

# **WATER RESOURCES COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**December 2, 2015**

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

**CONVENE:** 9:02 a.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Gladys C. Baisa, Chair  
Councilmember Michael P. Victorino, Vice-Chair  
Councilmember Robert Carroll  
Councilmember Elle Cochran  
Councilmember Don Couch  
Councilmember Stacy Crivello

**EXCUSED:** VOTING MEMBERS:  
Councilmember Mike White

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Clarita Balala, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

Sarah Freistat Pajimola, Executive Assistant to Councilmember Elle Cochran

**ADMIN.:** David Taylor, Director, Department of Water Supply  
Edward S. Kushi, Jr., First Deputy Corporation Counsel,  
Department of the Corporation Counsel

*Seated in the gallery:*

Jock Yamaguchi, Executive Assistant, Office of the Mayor

Paul Meyer, Deputy Director, Department of Water Supply

Tammy Yeh, Civil Engineer, Department of Water Supply

**OTHERS:** Alice L. Lee, President, Go Maui  
Alex Haller  
Grant Chun, Vice President, A&B Properties, Inc.  
John V. Duey  
Tamara Paltin  
Kaloa Robinson, Project Manager, Stanford Carr Development  
Michael Trotto

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Michael Howden  
Lyn Scott  
Joe Gardner  
Tiare Lawrence  
Charles Jencks  
Kaniloa L. Kamaunu, Chair, Water Committee, Aha Moku O  
Wailuku  
Charlotte O'Brien, CEO, Carbon Drawdown Solutions, Inc.  
Pamela Tumpap, President, Maui Chamber of Commerce  
Leonard "Junya" Nakoa, III  
David DeLeon, Realtors Association of Maui  
Albert Perez, Executive Director, Maui Tomorrow Foundation  
Tyler Dos Santos-Tam, Executive Director, Hawaii Construction  
Alliance  
Rosemary Robbins  
Lucienne de Naie, Conservation Chair, Sierra Club  
Hokuao Pellegrino, Vice President, Hui O Na Wai Eha  
Mercer "Chubby" Vicens  
Liz Key  
Lawrence Carnicelli  
Autumn Ness  
Sylvia Cabral  
Claire Apana  
Dick Mayer, Board Member, Kula Community Association  
Michelle Anderson  
Stephen West  
(11) additional attendees

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

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**ITEM 11: WATER AVAILABILITY POLICY (CC 15-229)**

CHAIR BAISA: . . .(*gavel*). . . Will the regular meeting of the County Council Water Resources Committee please come to order. Today is Wednesday, December 2<sup>nd</sup>, and it's approximately a couple minutes after 9:00 in the morning. Meeting will take off now. We...looks like we have a very exciting morning before us today. But before we get into it, I'd like to ask everyone to please check your cell phones and I'll check mine too to make sure that we have them on our silent mode so we won't be interrupted by any special announcements or music here. I'd like to introduce the Members of my Committee that are here. I'm the Chair, Gladys Baisa and with me today I have, Vice-Chair Mike Victorino.

VICE-CHAIR VICTORINO: Aloha, Madam Chair.

CHAIR BAISA: Aloha. And we have Mr. Carroll.

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COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR BAISA: Good morning. And we have Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha and good morning, Chair.

CHAIR BAISA: Good morning. We have Mr. Couch.

COUNCILMEMBER COUCH: Aloha and good morning, Chair.

CHAIR BAISA: Good morning. And Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha and good morning, Chair.

CHAIR BAISA: Aloha, and excused this morning is Chair Mike White. From the Administration this morning we have with us Dave Taylor, the Director of Water Supply.

MR. TAYLOR: Good morning.

CHAIR BAISA: Good morning. And we have Mr. Kushi, the First Deputy Corporation Counsel.

MR. KUSHI: Good morning.

CHAIR BAISA: Good morning. And of course we have our loyal and wonderful Staff. We have Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR BAISA: And we have Clarita Balala, our Committee Secretary. In the District Offices we have Staff out there too and I'll be checking in with them. In our Hana Office we have Dawn Lono.

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

CHAIR BAISA: Good morning, Dawn. And in the Lanai Office we have Denise Fernandez.

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

CHAIR BAISA: Good morning, Denise. And in our Molokai Office we have Ella Alcon.

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

CHAIR BAISA: Good morning, Ella. Members, today we have one item on our agenda and it's the Water Availability Policy, WR-11. That agenda relates to the County Water Availability Policy and is more commonly known as the "Show Me the Water" Bill. When you talk about this and you say water availability it doesn't quite have the pizzazz, when you say "Show Me the Water", everybody gets excited. Council Vice-Chair has

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transmitted a bill to repeal Chapter 14.12 of the Maui County Code relating to water availability. My intention today is to hear testimony from the public and how this policy has affected them. I also would like to hear any recommendations that you might have as to how this bill could be amended if that's a possibility and I think it's very important that we spend time on this very, very important issue. We all know that water is life and for me I think it's important that we spend as much time as we need to, to make sure that whatever we decide to do with this is a good thing to do. I do not intend to try to pass out any legislation today. But I would like to schedule this again and will be scheduling it for our first regular Water meeting in January which will be January 6. So we will be taking this again up on January 6. If the body decides that revisions are needed or if the entire chapter should be repealed, we'll decide at that time. Today is essentially an opportunity for the Members to listen to what the public wants to share. We'd like to hear your experiences, we want to hear your support, we want to hear any concerns you have. And of course like I said we're open to listening to any amendments that you might want to bring up before us. This policy was revised in 2012 to define and add infill development as an exemption and to require reporting requirements every two years. Please note that a copy, Members, of the chapter is in front of you for reference along with correspondence dated August 25, with the Director's first required report. I have heard conflicting information from the community and I know that we all have and I'm asking for your opinions and your advice today with regard to this matter. We are here to listen to testimony. We're not here to have the debate. The debate will come later when we get into deliberation. So I'd like the testifiers to feel very comfortable in standing up and sharing with us however you feel. It is very important that we gather this information. We're going to, without objections, Members, start with public testimony. It will be limited to our item on the agenda today. If you wish to testify, please sign up on the desk located on the 8<sup>th</sup> floor lobby or in one of the District Offices. Testimony will be limited to three minutes; at two and one half minutes the light will turn yellow and at three minutes, the light will blink red. If you are still talking at the three-minute mark, I will kindly ask you to stop. When testifying please state your name and if you are representing a group we'd like to know that also. We have established connections to the District Offices and to be fair we will rotate through the sites giving them an opportunity to testify also. We're going to start with the Hana Office. Dawn Lono, do you have anyone wishing to testify?

MS. LONO: There is no one waiting to testify in the Hana Office.

CHAIR BAISA: Thank you very much, Dawn. In the Lanai Office, Denise Fernandez, do you have anyone wishing to testify?

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

CHAIR BAISA: Thank you, Denise. And in the Molokai Office, Ella, do you have anyone wishing to testify?

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

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CHAIR BAISA: Thank you very much, Ella. Chair would also like to note that I have received a lot of testimony, written testimony, because unfortunately a lot of people could not be here today. But they have taken the time to send in written testimony and I suspect that we'll get a whole lot more of it. But I did want to tell you that it's not that people aren't interested, it's just that many of them are unable to be here this morning but they have taken the time to send in testimony and the Members all have this so we do know what's going on. Ms. Willenbrink and Members, shall we call our first testifier in the Chamber? Any objections?

COUNCILMEMBERS: No objections.

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

CHAIR BAISA: Alright, let's rock and roll. Go ahead.

MS. WILLENBRINK: Yes, thank you, Chair. Our first testifier is Alice L. Lee, followed by Alex Haller.

CHAIR BAISA: Good morning, Ms. Lee. Welcome. Welcome home.

MS. LEE: Thank you. Good morning, Chair Baisa and Members of the Water Resources Committee. My name is Alice Lee and I am testifying on behalf of Go Maui, a nonprofit entity advocating for workforce housing in Maui County. We have studied the issue of water availability on Maui for years and have participated in numerous committee meetings which dealt with water policy matters, including the revision of "Show Me the Water", the H'Poko Wells, as well as other important water policies and projects. As a strong advocate for workforce housing we initially supported exempting the market units in workforce housing project from "Show Me the Water." However, the item before you is to repeal the entire ordinance and we support the repeal as well. This ordinance has been a major barrier to the development of affordable housing, which as you know is subsidized by the market-rate units in the workforce housing project. Sadly, without significant subsidies, affordable housing will not be built. Add to this the cost of developing new water source for market-rate units and we will end up with an even more crowded graveyard of wannabe affordable housing. Water is essential for housing, job security, a stable economy, new schools, hospitals, medical facilities, parks and programs, public health, safety needs, and much more. Our aquifers have more sustainable yield than the island of Oahu yet we are currently using less than 10 percent of our capacity. Maui has 427 million gallons a day. Oahu has 408 million gallons a day. We're using less than 10 percent of what our sustainable yield is. When legislation does not produce the results intended, when legislation creates roadblocks instead of a sensible purpose, then it's time to repeal it or drastically change it. The irony of all of this is that the Water Department does not issue reservations and will not guarantee a project water until it's time to hook up to the County system with or without "Show Me the Water." For all the reasons stated, we at Go Maui urge you to repeal "Show Me the Water" so housing projects can go forward. We wish you all a safe and blessed holiday season, Madam Chair, safe travels, mahalo.

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CHAIR BAISA: Thank you very much, Ms. Lee.

MS. LEE: You're welcome.

CHAIR BAISA: Members, any questions for the testifier?

UNIDENTIFIED SPEAKER (from the gallery): Yeah, I got a question.

CHAIR BAISA: I'm sorry, but the audience isn't...

UNIDENTIFIED SPEAKER (from the gallery): Sorry about that.

CHAIR BAISA: This is for the Members. Thank you very much.

MS. LEE: You're welcome.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Alex Haller, followed by Grant Chun.

CHAIR BAISA: Good morning, Alex.

MR. HALLER: Good morning, Chair. Good morning, Chair, County Council, and members of the public. My name is Alex Haller and I'm here today in support of discussing sustainable water solutions before we repeal the "Show Me the Water" policy. Our government, County and State, should incentivize homeowners to invest in rainwater catchment systems and rain gutters. Our islands receive abundant rainfall and we should incentivize homeowners to collect, store, and use rain that falls on our roofs. As more and more homes are taken off of the water grid, our government will have water resources available to invest in water infrastructure for new affordable homes. Before County Council repeals the "Show Me the Water" policy, please collaborate with our community to discuss sustainable water solutions. If our Federal and State government incentivize solar, then it seems reasonable for our State and County government to incentivize rainwater catchment systems.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, Mr. Haller, thank you.

MR. HALLER: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair. Grant Chun, followed by John Duey.

CHAIR BAISA: Good morning, Grant.

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MR. CHUN: Good morning, Chair Baisa and Committee Members, Happy Holidays. I'm Grant Chun of A&B Properties here today to share some thoughts on the matter before you this morning. The housing shortage which we face here on Maui is real and very serious. Many of us have experienced firsthand in our own families the difficulties that are faced by the shortage of homes at all levels in the marketplace. People who can afford homes are renting because there are no homes in their price range that they can buy. And people who should be renting are living in overcrowded conditions or moving away from Maui because of the lack of inventory of rental housing. This is not a simple problem and there are many elements in our economy and our regulatory processes that speak to why this has occurred. One of those elements is the water availability ordinance. Despite what might have been the good intentions behind the original legislation, the ordinance has given birth to a system where the responsibility of establishing water sources for the public is no longer necessarily falls upon the Department of Water Supply. With its convoluted process for obtaining written verification of long-term, reliable water supply for a subdivision, the ordinance has for the most part created an insurmountable situation where unless a builder already has a water meter, he can pretty much forget about obtaining this verification from the Department since as Ms. Lee said the Water Department does not issue water meter reservations nor does it approve engineering reports. Further, the cost of the development of new water sources is huge and without the Department assuming a lead role in coordinating these sorts of efforts, it has not been unusual for private initiatives to fall short of standards required by the Department for integration into the public water system. In short, we have issues which at the very least require that there be careful and deliberate review of the ordinance. Finally, times have changed since the ordinance was first established. The Department's embarked upon some significant initiatives that have changed the landscape in the water source development arena and for that reason, the ordinance may have outlived its usefulness. Thank you very much for your review of this matter and Happy Holidays again.

CHAIR BAISA: Thank you very much, Mr. Chun. Members, any need to clarify the testimony? Seeing none, thank you. Ms. Willenbrink?

MS. WILLENBRINK: John Duey, followed by Tamara Paltin.

CHAIR BAISA: Good morning, John.

