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BOARD OF WATER SUPPLY, COUNTY OF MAUI  
REGULAR MEETING

OFFICE OF THE  
COUNTY CLERK

BOARD MEMBERS: Shay Chan Hodges, Chair  
Michael Nakashima, Vice Chair  
Joseph Aquino  
Antonette Eaton  
Dean Frampton  
Norman Franco  
Zoltan Milaskey  
Dr. Hanna Mounce  
Buddy James Nobriga

DATE: August 15, 2019

TIME: 1:30 p.m.

PLACE: Planning Department Conference Room  
First Floor, Kalana Pakui Building  
250 South High Street  
Wailuku, Hawaii 96793

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES
  - A. Minutes of July 18, 2019
- III. TESTIMONY FROM THE PUBLIC

All testimony shall be relevant to the meeting agenda's specific items.

The Board shall receive testimony first from persons whose testimony forms are submitted prior to the convening of the meeting. Three (3) minutes will be granted for each testimony item. At the discretion of the Board Chair, an additional minute may be granted to conclude testimony. An additional three (3) minutes on each testimony presentation may be granted to those who are unable to conclude their testimony in the originally allotted time period, after all testifiers have been heard.

(Continue)

IV. UNFINISHED BUSINESS

- A. Discussion regarding Leases and or Agreements with EMI and A&B relating to Kamole Weir and Waikamoi

V. OTHER BUSINESS

- A. Discussion regarding Draft Letter to Mahi Pono Incorporating Questions from Board Members
- B. Discussion regarding Public Communications on Water Restrictions
- C. Receipt of Board Member request for agenda items to be placed on future agendas

VI. DIVISION REPORTS

- A. July Division Operational Reports (copies available upon request)
  - 1. Plant Operations
    - a. Monthly Source Reports
    - b. Monthly Report – July 2019
  - 2. Water Treatment Plants
    - a. Water Treatment Facilities Production Log
    - b. Water Treatment Monthly Report - July 2019
  - 3. Field Operations
    - a. Monthly Status Report
  - 4. Water Resources and Planning
    - a. Groundwater Use – Maui for July 2019
    - b. Groundwater Use – Molokai for July 2019

VII. ADJOURN

Agenda items are subject to cancellation. For a confirmation of the meeting date and time, and for tentative scheduling of agenda items, please contact the Board of Water Supply secretary at 270-7304.

Oral or written testimony on any agenda item will be accepted. Written testimony must be submitted by delivering a legible copy to the Board of Water Supply secretary, 200 S.

(Continue)

Board of Water Supply  
Agenda – Regular Meeting  
August 15, 2019

High Street, Fifth Floor, Wailuku, Hawaii 96793-2155; or faxing to 808-270-7951, 24 hours prior to the meeting so copies can be provided to the Board members. If written testimony is submitted at the meeting, please provide 15 copies prior to the close of oral testimony.

Individuals who intend to attend the meeting who have special needs or require special accommodations that will assist in his or her successful participation in the meeting (e.g., large print, taped materials, sign-language interpreter, accessible parking, etc.), should call the Board of Water Supply secretary at least three working days prior to the meeting date.

Documents on file with the Board and which may include correspondence relating to the agenda items above, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec 2-64-010). Please contact the Board of Water Supply secretary to make arrangements for inspection or photocopying of documents.

Pursuant to HRS §92-5(a)(4), an executive session may be called in order for the board to consult with their attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

Mr. Grant Nakama  
Operations Manager  
Mahi Pono, LLC  
One Main Plaza, Suite 400  
2200 Main Street  
Wailuku, HI 96793

**DRAFT**

Dear Mr. Nakama:

SUBJECT: SUPPLYING WATER TO THE COUNTY OF MAUI THROUGH  
THE WAILOA DITCH

We are writing in response to your letter to Director Jeff Pearson dated July 1, 2019, as we see this as an opportunity for communication between Mahi Pono and the Maui County Board of Water Supply (“the Board”). As you are probably aware, the Board has been extending invitations for Mahi Pono, LLC to attend one of our board meetings since March. We are very eager to have a continued dialog between the Board and Mahi Pono as we continually get testimony submissions and questions from the Maui community on water and land use subjects that are beyond our purview. A dialog between the Board and Mahi Pono can help mitigate any falsely placed frustrations throughout the community that are generated from the perceived lack of transparency from the Board when we don’t have the answers to provide them.

As a Board that is dedicated to addressing matters related to safeguarding Maui residents’ access to water, we are very interested in developing a clear vision of the island’s total water resources and current and future demand. To that end, the Board has recently reached out to all private water purveyors and extended invitations to meetings. These invitations have been extended in order to gain an inclusive picture of the island water resources and delivery options as well as to see if there are untapped opportunities for County and private water purveyors to support one another.

