

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR BOARD MEETING
MINUTES OF DECEMBER 16, 2021

The regular meeting of the Maui County Board of Water Supply was held online via BlueJeans, on Thursday, December 16, 2021. Recordings of the meetings are viewable at <https://www.akaku.org/boards-commissions/>.

I. CALL TO ORDER

The meeting was called to order by Chair Dean Frampton at 1:30 p.m.

II. ROLL CALL

Members present: Dean Frampton, Chair
Nalani Kaninau, Vice Chair
Norman Franco
Buddy James Nobriga
Antonette Eaton
Jason Hew
Juanita Reyher-Colon

Staff present: Jeffrey Pearson, P.E., Director
Keola Whittaker, Deputy Corporation Counsel
Sherilyn Otsubo, Secretary to Boards/Commissions

III. ANNOUNCEMENT

Chair Frampton welcomed Jason Hew and asked that he introduce himself.

Member Hew said that is born and raised in Kula, Maui and grew up on a small ranch and family farm. He went to school in Montana and got a degree in geology and moved back in 2014. He worked for the soil and water conservation districts for about five years and now works for the Natural Resource Conservation Service working with agricultural producers.

Member Eaton asked what Member Hew's relation is to Garrett Hew.

Member Hew responded that Garrett is his father.

Member Eaton asked if Garrett Hew is the manager of EMI.

Member Hew replied that he was, but he is now retired.

Member Eaton asked if he can be impartial to the recommendations of the TIG. Member Hew said that he obviously learned a lot from his father, but he's a different person. He thought about that before joining this committee, but he can

definitely be impartial.

Member Eaton asked Deputy Corporation Counsel Whittaker for an opinion on this.

Deputy Corporation Counsel Whittaker said that this should be referred to the Board of Ethics.

Member Eaton asked that in the meantime, Member Hew recuse himself from any decisions made today, until there is an opinion from the Board of Ethics.

Deputy Corporation Counsel Whittaker replied that if there's any decision making today that he would have a direct or indirect benefit from, then he should refrain, but that's his call.

Member Eaton said that she had to get an advisory opinion because she works for DHHL and she couldn't speak on any DHHL issues until then. She would like Member Hew to go through the same process before he makes any decisions with the Board of Water Supply. We're going to be talking about EMI leases so this is a conflict of interest. His opinion would be impartial due to the fact that his father was the manager and grew up in the EMI company.

Deputy Corporation Counsel Whittaker advised Member Hew to get an advisory opinion and then follow what the Board of Ethics advises him to do.

Member Eaton mentioned to Member Hew that this is not personal, but due to the issues that the board deals with, and most recently the TIG report. She said that she would appreciate if he would recuse himself from any decision making today or until he gets an opinion.

Member Nobriga made a point of order that he understands Member Eaton's concern, however this discussion should be done when the item comes up.

IV. APPROVAL OF MINUTES

Member Franco moved to approve the minutes of November 18, 2021.

Member Reyher-Colon seconded the motion.

The motion passed with 6 ayes. Member Hew did not vote.

IV. TESTIMONY FROM THE PUBLIC

Councilmember Tamara Paltin testified as a resident of West Maui and appreciates the letter from Deputy Director Manuel. She urged the board to support his recommendation to initiate the designation process of the entire Lahaina Aquifer sector as both surface and groundwater management areas. We need to take immediate action as water is such an invaluable resource. It's in the best interest of future generations for us to support and develop a commitment to manage West Maui waters, especially since we can expect climate change.

Jonathan Sheuer testified on behalf of the Department of Hawaiian Homelands (DHHL). For item VII. B., DHHL has submitted to the Commission on Water Resource Management (CWRM) a request for a reservation of about eleven million gallons a day from the EMI system for lands at Keokea and Waiohuli. The state's law that governs water licenses and leases says that the state cannot enter into a lease until that reservation is first granted. For item VII. C., DHHL is in support of this measure. While the water commission can set aside reservations of water anywhere in the state for DHHL, and has done so in both designated and undesignated areas, in designated areas, they do so by administrative rule. So far, the power of their reservations to prevent other entities from coming in and getting that water before they can provide it to their homesteaders, have come in designated areas. The second benefit for being in a designated water management area is that they have the opportunity to comment on, object to, and even request contested cases for water use by other parties. The third benefit is that in water management areas, both existing use permits and new use permits, all of them contain condition number seven, which is subject to the rights of DHHL.

