

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

REGULAR BOARD MEETING

Thursday, September 21, 2006

9:00 A.M.

Planning Department Conference Room

First Floor, Kalana Pakui Building

250 South High Street

Wailuku, Hawaii 96793

I. Call to Order

Chair Michael Victorino called the September 21, 2006 Board of Water Supply Meeting to order at 9:05 a.m.

II. Attendance

Board Members Present:

Staff Present:

Michael Howden

George Tengan, Director

Lee Aldridge

Edward Kushi, Jr., Deputy Corporation Counsel

Ginny Parsons

Alva Nakamura, Engineering Division Head

Kui Lester

Herb Chang, Engineer

Marion Haller-Stroud

Gaye Hayashida

Vice Chair Kenneth Okamura

Chair Michael Victorino

Member Carl Holmberg was excused.

III. Announcements

A. Introduction of New Board Member, Marion Haller-Stroud.

Marion Haller-Stroud, a resident of Haiku, is a realtor and has been active in the Haiku School Community

Council, Haiku Community Association and the Realtors Association of Maui. Marion has a BA in English

and German Literature, and holds licenses as a realtor-broker and as a focus group moderator.

IV. Approval of the Minutes

A. August 24, 2006 minutes

Motion by Vice Chair Okamura to approve the minutes.

Second by Member Kui Lester

Discussion: Vice Chair Okamura asked for clarification regarding the Budget Workshop meeting,

referring to page 7. The department staff informed the Board that the Budget Workshop will be held on

October 16 and, if needed, on November 1.

Vote: ayes - unanimous.

Motion carried.

V. Testimony from the Public

Chair Victorino read for the record, the Board's guidelines regarding public testimony and asked that the

3 minute rule be followed as much as possible. At this time the Chair introduced Director George Tengan,

Deputy Corporation Counsel Ed Kushi, Secretary Gaye Hayashida and Council Member Michelle Anderson, Chair

of the Water Resources Committee.

David P. McMullen of 1570 Kekaulike Avenue:

Mr. McMullen testified regarding his and 17 of his neighbors' health conditions, which included welts and

scabs on various parts of their bodies. Mr. McMullen stated that he has lead in his

blood and in his

water. Traces of pseudomonas, legionnaires and micro bacteria have been found in his drinking water

after it passed through his reverse osmosis system. He has since stopped drinking and bathing in the

water and his sores have gone away. He was also diagnosed with a brain tumor and as soon as he

eliminated the water it shrunk 39%. When he started back up again it increased 4%. Contrary to Dr. Pang

and others who claim there are no problems with the water, there are bacteria problems in his water, and

testing has found that there is no disinfectant in his water. When will this situation be taken care of?

Member Parsons stated that on Tuesday, the Water Oversight Committee tested Mr. McMullen's home for any

type of chloramines or chlorine residuals and he had none. Member Parsons then asked Mr. McMullen if he

could describe when he last changed his sediment filter and what it looked like. Mr. McMullen stated that

he tries to change it once a month but within 2 hours it is bronze in color. The shower showed 2000 hpcf

per ml and the kitchen's reverse osmosis system tested was 4200.

Vice Chair Okamura asked if Mr. McMullen reported this to the Water Department. He replied yes and was

told that it will be dealt with. Independent testing was done in and outside of his home and testing was

also done after the water was filtered through his shower filter and reverse osmosis system, and they all

showed the same levels.

Member Haller asked Mr. McMullen when his symptoms started. He replied that it was

2 weeks after he

moved into his home in February then 8 weeks later he was diagnosed with a brain tumor.

Dale Parsons:

Mr. Parsons stated that the drought restrictions are probably imminent but it is not just a lack of

rainfall that has put us in this position. It is lack of sound management of our water resources. Why

isn't Pookela Well online?

Mr. Parsons listed some of the false justifications given for not being online such as lead had been found

in the water, waiting for a special pump to be constructed, the current mayor thought that the water from

the well was pumped into a ditch, and the current water director told the Water Resources committee that

the ph level was too high and it couldn't be mixed with surface water. In June 2004, the current mayor

stated that Pookela would be online by mid 2005. In April of this year, Council was told that the well

would be online in the summer, now we are being told December. Unfortunately, when the well does go

online, the pump that is being installed won't pump at the well's full capacity because of electricity

issues.

In the past few years, rainfall has kept us out of drought conditions which would have been the perfect

time to put Pookela Well online and be prepared for the next drought. The former water director saw that

12 wells were drilled in his 12 years on the job. Zero wells have been drilled in the past 4 years. That

is poor planning, poor management, poor everything and unfortunately poor us because another drought is

upon us. Instead of trying to get Pookela online the current mayor is spending his time convincing

everyone that we can't get by without the contaminated Hamakuapoko Wells, it doesn't matter that we might

be pumping compromised water into an already compromised Upcountry water system. Now the mayor is asking

the Water Board to make the call for the emergency drought. The old rules stated that only the Board of

Water Supply had the power to declare a drought emergency and if there are no new rules, then maybe the

old rules still apply. Why not use the power you had in the old rules to demand that the current mayor

and water director start doing their jobs. Don't risk the health of our residents with the Hamakuapoko

Wells and get Pookela Well online now.

At this time, Mr. Parsons submitted a letter from David Craddick. The Chair stated that there was no

need to read the letter because it has already been made public when it came out in the newspaper under

Viewpoints. It will be entered into the record and copies will be made for those who would like to read

it.

Council Member Michelle Anderson, Chair, County Council's Water Resources Committee:

Council Member Anderson addressed the subject of a letter written to the Council on the Board's behalf.

She believes that this letter was an organized effort to derail at the 11th hour the

legislation that

the Council's Water Resources Committee had proposed. The letter was signed by the Chair of this Board

without the permission of the other board members. She believes it is a violation of this Board's rules

and an ethics violation. The letter which contained misinformation regarding Hamakuapoko Wells requested

that the Council defer decision-making on this Water Resources legislation because capping the Hamakuapoko

wells would put the farmers at risk. This legislation had nothing to do with capping the wells. In fact,

their committee discussed thoroughly the options available for the use of this water for the agricultural

users Upcountry.

Council Member Anderson stated that the Board Chair told her that he was misled and given inaccurate

information, but he could have called her to confirm the information. It is the responsibility of this

Board to look out for the public and to act on accurate information. There is a serious problem with

this Board's leadership and the only way to rectify this is for the Board Chair to disclose who led him

to believe that this information was accurate and so critical that he had to go outside the bounds of his

authority and send this letter to the Council. If this doesn't happen then it would be very difficult

for the Council to take the Board's advice seriously in the future. Council Member Anderson stated that

the Board Chair should come clean with who influenced him to do this and lay the blame where it belongs.

Council Member Anderson also wanted to discuss the lack of information that this Board has received and

information that has been withheld from the public. The Water Resources Committee did their due

diligence and if the Maui News wanted to report what was discussed, they had the opportunity to do that.

Unfortunately, they chose not to. The Board members are stewards on behalf of the public and are not here

to represent the Department of Water Supply. The Board must have enough information to be fully informed

to make decisions.

The Hamakuapoko wells are highly contaminated with DBCP, EDB, TCP, atrazine, bromisol, and high levels of

nitrates, all carcinogenic. The EPA, who sets maximum contaminate level goals, have set the levels for

DBCP, EDB and TCP at zero. The maximum contaminate level (mcl) is derived from the economics of treating

the supply to reduce the contaminate level and do not take into consideration infants, children, the

elderly and those with compromised immune systems but rather is based on the tolerance level of the

healthy adult population. There is no EPA standard for a mixture of chemicals within one source. Short

term exposure to these contaminants have adverse health effects but the mcl's are set at long term

exposure. Ms. Anderson stated that should the filter systems fail, these people will be at risk and she

would not put trust in the department to make sure that this does not happen.

This Board should make sure when making decisions that they take into consideration the weakest among us.

That is what the Council did.

Regarding the EPA and their standards, 9000 EPA scientists across the U.S. sent protest letters to the

EPA administration, protesting the agency's lack of due diligence in scientific studies for setting

acceptable levels for certain pesticides and contaminates and not following their own testing protocol.

The EPA has accepted as being safe 31 pesticides. The agency has been compromised by the pesticide

industry.

Who are the stewards for the people of this county? Is it the EPA or is it this Board and the Council?

She asks the Board to think independently and have full information before any decision is made.

At this time, Council Member Anderson distributed copies of a proclamation from the Office of the Governor,

State of Hawaii, and Resolution No. 98-18

The Hamakuapoko wells were not the only wells considered for emergency use. Others were the Kaupakulua

(nka the Dowling Well) and the Haiku Well. The governor at that time had to sign an emergency

proclamation which allowed the County to waive all laws to develop these wells without an EIS and not

follow the State's procurement laws. Should the situation arise where the water from Hamakuapoko wells

is needed the governor can declare an emergency drought at that time and that would override the Council's

bill.

The board already passed a resolution (No. 98-18) which establishes Upcountry drought guidelines. On

page 3, it lists the triggers that are required for the Board Chair and Director to call an emergency

drought. At least 4 must be met.

