

MINUTES
FOR THE MEETING OF
THE COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: March 15, 2022
TIME: 9:00 am
PLACE: Online via Zoom
Meeting ID: 860 5082 2974

Chairperson Suzanne D. Case called the meeting of the Commission on Water Resource Management to order at 9:02 a.m. and stated it is being held remotely and being live streamed via YouTube for public viewing due to the ongoing Covid-19 pandemic. It was noted the meeting was set to take live oral testimony and written testimony received would be acknowledged upon the submittal item. Chairperson Case read the standard contested case statement and took a roll call of Commissioners.

MEMBERS: Chairperson Suzanne Case, Mr. Michael Buck, Mr. Neil Hannahs, Dr. Aurora Kagawa-Viviani, Mr. Wayne Katayama, Mr. Paul Meyer

EXCUSED: Ms. Joanna Seto

COUNSEL: Ms. Cindy Young

STAFF: Deputy M. Kaleo Manuel, Mr. Neal Fujii, Mr. Ryan Imata, Mr. Dean Uyeno, Dr. Ayron Strauch, Ms. Rae Ann Hyatt

OTHERS: Mr. Sean Fong (Hawaiian Turf Grass); Mr. Colin Kurata (Counsel for HTG); Mr. Brad Seymour (Seymour Resources HI); Ms. Tracie Sober (Valley Well Drilling); Ms. Faye Miller (Legend Farms); Mr. Ernie Lau (Board of Water Supply); Mr. Barry Usagawa (BWS); Ms. Kathy Mitchell (BWS); Mr. Jeremy Mitchell (NAVFAC HI); Lt. Joseph Blauwikel; (NAVFAC HI) Ms. Dayna Fujimoto (NAVFAC HI)

All written testimonies submitted is available for review by interested parties and is posted online upon the Commission on Water Resource Management website.

Chairperson Case announced the deferral of Item A-1 and notified that the Red Hill agenda items was set to be heard at 2:00 pm.

A. APPROVAL OF MINUTES

February 15, 2022

DEFERRED

031522 00:04:02

B. ACTION ITEMS**1. Hawaiian Turfgrass Inc. and Valley Well Drilling, Application for Well Construction Pump Installation and Water Use Permits; HTGI Well (Well No. 3-2501-002), TMK (1) 9-4-003:002, WUP No. 1101, New Agricultural Use for 0.400 mgd; Waipahu-Waiawa Ground Water Management Area, O'ahu**

PRESENTATION GIVEN BY: Mr. Ryan Imata, CWRM Groundwater Branch

Mr. Imata stated the summary of request and noted the Castle & Cooke parcels has an aggregate combined of 2.13 mgd and within their use was Mililani Ag Park, which has a separate allocation that's further broken down into smaller parcels which one of the parcels Hawaiian Turf Grass purchased and is applying for a water use permit in lieu of water use from the Waiāhole Ditch System.

Mr. Imata summarized the analysis and use of the water highlighting that the use of potable groundwater where non-potable water can be used is not in accordance with this policy. However, the current use of Waiāhole ditch water on the Leeward side of O'ahu impacts streams on the Windward side. Therefore, the applicant's use of potable groundwater in lieu of using non-potable water from Waiāhole ditch will allow more water to flow into Windward streams.

The applicant can clarify that they're not in control of the outflow from Waiāhole ditch and desal is not a feasible alternative and there's no surface water available. There will be no interference with other existing legal uses nor Hawaiian Home Lands rights; the proposed use is use is consistent with the State AG District and county AG2/F1 zoning; Chap. 343 is not triggered; and the applicant did a good job in identifying the scope of resources in the area in regard to Ka Pa'akai.

Also looking at having at a later date, under a separate action, reduce the Waiāhole ditch allocation to the properties on Castle & Cooke. Mr. Imata summarized the staff's recommendations.

QUESTIONS/COMMENTS

Commissioner Buck – noted on the water availability in the Waipahu-Waiawa Aquifer but potentially it's one of the aquifers to make up for the water shortage at Pearl Harbor and wondered how was it factored into your recommendation?

Mr. Imata – I believe right now BWS is relying on their Honolulu sources and do not have sufficient sources within Waipahu-Waiawa to satisfy the needs particularly of Halawa Shaft and those wells are probably pumped to capacity. In the table I did, showing the inventory of sustainable yield versus the (current) allocations issued, there's about 19 mgd available. With respect to how BWS will redistribute their use, or the Navy transmitting or increasing their reliance on Waiawa Shaft, I don't think the Navy will pump more than is currently and if so, they'll need to apply to increase their current allocation. Percentage wise, there's 20% SY available.

Commissioner Kagawa-Viviani – asked as there is over pumping by some users and underutilization by others, is that 19 mgd reflective of what the current status is of the aquifer in terms of actual usage?

Mr. Imata – no; we inventory what the actual allocation is, and some are over pumping and at a certain point, engage some degree of enforcement for over pumpage. The issue of four-year non-use revocations has been brought up and there may be competition for available allocation with increasing reliance on sources within Waipahu-Waiawa that would prompt more reason to look at four-year non-use, but it might not free-up much water.

Commissioner Kagawa-Viviani – reiterated 19 mgd reflective available of actual usage.

Mr. Imata – as a policy we do need to make sure that we're issuing permits that that are reflective of what the allocations we give and to look at usage but can clarify that later.

Commissioner Hannahs – with surface water implications can you provide further clarification of the impact to Waiāhole ditch-will there be an immediate reduction of diversion from stream as a result of this permit, or is that a future consequence?

Mr. Imata – from a balanced perspective, we need to reduce that the allocation from Waiāhole ditch in order to issue this permit, but you know in the issue of expediting this permit, I added that condition that says that HTG will need to stop using water from Waiāhole ditch once this source comes online. The issue of decreasing allocation for Castle & Cooke from Waiāhole ditch is big and encompasses a lot of things.

Ultimately looking at Castle and Cook's entire allocation and transferring it out to the proper landowners and reducing them properly. The reduction of Castle & Cooke would probably be from 2.13 to 0.2 mgd which will reduce reliance on the ditch and development tunnels that would make more water available for the streams on the windward side.

Commissioner Hannahs – would be to see that that report before the Commission. What are the transmission losses of the Waiāhole ditch?

Mr. Imata – Through the contest case hearings, ADC is required to line reservoirs from 225 and 155 to reduce infiltration losses which hasn't been done so far so system losses are happening at a bigger rate. To calculate the system losses on the Leeward side, they're measuring at the top and they have an evapo-transpo station by the reservoirs which are reading and calculating and also comparing the meters for each use on the Leeward side versus what's coming out in the mountain.

ADC has an allocation of 2.2 mgd for system losses so they're allowed to lose that much water through the system, but the Commission had mandated them to look at varying some pipes and lining the reservoirs to decrease system losses. There's still going to be system losses associated with evaporation from the reservoirs and leaks.

Commissioner Hannahs – trying to understand there's more than a one for one trade-off that the groundwater well access is a more efficient way to deliver water to the this use and would

save more than that amount in terms of stream impact.

Mr. Imata – the offset of this idea of using potable water for non-potable uses would be keeping the use on the Leeward side with Leeward water which is what the Windward people on O‘ahu wanted in this contested case.

031522 00:22:01

PUBLIC TESTIMONY

Mr. Sean Fong, Hawaiian Turf Grass (HTG) – Hello, Commissioners. Hello, Ryan! Thank you for your time and thank you, Ryan and staff for all your hard work and assistance from application in this process. This has been a long day coming. We've been looking forward to this day and hopefully we get approved for our well. Farming is very important, and water has been restricted.

We have been restricted with water and farming has been challenging last year or so, but we made it through, and we look forward to new seasons. If you get any questions, if I can't answer them, I have our engineer, our contractor Valley Well, Seymour Resources, and my council here to provide any feedback if you guys might have any questions. Thank you for your time and for your consideration.

Mr. Colin Kurata, Counsel for HTG – Aloha Kakahiaka Madame Chair and Commission members. I did submit a letter in support of the application. If you have any questions, I'll just stand by the letter. I have to say that Sean and Joy Fong are an absolute joy to work with. Good people, sincere, true Hawaiians. This is the type of applicants we should be supporting and the type of operation and the spirit that we want to perpetuate, thank you.

Mr. Brad Seymour, Seymour Resources Hawaii – Good morning, Chair and Commission. I wrote in testimony in support of the permit. Hawaiian Turf Grass. Sean Fong has been exceptional to work with it even through his constraints. He has focused on being highly efficient with his water usage and management. He's implemented tools to make him a more capable and responsible user, and he plans to continue to do so in future to be the best user possible.

Ms. Tracie Sober, Valley Well Drilling – Hello! We've been working on this project for a very long time and Sean has been very cooperative, and Ryan has really helped us get through this with the transfer from groundwater use from Castle & Cooke. I think this would be a more efficient way for Sean to work for his business by not using Waiāhole water and having more efficient water Well system. So, if you have any questions about the well system, please ask.

(end of public testimony)

QUESTIONS/COMMENTS

Mr. Katayama – is the issue of putting in your own well the size or the connection that you can get out of the Waiāhole system as you're asking for a three-inch meter.

Mr. Fong – we are on a 3-inch meter currently. Previously we were 6-inch, 4-inch and 4-inch. We were at 400. We purchased in 2014 and we finally planted everything out in 2019 to 2020, and we got to 450,000 gallons per day during peak season. Those meters were taken away from us and we were given a 3-inch meter however has been pinched down, turned halfway off, via a butterfly valve to control our gallons per minute all the way down to 200 gallons per minute and it was very challenging during last summer.

Mr. Katayama – its timing of how you get your water when you get your water.

Mr. Fong – our volume and our pressure has been controlled. We have been forced to pump 100% of the time just to get our pressure and our volume capacity to water during the day and is controlled via the Waiāhole now.

Mr. Katayama – (to Ms. Sober) are there any cesspools located near the Well?

Ms. Sober – no; it's raw land

Commissioner Kagawa-Viviani – who manages the irrigation and distribution system?

Mr. Fong – Mililani Ag Park (M.A.P.)

Commissioner Kagawa-Viviani – do they have full control over all the allocations within their system?

Mr. Fong – Colin can answer that better, but MAP is the manager and makes the decisions. I'm technically a user.

Deputy Manuel – what Sean is mentioning is that he's one of the many end users. ADC manages the main ditch, but that lateral and the down ditch use that's making access to Waiāhole water challenging in this situation and why the applicant has come forward with a request to help with their own water security. As Ryan mentioned, the permit allocations and who they're permitted to need to be readdressed. Hawaiian Turf Grass is a customer under somebody else's water permit. We're trying to separate that out to ensure they have access and the right to their own water.

Mr. Kurata – it well summarizes the situation.

Commissioner Buck – motioned to approve as submitted and thanked Mr. Fong for his determination to continue agriculture.

031522 00:31:45

**MOTION: (BUCK/MEYER)
To approve B-1 as submitted.**

**UNANIMOUSLY APPROVED
CASE/BUCK/HANNAHS/KAGAWA-VIVIANI/KATAYAMA/MEYER**

031522 00:33:00

B. ACTION ITEMS

- 2. Legend Farms, USA, Inc. and Valley Well Drilling, Application for Well Construction Pump Installation and Water Use Permits, Legend Farms Well (Well No. 3-3308-009), TMK (1) 6-7-002:034, WUP No. 1107, New Agricultural Use for 0.000 mgd (458 gpd); Mokuleia Ground Water Management Area, Oahu**

PRESENTATION GIVEN BY: Mr. Ryan Imata, CWRM Groundwater Branch

Mr. Imata stated and explained the summary of request. Mokulē'ia Aquifer System has available water to accommodate request and is within the context of reasonable and beneficial use and meets the quantity justification. Based on analysis, there are no feasible alternatives that the applicant can use in lieu of potable groundwater. Staff does not anticipate the final pump capacity will interfere with other existing uses.

The proposed agricultural use is consistent with the State AG District and county AG2 zoning and poses no interference with Hawaiian Home Lands rights. The use does not trigger Chap. 343 and no impact determined to Native Hawaiian traditional and customary practices. Mr. Imata summarized the staff's recommendations.

