider the following, does he have to consider all of 'em? Can he consider some of 'em? What is the trigger? I tell you, this gets more complicated, as always.

CHAIR VICTORINO: Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, the way it's worded, it looks like they have to use all five --

COUNCILMEMBER BAISA: Oh.

COUNCILMEMBER GUZMAN: --because --

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER GUZMAN: --it says, and, yeah.

COUNCILMEMBER BAISA: Uh-huh.

COUNCILMEMBER GUZMAN: Or if they put, or, then they can use one or two them.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER GUZMAN: But it looks as though they have to consider all, and might want to get an opinion from Corp. Counsel.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Well, you're looking at the four options, A, B, C, D?

CHAIR VICTORINO: No, no, we're looking at B, priority [*sic*] of declaring water shortage by the Director shall consider the following. Right there on the board if you wanna, Mr. Kushi, right there on the board 'cause that's the changes we've been making as we went along. So that's B, right there in front of you in red.

MR. TAYLOR: From a practical matter, we take all five of those into account every day. I mean, every day I get some information on all five of those and every day there's at least one discussion about is there anything going on we should do anything about? I mean we look at all five of these every single day so whether it says or or and, from a practical matter, those, any water manager

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at any utility across the world is looking at all four of those things all the time.

MR. KUSHI: Mr. Chair, that being said, so Section B, 1, 2, 3, 4 --

CHAIR VICTORINO: Uh-huh?

MR. KUSHI: --you should leave the and between 3 and 4.

CHAIR VICTORINO: Between 3 and 4?

MR. KUSHI: Right. Surface water flow and current and predicted water usage.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: Chair, there's a 5.

MR. KUSHI: Okay.

CHAIR VICTORINO: And 5.

MR. KUSHI: Between 4 and 5.

CHAIR VICTORINO: Yeah, yeah, well already, it is, there is and after 4, there is and.

MR. KUSHI: No, but the question was whether to replace it with or.

CHAIR VICTORINO: Oh, okay. And you're saying no, put and?

MR. KUSHI: Yeah.

CHAIR VICTORINO: So after surface water flow, put and.

MS. WILLENBRINK: Chair, it would go after number 4, after predicted water usage and.

CHAIR VICTORINO: Is that okay, Mr. Kushi?

MR. KUSHI: Yes.

CHAIR VICTORINO: Is that what you're referring to?

MR. KUSHI: Yes. It's okay, as up there.

CHAIR VICTORINO: Okay, Ms. Baisa?

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COUNCILMEMBER BAISA: If I understand this now, we're saying that in order to declare a water shortage, he has to look at all of these five things because it's and, and, and, and, okay. So if the reservoir is full in June 1<sup>st</sup>, how can he declare a water shortage?

CHAIR VICTORINO: Mr. Taylor?

MR. TAYLOR: My answer would be because what it says is current and predicted weather patterns. For example, we get a briefing a few times a year by the National Weather Service, for example.

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: And if they say look it's going to be a light El Niño and we're expecting less than normal rainfall come fall, that is predicted weather patterns. So all of a sudden, here back on June 1<sup>st</sup>, we'd say, look reservoir is full today, but we're expecting lighter than usual weather in the fall, that's a predicted weather pattern.

COUNCILMEMBER BAISA: I agree with you. I don't have any problem with that but if that was the criteria. But there's all these other things too, which have equal weight according to the way this is written right now and you can tell me, you know, the weatherman says it's not going to rain, but meanwhile the reservoir is full. It doesn't make any sense.

MR. TAYLOR: I don't disagree with you, Chair Baisa, and my point is that, like I said, one of two things will happen, future Water Directors, not necessarily me, will do one of two things, either do nothing about this and it will never be used or make a perfunctory, every season make the call because at the base what we're talking about is trying to give a 90-day notice to the type of emergency that we only get 30 days' notice of. It's like trying to give an hour's notice of an earthquake.

COUNCILMEMBER BAISA: No.

MR. TAYLOR: You don't get an hour's notice when there's an earthquake. So writing a law that says, you know, all earthquake prep shall be given an hour's notice. It would be nice but there is no way to do that.

COUNCILMEMBER BAISA: I understand.

CHAIR VICTORINO: Okay. I'm open for ideas. Because, you know, this, we still have to show and I really want to show that we support ag. Unless we put something in there, how are we supporting ag? That's my question, okay. The Working Group thought this was pretty good. Most people thought it was a fair compromise but I'm open to suggestions. How do we protect ag?

MR. TAYLOR: Mr. Chair?

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CHAIR VICTORINO: Yes, Mr. Taylor?

MR. TAYLOR: Going back to our original proposal of the water shortage rates, what, the template we were trying to build in here without this 90 days, is that each rate class, 5/8" Meters, General and Ag, each has a line in the Stage 1, Stage 2, and Stage 3 water shortage. So the way you would support or not support one of those demographics is by making their rate structure during that stage, more or less. If you take this out, for example, just take out the whole 90-day ag thing, you still have the choice in the shortage rates to leave Ag rates identical as to normal rates in Stage 1 and Stage 2 and bump them up one penny in Stage 3 or don't bump them up at all. You make, the way we built this originally is that you'd make that decision with the dollars in that matrix. That way you don't have to worry about these words. You vote by putting numbers in and maybe you'll decide, as what's been talked about before, maybe what you do, for example, is leave the agricultural increases. If your increase for single-family is a 25 percent bump up, maybe you bump up Ag 3 percent, you know, in that stage and then next stage, you know, if you bump up single-family by 50 percent, maybe you bump up Ag 12 percent or something. You can make up any numbers you want but that would be how you showed your support. You would quantify it in that multiplier. That's how you would show it and that was our original intention. It gives all the flexibility to future Councils. Again, this ordinance would stay the same forever and you would make your policy changes just by changing some numbers in the annual budget and you could tweak it every year depending on whether you thought it was working or not. That was our cleaner way of just leaving it up to one piece of paper with a matrix of numbers and those numbers would identify your clear policy direction.

CHAIR VICTORINO: Yes, Ms. Baisa?

COUNCILMEMBER BAISA: So we would add to the water rates, not only Ag and non-Ag, but we would also add Stage 1, Stage 2, Stage 3?

MR. TAYLOR: Yeah. And I know --

COUNCILMEMBER BAISA: 'Cause it's not in there now.

MR. TAYLOR: I know it's, I know it's hard to, it's hard to remember because it happens, last time we put it in Budget, but that's what we had. In the budgets we proposed, and we had this, we had normal rates, which said, you know, 5/8", All others, Ag.

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: And then next to it, Stage 1, Stage 2, Stage 3, where each of those categories had a different number so it would be sort of a box --

COUNCILMEMBER BAISA: Okay, I understand.

MR. TAYLOR: --of numbers.

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COUNCILMEMBER BAISA: So that's where it would be?

MR. TAYLOR: That was our intention of how to deal with Ag.

COUNCILMEMBER BAISA: So, Mr. Chair, it would, I heard you talk earlier about notifying the Budget Committee and reminding them that this is what we would want to see in the Budget proposal. Thank you. Okay, Mr. Taylor.

CHAIR VICTORINO: Okay. So am I hearing from you, Ms. Baisa, that you'd like to see this removed entirely?

COUNCILMEMBER BAISA: I can't see how we can make it work without ...

CHAIR VICTORINO: It's your community.

COUNCILMEMBER BAISA: No, we gonna mess --

CHAIR VICTORINO: I got no problem.

COUNCILMEMBER BAISA: --we gonna mess up that whole, you know, stages and all those declarations and whatever.

CHAIR VICTORINO: I think you're going in the wrong direction. I'm gonna once have to disagree with you, Madam Chair, but I will do what the consensus is because I think that's a bad policy but, because this Council, this Council may not be the same people and they may have a different attitude and depending on the Water Director, we may not show the same support for ag but --

COUNCILMEMBER BAISA: Well ...

CHAIR VICTORINO: --okay. I'm just saying that I'm not too happy about that but I'll do whatever you guys want.

COUNCILMEMBER BAISA: Mr. Chair?

CHAIR VICTORINO: Yes ma'am.

COUNCILMEMBER BAISA: I don't particularly like my dedication to ag being questioned.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: What I am trying to find here is how can we address this so we can pass this shortage bill.

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CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: We've been sitting here. I don't know how many meetings we've had.

CHAIR VICTORINO: Nine. Nine meetings.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: I can count 'em.

COUNCILMEMBER BAISA: I know. And we go through it every single time and it is our desire to find some way, and I think all of us agree, that ag is very, very important.

CHAIR VICTORINO: Uh-huh. Uh-huh.