The first trigger is that the average daily inflow is less than the system demand. The second trigger is

that Kahakapao water inventory must have less than 40 million gallons a day. The printout from the

Department's website shows it to be 16.6 million gallons (as of 09/19). But Ms. Anderson questions

whether the Department could be moving some water up to the Kahakapao from one of the other areas which

have more than enough water.

The third trigger is the Lower Kula raw water reservoir (Piiholo Reservoir) level is below 13.5 mg per

day. The Department's printout shows that it is currently at 40.7 mgd, way above the trigger.

The fourth trigger states that the flow at Wailoa Ditch is less than 15 mgd for 2 consecutive days. The

printout shows Wailoa Ditch is currently at 37.5 mgd and it has never been lower than 25.

Trigger five states that Kamole pumping is less* than 5 mgd and the printout does show it to be at 5.2.

But to come up with the actual demand you must deduct 0.4, which is the water that is transferred from

Kamole to Piiholo, from 5.2 to come with 4.8. So the trigger for that has not been met either.

Council Member Anderson stated that she finds it curious that why there is all this

big "hu hu" about

reaching an emergency drought situation when the department's own records and the Board's adopted

guidelines are far from reaching a drought emergency. She asked if the Board is here to be used by an

administration that has a secret agenda and that they are trying to use un-scientific claims to force

this Board to support their position. She further stated that we can never hope to have an adequate

water supply for this county unless we start dealing with the facts and the truth in an honest and open

manner. After spending 2 years trying to work with this Department of Water Supply, that is not the case

currently. That is why she is here to help this Board understand the bigger picture here.

The 36-inch pipeline is the real issue in hooking up the Hamakuapoko wells to the Paia tank. How

fiscally responsible is that? At the last board meeting, this department is barely making their expenses

and they are \$8 million short in meeting their CIP needs. So why are we spending over \$7 million to

install a 36-inch pipeline that is extremely oversized for the million gallons a day that Hamakuapoko

could possibly provide. An EIS should be done if the real reason is to hook up the Upcountry system

with the Central Maui system using this 36-inch pipeline.

Board Member Okamura asked if the Council ever asked the Board of Water Supply advice on the Hamakuapoko

situation in the past month or so? He stated that he cannot recall Council ever coming to the Board

regarding this Hamakuapoko issue.

Council Member Anderson stated that the reason Council did not come to the Board is because of this

administration actions behind the backs of the Council and the public that forced Council to adopt an

ordinance that has the force and effect of law. It was only when the Council found out that the

administration was going ahead with the installation of the pipeline that they had to take immediate

action and that is why this Board was not included.

Member Howden asked if Director Tengan could respond to this. The Director replied that he did not think

it was appropriate at this time because we are in Public Testimony. The Director pointed out that

Hamakuapoko wells is already on the agenda.

Member Parsons asked if the Board were to call an emergency drought, could emergency powers be used to

override Bill 51 and allow Hamakuapoko to be pumped Upcountry for consumption. Council Member Anderson

replied that she believes that it could happen if the Governor felt that the situation is a disaster.

But other options should be considered first.

Council Member Anderson told the Board that they need to ask the Department why can't the water from

Hamakuapoko be fed up to the Hamakua Ditch using the existing 12-inch line by-passing the water treatment

plant? You could put an extra million gallons from the Wailoa Ditch and put it into the treatment plant

- a straight across trade. The water coming up in the 12-inch line has already gone through a GAC filter

so HC&S cannot complain that the water is not treated. How much is it going to cost to put in a hundred

yards of pipe to effectuate that? A whole lot less than \$7.5 million.

On the Department's website, there is a list of agreements and parameters for the use of the Wailoa

Ditch. Only 5 million gallons a day or less of that water is being used but the Department has the right

to 12 million gallons a day.

Member Aldridge thanked Council Member Anderson for coming and informing this Board of all this. Despite

the fact that he has been here since May, he just found out that there are Water Resources Committee

meetings and he plans to attend these meetings in the future. Though he does not know much about the

water supply situation here, he stated that he does have 35 years of experience in water treatment design

for dozens of water treatment plants in Southern California and takes it a very personal and professional

interest in delivering safe potable water to the residents.

Council Member Anderson suggested that Board members contact Council Services at 270-7838 and tell them

want to have an agenda sent to you for every meeting of the Water Resources Committee.

Member Haller asked Council Member Anderson to clarify the point she made regarding the proclamation and

that there is an opportunity for us. Council Member Anderson stated that if you look on page 3, where

starts with "Now, therefore..." it cites sections in HRS. Section 128-8(4) of the

Hawaii Revised Statutes

allows the governor to suspend laws in declaring a disaster. If the Board will note, on the front (page)

it is a declaration by the governor that he has proclaimed an emergency and the emergency in this

determination, was that a natural disaster occurrence of extraordinary on-going drought condition.

This statute is generally used for a natural disaster of some kind but can used for situations like

this also.

Member Howden commented that the water situation in Maui County to be basically a disaster. There is

inadequate storage of water throughout the county, there's poisoned water that they want to move into the

Upcountry system and cannot believe there would be legal intervention should the mayor or the governor

decide to move that water against the wishes of the people of the county.

Council Member Anderson stated that there are options. The Board should ask how much water has been

taken from the Kaupakulua/Dowling Well and how much is still available. She understands that there is

an agreement that the county is to get 500,000 gallons a day of that water. How much is been used from

the Haiku Well? How far off are we with Pookela? How much would it cost to by-pass the treatment plant

with a hundred yards of pipe?

Council Member Anderson noted that the Dowling Well is not contaminated. So we have options to give our

people clean water. Why would we do anything else if we have those options?

Robert Karpovich, resident of Paia:

Mr. Karpovich testified on the Hamakuapoko Wells giving a perspective from the Paia community. When

Hamakuapoko Wells were first proposed, we wondered why invest money to drill underneath the pineapple

fields. Paia has long been served by a 12-inch pipeline from Iao Valley which is safe and clean water.

Prior to that Paia used to get brown ditch water from the plantation.

We live in and around the fields, we know what is sprayed on and fumigated on. Unfortunately, mega

agriculture must rely heavily on herbicides and pesticides and we know these all contaminate groundwater.

Now there are replacement fumigants to kill the nematodes and all of these organo-phosphates migrate into

the groundwater.

We didn't think it makes sense to invest the county's money to site wells there when there other better

choices. Any water can be mitigated. You could take sewer plant effluent and treat it to make it

drinkable to some standard. The Council is trying to set a policy of do we invest more money in

Hamakuapoko, do we invest money in Haliimaile. Or do we put our resources elsewhere, such as in

Kaupakulua or in West Maui above the pineapple field? If we drill a well higher up maybe there might

be more pumping costs, but we wouldn't have all these treatment costs and health risks. You could

actually make electricity when the water comes down hill.

We objected to the original wells but were overridden by an emergency proclamation. The EA for the East

Maui plan was rescinded. The litigants were from Haiku and had no standing in the Paia areas, on

technicality, an EA for the Hamakuapoko Wells was very confusing but it was partially approved and there

was an emergency provision to pump it Upcountry.

Mr. Karpovich stated that he wasn't sure what action the Board is here to take. He further stated that

Mr. Jeff Pearson, previous assistant director, at a Paia meeting said that was a terrible bacteria

problem with these wells. Before the water could be for potable use, they would have to take all the

charcoal out and clean the vessels so it could be very expensive.

As far as flushing the 36-inch pipeline it would take an equivalent flow rate of about 11 million gallons

per day. This pipeline is so over-sized it makes no engineering sense. If there has been testimony from

the Department that the pipeline is being over-sized for future expansion to Haiku, then this requires an

environmental assessment and should also be a part of the water use and development plan.

These things shouldn't be done on a personal whim. A week after the resolution from the Council to not

use the water, the administration activated a contract that was signed in 1994 which was laying dormant

and had a cancellation clause in favor of the county with no penalty. It seems spiteful to activate and

install a \$7 million pipeline, which is so over-sized engineering-wise it couldn't

meet the standards for

Hamakuapoko and has already been banned by resolution.

At this time the Chair called for a 5 minute recess and when the meeting reconvenes the Board will hear

from James and Yoshiko Brough, since they traveled from Oahu to attend this meeting.

VII. Communications

A. COM 06-09 James and Yoshiko Brough's letter dated July 25, 2006, requesting a water meter for

their property located 1105 Nanihoku Place, Haiku, tmk (2) 2-7-029-017.

Mr. James Brough took the podium and introduced his wife Yoshiko and Dale Kozlo who will be testifying on

their behalf. Mr. Brough also thanked the Board for adjusting the agenda to hear them.

Mr. Brough stated that their retirement program was limited and so in planning for the future, they

purchased 2 acres in Haiku as insurance for their senior age. They have been the sole owners for 36

years. Since they had not planned on building on this property, a water meter was never an issue.

Because there were water lines already in, they did not realize they needed a water meter. They do need

a meter now just to make the property saleable and make their retirement investment a reality. However,

they were told it might take up to five years to get a water meter.