MR. DUEY: Good morning. Good morning, Madam Chair, Councilmembers. My name is John V. Duey, I live in Iao Valley. A little history for those of you who are new to the Council I think there was four Members that weren't on the Council at the time that Mr. Dain Kane who was Councilmember at the time in '12 in December 2005 first introduced this "Show Me the Water" Bill. And what was kind of strange, in August 27 of 2007 a year and a half later DWS warned the County, Central Maui, for the first time ever to conserve water. And just a few months later in December of '07, the "Show Me the Water" Bill was passed under the guidance of Michelle Anderson who was the Chair of this Committee at that time. I think I testified 8 times during that 12-year period in favor of "Show Me the Water" Bill which I still am in favor of. In May of 2008, the first Water Use and Development Plan meeting was held for Central Maui. This went on for about

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three and a half years, a very good plan was put forward but the CWRM denied the plan, it went back to the County. In April 1 of '11, the County Council began to gut the water bill, the "Show Me the Water" Bill. As you might know last year April 17 there was a settlement between the parties about stream water which the County is guaranteed 3.2 million gallons of the Wailuku River water which they're now getting about 1.6. They've had that agreement with Wailuku Water Company for some time but now it is a guaranteed thing. That 1.6 million gallons of water will not last very long. This is December 2, 2015, what's the difference now and the last eight years? What's happened in the last eight years to benefit the water issue on Maui? More development, more water going here and there. The 1.6 million gallons that the County will garner when the treatment plant is done won't last very long as we know. I still say as I said then, why should the small guy, us, the taxpayer, pay for new source development for the water for the big guy who gets all the bucks? The new source water is only as said before a lot of water on Maui but it's not where the people want it. Going north is expensive, going south or going east is expensive. So it seems to me that any developer who would develop a property would not want to develop something, sell land to people, in maybe 20 years will not have water. So my last statement as I've said over the last 11 years, the end game, the solution is as you know storage. Merry Christmas and Happy New Year.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, John, thank you.

MR. DUEY: Aloha.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Tamara Paltin, followed by Kaloa Robinson.

CHAIR BAISA: Good morning.

MS. PALTIN: Good morning, Chair and Council. Thank you for the opportunity to testify today. You know good governance requires the infrastructure to support development and my concern here is for our future generations. With no limitations or restrictions, I believe the developers would develop all they can without thought to the future generations that need water and need to live here. Agriculture has a priority on water and that's because we're so isolated that we need to think about sustainability and growing our own food. I don't think that this bill should be repealed. I think it's written very well. If there is major problems, it can always be amended but the purpose of it is to prove before developments occur that there is a long-term, sustainable source of water in the area that they're building. What's wrong with that? There's nothing wrong with it you know. The alternative in not proving it is we're going to be worth...left with worthless buildings and that's not good for our children, that's not good for us, that's not good for the economy, that's not good for the environment. So I just really, I support sustainable water solutions, I support rainwater barreling, and I just really hope that you listen to the bill's authors and work with them to create solutions to this problem. The way that the bill is written it actually supports affordable housing. Projects that



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are 100-percent affordable are exempt from it proving that there's a long-term, sustainable source of water and if it's repealed then all the thousands of units that are already entitled will jump to the head of the line in front of the affordable housing. The other thing that I wanted to point out is the term affordable housing is not truly affordable. It's based on somebody's unrealistic guidelines of HUD. Not based on like, you know, the salary that most people make. So when you use the term affordable housing just realize that it's not really affordable for the majority of the people in our community, and I think that, you know, people that are looking to profit off of our water resources would be first in line and so happy to repeal it that it will adversely affect the community that really lives here. Thank you.

CHAIR BAISA: Thank you very much, Ms. Paltin. Members, any need to clarify the testimony? Seeing none, thank you very much. Ms. Willenbrink?

MS. WILLENBRINK: Kaloa Robinson, followed by Michael Trotto.

CHAIR BAISA: Good morning.

MR. ROBINSON: Good morning, Chair. Good morning, Committee. This testimonial shall serve as support to the proposed bill to repeal Section 14.12 of the Maui County Code. My name is Kaloa Robinson, I'm a Project Manager and speaking on behalf of Stanford Carr Development. For eight years the water availability policy has served only as a moratorium on development of affordable primary residential housing units on Maui. It did not prevent the development of the Hyatt timeshares or the Starwood Kaanapali Ocean Resort due to their ability to fund their own private sources of water. Instead it shifted the onus of ensuring long-term, reliable sources of water to the private developer with unintended consequences. The lack of investment and development in primary housing has impeded socioeconomic diversity, growth, and its obstructed post-recession recovery. The result, decreased affordable housing supply, stalled capacity, and stifled economic growth. While the language of the ordinance exempts 100-percent-affordable housing projects, the burden restricts flexibility in affordable housing development arresting it in place. Our proposed Kahoma Village Project juxtaposes market units with affordable units to provide 102 affordable units in Lahaina. It is stalled in permitting due to water. Socioeconomic diversity provides greater value than the sum of its parts. Lifting this ordinance would allow developers to integrate various levels of society and build communities of opportunity affecting more affordable housing, not less. Though unintended, private water sources have turned the supply of water into an unregulated, unaffordable commodity. Water credits have dramatically increased in value, in some cases upwards of \$50,000 per credit creating a water-based currency subject to the manipulation of private water companies with minimal oversight. Altogether, the result is a cycle of non-prosperity and a violation of public trust spread by fear, ignorance, and misinformation. Concerning actual physical water availability, there is more water beneath our feet than we could possibly use today or for many years to come. Millions of gallons of clean water spill out into our ocean on a daily basis. Two of the wettest places on the planet are in the East Maui watersheds. Water is not in short supply but purposely limited to curb development. "Show Me the Water" serves the sole purpose of controlling development. In that right, it has succeeded. It deterred

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development in the County. But in that same breath, the ordinance has forced the community to sacrifice hundreds of potential affordable housing units and facilitated the de facto commodity currency that is the water credit. It is not water we lack but the political will to make calculated risks to build sufficient infrastructure and support economic growth. We will not achieve one without the other. All the aforementioned considered, we submit our support to Councilmember Victorino and the repeal of this ordinance. Mahalo.

CHAIR BAISA: Thank you very much. Members, any need to --

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: --clarify the testimony? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Good morning, Mr. Robinson.

MR. ROBINSON: Good morning.

COUNCILMEMBER COCHRAN: Thanks for being here on behalf of Stanford Carr. My question I guess in regards to your comment regarding the Kahoma Project in Lahaina, and you said it's stalled due to water.

MR. ROBINSON: Correct.

COUNCILMEMBER COCHRAN: That's, is that, that's not what I've been hearing. I heard it's in litigation, that's what's stalling it and I believe because it's a 201H you folks are exempt and the County has always said there's sufficient water in Lahaina for your project.

MR. ROBINSON: We are in litigation. However, the litigation is not what is currently stopping the project from moving forward. And there are other issues that we're working on right now in the permitting process but by and large water availability has not, we have not been exempted from this policy on our project and it is a major concern of the Water Department in approving our plans. It, they are unable to approve our plans because of this ordinance.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Robinson.

CHAIR BAISA: Ms. Cochran, if you'll make a note we'll check into it when we get in to deliberation.

COUNCILMEMBER COCHRAN: Thank you. Thank you, Chair.

CHAIR BAISA: Thank you. Staff will help keep track. Any other need for clarification? Seeing none, thank you very much.

MR. ROBINSON: Thank you.

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CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Chair. Michael Howden, followed by Lyn Scott.

CHAIR BAISA: What about Mr. Trotto?

MS. WILLENBRINK: Oh, oh I messed up. Michael Trotto, followed by Michael Howden.

CHAIR BAISA: Good morning, Mr. Trotto.

MR. TROTTO: Good morning, Chair Baisa, Members of the Water Resource Committee. Pleasure to be here today. My name is Michael Trotto, I'm a 38-year resident of Kihei. I'm here speaking as an individual. You know I've been following this "Show Me the Water" for since it started and when I looked at the agenda and it said that they were going to talk about maybe the repeal of this I said yeah let's go repeal it because I really hated this thing. But, you know, over the years I've looked at it and looked at it and I said well maybe it is a tool. Maybe it's a tool that you folks can use, the Water Department can use, and like in all tools it's not, it's how you use it, right? You know and if you use it properly and you use it the way it should be used then you could have an effective tool and accomplish what you're trying to do. So but, you know, the thing about it that bothered me the most was that it targeted subdivisions and this is where our people live. And as, you know, we're really behind, so behind in homes for our workforce housing, having affordable housing, and, you know, subdivisions were what gave people homes, right? You build the subdivision, small subdivisions and people live in it, our working force. I like the fact that you can exempt people from the 201H and so, and from small like infill projects. So that's how the tool is being used, so then I thought well let's just keep it. Let's keep this but let's apply it properly. Let's not just across the board say show me the water. My feeling is that water source is your responsibility, government's responsibility to provide source. You have a lot of tools in your tool box also. You know you can direct tax revenues, you can direct, you know, general obligation bonds, you could form partnerships, especially with large landowners and large developers. You can use all those things. You can adjust water rates. So you have all those things at your disposal to do what you're trying to do as far as getting source. So a small developer and I'm talking about somebody, a family wants to do a family subdivision or somebody's doing an infill project, it shouldn't be on them to do that. And the other downfall I find with the "Show Me the Water", we could end up with a lot of private water systems. As you know, an LLC comes in and does a project, and then it dissolves and 10 or 15 years from now what are you going to have? You're going to have a problem, or the people that live in that subdivision are going to have a big problem. So having people do private water systems, I think we should avoid that at all costs. But anyway I wanted to come here today just to thank you for taking up this subject because it really needs to be looked at and I hope some of the, there's a lot of fervor about it but I hope people come with a good mind and say okay let's make it work. Let's not just throw it out and try, then what do you got, you got nothing. So I thank you for taking this up but I hope we can get this thing going. You know one of the things I'll leave you with. You know our lack of affordable housing, lack of homes for our

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workforce, you know, is almost like the debt clock, you know, the national debt clock, it just keeps ticking along. So every week, every month, every year we don't get homes built we just get further behind. So anything we can do to get housing built for our, especially for our residents and our workforce people and affordable housing the better. So thank you very much for bringing this up and thank you for listening to me this morning, and Happy Holidays to all of you. Thank you.

CHAIR BAISA: Thank you very much, Mr. Trotto, well said. Members, any need to clarify the testimony? Seeing none, thank you. Ms. Willenbrink?

MS. WILLENBRINK: Yes, ma'am. Now we'll go with Michael Howden, followed by Lyn Scott.

CHAIR BAISA: Good morning.

MR. HOWDEN: Good morning, Chair Baisa, Members of the Council. I'm Michael Howden, former Chair of the Maui County Board of Water Supply. I'm strongly opposed to the repeal of the "Show Me the Water" Bill which I actually feel fosters affordable housing as you may define it. I think it's kind of bogus the way it's presently defined and largely as candidate Paltin pointed out largely unaffordable for most of our community and we need workforce housing desperately. What I think most people are missing is the underlying issue in all this which is our, which are our water resources which are I think generously overestimated by the State and certainly by the County. I mean if you really want water you could look at the Memorandum of Understanding created during the Cravalho Administration which entitles the County to 12 to 15 million gallons a day. If you're wondering where the water resources are, most of those are captured by HC&S illegally as opposed to what the public trust doctrine states and that I think all of us need to review. When I was a member of the Board of Water Supply we voted, and it was under Lee Aldridge as chair, we voted nine to nothing to restrict the meters, actually to put a moratorium on meters for Central and South Maui because of the continuing impairment of the Iao and Waihee Aquifers. And actually I waited for a week or two to see if *The Maui News* would actually publish that, our meetings at that point were not covered and nothing happened. So I went to the...I spoke with Lee and then we had a meeting with the Managing Director and the Water Director, Jeff Eng at that point, and what really came is that they just ignored what the Water Board had voted nine to nothing because we could see the, I mean and this is in the USGS reports, the geological survey reports, the tremendous impairment of an aquifer or aquifers that supply 60 to 70 percent of the publicly used water on Maui. You know the salinity had risen in the past 20 or so years more than 20 feet, and these are real concerns. I don't think you can just say oh, you know, these are green people or environmentalists, you have to wake up to the fact that everything's changing, climate is changing. I sat on a select committee of the East-West Center on the effect of climate change on rainfall and water resources throughout the State and their findings were kind of grim. And I think...

MS. WILLENBRINK: Three minutes.

MR. HOWDEN: Okay. Am I out? I'm sorry, I never pay attention to that. Sorry.

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CHAIR BAISA: We all tend to get carried away.

UNIDENTIFIED SPEAKER (from the gallery): Ask for an extra minute.

CHAIR BAISA: If you could just conclude, please.

MR. HOWDEN: Okay. I would just ask you to consider, I mean certainly Mike Victorino and other people are very, very familiar with this so please consider what you're doing. We really do need truly affordable housing and workforce housing. And we also need access to water resources which we at present don't have. Thank you.

CHAIR BAISA: Thank you very much. We're very clear about the housing situation here and these two are very close. Members, any need to clarify the testimony? Seeing none, thank you very much, Mike.

MR. HOWDEN: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Lyn Scott, followed by Joe Gardner.

CHAIR BAISA: Good morning.

MS. SCOTT: Good morning, Madam Baisa. Good morning, County Councilmembers. Mahalo for allowing us to testify here. I didn't hear about this meeting until yesterday when some nice young gentleman in our neighborhood told us about this. And if anybody doesn't know, Lyn Scott, I am a plaintiff in the water battle against HC&S returning water to East Maui streams. So I am all for this bill. I do not want this bill repealed. Maybe we can amend it if we need to. But I wholly believe that water needs to stay in our streams and we need to really keep track of the water that we do have in our aquifer because it's not going to be here forever at the rate we're using our water and misusing it is a shameful cry. And do we really need to expand and develop that quickly, that fast, that many? I feel that we really are losing our country-type atmosphere or just being Maui in a sense. We had a problem in our valley that no one could help us with. It's an age-old problem and it will probably will still be around. We had a dead cow in our stream. It was in a popular swimming hole. No one could help us. We called Mike White's Office, they were going to call the Governor's Office, no way to remove it. Those are small little things here in our County that we just can't take care of anymore. We're moving on to higher developments, everybody wants more people to come here, we want to give up more stuff, we want to take in more things. But are we really considering what we have here? Water is a great big resource not just to be used by all, but also to be saved and to conserve. I mean what about our ecology here? What's going to happen to all our oopu and all our stream life here? What's going to happen to our children in the future? Will they have places to go to swim? Will they have water to enjoy? When they go down to the ocean, will there be water going into the ocean? A lot of people think that's wasteful, that is not. We really need to go back and think, where have we come from, where do we really want to go? Do we really want to proceed this fast with

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development? There's a lot of things that we really need to look out for. The future is one like I say. So I really think we should keep this bill and put a lot more thought into that. I would also like to get more notice of this because I would like my community to come and hear about this. They, this would be new to them. And I will let Mike White know about that. He's actually planned to come speak with us this weekend. Thank you for hearing me.

