

Wailuku, Maui, Hawaii, April 7, 1961

Resolution No. 49⁴⁹

Presented by Soon Oak Lee *Lee* Supervisor

WHEREAS, the County of Maui has by experience found that the development of Maui has been hampered because of water shortage; and

WHEREAS, at the present time there is no assurance of adequate water supply especially in the Kula, Haiku, Paia and Makawao areas; and

WHEREAS, these areas are very dependent on East Maui Irrigation Company and its willingness to sell the County adequate water for such development purposes although most of it originates in State lands; and

WHEREAS, the East Maui Irrigation Company's water sources originate primarily from the four existing State licenses, namely, Honomanu, Keanae, Nahiku and Huelo, which licenses do not assure adequate water for the County of Maui for domestic purposes; and

WHEREAS, the four existing licenses granted by the State are the only substantial areas to serve the needs of the Island of Maui with water; and

WHEREAS, the water resources now under license to East Maui Irrigation Company are under the control of the State and water is the basic element in the development of any economy and the County of Maui should be entitled to this natural resource; and

WHEREAS, the County purchases water from East Maui Irrigation Company at the rate of \$40 per million gallons for which East Maui Irrigation Company pays prices ranging from \$1.26 to \$3.556 per million gallons for water that originates in State lands; and

WHEREAS, the Honomanu license, which expires on June 30, 1961, is up for rebidding some time in the month of April, 1961; and

WHEREAS, the water from the Honomanu license is adequate to take care of immediate and future needs of certain areas on Maui; and

WHEREAS, the four existing licenses put the State and the County at a disadvantage in not being uniform in their terms, conditions and obligations; and

WHEREAS, the four licenses in existence are all dependent on the basic agreement of the 1938 East Maui Water Agreement; and

WHEREAS, the 1938 East Maui Water Agreement may present a constitutional question as to its validity, in that, the rights and easements granted by the State are in perpetuity; and

WHEREAS, the licenses and water needs of the County of Maui require a great deal of study to resolve these problems equitably to the State, the County and East Maui Irrigation Company; and

WHEREAS, a summary of the State water licenses on Maui, a copy of which is attached hereto and by reference made a part hereof, will sufficiently present in a general way the water needs and problems of the County of Maui; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui that it does hereby request the legislature of the State of Hawaii to request the Department of Land and Natural Resources to make a complete study of all the water licenses on Maui and to delay the advertising and awarding of the Honomanu license for another year; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the President of the Senate and the Speaker of the House of Representatives, First Legislature of the State of Hawaii; to the Department of Land and Natural Resources of the State of Hawaii; and to each legislator from the County of Maui in said First Legislature of the State of Hawaii.

Seconded by

Kobayashi
Harry N. Kobayashi Supervisor

| BOARD OF SUPERVISORS | Ayes | Noes | Ab. | Ex. |
|----------------------|------|------|-----|-----|
| EDDIE TAM, Chairman | X | | | |
| TOSHI ANSAI | X | | | |
| RICHARD P. CALDITO | X | | | |
| GORO HOKAMA | X | | | |
| HARRY N. KOBAYASHI | X | | | |
| SOON OAK LEE | X | | | |
| MARCO M. MEYER | X | | | |
| LANNY H. MORISAKI | X | | | |
| TOM TAGAWA | X | | | |
| Total | 9 | 0 | | |

Punifoa Espinoza
Deputy County clerk, County of Maui,
 State of Hawaii

MAUI COUNTY WATER DEPARTMENT

Kahului, Maui, Hawaii

A BRIEF SUMMARY OF STATE WATER LICENSES ON MAUI

March 29, 1961

(Revised: April 4, 1961)

A BRIEF SUMMARY OF STATE WATER LICENSES ON MAUI

GENERAL

The State is in a growing stage today. The County of Maui will no doubt be affected by this growth in a short time and it has been the experience of this County to have development stopped because of water shortage.

At present there is no assurance of adequate water sources for the development of the Kula, Haiku, Paia and Makawao areas. A lot is dependent on the East Maui Irrigation Co., Ltd. and its willingness to sell the County water for such development although most of it originates in State lands.

This report is not intended to damage the sugar industry; however, water should be made available for the anticipated growth. The licenses as granted to date do not assure enough water for future domestic use. It is rather difficult to determine exactly what is needed in the next 10 years for such use; therefore, the license itself should be flexible or of a short term nature to take care of such conditions as may arise.

This report is also not intended to be the conclusion of the study, but is made to show the necessity of being aware of the future needs of the community.

THE LICENSES

There are four water licenses in effect today issued to the East Maui Irrigation Co., Ltd. with one of them (Honomanu) expiring in June 1961. The licenses are as follows:

1. Honomanu -- July 1, 1940 - June 30, 1961
Area -- 2,121 acres
Yield -- 4,430 million gallons water @ \$2.10 \$ 9,303.00 per yr.
2. Keanae -- July 1, 1950 - June 30, 1971
Area -- 10,768 acres
Yield -- 16,296 million gallons @ \$1.95117 31,796.26 per yr.

3. Nahiku -- July 1, 1955 - June 30, 1976
 Area -- 10,111 acres
 Yield -- 7,143 million gallons @ \$1.26 \$ 9,000.00 per yr.
4. Huelo -- July 1, 1960 - June 30, 1981
 Area -- 6,630 acres
 Yield -- 14,060 million gallons @ \$3,556 50,000.00 per yr.