It is his understanding that the County of Maui passed an ordinance that acknowledge

the older lots and

allowed the owners to come to the county office to get a meter until December 2002. This information was

posted in the Maui News but no other action was taken to notify off-island owners. There was no way for

them to know to come in and secure a water meter. Since they pay real estate taxes annually, a notice

could have been enclosed in their annual bill.

Without a water meter the land is minimally saleable. His wife will be 79 years old and he will be 76

years old and their life conditions are changing. They are looking at alternative lifestyles, perhaps

assisted living. Now they are in a position to cash in on the dream of their economic insurance. To

wait five or more years for a water meter at their age is truly problematic.

Mr. Brough thanked the Board and asked for the Board's help.

Dale Kozlo, who represents the Broughs in listing their property, stated that Mr. Brough thought he had

a water meter. But when she researched the property she found that they did not have one and informed

them that the price would be affected. Though Mr. Brough thought the term water lateral meant he had a

water meter, she immediately suggested he apply for a water meter. He has completed the forms to get on

the Priority List and has received confirmation that he is on the list but no one has confirmed the

number.

Ms. Kozlo felt that they were given insufficient notice when this ruling came out in

2002. The fact that

the County did send certified mail to the people who were on the Priority List shows that the County

acknowledges that this an important piece of information for landowners who do not have a meter. She

believes there was minimal effort made to those were not on the list by only placing a small notice in

the Maui News.

Ms. Kozlo asks, on behalf of the Broughs, that the Board please grant them a water meter being that they

were given insufficient notice. In the future, she would like to know that the public can have confidence

in the Water Department that there would be a fair and reasonable distribution of water meters and notice

to people who may be affected by such decisions.

Ms. Kozlo asked that since a tax bill goes out to all landowners whether they have a meter or not, what

would keep the County from delivering any important notification about water with the tax bill?

Ms. Kozlo asked if there was any regulation or law that states that anyone who owns a lot that meets the

County regulations for fire protection, road and other important aspects, why they cannot have a meter.

So far, in dealing with the Water Department, everyone has responded and worked with them on this. That

in itself is a first step to some confidence that people are attempting to move forward.

Member Howden asked Ed Kushi, Deputy Corporation Counsel, are there legal requirements for public

notification that every landowner would be told. Mr. Kushi replied that when the previous Board passed

this rule, they published a notice in the Maui News to all people situated such as the applicants to

come and get their meter within 60 days. Now if you are asking if it should have been published in the

Honolulu Advertiser, the Wall Street Journal or wherever, that did not happen.

Member Howden asked if we were under legal obligation to publish other than in the Maui News. Mr. Kushi

replied no.

Member Haller stated the Mr. Brough purchased the lot in 1970 and it appears that the water was provided

in 1978, were you notified then that were given a water meter or that you were going to get one? Mr.

Brough replied that they never received any information about coming in for a water meter. He knew the

water lines were in but no one said you had to also have a water meter.

Vice Chair Okamura stated that in the Upcountry Water Meter Issuance Rule for the Upcountry Water System

was put in place because of the water shortage in the Upcountry system. It is a straight rule saying

that you have to wait in line to get your meter. It also states the conditions under which the Board or

Department can give exceptions or waivers which are as follows:

1. strict application of the rule would cause an absurd, unfair or unreasonably harsh result;

2. the board finds the circumstance or condition is unique or exceptional, and the board would grant

the same request made by every similarly situated applicant; and

3. the resulting action of the board will be without detriment to existing users.

The Vice Chair stated that his main concern is that existing users currently do not have enough water.

So there is a list of people who will be getting meters when more water comes online. These are the

circumstances the Board needs to make their decision on.

Vice Chair Okamura stated that he cannot find anything unique or exceptional in this case and would not

be in favor of granting a meter.

Ms. Kozlo asked if there was fair and reasonable notification given to the Brouchs and anyone else in this

situation. Vice Chair Okamura replied that Member Howden asked that question earlier and further stated

that we could have put it in the Star Bulletin but if wouldn't have stopped there. People on Kauai would

have said, we didn't get noticed. Or people on the mainland would have said, we didn't get noticed. So

we cannot make an exception because of that.

Ms. Kozlo suggested that perhaps this is something that in the future could be addressed because we

definitely have a problem.

Member Parsons asked Mr. Kushi if the Board sent out priority letters on this issue as well. Mr. Kushi

stated that as he understands it, you have to consider 2 different situations. There is one bunch of

property owners who had vested rights such as homeowners, pre-subdivided existing lots, who were granted

a 60 day time period to come and apply for a meter. If they had applied and paid a fee then they would

have 2 years to install. All others were placed on the Priority List. When their number comes up they

are issued certified letters informing them to come and apply for a meter. Therefore, the Broughs who

were on the 60 day list did not come in until 3 or 4 years later. Now they are put on the Priority List.

Mr. Kushi continued by saying that according to Vice Chair Okamura this Board can hear this appeal and if

the Board so determines recommend to staff to put them back on the 60 day list.

Member Haller asked what number are they? Herb Chang, engineer with the Water Department, stated that

the last time the list was updated was December 2005 and because the Brough's request was received in

June 2006 they are not physically on the list. They will be when the list is updated.

Mr. Kushi stated that for clarification the Board should ask the realtor or the applicants what economic

impact this would have. Because if you grant this request, the rule says that the Board should also

grant similarly situated requests. At this time Chair Victorino asked Ms. Kozlo what economic impact

would there be, with having the meter and not having the meter. Ms. Kozlo replied the difference could

be between \$75,000 and \$100,000.

Member Parsons asked if this is an area where there is enough rainfall for catchments. Ms. Kozlo replied

that there are some lots within the vicinity that have catchments but it is not adequate enough.

Motion by Vice Chair Okamura to decline the Brough's request for a water meter.

Second by Member Aldridge

Discussion: The Chair at this time addressed the Broughs and stated that the Board many times is faced

with this type of inequity. Though the Broughs have brought up some very good points, hopefully in the

future the Board will take due diligence to prevent this from happening.

Member Haller stated that even if the Broughs were given notice, they believed they already had a water

meter and would not have responded anyway. She believes the issue is not the notice but the issue is

that in 1978 no one notified you that the water was available for you to get your water meter.

Vote: ayes - Unanimous. Motion to decline the request for a water meter passes.

IX. Other Business

C. Mayor Alan M. Arakawa To Appear Before the Board of Water Supply Regarding Consideration For Board's

Recommendation For A Drought Declaration.

At this time Director Tengan stated that the Department submitted a report to the Board regarding the

current situation Upcountry. Also a copy of the status of the Upcountry system showing the current

pumping and demand was distributed to the Board prior to the meeting. Since the conditions have remained

the same, the mayor is here to discuss whether the Board feels he should declare a state of emergency.

Mayor Arakawa stated that he was here in support of the water director and to reiterate to the Board that

we are in a situation of water shortage in Upcountry. We need to start preparing in case we go into a

declaration of drought.

The Council recently took the Hamakuapoko Well out of our reserve area and the opinion from Corporation

Counsel Brian Moto clarifies the position that with the Council's action, Hamakuapoko Well can no longer

be used as a backup for the Upcountry system. This removes the source of 1.5 million gallons a day that

could have supplemented the Upcountry system. At this point in time the administration is trying to

make a decision whether to veto the ordinance and bring it back to the Council for consideration because

they may change their position knowing that this actually bans the water from being used.

At this point the administration has not been notified by the Department of Health or by the Environmental

Protection Agency that this water is harmful for human consumption. If we were actually trying to poison

the community as has been stated by some of the council members, then they most certainly would have

taken the position on this saying that what the County is doing is hazardous. At this point, all we can

do is to follow the science and the rules and regulations that we are required to follow. If this is

approved by the Council we will work through it. If this is prohibited then we will not use that water.

To remove a source of water that we have previously been using, we may have to go into a drought

declaration and ask for emergency measures. If we have this reserve we could use the water and try to

refill some of the reservoirs. We are trying to err on the side of caution, because this is a

controversial issue and we don't want to panic the public.

We have to be cognizant that we are in a dry season and there have been a number fires. We need to have

some reserve in situations like this. We are trying to work with this dealing with the laws and the

rules that we have. We just want to bring it to your attention and see what happens.

The Director will ask you for consideration if we need to declare an Upcountry drought that the Board take

a position on whether we can or cannot when the trigger mechanism is there.

Member Parsons stated that we know there are pesticides in the wells and we do filter them out, but has

the Department tested for phosphates? Mayor Arakawa stated that he does not deal with the day to day

running of the department, but whatever rules they have to follow he is sure they will follow those rules.

The Mayor asked Member Parsons if she wanted to talk about Hamakuapoko well or does she want to talk

about water in general? Member Parsons replied that she wanted to talk about Hamakuapoko and stated that

the reason she is asking is because we know that phosphates can be harmful, and if we haven't looked for

them in depth, shouldn't we?

The Mayor stated that there is no perfectly clean water. In every system there are contaminants at

varying levels. In every system there is a potential for phosphates, nitrates, and for a lot of

different things, whether naturally occurring or in concentration. We have to follow the rules that are

established and the system that is established to be able to maintain a semblance of reasonable control.