Faith Chase testified on the lease and stated that there are pending questions on the titles of EMI's land surrounding the water intakes. She is in support of the county taking control to secure those waters in perpetuity until the konohikis are identified and the water stewards are secured. She is also in support of the water management area for the Lahaina Aquifer sector.

Kanoelani Steward testified in support of the surface and groundwater management area of West Maui. This designation would help stakeholders to efficiently manage freshwater sources by holding each water user accountable for the use of water and the amount of water being used. It would also prioritize the uses of water that are protected by law, including water for traditional and customary practices.

Barbara Berry testified in support of the county taking over and managing the water supply, not only in East Maui, but also in the Lahaina aquifer district. There's a lot of things that need to be watched over that aren't being taken care of and the county should be the one to do that.

Kai McDonald testified that she is a Hawaiian Homelands wait lister and board member of the Honokowai Hawaiian Homestead Association, currently living in San Antonio, Texas. She is asking for the board to support the county applying for a long-term lease for the EMI system and the proposed designation of surface and groundwater in the Lahaina Aquifer sector. Both of these options would be significant steps to help ensure that water that is diverted and developed will help implement the Hawaiian Homes Commission Act.

Jill Nunokawa testified in strong support of the designation. We're looking at designating areas so that we can preserve and protect our natural resources from the kinds of corruption and theft that has happened.

H. Kalama`ehu Takahashi testified in support of the designation of the West Maui Aquifer sector as a ground and surface water management area as a means to

further protect kanaka practices and to hold those that have done wrong against the communities and our resources in that area.

Blossom Feiteira, along with Velma Mariano and Gracie Gomes, testified that Councilmember Sinenci's committee is looking for the opportunity to submit an application and be part of the public auction process to try to secure the lease for the county. The recommendations from the TIG clearly says the same thing. They also support the designation of surface and groundwater in the Lahaina sector for the various projects that DHHL has there.

Lucienne de Naie testified on behalf of the Sierra Club Maui in support of item VII. C. This is an important area that has many intermixed water systems that you would want to use the designation tools to better manage your resource. She also testified in support of item VI. A. as an individual, that it would be better to have an entity, like the county, who would be accountable to people who count on this water. For item VII. A. she was shocked to hear that these leases are for 30 years with no modifications. The county should give serious thought to how the public can be kept in the public trust decisions. For item VII. B. she stated that there are some short-term actions that would make a lot of sense, including looking at these contracts and deciding if they fit the county's needs. Although the price of water is very low, the price that the public is paying is too high. We're giving a private company the right to jump to the head of the line to get their water allocation. We need a responsible management structure that has transparency and accountability and is situated in Maui.

Cora Schnackenberg resides on Molokai and is a Hawaiian Homelands wait lister. She supports items VII. A, B and C.

Kekai Keahi testified in support of the water designation. Sixteen years ago, he started the fight to restore stream flows in West Maui, not only for taro farmers, but because it benefits the aquifers and the ecosystem. Our water resources should never be in the hands of a private company. During this fight they found out that the county was illegally diverting 100% of Kanaha Stream. As of January, the water should be restored, per the IFS.

Donna Sterling is a Hawaiian Homelands beneficiary and testified in support of the county applying for a long-term lease for the EMI system and the water commission proposed designation of surface and groundwater in the Lahaina Aquifer sector. Both of these actions would be significant steps to help ensure that water is diverted and developed to help implement the Hawaiian Homestead Commission Act.