Total:

29,630 acres

41,929 million gallons -- \$100,099.26 per year

The length of the contracts are for twenty-one (21) years, each expiring at different years and each having different conditions attached; however, all subject to the East Maui Water Agreement of 1938 between the Territory of Hawaii and the East Maui Irrigation Co., Ltd.

The 1938 East Maui Water Agreement, in essence is an agreement whereby the Territory gives East Maui Irrigation Co., Ltd. a perpetual easement through government land (license area) for the collection and transmission works in return for the use of the said works and easement through East Maui Irrigation Co., Ltd. lands, between Nahiku on the east and Honopou on the west. This agreement makes it almost impossible for anyone to bid for the license except East Maui Irrigation Co., Ltd.

The bidding has been done at public auctions advertised 60 days prior to the expiration date for the license fee itself with the condition that the licensee shall use as much water as possible at a rate pre-set by the licensor. This price is dependent on the price of sugar, indicating the fact that the water is to be used by the sugar industry. In past auctions, only East Maui Irrigation Co., Ltd. has been bidding and obtaining the license for \$10.00 plus cost of the sale amounting to less than \$200.00.

COUNTY NEEDS - PRESENT & FUTURE

The County has been buying water for its use from the East Maui Irrigation Co., Ltd. from their ditches and other areas. In

1960, the County bought the following:

| | |
|--|-------------|
| 1. Olinda (Waiakamoi) for Kula 427 million gallons at \$10.00 | \$ 4,270.00 |
| 2. Huluhulunui for Makawao (from ditch) 40 million gallons at \$40.00 | 1,600.00 |
| 3. Haiku-Pauwela (from ditch) 31.5 million gallons at \$40.00 | 1,260.00 |
| 4. Lilikoi for Makawao 6 million gallons at \$40.00 | 240.00 |
| 5. Nahiku 1.3 million gallons at \$40.00 | 52.00 |
| Total: 505.8 million gallons | \$ 7,422.00 |

The rates charged the County are relatively high even when considering the use of some of the East Maui Irrigation Co., Ltd.'s transmission structures, especially when compared to the rates charged East Maui Irrigation Co., Ltd. by the State.

Even though the present use amounts to 505 million gallons yearly, Kula area alone would need an additional 800 million gallons annually with another 800 million for the other areas in the lower elevations. This indicates the necessity of going into State lands for the additional supply of water.

Honomanu License area, being the area with an expiring license in the immediate future would be the most logical place to seek the additional water to satisfy the immediate demands. The upper portion of this license area could yield water for Kula and the lower portion for the other areas. For this reason, the County of Maui should be granted the Honomanu Water License.

COUNTY REQUESTS

In view of future needs, the following should be considered in drawing up of new contracts as they will assure adequate water for much of the affected area when needed:

1. The County or the government should have preference to the first water as its use will not be too great.
2. Extension of paragraph 23 of the Huelo License to other areas where the State reimburses water to East Maui

Irrigation Co., Ltd. for water removed by the County from EMICoLtd. lands for Kula. This item should be extended to other future leases.

The immediate solution using the expiring Honomanu Lease would be a similar exchange and if the Honomanu License Area does not yield enough water to compensate that taken by the County from other areas, the difference could be made up with (1) monetary reimbursement or (2) water from other licenses.

For the use of the aqueducts, payments should be made with water. For such a purpose, the licensee should be required to file with the State, the operational and maintenance cost of the structures.

3. Terms of the leases should be shorter or should be flexible enough to be changed as the time requires.
 4. The County should be treated as an agent of the State with rights as enumerated in the lease agreements.
 5. All leases should be uniform. Therefore, all leases should expire at the same time so that all may be treated alike.
 6. The amount of revenue derived from this area warrants the government to do the measurement instead of relying on the licensee's reports.
 7. A thorough study of all leases should be made before contracting the Honomanu License which will expire on June 30, 1961. (According to the East Maui Water Agreement, advertising should start at the end of April.) The County should be consulted on this matter.
- If nothing can be resolved by the expiration date, then the license should not be awarded for another year by which time a thorough study should be made and when the next legislature would be in session.
8. The County should be informed on all expirations at least one year prior to expiration date and on advertisement of the

licenses.

9. The County lease at Waiakamoi from East Maui Irrigation Co., Ltd. for water for the Kula area should be extended and made to expire with the new Honomanu license.

OTHER SUGGESTIONS

1. The revenue derived from the sale of water (\$100,000 yearly) should be used for the financing of water development projects in the County, thereby eliminating the necessity of having to ask the legislature for funds all the time, and enabling the County to make long range plans.
2. Give the Honomanu water license to the County, thereby giving the County a wider area to bargain with East Maui Irrigation Co., Ltd. for the necessary water needs; also, the County would be in a better bargaining position concerning the Waiakamoi water with its impending problems. The water sales revenue from this area amounts to only about \$9,000 yearly for the State as compared with the cost to the County of \$7,400 for only 11% of the volume.
3. A check should be made by the Attorney General as to the legality of the State giving easements and right in perpetuity.

CONCLUSION

There is adequate water for all concerned; however, no one party should control its sale or usage as to be detrimental to others. The County being a subdivision of the State should have as much rights to the usage of State water as the present licensee. Water is the basic natural resource necessary for economic development and growth of the island and should not be controlled as to prevent new development.

Note: All data and maps available at the State Department of Land and Natural Resources.