If anyone thinks there is an absolute control, that we can remove all possible contaminants - he doesn't

know of a system like that yet.

We do not test for every possible contaminant. There are human and physical limitations to our testing

ability. There are guidelines that have been set forth by State Department of Health and EPA nationally,

and that is used by the Department. If we were not doing this we would be fined by the Department of

Health and EPA, or at least they would send us a letter telling us what we are doing wrong. We test at

the capability of what we have in the areas that we can test and in the areas that we are required to test.

Is there a potential for some kind of contaminant, the answer is absolutely, 100%

yes. Is there a

potential somewhere down the line for any of these contaminants to possibly hurt humans, 100% yes. Are

we meeting the guidelines that we are required to by law? Are we meeting the Department of Health and

the EPA standards at the level which almost every other community in the United States is meeting, yes.

If we have a well that is stagnant the Department will go through a flushing process, try to clean the

well and then test it. If there is a suspected area, then they will do additional tests.

Member Parsons stated that having the phosphate fiasco Upcountry and we are looking at calling for a

drought that would pump this water back up into that system, and asked the Mayor if he would recommend

that they check for phosphates in this well. Mayor Arakawa replied that he would recommend that they do

whatever possible, if we need to check for phosphate, then we should be checking.

Member Parsons stated that it is not necessarily what they are charged to do because it is one of those

situations where it is not a maximum contaminant level issue with the EPA. It is how our water reacts

on a table top study with phosphates and it would have to come from you as the ultimate director of the

water department to ask them to do this test.

Mayor Arakawa asked Director Tengan to check on that. The Director stated that they will have

discussions with the Department of Health and see what can or need to be done.

Member Howden stated that we are dealing with underlying problems. We do not have a water system that

is responsive to the needs of the community. We do not have adequate water storage for times of drought.

We've given out water meters profusely when there is no demand for water storage Upcountry by individual

users and by subdivisions. At the same time, EMI takes over 60 billion gallons of water out of the East

Maui Watershed per year and they pay less than a penny per thousand gallons for that water. At present

we are taking 5 million gallons a day from the Wailoa Ditch. We have the right to take 12 million and

there are other water sources. If we are really dealing with a drought situation then why aren't we

getting the Pookela Well online? Why aren't we taking more from the Kaupakulua Well? At present we are

taking .7 or .8 and it has a capacity of 2 million. We need to look at what the present and developing

needs of our community are. Member Howden stated that as a medical professional he is very concerned

that potentially toxic, carcinogenic water could be put into a system that already has problems.

Mayor Arakawa stated that he echoes Member Howden's sentiments and does not want to jeopardize a

community's health. We are trying to work with what we have. If you look at the history of Pookela Well,

as an administration they have been trying to push for it.

The Mayor further stated that he is not the engineer for that project and cannot control the day to day

operations. They have been trying to get the Department speed up the development of Pookela Well, but

the engineers and the contractor have been working at a pace that he would preferably speed up.

On the use of other water systems, he has stated publicly that our water system as a whole has been

poorly put together. The entire process and how it was designed is fragmented. The Kula system cannot

be hooked up with the Wailuku-Kahului system or the Lahaina system or the Hana system. This creates a

very bad management system. Connecting all the systems and trying to work with the source development

as one unit makes more sense. The studies have shown there are 880 million gallons of water available

on the island. We use about 37 million gallons a day for domestic use. It is atrocious that all this

time we have not connected the systems and we are not taking additional resources to take care of the

community. It is a tremendous black hole and has been for decades.

We need to connect all the systems together and manage the entire system as water system. No other state

has this kind of fragmented system where you cannot help each of the other areas. Over a century ago,

when cane companies were very instrumental members of the community and they were heavily contributing

to the economy, there was a sense for them having control over the water. Today, Wailuku Agribusiness

and Pioneer Mill no longer exists as cane companies, those water system should be acquired by the County

to supplement the communities' water. If the County acquires the Wailuku water system then the County

can pump water Upcountry to alleviate a lot of the shortages. If we look at it systematically then we

can figure out how to blend or combine the water so it becomes practical.

Mayor Arakawa stated that his goal in the long run is to combine the systems so we can take the surface

water from the Wailuku area and bring it up Upcountry for the interim. For the long term, we need to

look at East Maui and take water where the majority of it is and take care of the community. If the

County were to drop wells in areas closer to Hana then put the water in the transmission system that EMI

currently uses, just as Maui Pine does, and transmit it where we can use it, we would be much better

served as a community.

We have to put all this together with very little information. In the meantime we have to make sure we

are not running out of water and deal with all these strange wells that have been put all over the place.

You cannot do everything at one time and we certainly cannot concentrate on one issue. The Administration

had to muster all the resources to try to take care of many issues such as the lack of roads, affordable

housing, everything that runs a community. Water is one of them that need to be concentrated on.

The immediate issue was the additives that are in Upcountry water and we had to find some immediate

solution. At this point a lot of that seemed to have gone away. We had studies done on the lead

additives in the water. The Boyle Report was a study on this. We had a committee that worked with

Boyle to come up with a study that looked into the potential harm of lead contaminants to the community.

We are trying to take all these components while working with a very antiquated and badly managed system.

The Mayor agreed that there is a lot that could be done with the water system, there is a lot the needs

to be done with the water system and it's going to take a lot of money and time to get it to where it

makes sense. It is not going to happen overnight. It has to be done systematically.

The Pookela Well has been very problematic for him as the mayor because he has been getting different

readings on what has been happening. He has been told that the well is not straight therefore a line

shaft would not work. The engineers have recommended putting a smaller 1.5 million gallon pump on the

bottom, though the former managing director, Jack Kulp, tried to get a 2 million gallon pump. We ended

with some delays because we tried to re-adjust in working with the engineers and the contractor. It is

taking more time than he wants but he will not micro-manage and doesn't know enough about engineering to

override the engineers.

Member Howden stated that he fully acknowledges that the water systems in Maui County remains a mystery

to most people and does not expect one man or one administration to fully deal with all of that. At the

same time, it doesn't feel that we really made that much progress within the department itself. The

water issues are tied in with everything. It is agriculture, how we are using the aina and the

continuation of agricultural practices that pollute our water systems. We need to look at it c

omprehensively as a whole. It would be an unwise decision to move that water from Hamakuapoko to into

a system that already has problems. We would do better to look at expediting Pookela Well and the

Kaupakulua Well.

Mayor Arakawa pointed out that meters have been issued based on the volume of the Pookela Well and

having the Hamakuapoko wells as reserve. When it is completed there will not be a whole lot of water

added into the system or a lot of meters that can be added. The meters were issued with the expectation

that the Pookela Well would be coming online.

Trying to get information about all the different water systems and where wells are, what's useable and

what's not has been like trying to find needles in haystacks. It has been very difficult to come by.

There is no one place where all this information could have been researched from. We have been trying

to find information so that we can make good decisions and work with the system that needs serious

upgrades.

Chair Victorino stated that we have companies that bring the water from the East Maui irrigation system

to the Central area for agricultural purposes. We are taking 5 million gallons per day and we are

allowed to take up 12 million if we so desire. Using that and the Dowling Well, would it be something

that you as the mayor could write a letter to these companies requesting assistance during the drought

period so that they share more of their water with us, not permanently, but until our system gets up to

date. Right now we are looking at using water that in most people's mind is unsafe and unreasonable to

ask them to drink it.

Mayor Arakawa explained that the well or ditch can take 12 million gallons, the County through its plant

has the capability to process only 7. We do not have the capability to process more than that, even if

HC&S or EMI would say take all the water in the ditch. The piping system we have do not allow for that

kind of movement of water. This is why he has stated that the system is fragmented and do not allow for

good coordination of water movement.

Director Tengan stated that last week the department received some filter modules and had the staff work

overtime and did a complete change out for the damaged filter modules. We are now able to produce 7

million gallons a day instead of 5 million gallons a day from the treatment plant.

The Chair asked how much water could we draw from Hamakuapoko. Director Tengan stated that the potential

is for 1.5 million gallons. Chair Victorino stated that if we now have 2 million more here then

Hamakuapoko should be a mute issue because it would have given us only 1.5 million.

The Mayor stated no, that's why we are saying this is a caution. We are using that to be able to

supplement the system already and that water is being moved within our system. It is not going to add a

whole lot more to the level of the usage. If the draw down is faster than we can re-supply it then we

will go into a shortage situation.

The Director stated that while it is true what the Mayor said, we cannot transfer untreated water from

one level to another but we have the capability to transport water going mauka from Kamole Treatment

Plant. If you refer to the schematic that is included in the staff report, you will see that we can

pump water from Kamole up to the Lower Kula system then through Phase VI to the Upper Kula system.

The Mayor stated that when the draw down is faster than we can refill then the overall storage capacity

gets lower and lower. That is what we are worried about.