COUNCILMEMBER BAISA: We want to protect it.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: What I'm hearing from our Water Director and the way this bill is, we're going to kinda agree to it already, we have agreed, you know, to how he's gonna declare a shortage or lack of whatever. It appears that the best way to control this is in the rates. Now if we want to say that in here, then maybe that's another thing that we could put in here, that, you know, under this Agricultural consumers, we could insert something about protecting it in the water rates in the Budget. If we're going to, worried about, you know, down the road, when you and I are not here and other people are looking at this thing, could we possibly put something in here that says what our intent is, which is to protect Ag consumers by water rates and say what do we want those water rates to be? I don't know. This gets confusing every time we sit down trying to find a compromise for everybody.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: And I understand what Mr. Taylor says when he says if ag is the major user--and they are the major user--and we don't cut them at all, then what are we going to get out of water shortage rates? Nothing. We certainly not going to help the emergency when there is no water. So we caught between the devil and the deep blue sea. We wanna save water so that we exist during the shortage. We don't want to penalize ag.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: So we gotta find a way and he's saying that what we're proposing is not going to make a difference. So I don't know the answer. Please do not take it as I don't support ag.

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CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: I want our or whatever ordinance we pass to be workable.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. As much as it pains me, I have to disagree with you this time.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER COUCH: I agree with Chair Baisa and Mr. Taylor. You can put it in the numbers and, unfortunately, you know, we can't control what other Councils are gonna do. Even if you put it in the law, they can pull it out. So I think, an annual, we can take a look and put in the numbers at the Budget time, you know, only increase Ag a little bit or not even increase 'em at all the first couple stages, you know. That's, I agree with Mr. Taylor, that's where we show how we support ag. In here, it sounds like it's not, the 90 days is just not going to work. I can't see any way, any amount of days you put in there because I don't think it'll work. I think it, we have to make the commitment at Budget time to put the right rates in there for Ag in Stage 1, Stage 2 and Stage 3. If we can throw something in there encouraging that or whatever in .090, I'm fine with that, encouraging that at the Budget time we really consider the agricultural community. I don't know how to phrase that language right now, I mean, I'll work on that but I think the 90 days is going to be very difficult to do and tweaking the rates would be a far easier and more fair way to go about it.

CHAIR VICTORINO: Ms. Crivello, you had something you wanted to add?

COUNCILMEMBER CRIVELLO: I agree with Chair Baisa where this dialog about the trying to address the Ag consumers is just ongoing, ongoing and if the Director does not really agree about the 90 days then maybe we need to add perhaps the rates so it gets more specific so in Budget time that we can have some sort of a rate structure for the Ag consumers but other than that, I think we need to relook this or add maybe the stages of a rate structure.

CHAIR VICTORINO: Mr. Carroll, you have anything you'd like to add? Nothing? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I would be supporting your line of reasoning in that I think what the agricultural community is looking for is some type of reliability or some kind of guarantee that there's language in here that they are going to be taken care of and I also agree with you, Chair, that there could be a different Council that would structure the rates differently but there needs to be some type of language that would somewhat guarantee them some type of reliability, not just waiting for each fiscal year and us determining the rates. So that's where I stand as well, you know. We've got varying opinions and it's a difficult task, very difficult issue. Thank you, Chair.

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CHAIR VICTORINO: Yes, Mr. Couch?

COUNCILMEMBER COUCH: We might be able to come up with something. Mr. Guzman hit upon something, whereas only every year, and I need to ask Mr. Kushi this. Is there anything we can add in this ordinance that allows us to change the rates? I know the Mayor's Office is supposed to be the ones to do a Budget amendment after we pass the Budget but is there something we can add in this ordinance that allow us to change the rates during the fiscal year if we need to to help with the Ag users so we can...can we put something in .090 that allows us to go in and actually and essentially make a Budget amendment because we would be changing the rates if we feel that, okay, we're coming up on something and we need to protect ag so we'll change their water rates at this time because there's some extraordinary circumstance?

CHAIR VICTORINO: Mr. Kushi, go ahead.

MR. KUSHI: You know, Mr. Chair, Mr. Couch, my understanding is that rates and fees are set annually --

COUNCILMEMBER BAISA: Uh-huh.

MR. KUSHI: --and Budget amendments can occur whenever, if initiated by the Administration. So that being said, might be a Charter issue but, again, I, as I follow the conversation, you looking at Section .090 --

COUNCILMEMBER BAISA: Yes.

MR. KUSHI: --which says 90 days, the Ag consumers are just, not involved and whether the 90 days is practicable or desired or not. But again, whatever the rates are, it will be done through the Budget Committee and an annual budget. I refer you back to the section under the stages, .070.

CHAIR VICTORINO: Go back to .070, please.

MR. KUSHI: If Staff can pull up that, the schedules, rates and the Director may also apply other schedules, restrictions or measures as follows. Right, under d, d as in dog, institute water shortage rates as set forth in the annual budget --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --comma, provided however, and then make a statement about the Ag, Ag consumers. I don't think you can get, make a statement in terms of a dollar amount, perhaps maybe a percentage that would not be, rates will not be increased by a certain amount, a minimum --

COUNCILMEMBER BAISA: Correct.

MR. KUSHI: --percentage, et cetera but that would be the place to put it in.

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COUNCILMEMBER BAISA: I think that's good ...*(inaudible)*...

MR. KUSHI: Then that would control what the Budget Committee can or cannot do for this type of consumer.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: So what would you like to put as far as percentage then? Okay, so let's say we go with that--and I have no objections to that--or you going to put it at e, you going to make it a separate one?

COUNCILMEMBER BAISA: No.

UNIDENTIFIED SPEAKER: It's part of d.

CHAIR VICTORINO: Part of d, yeah?

COUNCILMEMBER BAISA: Part of d.

CHAIR VICTORINO: Part of d.

MS. WILLENBRINK: D?

CHAIR VICTORINO: D, like, right there, right there. There, right at the end of Budget. Okay, good, can you give those words again, Mr. Kushi.

MR. KUSHI: After Budget, you know --

CHAIR VICTORINO: Yeah.

MR. KUSHI: --semicolon provided however with respect to Agricultural consumers, such water shortage rates shall not whatever, you guys come up with your, whatever you want.

COUNCILMEMBER BAISA: That Ag consumers ...

MR. KUSHI: Provided however that with respect to Agricultural consumers.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: Yeah.

CHAIR VICTORINO: And then the percentage in Stage 1 would be nothing, in Stage 2, 5 percent, in Stage 3, 10 percent. I just threw numbers, I mean, just off the top of my head, I mean, I just,

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that's not in stone but just to continue the, 'cause we talked about stages, right?

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: Okay. So Stage 1, just for conversation purposes, Stage 1, no increase.

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: Stage 2, I going start with 5 percent, I don't know, you know, you guys can, we can change it but just 5 percent, and Stage 3, 10 percent. And again, I just picking numbers out of the sky, I mean, this one I'm really just picking 'em out, I have no rhyme or reason but, you know, we can discuss it, but just something that states that they will know no more than that at that point in time. Now what do you say to that, Members? It's your call. I mean, you can change it again. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I think that's, that might address the concern here.

CHAIR VICTORINO: 'Cause we not setting up, we not setting the rates.

COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: We just saying a percentage of.

COUNCILMEMBER BAISA: Yes. Yes. So say we're, say we're setting rates this year, we're increasing...what's a normal increase, Mr. Taylor, in rates?

CHAIR VICTORINO: Six, seven percent, yeah.

UNIDENTIFIED SPEAKER: Water shortage?

COUNCILMEMBER BAISA: What is the normal increase in water rates?

MR. TAYLOR: For water shortage rates?

COUNCILMEMBER BAISA: No.

MR. TAYLOR: Or for ...

COUNCILMEMBER BAISA: Regular rates.

MR. TAYLOR: Five percent, usually, something like that. Five, six percent.

COUNCILMEMBER BAISA: Okay. Let me throw this out, and I'd like to hear your response. If we were to say in Stage 2 Ag rates don't go up any higher than 3 percent, would that have any effect,

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or what would the effect of that be in terms of conservation, which is I know the goal of this shortage law?

MR. TAYLOR: Okay so Stage 2 goes up to 30 percent shortage.

COUNCILMEMBER BAISA: Yeah.

MR. TAYLOR: Okay. So let's just look at that. So we're usually using 8 million gallons a day, 30 percent of that is what, 2½ million gallons, something--

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: --like that, right? So you're saying, okay, we've got 5½ million gallons where we usually have 8.

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: We need 8. We have 5½. So even if you get a 75 percent cutback, let's say you have a huge shortage rate for a single-family and you get them to cut back from 4 to 1, 75 percent. So you're still looking at, now there's only 4½ for Ag, which is just a little more than half of what they usually use. Okay, so in a 30 percent--did I get my numbers right? It's a little more than that but something like that. So, it would be more than that. It would be 4 plus...so let's say they have to cut half of that or so, so the question is would the 3 percent increase convince Ag to cut back by 15 percent.

COUNCILMEMBER BAISA: Uh-huh.