Chair Case asked Commissioners for questions. Being there were none, asked for a motion to approve submittal as submitted.

031522 00:39:51

**MOTION: (MEYER/KATAYAMA)
To approve B-2 as submitted.
UNANIMOUSLY APPROVED
CASE/BUCK/HANNAHS/KAGAWA-VIVIANI/KATAYAMA/MEYER**

031522 00:40:16

B. ACTION ITEMS

- 3. Reservation of Ground Water for the Department of Hawaiian Home Lands from the Aquifer System Areas: Kamiloloa (1.000 mgd), Kawela (0.244 mgd), Pālā'au (0.530 mgd), and 'Ualapu'e (0.855 mgd), on the Island of Moloka'i, a Ground Water Management Area, for use on Hawaiian Home Lands in 'Ualapu'e, Kapa'akea, Makakupa'ia, Kamiloloa, and Kalama'ula, Moloka'i**

PRESENTATION GIVEN BY: Mr. Neal Fujii, CWRM Planning Branch

Mr. Fujii stated the request and noted that these requested groundwater reservations can only be made by rule which was concluded with consultation of the AG (Attorney General). The background was summarized noting DHHL's reservation requests. §174C-101(a), HRS, also authorizes water reservations for DHHL, whether the area has been designated a water management area.

This reservation is consistent with the Hawaii Water Plan but shows some inconsistencies with the State Water Projects Plan (*as described in the submittal*). The Moloka'i Island Water Use and Development Plan account for current and future DHHL water reservations, is currently being developed by the Maui Department of Water Supply with the estimated completion by 2024. This reservation is also consistent with all of DHHL Plans.

The method of calculating water demands was noted considering the impacts by spreading out the pumpage and using less demand per acre would minimize the impacts to these other public trust users. DHHL reservations is one of the four public trust purposes. The Petition does not consider any alternative supply source strategies to meet the proposed agricultural demands. DHHL identified that the MIS and the Molokai Mountain Water System could potentially be an alternative water source to some degree and that there will be a need for an onsite wastewater treatment facility for the Kapa'akea, Makakupa'ia, and Kamiloloa area to support the existing and future residential lots.

There is available allocation from each of the aquifer system areas supplying the Petition's reservation requests except for the Pālā'au aquifer system recommending that the staff will revisit the allocations and look at any unused or four years of non-use and possible modifications or revocations.

(shared screen of proposed amended recommendations, noted reservations have to be made by rule and explained the amendments)

QUESTIONS/COMMENTS

Commissioner Buck – what overlap is there between the Pālā'au non-use and the existing requests for the reservation?

Mr. Fujii – it's brand-new requests, no double-counting (*referred to table 4 of submittal*).

Commissioner Buck – if we approve this reservation without deleting the Pālā'au, we are oversubscribed?

Mr. Fujii – the actual pumping (withdrawals) is well below the sustainable yield

Deputy Manuel – the amount is about 100,000 gallons which would be over. About 2.1 mgd would be allocated with this reservation specifically in Pālā'au; noting that similar to non-designated management areas, we've issued wells and pump permits that far exceed the sustainable yield. Moloka'i was designated a while ago and this highlights the need to reevaluate those permit allocations to accurately reflect actual needs and uses on island.

There is a lot of water that's not used that's allocated of the 2,000,000 gallons per day; and

based on that, evaluating the potential risk in the evaluating how long rulemaking takes it's our recommendation that we go forward with this reservation noting that all water use permits are subject to the rights of the Department of Hawaiian Homelands. We have an obligation to evaluate all uses and balance them based on the needs of DHHL per The Water Code.

Commissioner Meyer – as you've indicated the Water Use and Development Plan for Moloka'i is pending but ideally the need to have the best available information about the community's planned needs and uses; with respect to portions of this reallocation, to defer until the revised and updated WUDP is available?

Mr. Fujii – it might be a great way to incorporate planning but because DHHL is a public trust use and DHHL went through a series of their own planning documents that ties in with the rest of the community and other public trust uses on Moloka'i; but will leave it up to the Commission on that decision to defer subject to the Moloka'i WUDP.

Deputy Manuel – (*suggested to hear from testifiers first*) noted from a planning perspective, a lot of times the components of the Hawai'i Water Plan benefit from these clear directions from the commission on quantities and numbers to incorporate into their overall island planning.

031522 01:01:30

PUBLIC TESTIMONY

Mr. Jonathan Scheuer, for Dept. of Hawaiian Home Lands – Aloha mai kākou Chair Case, members of the Commission (*mentioned that DHHL's Commission meetings overlap with CWRM*). I really appreciated Commissioner Meyers comments, because it gives good context for the oral testimony. Chair Ailā submitted written testimony that should be before you, supporting this measure.

The two points I want to raise is the historical background of getting to this point of being able to bring this reservation request before you and then to echo on what Deputy Manuel said relating to the relationship between the Water Use and Development Plans and reservations. We're in the 100th year of the Hawaiian Homes Commission Act celebrating the Centennial and it's well known and recognized the many compromises our Hawai'i delegate to Congress Jonah Kuhio Kalaniana'ole, had to reach was the selection of lands were generally dry and remote.

Certain provisions were put into the Act to try and secure water for those lands, including the right to reserve water for them. That right wasn't super clear in state law and so after the Water Code was passed in 1987 and 1990, The Code was expanded to specifically allow DHHL to reserve water from the Water Commission, both in designated and non-designated areas. 12 years after in 2002, so little had gotten done that it was sufficient for a law journal article to be written where the author alleged that essentially between the Hawaiian Homes Commission, the Department of Homelands and the Water Commission, there had been a breach of trust for failure to reserve adequate amounts of water for DHHL across the islands.

(Dr. Scheuer continued public testimony)

It's this commission and mostly under the time of Chair Case, where significant strides have been taken to rectify that gap. First through the development of the 2017 State Water Projects Plan which developed a 20-year projection of DHHL's water needs. Then the adoption of groundwater reservations and undesignated areas relate to those. And now, with the setting of IIFS's as well as the pursuit of long-term water leases from the State, the setting of certain surface water leases.

We've made a huge amount of progress but still some more steps to go, and that's where we are today with this request. The Department of Hawaiian Homes specifically the Hawaiian Homes Commission has exclusive land use authority over its lands, and set-up after years of beneficiary consultation exactly what its land uses were going to be for these lands. The reservations requested our calculated specifically upon those uses based on highly conservative estimates of future water needs.

On Moloka'i the reason why additional groundwater reservations were not made was your staff's recommendation in starting to implement the 2017 and later the 2020 State Water Projects Plan was to try and seek groundwater designation in undesignated areas then to proceed in designated areas like Moloka'i; and why we're here today. Yes, there is a Water Use and Development Plan process going on, on Moloka'i. The Department is actively involved in every step of the process along the way and have invited the county officials to know of our beneficiary consultation meetings on the reservation requests and others can view the requests as integrated with each other rather than something that comes later.

I'll also say as somebody who has participated in various steps of the WUD planning in all 4 counties, it's a great use to the planning entities to have reservations on the books to know what the future plans are for DHHL, because it provides some framework for other future needs to be considered. I'd be more than happy to answer any questions; Mahalo nui for listening to my oral testimony.

QUESTIONS/COMMENTS

Commissioner Hannahs – the (DHHL) is on the verge of receiving \$600,000,000 from the Legislature and millions more in Congress. Has your requested reservation reflected the potential of these monies coming to the agency or you're going to come back and want to do much more and we're going to need more water to do it? I'm trying to get a sense of alignment of interest at Federal and State level to better support the agency.

I believe our policies mandate is to provide that reservation and number should be well -informed so that these things go in lockstep so that we don't issue paper water for which there's no plan, nor is there money to do something for which there's no water and want to avoid those circumstances.

Dr. Scheuer – all these requests are based on plans on the books so, it's very clear Hawaiian Homes Commission has exclusive land use authority over its lands. It develops Island and Regional plans after extensive beneficiary consultation. This is just lands for water, for projects that the Commission is already determined would be the best uses of those lands and compliance with other needs in compliance with beneficiary desires. The \$600,000,000 or the other Federal funds will help us to accelerate the development of existing plans. It

wouldn't derail existing plans or substitute existing plans, because those are based all on the DHHL's General Plan and topical plans.

PUBLIC TESTIMONY (CONT'D)

Mr. Mahesh Cleveland, Earthjustice for Moloka'i No Ka Heke – Thank you Chair Case and Commissioners. I represent Moloka'i No Ka Heke in the IFS petition and waste complaint that's partially addressed in the next agenda item. For this one, we support reservations of groundwater for use by the Department of Hawaiian Homelands as a public trust purpose that deserves and is entitled to maximum protection under the public trust. In short of that, we will stand on our written testimony. Thank you Chair.

Ms. Keomailani Hirata – Aloha. I'm a keiki o ka 'āina of Moloka'i. I was raised on my family's kuleana lands on the East end of Moloka'i. In Mana'e, our lands consist of generational families and kuleana landowners and descendants. Our East Moloka'i community has been standing firm to stop development for years to protect our East Moloka'i natural resources which includes our water resources.

I'm here to testify today in opposition of only one of the requests before you folks for the reservation of groundwater by the Department of Hawaiian Homelands, directly pertaining to the aquifer system in the Ahupua'a of 'Ualapu'e. The request before you folks today to reserve the water from the 'Ualapu'e Well for current and foreseeable DHHL development is a premature request. A thorough water study needs to be completed first.

'Ualapu'e Well is the only East Moloka'i County water source that feeds our Mana'e families. If the Water Commission today decides to approve the request of this reservation groundwater, again specific to 'Ualapu'e then I would like to reserve the right to do a contested case. I will also request to DHHL to remove 'Ualapu'e Well or the aquifer until a comprehensive water study is completed. Mahalo for allowing me for to testify today.

COMMENT

Chair Case – I will note that you said you wanted to reserve the right to a contested case, and I don't interpret that as a present request for a contested case

Ms. Hirata – asked on process and noted not in opposition on the rest of the request from DHHL, only for 'Ualapu'e.

Chair Case – stated the process and noted will continue with testimony and board discussion.

Ms. Hirata – agreed.

PUBLIC TESTIMONY (CONT'D)

Ms. Cora Schnackenberg, Ahonui Homestead Assn. – Aloha Chair, and members of the Commission. AHA is also the champion of the department of a project in 'Ualapu'e and called the Kuleana Homestead Project. I'm in total support with the request of the DHHL.

Recently in 2005, the land has been on the Moloka'i Island Plan and designated. The water that is asked before you, the reservation is a need. Our project is to put our people on their land and the water source is with Maui County.

I came before you folks last year of 2021, and at that time it was Maui County wanted to put in twice the amount of a permit use twice and asked them if we, 'Ualapu'e project were considered in the request of the water use domestic permit, and they said no. 'A'ole! Us Hawaiians get first preference of water. So, we went into a contested hearing and then at the last minute before CWRM were able to schedule that consisted of hearing, Maui County revoked their requests, and that tells me at the very beginning they didn't want us there. Yes, we will have opposition like this woman that had testified before you. Let me share with you about Moloka'i Project.

The project is an off-grid project for our people that cannot afford to put traditional homes that cost \$500,000 plus. Our people with high costs of living and unemployment rate, and our gas is \$5.77. So, yes, I'm here to advocate and to support DHHL requests for 0.855 reservation for 'Ualapu'e and for putting our people on their land; and if there is a contested hearing, I will be in opposition.

I also represent the statewide Association of Hawaiian Homestead Lands. We represent Statewide and I'm the director that represent Moloka'i wait-listers for those that are on the DHHL waitlist. With that being said, I am supporting our people that are on the waitlist to get on their land and have water available for them and their generation, Mahalo and support action items B-3, B-4 and B-5.

PUBLIC TESTIMONY (CONT'D)

Ms. Mahina Poepoe – I am from Moloka'i. A few years ago, I was party to a contested case at the CWRM opposing the County of Maui application to increase their allocation, primarily citing impacts to traditional customary practices, lack of baseline and data, and insufficient Ka Pa'akai analysis. The DHHL is currently planning and developing a Kuleana Homestead development settlement in 'Ualapu'e that would sit directly on top of the Well Head protection area directly above the county well which services majority of the Mana'e community. Mana'e is one of the most rural communities in the State and is predominantly native Hawaiian. Many of the families are generational and can trace their history to before foreign arrival, invasion, and settlement.