Director Tengan stated that we did increase our capacity at Kamole from 5 million gallons to 7 million

gallons, and while we can get by at this time, we are still not through the dry weather season. We

really don't know when it's going to end, so we really don't know whether the 7 million gallons we

produce at Kamole Treatment Plant will be sufficient to take care of Upcountry demands.

Vice Chair Okamura stated that he lives Upcountry and is very concerned about the water situation. He

asked that we put aside the Hamakuapoko issue aside. Vice Chair Okamura stated that we are in an El

Nino situation and finds that in terms of storage and in-take we are in an even worst situation than we

were in the last drought. Before the last drought started the Kahakapao Reservoir

was full at 80%.

Right now one of them is empty. As a Board, we can declare a drought and the Department can request

conservation measures and restrictions on water use. We might think that things are not bad yet, but we

are in a bad situation now. The potential for getting worse because it is an El Nino year is great. So

we should put our concerns on whether to use the Hamakuapoko well on the side and try to look at the

situation as it is now and perhaps declare a drought if that would help.

Member Parsons stated that the Mayor mentioned we have already given out water meters for Upcountry and

usage is 200,000 gallons per the director. We had 300,000 allotted from the Dowling Well to be able to

give out to the Upcountry water list that we using first before the Pookela Well.

She stated that she doesn't know why the Mayor is having problems obtaining information because David

Craddick is accessible and he does know the water system very well. Any time she has a question she can

e-mail him in Guam and he responds usually within 20 minutes. He suggested we could put a pump in the

Hogback Well which is a monitoring well. Pump it up to Pookela tank or into the Makawao system. He

wanted to know what happened to the Haiku tank project, because that would have been able to gravity

feed the Makawao system.

There are alternatives and forcing the Hamakuapoko wells on the public isn't what they want. Member

Parsons stated that she knows the Mayor is putting together a panel of experts and stated she feels the

Mayor should have come before the community and the Board to put together what that panel should be made

up of. Your panel of experts might be skewed. Maybe you need the EPA. We needed a peer review on the

Boyle Report. It got stymied, it got blocked. The EPA still wants to come and give it. That EPA peer

review could have been your panel of experts, unbiased and non-partisan.

She asked how do you feel about that 36-inch pipeline and the fact that you can't flush it. What is

your response on that? Mayor Arakawa stated that Member Parsons' hero, David Craddick, ordered that

pipeline. That pipeline was purchased before he became mayor. Member Parsons stated that the Mayor put

it in the ground. The Mayor stated that we were trying to utilize some of the equipment that was already

purchased. The Hamakuapoko Well was not done by this administration. It was done by previous

administrations. David Craddick was in charge, they selected that site and they dug the well. They

went to a court process to get approval on the filters that are being used. They resolved that issue in

a court case with the chemical companies. So what was adequate to make the water drinkable, to meet EPA

and Department of Health standards, through a court contested case is what is there now. We are working

with systems that went through the courts to be resolved. All this administration did was work with the

people who were intervening on the environmental assessment for that well and got them to drop the

intervention.

Mayor Arakawa further stated that the design and the contract to hire the company

were already in place

before his administration came in. He believes a large pipe is necessary to connect Kahului-Wailuku to

Upcountry in the long term. But when the system is all tied in it may be too small but for now it is

adequate.

He believes you can clean the system by closing one end and put enough chlorine in to kill the bacteria,

and then you flush the system. You can fill the pipe and you can find ways to flush the system, it is

a matter of the doing the engineering work. It is not impossible nor is it difficult.

Putting in a 36-inch pipe is actually a good idea because when the system is tied together and we have to

move large volume of water from the Kahului-Wailuku system to Upcountry we are going to want a larger

pipe. Right now just looking at a fragment of it may not make a lot of sense but if you look at it long

term then it does make a whole lot of sense.

The Mayor deferred the question of the Hogback Well to the Director Tengan. The Director stated that

the well was drilled as a monitor well. In order for that well to be used we would have to drill

another well in place of that. Furthermore that well has no pump and no facilities at all to get it

into our system. Assuming that it was equipped to pump water, the Department would need to do a lot

modification to the system in order to pump the water back Upcountry and the Department is very strapped

for money and this is something that cannot be financed at this time.

Mayor Arakawa asked the Director if it is his advice that this well cannot be used in this particular

emergency situation as a supplement. The Director replied that is correct. We do get the water to the

Kokomo Tank but we would need to put in pumps at that tank to get it up to the Pookela system. Existing

pipes could be used but the Director was not sure if the pipes were large enough to handle the flow and

didn't know if that would create problems. But that would be an alternative they can look at.

Member Aldridge asked the Mayor regarding Bill 51, if it is only the governor who can suspend it in case

of a drought emergency? The Mayor replied that at this point it would take the governor to declare an

emergency and cannot be done on the local level.

Member Aldridge stated that once it becomes an ordinance it would remove any potential use of Hamakuapoko

for domestic consumption. Mayor Arakawa stated that it could be used according to the way it is written

for any thing other than human consumption.

Member Aldridge asked if it could be mixed with other water for human consumption. The Mayor stated that

he believes they cannot use any of it for human consumption. Mayor Arakawa further stated that there are

many wells within our system with similar circumstances and in Honolulu all the area that was used for

sugarcane have similar types of system. If we are saying this water is not fit for human consumption

then it should apply across the board to everyone who has this potential type of water.

For the same reasons if the remnant particulates that may harm health are present in this well and other

wells that we use, then that same public safety should be applied across the board. He urges caution in

declaring this well to be unsafe is because he will not be the one to say these people should be kept

safe while others should not. We have been using this type of water all these years and no one from the

Department of Health or EPA have said not to use the water for health and safety.

The Chair stated that he appreciates the Mayor coming before the Board to ask for the Board's

consideration in declaring a drought and if there are no further questions from the Board he will let

the Mayor go.

In closing, the Mayor stated that this well was a back-up, so now you have 1.5 million gallons that

won't be used.

The Chair stated that the Mayor still has the ability to veto this if he chooses, but the Board will

discuss this matter and get back to him.

The Mayor stated that if the Board wanted to invite any expert to come and discuss these issues, he

would be happy to listen to that discussion. This issue of banning Hamakuapoko Well did not originate

from this Administration. This was something the Council brought up and rushed

through, limiting the

time span. If they had wanted to invite any expert to come to Maui the Administration would not have

objected.

The Department tried to get someone from the EPA to come but couldn't because of the short time frame.

If he is going to veto this he would want the experts to make the presentation before he takes action.

The Council could have brought in the experts but this did not happen. For the Council to take action

to declare this unilaterally as dangerous they should have had the experts verify that this. He has yet

to see the experts come in and say that this water is dangerous.

The Chair stated that he would rather err on the side of caution instead of putting the water into the

system. The Chair further stated that we all share the commonality in trying to protect the people of

Maui County.

V. Testimony from the Public, continued

Robert Karpovich, continued:

Member Parsons asked Mr. Karpovich to elaborate on how the Hamakuapoko wells may be different from the

other wells in the community and to please state his background.

Mr. Karpovich stated that he has a degree in mechanical engineering and his job was with Exxon drilling

oil wells, then he moved to Hawaii where he farmed on the Big Island and now does construction and

renovations of properties.

Mr. Karpovich stated that because Hamakuapoko wells are under active fields, that aquifer gets nitrogen

fertilizer from the sugar cane. When the wells were pumped the irrigation wells went way down. A lot

of the re-charge is the drip irrigation. The nitrate levels are 5 to 7 parts per million. Ten parts

per million is the EPA limit. The Kunia Wells in Mililani, Oahu have the old pineapple pesticides and

high nitrates.

According to the complexity of the health effects from a variety of water quality constituents, the

Honolulu Board of Water Supply implements a policy of providing treatment when the level is reach half

of the EPA contaminant level. They got the legislature to fund \$6 to \$7 million for nitrate removal.

The Council decided not to invest \$5 million or more to remove the nitrates which continue to be applied

every day. It is being poured on and our tax dollars are used to try and take it back out.

Member Parsons asked regarding Hamakuapoko, how he felt about it being pumped Upcountry to the surface

water system. Mr. Karpovich stated he is personally against mixing it with the domestic system.

He agrees with Michelle to pump it up to the treatment plant and putting it down stream into the ditch

and taking an equal volume of water upstream. It is the same pumping costs.

Lisa Lindo:

Ms. Lindo stated that she is here as a member of the Water Oversight Action Committee. It is their

kuleana to oversee the lead problem and the name of their work plan is Reducing the Hazards of Lead and

Other Contaminants In Drinking Water.

The original lead problem was because of acid producing bacteria in the water that was causing the leach.

Of course there are bacteria in the water and of course it is not always banned but this was bad for us.

Their specific surface water problems are different from other water systems on the island where they

are not dealing with surface water problems like the bacteria and other bio-elements in the water. In

order to get rid of the lead problem, they put in phosphate to create a bio-film on the inside of the

pipes. This phosphate fiasco which was done without a table top study caused a ridiculous bloom because

we had phosphate starved water. We had an unusual reaction Upcountry. Not all water is the same, not

all areas of the island are the same, not all islands are the same and not all states are the same.