CHAIR BAISA: Thank you, Lyn. Just a couple of things. They will have another opportunity as I announced earlier in the meeting on January 6. We will schedule this bill again and we'll schedule it as many times as we need to so that we can hear from everybody. It's not my intent to try to rush through doing anything. We need to hear from the community. And then I want to be very clear. You said you're in support of the bill, you are in support of keeping the "Show Me the Water" Bill?

MS. SCOTT: Yes.

CHAIR BAISA: Because the bill today is to repeal.

MS. SCOTT: Yes ma'am.

CHAIR BAISA: Okay. I just want to make sure we got it right on the record.

MS. SCOTT: Thank you for correcting me.

CHAIR BAISA: I know where you're coming from.

MS. SCOTT: Thank you.

CHAIR BAISA: Any further clarification needed? Seeing none, thank you very much.

MS. SCOTT: Mahalo. Merry Christmas

CHAIR BAISA: Same to you. Ms. Willenbrink?

MS. WILLENBRINK: Joe Gardner, followed by Tiare Lawrence.

CHAIR BAISA: Good morning.

MR. GARDNER: Good morning, ladies and gentlemen. Thank you for taking the time to be here today. I just want to talk a little bit about these subdivisions you guys would like to build here for the...

VICE-CHAIR VICTORINO: Chair? Chair?

CHAIR BAISA: Yeah.

VICE-CHAIR VICTORINO: He did not introduce himself. Would he, please.

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MR. GARDNER: Oh, excuse me, I'm sorry. Ladies and gentlemen, my name is Joe Gardner. I'm a Maui resident born and raised here on Maui.

VICE-CHAIR VICTORINO: Thank you.

CHAIR BAISA: Thank you. Thank you, Mr. Gardner, go ahead.

MR. GARDNER: I'm very concerned about what's going on here on Maui. That's why I take the time to be here this morning with the few people that are here that have found out about these meetings. You guys want to build homes for what you call a workforce community people. The workforce, those are people that are getting paid to go and cut grass in Wailea for people who live here one month out of the year. So I don't think that you really need to build homes for what you call workforce people. But you need to regulate the people that live on island. There needs to be a regulation of how long they live on island. You can't own a home and live here for one week out of the year and use 100,000 gallons of water every day to water your yard and your big beautiful zone so that when you come for your week out of the year you have a beautiful home to live in. And then now we need to build more homes, affordable homes for workforce people to come and mow this grass and trim these trees for these people who don't even live here, and then the affordable homes next thing you know are for sale for \$1 million. The last affordable home project that I paid attention to that I thought I might have a chance to buy being a resident here on Maui was the project built right in Paia Town, the first place on the right when you leave Paia heading East. You cannot find one of those homes for sale for less than a million dollars and that was an affordable-home project done here on Maui. Another young gentleman with the Lahaina project says that his project is on hold because there's not enough water. But yet there's all this water spilling into the ocean. The water does not spill in to the ocean. The water flows into the ocean naturally for centuries and centuries, and centuries creates evaporation, which creates rain, therefore creates the circle of life. The woman who spoke first said that we are only using 10 percent of our water here on Maui and that there's 90 percent that's not being used. I would like to argue that fact. I've gone to Hana my entire life and when I was a kid every single stream flowed. Streams flowed across the road even, you couldn't drive to Hana without your car getting wet. Now you drive out there and there is hardly any water flowing at all. I farm taro out there and to get our water for our taro we have to go dig it out of a spring and divert it all the way down to our taro patches and divert it into the ocean. That's the only way we have flowing water because EMI has taken all of the water. So to say that we only use 10 percent of our water is a joke because I think it's the opposite and we use about 90 percent of it. So thank you very much. I see that I'm passed my time.

CHAIR BAISA: Thank you very much, Mr. Gardner. Members, any need to clarify? Mr. Carroll?

COUNCILMEMBER CARROLL: Where is your loi?

MR. GARDNER: In Wailua Valley.

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COUNCILMEMBER CARROLL: Down on the end?

MR. GARDNER: Yeah down at the end of Wailua Valley.

COUNCILMEMBER CARROLL: Oh, I know where is that.

MR. GARDNER: Yeah, I farm with the Kekiwi's.

COUNCILMEMBER CARROLL: Thank you.

MR. GARDNER: Yes.

CHAIR BAISA: Any other questions? Seeing none, thank you very much.

MR. GARDNER: Okay. Thank you.

CHAIR BAISA: Ms. Willenbrink, I think we'll take a little break. If you don't mind we're going to check the neighbor islands and see if they've got anybody waiting, and you'll be right on, Tiare.

MS. WILLENBRINK: Thank you, Chair.

CHAIR BAISA: Okay. Dawn in Hana, is there anyone waiting to testify?

MS. LONO: There is no one waiting to testify at the Hana Office.

CHAIR BAISA: Thank you. Denise in Lanai, is there anyone waiting to testify?

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

CHAIR BAISA: Okay. Ella in Molokai, anybody?

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

CHAIR BAISA: Ladies in the District Offices, I'm not going to be checking with you but if anybody shows up can you please reach us by other means? You know how to do that. Is that okay, Dawn?

MS. LONO: Yes, that's fine.

CHAIR BAISA: Okay. How about you, Denise?

MS. FERNANDEZ: It's okay.

CHAIR BAISA: Okay, and, Ella?



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MS. ALCON: Will do.

CHAIR BAISA: Okay. Thank you very much and then we'll just proceed because we have a pretty good number of folks here in the Chamber. Okay. Let's proceed, Ms. Willenbrink.

MS. WILLENBRINK: Tiare Lawrence, followed by Charles Jencks.

CHAIR BAISA: Good morning. You're like me. You've got to pull it way down.

MS. LAWRENCE: Aloha. My name is Tiare Lawrence. I'm from Lahaina. I currently live in Pukalani. I'm here to urge you not to repeal this bill. This bill was designed to protect water resources for the future. This is just another attempt by developers to trump the voice and the will of the people so they can make more profit. I want to rebut some statements made earlier regarding housing. There is not a housing shortage. There is a shortage of affordable housing which also really isn't affordable by any means either. Look at Launiupoko for example. There are a lot of million dollar homes currently vacant. Instead of waste time on this matter, how about the County start enforcing the build out of all of the affordable housing the developers were supposed to build? There are well over 3,000 affordable homes that should have been built by now because these companies are holding back. A&B and Maui Land and Pine need to be held accountable. You, the Council, should draft a bill that enforces these developers to build out their workforce housing before any additional permits are given for future projects. I think that sounds like a great idea and I think it would address the shortage of "affordable housing." The current law actually supports affordable housing being built since it exempts all of the following type of developments from proving a water source, giving them priority access to County water supplies where available. Also, I urge you all to read the *Civil Beat* article posted yesterday. Please realize that over 47 percent of homes on the neighbor islands were sold to out-of-state buyers, not to kamaaina of Maui. If the law is repealed, thousands of new units already approved in Central, West, and South Maui will be entitled to water sources whether there is sufficient water resources available or not. This really is just another attempt by the developers to make more unaffordable projects that only benefit the wealthy and not the kamaaina of Maui. I am in strong support of keeping the "Show Me the Water" Bill and I urge you all to please consider making a bill that holds these developers accountable. There is thousands of homes that are on the table that have the permits to move forward, they're sitting on it and honestly you guys are being played by them. So let's hold them accountable. Mahalo nui.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And thank you, Ms. Lawrence, for being here. Thank you for your testimony. I wholeheartedly agree. These projects that you're

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speaking of that have entitlements and all the green lights to go but on hold, do you know if water is an issue with it, that is why they're on hold?

MS. LAWRENCE: I think they're using water as a reason to not build it but honestly if you look at the profit margins of building million-dollar homes in Kapalua, obviously they want to build those projects than they would the affordable homes because they make way more money. They're sitting on these permits because they only think about the kala and that's what the problem is. These guys need to be held accountable. We would not be having an affordable housing crisis today if these guys were held accountable.

COUNCILMEMBER COCHRAN: Thank you, Ms. Lawrence.

MS. LAWRENCE: Mahalo.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR BAISA: Any further need for clarification? Seeing none, thank you.

MS. LAWRENCE: Mahalo.

CHAIR BAISA: And we are well aware of what you're discussing and we are discussing it. Thank you.

MS. LAWRENCE: Thank you.

CHAIR BAISA: Okay. Ms. Willenbrink?

MS. WILLENBRINK: Yes, Charles Jencks, followed by Kaniloa L. Kamaunu.

CHAIR BAISA: Good morning.

MR. JENCKS: Good morning, Madam Chair and Members of the Committee. My name is Charles Jencks, I'm here on my own behalf. I'm not advocating for any company or partnership. Just a few facts, in 2006 the Workforce Housing Bill was passed and eight years later in 2014 it was revised, consistent with what was proposed in the beginning as reasonable standards for percentages of affordable housing. It took eight years to get back to a reasonable bill. In 2007, December of 2007, the water availability was passed by the Council and we're eight years later working on a bill that obviously hasn't work too well either. So I'm glad we're having this discussion. In both of these examples I participated, landowners participated, the construction industry participated, the collective bargaining participated and said to you and other Councilmembers, these bills won't work. The economists said these bills are not good for Maui's economy. They won't provide you the result that you're trying to achieve yet you went ahead and passed these bills. Eight years later we're having the discussion on how we revise the bills. In the second and third quarter of this year I sat on a task force appointed by the Mayor to evaluate this same bill. I spent nearly two months, six meetings, spent a significant amount of time with Mr. David Taylor, the Director of the Water Supply, wondering how

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we could solve the problem because I think originally this bill was intended as a stopgap to help solve a problem but nothing has happened in the interim. We spent a lot of time, came up with a bill and I have still don't know where that bill is. We all voted on the revisions to the bill that would make it a better bill, I have no idea where it is. I did however meet with a member of this Committee to talk about that bill and had a great discussion but the member asked me a question. She said, can you tell me one project that's been harmed by this bill, the water availability bill? And I sat there and I thought to myself, you know, I stammered and stuttered which is unusual for me, because usually I have an opinion on everything. I couldn't come up with a clear answer but I did say, I said look, this bill is another layer of legislation that further delays the delivery of housing. It just takes that much longer to get something done in Maui County so it's certainly not a good idea. And I also said that if it was impossible to get a water assurance letter for a bank, for a lender, to provide financing to build a project before this bill was passed, this bill after it's passed has certainly made it even more remote to get that letter of assurance which is still a major issue in Maui County. I left the meeting and it dawned on me the question isn't who has been hurt, the question should be who's been helped by this bill? You passed the bill, did it help anybody? Empirically, empirically you have to say no because you don't have any more affordable housing now than you did when the bill was passed. You had two bills that harmed the delivery of affordable housing; the Workforce Housing Bill that was corrected and still we're waiting for results in maybe another couple years; and this bill. I then realized I did have a project that was harmed, it went back to the bank because I couldn't perform after spending \$4 million on drilling wells. I ran out of time. The bank, the project went back to the bank. My advice to you is either repeal this bill or develop a bill that really is effective and does the job. What you've got in front of you --

MS. WILLENBRINK: Three minutes.

MR. JENCKS: --with the existence...with the evidence we have in front of us today isn't doing the job so I suggest you repeal the bill or come back with something that's a better bill. Thank you.

CHAIR BAISA: Thank you very much, Mr. Jencks. Any need folks to clarify the testimony? Seeing none, thank you. Ms. Willenbrink?

MS. WILLENBRINK: Yes, ma'am. And I apologize if I mispronounce this, Kaniloa L. Kamaunu.

CHAIR BAISA: Good morning.

MS. WILLENBRINK: Followed by Charlotte O'Brien.

MR. KAMAUNU: Good morning, Council. My name is Kaniloa Kamaunu, and it's okay, everybody has a hard time with it. I came here representing of course the Aha Moku O Maui, the Wailuku Moku as one of its Chairs, especially on the Committee for Water. I also come as a kuleana of Waihee Valley, seventh generation on our property. You know, the discussion, is the discussion on water resource or is the discussion on affordable housing? To me we're here to talk about water. And as kuleana and as part

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of the Aha Moku my responsibility is to protect the resource. So to put aside the housing dilemma that's on Maui, the real concern is the water itself. Can the water accurately be used to be able to afford everybody's satisfaction? And we know in real life not everybody's going to be satisfied. But the thing is, what is the best use of the resource? It's not whether or not people have housing. That is a personal problem. It shouldn't be only the concern of the County and the thing is, use of the resource should be the concern of everyone because everyone gets hurt when the resource is damaged, and our resources are damaged. And we're having a lot of complications because of the way the resource is dealt with. This is just another implication of how we're going to damage that resource. We have to look at it, will it help us survive the next 50 years? With the way that the development wants to come up and people want to develop are we going to be able to support this? Are we able to support what is going on today? I say no because look at the damages that are happening already. We have sewage problems; we have chemical problems that are inundating our resource. And how much of the resource is usable? There is no way to renew a resource like water. There's only ways to make sure that we can become better accountable by using it wisely and is of course affordable housing. But as was said earlier, are they truly affordable? And who, generationally I'm talking about, now and I say this not to be prejudiced against anyone moving here, but generation, those generations that actually lived here and have history here and actually supported this County and built the parks, built the buildings on their back and sweat. Not the ones coming in today that can afford the 300,000 to 400,000 or 500,000 affordable housing. And I told Mayor Arakawa when he first came in to office, his first term, seriously, what locals you know, and this is almost 10 or 12 years ago, can afford 350,000? I said --

MS. WILLENBRINK: Three minutes.