MR. TAYLOR: If the answer to that is yes, then everything's fine and the 5½ million gallons we have works. If that's no and they cut back 3 percent cost, they cut back 1½ percent of water, then as I've told you before, regardless of what you write, you know, Mr. Guzman talked about a guarantee, if there is less water than we need, the only thing I can guarantee you is that the system will be unpressurized above Makawao Avenue, you know. That's what's going to happen, regardless of what you write, regardless of where the farmers are. So I doubt very much that a 3 percent penalty, if you want to call it that, is going to reduce agriculture 15 percent of their water. So probably you'll be in this place where, look we tried, but there's just not enough water, we can't keep the system pressurized. The lower portions, below Makawao Avenue, below Pookela tank are pressurized out to Pukalani and everything above that we just can't get water to.

COUNCILMEMBER BAISA: Do you think...

MR. TAYLOR: That would be my likely scenario of what would happen with such a low increase.

COUNCILMEMBER BAISA: Do you think 5 would help?

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MR. TAYLOR: Percent? No.

COUNCILMEMBER BAISA: No. It won't help? What do you think would help? We need some help here.

MR. TAYLOR: I think you're looking at 25 percent. And this might be something to ask Mr. Watanabe, not me. If it was my business and in order to keep my business going, in order to pay a 3 percent surcharge on water, I could use just as much water, I'd pay it in a second.

COUNCILMEMBER BAISA: Okay.

MR. TAYLOR: The difficulty is we don't have the water. I mean, that's what we're, we're talking about an emergency situation. So the question is how do we get everyone to cut back so the upper portions of the system don't go completely dry? And I don't know how to answer that. I think that's a great question for Mr. Watanabe. If there is only two-thirds of the normal water that there usually is and you have to be told to cut back, what would make you cut back one-third?

COUNCILMEMBER BAISA: Mr. Chair?

MR. TAYLOR: That's the key question.

COUNCILMEMBER BAISA: Any possibility of asking Mr. Watanabe that? He's still here.

CHAIR VICTORINO: I know that.

COUNCILMEMBER BAISA: I think it's important so we solve this.

CHAIR VICTORINO: Madam Chair, Madam Chair. I got 'em. Mr. Watanabe, please?

COUNCILMEMBER BAISA: Thank you.

CHAIR VICTORINO: Okay. I just, I getting tired already because I know where this is going so I need to just control it. So, Mr. Watanabe, please, if you can, you heard the question, go ahead, please.

MR. WATANABE: Okay. As Director Taylor said, yeah, I think, you know, when you're in that dire of a situation, yeah, you really need to look what's available. Personally, yeah, if was like a minimal increase in the rates, I would pay it. But, again, you know, it will come to a point where you also have to cut back on your production --

COUNCILMEMBER BAISA: Right.

MR. WATANABE: --so you don't have the income, at some point, you know, to cover that increase. So

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it only puts an additional burden and I think, again, you know, as policy makers, you gotta, I mean it's a decision. We can say how we feel but ultimately it's your decision and, but then, you know, he pointed out 25 percent. I think that's, you know, pretty steep too, you know. You know, because it comes to a point where, again it's, the key thing is how much water is available. And, you know, if you cannot have enough water to irrigate your crop, there's no sense in putting it in at all. And that's where the balance is. Either you may end up with guys using lot of, or the end result to me is that you gonna lose production, bottom line, and, you know, again it's getting to where we have adequate water. And, you know, again I get back to the ranchers. It's gonna take them years to recover and some of 'em may not recover. And that's the other thing too, even for our veg growers, you cut back so much it comes to a point of where you saying, you know, the loss is just too great and you may just, you know, not plant anything and that doesn't help the County either in that situation.

CHAIR VICTORINO: Ms. Baisa, you have a question for Mr. Watanabe?

COUNCILMEMBER BAISA: No. Mr. Watanabe, thank you. I think I get it. It seems that no matter what we try to do here, if we penalize ag, then we gonna hurt ag.

MR. WATANABE: Right.

COUNCILMEMBER BAISA: If we don't hurt ag, we gonna hurt everybody. This is a heck of a situation to be in, but, you know, when all of us turn on the pipe at home, we want something. We want the farmers to have, but we also want people to have water to drink and take a bath. So it's a heck of a situation to try to deal with but we gotta do something.

MR. WATANABE: Yeah, 'cause, you know, I remember back, you know, when my parents were farming and, you know, we were in a severe drought and I think many of you like--Gladys, you remember this, you know.

COUNCILMEMBER BAISA: I do.

MR. WATANABE: My parents went down to town, you know, got truckloads of water and we watered each plant individually. I mean, there was no such thing as using irrigation systems and, you know, we don't want to go back to that but I think, again, that's why as a community we gotta decide how we gonna, I mean it gets back to how we going to address this water system issue? As a community we gotta address it and, you know, I can give the ag perspective and, you know, I'm gonna advocate --

COUNCILMEMBER BAISA: Of course.

MR. WATANABE: --for agriculture. To me, you know, that is the most crucial thing we need to address but then you gotta balance it with all the other needs of the community too and that's why, you know, you guys have a tough job.

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CHAIR VICTORINO: Really? Thank you.

COUNCILMEMBER BAISA: Thank you very much and thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. Any other questions for Mr. Watanabe, since he's here? I, you know, I don't think he minds coming up and down but you have any other questions right now? Seeing none, thank you, Mr. Watanabe.

MR. WATANABE: Thank you.

CHAIR VICTORINO: And don't leave, and don't leave.

COUNCILMEMBER BAISA: We're not pau.

CHAIR VICTORINO: You know, and again, when we started this track, no one said it was going be easy.

COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: And again, we have looked and looked and looked and every time we put something up on the board somebody says oh, what about this, what about that. We're going to, you know, gang, we need to make a decision. I don't care how we do it. We gotta make the decision and then see the residual effect. I mean, I think we know or we anticipating a lot of effects, a lot of cause and effect but until we get there, we really don't know the true effect. We know the cause, we don't know the effect. My question to you, is this more palatable than the 90 days? I'm willing to go with that for purposes of the bill itself. I'll go Stage 2, 10 percent, Stage 3, 20 percent. I don't know, I mean, but I'm trying to keep it reasonable so that the farmers don't feel like vroom, they've been shoved out again. But I agree with you, Ms. Baisa, when I turn on my faucet, I would like some water. And I remember the days of not having water when I stayed with my grandma guys and, you know, there was no water and so you didn't take a bath.

COUNCILMEMBER BAISA: I do.

CHAIR VICTORINO: Back in the days, you no take a bath. Oh, sorry you guys, don't go there, don't go there, Mr. Couch. And we didn't water yards either, by the way. We only watered the fruit trees.

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: You know, I mean, I go back to the day when there was very little water Upcountry and the little, what do you call those bags, the --

COUNCILMEMBER BAISA: Tobacco.

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CHAIR VICTORINO: --Bull Durham bags and collecting all the stuff that came out. I mean that was stuff. Anyhow, so, I'm trying to find a happy compromise. Mr. Taylor, I'm going to give you one shot and then I'm going throw my 3 cents in but go ahead.

MR. TAYLOR: First of all, I think the Members should all congratulate themselves because look, you've gotten closer to a decision than California is and there in the middle of the drought.

CHAIR VICTORINO: Yeah.

MR. TAYLOR: And this is why we brought this up now. This is the kind of emergency planning we need to do now, before it's an emergency. Imagine, you know, nine meetings we've been at this for probably more than a year. Imagine if we were in the drought trying to do this. So I really appreciate and applaud and I want the public to know, this isn't something we're planning on doing. This is an emergency procedure that we want on the shelf because we realize we will not have this amount of time in the middle of the emergency and you guys are way far ahead of where the State of California is, trying to work this out on the fly in the middle of the drought. So first of all, it's not that bad because remember, this is just an emergency procedure we want on the shelf. Second, I agree with what's been said. Stage 1 only goes up to I think 15 percent, 15 percent. Okay, there is no question that when you do the rates, the shortage rates, you can throw all of that onto general usage and single-family. There's no question that we can get 15 percent savings, you know, from really clamping down on single-family and residential and commercial operations and not have to cut Ag in that first Stage. I think that's very realistic. When you get to Stage 2 and Stage 3, this is where the real difficulty comes in and I think where we've come is this realization that there is no, not only is there no guarantee, there is certainty that agricultural businesses will suffer irreparably if we get to Stage 2. If the drought is that bad, that's right, people are going to be losing money, some businesses are probably not going to survive, Stage 3, even worse. We are preparing so we're ready for that, not because we want it to happen. I think at Stage 1, we can avoid it. You can probably leave shortage rates out, but at Stage 2 and Stage 3, you have to be ready, sort of like battlefield triage, not everybody's going to make it. There will not be enough water for everybody and that's why this is so hard. There are not supposed to be easy answers. And, again, by leaving this, cutting the 90 days, and just putting those rates in that way, you're acknowledging that, look if the worst comes to it, you know, we're ready to amputate the arm to save the life but only in that worst, worst case and everything short of that, you know, we're not. And I think that's where you're almost at, but the 90 days is going to throw all that back to really an unworkable bill.