In various times of 2002 and 2003, this Hamakuapoko well was opened and pumped and at the same time

phosphate was being added to the water. We haven't done anything of note to know what happened to that

water.

The issue is that this well is going to open and Bill 51 is only going to stop us from having to have it

added to our Upcountry water system. It's not like the water is not going to be used. It will be

opened. This is not such a good idea because of the e coli scare.

This particular well is within a 1000 feet of a structure that she believes has a septic tank and that is

not within the parameters of what is safe for Hamakuapoko. Even as irrigation water it is not the best

for an already compromised and contaminated Upcountry water system. Even if this water is filtered or

treated there still could be residual nitrates.

As members of the Water Oversight Committee, they have started testing for levels of bacteria in the

water in Upcountry homes. Every couple of weeks members collect samples which are then sent to the

Hawaii Food and Water Testing Lab in Honolulu. Thirty samples from 16 different homes were tested and

9 out the 16 homes had higher than acceptable colony forming units of bacteria per ml in the water that

was tested. Outside of this country there is zero percent tolerance of colony forming units per ml of

water. In the U.S. it is 500 colony forming units per ml. The numbers of colony forming units per ml

for both filtered and unfiltered fixtures from the samples taken are as follows, 1800, 4400, 500, 120,000,

2000, 4200, 710, 590, and 13,000. It doesn't mean that all this bacteria is bad but very high level of

colony forming bacteria is an indicator that it is possible we have a problem and some may be bad

bacteria. Each one of these colony forming units could become 8 million overnight. So we cannot afford

to contaminate the water even further with the possibility of what might come from this well without

doing a significant study.

Dr. Mark Edwards from Virginia Tech did a showerhead study and everywhere he looked he found pseudomonas,

legionella, black fungus and micro bacteria in the showerheads. There is a possibility that some of

these bacteria are included in the high numbers of colony forming units.

There is no water use restriction as of now. If we could simply enforce water use restriction rules that

would solve a lot of problems. But we haven't even taken that step and to not take that step and then

go directly into drought condition is difficult to understand.

It has already been discussed as to how expensive it is to filter out nitrates and where is that money

coming from? Is that going to be set up for Hamakuapoko before it is added to our system? It hasn't

been discussed how long it is needed for this well to flush. The experts have been asked and the answer

has been it is uncertain. Since the well will be open for agriculture the least we can do as the Water

Oversight Committee, as the Board and as the Council, is be the watch guards. Until we have someone say

that this water is safe we should not take chances to compromise the currently contaminated Upcountry

water system.

Vice Chair Okamura stated regarding water use restrictions, the Board first has to declare a drought,

then the County of Maui, the director with approval of the Board is authorized to restrict the use of

water by such appropriate schedules and measures as may be deemed appropriate. We need to declare a

drought first before the Mayor or the Director can impose restrictions on users. That is the issue we

want to talk about in terms of a declaration of drought.

Ms. Lindo stated that what she heard Vice Chair Okamura just read said If we declare a drought then

you're able to put restrictions, but she doesn't think it means you can't put restrictions before you

declare a drought. It doesn't say only if you declare a drought can you impose restrictions.

Vice Chair Okamura stated that it is the rules by which the Board and Department has to operate. That

is the process.

Chair Victorino stated that right now we have voluntary water restrictions. We asked the public for

voluntary cut-backs and that has not been effective. Unfortunately, people don't volunteer as much as

they should. All we are doing is following our rules.

Member Howden asked the Director if we have enforcement procedures after we declare a drought. The

Director replied yes, the ultimate enforcement would be the removal of the meter. Member Howden asked

if we have ever done that. The Director replied that we haven't removed any yet.

Rosemary Robbins

Ms. Robbins identified herself as a concerned citizen, serving on the Water Oversight Committee for the

EPA.

The oversight committee was the very first requirement before the EPA would cut loose the half million

dollars to the County of Maui. The first condition states that "recipient Maui County shall establish a

project advisory committee representing community viewpoints and interests which will include the EPA

project officers, to review the activities of the project and make any necessary recommendations to

insure its success." That grant was sought by Upcountry residents and not by the Department of Water or

by the Department of Health.

She is concerned that our folks are being exposed to dangerous circumstances over the years in our water.

She is very concerned that we are going to have senior citizens having an abbreviated life span and

certainly less than optimally healthy life span by being exposed to this water.

In 1995 she received a notice from the Department of Water of potential carcinogens in the water. In

1996 she underwent ovarian cancer surgery and in 1997 underwent chemotherapy. She doesn't want to have

a whole collection of people being exposed to things that could compromise their health.

We still have problems as identified in the Boyle Report which says that information needs to be shared.

We are still asking for data and we are still not getting it.

Maui is no longer the best island in the world because the word is getting out that we've got problems.

The EPA did not tell Maui that they must introduce phosphates to address this problem. They said these

are the available treatments, pick one. And it turned out that we picked one that was less expensive so

we got one that we didn't pay for.

Vice Chair Okamura asked Ms. Robbins what were the specific documentation and data that have not been

shared. Ms. Robbins stated that they were water quality surveys and sanitary surveys. Vice Chair

Okamura asked if the Department does that? Ms. Robbins replied that they are supposed to.

Member Parsons stated that it is Source Water Assessment Protection (SWAP), sanitary survey reports and

water quality assessment reports. It is supposed to be done and given to the public but over the last

couple of years the Department has hidden behind the bio-terrorism act. The EPA stated that these do

not fall under the bio-terrorism act.

Member Howden stated that it seems strange to him that we consider this simply a water problem.

Obviously there are health issues. But what poisons the water, what pollutes the water on this island?

We are so affected by industrial agriculture and agricultural practices of the major corporate

agriculture interests and we would be naïve not to look at that.

Linda Simon:

Ms. Simon stated that in 2003 they formed the Maui Coalition for Safe Water to address water issues and

receive a \$500,000 grant from the EPA.

Ms. Simon asked to speak on the possible long term health effects that could re-occur in Paia and

Upcountry if the Mayor decides to veto Bill 51. If a drought is declared then the water will be mixed

in with the Upcountry water system.

She moved Upcountry in April 2001 and was drinking the water, showering and breathing the fumes from the

water. Her landlord received notices regarding the water situation and did not inform her that there was

a problem with the water. A few months later, the Department started adding C-9 (Calgon 9) into the

Upcountry water system to prohibit the leaching of lead.

In April of 2002, it was switched to phosphoric acid because of complaints of illnesses. This in turn

caused the bacteria bloom and caused more people to get sick. In 2002 and 2003, Hamakuapoko wells were

online off and on and the water was mixed with the Upcountry water causing additional health problems.

In June of 2004 there was a public meeting and Bill Wong from the State Department of Health heard over

a hundred testimonies from people describing the health effects since being online with the phosphoric

acid. He was appalled that Maui County had never let the state know what was going on with the water

situation. Through Bill Wong they were able to stop the phosphoric acid and then they started adding in

soda ash to help control the leaching of the lead.

In September of 2004, being so ill and living off of her savings, she could no longer afford to pay rent

and had no choice but to start house sitting. By May of 2005, she moved to the south shore to get away

from the Upcountry water.

Starting from June 2001 to December 2001, she had contracted chronic fatigue syndrome, a weakened immune

system she believes was caused by the water. She was having weight fluctuations; her menstrual cycle

was very irregular and she would sleep 12 hours a day. She went from working full-time to part-time to

now just a quarter-time. She went through doctors, massage physical therapy, detoxification, taking

vitamins and minerals, and doing anything to boost her immune system.

In 2003 she found out about the water. She was told don't drink the water, don't cook with it and to

hold her breath when taking a quick shower. She would splash her face with bottled water because her

entire body would break out with sores.

This has devastated her business and every year she has lost more clients because she wasn't able to

perform her work. Her social life is ruined. She is afraid that the Paia residents and the business

are going to have same effect that they have Upcountry. People have stopped going to restaurants because

all this food was made with Upcountry water. Several people have sold their homes and moved away. It

was incredibly devastating to those living Upcountry during this 3 year period.

Even after the phosphoric acid was stopped, Dr. Pang stated that he didn't know how long it was going to

take for the water to filter out the phosphoric acid. Ms. Simon stated that within about six months she

started feeling better.

It is devastating to see her friends move away because of this and so she asks that the Hamakuapoko

wells not be used at all.

At this time the Board meeting will recess and will reconvene in half an hour.

The Chair stated that Public Testimony will be deferred until the people who signed up to testify are

present and the Board will go to the next agenda item.

IX. Other Business - continued.

A. Discussion/possible action regarding the Conservation Plan Committee and an Update by Members Lee

Aldridge and Michael Howden.

Member Aldridge stated that as far as he is aware that there has been no Conservation Plan Committee

meeting. He checked with Member Howden and he has not attended one either. There is nothing to report

at this time. Although they have received some preliminary information from the Water Resources and

Planning Division Head, Ellen Kraftsow regarding the Water Conservation Plan Strategy. They will be

better prepared at the next Board meeting.

The Chair stated that this agenda item will be deferred to next month.