Based on statements made in your July 1 letter and discussions during recent meetings, the Board would still welcome your attendance at our next meeting. If that cannot be arranged, we would like to extend some follow-up questions regarding Mahi Pono’s current and future plans as they relate to water use. Having some answers to these questions that we pose here will help us to communicate with the wider Maui community that has been addressing the Board. For example: In your July 1 letter, you state: “We have always been committed to supplying the County of Maui – and by extension, the Upcountry Maui community – with water from the EMI system. Having said that, our ability to supply water is 100% dependent on our right to legally access and deliver water.” You further state, “That said, if a [Revocable Permit] is successfully obtained – whether by A&B, EMI or by Mahi Pono – then the County will continue to receive water for the Upcountry Maui community.” We appreciate the clarity of this statement but the follow up to this is what will happen if Mahi Pono does not obtain a Revocable Permit to divert water?

We would greatly appreciate any clarity that Mahi Pono can provide on this list of questions generated by or presented to the Board:

- If Mahi Pono does not obtain a Revocable Permit, will Mahi Pono be able to still commit to working with the County of Maui to ensure affordable access to water for upcountry Maui residents?
- Since the water that flows from the Wailoa Ditch to the Kamole Treatment Plant is maintained by Mahi Pono and EMI, would the lack of a Revocable Permit cease that ditch maintenance and flow?
- Is Mahi Pono interested in exploring an agreement to provide water that is harvested from its own lands to the County's Kamole Water Treatment plant?
- Is Mahi Pono willing to consider shared management of the Wailoa Ditch and other ditch systems? The current condition of the ditch system and the cost of maintenance/repairs that are needed would help clarify the monetary constraints of providing water to the Kamole Water Treatment plant, and
- If the water leases are obtained by EMI, what portion would go to Mahi Pono lands and what portion would go to remaining A&B lands, many of which are entitled for development? Are there other agreements besides the original sales agreement between Mahi Pono and A&B?

The Board looks forward to hearing from Mahi Pono on these and other water issues of interest to the community.

We eagerly look forward to any and all information you can voluntarily provide on these topics and continue to welcome you to the next or future Board meetings. Please contact the Water Director's office at (808) 270-7834 with your response.

Sincerely,  
Shay Chan Hodges  
Chair

SCH:ghh

copy: Jeffrey T. Pearson, Director, Department of Water Supply  
Edward Kushi, Jr., First Deputy Corporation Counsel

**DRAFT**

**Suggested Possible Questions from the Chair to ask Mahi Pono:**

- 1) If Mahi Pono does not obtain a Revocable Permit, is Mahi Pono committed to working with the County of Maui to ensure affordable access to water for Maui residents? If so, in what ways?
- 2) Is there a situation where Mahi Pono would attempt to prevent water that flows from the Wailoa Ditch from reaching the Kamole Treatment Plant? Since domestic water is protected use, and not affected by the RP, what would stop the County from accessing the water?
- 3) Is Mahi Pono willing to provide water that is harvested from its own lands to the County's Kamole Water Treatment plant?
- 4) Is Mahi Pono willing to consider shared management of the Wailoa Ditch and other ditch systems?
- 5) What is the current condition of the ditch system? What are the current costs to repair it if repairs are needed?
- 6) What is the current annual cost of maintenance of the water delivery system, and what activities does that include?
- 7) What is the current condition of the streams that are on Mahi Pono lands now that water is flowing and are there plans for restoration? If so, what are they?
- 8) What are Mahi Pono's specific plans for watershed restoration, including agreements with nonprofit partners and expected costs.
- 9) Will General Manager Darren Strand be involved in any water issues? If not, Why not?
- 10) If the water leases are obtained by EMI, what portion would go to Mahi Pono lands and what portion would go to remaining A&B lands, many of which are entitled for development? Are there other agreements besides the original sales agreement between Mahi Pono and A&B?
- 11) What are the names of the people who have final decision-making power at Mahi Pono? Are they Ryon Paton, Mark Drouin, Christian Bonneau, and Ceil Howe, III?
- 12) How many people in the community (whether or not they were ultimately hired by Mahi Pono) have signed non-disclosure agreements with Mahi Pono?
- 13) How many full time employees with benefits does Mahi Pono currently have? How many have lived on Maui for more than two years?
- 14) How many consultants and advisors does Mahi Pono have? Of those, how many have lived on Maui for more than two years?
- 15) Will Mahi Pono be continuing to bring workers in from California? How many does Mahi Pono anticipate bringing and what will their housing needs be?
- 16) What is Mahi Pono's current water use and why was Mahi Pono land not irrigated enough to not be so susceptible to fire?
- 17) Does Mahi Pono have any intention of reimbursing the county for a portion of the \$400,000 it spent fighting the fire on 5,000 acres of Mahi Pono land – and/or reimbursement for any of the other fires on Mahi Pono land?
- 18) Is Mahi Pono attorney Tim O'Laughlin still the attorney for the Oakdale Irrigation District?
- 19) Was O'Laughlin involved in the OID deal granting below market price water to Trinitas Partners -- the same Partners in Mahi Pono?

- 20) In what capacity is Tim O'Laughlin representing Mahi Pono? If an EMI sale becomes a reality, will O'Laughlin be the point person for MP?
- 21) Is O'Laughlin licensed to practice law in Hawaii?