

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR BOARD MEETING
MINUTES OF JUNE 16, 2022

The regular meeting of the Maui County Board of Water Supply was held online via BlueJeans and at the physical location located at the Planning Department Conference Room, 250 South High Street, Wailuku, Hawaii 96793. Recordings of the meetings are viewable at <https://www.akaku.org/boards-commissions/>.

I. CALL TO ORDER

The meeting was called to order by Vice Chair Jason Hew at 1:31 p.m.

II. ROLL CALL

Members present: Jason Hew
Dean Frampton
Edwin Lindsey
Antonette Eaton
Juanita Reyher-Colon
Ralph Thomas

Members excused: Buddy James Nobriga
Donna Sterling

Staff present: Shayne Agawa, Deputy Director
Keola Whittaker, Deputy Corporation Counsel
Linda Kimura, Private Secretary

III. APPROVAL OF MINUTES

Member Frampton moved to approve the minutes of May 19, 2022. Member Reyher-Colon seconded the motion. The motion passed unanimously.

IV. TESTIMONY FROM THE PUBLIC

Blossom Feiteira testified in support of Bill 79 and Resolution 22-119. The pandemic has taught us to support our agriculture community. Food sustainability became a priority and mahalo to our local farming community for continuing to produce food for our county. This measure is an absolute must in order for us to continue to build on the sustainability of our food sources. She knows that the East Maui Community Water Authority is not up for decision making, but she would like the board to continue the conversation about it. In order for us to ensure that this public trust source is equitably distributed among all users and adhere to the four priorities of the state water code, we have no choice but for the government to be able to assume responsibility and manage the resource more equitably.

Gina Young, Executive Assistant to Councilmember Shane Sinenci, testified on both items. Member Sinenci introduced Bill 79 on behalf of the Ag Working Group and his goal is to get a countywide policy and bring everybody to the table for discussion. In meetings with DWS they recognized that the capacity is not there right now. They asked the department to help them understand the public policy issues, the engineering issues, the larger issues, and let them know their plans for the future. In talking with members of the community, the farmers and ranchers, they see no enforcement. They're looking at conservation and long-term source expansion plans. Resolution 22-119 is a charter amendment that would go on the ballot to create an East Maui Water Authority. It passed out of committee yesterday, so it will be on the July 1st Council agenda. This bill does nothing on its own. It doesn't set policy. It creates a body that goes out and does the research, but it doesn't have the ability to enter and approve an intergovernmental agreement. This board would be a board of leaseholders as well as experts from Upcountry and a representative of the Department of Hawaiian Homelands. They would have authority over a watershed management plan.

Member Eaton mentioned that there were a lot of questions asked in committee that may have been premature.

Ms. Young responded that this is the method for going forward. This resolution will create an entity that will do the research and provide the answers in order to make an educated decision.

Bobbie Patnode, Ag Working Group member since 2013 and member of the Maui County Farm Bureau, testified in support of Bill 79. She hopes that the board is able to advise the department that it is important to work on how they will be able to continue to supply good water to the farmers who depend on it. Local farmers and ranchers are working to bring food to our residents and achieve the sustainability targets that the state and county have set.

Lucienne de Naie said that during the APT Committee, Chair Lee asked if the department can prepare a report about what it would cost to get water to Upcountry during those months of drought. Is it a matter of cost to pumping more to the Hamakuapoko wells, the Pookela well, or accepting additional water at the Kamole Plant, treating and pumping it up? Yes, it would be more expensive water, but we could tell farmers and ranchers that we could provide water during drought and they don't have to sell their livestock and cancel planting of their crops. There are also private wells in Upcountry that are rarely used because they're deep and expensive to pump. Is there a way to have pipelines from these private wells that go to public storage tanks? These things should be examined when looking at our drought policy. Resolution 22-119 would create a water authority to evaluate the remnants of plantation systems that are very essential to all of our public water systems. The companies that own them own the land but they don't own their agricultural businesses anymore. We need to reevaluate where the water goes and take care of our Hawaiian homelands, take care of our kalo farmers, Upcountry farmers, and residents who depend on a fresh, clean source of water.

Member Frampton asked if Ms. de Naie said that groundwater wells might be an option for the Upcountry area.

Ms. de Naie replied yes.

Member Frampton asked if she would consider working with the county to release the consent decree so that the county could pursue wells in the Haiku Aquifer?

Ms. de Naie said that the consent decree has nothing to do with the wells in Upcountry.

Mary Ann Pahukoa supports the East Maui Community Water Authority that would do the homework on this extensive system. It's time that we empower our Maui Nui people. This is a once in a lifetime, once in a generation opportunity to better steward our watershed and to really understand the system. She would encourage a letter of support from the board.