B. Discussion regarding EMI Master Water Agreement and Amendments.

The Chair stated that this agenda item will be deferred until Member Howden returns.

C. Mayor Alan M. Arakawa To Appear Before the Board of Water Supply Regarding Consideration For Board's

Recommendation For A Drought Declaration, continued.

The Chair deferred this agenda item because there will be more public testimony on this item.

E. Verbal Update on Pookela Well.

At this time, Engineering Division Manager, Alva Nakamura gave his report on Pookela Well. Mr. Nakamura

stated that the staff will be taking samples for submission to the Department's

testing facility on the

mainland and to the Department of Health by the middle of October. While that is going on they will

continue to work on getting the various small items taken care of. They are hoping to get it online

before the end of the year.

Mr. Nakamura stated that he wanted to make one thing clear; his boss has really emphasized the need to

get this well online as soon as possible. Given the staff situation, what he has done is to put one

staff member fully on Pookela Well to monitor the progress and work out things with the general contractor.

In the last couple of weeks they have made significant progress in getting this project completed. One

of the problems was ordering supplies that were not in the specs. One was a pressure relief valve that

was the wrong type and they had to re-order the correct type. Although the well still could still be

put online using the existing valve.

The Chair asked if there is any possibility if we could get online earlier. Mr. Nakamura stated that

they are doing their utmost to try to maximize and shorten the time it is taking to get this well online.

They recognize the need to have it on because of the drought situation and the staff has been trying to

move this forward.

Member Parsons asked if Mr. Nakamura could clarify the pump issue, was it the wrong pump that was ordered

originally? Is it the shaft that is crooked? What is the real story here?

Mr. Nakamura stated the shaft is not exactly perpendicular, it is crooked. Whether or not a line shaft

could have been put in, he stated he does not know. They went on the recommendation of the consultant to

use a submersible pump rather than a line shaft. Member Parsons asked who was the consultant? Mr.

Nakamura replied that it was Fukunaga and Associates.

Mr. Nakamura further stated that another issue is the noise. Having a line shaft with a motor on the top

would have generated a lot of noise.

Member Parsons asked if in the event of an emergency, how do you call back the original contractor who

dug the well. Mr. Nakamura stated that trying to put another pump in is not a possibility because the

permit well and pump is already in the ground so that option is too late now.

Vice Chair Okamura thanked Mr. Nakamura for keeping the Board abreast for the past year.

V. Testimony for the Public - continued

Lucienne de Naie:

Ms. de Naie stated that she was a party to both legal actions that created the Hogback Well as a monitor

well. The purpose of that well is the idea that if we are looking to Haiku aquifer as a water source,

there are around 25 private wells in this aquifer already and eight more are being proposed. The idea is as this aquifer is being utilized for both public and private use there is a way of monitoring its health. The mayor is wise in saying that well is for that and let's keep it for that purpose. If a new is needed as a source well it would be in a different location.

Regarding the discussion on contaminated wells, the Department of Health lists the contaminated wells.

There are 21 wells listed but most of them are not domestic wells, only 10 are. Of those only 6 are

public, the other 4 are private systems. Of the 6 only 3 have any use, and of the 3 only one has any

significant use. That is the Napili C. So we are not talking about a lot of water sources by precedent

by looking closely at Hamakuapoko.

There are other directions we can go. One would be to look at encouraging individual storage in the

Upcountry system. There 5000 users between Haiku and Olinda-Makawao area where it rains quite frequently.

If each of these folks were encouraged to put in a small catchment tank, 5,000 to 10,000 gallons, and

even if only have of them put in 10,000 gallons tanks, you would have a back up of 25 million gallons of

storage.

Ms. de Naie asks that we look at some of the simpler solutions.

Member Parsons asked the Chair if she could clarify a statement made by Vice Chair Okamura earlier

regarding the El Nino issue. The NOAA stated that there signs of a weak El Nino that is developing in

the Pacific, which could lengthen the hurricane season but is not expected to cause the kind of drought

that Hawaii expected from heavy El Ninos in the past.

C. Mayor Alan M. Arakawa to Appear Before the Board of Water Supply Regarding Consideration For Board's

Recommendation For A Drought Declaration, continued.

Vice Chair Okamura stated that the Board's rules are being rewritten as ordinances by the County Council.

One of the issues was the declaration of a drought. In the rules, that the Board still follows, until

the ordinance is written, section 4-1 talks about a declaration of drought and read the following:

"When the water supply becomes inadequate in any area in the county of Maui because of a period of

drought, the board shall issue a proclamation declaring a drought to exist in such area.

The declaration of drought shall be published in a newspaper of general circulation in the county of Maui

at least once a month during the period of drought.

Water Conservation measures during a period of drought. Whenever the board declares a drought to exist

in any area of the county of Maui, the director, with the approval of the board, is authorized to

restrict the use of water by such appropriate schedules and measures as he may deem proper.

The schedules shall restrict the use of water by any particular user during certain hours of days of the

week and within certain amounts in accordance with a schedule published in a paper or otherwise made

known to the user by the director with the approval of the board.

The director, with the approval of the board, may prohibit the use of water for irrigation, lawns,

construction, subdivision or other types of activity involving the use of water. The director, with the

approval of the board, may also prohibit the installation of any new meter or new service.

Mail may be used to inform users of such schedules and measurers established by the director and approved

by the board.

Penalties.

The director shall remove water meters of users who violate any of the schedules or measures established

and shall assess the user the sum of \$50 for reinstallation of the meter.

In addition, any person violating the schedules ore measurers established by the director shall be deemed

guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$500 for

each violation."

Vice Chair stated that maybe this is what is needed now, a declaration of drought, so that the director

can begin impose restrictions. But the issue has been bent towards the Hamakuapoko Well - whether the

water should be used or not. That shouldn't be the main consideration. As far as the well water is

concerned, during the last drought the governor had to declare an emergency drought declaration so that

water could be used. The Board couldn't do it, the Mayor couldn't do it. It couldn't be done at the

county level.

But the beginning measures to conserve water or to legally ask people to restrict their water use,

starts with the Board declaring a drought. This should be the first step. Because our resources are so

low, we shouldn't be wasting any time. This has nothing to do with using Hamakuapoko wells which seems

to be clouding the issue. He would like to err on the side of caution and declare a drought so that the

director can begin to impose restrictions.

Motion by Vice Chair Okamura for the Board to make a declaration of drought for the Upcountry area.

Second by Member Lester.

Discussion: Member Aldridge stated that he agrees with Vice Chair Okamura. He feels it is necessary and

doesn't see that the request for voluntary restrictions have done much. Indeed the reservoir levels are

very low and in some cases they are empty. If nothing else the Board should at least establish this

declaration so that the director can take action when necessary. It doesn't mean that he has to do it

today. It is absolutely vital not to wait a month from now when we have our next meeting.

Member Parsons stated that we have to consider the fact the Hamakuapoko wells are directly tied in to

this. We have established that waters can be taken and swapped out. This is a better approach than

having even the remotest possibility of Hamakuapoko being put online. Even when Council had recommended

putting a resolution together, the Department did not listen and they continued to put 36-inch pipeline

at the Hamakuapoko site.

We have not met the threshold to call a drought. By the Board's own rules and emergency rules we haven't

met the threshold. If we need to call an emergency meeting we can do that.

We need to be in full conscience without political pressure and beyond a shadow of a doubt that

Hamakuapoko wells are fit for human consumption. The minute you call a drought that can trigger those

wells to be pumped. The Board's decision will be directed to the governor and the governor will say

that the Board has taken this under advisement and they have agreed so therefore it must be ok. That's

what's going to happen.

The Department has a list of alternatives that could be pursued at this point. Why after 4 years has

the current mayor come before the Board? Couldn't he have directly to the governor and by-pass the

Board again. She believes he already tried that and the governor didn't believe Hamakuapoko was the

only answer either. If we have an conscience and concern for the public's health, safety and welfare,

we have only one way to vote on this issue. We must not allow our board to call an emergency drought

until all other avenues have been thoroughly exhausted.

Member Parsons asked Deputy Corporation Counsel Edward Kushi if the Board has other alternatives to set

guidelines for the Department to call in heavier restrictions without calling a drought? Mr. Kushi

stated that right now the declaration of drought is covered by the Board's existing rules, section 4-1.

It is not clear in his mind who declares a drought. Based on the charter change this body is purely

advisory. The declaration of a drought and all the implications thereafter are basically more than

advisory. Under the Board's section 3-2, Conservation Measures and Interruption of Water Supply, sub-

section b states:

"Whenever, in the director's opinion, special conservation measures are advisable in order to forestall

water shortage and a consequent emergency, the department may restrict the use of water by any reasonable

method of control."

That vests the conservation measures in the director's opinion, at his discretion not the board's. So

he can do something right now.

Member Parsons asked Mr. Kushi, so he doesn't need us to call a drought. Mr. Kushi replied, not for a

drought, this is to forestall a consequence of emergency.