CHAIR VICTORINO: But you didn't answer my question, Mr. Taylor. What percentages? I mean, thank you, you went around one big circle and I knew that. Can you get me specific, like what would be an equitable percentage that is workable so that we can come with some reasonable conclusion? I'm saying 10 and maybe 20, but do you think that's workable?

MR. TAYLOR: I really don't believe it belongs in the bill. I think you're going to complicate things by putting it in here rather than just dealing with it in the actual ordinance itself where we're setting the numbers because I, you're sort of presetting one number without knowing what the other

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numbers are and I think that's a bad idea. I think this was built so that we do all the numbers at once on one sheet, not have to flip back and forth between different ordinances and, you know, do math. So I don't think you should limit yourself here. I think you should just deal with this in the Budget where it says what the shortage rates should be.

CHAIR VICTORINO: Again, you know, Mr. Taylor, there are times when I agree with you but this is one of the times I cannot agree with you because I agree, we need some certainty. The agricultural community needs some certainty. This deal doesn't give 'em certainty but it's a little closer. Ms. Baisa?

COUNCILMEMBER BAISA: No, thank you very much, Chair. And I know exactly where you're going because my heart and yours is in the same place and I have those horrible memories of taking the bath water out to water the vegetables.

CHAIR VICTORINO: Exactly.

COUNCILMEMBER BAISA: Like, you know, my mother used to take it out in buckets from the bathtub or from the kitchen or wherever we had water to water plants. So, you know, I can go there. You know, your 10 percent, you know, 10 percent is 10 percent and I heard what the Director says. You know, this is an ordinance and an ordinance can be changed. And I think we better pass something so that we have something. I don't want us to spend another 10 meetings here and come up with nothing 'cause if we come up with nothing, it's been a great time and we've talked about a lot things but what have we accomplished? I think we need to accomplish something and your 10 percent is as good as 5 percent or 15 percent or any percent that anybody wants to lobby for. This sounds like an auction. You know, what do we say we try and work with your numbers and if those numbers don't work should this ever happen, then the Council, whoever is here at that time, can come back and change it. I mean, I don't think we're ever gonna get this perfect but I think we are trying to acknowledge this Council's commitment to ag.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: But, again, there's another piece to all of this and unfortunately Member Guzman is stuck with it, and that is, who is an Ag consumer and who is going to qualify for this reduction? So I think that's a piece that has to move forward as ASAP because that's another big piece, who is the Ag consumer, and what is the definition, and who will qualify for this and who won't? So, you know, we need the other piece too.

CHAIR VICTORINO: Well, so with that being said, I mean, and I can't deal with the other piece right now.

COUNCILMEMBER BAISA: You can't.

CHAIR VICTORINO: I've gotta deal with this piece --

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COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --right now. Are we comfortable with this and then we move the 90 days? Mr. Guzman? I mean, you're shaking your head so I'm gonna ask you.

COUNCILMEMBER GUZMAN: Chair, I would rather that we stay with the 90 days and apply it to Stage 1, just like what you originally had planned at this point in time.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: I mean, I just don't feel comfortable with this yet and it could take me a while to study it but I'm more comfortable with what we originally had in the bill at this stage.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: I'd rather go with what Mr. Taylor says but in a compromise I'd remove the 90 days and leave that in there, as a compromise.

CHAIR VICTORINO: Ms. Crivello?

COUNCILMEMBER BAISA: Where is our Members?

COUNCILMEMBER CRIVELLO: I'm okay with leaving the 90 days at this stage too.

CHAIR VICTORINO: Okay. And, you know what, I don't know why the other Members had to leave. They didn't tell me, you know. Is there a possibility we get them back 'cause I would like all seven of us to make this decision, not just five? I think this is important. So I'm gonna call a two-minute recess to see if we can retrieve the other two Members. I don't know what happened and maybe there was something and I wasn't informed. I apologize. So two-minute recess. Kim, can we see if we can retrieve the other two Members to help us with this decision? . . .*(gavel)*. . .

**RECESS:            11:39 a.m.**

**RECONVENE:      11:43 a.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting of the Water Resources Committee, November 19, 2014, will reconvene. And thank you, Mr. Carroll, for being able to join us again. Thank you very, very much. Let me get you up to snuff, where we at. We have a proposal under

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D that basically reads--Ms. Willenbrink, will you ready it 'cause I get a hard time already. My eyes are getting bad.

MS. WILLENBRINK: Yes. I'll begin with B. When a water shortage is declared, the Director may apply schedules, restrictions or measures as follows, A, B, C and D, institute water shortage water rates as set forth in the annual budget, provided however that with respect to Agricultural consumers, Stage 1 shall have no water rate increase, Stage 2 shall have no more than a 10 percent water rate increase and Stage 3 shall have no more than a 20 percent water rate increase.

CHAIR VICTORINO: And that is a proposal in lieu of the 90-day exemption, okay. So we would take the 90-day exemption out and put this in its place, just so that you're clear on what these two mean. So what I'm asking for help here or what I'm going to be proposing is, which would you rather keep? And then, I, you know, 'cause right now there's no motion on the floor so I'm cool with this, it's really more consensus. Do you keep the 90 or do we replace it with the language as stated under the, under that section that was just--what section is that now, section ...

MS. WILLENBRINK: 14.06A.070.

CHAIR VICTORINO: Okay. The stages of water shortage.

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: Okay, Mr. Carroll? Do you have questions?

COUNCILMEMBER CARROLL: No.

CHAIR VICTORINO: Okay. So what I'm gonna do is start with Ms. Baisa. Which of the two would you prefer, the 90 or the stages?

COUNCILMEMBER BAISA: Reluctantly, that.

CHAIR VICTORINO: Stages. Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, I would feel more comfortable going with the 90 days. The only reason why I'm uncomfortable with this percentage is the percentage themselves. I'm not certain how that works out if we go 10 percent, 20 percent and so I'm just going to go with the conservative, which I do know what 90 days is, so I'll go with the 90 days.

CHAIR VICTORINO: Okay, and again, the percentages, again, is based on whatever rates are being set that year.

COUNCILMEMBER GUZMAN: Right.

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CHAIR VICTORINO: So I wouldn't have an answer to that but this, and that could be changed by a future Council or by others, you know so. Mr. Couch?

COUNCILMEMBER COUCH: Stages.

CHAIR VICTORINO: Stages. Stacy?

COUNCILMEMBER CRIVELLO: 90 days.

CHAIR VICTORINO: 90 days. Mr. ...

COUNCILMEMBER CARROLL: ...*(Inaudible)*...

COUNCILMEMBER COUCH: What?

CHAIR VICTORINO: Which one? This one? Not the 90 days, the stages? Okay. I knew this was going happen. I knew this was going happen.

UNIDENTIFIED SPEAKER: Six, six.

CHAIR VICTORINO: So even if I go with the 90 days, we're at a deadlock, you know. Yes?

COUNCILMEMBER COUCH: Just a thought on both this and the 90 days is, the other problem is what's an agricultural user? I'm ...

CHAIR VICTORINO: We not going there. And, again ...

COUNCILMEMBER COUCH: Well, no, I know but I --

CHAIR VICTORINO: His Committee is going to bring that up, forward.

COUNCILMEMBER COUCH: --I think it's a little bit better this way because I don't want to give somebody who's not a, you know --

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER COUCH: --the gentlemen farmers, if you will. I don't want to give them 90 days of essentially cheap water. Whereas I would rather give it to them --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER COUCH: --you know. So this one has a little bit better for the "gentlemen farmers". This has a little bit more teeth and, unfortunately, it takes them into it but not as much. So that's the only reason I'm going with the ...

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CHAIR VICTORINO: Pardon me. Stacy, go ahead.

COUNCILMEMBER CRIVELLO: Like he said, that's not where we're at right now and that has to come with us defining that at a, I think --

CHAIR VICTORINO: Yeah, at a later --

COUNCILMEMBER CRIVELLO: --Mr. Guzman's ...*(inaudible)*...

CHAIR VICTORINO: --at a later stage, yeah.

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes.

COUNCILMEMBER CRIVELLO: Mr. Guzman's committee can do that.

MS. WILLENBRINK: Would it be helpful for me to read the definition of Agricultural consumer that is in Title 14?

CHAIR VICTORINO: That we have defined now in water?

MS. WILLENBRINK: Yes.

CHAIR VICTORINO: Okay. Would you like to hear that, just so --

COUNCILMEMBER BAISA: Sure.

CHAIR VICTORINO: --you and the public ...

COUNCILMEMBER BAISA: Sure.

CHAIR VICTORINO: Go ahead.