MR. KAMAUNU: --come on now. I mean, you know, I looking at people I graduated with, I went and I grew up with. But then I see other people that come from other places and are able to afford. So is it really working? But today of course, the subject is water, not affordable housing. It's what we're going to do with our water. Thank you.

CHAIR BAISA: Thank you, Kaniloa. Members, any need to clarify the testimony? Seeing none, thank you very much. Ms. Willenbrink?

MS. WILLENBRINK: Charlotte O'Brien, and then Pamela Tumpap.

CHAIR BAISA: Good morning.

MS. O'BRIEN: Madam Chair, Committee Members, I'm here on behalf of my grandchildren, three grandchildren that were born on Maui and I hope will always live here. And I'm on, here on behalf of your grandchildren...

VICE-CHAIR VICTORINO: Madam? Madam Chair? Madam Chair, may we have her name please?

CHAIR BAISA: Would you please?

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MS. O'BRIEN: Oh, I'm sorry. Charlotte O'Brien.

VICE-CHAIR VICTORINO: Okay.

MS. O'BRIEN: Sorry.

VICE-CHAIR VICTORINO: Thank you.

MS. O'BRIEN: So I have with me a document that took four years to produce. It was funded by Ulupono Initiative. It's a document about the water issues on Maui. It's done by the University of Texas and everybody they cite in here is either State of Hawaii, Maui County, HC&S, they took only local statistics. They didn't make their own statistics, and they analyzed them in a meta-analysis. And what, I want to go right to the conclusion. Right back to page, out of 54 pages, to Page 50, they say the current water use situation is unsustainable and is likely to suffer a catastrophic failure in the next prolonged drought. The status quo agriculture in Central Maui County currently operates at a water deficit with today's average rainfall patterns. The Hawaii rainfall has been decreasing at a rapid rate the last few decades. These declines in rainfall are consistent with expectations from rising temperatures from climate change. Thus, there is the distinct possibility that Hawaii rainfall will continue to decrease in the future. More drought tolerant and less water-hungry crops will be needed to not only to deal with decreased waterfall...I guess that's the end of that quote. So after four years of analyzing the Maui County water issues, this report which I will e-mail to the County, says that it is unsustainable to continue as we are continuing. I'd also like to mention that we all like to eat and we know that from County, from the university analysis we are only producing 11 percent of our food on Maui at this time. Eleven percent of the food that we produce, that we consume. Everything else is being shipped in. In the face of what's happening in the world this is not, we just cannot continue to allow this to happen. We must work towards food security for Maui, period. And when I come back on January 6 I'll have more statistics for you, but I have heard that there was a State water analysis that said that the pollution in the central aquifer in the central valley is so severe that it is impossible to filter it enough for human consumption. Now if that's true, the fact that our water has been so polluted and our soils, you know, we all know that the pineapple fields have the organochloride residues that can be dealt with but we still deal with, that's why we can't grow food here for human consumption, and that the potential of punching through the salt layer, the lens of the aquifer in Iao Valley is just unthinkable. It's just unthinkable and this Committee has a responsibility to protect the rest of us from this happening. So when Ms. Lyn says that we're only using 10 percent of our water, this report says that we're using nearly 100 percent of the current water that we have and that water is decreasing. So which is true? Charles Jencks says that the reason that we're not having development is because of the water restrictions and yet what about the tremendous economy problem that we've been going through --

MS. WILLENBRINK: Three minutes.

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MS. O'BRIEN: --since 2008? You know that is the biggest reason we have not had construction in this County. So thank you for listening and I will be back January 6.

CHAIR BAISA: Thank you, Ms. O'Brien. If you could do me a favor before you leave.

MS. O'BRIEN: Sure.

CHAIR BAISA: Can you quote that report?

MS. O'BRIEN: Yes.

CHAIR BAISA: What it is and the source again --

MS. O'BRIEN: Yeah.

CHAIR BAISA: --and of course I would appreciate it if you e-mail it to us?

MS. O'BRIEN: I certainly will. A Systems Approach for Investigating Water, Energy, and Food Scenarios in East-Central Maui by Dr. Carey King of the Energy Institute & Center for International Energy and Environmental Policy, Jackson School of Geosciences, University of Texas.

CHAIR BAISA: Okay.

MS. O'BRIEN: Funded by Ulupono Initiative.

CHAIR BAISA: Thank you very much.

MS. O'BRIEN: And it was a four-year study.

CHAIR BAISA: Thank you.

MS. WILLENBRINK: Excuse me, Madam Chair?

CHAIR BAISA: If there is any need to clarify?

MS. WILLENBRINK: I just wanted to, if you could e-mail that to the Water Resources Committee.

MS. O'BRIEN: I will.

COUNCILMEMBER COCHRAN: Real quick, Chair.

CHAIR BAISA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair? Real quick, ma'am.

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CHAIR BAISA: Hold on, Ms. O'Brien.

COUNCILMEMBER COCHRAN: Sorry, Ms. O'Brien. I just wanted the date of that report.

MS. O'BRIEN: Yes, it's November of 2013.

COUNCILMEMBER COCHRAN: Thank you.

MS. O'BRIEN: And it started in 2010.

COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR BAISA: Okay. Any further need? Seeing none, thank you very much. Okay, Ms. Willenbrink? By the way, testifiers and Members, we're going to take our morning break at 10:30 and then we will resume testimony. I want you to know that we are going to try to take all of the testimony today. And if that means going a little later, we are planning to do that because we want to hear as much testimony as we can today. So please stay with us. Go ahead.

MS. WILLENBRINK: Pamela Tumpap, followed by Junya Nakoa.

CHAIR BAISA: Good morning.

MS. TUMPAP: Aloha and good morning, Chair Baisa. I'm Pamela Tumpap, President of the Maui Chamber of Commerce and I thank you for the opportunity to be here today. You know water is a resource and there's a question about why are we talking about water and combining it with housing? But like all resources we have to look at that resource in terms of how it's used. And I guess the question for me is how it's most needed at this time. As we look from a Chamber perspective one of the things that we hear over and over, and over again is the need for housing, affordable housing, marketplace housing. Yes, you know a lot of our housing is owned by off-island people but the law allows for that. So, you know, we have to look at how we meet the pent-up demand. The Mayor has said over and over again and we all have heard that Maui has a lot more water resources than we're currently accessing. So a huge part of the equation is looking at water access, transmission, and storage. And we support additional means so that we can better use the water resource that we have. We also support water conservation. We don't feel that, you know, enough is being done in the conservation area and we support sustainable solutions and looking at incentives for those. But we also know that we can't just keep waiting when we know there's a huge need in our community. And, you know, at the end of the day housing is a huge need in our community, it's one of the top needs. I think it's one of the needs that are going to be a focus of the upcoming election. It's going to be a huge problem because it's just continuing to grow. And as the economy is recovering, as jobs are coming back, as people are starting to have more income and looking to get back to improving their situation again, housing's a key part of that equation. So when this bill first came up, the Chamber actually opposed, not this bill, because this bill is to repeal, but when the water availability bill came up we opposed the bill because we were deeply concerned that it would actually hamper, not

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help affordable-housing development and market-housing development. There were two bills, the two, that many leading economists but it started with Paul Brewbaker and Dr. Leroy Laney and it was actually at the Maui Chamber of Commerce's request to get their opinion. We didn't ask them to say something the way we wanted it said. We asked them to evaluate two bills; the Residential Workforce Housing Bill, and the "Show Me the Water" Bill as it was known then and asked for their opinions. And they said they felt both would be detrimental to our community and hamper economic and affordable housing development. They still continue to say that today. In many presentations, you can go to the annual First Hawaiian Bank Economic Update, those two bills are still pointed to as hampering residential housing development. So we've got a huge demand. We haven't been meeting the need for many years. We need to do something and water is a key resource to that kind of development. So we have to look at it collectively. But in looking at it collectively I think we also need to look at again other things that have been mentioned; access to some of the resource we're not currently using, additional conservation and sustainable measures. So we're really glad that this bill is being taken up. We ask that if it is to remain as it is now that it be repealed. But we do feel that there is room for modifications and would like to look at a more winning solution. And again it's about coming together and hearing all the voices and looking at and getting the right data so we can make educated and informed decisions so we come up with winning solutions. So we thank you for the opportunity to share that message and wish everybody a Happy Holidays.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, thank you.

MS. TUMPAP: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Junya Nakoa, followed by David DeLeon.

CHAIR BAISA: Good morning.

MR. NAKOA: Howzit, good morning. Leonard Nakoa, III, Junya. Jesus. Okay. The water, you guys, I don't know, get couple different stuffs. The lady that was here first said we get, only using 10 percent okay. And then the other guy is saying we no more water. Okay. We gotta use them the right way, gotta use them the right way. You know what I mean in agriculture. Put em' back in the rivers. Put it back in the streams. I bet you the island come, I was going swear, but going be nice and green. You know what I mean? And then we going start flourishing. You know that's when we going start growing stuff. You know 'cause I think we here for talk about the water. Okay. And I like commend you guys for holding up the water. If it's true we're only using 10 percent, good job, we're not wasting 'em. You know I mean we still get 'em. Like Honolulu you guys when bring up, they jam up. They jam up over there, we no like be like them. Okay. We Maui, we bad ass. Okay. Leave it as is. Okay. You guys doing a great job. But, if you guys going make affordable housing, go get 'em. I know you guys get all my e-mail. I e-mailed you guys last week. Okay. And I going bring 'em up again. Now I'm



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going back to the housing because the lady said the water is a big thing for the housing. Okay. Go get 'em from KOR, go get 'em from the Hyatt, go get 'em from da kine, the Marriott. All these guys who going build, okay. They owe us already that thing, okay. And when you guys when approve em' I know some of the other guys was here like Dain Kane was over here when he was, when we still when approve them. Molina just left, he was still here when we when approve 'em. Okay. I still remember, I was over here nervous as heck and I still nervous. But go get the houses. Okay. Because I going knock on everybody's door starting from today I made the trek all the way from Napili for come over here. I ride the bus two hours, 6:30 from Napili Market to come over here, catch the bus. Okay. That's why you guys gotta have one of those phone stuff for us inside Lahaina. Whoa, plenty people going talk, plenty people going talk. We don't need pay for parking, we no need go, I told this the last time, and hopefully like you said you going get some more meetings? Have one in Lahaina because a couple projects is in Lahaina. And the ones that owe us is in Lahaina; KOR, the Hyatt, the Westin. All these guys owe us. Kaanapali 2020, I was on that board meeting. I was on that board. Let's go get 'em. Okay. At that time the water, whatever they when agree to, water rights, they had to show you the water rights yeah for build, for the project approve? So they owe us already. So they no need to prove to us the show us the water. Okay. Great job on that bill. Do not repeal that bill. Keep 'em like that. Hold all these guys accountable. Okay, 'cause I going hold you guys accountable. I going hold the...I going...no worry, I going camp down Sheraton. You guys like come? I'll make kalua pig and cabbage. But come down there cause I going talk story to those guys. I going educate the tourist. I going educate the kamaainas out there. There is houses. I going need kamaainas out there. I need realtors, I need everybody for help me get these houses out there in Lahaina. Okay. I guess get one land out there. The guy said the Kahoma one, right? Get land. Eh, maybe can go kumpang with somebody, you know what I mean? You guys always talk about private working with the County, and private working with the State. Come on! Everybody hold hands, we go do this. We had one big event on Saturday. Okay. We all came together. All the kanakas. All kind different views . . .(power went off). . .

CHAIR BAISA: Recess. . .(gavel). . .

**RECESS: 10:11 a.m.**

**RECONVENE: 10:28 a.m.**

CHAIR BAISA: . . .(gavel). . . Will the meeting please come back to order. Members, Mr. Nakoa has finished his testimony and we were just asking if there's any need for further clarification. Seeing none, Junya, thank you very, very much.

MR. NAKOA: Jesus! . . .(laughter). . .

CHAIR BAISA: Thank you for making the trip.

MR. NAKOA: Okay. Thank you.

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CHAIR BAISA: Okay. Ms. Willenbrink, let's proceed.

MS. WILLENBRINK: Yes, David DeLeon, followed by Albert Perez.

CHAIR BAISA: Good morning.

MR. DeLEON: Boy that's one hard act to follow. I'll try not to knock out the electricity.

CHAIR BAISA: Okay.