Theresa Hi'ilei Martinson testified in support of the county applying for a long-term lease for the EMI system and the water commission proposed designation of surface and groundwater in the Lahaina Aquifer sector.

Dick Mayer testified about the lease and urged the board to take up the recommendations in the TIG that the county should get control of the East Maui watershed. They should go directly to the state and negotiate with them. He is concerned that if A&B or Mahi Pono were to get control of the lease, that would

mean control by a Canadian company with no special interests in Maui other than to make money. Take action to get control of that water so that the rates can be set properly for the benefit of all the various users.

Member Eaton asked the testifier to elaborate on how it would affect the small farmers if Mahi Pono got control of the water.

Mr. Mayer responded that Maui has had two types of agriculture over the past generations, one was the large sugar plantations and pineapple plantations, and the other were all the small farmers, typically located in Upcountry and Kula, with three to ten acres. Up until now, the water from East Maui went to the sugar and pineapple fields, and water was sold to the county for transport to the Kula Ag Park. Whoever gets control might end up charging the farmers much more and they would no longer be able to compete with Mahi Pono who are now growing produce.

Shay Chan Hodges testified on item VII. B. The Canadian Pension Fund, PSP, is the sole owner of Mahi Pono, which is seeking full control of the EMI water system and a 30-year lease to those public trust waters. She supports the recommendations in the TIG because she strongly believes that is all of our kuleana to ensure that our land and water are protected.

Ke`eaumoku Kapu testified in support of the designation of the Lahaina Aquifer sector because the company that has been managing these resources on the West side has been considering charging kuleana for water. This company needs to be monitored daily.

Chair Frampton closed public testimony at 2:47 p.m. and called for a three-minute recess.

The meeting reconvened at 2:51 p.m.

VI. UNFINISHED BUSINESS

A. Discussion by Sandy Baz on the County of Maui's potential acquisition of private water sources.

Managing Director Sandy Baz stated that they provided a letter of offer to Wailuku Water Company and they have until tomorrow to respond. They also provided quite a bit of conditions that needs to be met. So until they finalize negotiations, nothing will be made public.

Member Franco is concerned about the condition of the irrigation system, and asked if there will be an inspection where at least one board member should be able to participate in.

Managing Director Baz responded that if Wailuku Water Company (WWC) accepts the offer, they will go to the County Council to get authorization to acquire. After that, WWC will allow the county to go on property. They did a qualified consultant selection process that will be looking at hiring an engineering firm that has an

expertise in water systems to do the footwork. They can talk about a board member attending at some point.

Member Reyer-Colon asked if the system is potable or non-potable.

Managing Director Baz replied that it's non-potable. The WWC non-potable system's intake is from Wailuku River and provides three point two million gallons a day to the treatment facility for use in our municipal system.

The next item is the East Maui watershed and the revocable lease permit for the system and provides water to our Upcountry water users. The county does depend on that to provide potable water to treatment plants in the Upcountry system where it gets treated and sent off to the municipal users. The leases that were being offered by the Board of Land and Natural Resources are not for the whole system. It's just for the water that gets collected on state land. Mr. Baz has reached out to the land agent on Maui, but they haven't had a meeting yet. They would like to have an intergovernmental agreement with the state for the collection of water in that area instead of it being a lease. If the state doesn't allow that, then possibly other partnerships.

Member Reyer-Colon asked what role the State Department of Agriculture is playing in this situation.

Managing Director Baz said that they don't have any current stake in the system.

Member Franco asked why the county is reluctant to compete with a private organization.

Managing Director Baz replied that the reason why they wouldn't want to compete for an auction-based item is it's going to raise the prices up and the end users will have to pay for that.

Member Franco said that a simple letter from the Mayor to the Department of Land and Natural Resources saying that they are interested in the leases might put the public at ease.

Vice Chair Kaninau said that hopefully federal monies will be coming in and asked if he had any insight into why the state wouldn't support an intergovernmental agreement in order to keep control of this precious resource.

Managing Director Baz said that there may be federal money available for acquisition, but his concern is for the ratepayers of the Department of Water Supply system.

