

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

April 21, 2006

**Committee
Report No.**

_____ 06-58

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

Chair and Members:

Your Water Resources Committee, having met on February 15, 2006, March 1, 2006, and March 15, 2006, makes reference to County Communication No. 05-356, from Councilmember Michelle Anderson, relating to the Hamakuapoko wells, located in the Paia-Haiku Community Plan area, and transmitting related documentation from the Department of Water Supply.

Your Committee notes that DBCP (dibromochloropropane) has been found in the Hamakuapoko wells. DBCP is a carcinogenic synthetic organic chemical that was formerly used to fumigate the soil in pineapple fields.

By correspondence dated November 16, 2005, the Chair of your Committee transmitted correspondence dated October 24, 2005, from Glenn M. Kosaka, on behalf of the Kula Community Federal Credit Union, expressing opposition to the use of East Maui and Upcountry water in other areas.

By correspondence dated January 24, 2006, the Chair of your Committee requested that the Director of Water Supply provide the same information at your Committee's meeting scheduled for February 15, 2006 as was provided at the Department of Water Supply's public meeting (referred to as an "open house") regarding the Hamakuapoko wells on October 27, 2005 at Paia Community Center.

By correspondence dated February 1, 2006, the Director of Water Supply requested that your Committee provide written questions in advance of its meeting scheduled for February 15, 2006.

By correspondence dated February 9, 2006, the Director of Water Supply provided information about water experts from outside the Department of Water Supply who participated in the open house on October 27, 2005.

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By correspondence dated February 13, 2006, the Chair of your Committee requested that Clifford P. Lum, Manager and Chief Engineer of the Honolulu Board of Water Supply, authorize a staff member to attend your Committee's meeting on February 15, 2006.

By correspondence dated February 14, 2006, Lorrin Pang, M.D., District Health Officer for Maui County, State Department of Health, expressed support for a preliminary evaluation of the Hamakuapoko wells system.

At its meeting of February 15, 2006 in Paia, your Committee met with the Director of Water Supply; the Deputy Director of Water Supply; the Administrative Officer, Department of Water Supply; the Senior Executive Assistant to the Mayor; the Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management; and a Deputy Corporation Counsel.

The Administrative Officer provided background information on the Hamakuapoko wells, including detailed information on the Granular Active Carbon filters (designed to minimize the presence of DBCP and other potentially harmful elements) and sampling results. She noted that the wells were drilled in 1992 and have been used as a backup source for Upcountry drinking water during drought conditions intermittently between 1999 and 2004. The Administrative Officer advised that the Department plans to initially return only Hamakuapoko Well No. 1 for service to the Paia-Kuau area. Eventually, the Department intends to use both wells to service the Spreckelsville, Kahului, and/or Upcountry areas. In addition, she stated that the Department's budget proposal for Fiscal Year (FY) 2007 includes an appropriation of \$750,000 to ensure that water from the Hamakuapoko wells can flow to Spreckelsville and Kahului. The Administrative Officer further advised that the Department's budget proposal for FY 2007 includes \$250,000 for the study and design of a nitrate removal facility (which would eventually cost about \$2 million to construct). She noted that in December 2003, a consent decree settled a related environmental lawsuit filed by the Coalition to Protect East Maui Water Resources. The consent decree is available on the Department of Water Supply's website. She also provided a document with various data about the Hamakuapoko wells, updated on February 15, 2006.

Your Committee received public testimony from 37 people, who variously raised concerns about and expressed opposition to the use of the Hamakuapoko wells for drinking water. Some of the testifiers alleged that the Administration had not provided all relevant information about the safety of water from the Hamakuapoko wells, which created uncertainty in the community and raised the possibility of the public being

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unknowingly exposed to significant health risks. They expressed outrage and dismay that the County would consider allowing carcinogens into the water supply. Testifiers also contended that the problem was a result of rampant construction that the County had approved in advance of necessary infrastructure. They alleged that residents in the Paia-Haiku Community Plan area would be unfairly penalized by having their current sources of drinking water diverted to high-development areas. According to some testifiers, residents throughout the North Shore of Maui are committed to undertaking all necessary efforts to fight the Administration's plans to use the Hamakuapoko wells for drinking water. They sought your Committee's aid in their cause. Testifiers thanked your Committee for traveling to Paia to meet with concerned community members.

Your Committee received the following documents:

- A document dated December 23, 2003, filed with the Second Circuit Court, State of Hawaii, on December 23, 2003, entitled "CERTIFICATE OF SERVICE OF CONSENT DECREE", The Coalition to Protect East Maui Water Resources, et al. v. the Board of Water Supply, County of Maui, et al. The Consent Decree, dated December 2, 2003, is intended to resolve an environmental lawsuit concerning water use and development in East Maui.
- A petition expressing opposition to the use of the Hamakuapoko wells for drinking water signed by approximately 1,546 people.
- Written testimony raising concerns about the use of the Hamakuapoko wells for drinking water from Lucienne deNaie, on behalf of Maui Tomorrow Foundation, Inc., and from Nick Rusnak.
- A digital video disc entitled "1.) Haze: Chemtrails vs. Contrails: An Environmental Documentary; and 2.) Chemtrails: w/Clifford Carnicom & Will Thomas".

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated February 17, 2006, the Chair of your Committee transmitted copies of eight letters, variously dated from November 23, 2005 to December 7, 2005, from the Director of Water Supply to residents in the Paia-Haiku Community Plan area, regarding the Consent Decree in the above-referenced case filed by The Coalition to Protect East Maui Water Resources and other plaintiffs.