MR. DeLEON: Good morning and aloha. I'm Dave DeLeon representing the REALTORS® Association of Maui. Our association recommends that the Council consider eliminating or drastically adjusting the existing County Water Availability Policy. Despite its title as a policy this County Code provision really is more of a tool or process. The policy we need is to be built around a goal of providing our community with the water resources we need to support our growing population. The current water availability rule doesn't do that. In fact, it kind of does the opposite. The informal title of this measure that it's gone by, "Show Me the Water," demonstrates a spirit that drove its passage. The fact that this measure was aimed purely at subdivisions demonstrated it was intended to slow or stop housing development. Coupled with the overreaching Workforce Housing Ordinance of 2006 the plan succeeded, very little housing was built. We need to change the narrative. Shelter is a fundamental human need. Most laws have consequences and one of the consequences of this ordinance was to effectively block small and medium-scale developers from participating in the housing market. Smaller developers cannot compete under the law because they do not have water source, and some of those who did stretched to ridiculous lengths to set up private water systems that will ultimately cause our community much grief as they begin to fail in the decades to come. If for no other reason this measure needs to be shelved because it promotes the development of small-subdivision-scale water systems instead of a single, professionally-operated, municipally-owned water system. The one positive aspect of this ordinance is it does promote the development of affordable, 100-percent-affordable housing subdivisions that our local residents can afford. But the number of these projects represent a trickle in the face of the river-sized demand for housing. We need to be building 1,400 units a year, that's what the economists say. This law is one of the reasons why we're only building a small fraction of that. It's not enough to simply erase this provision. Doing that only makes sense if this community is willing to step up and invest in the water source and transmission we need to take us forward. The American Water Works Association says America needs to invest 1 trillion, yes with a T and 12 zero's, in the next 25 years to have enough water running in systems that are now falling apart. We are not alone; this is a national problem. The same can be said for much of our infrastructure. We can invest or it will crumble. Mahalo.

CHAIR BAISA: Thank you very much, Mr. DeLeon. Members, any need to clarify the testimony?

MR. DeLEON: Thank you.

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CHAIR BAISA: Seeing none, thank you. Ms. Willenbrink?

MS. WILLENBRINK: Albert Perez, followed by Tyler Dos Santos-Tam.

CHAIR BAISA: Good morning.

MR. PEREZ: Good morning, Chair Baisa. Good morning, Committee Members. I'm Albert Perez, I'm with the Maui Tomorrow Foundation and we are opposed to this ordinance which would repeal the Water Availability Policy and we ask that the Water Resources Committee file this communication. The Water Availability Policy is a good law that recognizes reality. If you don't have water, you shouldn't be building. So if you do make commitments to build it just puts pressure on the County to provide water that it doesn't have. This is unfair to existing water users who are more likely to then be placed under drought restrictions. The existing policy has reduced the likelihood of that occurring. In recognition of our need for housing the policy exempts 100-percent-affordable projects, residential workforce housing, and family subdivisions. And I just wanted to make a comment about the idea of affordable housing. The way it's defined, my understanding is it's 80 to 120 percent of the median income. So to me affordable is median or less. So right there since you have 80 to 120 percent and we have a 25 percent requirement, it pretty much cuts it in half. So truly affordable housing that's provided by our policy is more like 12.5 percent, and if you look at the *Civil Beat* article it was about a Department of Business report that said that less than 50 percent of Maui homes are sold to Maui buyers. So we need to do more to make sure that those are sold to Maui buyers and that's why I support this, this requirement that the exemption be only for 100-percent affordable, because if you exempt projects that have any affordable component you're basically going to be exempting all projects, all subdivision projects. In recognition of the need to keep our property taxes low this policy also exempts infill development that does not require the County to develop expensive new infrastructure. It also requires the Water Director to consider the needs of current water users and people already on the wait list. The impact of surrounding aquifers and stream systems, Hawaiian Home Land's water uses, impacts on Native Hawaiian rights and practices, sustainable yield, and instream flow standards. So if we repeal this policy what we're really saying is that we don't think any of those things are important enough to require review. A particular Water Director might choose to consider some or all of those factors without the policy. But not all Administrations will give it high priority if it's not part of the Maui County Code and that would leave us at risk. So in summary, the Water Availability Policy is a good law that's preventing developers from making empty promises. Those who make their money by getting land entitlements without actually delivering truly affordable housing might not like it. But the policy provides incentive to developers who are serious about providing affordable housing for Maui residents and prevents existing water systems from being overcommitted. Thank you.

CHAIR BAISA: Thank you. Members, any need for clarification of the testimony? Seeing none, Mr. Perez, thank you.

MR. PEREZ: Thank you.

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CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Tyler Dos Santos-Tam, followed by Rosemary Robbins.

CHAIR BAISA: Good morning.

MR. DOS SANTOS-TAM: Good morning, Committee Chair Baisa and Members. I'm Tyler Dos Santos-Tam. I'm the Executive Director of the Hawaii Construction Alliance which represents the State's 15,000 unionized carpenters, laborers, cement masons, brick layers, and operating engineers. We submitted written testimony in support of this bill to repeal the Water Availability Policy. You know we've been here before you many times talking about the great need for affordable workforce housing and that's housing that our members who work very, very hard each and every day to build, can also one day hope to afford. And we've been very, very concerned that the "Show Me the Water" law as it currently stands has been an obstacle to creating more affordable housing. You know when this bill was first passed many of our contractors and home-building companies expressed strong concerns that this would negatively affect the supply of housing and create a bottleneck and those concerns really have been borne out. Those are concerns that many of our agents brought up several years ago when this first was going through the Council. You know a number of the testifiers have talked about studies and other economic analyses have shown that yes this has been a problem and will continue to be unless it is repealed. First Hawaiian Bank in a report in 2010 said flat out that said "it has been a drag on residential construction." And they also suggested that it made the recession worse here on Maui County. You know our members are finally coming out of the recession. There are a lot of projects on the horizon which is very, very good and we're very excited about those. But we need more. And, you know, to add to my written testimony I think we need an all-of-the-above approach to creating more housing. And also and all-of-the-above approach to how we deal with our water here. You know we need, the County needs to be doing, you know, a lot of work to make sure the infrastructure and distribution networks are ready to go. We need to obviously be working on conservation. I'm really glad that a lot of people have been bringing that up because that is something that we can't forget. But at the end of the day as this is a policymaking body needs to really embrace the all-of-the-above approach. You've already done that with the workforce residential housing policy, taking a look at that earlier this year and it's time that this Committee you know look very hard at this "Show Me the Water" policy and take favorable action on the bill before you today. You know I want to add one more thing about affordable housing in general. You look at all the inputs that go into building affordable housing, you look at the wood and concrete, and land, and of course the labor as well and those are expensive enough. But then you add on, you know, requiring a developer to find a source and develop a source and build the infrastructure underneath the housing development and that gets passed on to homebuyers. And so that's a big problem and I think that we need to change that and you guys are taking a good step today in looking at this bill. So thank you.

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CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, thank you, Tyler. Ms. Willenbrink?

MS. WILLENBRINK: Rosemary Robbins, followed by Lucienne de Naie.

CHAIR BAISA: Good morning.

MS. ROBBINS: Good morning, everybody. Rosemary Robbins on this December 2<sup>nd</sup> of 2015 Water Resources Committee, focus on water. I just wanted to mention I came down the day before yesterday and went to the binder on the 7<sup>th</sup> floor. There was only one piece in there and it was the August 26<sup>th</sup> letter from the Presiding Officer to Mike White as the Chair of the Council. So this was the sole piece that was in there.

CHAIR BAISA: I got a big packet this morning.

MS. ROBBINS: Okay. It's a disservice when we don't get those timely to be able, I mean somebody comes down and wants to do it so if we can just encourage people if they have an opinion on that to get it in earlier so that any of the concerned citizens --

CHAIR BAISA: Yes of course.

MS. ROBBINS: --will have access to it?

CHAIR BAISA: Sure.

MS. ROBBINS: Thanks much. Okay. So taking a look at the agenda today it cites four other ordinances following the "Show Me the Water" Bill; 2007, 2011, 2012, 2014. And the staff on the 7<sup>th</sup> floor was as usual very helpful in getting the documents to me. So I got them, I read them; the 2007 I remember well. I was one of the people on the Upcountry Oversight and Advisory Committee working with the EPA back in the early 2000. Same Mayor then but a different Water Director, and then at the election in 2006 the Mayor was replaced by a different Mayor and so at the end of the paperwork that went with that 2007--I'm holding it up here--there were two people on the County Council who were excused for that hearing but indeed the bill, the "Show Me the Water" Bill was approved on the 14<sup>th</sup> day of December 2007. So the new Mayor wasted no time having been through all the Upcountry stuff, had paid attention to that and understood why the H'Poko Wells were shut down and et cetera. So, familiar to me, and then when I took a look at the 2011, '12, and '14 they all just have to do with housing. Now I'm aware everybody needs to be housed somehow. But when we drop off the idea of having highly-trained people working in the Water Department to be able to recognize the history here, to be able to recognize other evolutions that have happened in water, that's crucial. We need to bear witness to that. None of these does, and in the 2012 election the people working on the Charter asked the electorate, would you like to have our operation done with pono? And the answer was yes. So we need to be sure that we do that. We concentrate water on water and the rest will fall in place. Thank you.

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CHAIR BAISA: Thank you. Members, any need to clarify the testimony? Seeing none, thank you.

MS. ROBBINS: You're welcome.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Lucienne de Naie, followed by Hokino [sic] Pellegrino.

CHAIR BAISA: Good morning.

MS. de NAIE: Aloha. Happy Holidays to all. My name is Lucienne de Naie testifying on behalf of the Sierra Club Maui group as its Conservation Chair. I'd like to address some of the information that's been presented today. The information that we're using, 10 percent of our water, for instance. I mean that would be true if we didn't count all the groundwater that's being pumped by, you know, the ag concerns, that would be true if we really know how much water we had in East Maui and didn't have guesstimates but we don't really know how much of our water we're using. Is there more water? Yes, but I don't think that 10 percent is our accurate figure. And then I'd like to talk about the Mayor's task force that Mr. Jencks referred to. I sat in on a couple of the meetings as a non-voting member. You really need a real task force and I would suggest MEDB put one together. They put together an excellent water task force in the past. It had a broad representation of business and technical and environmental knowledge on it and really was quite productive. Also we talk about the further delays in housing that are caused by the bill; I just want to say one thing. We have 900 houses approved at Puukoolii, all approved, every approval. They don't need SMA, they don't need anything else. They have a private water system that's operated for 30 years. They're not being built. Four hundred and fifty of them were supposed to be affordable. I'm with the people that say track down who was supposed to be building this housing and let's get it built. I think that's the most cost effective way to get some affordable housing that I hear everybody wants. Talking about the delays that this caused, you know, the island of Hawaii also requires that you show availability of water when you get subdivision approval, it's at subdivision approval. Kauai does as well. I checked with people who were on the county councils of these different counties. They may not have exactly the same wording but the intention is there. Everybody wants to know that you're going to have a real supply of water. And then there was the mention about, you know, how is water needed, that's an important question here. Well, sad to say it's needed for lawns in South Maui, you know. I mean if you just look at the stats, about 14 million gallons a day of the Iao Aquifer water goes to South Maui and only half of it or less ends up in the sewer system. So the rest is being used outdoors somewhere. So we're, you know, we should check into that. Is that our best and highest use? And talk about incentives for conservation. Some of you may remember Wailea Resort wanted to expand by 400 rooms. Because of this bill they found water conservation within their own plant to not have to use a single extra drop of water for those 400 rooms. This bill hadn't been in place; do they need to look that way? Probably not, they'd just expand their existing water meter use. And then this idea that we have no incentive to develop water; well people are developing well systems all the time and wanting to dedicate them to the County. The County

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doesn't have any land that I know of except their land in Waiehu and Waihee area to develop wells. So I think they need something that gives an incentive to this partnership. So anyway, the idea that we're creating all these substandard small water systems, I'm sorry to report, I've read the well bulletins for the last 15 years --

MS. WILLENBRINK: Three minutes.

MS. de NAIE: --thank you--and these small well systems were here before the "Show Me the Water" Bill. They'll be here if you repeal it. It's a fact of life. There are just many places that the County doesn't have service areas and/or doesn't, hasn't had meters for years like Upcountry Haiku area. So you're going to get small subdivisions with private water systems. It's not a result of this bill. It's just a result of how things are here. So please, set up a real task force. Get some real information, and this bill is not not working. It's done some good things. Thank you. Aloha.

CHAIR BAISA: Thank you very much, Ms. De Naie. Members, any need to clarify the testimony?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: And thank you, Ms. de Naie, for being here this morning. The, you mentioned that there are water wells that you're aware of that people would like to dedicate to the County? And they're...

MS. de NAIE: Yes, we just reviewed one, Kehalani, it's being dedicated to the County. There's five wells in Maui Lani that were dedicated to the County. Why, so they could have water. You know, Mr. Atherton has three wells. I believe he is willing to work with the County on them. Wells are being delivered, are being developed. Maui Land and Pine has been trying several wells and they are willing to dedicate them to the County. One didn't work out up in Piihola. People get the message that, you know, yeah, we need to find more water. We have the land; we can look for water on our land. It is expensive. Maybe there's a way to offer these guys some incentives. But just saying oh you don't need to show us any water is not that incentive.

COUNCILMEMBER COCHRAN: Well thank you very much for your time and expertise. Thank you.

MS. de NAIE: Thank you.

CHAIR BAISA: Any further need? Seeing none, thank you. Ms. Willenbrink?

MS. WILLENBRINK: Hokuao Pellegrino, followed by Mercer "Chubby" Vicens.

CHAIR BAISA: Good morning.