Member Nobriga asked about the WWC acquisition and if the county will be absorbing the prior agreements or leases or will it start again.

Managing Director Baz said that if they do acquire it with the existing leases, then they would be honoring those leases to the extent that they are legal.

Member Eaton asked who the biggest diverter of water from the East Maui irrigation system is.

Managing Director Baz said that the diversions are East Maui Irrigation.

Member Eaton said that at this point, they're not paying sufficient sums for the lease or for the water that they're diverting. We need to think about different options on how we can fund this system. The county can charge Mahi Pono and A&B the amount that regular farmers and agricultural users gets charged and make a sufficient sum of money to cover operations, maintenance and anything else that comes up.

Managing Director Baz replied that he can't guarantee that there would be enough money to maintain operations just from the current rates.

VII. OTHER BUSINESS

A. Discussion by Councilmember Shane Sinenci on the Agriculture and Public Trust Committee's November 16, 2021 meeting.

See the attached written remarks from Councilmember Sinenci.

Member Franco said that the board should send a letter to the administration with a recommendation to start the process to show the county's interest in an intergovernmental relationship agreement, instead of a competitive bidding process with a private entity.

Councilmember Sinenci stated that Mr. Horikawa doesn't see the county as a public entity to go and compete with private entities for this water. The timing is good to show interest.

Member Eaton made a motion stating that the Board of Water Supply write a letter to the whole Council and the Mayor in support of Councilmember Sinenci's proposal to get more information about acquiring the leases through an intergovernmental agreement with DLNR.

Member Reyher-Colon seconded the motion.

Member Eaton stated that that was part of the TIG report. The board unanimously approved the recommendation to ask the Council and the Mayor to investigate the options and the feasibility of the county taking over the lease.

Councilmember Sinenci mentioned that his committee is working on an ordinance with the whereas clauses, so in addition to the letter, he could offer a resolution for the board to consider as well.

Chair Frampton clarified the motion to submit a letter supporting the Council's actions to enter into an intergovernmental agreement.

The motion passed with 6 ayes. Member Hew abstained.

B. Discussion of the Recommended Immediate Actions and the Recommended Near-Term Actions from the Temporary Investigative Group Report.

Member Eaton said she intended to make the motion, to recommend the board take immediate action and send a letter to support that the Council and Mayor look into an intergovernmental agreement, under this agenda item.

Vice Chair Kaninau is concerned about renegotiating the current contracts with EMI and Mahi Pono because there's no ability for enforcement of the leases other than terminating the leases.

Member Eaton responded that there's no enforcement of the leases with the Board of Land and Natural Resources, but what can be enforced is the water licenses and the amount diverted and the amount of seepage, which is through CWRM. There is an MOU agreement from 1973 between EMI and the Department of Water Supply that has not been renegotiated. It was intended to renegotiate the MOU, not the actual land leases or the water licenses. It was an agreement for the county to get the diverted water that they were asking for.

Member Franco stated that there is more than one phase to this process. First is to get the state leases, then is the process of eminent domain or condemnation where there'll be an appraisal done of the actual irrigation system. Right now, we need to let DLNR know that we are interested in the leases.

Member Nobriga said that this matter has been in the hands of the Administration and Council for almost 2 years. What else can the board do?

Member Eaton said that the Council has taken the report and they are acting on it. As an advisory board, all we can do is write a letter and that is a step forward because the Council is acknowledging the TIG report

C. Discussion and recommendation to the Commission on Water Resource Management's designation of the Lahaina Aquifer Sector.

Director Pearson stated that it's too early to make a decision like this and he can't say that the county or the Department of Water Supply is in favor of it. The letter references commission data and that's something he'd like to learn more about. He'll have more discussions with administration.

Member Eaton stated that Director is talking about the department's point of view and the administration's point of view. The Board of Water Supply is totally separate.

Director Pearson agreed.