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By correspondence dated February 22, 2006, the Chair of your Committee requested that the Director of Water Supply provide a written response to the following health, environmental, and related questions raised in testimony at your Committee's meeting of February 15, 2006:

- How will the use of a 36-inch pipe allow for compliance with industry flow rate standards?
- What replacement chemicals (rather than DBCP) are being used in the wellhead protection area of the Hamakuapoko Wells? What organic chemicals are being used? What chemicals not approved by the Environmental Protection Agency are being used? How do we know what chemicals are in the water?
- What is the record of pumping for the Hamakuapoko Wells? Considering that contaminant levels will increase over time, does this record provide meaningful data?
- Will Well No. 1 be used before a nitrate removal facility has been constructed?
- What Council approvals for the use of Hamakuapoko Wells have already been made, if any?

By correspondence dated February 28, 2006, the Director of Water Supply transmitted pumping records for Hamakuapoko wells, and in response to questions posed in the correspondence dated February 22, 2006, stated the following:

As long as the nitrate levels are below EPA [United States Environmental Protection Agency] standards, water from both wells may be pumped into the system. Due to community concerns, we will start with the use of well No. 1 when needed as long as the nitrate level remains below the maximum contaminant level (MCL) established by the EPA.

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The use of the Hamakuapoko wells was approved by the Board of Water Supply prior to the Charter change. The Council has since approved a budget amendment to accommodate cost increases caused by inflation. The contract was first executed circa 1995 but was stalled by court action on the environment impact statement challenges. The original funding for the project was with State of Hawaii funds. Customers on the County's system will bear the additional cost increases due to the hold up of the project.

At its meeting of March 1, 2006, your Committee met with the Director of Water Supply; the Administrative Officer, Department of Water Supply; and a Deputy Corporation Counsel.

Your Committee received public testimony from eight people, who expressed opposition to the use of the Hamakuapoko wells for drinking water. Some testifiers urged the Council to deny Administration funding requests relating to the Hamakuapoko wells, and urged action to ensure that the Hamakuapoko wells are dismantled or otherwise made unavailable for drinking water in the future.

The Director of Water Supply reviewed his correspondence dated February 28, 2006.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated March 8, 2006, the Chair of your Committee transmitted a proposed resolution entitled "URGING THE DEPARTMENT OF WATER SUPPLY TO DISCONTINUE PLANS TO USE THE HAMAKUAPOKO WELLS FOR DRINKING WATER". The purpose of the proposed resolution is to urge the Department of Water Supply not to use the Hamakuapoko wells for drinking water. The proposed resolution states that "the Council is concerned about the issues raised in public testimony and has not been convinced of the need to use the Hamakuapoko wells for drinking water".

At its meeting of March 15, 2006, your Committee met with the Director of Water Supply; the Administrative Officer, Department of Water Supply; a Civil Engineer, Engineering Division, Department of Water Supply; and two Deputy Corporation Counsel.

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Your Committee received public testimony from seven people in support of the proposed resolution. Several of the testifiers stressed the importance of the Council making a strong statement to the Administration regarding the community's concerns about the use of the Hamakuapoko wells for drinking water.

Your Committee received written testimony in support of the proposed resolution from John Blumer-Buell.

Your Committee received written testimony from 21 students of the Montessori of Maui school, expressing gratitude for your Committee's concern about safe drinking water.

Your Committee received a Ramseyered copy of a revised proposed resolution, entitled "URGING THE DEPARTMENT OF WATER SUPPLY TO DISCONTINUE PLANS TO USE THE HAMAKUAPOKO WELLS FOR DRINKING WATER", from the Chair of your Committee. The revised proposed resolution provides further substantiation for concerns about the safety of water from the Hamakuapoko wells, by adding the following:

"WHEREAS, the testimony has alleged that Hamakuapoko Wells Nos. 1 and 2 are highly contaminated with pesticides and fertilizers that were and are applied to the fields under which the wells are located; and

WHEREAS, the testimony has further alleged that even if some of the organic chemicals are filtered with charcoal filters, residents will still be drinking water with an increased amount of DBCP, TCP, and other compounds that have been shown to be carcinogenic and cause serious fetal and neonatal health risks; and

WHEREAS, in addition, the testimony stated that nitrate levels in these wells have been tested at above 5 parts per million, the level at which the Honolulu Board of Water Supply determined it necessary to build a \$6 million nitrate treatment plant in Kunia; and"

Your Committee noted that the testimony from residents in the Paia-Haiku Community Plan area raised serious environmental and health concerns and that the Department of Water Supply has not yet sufficiently addressed those concerns. Your Committee further noted that the issues relating to the Hamakuapoko wells illustrate that the County's basic infrastructure has not kept pace with development. Your Committee

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acknowledged that the proposed resolution, if adopted, would carry no legal effect, but would send a strong signal to the Administration of the importance of protecting public health above all else and the need to adequately address infrastructure needs throughout the County.

Your Committee recommended that the proposed resolution be revised, incorporating revisions proposed by the Chair of your Committee.

Your Committee voted to recommend adoption of the revised proposed resolution.

Your Committee is in receipt of a revised proposed resolution incorporating your Committee's revisions.

Your Water Resources Committee **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "URGING THE DEPARTMENT OF WATER SUPPLY TO DISCONTINUE PLANS TO USE THE HAMAKUAPOKO WELLS FOR DRINKING WATER", be **ADOPTED**.

Adoption of this report is respectfully requested.

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