The DHHL Homestead development is being pushed forward and supported by Homestead association but there is also a growing and diverse faction of the Mana'e community and other concerned residents, most of whom are native Hawaiian, that are strongly opposed to this homestead development, and who are becoming increasingly vocal and working to organize against the development; I am one of them.

The reservation being requested is being made with the assumption that this Kuleana development will happen, yet nothing is finalized. There's no environmental assessment finished and a massive effort opposing the project. Most importantly, there was no community consultation with the Mana'e community to discuss and hear feedback concerning their requests for the reservation in 'Ualapu'e. There was beneficiary consultation, but that is exclusive, and it excludes other stakeholders because they aren't on

the wait list, or a beneficiary. There wasn't that wider outreach to other people who might be impacted.

I believe that is wrong because of the high dependence on traditional customary practices in the area and the requirement of those practices for there to be water left in its natural state, which is also a public trust purpose that should be protected.

For the Kuleana development, DHHL is very clear that they do not provide water infrastructure; all they provide is a dirt road and a lot. I'm curious how exactly they plan to develop this water if they've been very upfront and clear that they don't provide water infrastructure. I am aware that this reservation is a reservation, but it implies intention and validation, and know it can be changed if conditions change, but it's way harder to go back and fix something once it's been set. I do ask this commission to defer this allocation in 'Ualapu'e only until the Molokai Water Use Development Plan is completed, a community meeting is held and advertised in Mana'e and the DHHL homestead development is further down the line toward approval.

Considering these public trust uses and purposes, I ask you to remove 'Ualapu'e away from consideration at this time and defer the application. At the end of the day DHHL is a developer and the impact to environment and water in its natural state is the same, regardless of the group being served. I am supported of the purpose of DHHL, but some projects will just not be appropriate or feasible environmentally, socially, or economically, and I believe that this is one of them, thank you.

PUBLIC TESTIMONY (CONT'D)

Mr. La'a Poepoe – Good morning Chair Case and CWRM. Thank you for letting me sign up for testimony. I think most of the previous testimony with a specific opposition tool, the proposal of 'Ualapu'e project, had already cleared a lot of the points that I was going to make.

I'll speak on some of the bullet points and make clear that for item B-3, I am partially supportive with the exception of 'Ualapu'e. What I got was that the area proposed for development by developer DHHL is designated as a wellhead protection area. 'Ualapu'e Well, frequently reads elevated levels of coliforms of bacteria. We get noticed by the county whenever this happens. Placing a development in the wellhead protection area can be expected to result in increase the amount of e-Coli in the well.

Granting a reservation of water designated for the development, helps to lend that credibility to an unpopular development. We still have yet to figure out based on a plan whether or not where the sewage is going to go or how to handle the sewage portion of the development.

Based on that along with the other stuff and that's what I have to offer you guys for this item B-3, thank you.

PUBLIC TESTIMONY (CONT'D)

Ms. Judy Caparida – Aloha. Thank you, Jesus, for this brand-new day. You see, we have to go against our own, how you like that one. I say, you know what, us Hawaiians, we have the right to the water and it's going to be off grid. We're going the cheapest way for our own people and then everybody wants to cut our line, what for?

We the Kupunas, the elders. We know how hard it is to work and do what we must do for the benefit of our generation to come. We can't take nothing with us. Jesus gave us everything for free and we have to fight for water. We got the Hawaiian homelands, water and land come together. How rude, how I cannot understand our own people, they forget where they come from. You come from what? From nothing. But Jesus blesses us all these years. I'm in the 80s, thank you, Jesus. I never thought I was going to live this long, but I thank Jesus because we went to the Supreme Court for the water.

We get 2/3 of the water, and we're off the grid and the studies is not over yet and you want to cut our line. This is for our loved ones that is going to come up, not to us. That's why I so frustrated, and I cry so much. The reservation is for our benefit for our people our children and grandchildren, our generation to come. That's all I have to share with you.

I have to share it's a shame of our people to even think like that. The plans are already made we're waiting for the answer. We're not even there yet. We're not going to give up because Jesus knows our heart is clean, our righteousness for our people in all the world. So, I thank you, Jesus, for all of you that is here today to hear me. I love you guys. I love all of them that is against us because of our benefit for our children, Aloha.

Ms. Georgina Ku'ahuia – I am a homesteader at Ho'olehua. I am a kupuna and also was with the Kukui Case, and we went to the court and got everything going. What we were doing, and we're still doing is looking towards our future. That our future families, children, grandchildren will have the opportunity to have this water that came from our God.

The man no can make water, but our God is the one that supplies all our needs, according to his riches in glory. So, I am in support with DHHL on the project item B-3, B-4 and B-5. Thank you and Mahalo.

Mr. William Kekauoha – Aloha. I'm an officer and Kupuna for Ahonui Homestead Association and with 'Ualapu'e Project, supporting action items B-3, B-4 and B-5, thank you.

Mr. Glenn Teves – Aloha. I am a Hawaiian homesteader in Ho'olehua and homestead farmer. I am in support of all the requests of all the aquifers that Hawaiian Homes is taking water from. The one aquifer that is the most abundant is 'Ualapu'e. We're talking about abundance and there's a lot of waters there. The Hawaiian Homes has been treated badly by the Commission for so many years. Last year or recently, you folks made a decision and we had to wait 27 years for that decision. We had a reservation, and we couldn't draw down from our reservation for 27 years.

What Mr. Meyer was talking about to defer, for what, another lifetime? We cannot defer anymore. The action needs to happen now. Hawaiian Homes comes first, and for Hawaiians to go against Hawaiians, they don't know what water is about. I've been involved in water issues on Moloka'i for 40 years. I was involved in the Water Code at its inception working with Bill Paty and all the people that started the Water Code.

There's adequate water on the East End to take care of the needs of homesteaders in 'Ualapu'e. That's only 800 acres over there, that's hardly anything. Hawaiian Homes, there's 25,000 acres on the island and all these requests, are minimal request. They do not even cover what the needs will be. They just need to get it on the books, so we have something. So, I urge the Commission to approve this request in whole, thank you very much.

(end of public testimony)

QUESTIONS/COMMENTS

Commissioner Kagawa-Viviani – requested that DHHL be given the chance to respond.

Dr. Scheuer – to be transparent as it's in front of the Commission, there has been over the course of the planning of 'Ualapu'e Homestead Project, opposition and significant concerns from the community. The Department is not unaware of this and is continuing to work with its planners and consultants through the environmental assessment and planning process that all stakeholders have a chance weigh in and participate in the process.

These are folks who I've heard of and familiar with. I want to raise a few points to consider as you weigh through this. First, I want to quote Aunty Judy that said we're not even there yet. This is a request to go to rulemaking. Meaning that if you vote for this request, there will be a rulemaking hearing on Island where people can speak for or against the amounts and start to argue and present information regarding the different possible impacts of a potential reservation on a traditional and customary practices and creates a forum specifically for addressing these things rather than taking one away.

I believe, and your Counsel can advise you, even after rulemaking the final adoption of the rule comes back to the Commission and not even your last fight at the end. I do think that you have a clear responsibility to act on our entire request. At this point, you have to read the section of the Code on setting reservations within designated water management areas also in conjunction with Section 101 of the Code on Hawaiian rights, which says in every action you take, you have to consider and to reserve water for DHHL as it's needed for its foreseeable development.

Note, there is opposition and express desire for some homesteaders, at least one testifier said they'd like to see no development there, but the Hawaiian Homes Commission has approved after extensive beneficiary consultation, a proposed development in this area. We've provided the conservative calculation of water needs based on that. Nobody has disputed our calculation of our water needs. I think many of the concerns are expressed about where the water might be taken from, but we're not proposing taking the water from the existing County well site necessarily from within the aquifer area.

Some of these concerns are that the Department has joined in on other proceedings but concerns about the overall sustainable yield approach and whether that's protecting Mauka to Makai stream flow. I think existing pumping in this area to sustainable yield for example, is asking for a small amount in addition to but would still need water available for sustainable yield. I think for this specific request as modified in front of you, to move to rulemaking your obligations are very quick, Mahalo nui.

Commissioner Kagawa-Viviani – (to Mr. Fujii) asked for explanation in the revision of the recommended steps, what is the process?

Mr. Fujii – In the code and administrative rules, its reservation by rulemaking. We're asking the Commission to authorize the staff to go through the rulemaking process, but at the same time approving these amounts, places and uses of water.

In non-management areas it doesn't necessarily need to be by rulemaking but in the Code it's in that section of water management areas. As Dr. Scheuer mentioned, it's a first step in the reservation, is the rulemaking itself affirms the reservation. Your decision here is authorizing staff to go ahead with rulemaking for whatever amount you folks approve of.

Deputy Manuel – Neal is accurate to an extent where the action is requesting rulemaking processes and that would follow Chapter 91 and our administrative rules and go through that process as articulated.

Commissioner Katayama – (for Deputy AG) we have a potential to enter into a contested case, if that notice is given, would it bind the entire motion for the action? Or is there an ability to limit the contested case to what the applicant or the partitioner is focused on?

Ms. Young – you could separate out the one from the rest. Then there's a question that remains, is there a requirement for a contested case? As Dr. Scheuer testified and staff has mentioned, this is the initiation of the rulemaking process, no actual final decision being made at this meeting in this item and would not affect anyone's rights. It doesn't appear that a contested case is required by law.

Commissioner Katayama – so there's no ability to notify for intent for a contested case?

Ms. Young – there wouldn't be a requirement.

Commissioner Katayama – could they ask for a contested case?

Ms. Young – certainly.

Commissioner Katayama – and would we be obligated to proceed under those conditions?

Ms. Young – you would have to address the contested case request.

Commissioner Hannahs – are we able to separate 'Ualapu'e and act upon it independently today or would it require a separate agenda at a future meeting?

Ms. Young – yes, you could separate it out.

Commissioner Hannahs – my conservative plan going forward is let's not focus on the area where we disagree as there's broad support and consensus for (5) of the (6) applications for this reservation. Whether rulemaking or not, let's get those (5) on track and elect to start 'Ualapu'e independently and if the parties chose to file a contested case, that can start but come to a resolution on 'Ualapu'e and not jeopardize the rest where there's agreement.

Commissioner Meyer – as always you come up with creative ideas and constructive. (to Mr. Fujii) As I mentioned, I thought this was premature given the Water Use and Development Plan will adequately consider the broad community's needs, did you consider the growth and future needs of the domestic use by the general public in considering this application and how was that projected?

Mr. Fujii – no; we solely focused on the DHHL petition and request, and the analysis consisted of the Hawaii Water Plan, DHHL planning documentation and consistency with their projected demands into the future. The State Water Projects Plan had a 20-year planning horizon and did not look at other public trust uses or impacts.

You're right there are (3) other public trust uses that I don't think there are any prioritization between that. We do suggest in the submittal that analysis of impacts of other public trust uses such as domestic use, traditional and customary practices and water for the environmental maintenance could be addressed at the actual permitting process. So, if DHHL has their reservation, the next step would be to exercise the reservation and come in for a Water Use Permit and would be thorough analysis of the impacts of the WUP request and things touched on in the submittal and suggesting that's appropriately addressed at the permitting process.

Deputy Manuel – added an outright no, is not accurate. In the plans themselves there is evaluation of balancing the public trust in the Water Resource Protection Plans, the State Water Projects Plans and the existing 1990 Water Use Development Plan, domestic needs are hard to determine because they're based on individual needs and landowners. We don't have any individual permit requests for water use permits or well developments. Specifically talking about the needs of Maui Department of Water Supply those would come through the Maui Water Use Development Plan and would articulate those land uses and would have to be rebalanced in the evaluation of all the public trust uses before us.