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MR. PELLEGRINO: Aloha mai kakou. Aloha, Chair. My name is Hokuao Pellegrino. I'm a wetland taro farmer from the ahupuaa of Waikapu and Vice President of Hui O Na Wai Eha. The "Show Me the Water" Bill that was enacted is an essential and instrumental piece of legislation that holds not only developers accountable but also the County and State which ensures that we're utilizing Maui and Hawaii's most precious resource wisely and sustainably. To protect and keep this bill that was enacted as is, is not to inhibit or even slow development but rather creates a pathway of certainty that water resources are properly managed. It's not about protecting anybody as Charlie Jencks may have mentioned earlier. But it's about ensuring and protecting a resource that will be sustained in perpetuity. This bill protects our aquifers and streams from overexploitation as was commonly done prior to the development of this bill. For me personally I support affordable housing. I mean there was just an interesting article that was published the other day that 50, about 50 percent of the homes that are being purchased here in Hawaii are from out-of-state residents. So that to me is a clear indication that we need to support affordable housing for local families, for our workforce, and also small family, you know, parcels of land, subdivisions. But the silver lining is that we also equally need to protect these water resources and they're crucial to ensure that we have availability for these affordable homes that are for our local people. Shelter to some may be a human fundamental need but I also see that water is equally important. You cannot have a home without water. It's like putting the cart before the horse ordeal. So with that said let's not, let's keep this bill as is.

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

CHAIR BAISA: Can you turn that off?

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

CHAIR BAISA: I think in our District Offices they forget that we're alive here.

MR. PELLEGRINO: I'll just close it, the last sentence. If we can just keep this bill intact to support the protection of our water resources for Maui, Hawaii, and for the people in perpetuity. Mahalo.

CHAIR BAISA: Thank you very much, Hokuao. Members, any need to clarify the testimony? Seeing none, thank you very much.

MR. PELLEGRINO: Mahalo.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Mercer "Chubby" Vicens, followed by Liz Key.

CHAIR BAISA: Good morning.

MR. VICENS: Good morning, Chair, and Happy Holidays to all of the wonderful Members of the County Council. I'm here to testify on WR-11. My name is Mercer "Chubby" Vicens.



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I am representing myself as a, about a 26-year resident of Maui. I tell many people whenever they ask why did you come to Maui I said I was looking for a place of peace. And I've also said that when I arrived on Maui I thought I died and went to heaven. Here I am 26 years later and I still think I died and went to heaven. This is our home; this is what we need to protect. What I'm here to speak about is this Water Availability Policy. This bill was ill conceived from the very beginning by this Council, maybe not the exact Members, but the Council of responsibility. It was clearly a bill to slow down the economy. I can remember all the meetings. I don't think I've missed any of the meetings that discussed this. So what do we do? I belong to the Mayor's task force along with Charlie Jencks and Alice Lee and a few other great community people and we had meetings with the Director in attendance most of the time. We discussed many things on how to change the bill, how to change language, how to eliminate language, how to segregate and bring things together. Could never ever come out with what I thought was a clean bill because the bill is faulted from the very beginning. So what you've got to do is you've got to tear out the termites and the rot in this particular bill and then start over. So I am in favor of either; one repealing the bill, but probably more concerned about what this Council is willing to do to make this bill pono. It does nothing for the community, okay. There's a lot of talk about affordable housing, there's a lot of talk about the water source. The water source development in my mind belongs to the County of Maui. Public-private partnerships are the thing to do. However, two thirds of two thirds does not make sense. If I have a million-gallon capacity well and they use the formula, I end up with about 42-43 percent of the water, or around 430 of the million gallons. Not pono. So when I talked to the Mayor about this, it's not even a, it's not even a law. It's a figment of someone's imagination.

MS. WILLENBRINK: Three minutes.

MR. VICENS: It can be changed tomorrow. Thank you very much. I'll wind up real shortly. It can be changed. So let's, let's put all the little pieces together, and I have faith, I have faith in this Council to come up with a bill that will be pono for everyone, and I mean everyone. And develop new water sources which is the responsibility of this County of Maui. Thank you very much.

CHAIR BAISA: Thank you, Mr. Vicens. We will try to keep your faith. Members, any need to clarify the testimony?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, Mr. Vicens, for being here this morning. You said repeal it, what would you want to put in place of it?

MR. VICENS: Well, I think we've worked on some language. There is language that we submitted to the Mayor short of the repeal and, you know, it's, I hate to say it but it kind of went into a black hole. It hasn't seen the light of day since. So I don't know where that's at and that's exactly what Charlie said. We worked very hard to make some

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substantive changes we thought would be, strengthen the bill if anything and kind of balance out this, the way it is today. And we haven't seen the light of day.

COUNCILMEMBER COCHRAN: Okay. Chair...

MR. VICENS: There has been recommendations.

COUNCILMEMBER COCHRAN: Oh, okay. So just a clarification so, Mr. Vicens, you're mentioning this Mayor task force you --

MR. VICENS: Yes, ma'am.

COUNCILMEMBER COCHRAN: -- were on and you folks had come up with adjustments or whatever to it --

MR. VICENS: Yes, ma'am.

COUNCILMEMBER COCHRAN: --and it just kind of, nothing moved from there. So there is some type of document somewhere --

MR. VICENS: Yes.

COUNCILMEMBER COCHRAN: --that has your folks' recommendations--

MR. VICENS: Yes, ma'am.

COUNCILMEMBER COCHRAN: --on it?

MR. VICENS: Yeah.

COUNCILMEMBER COCHRAN: Okay.

MR. VICENS: And by the way, the members were Alice Lee, Michael Howden, Charlie Jencks, Amanda Martin from the, Gladys' Office --

CHAIR BAISA: Representing me.

MR. VICENS: --myself, and Warren Watanabe.

COUNCILMEMBER COCHRAN: Okay. Alright. Thank you very much.

MR. VICENS: Thank you very much.

COUNCILMEMBER COCHRAN: We'll look for that.

CHAIR BAISA: Ms. Cochran, we'll talk about that later.

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COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR BAISA: Okay.

MR. VICENS: Thank you for allowing me to speak, and I want to wish each and every one of you and your families the best of the holiday season. Thank you.

CHAIR BAISA: Thank you very much. Ms. Willenbrink?

MS. WILLENBRINK: Yes, Liz Key, followed by Lawrence Carnicelli.

CHAIR BAISA: Good morning.

MS. KEY: Good morning. My name is Liz Key and I'm here in support of not repealing the "Show Me the Water" Bill. I am, I strongly, my opinion is that a developer should have to show the water. It's very logical. There, it seems like they come in to Maui County and they just make profit and they don't give back to the community enough. And they're not, their mindset isn't for the future generations, it's for the dollar and that is not sustainable in the long run as far as water goes. I've seen plenty of developments go up that are supposed to be affordable homes and their affordable is \$600,000 which is not affordable for most people on Maui. And I'm also in support of if, you know, there are any exemptions for this bill it should be for 100-percent affordable, not for you know five houses affordable and the rest are million-dollar homes with pools using a bunch of water and landscaping their whole property using millions of gallons of water where the average household would use much less water for their needs. So I don't have very much to say but I'm just saying I'm in support of maybe making modifications of the bill but not repealing it because that really leaves us vulnerable to outside developers who are just waiting to have the green light to use Maui for their purposes and not think about the future generations or the community of Maui; just thinking about, you know, selling homes to overseas investors and not for the average person on Maui. So that's all I have to say.

CHAIR BAISA: Thank you. Thank you very much. Members, any need to clarify her testimony? Seeing none, thank you. That is K-E-Y?

MS. KEY: I'm sorry?

CHAIR BAISA: Your last...

MS. KEY: Yeah, K-E-Y. Yeah.

CHAIR BAISA: Okay. I just want to be sure.

MS. KEY: Okay.

CHAIR BAISA: Thank you.

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MS. KEY: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Lawrence Carnicelli, followed by Autumn Ness.

CHAIR BAISA: Good morning.

MR. CARNICELLI: Good morning, Madam Chair, Council. I wasn't actually going to speak today. But listening to all the testimony I just thought that I'd come out and give an opinion and that is I'm kind of looking at this thing from 50,000 feet. When you look at legislation, you know, there's unintended consequences to legislation always and we've had seven years to look at this bill and there's good parts to it and there's not-so-good parts to it. But just to completely rip it out and say like rip the termites out I believe is what he said, is there's going to be unintended consequences to that as well. So as I look at this is to say why not go ahead and say hey what's right about this thing and what's not right about it? Just to repeal it, to give a thumbs up or a thumbs down, it's created a lot of fear. Like a lot of people are coming up here and they're talking from a place of fear. And they're going oh my gosh, what's going to happen if we just say, you know, we went yes and then we go no. So I think there's some kind of a happy medium when we're legislators that we can just say hey, listen you know what let's debate the intricacies, if that's even the right pronunciation, you know use the engineers. I'm not an engineer. I don't know what's right about this and what's not right about this or infrastructure and how we're going to get the water to them and who's going to do it and who's not. But I think we need to have, that conversation needs to be had, not just oh I'm pro affordable housing or I'm pro water. I think that that's what this kind of debate is sort of turned into is I just, I've sat here for the last couple hours listening to people. So maybe what we can do is somehow modify this to where we can have a debate about what's right and what's not right for the community, for water seven generations from now, right, seven generations from now. So that's all I have to say.

CHAIR BAISA: Thank you very much. Members, any need to clarify that? No? I think you're, you got it. Thank you.

MR. CARNICELLI: Thank you.

CHAIR BAISA: Okay. Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair. Autumn Ness, followed by Sylvia Cabral.

CHAIR BAISA: Good morning.

MS. NESS: Good morning. Aloha, everybody. My name is Autumn Ness. I wasn't going to speak today either but listening to all the testimony a couple things kind of popped up that I think needed to be addressed. First off, almost everybody here that's testified in support of repealing this bill is financially invested in the removal of water restrictions. And everybody who is against it is invested in the future of this island. So that's a big

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red flag for me. Water is not an economic issue, period. People like to make it one, but water is not an economic issue. Water is everything and it's really our job to protect it above all else. Developers are trying to sell us this line that "Show Me the Water" is the reason for the lack of affordable housing. Meanwhile, illegal short-term rentals and increased short-term rental permits are booming. Developers are sitting on thousands of approved affordable housing projects that haven't been built yet. Water isn't the holdup. The priorities of the developers are. And the priorities of our planning departments and the commissions are. If we're serious and really serious about ensuring the availability of affordable housing, let's do something. Let's draw a line right here. Let's put a moratorium on any new building permits on all of Maui until all of the permitted affordable-housing projects are finished. That's what I call serious about affordable housing. For the sake of argument, even if this were the reason that the affordable housing is being held up and we repeal this bill and we end up with all of these new affordable homes and we run out of water, where does that leave us? I guess when we run out of water then we're talking about water as a big economic problem. Let's ask California, right now, as we speak farmers in California are selling their water rights to municipalities because that's the best solution they can think of. There is not enough water in California to grow food and to sustain municipal population's water needs. So in favor of green lawns and golf courses and big municipal water needs, farmers are opting out of food production and selling their water rights. Can you see a problem here? California is a major agricultural zone. We can all agree that food security is an issue and being more liberal with our decisions about water is not the way to achieve food security on an island in the middle of the Pacific. I also take huge issue with people that said we aren't using all of our water and there is much of it spilling into the ocean so there must be plenty. Water is not something that we're supposed to use every last drop of. The streams should be spilling into the ocean even more than they are now. There should be water left after we use what we need. That is the law of sustainability. You use what you need, you leave enough for every other system in nature, and you leave enough to ensure continuation of that system. So using 100 percent of our available water resources is not sustainability. Those are the couple address, the points that I needed to address. Again I just think it's really important that we address affordable housing at the root of the cause and not at the expense of our most precious resource. Mahalo.

CHAIR BAISA: Thank you. Members, any need to clarify her testimony? Seeing none, Autumn, thank you.

MS. NESS: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Sylvia Cabral, followed by Claire Apana.

CHAIR BAISA: Good morning.

MS. CABRAL: Good morning. I'd like to compliment your decorator for your beautiful Christmas decorations.

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CHAIR BAISA: Thank you. We appreciate him too.

MS. CABRAL: Enforcement. Keeping homes affordable. The County needs to hire a posse of bookkeepers to enforce the deed restrictions and the infrastructure. It's been too long where developers are ignoring the infrastructure duties and now those same developers are going to come back and hit the County again, and how could the title companies ignore those deed restrictions and not notify the County of the sales? Those sales costing the County millions of dollars of lost revenue. If you want to keep the homes affordable you've got to keep the deed restrictions enforced. I'm sure that right now there's foreclosures and there's sales of homes that have deed restrictions. I wouldn't doubt there'd been at least 30 and that might be a very low number. Private water systems often fail and cause the taxpayers to rescue subdivisions. Then those same developers have the nerve to come back to the County and do it again. So my suggestion is that the County get some bookkeepers and find out what homes are being sold or foreclosed upon and that's revenue for the County. Aloha.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, thank you very much, Sylvia. Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair. Claire Apana, and then the final person who has signed up to testify is Michelle Anderson.

CHAIR BAISA: Good morning.