Faith Chase encouraged a letter of support for the East Maui Water Authority. Because of the shortcomings of our state's failure to do their due diligence, we have a lot of work to do. Soils are hydrophobic and areas who deserve water are not getting water. This is a step towards making sure that those agricultural needs are met.

Tara Apo-Priest testified in support of the board writing a letter to the County Council in support of the East Maui Community Water Authority. This is an opportunity for Maui to take control of its own water future. This will help Maui ensure water security for all of its users that rely on this water source for current and future generations. For over a century we've had a system controlled by large scale agriculture, which has failed to uphold the public trust purposes for our streams, and we must not perpetuate the cycle by allowing a 30-year lease to be granted to A&B and Mahi Pono. Our water does not belong in the hands of a foreign corporation. This is Maui's opportunity to fund and repair the EMI system and provide more water security for our kalo farmers, our local communities, our stream ecosystems and Upcountry residents and agricultural users. If we don't act now, we lose that chance for the next 30 to 50 years and who knows what our water resources will look like then.

V. OTHER BUSINESS

A. Discussion of Bill 79 (2022), Exemptions for Agricultural Water Consumers from Restrictions or Mandates During Water Shortages.

Vice Chair Hew stated that he works with a lot of farmers and ranchers and he thinks this could be very beneficial, especially for farmers that have long term crops that aren't ready to be harvested. But something that gets overlooked is that the ranching community cannot stop watering their livestock. Moving it from 90 to 180 days will definitely help with bringing them into the rainy season.

Member Frampton asked to hear the department's standpoint.

Deputy Director Agawa mentioned that there are different stages of water shortage declarations, and it's triggered by a certain percentage of consumption versus supply. In the case of extending the exemption to 180 days, by the time the numbers show that the department is going to declare a water shortage, even the 90-day extension is pushing the capacity. Any extension on it affects other uses, including domestic use and fire protection. In the past the department tried to decrease the exemption to 30 days, so they wouldn't be inclined to extend it at all due to the supply.

Member Reyher-Colon asked if the department required any type of irrigation plans from the customers that are doing ag or ranching to meet some of the drought challenges and to see what their peak water times are and the amount of water they require.

Deputy Director Agawa doesn't think the department has spoken to any individuals, but it's something they would do if it would help. It was brought up that the ranchers and farmers can try to look at different mitigation measures and utilize federal funding to improve their system. The department would be more than agreeable to come up with ideas and collaborate. He would like to defer this discussion until the Department of Agriculture is formed because they would have direct ties with the agricultural community.

Member Frampton supports ag and the farmers throughout the island and it's hard to hear that the department is opposed to this. It touches on what we always discuss and that's a need for more source and more storage. We're coming up on drought season and he would like more dialogue on some options and alternatives. If something like this does pass, then possibly a timing component can be added where it's only for a year or two with the understanding that the county will be actively pursuing additional source and storage. There should be more collaboration between the Ag Working Group, the soon to be developed Department of Ag and the water department, because it's hard when the director of the department is opposed to something, especially when it's critical to keep our farmers irrigated.

Member Eaton asked if it's possible to develop more source on that side of the island? Upcountry is typically very wet and it's hard to believe that Upcountry is always the first ones to go into level one drought conservation. How long have people been on the water meter list? Let's say 30 years. What has the county done in that 30 years? Absolutely nothing. It's about time the department look for source for these people and come up with a plan. It's not going to get any cheaper.

Deputy Director Agawa agrees but states that the hard part is a lot of Upcountry's system is designed off of surface water, so we're only left with groundwater. The higher up we go, the higher the cost of digging these deeper wells. Another factor with the extension is that nobody has control over mother nature. With climate

change, the anticipated rainfall is looking pretty bleak, so eventually we wouldn't have any choice but to look for additional groundwater source in the area.

Vice Chair Hew asked how much talk is there about increasing storage capacity for the Upcountry area, and being able to hold what we can in times where there is rain.

Deputy Director Agawa said that they are looking into that, but one of the main issues with additional storage is adequate land acquisition.

Member Eaton said that Upcountry is very dependent on stream water and asked if the department will support the water authority to get the leases for the four license areas? We've been dependent on it for 140 years so wouldn't it be a good idea to have some control over that steam water?

Deputy Director Agawa hesitates to answer because it's such a complex issue and they're just beginning the talks about the East Maui Water Authority. Surface water is an important source to Upcountry and to keep that source is very important. However, the cost for that portion of the system is really cheap and having government control over the leases might not affect the cost. So without knowing all the details about the final vision or outcome of this authority, he would hesitate to answer at this time.