Commissioner Buck – with Commissioner Hannahs' concerns, my understanding is that we're approving the initiation of rulemaking process and not any water reservation that's going to have a public hearing on Moloka'i which people can weigh in then it'll be coming back to this Commission so it's two different times before we would have to approve anything. I'm hoping the testifier that asked for a contested case, realizes we're not approving a reservation at this time and if we approve this item as amended by staff, it will initiate rulemaking process and not making a decision. We don't want a contested case to push us back and we can approve item B-3 as amended by staff.

Mr. Fujii – follow up to Commissioner Meyer and Kaleo's response is in the petition DHHL talks about balancing their reservations with the public trust in the short and long-term referencing their Water Policy Plan and there has been some analysis of impacts to other public trust uses.

Dr. Scheuer – the most notable thing is that the State Water Projects Plan and our plans has low, medium, and high projections for any land use scenarios. Like the counties, when the Hawaiian Homes Commission decides to put a particular land use designations sometimes there's a specific unit cap. The State Water Projects Plan starts with the presumption of only using the middle scenario so we're not going with the possible maximum amount of water that would be needed for full development.

In addition, even though the SWPP used a gallon per acre demand of 3,400 gallons per acre per day, we're only requesting 2,500 gallons per acre per day with the recognition that the vast majority of all the aquifers, with exception to 'Ualapu'e, are smaller sustainable yields and be as conservative as possible while still fulfilling our duty to have water for homesteaders. It was our explicit attempt to acknowledge there's three other public trust demands that exist for these waters.

Commissioner Kagawa-Viviani – commented that although there's strong testimony today, and all the reading for this, noting the years of effort into it, I want to recognize DHHL's effort in being responsible in their reservation request to be strategic and holistic and clear from testimony there's still some issues; but for the level of decision-making we're working it with integrating the different plans, I feel those questions and answers have been worked out with good faith and thoughtful effort.

As Commissioner Hannahs pointed out, overdue Federal and State support for addressing the DHHL backlog and as testifier Teves mentioned, a long history where the Commission has not upheld its duty to both the Hawaiian Homes Commission Act and the Water Code in terms of considering Homesteader reservations, that the rulemaking and on ground meetings need to happen.

Other testifiers have bought up the waste and concern about the development of how the wastewater will be handled, they also deserve answers. The bigger issue is the DHHL reservation, so that they can move forward with long-range planning and as Commissioner Buck pointed out, to approve the revised submittal and recommendations to initiate rulemaking.

Commissioner Hannahs – call upon Mr. Hirata and Poepoe's to see if this discussion clarified the process that it's not a reservation but the launch of rulemaking; would this allay your concerns for the moment; but you could still file a contested case in the future.

Chair Case – to make a request for one, and not to file.

Ms. Poepoe – there was some clarification today that your decision is going to rulemaking or making the decision on whether to make the allocations so, that did clarify some a bit. I prefer if I have a strong position about something, to start in the beginning because the further down the line you get, the harder it is to stop something once initiated and hard to undo, sometimes impossible as the item up next.

I feel like a contested case at this point would not make sense, because I think we would fill out the form, and it would not be granted. I know there are additional opportunities for contested case, but I'll wait to see what Keo says.

Ms. Hirata – the same as what Mahina just stated; there was a little bit more clarification as I listened to you the commissioners and listening from Jonathan from DHHL. Still debating within myself if a contested case is needed. At this point, are you guys willing to remove ‘Ualapu‘e out of your motion or decision on today?

Commissioner Buck – some clarification and we can't opine on if you want a contested case which would be granted but my understanding is if you requested a contested case, we would stop all action on the side and not begin the rulemaking process.

Chair Case – clarified we would stop action and deal with the contested case and if we decided this was not a situation where the person had a right to a contested case, we would make that decision, and then deal with the application as submitted.

Commissioner Buck – am I correct, that evaluation would take time and we would not further discuss this item.

Chair Case – we would do it in this meeting.

Ms. Hirata – I struggle because as kanaka maoli, as our Hawaiian people especially on Moloka‘i, the only thing that I am concerned about in B-3 is ‘Ualapu‘e in its entirety. Unless you live on the East end of Moloka‘i, and you live the lifestyle there currently, for other people to come in and make a decision especially about our most precious resources on the East end which is water, it weighs heavy. However, at this time with strong reservations, I won't go through with the contested case.

I believe fairly that the other areas that are listed in B-3 I'm in support of and it's just this one area ‘Ualapu‘e that I am strongly opposing, Mahalo.

Ms. Poepoe – asked Commissioners to please consider ‘Ualapu‘e moving forward today and I'm not going to do a contested case.

Commissioner Katayama – thoughts about separating the one aquifer and letting the other aquifers proceed through rulemaking.

Dr. Scheuer – we'd be fine with splitting it into two actions for your consideration, but I believe, while the parties have said they're not going to request a contested case, your Council will probably advise you that they're not actually entitled to a contested case or a proceeding to rulemaking; so, we would end up in the same place. Noting there's no ill feelings as part of the dilemma Prince Kuhio dealt with was the fact of placing Hawaiian communities with existing ones knowing there maybe potential conflict.

Regardless, it's (my) commitment to the department to sit down and have meaningful discussions about water issues in ‘Ualapu‘e with regard to (DHHLs) reservations, sustainable yield, protecting water resources which are important to that area/community, how and if a homestead community would fit in in terms of water demands and responsibilities. I'm more than happy to make sure the department engages with the community on that level which is a needed conversation.

So, we'd be fine with splitting it and have no objections.

031522 02:03:06

Commissioner Hannahs – motioned (and in consideration that later this month we'll be celebrating the birth of Prince Jonah Kuhio) First, to adopt staff revised recommendations with respect to Kapa'akea, Makakupa'ia, Kamiloloa, and Kalama'ula and deal with 'Ualapu'e separately.

MOTION: (HANNAHS/BUCK)

To approve B-3 as amended.

UNANIMOUSLY APPROVED

Commissioner Hannahs – motioned to adopt staff revised recommendation for 'Ualapu'e.

MOTION: (HANNAHS/BUCK)

To adopt staff revised recommendation for 'Ualapu'e.

UNANIMOUSLY APPROVED

RECESS: 11:09 AM

RECONVENE: 11:21 AM

031522 02:20:20

B. ACTION ITEMS

4. Address Portions of CDR.5310.4 by Amending Interim Instream Flow Standards for the Surface Water Hydrologic Units of Kawela (4037), Kaunakakai (4039), and Manawainui (4041), Moloka'i

PRESENTATION GIVEN BY: Dr. Ayrton Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch summarized the summary of request noting in February this year CWRM staff presented a lot of information concerning the mountain water system and the hydrology of East Molokai Volcano. Dr. Strauch shared screen noting key long-term continuous monitoring stations on Kaua'i on streams draining perched water bodies relative to streams affected by dike-impounded water bodies and noted the similarities to hydrology on Molokai, specifically stream flows in East Kawela (perched) and Waikolu (dike-impounded) with Q80 as an indicator of median base flow for streams affected by perched water bodies (*graphs shown*).

Note: stream flow characteristics as described on table 5 on page 13, have been updated to reflect this, but the recommendation on page 35, the edits didn't make it into the final draft and so the recommendation needs to be modified to reflect the change in estimated stream flow on page 35 bullet, 3 proposed actions.

Also note, that Kualapu‘u Ranch 20,000 gallons per day of end use, metered by Moloka‘i Properties is no longer in use.

Dr. Strauch continued to describe the water usage and noted the recommendations are that the interim instream flow standards completely protect the baseflow in each stream and if implemented, will not affect the Moloka‘i Properties current metered end use. With their reservoir capacity, they (Moloka‘i Properties) would be able to meet potential non-potable needs up to at least 165,000 gallons per day of proposed use described in their water use permit application for Well-17 and a reservation of non-potable water for DHHL of 150,000 gallons per day .

QUESTIONS/COMMENTS

Commissioner Hannahs – have Moloka‘i Properties been consulted and do you expect their full cooperation?

Dr. Strauch – we've consulted with them as well as DHHL and the community. They may request a deferral in the issue because they are just now getting their clients the information in order to evaluate the final end use on their operations. Some issues are more related to PUC requirements and delivery to DHHL and some along the lines of implementation and modification.

Commissioner Buck – what would the impact be if we approved as is and MLP were not willing or unable to meet some of the recommendations? Would they lose their permit ability?

Dr. Strauch – it's not a surface water management area and they do not have a permit; we are implementing reasonable measures to protect instream uses, other public trust uses and balance reasonable and beneficial needs like agriculture and industrial uses and have recommended that provides balance. The Council for MLP can describe more in detail what their hang-ups are.

031522 02:36:00

PUBLIC TESTIMONY

Mr. Mahesh Cleveland, Earthjustice for Moloka‘i No Ka Heke – You have our written testimony on B-4 which is pretty extensive. It sounds likely that the Commission will delay their decision making on this item until another meeting and assume if that's the case, we'll all get another bite at the apple with testimony. I'll keep it brief and turn it over to the community. Bottom line is if it's going to take two sunshine meetings to decide this issue, Moloka‘i will have about twice as much to say so I appreciate you still allowing us to submit oral testimony.

I'd be one thing if the information on which you'd base your decision was the same as it was a month ago, but it's not. The new information from Dr. Strauch about Lualohe higher flows and MPL's lower uses, demands a fundamental reassessment of the MWS diversion system. If the Commission does delay resolution on this, it needs to be more than MPL and its

lawyers getting up to speed. This also needs to be about the Commission and stop using the time to take a harder look at the data in front of it and adjust the stream flow recommendations accordingly, by increasing them substantially.

As discussed in our written testimony, the higher availability of water at the intake at Manawainui as measured by Dr. Strauch in late February, together with the reduction of actual current uses mentioned by 20,000 gallons per day to only 42,000 gallons per day, based on recent closure of that large Ag operation by Kualapu'u Ranch, combine with the grossly excessive diversion rates Kawela has endured for no justifiable reason; we believe strongly that the law requires this commission to consider full restoration of Kawela Stream as a practicable alternative under the Water Code, and the Waiāhole Supreme Court opinion.

It's not a tug-of-war between competing uses. There is more than enough water here and available reservoir capacity to meet the stated off-stream needs without taking a single drop of water out of Kawela Stream ever again. Last month, data showed that the MWS diverted about six times as much water as it needed. Now given known uses, staff tells us the MWS would be diverting nine times as much as is needed. If taking six times as much water as is needed wasn't enough to make this Commission realize how out of control the situation is here, surely having the waste occurring at close to an order of magnitude, demands action by this commission. You can understand why, after knowing all of this, Moloka'i No Ka Heke doesn't think there is any justification for anything other than a complete rehaul of the MWS.

120,000 gallons a day for Kawela appears to be an artificially low-flow rate based on the facts staff itself has gathered and presented. There is likewise no real justification for any further delay of a decision that, rather than being premature is in fact long overdue. That's not just because we're about two plus years past the statutory 180-day deadline for this commission to decide petitions for IFS, but also because of how long this disproportionate harm has been enacted on Kawela, over 100 years.

The people of Moloka'i want to see this commission make good on its public trust duties. They want to see their water resources managed responsibly and the precautionary principle and other laws we must mean something to the people wielding them, meaning you. If you can't take decisive action to correct the injustices of the past when you're presented with a situation involving such grossly disproportionate amounts of water diverted versus used, how can the public believe you'll do so when faced with situations where there really are tightly competing interests?

We think this is the perfect opportunity for this commission to say, this is what we do when surface water systems are completely out of whack, waste is rampant and unnecessarily causing grave harm to the resource and community. That's why we strongly urge that if you delay decision-making on this item in the weeks between now and publication of the next round of staff submittals, which as a side note we strongly request that this commission posts before the Sunday before the meeting; this Commission should instruct staff to propose and analyze the alternative of full restoration of Kawela Stream as discussed in our written testimony and dig deeper into how to make this right after so long.

Earthjustice will stand on our remaining points, recognizing that it seems likely this decision will be deferred. I'm available for questions or if you have any comments.

PUBLIC TESTIMONY (CONT'D)

Mr. Walter Ritte – Aloha members. First, I'd like to say that Ayron did a really good job in working with our community. This is the first time we've been involved with water battles for the last 40-years, our generation and we've always had a really conflicting relationship with the Commission, because nobody really was listening to what we had to say and Ayron came along and allowed us to really learn about how all of this works, and of course our brave lawyer here defining all the terms that we had to figure out how to use.