MS. APANA: Good morning. Thank you for allowing this testimony today. I really come with a heavy heart today. I wonder if Councilmembers know what it takes to come up as a member of the public and continue to try to bring the truth to this body when decisions may have already been made. Here is a bill which serves the rights of the people, development, this island, aloha aina. And yet it comes again to be squashed, to take away the people's right. You know what it's like to have to go up against Mercer Vicens? Do you know what it's like to go up against Charlie Jencks? Just as an ordinary person who cares about Maui? You all say you care about Maui but do you care about the people who are really putting in the time to keep this place, to keep the balance? And yet the balance is always tipped so far away from us. I have to say about this bill that there are many good things that protect our water resources and the water resources are one of the greatest things that you will ever get to protect. And in particular it spells out Native Hawaiian water rights in terms of what you need to do when you are applying for a new well. Shall we cancel those out? Shall we cancel these out for Molokai? Shall we cancel these out for all of Native Hawaiian people who have right to water? Shall we cancel out the right for the people who are going to do wells to look at their neighbors and see how they will be impacted? Should we do that? Is that a good idea? Who gives developers the right to feel like they are entitled to build all these things? No, it is you who makes the rules so that you see that the development is done well. The rules are followed so that we aren't all the way heavy to the development side where they can take advantage of the aina. Please, this is not the way to do it by squashing good laws that have been made by all of you. And many of you voted for it in the first time. I have to

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say this, that in the report that was given, the two-year report on water availability, the report on Native Hawaiian use and rights, how we are affected was sorely, sorely short. All it said was there are this many wells applied for in Hawaiian Homes. What happened to how it affects the current kuleana water users? That is clearly stated in this law and I hope that you will fight for the Hawaiian's right to know this. And I want to end by saying something from Queen Liliuokalani who fought very hard to keep water as a public trust. She says, be strong, be steadfast, and take comfort in knowing that justice has no time limit. Thank you.

CHAIR BAISA: Thank you. Members, any need to clarify the testimony? Seeing none, thank you very much, Claire.

MS. APANA: Thank you, Gladys.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Chair. We have had no e-mail coming from the other, the outer islands. We did get one more testifier. Ms. Anderson has asked to let this testifier go first and that is Dick Mayer.

CHAIR BAISA: Chair has no objections. Good morning.

MR. MAYER: Good morning, Chair Baisa, Members. Happy Holidays to all of you. Last night the Kula Community Association...my name is Dick Mayer, the Kula Community Association had a meeting and the board meeting and at that board meeting we voted unanimously to ask that the water availability, the "Show Me the Water" Bill be allowed to remain. The bill that you have now before you be rejected. I think the thinking behind the vote was several things, I'll just give you three very briefly. One is that there is really still a need to protect existing homeowners. It's not just to get more housing built, it's also we have on this island all the existing homeowners, the people who now vote for you at the elections. Number two, there are people on the water meter list and we would not want to see them jeopardized by developments going in then some way would threaten their ability to get water. And finally, and this is very important subject for us Upcountry, Hawaiian Home Lands. We have a large Hawaiian Home Lands community that wants to continue growing, thriving, and we want to make sure that they have water available. This water availability, "Show Me the Water" Bill allows the Planning Director to determine when developments come up, when wells are to be drilled, subdivisions be made, to check, is there an adequate supply to protect these existing constituencies? All that I said on behalf of the KCA. I'd like to also give my own comments separate from the KCA. I've been watching as you have been many projects that you folks sat through hours and hours of committee meetings and final meetings, the Planning Commission, and looking at these projects and authorizing affordable housing to be built. But they have not been built. And I want to cite just a few of these projects and ask you, is it really the water that's stopping these projects? First one, A&B's Kahului Town Center, that is not a thing, they have plenty of water for the whole industrial park. Water is available to build out, they have not built that project and that was meant largely for seniors and others in the community,

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lower-income families to get housing. Maui Land and Pineapple Company came in with Pulehua [sic], days and days of testimony on that project, many houses committed. They have water, all the pineapple fields that they, that used to be irrigated by water would be available to supply those homes. Puukoolii, Kaanapali 2020 was mentioned; they have their own private well system. They have not built. It's not lack of water, it's other things perhaps. But the water is available to build these projects and why haven't they built it? And finally I'll give one other example, the megamall in South Maui, that area. It was supposed to have 250 affordable homes on it. It should've been built but rather the developer wanted to put big commercial establishments on that land. Apparently there was enough water for that. Why hasn't the affordable housing been built on that land? So what I'm asking is, I think the developers, all of them collectively have been putting a squeeze on you, holding a gun to your head saying we need to get rid of this "Show Me the Water" Bill when I think the gun should be pointed the other way and you should be putting requirements on them, time limits and other requirements ordering the Administration to enforce the laws that you have already passed to get this affordable housing built that we so desperately need. I would give you another option and that is the Water Use and Development Plan. The Water Department was supposed to have done this years ago. That's the mechanism to look at this issue --

MS. WILLENBRINK: Three minutes.

MR. MAYER: --and to develop within context a, the Water Use and Development Plan. I understand they're working on that now. I would hope that you would defer this action and let it be incorporated into an overall look at how the County should be developing its water supplies. Thank you very much.

CHAIR BAISA: Thank you, Mr. Mayer. Members, any need to clarify the testimony? Thank you very much, Dick.

MR. MAYER: And Happy Holidays to all of you.

CHAIR BAISA: Thank you. Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair, the final person that is signed up to testify in the Chamber is Michelle Anderson.

CHAIR BAISA: Welcome home, Michelle.

MS. ANDERSON: Mahalo, Gladys.

CHAIR BAISA: We're very happy to have you here today. It's been a long time.

MS. ANDERSON: Thank you so much. I'm happy to be here. It's just a coincidence but since I was in the neighborhood I thought I'd come by. It's really good to see my former colleagues and also you new Members who were not here when we passed the County's Water Availability Policy. I've heard a lot of false claims today and lots of it



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misinformation coming from testifiers on the development community. As the author of this policy I'd like to give some background for those of you who were not here when we passed this so that you'll know why we adopted this protective policy. Prior to 2007 when the Water Department reviewed development permits, their comment would always be "the Department cannot assure the availability of water." I'm sure Bob Carroll remembers that when he sat on the Planning Commission. But nonetheless, savvy developers would go ahead and proceed with their construction plans, get them approved, which included County water laterals, then sign an agreement with the County bonding the required improvements without actually constructing them. This allowed them to record the final plat and proceed to sell the lots without having a verified source of water. They would then force the County to give them the water whether there was unused source available or not because the County had approved their construction plans which included the County water laterals. You remember this, you may remember this is what happened with the Spencer development just south of here. Because the County was already over pumping the Iao Aquifer causing the salinity levels to rise and water levels to decline, the State Commission on Water Resource Management had warned the County to stop issuing water meters serviced by the Iao Aquifer. Mayor Arakawa at the time announced that he would no longer approve water meters from the Central Maui water system. Then Mr. Spencer threatened to sue the County if it did not service the County water laterals in his completed housing development. Well, he got his water and the County lost control of Iao Aquifer, now under State management. The purpose of the Water Availability Policy is to protect existing County water systems from over pumping system capacity, and to protect existing users from over sharing the water already committed to them. At the time we adopted this policy, the Water Department described the County's water situation as dire with Water Department figures showing all County water systems operating at or over system capacity with an additional deficit of over 1 million gallons of water a day to be issued within 1 year and a total of 4.5 million gallons a day to be issued within 2 to 5 years for water meter reservations already purchased. The Water Department, the Public Works Department, Corporation Counsel, the Mayor all supported the bill with Water Director Jeff Eng, Public Works Director Milton Arakawa, and Corporation Counsel Ed Kushi--nice to see you, Ed--all contributing language to strengthen the ordinance and close the loopholes that allowed the County water systems to be overcommitted. If you now have additional system capacity to issue water meters, then there should be no problem getting a water meter reservation before you subdivide. If you don't have available water and the developer needs to drill his own well, then he has to follow the State Department of Health regulations for water source development. The water policy criteria for assessing the impact a new well might have on existing users is the same criteria of assessment found in the Department of Health regulations and also the State Water Code. I understand the current Water Department Director has said his Department doesn't have the time or expertise to make this assessment. If that is the case, you better hire a new Director and new staff who are capable of following the State Water Code. Besides that, how many new well applications are there in a year, three or four? Repealing this protective policy or amending it to render it useless serves no one but the private interests who have brought this bill forward. Why would you, Councilmembers, relinquish your stewardship over the public's most important resource that this policy

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has established and give it over to one man and a Department you have no authority over? Thank you, Madam Chair.

CHAIR BAISA: Thank you. Thank you very much, Ms. Anderson. Members, any need to clarify the testimony?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you and aloha, nice to see you, Ms. Anderson. Thank you for being here, what a surprise.

MS. ANDERSON: Came just for this.

COUNCILMEMBER COCHRAN: Alright, there you go. And so I'm trying to backtrack as I was not here in the original makings of this bill like you were, you had I guess brought this together with as you mentioned Water Director at the time, Public Works, and other entities and at, what was the reason for all of you folks coming together, like what were the specific reasons for creating this? I guess was there, was it affordable housing or protecting the source or anyways, if you can elaborate.

MS. ANDERSON: You know I want to give credit to Dain Kane who happens to be here today. He was the one that first brought this bill forward. I think at his time he called it the "Show Me the Water" Bill which really happened first in California. But it languished and for years in the Committee then when I became Water Committee Chair I brought it forward and at the time as I said Director Jeff Eng was like horrified that we had overcommitted all system capacity and that we had to do something to protect what's, what users are now using those systems and also the resource for future. You know if you over pump a system or overuse a system, especially if it's well water, you could damage the system for all users. So that was the main concern, and Public Works was also very concerned too because, you know, these developers who bond their projects and don't have to bond, don't have to say what their water source will be and what it's going to cost to develop the source, then the water source doesn't become part of the bond. So if they fail to follow through then who's left holding the ball, or the bag, and that's the County, who then, the taxpayer then has to pay to get the source online for those people who may be lot owners or homeowners who aren't serviced by a failed water source. So that was the main reason. I mean anybody who wants to go back and get a little education and I might suggest that the current Water Director avail himself of the Water Resource Committee minutes from September 17, 2007. There's lots of good information in there.

COUNCILMEMBER COCHRAN: Thank you very much, Michelle, again for being here.

MS. ANDERSON: My pleasure.

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COUNCILMEMBER COCHRAN: And, Chair, if I may make a request during our Committee deliberations is there a way to have Ms. Anderson, if she's available, to be here as a resource person?

CHAIR BAISA: I can discuss that with the Members of the Committee.

COUNCILMEMBER COCHRAN: Okay.

CHAIR BAISA: I have no objection.

COUNCILMEMBER COCHRAN: Okay. If the fellow Members here are amenable to that, that would be helpful I guess to us.

CHAIR BAISA: Well I think it's fortuitous that we have the author of it here --

COUNCILMEMBER COCHRAN: Right.

CHAIR BAISA: --and, you know, I sat through that initial 2007 passing of the ordinance. In fact, Michelle sat next to me and we had some excitement. It was a very long and very difficult deliberation for us to complete. So I think, Mr. Victorino and myself, you were here, who else was here?

VICE-CHAIR VICTORINO: That's it.

CHAIR BAISA: That's it, just us.

VICE-CHAIR VICTORINO: That's it.

CHAIR BAISA: So, you know, we sat through the initial making of the bill so we have that history, and I'm very happy that you're with us today. Thank you very much for coming.

MS. ANDERSON: My pleasure. If you do want me as a resource person, I would like for any objections to come up now so I can --

CHAIR BAISA: Okay.

MS. ANDERSON: --know if I need to stay or leave.

CHAIR BAISA: Well, we, what we're going to do today is take testimony. We are not going to get into deliberations. So if we're going to use you as a resource it will be at a later date. Does anybody have objection to that?

MS. ANDERSON: Well, Madam Chair, if the later date is January 6 --

CHAIR BAISA: Correct.

MS. ANDERSON: --I won't be here.

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CHAIR BAISA: Well maybe, you know, the modern miracle of technology.

MS. ANDERSON: Oh, that's true.

CHAIR BAISA: Mr. Couch has a big smile on. Maybe we can work something out.

MS. ANDERSON: I'd be happy to assist any way I can.

CHAIR BAISA: I know you will and it's a pleasure having you. Thank you.

MS. ANDERSON: Good to see you, Gladys.

CHAIR BAISA: Yeah, good to see you too.

MS. ANDERSON: Mahalo. Thank you, Members. Merry Christmas.

CHAIR BAISA: Ms. Willenbrink, is there anyone else who was so moved?

MS. WILLENBRINK: Yes, Madam Chair, there is one final testifier, Stephen West.

CHAIR BAISA: Mr. West? If there is anyone else, I would appreciate it if you'd let us know because we all like to know what our time commitment is here. Go ahead, Mr. West.

MR. WEST: Good morning, Chair, Councilmembers. Thank you for the opportunity to speak. This is a very contentious debate but the reality is, is that, you know, working people are living in homes, multi-generations are sharing one roof. The reality is we need more affordable housing and truly affordable, and I think hopefully this Council can take another look at the Affordable Housing Bill as well and make it truly affordable because it's not. We need, you know, people shouldn't have to spend more than 30 percent of their income on a mortgage. But the reality is we do, and I don't know, that's a whole other subject. But this, I'm standing here in support of repeal this bill. And I think there needs to be future work on it but for the time being it needs to be repealed and that's, you know, most certainly my opinion, and I have, you know, had a lot of contact with a lot of working people and it's not helping. This bill is not helping at this point. We do need to protect our resources. I think we need to develop new resources. We need to have more storage. There is a solution but I think just turning off the tap is not bad. So I'll wind up and thank you for the opportunity and you all have a happy holiday.

CHAIR BAISA: Thank you very much, Mr. West. Members, any need to clarify the testimony? Seeing none, thank you. Ms. Willenbrink, anybody else signed up?

MS. WILLENBRINK: No, Madam Chair, no one else has signed up.

CHAIR BAISA: Okay. I will make the rounds of the District Offices. In Hana, is there anyone that showed up? Nobody...

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MS. WILLENBRINK: We hung up on them.

CHAIR BAISA: Oh you hung up. Okay. So we're all done.

MS. WILLENBRINK: But they have not e-mailed.