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

CHAIR VICTORINO: And that one, when, we went with that one for months on that figure so. That's what we presently have as a definition of Ag consumer, okay. I think, Mr. Taylor, when you went and we made these changes, the letters were sent out, there was a number that changed or did not respond and then changed into what I call regular use or...do you remember what that number was? Because I remember you saying there was people that just dropped off because

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they weren't in active agriculture. Do you remember what that percentage was?

MR. TAYLOR: I don't remember the number of meters that are classified as Ag versus other --

CHAIR VICTORINO: Uh-huh.

MR. TAYLOR: --but I really focus on the volume of water because this is really about having enough volume of water, not number of people.

CHAIR VICTORINO: Uh-huh.

MR. TAYLOR: And that's still about, you know, about 40 or 50 percent.

CHAIR VICTORINO: Okay. Thank you, Mr. Okay, we have, you know, and I really would like to try and get something done today. I do not want to come back one more time. And I being, well he's not, he cannot, he's tied up so, you know, and we do have a Mexican standoff. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. Mr. Couch was saying he was concerned about gentlemen farmers getting a free ride over there. I'm not really concerned about that, I'm concerned about the best service we can get to the farmers, as they need it.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER CARROLL: If they have a little bit of a free ride, it's, we're not talking about a back breaking thing over here. I think we need to concentrate on the best thing we can do for our farmers and I'll support that. And I would ask for the Chair's recommendation.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: That was mean. Thank you, Mr. Carroll, just put me in a spot. Okay. Aw, man, you know, both proposals have validity. And I agree with you, Mr. Guzman, the 90 days has certainty. Whereas this one, at this point in time, because we're not setting rates, we have an uncertain factor in there. The good news is in Stage 1, we've got that there would be no changes, okay, and I think that's important. Also setting 10 and 20 percent, I think, in my mind, knowing what rates exist today, is not tremendously burdensome but it will, again, no offense to the farmers, I know that's going hurt you a little. There's no question that's going to hurt. Whoa, man, and I'm looking for compromise. I'm looking for where we can do something today 'cause I don't want to come back next week or next month and try to do this 'cause, again, we gonna come right back to where we're here, right where we are. I believe that. So what I'm going to recommend for the sake of compromise...it's like, what do you call, American Idol, like, you know, when they going announce the winner, everybody stop, think. No need drumrolls. Please, I no want drumrolls, that make me, I cannot think when I have a drumroll. I'm going to go, oh boy...I like my 90 days, I just, I'm stuck with that one. Oh my God, I'm stuck. But, you know, we're not going to get anywhere. Mr. Guzman, I'm gonna ask for your help. You're a man of

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the law. If I compromise and go with this, would that be something I shouldn't do? No, I just ...

COUNCILMEMBER GUZMAN: No, no, that's up to you, Chair. I mean, I stated my position.

CHAIR VICTORINO: Could you, wait, could you support this because this would be a first step? I guess that's what, I cannot think, 'cause if we stay where we at, we're not getting anywhere and I think this is more certainty than not, what we have now, which is a very uncertain and all over the place. It defines, I think this is something that was very important, it defines what and how he declares different stages. At least we got that transparent. At least now the farmers and everyone will know what this is all about. I agree, I rather stay with the 90 days but ...

COUNCILMEMBER GUZMAN: I mean, Chair, my position is that, you know, for the last three or four meetings, I've been working with the 90 days --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --and working with the community with 90 days. So I'm pretty much, I'm pretty much set on the 90 days. I just had that one question whether it applied to first stage or second stage because there were more stages included but at this one meeting in introducing on the floor a different language, I'm not comfortable with voting on language or a concept that we just created on the floor. I think I need more time to think about it, vet it through, but, like I said, I'm more comfortable with the 90 days because that's what I've been working with for the last, you know, month or so. So that's just my position.

CHAIR VICTORINO: Mr. Taylor, you had something you want to add?

MR. TAYLOR: It's nothing I haven't said before but when we do emergency planning--we have a lot of emergency plans--we take into account how much time notice we get. Our hurricane plans have stages, our internal hurricane plans, which usually go out, you know, four or five days, 'cause that's when we start tracking these storms. Our tsunami plans are limited down to about five hours 'cause that's all we get. The earthquake plan is an aftereffect 'cause we get no warning. Making an emergency plan, I go back to the 90 days, that sets a time frame that you don't get, you might as well not have it. It would be like having a hurricane plan saying two weeks before the hurricane, start doing this. You don't know when two weeks before the hurricane. Twenty-four hours before the tsunami hits, we don't know when it's 24-hours before. That plan has to be within the realistic time frame of when we get notice to when we have to pull it off. Ninety days, I just have to say again, if you're going to put it on there, you might as well get rid of this. We will never know when we're 90 days out, never. It is just not a functional criteria and so I know there's this real want to have this 90 days but it's just not workable. There's nothing I can do with a 90-day criteria, that I have to know 90 days before. I will, no Water Director will ever know it's 90 days before a drought, ever.

CHAIR VICTORINO: Mr. Guzman?

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COUNCILMEMBER GUZMAN: Well, you know, Chair, I just, if you're going to have a Stage 1, that's when the trigger happens, when you start the 90 days, right? That's as simple as starting Stage 1. Why would we have a Stage 1? Why would we have a Stage 2? So obviously there's some kind of predictive components that you look at to start Stage 1. So we're not talking, you know, 24-hour, 48-hours' notice. There is five criteria that you look at to start Stage 1 and that's, and I'm agreeable to start the 90 days at Stage 1. That was my only question, was we were, are we starting the 90 days Stage 1 or Stage 2? Obviously I'm agreeing to Stage 1, so I'm good. I'm good with that. That's my only issue.

CHAIR VICTORINO: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Mr. Taylor, I think we talked about this but I just want to make sure. Most of these droughts, where we have this situation, are done in 90 days, right? So essentially it's exempting Ag for most of the droughts. Sometime, in some places it may be a little bit more than 90 days but I don't recall that we've had anything that lasted more than 90 days.

MR. TAYLOR: Historically and based on how the system operates, there's, of course, a possibility that a drought lasts more than 90 days but it would be something really much, much worse than anything we've seen before. We would need to see failures at all kinds of levels we've never seen before simultaneously. So I think it's very unlikely that even a deep drought would be in Stage 3 for, you know, from 90 days after we called it. It would probably be over by then.

COUNCILMEMBER COUCH: So from the time you would start a Stage 1 to the end of anything, whether you go to 2 or 3 or whichever, that time has, is essentially never been more than 90 days?

MR. TAYLOR: It's been much shorter than that.

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR VICTORINO: Okay. I'm still, I mean, I'm still waiting because if I count the numbers right, it's three, three, and my feeling is, again, Stage 1, like Mr. Guzman said, we start. Now Stage 1, Stage 2, Stage 3, go back to Stage 2, go back to Stage 1, that may be all inclusive. It may not, and you mentioned that, right, Mr. Taylor? It may not end when we go to Stage 3 and then we get rain. Oh, then all of a sudden went back to everything hunky dory, right? So there I may say that it could, with stages, last more than 90 days. Now, what do you say to that, Mr. Taylor, with the various stages as we have set, we've set forth?

MR. TAYLOR: Anything could happen.

CHAIR VICTORINO: Okay.

MR. TAYLOR: Again, it's just as likely we go from fine right to Stage 3.

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CHAIR VICTORINO: Well, that's possible.

MR. TAYLOR: And then we're back to fine all within 60 days except during that time, you know, we had a 40 percent cut and no way to deal with it. So again we go back to, if this doesn't work, there's no value in it. So it has to be something that works and I just can't emphasize enough, I just don't think having a 90-day notice, it's just too long a notice. The thing will be over before we have a chance to react.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: You know, as we talk about the stages and we talk about how long things are gonna last, I think, the thing that scares me the most is with the malfunction. You know, if a pump goes down or a well goes down, whatever --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: --we not going to have any notice. It's just going to be from day-to-day and we all know what is involved sometimes in getting a pump here. I remember once upon a time the Dowling well was down and it was months and months and months, right?

MR. TAYLOR: And that's correct. And we've been focusing on Upcountry 'cause that's most likely where we have this. But even Hana, where it rains all the time, there's only two wells. If one of them goes down --

COUNCILMEMBER BAISA: It's over.

MR. TAYLOR: --we're at 50 percent like, you know, tomorrow and that could last for months. So we've been focusing on Upcountry about our normal thing but like Chair Baisa says, a mechanical outage that, on one of the small systems, like Molokai or Hana, could have major effects almost overnight and there would be no warning to those either.

CHAIR VICTORINO: Okay. Ms. Crivello, you had something you wanted to add?

COUNCILMEMBER CRIVELLO: No, Mr. Chair. I await your recommendation.

CHAIR VICTORINO: Well, I'm gonna first, in the spirit of compromise, I'm gonna first recommend the 90 days and we'll take a vote on that. And if that doesn't work, then we'll go to the next one, which is this one, that the second proposal that was put up there. So my recommendation is 90 days exemption for Agricultural use consumers. Do I have a motion?