What's happening here is we have a 100-year-old problem up in our forest, when you created 7 diversions for one guy to use all of the water because they live on the dryer side of our island, and that has been going on for 100-years. Today, we find ourselves in a much different situation where community now is beginning to say where the water needs to go. It's not West Moloka'i anymore, it's Kawela, and the problem is that West Moloka'i has been taking the Kawela water 25 miles over 7 ahupua'a for the big development plans.

Now these plans have all gone, but they're leaving, they're selling it. Now the people in Kawela are beginning to say, hey, this is time for us to take back our water. What are the needs that we have out in West Moloka'i? They gave us their needs, and our solution right now allows them to have what they want but it also allows us to take back Kawela River. What we're proposing is that we use Kamoku, Lualohe and Hanalilolilo, it'll meet all of their needs, and you combine those diversions with 50,000,000 gallons of waters that they can store in their new reservoirs, it's going to be enough for them to operate without Kawela River.

The people that have been working on this, a lot of the young people, we're all in the room together today. We're all learning how to how the system works and how to come up with solutions that benefits where Moloka'i wants to go. Not only are we trying to protect the river, but also the aquifer. The county has one of the few wells that services a lot of people, and the well is in Kawela. We need to make sure that aquifer is protected. There're fishponds in Kawela that need to protect also. Of course, we all understand the shoreline and all the things needed when you have an aquifer. When you combine all of those, the community is saying that we can take care of the needs today of Moloka'i Ranch by having Kamoku, Lualohe and Hanalilolilo.

The 3 diversions in Kawela needs to be taken down, including the main one at Kalihi. That's our position we have today, and I'll end right there except to tell you that the community has been working really hard, and we've gone out 2 days, walk through our town with all these young people with clipboards, and came with over 300 names that I turned into you. And went online and we got 377 names of support. So, people are learning how to work in the system and trying to gather ourselves together. We all support this whole effort to protect Kawela River, and we're positive we don't need the dam in Kawela River in order to satisfy Moloka'i Ranch and the Western side.

All we need is the smaller dams going and that the Ag people have 50,000,000 gallons of reservoirs, but if they were friendly people, we'd have a 1.4 billion-gallon MIS system that we could share if we had friendly neighbors at Molokai Ranch, thank you.

Mr. Lohiao Paoa – Aloha. I'm testifying on behalf of my family, and Moloka'i No Ka Heke. Please look into full restoration of Kawela Stream; it is possible and practicable. It's simple, with staff's current recommendations of the IIFS on Kamoku and Lualohe and already established Hanalilolilo intake, the diverters would be able to sustain themselves if they manage their reservoirs efficiently. There is no need for any water to be diverted from Kawela, not one drop.

Remember, this is based off of numbers provided from the diverter and the staff's recommendations, not us making these numbers up. There's so much history, potential, information, research, and support that suggests full restoration for Kawela. Like Uncle Walter said, please look at the petition. Moloka'i No Ka Heke and the Moloka'i community has been transparent and willing to work with staff in a timely basis. I cannot see the same for the diverters.

Please note that the diverter lands are for sale; they're fighting for money. They want money, a higher price on their lands. They have no intent in helping the community. We are fighting for experiences for kids to play, swim, fish in Kawela, not for money. Mahalo for coming out and thank you braddah Kaleo, Dr. Ayron and the Commissioners for the hardwork.

Mr. Timmy Leong – I'm a longtime resident of the Ahupua'a of Kawela and also a member of Moloka'i No Ka Heke. I've already submitted this written testimony so I won't go in depth and will try not to overlap with what I've already written but in a nutshell, a 100 years of diverting water out of Kawela Stream has caused major degradation to life in the ahupua'a. Stream life has suffered, wetland, wildlife, birds, and the quality of our groundwater has also suffered.

I was talking about Kakahia, which is a currently a wildlife refuge for wetland birds and it's administered by Dept. of Fish & Wildlife. Before it was a bird refuge a long time ago, it was an area referred to as Rice Patch, and it was in my written testimony. The reason it was called Rice Patch, as one of my uncle's has told me that when he was a boy, there were Chinese people growing rice, in rice patty's. He had a job of scaring away the birds. It was a total opposite of a bird refuge.

I'd like to talk a bit more about that boy. He grew up to be a paniolo and a fisherman and he ended up being a caretaker at a park. In his life, he saw a lot of changes here. He started out riding horses as transportation and saw that being replaced by automobiles. He saw travel between inter-island go from steam ships to airplanes, and power and light go from kerosene to electricity. So, he saw a lot of changes and never graduated from high school. He started his work in life very early, so he had a lot of life experience, not a bad experience.
11:56:03 I think he guttle got a lot of wisdom that you couldn't really learn from school, but a different kind of knowledge.

I used to listen to what he had to say and one of the things that really stuck with me over the years was that the land will only be as good as the people. I want to enter his words into this testimony, and I think the question that we all must ask ourselves is what kind of people are we? Saying that, there's no other choice but full restoration for streamflow in Kawela,

otherwise everything is going to be dying there, Mahalo.

PUBLIC TESTIMONY (CONT'D)

Ms. Teave Heen – Aloha Chair and Commissioners. I'm testifying on item B-4 in support of the interim stream flow standards for Waikolu, Kaunakakai, and Manawainui. However, when it comes to Kawela and the flow standard, I am in hopes support of full restoration.

Most of my childhood was spent around Kawela ahupua'a around the river, so I've witnessed and seen a lot of negative effects that the water's mismanagement had. It's never a good thing with my stories that I tell my children that they start with Oh, I remember when we was young or I remember when, or used to be like this, but it seems a lot of my stories that I tell the my kids about Kawela River are like that; because I do remember when the muliwai flowed into the ocean and remember when the shoreline in front estuary was summable, deep enough and clean enough to swim.

Today, the sand buildup is so thick that most moderate flows won't even open-up the river, so it just ends up backing up into the surrounding areas and leaving the shore blanketed with that thick layer of silt. This is just one up observation, and it's only in my 40-years of time. But yet water has been taking water for over a 100-years and so, taking the history of water mismanagement and the effects it has on this this whole ecosystem, full restoration of Kawela seems most deserving. Removing the dam, all the divergent structures that have been neglected for decades and stopping all water that's been taken to the west won't negatively affect anybody and so it's a win-win.

GUACO is taking 370 gallons per day, but only reporting, using, or needing an eighth of that. That's a high number of waters that's been wasted. Their needs can easily be satisfied through well-maintained reservoirs and other intakes. They get their water, no one is negatively affected, and Kawela gets all the water back, everyone's needs are satisfied. Environmentally speaking, full restoration of Kawela River is more logical than setting a mere flow standard.

In closing, if it comes to water needs are more than the land itself, and all those recent findings from Ayrton, (Mahalo Ayrton) and from what was provided by Moloka'i No Ka Heke lawyer, Mahesh, you'll see that for restoration to Kawela is not only the ideal scenario, but a very doable one. So, I ask for your consideration for full restoration to Kawela, and the removal of the dams and all the diversion structures. Mahalo, for your time and understanding.

Ms. Karen Holt – Aloha Kakahiaka. I'm originally from O'ahu, but I came to Moloka'i 40-years ago, and I came because of Kawela. I have submitted written testimony so I won't go over that and want to emphasize that the Kawela ahupua'a has really been devastated by the lack of water. I submitted a very lengthy plan from the national wildlife service because the Kakahia pond at the base of the mountains is an area that used to support a huge variety of native species and it has dried up in the years since I first came to Moloka'i.

That area needs the water and therefore, as others have said, I am strongly in favor of full restoration of the streams that have been diverted and serve Kawela. I also support the IFS

recommendations for the other streams but for Kawela, it really needs its water back.
(*Ms. Holt continued public testimony*)

I also want to add that the ranch has more than enough access to water to fill its needs without needing to rely on any of the resources in Kawela. When we look at the larger picture of ranch management, more accurately, mismanagement of the water, it has been under their control for 100-years. The bigger picture is very daunting. I think waste is the watchword for almost everything that they've touched with water. Very briefly, they have two huge reservoirs in the mountains. The evaporation rates for those reservoirs, I believe is in the millions every day. If they were to take steps to prevent that evaporation, they would have far more than they need in order to satisfy the needs they represented to the Commission for managing their operations here on Moloka'i.

They have access to probably one of the best wells on the island well number 17 a freshwater well, they're using it to supply their customers who pay the highest water rates in the country, last I heard. If they are concerned about PUC approval, in my opinion they ought to get permission to pump that Well. They've been pumping it since 2001 when legal action started, and the Supreme Court ruled in 2007 that they were supposed to get a permit.

All these years later they have no permit. The Commission could impose fines of \$5,000 a day under HRS. 174C-15. I appreciate that this is finally on the radar for all the Commissioners. I will echo everybody's appreciation for Ayron. He has really worked hard to figure out what's going on here and also for Earthjustice, which is representing Moloka'i No Ka Heke. I do hope that you will deviate from the staff's recommendations about Kawela, and decide that those streams should be fully restored, the diversions should be removed and cleaned up, and that the recommendations made for the other streams by the staff will be implemented. Thank you very much.

PUBLIC TESTIMONY (CONT'D)

Ms. Momi Afelin – Aloha Kākou. Mahalo for the- opportunity to testify on agenda item B4. Before I begin, I'd also like to echo everybody else's support and Mahalo to Dr. Ayron Strauch for taking the time to work with the community to help us understand our water systems. In the last few months, I've had the opportunity to visit the streams we're here talking about today to get to know the 'āina and to help get the word to our community about this issue.

The last time I went up to the forest I saw Kawela Stream barely flowing, yet even at this low flow, the stream was still being diverted leaving the stream bed below dry. Knowing that the stream is being diverted to the point of leaving the stream bed dry, for use we can't seem to account for, is upsetting because it goes against two principles, we all know well here. Use what you get and don't waste. I kindly ask that the Commission consider recommend that MPL implement these principles to restoring full flow to Kawela Stream and Kalihi through implementing IIFS at Kamoku, Lualohe and Hanalilolilo.

According to the staff submittal the diverter is taking 6 to 9 times the amount of water needed, including water from Kawela Stream. From my understanding, the diverter has the opportunity to meet all of their actual needs and reduce their waste by responsibly sourcing their water from Kamoku, Lualohe and Hanalilolilo, by taking water during high-flow events

and storing it most efficiently in one improved reservoir to reduce loss to evaporation.

Full restoration of Kawela Stream has to benefit our aquifer, the streamlife, the people of Kawela who still practice traditional and subsistence gathering practices, and the near stream environment. This is an excellent opportunity to exercise public trust duty on Moloka‘i without compromising the needs of the diverter. From my vantage point, this is a win-win situation as Teave said and I respectfully urge you to restore Kawela or at the very least, leave the most amount possible in the stream.

Lastly, I'd like to note we're not alone in asking for water to return to the stream. As was submitted in recent written testimony, the efforts of Moloka‘i No Ka Heke has resulted in 317 Moloka‘i community members and 385 people from the greater Hawai‘i community; that's over 700 people who support more wai being return to our streams, Mahalo.

PUBLIC TESTIMONY (CONT'D)

Mr. Kahekili Pa-Kala – Aloha, everybody. Mahalo for your time Chair Case, Commissioners, especially you Ayrn. Thanks for working with us, really appreciate it. I'm here to talk about item B-4. I'm a Moloka‘i resident and I'm here to support Moloka‘i No Ka Heke in their efforts to fully restore Kawela Stream and set IIFSs for Kamoku, Lualohe, and Hanalilililo.

My expertise is fishpond restoration and the muliwai. For 8 years now, I'll be working at Keahe fishpond. I've been also helping Moloka‘i No Ka Heke with petitioning and going up to the diversions and checking everything out. It is sad to see all of the water being wasted when there is no need for waste. It could be flowing into the ocean and our whole ecosystem and ahupua‘a flowing. Without the freshwater connecting to the ocean, life in ocean is pretty much dead. That's where all the beginning of life happens, where our baby fish goes, and the limu grows.

I'm just here to urge you to please take into consideration what Moloka‘i No Ka Heke has petitioned for, Mahalo.