Member Eaton said that Deputy Director Manuel is asking for a letter of support from the Board of Water Supply, not the County of Maui or the Department of Water Supply. She would be in support because there's a lot of private water purveyors

in the Lahaina Aquifer sector. They are not regulated and they are not required to report whatever they pump or use to CWRM?

Director Pearson said that areas that are not designated need to get a pump installation permit and construction permit and then they are required to report monthly the pumping of the well. CWRM will not approve those permits if there appears to be degradation to the aquifer where they're requesting that permit.

Member Eaton asked if the private purveyors need to report the amount of water that they use and what they're using it for.

Director Pearson said that they have to report the amount of water they use. That's what CWRM manages, the groundwater and surface water sources for the State of Hawaii. He doesn't know if they need to report what they're using it for.

Member Eaton recommends writing a letter in support of designating the Lahaina Aquifer sector as a water management system because there's too much private purveyors using our precious groundwater and we don't know what they're using it for.

Member Reyer-Colon would like to see the data that was indicated in the letter. She supports the process but can't say if she supports the designation or not. If the process ends up being that the commission decides that it doesn't warrant for designation, then that's on the commission as long as they follow the process and hear testimony from the public and gather all the data.

Vice Chair Kaninau asked about one of the testifiers comments regarding the department taking 100% of Kanaha Stream and that it needs to be reverted back in January.

Director Pearson said that the requirement is for the department to drill wells in the West side to offset the loss of water that was going to be required to remain in Kanaha Stream. They are moving toward that process, but they're not there yet.

Vice Chair Kaninau asked how this affects the West Maui users.

Director Pearson replied that the department was required by CWRM to find alternate sources to make up for the water that's going to be returned to the stream, but a well has not been developed yet.

Member Franco supports writing a letter in support of the designation and see what transpires from there.

Member Nobriga is unclear of the cause and effect of this as a whole, but the board is tasked to do what the community wants, which is to support it. He would like more information before making a decision.

Chair Frampton suggested asking someone from CWRM to come to the next meeting to present more information and facilitate community dialog.

Member Hew said that if we ask for more information then the board can hold off on submitting comments.

Chair Frampton said that there is a December 31st deadline and asked the director if it would jeopardize the process if they ask for more information.

Director Pearson replied that he thinks there's more time.

Member Eaton said that instead of writing a letter of support, the board should express what was heard from the community and their interest in designating the Lahaina Aquifer sector. Deputy Director Manuel does say in his letter that if the board does send in comments, it will start the consultations with the public.

Member Nobriga made a motion to submit a letter on behalf of the public that testified today, the interest of the Board of Water Supply to pursue this matter and ask CWRM for clarity and an opportunity for public engagement.

Member Eaton seconded the motion.

The motion passed with 7 ayes.

D. Discussion on the annual filing of Financial Disclosure Statements by the board members.

Deputy Corporation Counsel Whittaker reminded the members to turn in their forms between January 1 and April 15.

E. Update from Corporation Counsel on the new Sunshine Law Rules.

Deputy Corporation Counsel Whittaker said that there are some changes happening to the state law. The first change is to the agenda and we are now accepting written testimony by mail. There's additional requirements for people with disability. Another change is that we have to offer a physical location for people to provide testimony, even if we continue with online meetings. Board members and the public will be able to go to the location identified on the agenda to view the meeting and provide testimony. Lastly, during roll call, members will need to identify if anyone is in the room with them for the record. Finally, for the purposes of quorum, members will need to have their cameras on.

Member Hew asked if he need to another Financial Disclosure Form.

Deputy Corporation Counsel Whittaker said yes.

Member Reyer-Colon asked what would happen if members need to turn their video off due to connectivity issues.

Deputy Corporation Counsel Whittaker said that if it's a minor issue and you come back on, it'll be fine. It's more for the purpose of quorum and videos need to be on for voting. You can participate without video for a brief period of time.

Vice Chair Kaninau asked if members terming out in March need to turn in a form.

Deputy Corporation Counsel Whittaker said no.

