

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

September 1, 2006

Committee
Report No.

06-104

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Water Resources Committee, having met on June 21, 2006, July 5, 2006, July 19, 2006, August 2, 2006, and August 16, 2006, makes reference to the following:

1. County Communication No. 05-46, from Councilmember Michelle Anderson, relating to the rules and governing policies of the Department of Water Supply; and
2. Committee Report No. 06-59, from your Water Resources Committee, recommending passage on first reading of a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 2.88A, MAUI COUNTY CODE, AND AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE COUNTY WATER CODE". The purpose of the proposed bill is to establish the County Water Code in Article 1, Title 14, of the Maui County Code, including a provision that water from wells located in a contaminated aquifer underneath active agriculture shall not be provided for human consumption.

Your Committee notes that at its meeting of April 21, 2006, the Council recommitted Committee Report No. 06-59 to your Water Resources Committee.

By correspondence dated April 12, 2006, the Council Chair transmitted correspondence dated April 5, 2006, from Stephen P. Bowles, President, Island Resources Ltd., recommending removal of Section 14.01.050 referring to aquifer contamination.

By correspondence dated June 20, 2005, the Chair of your Committee transmitted all written testimony received at the Council meeting of April 21, 2006, relating to Water Resources Committee Report No. 06-59.

By correspondence dated June 21, 2006, the Chair of your Committee transmitted a proposed revision to the proposed bill relating to the prohibition on the use of water from wells in contaminated areas for human consumption.

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By correspondence dated June 21, 2006, the Chair of your Committee transmitted correspondence, entitled "State of Hawai'i: Department of Health: Groundwater Contamination Maps 2004", and related information.

At its meeting of June 21, 2006, your Committee deferred consideration of the proposed bill without discussion.

At its meeting of July 5, 2006, your Committee deferred consideration of the proposed bill without discussion.

By correspondence dated July 7, 2006, the Chair of your Committee transmitted an article, entitled "Municipal Water Use Takes Back Seat To Public Trust, in View of Legal Expert", from the June 2005 edition of *Environment Hawai'i*.

At its meeting of July 19, 2006, your Committee met with the Director of Water Supply and a Deputy Corporation Counsel.

Your Committee received verbal and written testimony from two people in support of the proposed bill, citing environmental and health concerns.

Your Committee deferred consideration of the proposed bill pending further discussion.

By correspondence dated August 1, 2006, the Department of the Corporation Counsel, transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES". The purpose of the draft bill is to establish the County Water Code in Article 1, Title 14, of the Maui County Code.

At its meeting of August 2, 2006, your Committee met with the Director of Water Supply and a Deputy Corporation Counsel.

Your Committee received written testimony from one person and verbal testimony from another person in opposition to the proposed bill, citing economic concerns.

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Your Committee deferred consideration of the proposed bill pending further discussion.

By correspondence dated August 11, 2006, the Mayor transmitted correspondence dated July 28, 2006, from Chiyome Leinaala Fukino, M.D., Director of Health, State Department of Health, transmitting a document, entitled "State of Hawai'i: Department of Health: Groundwater Contamination Maps 2005", and related information.

At its meeting of August 16, 2006, your Committee met with the Director of Water Supply and a Deputy Corporation Counsel.

Your Committee received written testimony from one person in opposition to the proposed bill, citing economic concerns, and verbal testimony from two people in support of the proposed bill, citing environmental and health concerns.

Your Committee focused its deliberations on the following provision in Section 14.01.050 of the proposed bill: "Water from wells located in a contaminated aquifer underneath active agriculture shall not be provided for human consumption." Your Committee noted it had previously recommended inclusion of this provision because of concerns about the use of water for human consumption from the Hamakuapoko wells, located in the Paia-Haiku Community Plan area.

Your Committee further noted that the Council had adopted Resolution No. 06-39, entitled "URGING THE DEPARTMENT OF WATER SUPPLY TO DISCONTINUE PLANS TO USE THE HAMAKUAPOKO WELLS FOR DRINKING WATER". Your Committee observed that it appeared the Administration was not providing a positive response to the resolution. The Director of Water Supply noted that the resolution had no legal effect.

By correspondence dated August 16, 2006, the Chair of your Committee recommended that the section heading and text of Section 14.01.050 of the proposed bill be replaced with the following:

14.01.050 Hamakuapoko Wells. Water from Hamakuapoko
Wells 1 and 2 shall not be provided for human consumption.

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In discussing the proposed amendment, your Committee reiterated its concern about the serious environmental and health issues relating to the use of water from the Hamakuapoko Wells, which led to the adoption of Resolution No. 06-39 on April 21, 2006. Your Committee further expressed its concern about the Administration's apparent disregard of Resolution No. 06-39 in the four months since its enactment. Your Committee noted that it was important for the Council to take decisive action and provide the Administration with a legally binding policy directive against the use of water from the Hamakuapoko wells for human consumption.

Your Committee voted to recommend passage of the revised proposed bill to prohibit the use of water from the Hamakuapoko wells for human consumption .

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 2.88A, MAUI COUNTY CODE, AND AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE COUNTY WATER CODE", incorporating your Committee's revisions. The purpose of the revised bill is to establish the County Water Code in Article 1, Title 14, of the Maui County Code, including a provision that water from Hamakuapoko wells shall not be provided for human consumption.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill No. _____ (2006) entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 2.88A, MAUI COUNTY CODE, AND AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO THE COUNTY WATER CODE", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That Committee Report No. 06-59 be FILED.

Adoption of this report is respectfully requested.

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MICHELLE ANDERSON **Chair**

DAIN P. KANE **Member**

CHARMAINE TAVARES **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**