Ms. Lehiwahjwa Ritte – Aloha mai kākou. Mahalo for the opportunity to testify. I have hiked along Kawela Stream and have witnessed how dry the stream is. The water flow was low and there were areas where the water was still and stagnant. At the dam, there was only a small trickle of water allowed down the stream while the rest was being diverted by Moloka‘i Ranch. For 100-years this has been happening and causing the stream to become drier and drier. I fear if the water continues to be diverted especially at low flows, it will cause the stream of Kawela to dry up for good, destroying the ahupua‘a.

Restoring the water flow will help the ecosystem to thrive and will provide many vital nutrients and oxygen to the living organisms there. Removing the dam completely will restore life back to the ahupua‘a of Kawela, and will bring more water back to the people of the Kawela community.

I'm in full support of the full restoration of Kawela stream and in full support of the IIFS for streams Kamoku, Lualohe and Hanalilililo, Mahalo.

PUBLIC TESTIMONY (CONT'D)

Ms. Lana Corpuz – Aloha Water commission. I'm from Kaunakakai, Moloka'i and I support agenda item B-4. The death and damage done and still being caused today due to the diversions of the ranch, is undeniable. Taking water from an ahupua'a for a 100-years with years of misuse every day is hewa! With the information gathered from the past 2 years and was presented to us, and to you as well, it clearly shows that what we're asking for in fully restoring Kawela and abandoning the East and West Kawela and Kalihi, and setting proper IIFS for Kamoku, Lualohe and Hanalilolilo, is more than doable.

As a board that was created to protect and serve water, we ask you to do so here and stop the suffering of our 'āina, put back water into our streams, and restore life. It echoes everybody here and it just goes to show that we're doing our homework and making sure that our generation and the future generations get what they deserve and what they need to survive here on Moloka'i, Mahalo.

Mr. Leelan Corpuz – I am testifying on agenda item B-4 in support of full stream restoration. I came here to emphasize the majority of the water being taken from Kawela Stream is being wasted by Moloka'i Ranch. We can no longer let the ranch take advantage of these important resources due to the detrimental effect that is having on the life stream below.

I personally seen and visited the damage that has been done to the forest and how it affects the ecosystem in and further down the stream. In addition, I propose the cleanup of the unused diversions and infrastructure left by the ranch. With that being said, I again support full restoration of Kawela Stream to help heal our forests and recharge our aquifer. Thank you for allowing me to testify.

Ms. Keomailani Hirata – Aloha kākou. As a keiki o ka 'āina of Moloka'i, I humbly testify in support of item B-4 to use interim instream flow standards for Kawela Stream and all our streams on Moloka'i.

Mahalo to Moloka'i No Ka Heke Hui for their hard work to protect our water resources on Moloka'i. I also want to do a special mahalo to Teave Heen, who testified earlier with her baby. Whether Teave knows this or not, her baby is an example to all of us right now on this meeting, that there is a new generation that is being born into our fight to protect our water resources. Mahalo to our Moloka'i 'ōpio who have testified earlier and will testify after all of you, evidence the making of great leaders from Moloka'i. Water is life. Mahalo Chair and Commissioners for allowing me to testify, Mālama Pono.

Mr. Kamaki Manangan – Aloha Commission. I am from Kalama'ula, Moloka'i. and I'm here today in support of Moloka'i No Ka Heke in their efforts to fully restore Kawela Streams and set IIFSs in the streams of Kamoku, Lualohe and Hanalilolilo. I would also like to ask the diverters to clean up their mess, Mahalo.

PUBLIC TESTIMONY (CONT'D)

Ms. Cora Schnackenberg – Aloha everyone. I am in full support of B-4 on your item agenda. I did want to mention that there's other streams also that's been affected by diversion not just this one. I do want to say that on Maui, 'O'i'a Point, they didn't divert water. They allowed the water to run and at their end stream, they diverted it up through a vent system which then circle it and divert it somewhere else. The point I want to make is that people are diverting and there is no community hearing about this. The community has no say until it's after-the-fact. I did want to share my mana'o and they should do away with diversion so it would not hamper our Hawaiian culture practices. So, I am in support of B-4, Mahalo.

Dr. Jonathan Scheuer, for Dept. of Hawaiian Home Lands – Aloha mai kākou Commissioners. We submitted written testimony from Chair William Ailā on this matter. The only thing I would add for your consideration is that for many years, the Department of Hawaiian Homelands asked that the Commission set reservations for DHHLs needs in association with the setting of IIFS's and the difference that's happened in this submittal between last month and this month, is that reservation is now tied to what is before you as the next agenda item rather than his agenda item, knowing that both of these are being considered today. The department has no concerns and is in full support of the staff's recommendation, Mahalo nui.

Ms. Darene Matsuoka, Counsel for MPL – Good afternoon, Chair Case and Commission members. I represent Moloka'i Properties Limited. As you've heard, we are going to be seeking a deferral on this item. The combined petition that was filed against MPL has resulted in these two submittals. The data and the recommendations that were first presented and are now present in these staff submittals were first presented at last month's meeting.

It's the first time that MPL was able to look at the data that's been collected and the recommendations that have been made by staff. Since last month's presentation before the board, what MPL has done was to look at all the data and the recommendations internally as well as ask for technical assistance outside of MPL. With that and combined with meeting with Ayron (thank you very much for that opportunity, Ayron) we've been working with the staff as well to work through these various recommendations, but as the Commission can see, there are many different recommendations and implementations that are required of MPL.

So, in those instances MPL would need to evaluate in what ways it could meet those potential implementations. For example, and this more so has to do with item agenda B-5, but there is a DHHL reservation, and there is a recommendation that the water be delivered via the MWS or via MPL infrastructure. MPL is looking into whether that is possible without a PUC proceeding or if we would need to engage in a PUC proceeding. It's things like that we're working through

We're not in any way trying to delay anything, but we do need to complete our evaluation and we plan to do it within the next month before the commission's next meeting. So based on that, we do ask that the Commission defer a decision on this item and the next item which I can make a separate request on that once that agenda item comes up. We do request that the Commission defer its decision on this item and the next item only for one month.

Alternatively, if that request is denied, we will be making a request for a contested case hearing and we will file our petition for that request within the next 10 days. I'm available for questions. Thank you very much for having me.

PUBLIC TESTIMONY (CONT'D)

Ms. Mahina Poepoe – I would like to say first while I'm not a member of Moloka'i No Ka Heke, I do appreciate their efforts in driving this forward. I was here last month also, I said to put all the water back and also said that that would be seen extreme, but I had to catch myself, because why would putting the water back where it belongs and restoring life, why would that scenario be the extreme?

These diversions were wrong from the day they were installed, and this previous to Moloka'i Ranch ownership but here we are today with the opportunity to make it right. These diversions were never meant to really benefit our community. Originally, they were for commercial, industrial, agriculture, capitalistic exploitation with the pineapple, sugar, and then the corn. What is crazy is that we are diverting water and killing 'āina in one area to water things like inedible chemical pesticide GMO corn in another area. We're diverting water and killing anna that used to bring life to grow crops and support practices that actually kill people, or at least make people sick. How do you justify that one?

Furthermore, Moloka'i Properties has been a terrible user and permittee. They're chronically delinquent in their reporting and failed to meet conditions of compliance. They have an illegal Well and are absentee. I don't even know if the owners have ever set foot on Moloka'i. I question whether the diverters actions or inaction have been spiteful to retaliate against this community for opposing past proposed developments. Considering these things, I don't see the need for accommodating Moloka'i Ranch or Moloka'i Properties Limited as much as it seems in the staff report.

Somehow this has been able to go on as long as it has to the detriment of our community and our environment. Back when the dams were constructed initially, water flowing into the ocean was seen as the colossal waste, at least in the Western mentality. Now, we know better that water in its natural source is essential to our survival and so we have the chance to do better. Also absolutely require the diverter to clean-up their trash and the fact that you have to order people to pick up rubbish should say something about what kind of management and user they are.

My preference is to put all the water back in all the streams. Start from zero water diverted and negotiate up rather than down. My secondary preference is what was suggested by Moloka'i No Ka Heke and Earthjustice. Thank you Chair, Commissioners and staff; I really do appreciate your time and you hearing us, thank you.

Mr. La'a Poepoe – Hello everybody. I'm testifying on item B-4. Most of the things, if not all the things I'm supportive is full restoration for Kawela Stream, the removal of diversions that affect the flow specifically in Kawela Stream; I think it was asked to focus more on other streams. I like the idea that every stream is restored the full capacity. I understand that you got to at some point start somewhere with negotiations. Thank you.

(end of public testimony)

031522 03:23:24

QUESTIONS/COMMENTS

Commissioner Buck – commented that during his tenure on the commission there's rare opportunities to fully restore streams. In East Maui we had an opportunity in which we did of every kalo community that had historic diversions restored. We had to make compromises by taking additional water in other streams, but I think based on the testimony, I'd like to see some new numbers in my intervention with looking at full restoration of Kawela and Ayrton I'm sure you're probably not prepared to do that now.

(to Ms. Matsuoka) are there other issues with this proposal? The Commission has been very interested in utilizing the reservoirs to the greatest extent like being able to store water in high rainfall events – is the amounts set with the current recommendation okay if we do defer to next month?

Ms. Matsuoka – right now MPL has not identified any specific issues with the recommendations or taking a formal position on any of the recommendations, because it continues to analyze the data and the recommendation set forth. From our understanding in the technical side, with the IIFS, we're looking at the system as a whole which makes it more complicated to pinpoint something. For example, evaporation loss we're looking at possible ways to mitigate. I know that Ayrton mentioned a floating cover and that's something been done over on Kaua'i.

We're also aware of another potential solution which would include putting on solar panels above the reservoirs which would also generate electricity. So, it's those sorts of things we're trying to attack at once and we're very hopeful that we could do all that before today's meeting. We're not asking for a deferral for 3 months but asking for as a deferral to next month; one month to go through everything, come to our formal position and potentially in a lot of these cases it wouldn't be an objection to any specific IIFS, recommendation or implementation.

Again, we just like more time on and if I miss anything that you ask, please let me know otherwise, I'm available for other questions.

Chair Case – (to Ayrton) have you had a chance to look at the data comparing this proposal with a full restoration of Kawela Stream?

Dr. Strauch – the problem with separating out the two agenda items as opposed to combining all is that we don't get the full explanation that includes the DHHL non-potable reservation from the Mountain Water System (*shared screen and explained table-9 regarding the diversions relating to IIFS*) noting there is a large need for non-potable water for the Department of Hawaiian Home Lands in this region (*also noting the water demand amounts needed*). By restoring the Q80 flow in each stream, there's just enough water to meet DHHL's needs and Moloka'i Properties end uses and at higher flow events to be able to capture some runoff and maintain the reservoir but we would basically protect 100% of the base flow in each of these streams, while 100% restoring three of the streams.

The recommendation incorporates the DHHL reservation without specifically addressing the reservation in this submittal and that's because the issue was bifurcated with the two submittals. I want to make that clear that if we fully restore the water for East Kawela, yes, there is sufficient water to meet Molokai Properties end uses but it would not be able to meet DHHL's end uses.

Commissioner Kagawa-Viviani – commented that the East Kawela diversion 867 is proposed to have an IIFS rather than complete abandonment is crucial to fulfilling DHHL requests for reservation and does it consider the Waikolu contribution?

Dr. Strauch – (*shared screen and explained the contribution of the diversions*) and preliminarily understand what the implementation of these actions will be for the availability of water for non-instream uses. Clearly sufficient water with these interim streamflow standards to meet Moloka'i Properties end uses.

We're reserving 75% of the Q90 flow and 67% of the Q80 flow for DHHL. It's finding that balance for public trust and non-public trust needs but prioritizing public trust needs including restoring the base flow of the stream including meeting DHHLs non-potable needs to provide for agricultural parcels that currently have no access to non-potable water from the MIS system is important to understand. The potential end uses of the water that's diverted, that's where we found the balance

We are adding a USGS gaging station on East Kawela above the intake and will have better real-time data moving forward. The agreement from Moloka'i Properties to USGS was signed today. As stated, this is an "interim" measure taken and can be adjusted as issues or changes arises, changes can be made; this is not the "end-point".