VIII. DIVISION REPORTS

Director Pearson said that there was a lot of damage last week with the Kona low. Pipes break and there's a chance of contamination. The department did sampling in Upcountry and detected traces of E. coli at two sample points. They're following the Department of Health's water quality rules and issued a boil water notice to all of Upcountry and upper Kula.

Member Hew asked if the E. coli contamination was directly related to the breakages in the pipes from the Kona low.

Director Pearson said most definitely yes.

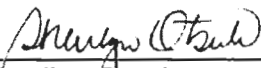
IX. NEXT MEETING DATE AND TIME

January 20, 2022 at 1:30 p.m.

IX. ADJOURNMENT

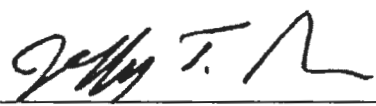
There being no further business, the regular meeting was adjourned at 4:16 p.m.

Prepared by:



Sherilyn Otsubo
Commission Support Clerk

Approved for distribution:



Jeffrey T. Pearson, P.E.
Director

Councilmember Shane Sinenci
Board of Water Supply Presentation
December 16, 2021 Meeting

Aloha Auinala Chair Frampton, Vice-Chair Kaninau, and Members of the Board of Water Supply,

Mahalo for having me on today and for your interests in the county's continued access to affordable water through the East Maui water system. I know you have a long meeting today so I'll try to be succinct. I wanted to first mahalo the testifiers today who have been involved in water issues for many years and I apologize in advance if I re-iterate some of their mana'o nui today.

On November 16, my committee invited Mr. Ian Horikawa, the Special Projects Coordinator, for DLNR's Land Division, to give an overview of the state water lease appraisal and public auction process and to address the question of where the County fits in-to the lease process.

For today members I wanted to share a brief summary of that November 16th meeting, but I will remind you that what we learned is that Mr. Horikawa, the DLNR and the BLNR are still trying to figure things out, on their end.

That said, the long-term lease process is new, the appraisal process is new, having an owner and EIS preparer that won't be the lease holder is new, and having a foreign entity involved, is also new.

What we do know about the lease process is that:

- The DLNR staff is in very early stages in the drafting process and in the appraisal process – and they haven't started much of it since the November 16th meeting.
- They are quite cautious and anticipate the process to be challenged and delayed at every step of this process.
- They anticipate the Dept of Hawaiian Home Lands to challenge the appraisal guidelines, and who also requested to be a part of the guideline process. The board subsequently denied them that opportunity by denying their request for a contested case.
 - We do know that DHHL has their own set of guidelines that place value on the public trust nature, of water.
- The water appraisal process has not been done for these water leases before, and Mr. Horikawa wasn't sure if they should start from 0.
 - While the legislature expected the long-term water lease to be issued years ago, DLNR has seriously struggled to figure out how to award the lease.
 - Previous leases were for sugarcane production and rent was tied to the price of sugarcane.

- Those old plantation leases were for producing sugarcane and not in competition with local farmers, so a discounted rate did not have the effect of hurting local farmers who pay a much higher rate for their water.
- There are no accepted standards at this time, and there are no companies in Hawaii or even on the mainland with the knowledge and skills to do this appraisal.
- The most difficult part of the lease process is establishing a value for the water – setting an upset price or opening bid. And Given that there will only be one bidder at the auction, the upset price will be the lease price and not a starting point price, like the typical auction process.
- The public auction process is a requirement of Hawaii Revised Statutes, Chapter 171.
 - Under Chapter 17 the upset price for all public auctions shall be determined by an appraisal, and the result being the fair market value of the interest to be disposed.
- According to DLNR, this process is “incongruent when considering the nature of water in Hawaii, which is a public trust.” Also included in the DLNR report that was given to BLNR, is this statement, “Unlike other markets in the country where water can be held and disposed of as other private property interest, water rights in Hawaii are held by the state for the benefit of the public, and This has posed a challenge for appraisers to determine the market value of an interest for which there is no market.
- Committee members questioned Mr. Horikawa on the assertion that there is no market, and some Council members proposed that the County, who represents the public interest, could be a potential lease holder.
- The lack of a municipal interest in the lease is why there were several bills introduced last year at the state legislature, however the issue is soo complicated for evaluating private water interests in a public trust resource that none of these bills passed.
- There was, however, a vote to adopt general guidelines of the process, and some members recused themselves during that vote, but enough members still voted to adopt guidelines that were recommended by their staff.
- We do know that once DLNR staff prepares the lease for the BLNR to review, there is an opportunity for public review and also for potential challenges.
- At this point the BLNR approves the lease and the conditions, but not the approval of the lease holder.
- Lease holders will then participate in a public auction.