Vice Chair Okamura asked Mr. Kushi, so does that mean that he can just say that there is a 10% restriction

on use and follow up on enforcement. Mr. Kushi replied that what he can do is to implement special

measures. Now the question is, what if they are not followed? Then there is the section that the Vice

Chair quoted about penalties, violations, removal of meters, etc. Those sections are provided in the

drought rules.

Mr. Kushi gave as an example the following scenario. Without the board, or the governor or the mayor or

whoever declaring a drought, the director in his opinion issues a mandatory 10% cut-back for the Upcountry

system. If you don't do it, then the department will yank your meter or assess you \$50 per violation.

And then that happens without a declaration of drought, can the applicant appeal somewhere saying it

wasn't promulgated accordingly. That's never happened but he can imagine that it will happen.

Member Howden agrees with Member Parsons that to call a drought is premature at this time. Not enough

of the triggers are in place and it is his belief that there are alternatives.

Director Tengan stated that the drought guideline, Resolution 98-18, is no longer in

effect because the

Board rescinded this resolution several years ago. The basis intent of the Mayor he believes was in

declaring a drought warning. It wasn't intended to go back to this resolution. It was intended to

forewarn the community that if the situation worsens then we will be forced to go into mandatory

restrictions. We have stopped all temporary meters Upcountry and stopped tie-ins to the water system.

We have taken measures to reduce the demand on the system. As for the department's flushing program,

the department has only flushed those areas that really need it. At these points we allow the temporary

meters so that the contractors, in drawing the water for dust control, will be helping the department

flush the system and in addition to that there is an economic benefit to that. The Department gets

some revenue by providing this to a contractor.

Member Haller asked the Director to clarify Council Member Anderson's statement about diverting water

just before the Kamole treatment plant and putting it in to the ditch as opposed to treating it and

therefore making that water available for farming. What would it take for the department to do that?

Director Tengan referred to page 16 in the board packet showing the schematic of the Upcountry water

system.

The Director stated that there seems to be a lot of confusion about this. As of today, we can take 12

million gallons out of the ditch. The capacity at the plant is 7 million gallons per day. If we put

the water into the ditch before the treatment plant it still can produce only 7 million gallons per day.

That is all that we can send Upcountry. If we put it after the treatment plant it's the same thing.

We can only produce 7 million gallons per day. Now if we can take the 1.5 million gallons from the

wells and put it in to our clearwell, now we will have available 8.5 million gallons a day to pump

Upcountry.

Member Parsons stated that the usage we have Upcountry isn't 7 million right now. Isn't that correct?

Director Tengan stated that we are averaging about 9 million gallons.

Member Parsons stated that we have other sources besides this that provide water. Director Tengan

stated yes, the other sources we include the Kaupakulua and the Haiku Well. That's about 1.2 million

gallons that you can deduct from the 9.0, that would make our surface facilities would have to produce

7.8 million gallons. That 7.8 would have to come from the Olinda, Piiholo and Kamole treatment plants.

Member Parsons stated that the math doesn't work here. If you can use 7 million gallons out of the

treatment plant and you need 7.8 and you have 1.2 from another source... The Director pointed out that

the demand is 9 million gallons per day. If you look at the column on the right (of the Upcountry

Water Report) it shows the total demand for the day.

Chair Victorino stated that if you take the 9 million minus the 1.2 million that leaves 7.8 million that

needs to be taken care of. If we have 7 million maximum capacity out of the ditch that leaves .8 million

or 800,000 need to be accounted for. The Chair asked Director Tengan if we could get 800,000 from the

other sources. The Director replied yes, we can treat 1.5 million at the Olinda treatment plant and we

can treat another 5 million gallons at the Piiholo treatment plant. If you look at the page before the

schematic there is a table that shows under the first column what our capacity is. At that time we could

do 5 million but because the filter modules were replaced we can do 7 million gallons a day. So that

total should now be 15.9. But remember, you can do that 7 million gallons per day some of the time but

you can't do it all of the time and that's because of maintenance and back wash issues.

Vice Chair Okamura stated that if we can 7 million gallons a day from the Wailoa Ditch and treat that

and that's 7 million gallons a day input. The only other source of input is from the Piiholo which is

only 1.2 million gallons a day. There's hardly anything at the upper system. We take 7 from Wailoa

Ditch to treat at the Kamole treatment plant. That's 8.2. In addition we can take the Kaupakalua and

Haiku and that's 10.2. But we've hit 10.2 a number of times. The amounts we have used are very close

to or have gone over the sources. That's why the reservoirs are going down.

Member Parsons asked if we know how much is flushed Upcountry. The Director replied that it can be up

to 300,000 gallons a day. Member Parsons stated that in last Friday's paper you complimented the people

Upcountry for being down 2 million gallons of usage a day. But when you take an average it doesn't come

up. You need look at the average. It might have been a flushing day.

Vice Chair Okamura stated that from a farmer's point of view, when the weather is dry you need to water

more.

Director Tengan stated that basically what we are looking for is the Board's support in informing the

community that we are in a drought situation and the Board is declaring a drought warning. That warning

is not intended to implement the restrictions, but more in the form that if the current situation doesn't

get any better, if the consumption stays as high as it has been, then in some point in time we may have

to go into drought restrictions, 10% to 25%, depending on the situation. That's what he believes the

mayor is looking for, some support from the Board in declaring a drought warning.

The Chair stated that the motion is for a declaration of a drought and the Board will vote on it, then

he will request the Board if they would support a warning as a different motion. So the motion before

the Board is a declaration of a drought.

Vote: ayes - Members Aldridge, Okamura and Lester

nays - Members Howden, Parsons, Haller and Chair Victorino

The motion for a declaration of drought does not pass.

Motion by Member Howden to suggest the Board issue a strong caution in terms of water use and also

encourage the director to go ahead with some level of restrictions as a preventative measure.

Second by Member Parsons.

Discussion: None.

Vote: ayes - unanimous.

The motion passes. The Chair, with the permission of the rest of the Board, will write a letter stating

that the board strongly backs the mayor and the director as far as asking for conservations and

restrictions.

Member Parsons stated that in the Upcountry water system we have to flush. We want to encourage people

to flush their faucets before they start to use them to bring disinfection into their homes.

Member Howden stated that we need to keep conservation as part of it because some of the Upcountry

farmers have been pretty careless with water usage.

Vice Chair Okamura stated that it depends on how much you have to water. If you have 10 fields to water,

you have to water it during the day. Agricultural water is only 11% of the whole county. The big

difference has to be made at the homeowner level which is 90%.

B. Discussion regarding EMI Master Water Agreement and Amendments.

Member Howden stated that it is his understanding that EMI and HC&S pay less than a penny per thousand

gallons of water taken from the watershed. The Board ought to review these documents very carefully so

that HC&S makes a more rational contribution to the costs of water. We could work out an agreement with

the state for the benefit of the East Maui Watershed and for the Department of Water Supply.

The Chair told Member Howden if he wanted a quick overview, he should go to page 9, article 1, Water

Rates. There's a whole slew of things including different rates, different times when these rates would

change. This matter will be deferred to the next meeting.

D. Discussion /possible action regarding Hamakuapoko Wells.

Member Haller stated that she would like to put forward a motion asking the Chair to rescind his letter

of recommendation to the Council. The Chair stated that there is nothing to be done because no action

done on it. It was done on behalf of the farmers asking not to cap the wells. Since it was never

intended to be capped, it's a done deal. The act passed by the Council and the only one that can rescind

Bill 51 would be the mayor by vetoing it.

Motion by Member Haller that the Board recommends to the Mayor not to veto Bill 51.

Second by Ginny Parsons.

Discussion: None.

Vote: ayes - Members Howden, Parsons, Haller, Victorino

nays - Members Aldridge, Okamura, Lester

Motion does not pass because it needs a five member majority. The vote is 4 to 3 in favor of the motion.

Member Parsons asks Members Lester and Okamura for their reasons why they would subject the public to

something that was determined not fit for consumption. Vice Chair Okamura stated that there is lot of

emotion dealing with this big issue. When it comes to something like this it has be dealt with

objectively. When we don't know we shouldn't act.

Member Haller stated that it is not an issue of emotion, it is an issue of not having enough information

and we shouldn't act because we don't have the information.

Motion by Member Parson to advise the administration and the department to work with the community, the

Department of Health & EPA to develop a quality assessment program to test and culture the Hamakuapoko

wells in order to provide assurance to the community that the wells are safe for consumption.

Director Tengan asked where the funding will be coming from? The Chair stated he would like to get the

motion passed. When it comes to the money part, there are places we can find the money. For the well-

being and safety of the community this advisement is paramount.

Second by Member Howden.

Vote: ayes - unanimous

Motion passes and the Chair will write the letter.

F. Receipt of Board Member requests for agenda items to be placed on future agendas.

The Chair asked that the Board members e-mail their requests in.

X. Division Reports.

Member Parsons asks to have this item deferred to the next meeting. The Chair agreed.

XI. Adjournment.

The September 21, 2006 Board of Water Supply meeting was adjourned at 2:15 p.m.

Prepared and submitted by:

Gaye Hayashida

Commission Support Clerk

Approved on: _____

* Trigger #5 states "Kamole pumping is greater than 5 mgd."