Commissioner Kagawa-Viviani – commented to leave out Kawela as from a maintenance perspective.

Dr. Strauch – added that the East Kawela intake is attached to an eight-inch pipeline that was replaced in the late 90s which operates maintenance free. Maintenance occurs at the reservoirs and the transmission pipelines out of the reservoirs downstream side, but the Hanalilolilo and East Kawela pipelines are relatively new with occasional flushing of sediments and (maintenance) is not a critical issue.

Commissioner Kagawa-Viviani – asked for clarification on MPL's request of deferral of the submittal item as the threat of a contested case seemed antagonistic.

Ms. Matsuoka – I understand; requesting a contested case reads by rule is that we have to make that request before the close of the public hearing and wasn't sure on format and if there's going to be a motion first on the deferral, or at that point I'll be able to move to request a contested case at that point; so, in abundance of caution to ensure that right was reserved and however the Commission decides to go about with our requests, we greatly appreciate it.

Commissioner Hannahs – Mahalo (Darene) for being here as we've had issues with respect to MPL in the past. When did GUACO come to own these assets?

Ms. Matsuoka – not sure; but the declaration of water uses was file in the early 90s and our client purchased the properties back in the early 2000s and something I definitely like to check on if it is relevant to the line of questioning.

Commissioner Hannahs – it's sufficient, but there's been a couple decades of history on the land. Is there anything that you see in the staff recommendations that is out of alignment with the State water code?

Ms. Matsuoka – I believe it's a legal question and understand in the staff submittal there is a section where it shows legal authority of the various rules and the water code. As far as the application, that's something that would be a part of our formal position next month and note that Ayron mentioned as well, when it comes to public trust purposes, from a legal perspective, DHHL is a public trust purpose; so, in setting interim instream flow standards is balancing that public trust purposes which includes DHHL, including appurtenant and riparian rights, native Hawaiian traditional and customary uses, in stream and off stream uses.

It was in Waiāhole's CCH that stated there's no necessary prioritization of DHHL's public trust purpose. Again, it's something we're evaluating and don't take issue with or currently with any of the DHHLs reservation. From a legal perspective since it was the question, it's not something that we're standing on right now and is a complex balance with a lot of data and legal parts.

Commissioner Hannahs – it was toward the challenge or aspect you have toward the Water Code or recommendation. My point really was that if you've had two decades of ownership it seems like your client should have been aware that these issues would arise and no surprise like it was rushed in the last 30 days as your testimony leaves an impression like we're trying to rush something through; but these issues have gone on for decades and we need to get to them noting if a 30-day deferral is reasonable or not.

They should be well versed prepared for it as the management of these assets that you utilize like the resource and not understand the public trust doctrine, or what we expect here in Hawai'i. With record keeping and seeing the data bought forth by staff are there any major discrepancies on your side?

Ms. Matsuoka – the data we've submitted for our metering of the different streams, what's submitted in response to various questions from the Commission that at one point have been attached to one of the submittals and has been considered by the staff; however, we're evaluating to ensure everything is aligned with the data.

Commissioner Hannahs – if there's some time given or if there's a decision made and we're going to be working together a lot in the future if your client is an owner, is there a commitment to share the data that you have so we can get on the same page, then apply the Water Code and balancing that we all have?

Ms. Matsuoka – yes, it's something we're willing to do.

Commissioner Hannahs – in concern of the waste of the water as stated in reports and testimony, do you find that in your data and have known the situation?

Ms. Matsuoka – our understanding of the waste allegation is set forth in our response to the complaint. It's more from a legal perspective of what we understand waste to be that there's a certain amount of evaporative loss that legally is not considered waste and is our formal legal position and, in any event, evaporation is something we still want to really mitigate.

Commissioner Hannahs – we're in agreement and would like that mitigated as well.

Commissioner Buck – (to Ayrton) before I make a motion and if we do defer, what implications would that have for the next agenda item?

Dr. Strauch – as they are separate action items, one is independent of the other.

Commissioner Buck – to clarify on considering the MPL use of water and the non-potable source of DHHL as the same priority level referring to the statistics.

Dr. Strauch – we have an existing system and proposing to restore base flow in all the streams or 100% of restoration in three of the streams by removing the diversion and infrastructure. Of the available water that's diverted we're reserving a 150,000 gallons per day for DHHL. With Q90 flows, that's about 75% of the water and there wouldn't be sufficient water to meet Moloka'i Properties end uses about 10% of the time and the benefit of having a reservoir is during high flow events capture those runoff and store it when there's insufficient water to meet all of the end uses during low flow periods.

Commissioner Buck – based on the testimony today and the new data and the requests from Moloka'i Properties, Limited, I move that we defer item B-4 to next month.

031522 03:48:20

MOTION: (BUCK/KATAYAMA)

To defer B-4.

DISCUSSION

Commissioner Kagawa-Viviani – asked for Earthjustice comments.

Mr. Cleveland – reiterated to strongly encourage the Commission to pursue the full restoration of Kawela alternative in the intervening time since the Moloka'i community is going to have to wait another month to get this resolved. We'd like you to crunch the numbers and present something based on the existing data that is more reasonable than the staff's current recommendation.

Commissioner Kagawa-Viviani – a request to staff to consider different scenarios given the testimony today; because of the interconnectivity of MIS and MWS pertaining to DHHL surface water reservations, to help us better understand in a clear and concise way would help us with decision making. Well-17 plays into this and if there's informational briefing on how it connects. That's my request and wanted to put on record.

Dr. Strauch – all this information is available in the staff’s submittal under table 8, page 28 relating to Well-17 water usage for potable and non-potable water also planned (use). Noting in this situation is not evaluating the water use permit application for groundwater it's an analysis of what is proposed, currently used and is available.

What is available is a much more complicated question because we're dealing with the potential for interactions with other groundwater sources for other public trust uses. Currently, non-potable needs are met with some water from Well-17 to the extent a non-potable system would be more appropriate to meet the non-potable needs. MIS is managed by DOA that DHHL has by rule or Statute priority usage for two-thirds of the water.

The State Water Projects Plan identified the demand for Ho‘olehua and Kalama‘ula exceeds the current supply from the MIS and the availability of an alternative source, the MWS could be utilized to meet some of these public trust uses.

Commissioner Kagawa-Viviani – noting that a conceptual diagram that could help us understand the different parts in a simplified way.

Dr. Strauch – noted the diagram of figure 3, page 11.

Commissioner Kagawa-Viviani – noted it’s helpful but intervenes with questions related to item B-5; and asked on permit status of Well-17 for a briefing of that type of information.

Dr. Strauch – answered that GW staff is heavily burdened and short-staffed at the moment.

Deputy Manuel – Mahalo to the Commissioners for their thoughtfulness as well as all of the testifiers including Moloka‘i Ranch for highlighting the complexity of water management in the State of Hawai‘i dealing with old systems. How do we modify them to meet current needs, while also balancing our needs to protect the public trust in totality; it is complicated.

I’m hearing all of the concerns and work that we need to do within the next month to come back to the Commission with something more laid out, simplified and combined and work on that based on the current recommendation of deferral.

Commissioner Buck – added with full restoration of Kawela with options.

Deputy Manuel – agreed and noted to present all options laid out in a clear and concise way and bring it back with all the moving pieces. While there's a stride to defer for one month, I don't want to over commit our team so if it doesn't happen next month we will present at the following.

Commissioner Buck – thanked Ayrton and noted the glowing recommendations from the community members about ability to connect to them.

Commissioner Kagawa-Viviani – also thanked Ayrton for his commitment and diligence in his work done.

Commissioner Hannahs – Mahalo Ayrton and CWRM staff and commended all as well as the

social capital in communities; and noting the time term of Commissioner (Katayama) upcoming time (renewal); also noting getting as much done (on the Commission) as possible and noting not to overburden staff.

031522 04:00:32

**VOTE
UNANIMOUSLY APPROVED.**

RECESS: 1:03 PM

RECONVENE: 1:11 PM

031522 04:08:44

B. ACTION ITEMS

5. Approval of Surface Water Reservation of 6.0914 Million Gallons per Day for the Department of Hawaiian Home Lands and Amend the Interim Instream Flow Standards for Waikolu Stream for the Surface Water Hydrologic Unit of Waikolu (4003), Moloka‘i

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch stated the submittal item noting the item was previously presented at the February 15, 2022, meeting and has no changes with regards to the data presented; highlighting for the commission to understand the implementation recommendations. *(shared screen on figure-7, page 24 and explained parts of the Mountain Water System [MWS]). (Read from the submittal) "...pump test results Well-23, and 24 indicate that 23 and 24 interfere with stream flow after about 4.25 feet and 1.25 feet of drawdown. This equates to 145,000 gallons, and 360,000 gallons per day respectively. When these wells are utilized for longer periods of time, they draw downstream for such that the stream becomes intermittently dry..." (directly from an analysis by the Department of Agriculture consultant)* Noting because of this, Wells-5 & 6 were drilled and pumped test for 30 plus days of continual pumpage with no noticeable effect on stream flow.

Noted in the recommendations we're setting instream flow standards for Waikolu stream at USGS Gaging stations but also recommending modifications to the pumpage of Wells-23 and 24 and how much can be pumped specifically from Wells 23 and 24 *(further summarized staff's recommendations)*

PUBLIC TESTIMONY

Ms. Cora Schnackenberg, Ahonui Homestead Association – I do represent the Association of Hawaiian Homestead Lands. These are wait listeners that continue to wait patiently on the waitlist. I am totally in support of B-5 for the purpose of what I just said. I understand the diagram that was presented and in the meeting with USGS a couple of years ago, moved so

fast. the point I'm trying to make is that our people has been waiting forever and it's about time that things are moving in a direction to put our people on their land and provide the water necessary to be subsistence and sustainable. All these waters is necessary for DHHL's requests. I had also submitted written for both Ahonui and I also wear the hat Association of Hawaiian Homestead Lands so this on both sides is all about the wait-listers and beneficiaries. I stand before you, advocating for our people that's on the waitlist.

I also want to share with you that the department have always held meetings, beneficiary consultation; don't let anybody come on here and saying there wasn't any consultation meetings, there have been tremendously, so many. With that being said, I wanted to share this that I have submitted my written of testimony. These requests are driven by homesteaders and waitlisted beneficiaries because of their needs of water, and we should be the breadbasket on Moloka'i. These requests are well supported and cited in HRS 174-C through 9 and is in my written testimony. I appreciate your support and strongly consider your approval, Mahalo.

PUBLIC TESTIMONY (CONT'D)

Dr. Jonathan Scheuer, for Dept. of Hawaiian Home Lands – Aloha Commissioners. We will stand on our written testimony and be available to answer any questions you have.

Mr. Mahesh Cleveland, Earthjustice for Moloka'i No Ka Heke – We'll stand on our written testimony. We just want to remind the Commission that although we request that although staff is recommending IFS be set in Waikolu Valley, they're not responsive to our requests in our petition which specifically sought to place limits upon water diverted from the MWS. So, in considering the staff submittal, we support reservations of water for use by DHHL as a public trust purpose and ask we still want an IFS at Hanalilililo. I've spoken with Dr. Strauch about the reasons for not setting one there and we realize the benefits the IFS he has proposed will have for Waikolu; but still respectfully request the MWS diversions be regulated as well. Thank you very much Chair and Commissioners.

Ms. Mahina Poepoe – I don't have anything substantial to add, I just wanted clarity on if this is something that also goes through the rulemaking process?

[Commissioner Buck shook his head "no"]

Mr. La'a Poepoe – I wanted to just make sure that I'm on record on this meeting saying something to the high level of protection for the environment since a lot of these years are we get to the point where we oops, and then hard to fix that. It happens in my line of work I know that prevention is way easier than fighting a 100,000-acre brush fire.