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER GUZMAN: So moved.

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CHAIR VICTORINO: Second, okay. And I'll take a head count...I mean I'll take a roll call 'cause I don't, you know, just for the sake. Mr. Carroll, yes or no on the 90 days?

COUNCILMEMBER CARROLL: Aye.

CHAIR VICTORINO: Yes, aye? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Yes.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: No.

CHAIR VICTORINO: Mr. Guzman?

COUNCILMEMBER GUZMAN: Yes.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: And I say, yes. So four "ayes", two "noes" --

COUNCILMEMBER BAISA: It's done.

CHAIR VICTORINO: --one "excused".

**VOTE: AYES: Chair Victorino, Councilmembers Carroll, Crivello and Guzman.**

**NOES: Councilmembers Baisa and Couch.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember White.**

**MOTION CARRIED.**

**ACTION: Motion passes.**

CHAIR VICTORINO: Okay. Now can we move on?

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COUNCILMEMBER BAISA: Yeah, finished, good.

CHAIR VICTORINO: Thank you very much. And again, gang, we may come back at a later date and make some changes on this, we'll see, we will see. Okay. What else do we have? This was the big one; I knew this would be taking much of the meeting. Moving on. Let's see if there's anything else that we need to look at. Mr. Taylor, do you have anything else?

MR. TAYLOR: There we no other changes recommended by you or your Staff throughout the rest ...*(inaudible)*...

CHAIR VICTORINO: The rest of the thing. So, any other discussion? Then my recommendation would be to ...

MR. TAYLOR: Oh, I'm sorry, Mr. Chair.

CHAIR VICTORINO: Oh, I'm sorry, oop.

MR. TAYLOR: Sorry, I just saw this exemptions. Any area affected by water shortage, infrastructure or mechanical malfunction caused by human error shall be exempt from any water shortage water rate increases. This is just what we were just talking about. What this says is in Chair Baisa's example, if there's a outage due to something that breaks, we're not allowed to use the shortage rates but that's a key reason of having the shortage rates.

COUNCILMEMBER BAISA: Thank you.

MR. TAYLOR: I don't, you know, between the 90 days and this exemption, again, there's really no point having this bill. Those are the two things likely to have an effect. So I would recommend taking this exemption out.

CHAIR VICTORINO: Okay. I mean, that's the exemption that any area affected by water shortage due to infrastructure or mechanical malfunction caused by human error shall be exempt from water shortages rates, water rates, water shortage water rate increases. And he's recommending removal of that. I'll put it on the floor. Ms. Baisa, you have...we're almost there.

COUNCILMEMBER BAISA: I hear what the Director is saying.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: You know, what distresses me about how this is going is that I see this whole idea of going after money or, you know, higher rates --

CHAIR VICTORINO: Uh-huh.

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COUNCILMEMBER BAISA: --during a shortage --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: --as a way to get people to use less water --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: --because we're gonna have less water to give everybody. Well, I don't know if with all the gimmies that we're giving, we're gonna accomplish the goal of this and another exemption is the same thing. If it's down, it's down, it's not, you know, no matter what we charge, it's not going to make the water come back. We're gonna be sitting here looking for water so I don't know about an exemption. I don't know. I think we're not going to gain what we wanted to do by passing this bill. The intent of the bill was to get people to use less so that everybody would make it during a, you know, some shortage and exemptions are not going to help. It's, you know, unfortunately, human beings are funny. You know, my husband was a water cop. Before, during shortages they had water cops, and he was Upcountry and it was his job to go and tell people, turn off the hose, don't wash your car, you know, they could see the soap suds running down the street or whatever. And people are funny, if they could get away with it, they got away with it until somebody went and nailed them and said we're going to turn your meter off if you do that anymore or whatever it was that he penalized them. It was number of years ago so I don't really remember anymore.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: But human nature is funny. People can get away with it, they will and not think about the next guy.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: And it's not funny when we we're in this, it's really, really bad.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: So I don't know about an exemption.

CHAIR VICTORINO: Okay. And, again, this was brought forth by some consumers who felt that if we made a mistake and we caused the outage, that they had to pay higher rates because of our mistake, that was primarily the reason --

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: --the rationale.

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COUNCILMEMBER BAISA: I understand what they're saying.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: But, again, it's not going to give us water.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: There is no water. It's gone, the pump is gone. The well is gone, whatever.

CHAIR VICTORINO: I agree, I agree, you know, again, I agree. But again, the question comes up and this is, you guys want to take it out, I got no problem with that. Again, the rationale behind that was, is because the error was made by human being and now I'm being penalized for it. Alright, it happens. Humans make mistakes. Okay, so I'm gonna take a, same thing, a poll across the board, unless you have something to change.

COUNCILMEMBER COUCH: Well if there's a human error, you're going to have no water.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: Well it depends how big the error is.

COUNCILMEMBER COUCH: So everybody is penalized if nobody conserves. So that's ...

CHAIR VICTORINO: Yeah, but again, affected area so, you know what I mean, Mr. If Shaft 33 went down, it would affect you guys in Kihei as much as it would affect us in Wailuku --

COUNCILMEMBER COUCH: Right.

CHAIR VICTORINO: --'cause Shaft 33, right Mr., was one of the main sources of water for the entire Central system.

COUNCILMEMBER COUCH: Right.

CHAIR VICTORINO: Okay. But if some of these smaller shafts now go down, it may only affect Wailuku and not affect Kihei, okay. So, again, Wailuku, do we have to pay more? Or what if one of the shafts went down is directly to South Maui and you have to pay more?

COUNCILMEMBER COUCH: Yeah.

CHAIR VICTORINO: You know. I'm just saying, okay.

COUNCILMEMBER COUCH: But if you get water, yeah.

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MR. TAYLOR: Mr. Chair, human error is a bigger issue for the smaller systems that don't have as much redundancy. Hana and Molokai, for example, are very likely that one human error or mechanical outage that breaks one thing, you know, can take a huge percentage of the working capacity out right away. In Central, South Maui, there's so many different things. Some are down all the time anyway.

CHAIR VICTORINO: Uh-huh.

MR. TAYLOR: So it's much more unlikely that in Central, West, or even Upcountry, one human error is going to drop the whole system 'cause there's, you know, half dozen, or in the case, a couple dozen in Central Maui, different systems. So it's more about a reliability of redundancy.

CHAIR VICTORINO: Okay. So with that being said, I'm gonna ask, do you want this removed, yes or no? And I'll start with you, Mr. Carroll. Would you want 14.06A.100 removed? Yes or no?

COUNCILMEMBER CARROLL: Yes.

CHAIR VICTORINO: Ms. Crivello?

COUNCILMEMBER CRIVELLO: No.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: Yes.

CHAIR VICTORINO: Mr. Guzman?

COUNCILMEMBER GUZMAN: No.

CHAIR VICTORINO: Mr. Taylor...Ms. Baisa?

COUNCILMEMBER COUCH: What?

CHAIR VICTORINO: I'm sorry. Sorry, sorry. Brain's tired already.

COUNCILMEMBER BAISA: I'm not sure who I am either, don't feel bad.

CHAIR VICTORINO: Sorry, sorry, I apologize, Ms. Baisa. If you'll excuse me.

COUNCILMEMBER BAISA: Frankly, I'm not sure but I guess I'll say yes.

CHAIR VICTORINO: And for the sake of compromise, I'm going to say yes because I do agree with the aspect of the smaller systems, you know, they're the ones that are going to be most adversely

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affected and, you know, whether it's Molokai or Hana, even West Maui could be, because they're a smaller system. Because, again, remember now, they're more private than public systems out there in West Maui. So if there, you know, so the vote is four to two. I'm going to remove it. Okay, anything...oh, yes, Mr. Kushi? I shouldn't have said that. I knew ...

MR. KUSHI: Yeah, yeah. I hope this doesn't take too long but --

CHAIR VICTORINO: Okay.

MR. KUSHI: --I brought it up at the last meeting --

CHAIR VICTORINO: Yes, sir.

MR. KUSHI: --on Sections .110, Violation-penalty.

CHAIR VICTORINO: Go down to .110.

COUNCILMEMBER BAISA: .110.

MR. KUSHI: Right, right, you know, so it says, you know, you get, somebody violates the provisions, they first go to court, get convicted. Upon a second conviction then the Department can remove their meter --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --subject to their appeal rights.

CHAIR VICTORINO: Okay.

MR. KUSHI: Now the question was, let's say they appeal and the Board oppose the decision that the Department correctly removed the meter and the consumer doesn't further appeal it so it's a done deal and he comes back to get another, to reinstall. Can we charge 'em the new meter fee, 'cause here on Section C it just says reinstallation, only 100 bucks?

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: The other half of that question is if they're Upcountry, do they get pushed back to the end of the list?

MR. KUSHI: What list? There's no list.

CHAIR VICTORINO: There's no list. There's no list anymore.