- We know that once a lease is granted there is no enforcement of the lease; the only exception is to cancel the lease.
 - The only power the DLNR has is to cancel the lease.
 - Mr. Horikawa explained the implications and said it is critical to get the lease correct.
- There were lots of questions from committee members about how a 30 year lease period will address climate change and other uncertainties like the guarantees to public water and watershed management.
- There were also inquiries from some members in support for the county taking over the lease, as suggested by Congressional Representative Kai Kahele.
- Mr. Horkawa also stated that the DLNR does not want public entities, to have to compete with private entities, unlike what Director Baz stated, and as such the county would not be expected to go through the public lease process.
- We also learned in an earlier meeting that an intergovernmental agreement would be the appropriate mechanism for having the county have control over the water, as Director Baz has earlier mentioned.
- We know that the current practice of the county negotiating privately with the lease holder is uncertain given the new leaseholder who is an international corporation.
- So, Given the uncertainty surrounding the lease and the county's need to guarantee the continued affordable and adequate water for domestic and agricultural use, it's imperative that we begin this process for local water control....

So, A few conclusions for you to consider today members:

1. This process is designed around protecting the public interest, but no public interest entity has stepped up to fulfill this obligation.
2. Former State Senator and now Congressman Kai Kahele noted this when he recommended that the County of Maui become the lease holder. His recommendation was made because it is the most concrete way to protect the county's access to affordable water and it fits the best with the public policy governing the lease process.
3. Primarily, that This lease process is governed by HRS Chapter 171; and mandates that the water be used for the public interest. However, this process is impossible to implement when a private interest is seeking the lease to use the water as an economic commodity.
4. There are no mechanisms to protect public users other than the county privately negotiating with a private entity governed by a foreign government.
5. That The state has no lease enforcement mechanism other than lease termination.

6. That There are no price guarantees for the uncertain future of the lease.
7. Under the old system water waste is rampant and cultural rights are ignored.
8. That local municipal control of our water ~~not only~~ fulfills the public trust obligations, but also makes the most economic and environmental sense.
9. That A 30 year lease is a major concern – most of us won't be here so we need to make sure that the decision we make today secures access to our public access to water for future generational use. Our kuleana is to those that come after us. How do we secure water to them? How do we fulfill our obligations as a government?
10. Not only do we need a thorough understanding of the process, but That we, as the County need to consider all options. We cannot just rely on past practices and hope. The situation and the players have changed dramatically and we need to adjust as well if we are to fulfill our duty to provide affordable water. We need to explore all options.
11. We need information. That We need to look at the most recent and at the old agreements and old promises that the old agreements are grandfathered in, including state agreements where the system can be used to provide public water through the system free of charge.
12. We need to ask questions and find out what lands and system areas we are talking about. And that We insist that the state explain how their agreements with the landowner regarding the existing system, and what the legal options are for us to consider, regarding the water system.

So for today members, I am asking that you support us in doing our due diligence and I ask that this Board request information from the administration, in writing, on how the county is securing our access to affordable and abundant water for the next 30 years and to explore the option of applying for the lease through an agreement with the state. Or, At a minimum explore the option with the Department of Land and Natural Resources. Again, Mahalo for my opportunity to address you all this afternoon!