CHAIR BAISA: And we told them to let us know if anybody showed up so I'm sure we're okay in the District Offices. Is there anyone in the gallery who has not testified who would like to testify? Last chance. Members, there is no one in the District Offices and no one in the gallery coming forward. So without objection, Chair will close public testimony for today.

COUNCILMEMBERS: No objections.

CHAIR BAISA: Okay. So ordered. Public testimony is closed for today.

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

CHAIR BAISA: Members, that was our agenda for today. The Chair would like to thank you very, very much.

VICE-CHAIR VICTORINO: Madam Chair?

CHAIR BAISA: Yes?

VICE-CHAIR VICTORINO: May I make one request?

CHAIR BAISA: Yes.

VICE-CHAIR VICTORINO: The whole purpose of me bringing this forward was to stir the pot to get things going and obviously it has because you've seen all the testifiers that have come today and I'm very, very, very pleased to see and hear from them. But, Madam Chair, this task force that was formed and has a report or whatever, I would like somehow, some way for that report to come to us. I think it's important. I know you were part of it or Amanda was and we know, and our prayers are with her today for her challenge. But more importantly I think we all need to know what recommendations were done because I'm not steadfast on repeal as much as looking to make it more accommodating and you know that. So I would request that and along with other issues so that by the time January 6 rolls around we'll be at least more prepared with some information that we can share with the public if that can be achieved. Thank you, Madam Chair.

CHAIR BAISA: Okay. Let me address that because this is the second or third time that this has been mentioned. The Mayor put together a task force, an informal task force that he appointed of people that apparently he felt were very important to give input on this thing. I was unable to attend any of those meetings. They were all scheduled at very

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early hours in the morning when for some reason I just couldn't make any of them and I had asked Amanda to sit in for me, not to represent me, but to listen. And so I was not an active participant in any of it. They came up with some suggestions in a draft proposal. The draft proposal was given to the Mayor and there were subsequent other meetings not with the task force but with myself and Mr. Taylor and I don't know, one other person. I can't even remember; this was a while back. Anyway, there was no consensus and nothing has been transmitted from the Mayor's Office at this point. It is my understanding that Mayor and his staff are working on some proposals and that we should be getting those. I thought it was important that we have this meeting today so we could hear from the public. I wanted to hear from the man on the street and from everybody else their views about this issue. Do they feel that we should repeal "Show Me the Water?" Do they feel we should take a look at it? Do they feel it's a problem? Do they feel it's not a problem? Because it comes up over and over, and over, every time there's some kind of meeting this is mentioned. You've heard the economists talk about it. That was mentioned in testimony today. I've heard Administration talk about it. Every time we have a housing or a homeless meeting we talk about it. And so I felt it was really important that we have a meeting where everybody could come and share their manao and that was what today's meeting is about. When we reconvene we will do testimony again and we will look at this issue and then the Committee will decide what we want to do with it. And we will bring in whatever resources we need to bring in. We'll try to get facts and figures and make sure that the information that we're getting is accurate and correct and we'll proceed to make a decision. I am not a person who drives anything one way or another. I see myself as a facilitator to make sure that everybody has the opportunity to do input and do this. So there is no official communication that I can give you at this point.

VICE-CHAIR VICTORINO: Thank you, Madam Chair, and I appreciate it. I will look deeper into it and see if I can get some kind of information --

CHAIR BAISA: I'm sure something...

VICE-CHAIR VICTORINO: --from that \_\_\_\_\_.

CHAIR BAISA: I'm sure something will be coming.

VICE-CHAIR VICTORINO: Yeah. Okay. So that's. . .

CHAIR BAISA: But, you know, again step-by-step.

VICE-CHAIR VICTORINO: Yeah.

CHAIR BAISA: This was the first step.

VICE-CHAIR VICTORINO: Thank you, Madam Chair, for bringing this forward. I do appreciate it.

CHAIR BAISA: Okay. Members, anything else? Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Madam Chair, and I see we have a little bit of time left. I would be, would like to hear some of the comments that were made against or for Mr. Taylor or just the Department itself. I would like to hear if he has any comments about some of the testimony that was given.

CHAIR BAISA: I'm willing to let you do that but we're going to have to take a three-minute recess.

VICE-CHAIR VICTORINO: Okay.

COUNCILMEMBER COUCH: Oh, okay.

CHAIR BAISA: Okay. So, Members, you guys want to do that?

VICE-CHAIR VICTORINO: Yes.

COUNCILMEMBER COCHRAN: Sure. Yes.

CHAIR BAISA: Okay. Well, we're going to take...do not disappear. I'm talking about three minutes. Okay? The meeting is now in recess. . . .(gavel). . .

**RECESS: 11:35 a.m.**

**RECONVENE: 11:38 a.m.**

CHAIR BAISA: . . .(gavel). . . Will the meeting please come back to order. Mr. Taylor, you're on.

MR. TAYLOR: Thank you, Madam Chair, and thank you, Members, and the members of the public who came and testified today. We've heard a lot of testimony that touched on some of the biggest issues we face. Water, aquifer health, affordable housing, et cetera. And I think we all recognize that this one ordinance is not going to be either the cause or the solution of all of these problems. I mean if it was only that easy. I just want to comment on a couple of things people said and I want to focus on two of the testifiers and the 17<sup>th</sup> testifier is Mr. DeLeon from the REALTORS® Association and the 18<sup>th</sup> testifier was Mr. Perez from Maui Tomorrow. One said let's repeal it, the other said let's keep it. There were a couple of sentences both made and if we put them together I think it gets to the bottom of what this is. Mr. DeLeon said this was aimed at subdivisions. If you read the ordinance, that's exactly what it is. It talks about subdivisions, the act of subdivision. It doesn't talk about large hotels, shopping centers, businesses. It doesn't talk about individual tax map keys that have large water use developments. It is about subdivisions. Mr. Perez said it reduces the chance of needing drought restrictions. That's exactly correct and he's the only testifier that nailed that. That's really what this does. It reduces the chance of having drought impacts by putting some limits on subdivisions. If you didn't know the history of this bill, if you hadn't heard any of the testimony, if you simply looked at the County's water system, the County's

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zoning ordinances, the County's permit issuance ordinances, and you just looked at how the County functions then you looked at this bill, you would say that the purpose of this bill was that the County's concerned that there's not going to be enough water service for everybody. So in the process from zoning to subdivision, to building permit, the County is intentionally saying we're going to put some special restrictions on subdivisions to make sure there's enough for everyone else. Now I'm not saying that was the purpose of this bill but I'm saying if you just look at the words of this bill versus the rest of the systems in the County, the physical water systems, and the bureaucratic systems issuing permits, you would say that's what it does. Again I don't know if that's what it supposed to do but that's what it does. Now something, Member, former Member Anderson said about the Department formerly couldn't assure water service. Okay, because zoning far exceeds our infrastructure capacity, right for water, sewer, roadways, schools, everything else, but for water specifically, essentially everyone who owns a piece of land that isn't built out to their zoning is racing everyone else for infrastructure capacity. There clearly isn't enough for everyone to build out to their zoning. So the utilities; water, sewer, power always take this position saying look, you're in a race against everyone else and we don't guarantee service until your hookup happens. That's how it's always been. So even without this bill there was always a Department of Water Supply, what I'll call a guarantee of service but it happened at your meter installation, always did. What this bill does is it says in addition to that, for subdivisions we're going to make a separate determination when you get to the subdivision stage and if we think there's a chance that there won't be water for you at the meter installation stage we're going to stop you right there. That's what this bill really does. It doesn't stop hotels, it doesn't stop commercial buildings, it doesn't stop large agriculture. All of those keep going until they come in for their meter issuance and if there is no long-term capacity at that time the Department says hey sorry we can't help you. What this bill does is it adds a special condition for subdivisions specifically to say if we think we won't have the water for you we're not going to let you get into trouble by going further. That's what it does. Again, whether or not that's everyone's intention I don't know. I don't think it really does anything to protect the aquifer or not. I think it very subtly affects the process of development for people who are subdividing. And I think if we look at what it does and then ask is that what we want it to do and what do we want it to do, we'll have our answers about should we change it, should we keep it, should we get rid of it. So that is just my sort of analytical assessment of what this bill does based on some, what we've heard. I also wanted to just comment very quickly on something also at the heart of this that also former Member Anderson said. She said back in 2007 the Department said, the Department of Water Supply said we were at or over system capacity. Now I remember when that was happening and I was in wastewater at the time watching this and a number of senior people at the Department of Water Supply said we're out of water. And I'd heard that repeated in this room, at the Planning Commission, and I'd always wondered about it. And so one of my first goals when I took this job five years ago is to get to the bottom of that statement because every day I would hear that, I would take a shower, everyone else I know took a shower. It didn't seem like we were out of water. So I knew just from an engineering background what they really meant was, based on some system standards we can't reliably give more people service. That's what they really meant by the words, we're at or over system capacity. So when I took this job one of the first things I did is I got together with staff, yanked



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those numbers about how those numbers were done; how are they calculating how much water are we using and how much water are we going to use. Essentially what they were doing is looking at meters that had been issued and said if everybody comes in tomorrow and uses that meter to its max, how much water would that be? So based on that, we were over allocated. But that allocation was more than what the general plan growth projections were. So it has been my opinion that those allocation estimates were overly conservative. Now this is a subtle important point that a different person in my position may take an opposite position. I mean that is my opinion. I have told you a number of times and I go to the long range Planning Department, Long Range Planning Division of the Planning Department, and I ask them what their population projections from the socioeconomic studies they do are. I have been basing Department of Water Supply needs based on that. I have not been basing it on the meters that are out there that are unused or existing zoning of those properties and build out. So there are two different ways to judge, there's a number of different ways to judge future need and depending on which you do you can say look we're over allocated or you can say hey we're under allocated. So that's one of the subtle points that is sort of my heartache with this bill is the Council has a law that says the Director of Water Supply shall make this determination of long-term, reliable capacity. But it's a very nebulous statement that a Director may say look I'm going to base it on these assumptions, a different Director may say I'll base it on these other assumptions. So everyone's in a race for capacity. We don't know how many people are going to come in, we know the infrastructure can't support full build out of zoning, and we haven't come up with any quantitative legislative direction about how we're measuring this. And I think this confusion is what's causing what we heard today. I think there are solutions to this problem if we drill down to some of these sort of nerdy details about what we mean by long-term, reliable capacity, how we're measuring it, and what goals we want to reach. What I heard today from all the testifiers are very passionate views on very important subjects and I think there is absolutely room to craft something that everyone can live with and even be happy with. So I appreciate that opportunity to comment on what we heard and I hope that can help focus some discussion for the next time.

CHAIR BAISA: Thank you very much, Mr. Taylor. I think that helps a lot, too. Members, I think we've reached the end of our work for today. I want to thank Mr. Carroll for giving us the opportunity if we had to go into the afternoon to accommodate the testifiers. I really appreciate it. You know, we had no way of knowing how many people would come today because as we heard, unfortunately, no matter how hard we try to agendize and publicize, you know, we had this on Facebook, we had it on the radio, we had it in the paper, we had it just about everywhere you could go with this so that people would know, and I personally tried to let as many people as I knew. And I ask you also, the network, when we are planning these meetings, please let your folks know because it's really important. We want the input. So, again, thank you to everybody who came. Thank you to the Staff. Thank you to the Administrative representatives, and the meeting is. . .

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Oh, yes?

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COUNCILMEMBER COCHRAN: Oh sorry, Chair. Can I just ask Mr. Taylor a question real quick?

CHAIR BAISA: Yes.

COUNCILMEMBER COCHRAN: It would be a simple yes or no.

CHAIR BAISA: Yes, we don't want to get in to too much here.

MR. TAYLOR: Never is a simple yes or no.

COUNCILMEMBER COCHRAN: Are you...so you. . .

CHAIR BAISA: Can you answer yes or no?

COUNCILMEMBER COCHRAN: After...so thank you for your explanations and opinions and thoughts for this morning. You are in favor of repealing or not?

MR. TAYLOR: I think my comments addressed --

CHAIR BAISA: Not really.

MR. TAYLOR: --what I think we should do.

COUNCILMEMBER COCHRAN: Okay.

CHAIR BAISA: Okay, Ms. Cochran, we're going to have to wait a while for that answer I think. Actually I think that's a very good place for anybody to be at this point. We're just beginning the discussion and I think that's a good place to be. So without further...we're going to defer this matter, Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair.

CHAIR BAISA: And that we'll do.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: MW)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR BAISA: And our next meeting of course, unless something happens, is scheduled for January 6, 9 o'clock in the Chambers so please let people know. And without any further business, the Chair would like to wish all of you a very Merry Christmas and a

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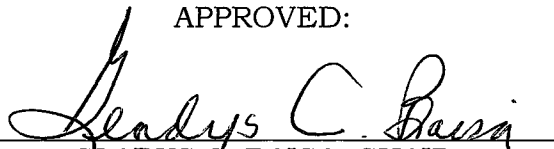
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Happy New Year. I will be leaving on my annual trek to Mexico on Friday evening and I'll see you all in the new year. The meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:48 a.m.

APPROVED:



GLADYS C. BAISA, CHAIR  
Water Resources Committee

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Transcribed by: Marie Tesoro

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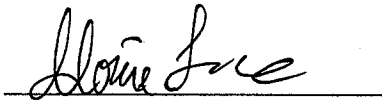
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CERTIFICATE

I, Marie Tesoro, 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 24<sup>th</sup> of December 2015, in Wailuku, Hawaii

A handwritten signature in cursive script, appearing to read "Marie Tesoro", is written above a horizontal line.

Marie Tesoro