COUNCILMEMBER COUCH: Right, right.

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CHAIR VICTORINO: They'll get pushed back to nothing.

MR. KUSHI: So anyway, you know, I needed to bring that up to the Commission because if you don't say anything here or it's reflected in the minutes, the Director or any further Director would just charge 'em the fee or not even give 'em a meter and our Department would have to back 'em up.

CHAIR VICTORINO: Okay. That being the last thing...Mr. Taylor, go ahead.

MR. TAYLOR: Mr. Chair, our Department would prefer that the Council add language to clarify that they pay the current meter fee for reinstallation but for Upcountry they not, they get their meter back, they do not, they should not be kicked off. I mean, that's what we would recommend to you as reasonable policy. So if you get your meter yanked, you pay the full fee to get it back, but again, if you're Upcountry, you get it back.

CHAIR VICTORINO: But you pay the fee --

MR. TAYLOR: You pay the full fee.

CHAIR VICTORINO: --as it exists.

MR. TAYLOR: As it exists today for everybody but we feel that no matter, if you're Upcountry, we feel if you make, do whatever you do and you get your meter yanked, we feel basically giving you no option to ever live in that house again because your meter is gone forever and there's no way to get back on the list, we feel that is way too draconian, where we feel that a strong statement of you get your meter yanked but you pay the full fee to get it back is fair to everybody. It makes it strong enough. But saying that, you know, you can never live in that house again, we feel that is just far too much for this kind of infraction.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Just want to be clear. What full fee are we talking about?

CHAIR VICTORINO: It says right there, the water system development fee --

COUNCILMEMBER BAISA: Just want to --

CHAIR VICTORINO: --as provided --

COUNCILMEMBER BAISA: --I wanna make sure.

CHAIR VICTORINO: --in the annual budget.

MR. TAYLOR: That's the fee that is currently 6,000...

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CHAIR VICTORINO: No, no, but, right, it says, wait, wait, no, I'm gonna say, as provided in the annual budget, 'cause if it happens two years from now, Ms. Baisa, it could be different so.

COUNCILMEMBER BAISA: So if, say if you get your meter pulled --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --you'll get it back but you going to pay whatever it costs to get a meter at that time.

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER BAISA: It's not just a reinstallation fee.

MR. KUSHI: Plus the reinstallation.

COUNCILMEMBER BAISA: Plus the --

CHAIR VICTORINO: The \$100 ...

COUNCILMEMBER BAISA: --reinstallation fee. I think that needs to be clearly stated. That's really important.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: You don't want to lose your meter 'cause if you do, it's gonna cost you a lot of money to get it back if we keep jacking up the meter fees.

CHAIR VICTORINO: Okay. So, as it reads now, if you can see it, that their reinstall of the subject is to reinstall, the reinstallation fee of \$100 and the water system development fee as provided in the annual budget provided, however the...what is that now?

MR. TAYLOR: I don't think she finished.

COUNCILMEMBER BAISA: No, she's ...

MR. TAYLOR: ...*(Inaudible)*... consumers in the Upcountry district

CHAIR VICTORINO: What is that?

MS. WILLENBRINK: If Corp. Counsel could help me with the rest of the language about Upcountry.

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MR. KUSHI: Right. Right. We can put some exception languages for the Upcountry meter list. My mind is just too blank right now to figure it out.

MR. TAYLOR: Consumers in the Upcountry area shall be entitled to have their meter back without going back on the list.

CHAIR VICTORINO: Well, there's no Upcountry water meter list, right?

MR. TAYLOR: That's why we just say that.

CHAIR VICTORINO: Okay.

MR. TAYLOR: We just say that they're entitled to have the water back regardless of the situation with the Upcountry water list or whatever the exact language is.

MR. KUSHI: Mr. Chair, I would also advise putting a time limit on this, that once they're removed and all the judicial processes has gone through, they must reapply for the meter within "x" number of days. Otherwise they'll just leave it hanging.

COUNCILMEMBER BAISA: Yeah.

MR. KUSHI: Six months, whatever.

CHAIR VICTORINO: Right now, what do we have for the other one? The other one when they...

MR. TAYLOR: Three years.

CHAIR VICTORINO: Three years? Yeah, three years. I'd like to stay consistent, to be honest.

MR. KUSHI: Well the three years was for non-payment of a meter, meter charges, meter rates.

CHAIR VICTORINO: Well? Okay, I'm open to suggestions. Three years? One year? Six months? I don't know. I just want to be fair too, that somebody, hm, like you said, Mr. Taylor, that somebody's not pushed out of their house and never can go back and live in it.

COUNCILMEMBER BAISA: Uh-huh.

COUNCILMEMBER CRIVELLO: Yeah. And then homeless.

CHAIR VICTORINO: Yeah, that's, this is important. Yes, Mr. Couch?

COUNCILMEMBER COUCH: Mr. Taylor, the water system development fee, that is to help develop water, more water source at the time of the installation of the meter at the building of the house or whatever, right? So they've already paid that --

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COUNCILMEMBER BAISA: Right.

COUNCILMEMBER COUCH: --fee. I, Mr. Chair, I can't agree to the water system development fee on that. They've already paid their water system development fee.

CHAIR VICTORINO: They may not have. If it's an older house, they may never have. If that house was built before 1950, they wouldn't have. So, I mean, you know, I would have to say that's not always true but, okay, let's use, for sake of conversation that most of these houses were built when the water development fee was instituted, okay. So let's use that. And there was all different stages, different times, and different amounts. So, Mr. Taylor, you understand his concern? How do we address that?

MR. TAYLOR: I understand his concern. The philosophy of what exist now, the three years Mr. Kushi talked about, basically if you don't pay your bill and we yank your meter, you have three years to come back, pay the installation fees, the water system development fee and get it back and you have to pay the full fee. The reason that is is we're saying look, if it takes you three years, we may have given that water away to somebody else, right, because we, you stopped being our customer, you indicated you don't want water service. We can't hold that water production capability for you forever. So we said basically, look, you've got three years, but we may give it away so you've gotta buy it back 'cause --

COUNCILMEMBER COUCH: Uh-huh.

MR. TAYLOR: --the whole purpose of this is we took that back from you because you didn't want to be a good customer. That's essentially the philosophy. So I would support to be consistent, three years, and the full fees would basically say whether, if you get your meter pulled for not paying your bill or because you're violating some of these other rules, you've lost your good standing and you've got to, you know, we're going to give your capacity to somebody else and you gotta buy it back.

CHAIR VICTORINO: Mr. Couch?

COUNCILMEMBER COUCH: Yeah, you know, we're discussing something, I want to ask, how likely is it that you're ever going to pull a meter for violating the drought laws?

MR. TAYLOR: Pass that question to my attorney.

MR. KUSHI: It would happen --

UNIDENTIFIED SPEAKER: ...*(Inaudible)*...

MR. KUSHI: --yeah, it would happen only in the event that this guy is charged and goes, the customer is charged and goes to court twice.

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COUNCILMEMBER COUCH: I mean we're ...

MR. KUSHI: So, you know, what they do in Circuit Court or District Court ...

COUNCILMEMBER COUCH: I think we're spending a lot of time for something that may not--has it ever happened before--that may not even happen? So just put it in there and let's go. I guess. I don't know. It's a lot of time for something that's not going to happen.

MR. TAYLOR: We would like to use the shortage rates as our primary method. Now this will depend on this body during Budget putting in aggressive enough shortage rates to make them meaningful; otherwise, we're back to schedules and enforcement by pulling meters.

CHAIR VICTORINO: But I think, you know, if we have that when they don't pay their bill, this is the way it's set up already, to be consistent I think we still have to do it this way because that's the way we have it set up for when we pull their, when they don't pay their bill. Ms. Baisa, you're looking at me with that perplexed look so I'm going to ask you, what are you thinking, please?

COUNCILMEMBER BAISA: I don't know. You know, right now if this were to happen, it wouldn't be too bad 'cause the water meter fees are pretty good.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: But considering what they're projected to be, and we know they're going to go up, they have to go up. You know, I don't know why people would not pay their bill or not pay attention, or in this case, you know, lose a water meter.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAISA: I just cannot imagine people losing a water meter unless they were really, really desperate. Who in their right mind today would give up a water meter knowing how hard it is to get one?

MR. TAYLOR: You know, Ms. Baisa, this is similar what you said earlier that if we add all kinds of exemptions, what's the point? The point of this is to back up your earlier statements. We're really serious. When we need you to cut back, we really need you to cut back. And it's not a slap on the wrist, it's major. This, I believe, will get everyone's attention. You lose your meter, you pay the full fees to get it back. We are serious about this. We need your help. This, the whole purpose of this bill has always been, this is not a fun conservation thing like let's all be green, this is a, it's an emergency.

COUNCILMEMBER BAISA: I understand.

MR. TAYLOR: We need you to do this or you're in a lot of trouble. So I think a strong --

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COUNCILMEMBER CRIVELLO: Chair?