Member Eaton made a motion that the Board of Water Supply write a letter in support of Bill 79 (2022).

Member Reyher-Colon seconded the motion.

Member Thomas had no comment.

Member Lindsey is conflicted over the support and recognizes the statements of Deputy Director Agawa.

Member Frampton would like to add an amendment to include language of collaboration with the Department of Ag and continued dialogue with the Ag Working Group and any other ag farmers.

Vice Chair Hew restated the motion is for a letter of support with an amendment to include more collaboration between the to-be-formed Department of Agriculture and the Ag Working Groups.

Member Frampton also added to continue the dialogue on expanded source and expanded capacity.

Vice Chair Hew called for the vote and the vote was unanimous to write a letter of support for Bill 79 with amendments.

Vice Chair Hew called a recess at 2:25 p.m.

The meeting reconvened at 2:30 p.m.

B. Discussion of Resolution 22-119, Proposed Charter Amendment to Establish the East Maui Community Water Authority.

Member Frampton considered a deferral because the same committee has expanded their proposal to include a water authority that covers the entire island, but the board can't discuss that larger proposal that's being developed.

Member Eaton said this resolution is a once in a lifetime opportunity and Councilmember Sinenci is taking this opportunity to get control of our water resources that has been with a private entity for one hundred forty-four years. If we don't support this, we're going to lose it for thirty years, and legislation just passed for an additional extension of leases for sixty-five years. Can Maui afford to have a Canadian pension company and a California almond growers coalition taking our water and taking the money for ninety-five years? That should be going into our economy. The main purpose of the pension fund is to make money, but agriculture is not going to support that. She supports agriculture but it shouldn't be grown in a dry, arid area where there's too much rocks. We should support the resolution.

Member Reyher-Colon supports Member Eaton's comments and supports allowing the community to have a say.

Member Frampton supports community home rule and giving voices to the community. Being familiar with the BLNR lease process, the lease is very specific. If there was any proposals for development, that would have to be stipulated. From what he understands, the lease is specifically for ag. BLNR was very specific and they require annual compliance. The lease doesn't give them free reign to do whatever they want to develop.

Member Eaton respectfully disagrees with Member Frampton. The licensed areas are state lands and she's not saying they have free reign on state lands. There are fifty thousand acres that composes the EMI system. Thirty-two thousand is on state land. She's referring to the oceanfront lands past Maliko Gulch, above Hookipa, which belongs to Mahi Pono and has nothing to do with land and water leases. Those lands are considered not important agricultural lands. There are about twenty-one thousand acres that is important agricultural land and they cannot develop on those lands. They can't do anything with these leases to develop on their property, but they can get water from these four licensed areas to the Hookipa, Maliko, Hamakuapoko area.

Member Thomas stated that he doesn't see a counterpoint to not support the resolution and have the community have a say. The resolution specifically states the requirements of each position and it'll just be a measure on the ballot.

Member Lindsey said that looking at the timing of this, the board shouldn't defer the item and he is ready to make a decision.

Member Frampton stated that the board should discuss this along with what's being developed about the larger Maui authority during future board meetings to help the community decide.

Member Eaton made a motion to write a letter of support for Resolution 22-119 saying that we want this put on the ballot and have the people decide.

Member Frampton seconded the motion.

Member Eaton restated the motion to write a letter of support with stipulations to let the people decide.

Vice Chair Hew asked if we need to verbalize the stipulations.

Member Eaton restated the motion again to write a letter of support to have this proposal be put on the ballot.

Member Frampton seconded the motion.

Deputy Director Agawa mentioned that they don't know all the details of this water authority and what the final product will be. From the department's standpoint, they looked at it from a fiscal standpoint and all around the country, the normal way that these water authorities are funded are based on the district operating and maintenance costs of that specific district.

Member Eaton interrupted Deputy Director Agawa's comments and said there's a motion on the floor and to take a vote.

Vice Chair Hew asked Deputy Corporation Counsel Whittaker if the deputy director is allowed to make a comment.

Deputy Corporation Counsel Whittaker said it's the call of the Vice Chair.

Member Eaton asked that the vote be taken first.

Vice Chair allowed the deputy director to make a brief comment.