MR. TAYLOR: --statement like this makes that.

CHAIR VICTORINO: Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: I can see we have violations and penalties to follow, but we also need education and encouragement for people to follow through with conservation --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER CRIVELLO: --and I cannot agree, after two convictions, to have the, say it runs up to 20,000, that's the penalty and this individual would have to pay.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER CRIVELLO: I think if we try to avoid such a penalty would be better and if they don't get their water meter back, let me ask you, does the, if consumer A is in violation and has to pay the installment fee but consumer A cannot, so moves out. Consumer B comes in, does it, do they have to pay that new fee or clear up everything that's outstanding?

MR. TAYLOR: Yes. The meter's gone from that location. That's correct. And so whoever comes in, even if it's a foreclosure--in fact, we've got some of these issues right now. There's a foreclosure, it's been more than three years, somebody bought the foreclosure, they have to pay that fee.

COUNCILMEMBER CRIVELLO: So if, and, if I may?

CHAIR VICTORINO: Sure.

COUNCILMEMBER CRIVELLO: So if a consumer not able to meet their obligations to pay their water bill, the meter is removed. Do they, what are their reinstatement fees?

MR. TAYLOR: It's ...

COUNCILMEMBER CRIVELLO: Is it the new installment?

MR. KUSHI: Mr. Chair, I believe the rule is that if the meter was removed for non-payment of fees, if they come back and request reinstallation within three years, they'll have to just pay the back charges, which would probably be I guess the service ...

MR. TAYLOR: The back charges plus the installation fee. If it's more than three years right now then they have to pay for the new --

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MR. KUSHI: More than three years --

COUNCILMEMBER CRIVELLO: Oh.

MR. KUSHI: --then --

MR. TAYLOR: --water system development fees.

MR. KUSHI: --a new meter.

COUNCILMEMBER CRIVELLO: Okay, so same with your, this, just so I can understand, Mr. Kushi. So if there is a violation for the, whereas there's violation of conservation of the water use, and then the water meter is removed, then they have within three years to get their meter back on but they have to pay the new water resource development fee?

MR. KUSHI: Well, it's not stated. I just brought that up --

COUNCILMEMBER CRIVELLO: Oh, okay.

MR. KUSHI: --which, anyway, because it's not stated. So I needed clarification for the Director.

COUNCILMEMBER CRIVELLO: Okay. And so, arrears account, shut down of the meter, remove, you have three years to catch up on your, bring your account up to date and then your meter is put back on without paying a new water resource fee?

COUNCILMEMBER COUCH: Oh, okay.

MR. KUSHI: You could make reference to the existing rule about that, you know.

COUNCILMEMBER BAISA: I think we should. This is confusing.

MR. KUSHI: Yeah, I mean, you know, and treat this removal of meter like non-payment of bills.

COUNCILMEMBER COUCH: Yeah.

COUNCILMEMBER BAISA: Then it's okay.

COUNCILMEMBER COUCH: That's fine.

COUNCILMEMBER BAISA: Yeah.

MR. KUSHI: Which would be the max, would be three years.

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CHAIR VICTORINO: So I'll just put over here as stated in Section ...

MR. KUSHI: Staff and I can find that out.

CHAIR VICTORINO: Okay, okay. So it will be the same as when you have water meters removed. My question is how do you figure back bills when you taking one meter out, you taking a meter out because they haven't complied, right, they haven't complied with the law. So that's my other question, how do you guys want to address that part? Because right now you get the back bills, you know what the back bills were.

COUNCILMEMBER COUCH: This isn't bills. This is water shortage.

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: I agreed.

COUNCILMEMBER COUCH: Right.

CHAIR VICTORINO: But the other one is based on bills, what monies you owe, you pay all the back bills plus.

MR. TAYLOR: I think in this case they wouldn't owe any money. So the money they owed would be zero so. I think if you just, if you remove where it says, and a water system development fee, and just a reinstallation fee of \$100, or even you remove all that, once it's removed, you get it back just as per the --

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: --existing ordinance about how to get a meter.

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: You can just use the same rules. That would be very clear for us.

COUNCILMEMBER CRIVELLO: And if they are in violation, they pay that 500 or whatever.

MR. KUSHI: The Court would collect that.

COUNCILMEMBER CRIVELLO: Right.

COUNCILMEMBER BAISA: Yeah

CHAIR VICTORINO: Not us.

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COUNCILMEMBER COUCH: Huh?

COUNCILMEMBER CRIVELLO: Okay.

CHAIR VICTORINO: Not us.

COUNCILMEMBER BAISA: Okay.

CHAIR VICTORINO: Okay. Alright so we'll put that wording in there, okay. You can scratch all that out and we'll leave it to Mr. Kushi to make that change but it would be exactly as it exists in the law today.

COUNCILMEMBER BAISA: Okay.

MS. WILLENBRINK: Okay. Point of clarification, Chair. When we talk about the Upcountry area, how is the water meter list affected, because those are people who don't have a water meter? Is that correct?

CHAIR VICTORINO: Yeah, but he just said that they would not be penalized, they would be able to reinstate their water meter, those who lost the water meter.

MS. WILLENBRINK: The people on the list don't have a meter, correct?

CHAIR VICTORINO: Well, we not talking about the people on the list. We're talking about existing users.

COUNCILMEMBER BAISA: Yeah.

MS. WILLENBRINK: Okay.

MR. TAYLOR: I think the problem Staff is having--and maybe this is something we need to fix in this other bill another time--is this issue about whether or not, if somebody didn't pay their bill and gets their meter yanked Upcountry right now, that ordinance is not clear what happens to them if they're not on the list. So I think calling them the same doesn't solve the problem. We probably need to go back to that bill and clarify that when you get your meter yanked, even if you're not on the list, you still just pay the fee back.

COUNCILMEMBER BAISA: Yeah.

MR. TAYLOR: And that's what we've been doing as a Department. One just came up a short time ago and we let them pay the fee and get their meter back. We didn't say you're not on the list, you can't have it back.

UNIDENTIFIED SPEAKER: Yeah.

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MR. TAYLOR: But it would be nice to have Legislative coverage of those actions in that other bill. Maybe that's something that this Committee can take up at a future time.

UNIDENTIFIED SPEAKER: Right.

CHAIR VICTORINO: Okay. Are we okay with that, because --

UNIDENTIFIED SPEAKER: Uh-huh.

CHAIR VICTORINO: --I think we're almost to the point where I can say this is the bill as amended with the verbiage that exists in the other section. Any questions at this point? Are we okay with it? So, my recommendation is...whew, I thought I'd never get to this point. Whoa. I kind of threw that paper away already. No, no, sorry. Okay.

COUNCILMEMBER BAISA: Don't throw the paper away.

CHAIR VICTORINO: My recommendation is to pass on first reading the revised proposed bill as we did today, A Bill for an Ordinance Relating to Water Conservation and Control of Water Usage During a Water Shortage; including nonsubstantive revisions; and the filing of Bill 13 (2013). You're pointing, pointing somewhere.

COUNCILMEMBER COUCH: Your Vice-Chair, yeah.

CHAIR VICTORINO: Vice-Chair is not here.

COUNCILMEMBER COUCH: Oh.

CHAIR VICTORINO: My Vice-Chair is not here. So I need a motion from somebody.

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER CRIVELLO: Second.

CHAIR VICTORINO: Okay. It's been moved by Mr. Couch, seconded by Ms. Crivello. Any more discussion? All those in favor, say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed? Let the record show six "ayes", one excused, Mr. White.

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**VOTE: AYES:** Chair Victorino, Councilmembers Baisa, Carroll,  
Couch, Crivello and Guzman.

**NOES:** None.

**ABSTAIN:** None.

**ABSENT:** None.

**EXC.:** Councilmember White.

**MOTION CARRIED.**

**ACTION: FIRST READING of bill and FILING of communication by C.R.**

CHAIR VICTORINO: And, ladies and gentlemen, thank you, thank you very much. I don't think this solved everything but I think, like Mr. Couch says, we got 80 percent done, now we need to look for the other 10, 20 percent. Right, Mr. Couch? Alright. Any other discussion? If not, it's almost 12:30. I know it's lunchtime. Thank you for your patience. This Water Resources Committee meeting ...

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes?

MS. WILLENBRINK: Did you, in your motion, include the filing?

CHAIR VICTORINO: Yes, I did. Yes, I did. Okay?

MS. WILLENBRINK: Mahalo.

CHAIR VICTORINO: Alrighty. So the Water Resources Committee meeting for November 19, 2014 is now adjourned. ...*(gavel)*...

**ADJOURN:** 12:27 p.m.

APPROVED:



MICHAEL P. VICTORINO, Chair  
Water Resources Committee

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CERTIFICATE

I, Annette L. Perkett, 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 11<sup>th</sup> day of December, 2014, in Haiku, Hawaii.



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Annette L. Perkett