Deputy Director Agawa continued that normally for a water authority in the country, their rates and fees are based on the operating costs of that specific district. For example, in East Maui, which includes Upcountry, the district costs for operations is about \$4.90 per thousand gallons, and operational costs in Hana would be about \$16.83 per thousand gallons. The average cost, which is prorated over the county of Maui, is \$2.05 per thousand gallons. This is an important factor for the department because currently we pay only \$.06 to EMI for every thousand gallons. This may be premature, but this may jeopardize what the department will need to charge the consumers. We don't know what the outcome of the rates will be if this

authority comes to fruition, but this is the norm of how rates are set based on operational costs for the district.

Member Eaton asked why the county isn't charging that rate. Is the county eating up all the losses?

Deputy Director Agawa responded that the county is subsidizing to some extent, but the reason why the costs aren't that high right now for rate payers is because the cost is prorated over all the districts of Maui County.

Member Thomas asked how the narrative of what Deputy Director just explained get out to the public who will be voting on it.

Deputy Director Agawa replied that it's early right now and we don't know what the final outcome will be. We need to see if the public is in favor of this East Maui Water Authority and the details will be hashed out later.

Member Eaton stated that that's exactly her point. We shouldn't be hearing from the deputy director when there is a motion on the floor. If the county is charging this much, then what makes the water authority not able to charge that much? We should vote on this motion without any further interruptions.

Vice Chair Hew concurred with Member Thomas sentiment that if this goes on the ballot, the board needs to help educate the public and let them know how this will affect their costs.

Member Eaton restated that the motion is to have the board write a letter of support of this resolution and put it on the ballot to let the people decide.

Member Frampton reaffirmed his second to the motion.

The motion passed unanimously.

Member Reyher-Colon congratulated the Department of Water Supply for winning the "Best Tasting Water in Hawaii" award. She left the board meeting at 3:02 p.m.

VI. DIVISION REPORTS

Member Frampton asked about the water levels in Upcountry.

Deputy Director Agawa said the upper Waikamoi Reservoir is currently dry and it feeds into the Kahakapao System which is holding at about 70 percent capacity. We're okay for the time being, but without any rain in the forecast to recharge the upper reservoir and with the upcoming dry months, we're looking at being in heavy drought for Upcountry.

Member Eaton said that the sustainable yield for the Makawao Aquifer is about 2%, so that is an area that the county can improve on for source development. It's very irritating that for the last 30 years, when people are waiting for their water

meter, the county has not done anything. She will read the consent decree, but she's pretty sure that there is some available source in that area.

Vice Chair Hew said that the department urged the public to start conserving in West Maui even though it wasn't an official declaration. What is the status of West Maui's water levels.

Deputy Director Agawa replied that West Maui relies heavily on surface stream flow for the water distribution system. The Lahaina Treatment Facility averages about 1.5 MGD of potable treated water. The CWRM agreement states that we put 0.78 MGD back into the stream. There is no new groundwater source, but they are actively looking at three well sites in the Launiupoko Aquifer and the Honolua Aquifer. With the West Maui designation, it is unlikely that we will be moving forward at a rate that we thought in getting groundwater source. The concern is that we need the pumping permit for these wells to be approved by CWRM. The designation will put a delay on those pumping permits. We're being asked by CWRM to put back over 50% of what the treatment plant is producing for Lahaina town. The concern right now is to supply the existing customers with enough domestic water use and for fire protection in Lahaina is based off of the potable water system.

Vice Chair Hew said the Launiupoko Aquifer is currently operating over the sustainable yield. Is the department looking at the areas that are not at or above the sustainable yield for more groundwater development?

Deputy Director Agawa said yes. There are three different well sites to relieve pressure off the wells in that region.

Member Eaton asked if deputy director feels it was the intent of CWRM to make it harder for the county to supply water to the residents? She feels the intent was not to put more stress on the county in developing source water, but to bring existing well owners in compliance.

Deputy Director Agawa responded that he doesn't think CWRM is purposely trying to make it difficult for the county. He's just stating where the county is by adhering to the instream flow standards of putting that amount back into the stream. It's just the aftermath of the designation.

VII. NEXT MEETING DATE AND TIME

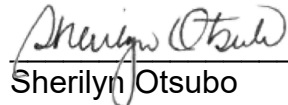
Contested Case Hearing: June 30, 2022 at 1:00 p.m.

Board Meeting: July 21, 2022 at 1:30 p.m.

VIII. ADJOURNMENT

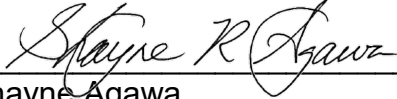
There being no further business, the regular meeting was adjourned at 3:14 p.m.

Prepared by:



Sherilyn Otsubo
Secretary to Boards/Commissions II

Approved for distribution:



Shayne Agawa
Deputy Director