I wanted to read a passage from a report in 2001, online from the Department of Agriculture doing work in Waikolu Valley and servicing the MIS. "...new sources are being considered and using brackish wells, additional water, maybe sufficient to cover so many acres with a total of 12,000,000 gallons per day. This assumes 6,000,000 gallons from the system as well as other sources. The 12,000,000 gallons per day is considered still not enough to support the nearly 10,000 acres in the current service area of Palau plains, Ho'olehua"... Therefore

expansion of the MIS to Kalama‘ula homestead is not feasible unless more water can be obtained from north east Moloka‘i such as the major perennial streams. Any development in the Northwest mountains will be costly and likely met with environmental and cultural opposition.

It's where I think I come in as the representative of those environmental cultural concerns that may lead to opposition. I just wanted to make sure that I'm here providing testimony in the event that DHHL becomes the new Moloka‘i Ranch in the future where we're fighting against diversions today correcting pass damage caused by MPL and making sure that we can prevent that from happening through DHHL. There's so much other things to be fighting for and aware of with stuff that bogs everything down. Not completely supportive of the amount that is being requested for the reservation and not sure what the number is. We're uncertain about the way that water works in the in the ground in the stream. So just being present, thank you.

Ms. Darene Matsuoka, Counsel for MPL – Good afternoon, Chair Case and Commissioners. For the same reasons that we set forth regarding item B-4, here for item B-5 we make a request to defer a decision on item B 5 for one month. If you have any questions, please let me know. Otherwise, if this is my last opportunity to speak with everyone during this meeting, thank you very much again, Ayron for meeting with us, Kaleo, for speaking with us and to the Commissioners for having me here today. Thank you.

(end of public testimony)

031522 04:23:27

QUESTIONS/COMMENTS

Commissioner Buck – as it's a long-standing issue, is it the amount of water, PUC issue or is it just the clients haven't had time to understand the situation?

Ms. Matsuoka – for the same reasons as identified with as the previous staff submittal that was discussed in B-4, essentially everything that you said. Again, a holistic system from our understanding. I think the reason why this item was separated into its own is because of the DHHL reservation. Analyzing the data and the implementations that are recommended and how MPL would potentially have to meet those recommended implementations, including for example, specific to this, using potentially MPL infrastructure and potentially requiring the PUC proceeding, looking at all of these in its entirety.

Commissioner Kagawa-Viviani – reiterated the connection of the MWS and MIS system through Waikolu and the DHHL surface water reservation request, to have a better understanding of it as a whole and whether it's implementable on the ground.

Dr. Strauch – everything proposed is practicable. There is no practical way that I or staff could monitor an IIFS below the Hanalilolilo intake except in Waikolu Valley, above the MIS system and is not feasible.

In terms of the interconnectedness, there used to be a direct connection between the MWS

and MIS (*further explained the connection between them*). The connections have been severed essentially in those situations as they're now directly supplying water from Well-17.

Commissioner Kagawa-Viviani – clarified on the draws from Waikolu to serve DHHL.

Dr. Strauch – agreed noting the DHHL reservation is from the Mountain Water System.

Commissioner Buck – noted have not seen testimony from Department of Agriculture noting they're important to implementation.

Dr. Strauch – we met with them regarding this item, and they didn't have any formal testimony but understood this was happening in terms of modifications to Dam 4 as they sought a Stream Channel Alteration Permit or request for determination a year ago and the modification are being added to their scope of work. Nothing has to happen to modify Well-23 and Well-24 and no investment is necessary for those parts of the implementation.

Essentially the reservation is for the non-potable water through the Kualapu'u Reservoir and other implementation issues that aren't identified in this, namely, the Department of Agriculture has a policy for not providing meters for parcels under 2 acres and that's not directly related to an instream flow standard proceeding per se and would like to work with Department of Agriculture on other issues tangential to this.

Commissioner Buck – (*to DHHL*) if we defer this item as requested by Moloka'i Properties, what kind of actions that DHHL need to take?

Dr. Scheuer – through the chat function on zoom, I've given my contact information to Ms. Matsuoka. So far, the Ranch has not reached out to DHHL to discuss any of these matters with us and anticipate having those conversations over the next couple of weeks and we certainly remain open to conference with any concerned community members. DHHL does have a Water Policy Plan which we linked in our testimony after years of consultation with beneficiaries and experts.

Even if somebody might make the legal argument that we could drain a stream heavily just to support homesteaders, that's not the position the department has taken formally in its WPP. We endeavor to try to be good stewards and balance our water kuleana, rights and our responsibility; we don't just see it as having water rights.

Commissioner Buck – anyway you can help us in looking at options on restoration of Kawela Stream and how that may or may not impact your non-potable water uses would be great.

Dr. Scheuer – we're very eager to talk with Dr. Strauch as well.

Commissioner Kagawa-Viviani – (*to Ayrton*) asked for clarification on the initial proposed recommendations; what proposed action reservation of water for DHHL that relates to both MIS and MWS - the reservation would relate to surface waters from both the systems?

Dr. Strauch – it's a reservation of non-potable water for 6.0914 mgd; but the water is transmitted to DHHL via two different systems.

Commissioner Kagawa-Viviani – involving DOA and MPL.

Dr. Strauch – with an understanding of water delivery to DHHL as the entire MIS system was built to support Homestead use.

031522 04:33:23

MOTION: (BUCK/KAGAWA-VIVIANI)

To defer B-5.

UNANIMOUSLY APPROVED.

Commissioner Hannahs asked if it's a 30-day deferral? Chairperson Case noted they're aiming for 30-days but if they need more time (it will be granted).

Chairperson Case thanked everyone especially Ayron for all his work and appreciated everyone's attention on this.

RECESS: 1:36 PM

RECONVENE: 2:00 PM

031522 05:00:33

C. RED HILL ITEMS

PRESENTATION GIVEN BY: Mr. Ryan Imata, CWRM Groundwater Management Branch

Mr. Imata shared screen and gave a presentation and update on the data collection needs for aquifer protection for short- and long-term issues in response to the Red Hill Fuel Releases recognizing that the Commission has an obligation to protect water resources of those areas where increased shifted demands could potentially impact the aquifer from a short-term perspective.

The Navy provided daily chloride and weekly pumpage data to CWRM. The Board of Water Supply (BWS) has issued a water conservation as increasing chlorides was found in one of the well pumps stations. Commission staff is working with the multi-agency group on establishing monitoring well locations to detect contamination.

More efforts are needed to strategize our long-term monitoring which is heavily dependent on the Navy and BWS. In the Honolulu Aquifer we need to focus on sustainable yield and water levels to observe long-term trends; currently CWRM has no deep monitoring wells in the Honolulu area. The CWRM Planning Branch is currently preparing a Honolulu Water Shortage Plan in anticipation for a water shortage. For the Pearl Harbor Aquifer System, there's a need to have long-term monitoring on water quality to see when Halawa Shaft can safely reopen. The CWRM Planning Branch has also completed the Pearl Harbor Water

Shortage Plan.

The Commission can assist by CWRM supporting of staff's recommendations for new monitoring wells, enforcement of over pumping, attach monitoring conditions to new water use permits.

QUESTIONS/COMMENTS

Commissioner Buck – commented that the Advisory Group is very pleased the Secretary of Defense is requesting for the permanent decommissioning of the Red Hill tanks. Commended the Navy for the number of meetings given which included 50-60 scientists and 6-7 various government and other agencies to find best solutions for short and long-term monitoring. The Halawa Shaft will remain “closed” indefinitely by BWS as more monitoring and data collection is conducted and in considering future CWRM water permits issued.

Commissioner Meyer – noted the quality points Commissioner Buck made in terms of monitoring and reporting requirements surrounding the major wells throughout O‘ahu which is an important element of operating methodology going forward.

Deputy Manuel – highlighted the following presentations will be given by the water purveyors (the Navy and Board of Water Supply) as the Commission are the “regulators” in terms of managing the end uses and permittees. The focus (today) is on groundwater but knowing that ground and surface water are integrated, want to note the short and long-term impacts of this situation and being mindful of other public trust uses, traditional and customary practices, springs in this region, as well as Halawa Stream.

031522 05:11:03

1. **Non-Action Item - Presentations and Updates Related to Red Hill from the Following:**
 - a. **Naval Facilities Engineering Systems Command Hawai‘i (NAVFAC Hawai‘i) – Update on Short Term and Long Term Ground Water Monitoring as Part of Emergency Response for Pearl Harbor Aquifer**

Mr. Jeremy Mitchell, Deputy Public Works Officer, Joint Base Pearl Harbor introduced Lieutenant Commander Joseph Blauwikel, Recovery Team and Ms. Dayna Fujimoto, Division Head, Environmental Compliance, NAVFAC Hawai‘i.

PRESENTATION GIVEN BY: Ms. Dayne Fujimoto, NAVFAC Hawai‘i

Ms. Fujimoto presented a PowerPoint presentation on the above subject. The agenda was noted the objectives are to assess groundwater impacts of the (fuel release) events of last year. Monitoring results suggests there may be some mobilization in the subsurface and monitoring is trying to help obtain a better understanding of where those contaminants may be and were migrated to. Focus was to the November 20th impacted area because of the impact to drinking water but also should not ignore the tank bar area were observed potential trends was observed.

With the Red Hill shaft pumping through the granular activated carbon treatment system (GAC), monitoring will help to evaluate the effectiveness of that capture Zone from Red Hill. The longer-term scale groundwater monitoring objectives are to provide early warnings for potential contaminant migration to other water supply wells, including the Board of Water Supply Halwa Shaft with remediation strategies to clean up the area from past releases.

A graph table was shown and explained noting the analyses of the water level data collected from many of the Red Hill Monitoring Wells with coordination of USGS. Groundwater monitoring continues to be a top priority with reporting also being posted upon the Dept. of Health's website.

The groundwater monitoring results graph table was shown and explained of the interior and outlier wells noting that water monitoring data from Red Hill Shaft confirms impact by JP5 and other contaminants like TPH-O (oil). It is unclear whether the Tph detections in the outlier wells are related to each other, made from the same source, or related to fuel; but cannot rule out the possibility of metabolite or degraded fuel in these samples.

The drilling of the Red Hill Monitoring Well-17 is still ongoing with close coordination of CWRM and DOH. In a recent Aquifer Recovery Focus Group meeting, CWRM and DOH expressed interests in the conductivity of the water from Red Hill Shaft. Although it's not an NPDES permit requirement, per our agreement with DOH, our NPDES sampling protocol requires sampling the GAC influent and effluent weekly for the fuel parameters listed in the Drinking Water Distribution System Recovery Plan. Weekly conductivity data is being collected and will be shared separately with CWRM and DOH.

The ongoing and future groundwater monitoring plans by the Navy was shared and highlighted. Due to anticipated closure of Red Hill, possible future refocusing of monitoring activities to support remediation efforts vice monitoring in support of an operational fuel facility.

The overall goal is to improve timeliness of the groundwater results to make timely assessments and decisions and collaboratively identify locations for new sentinel wells to provide early warnings in the event of potential contact migration to other water supply wells. The Navy appreciates the responsiveness and collaboration from CWRM and are committed to working expeditiously and collaboratively to obtain cultural resources approvals to enable well permit issuance. Prioritization of well permits will be accomplished through continued collaboration within the ARFG Monitoring Well Stakeholder Group (*DOH, EPA, CWRM, USGS, BWS, Navy*).

QUESTIONS/COMMENTS

Commissioner Buck – asked on remediation strategies regarding the aquifer relating to fuel transport beyond the capture zone.

Ms. Fujimoto – not yet developed and we are in the process of collecting and evaluating data and effectiveness of the capture zone and other experts will help come up with what those remediation strategies would be.

Commissioner Buck – asked on the Aiea-Halawa Shaft's use in terms of monitoring and

protocols.

Ms. Fujimoto – there's a subgroup that's focusing on modeling and helping to field those questions but beyond (my) expertise.

Commissioner Buck – asked on timeframe in developing the models in putting in the monitoring wells.

Ms. Fujimoto – can't answer for certain but it is a priority.

Commissioner Kagawa-Viviani – asked to comment on the Red Hill shaft concentrations exceeding the solubility of JP-5.

Ms. Fujimoto – the sampling shown the levels were more than the 5,000 parts per billion.

Commissioner Kagawa-Viviani – reiterated if there were other additives.

Ms. Fujimoto – JP-5 does have a fuel additive; as far as surfactants, we have not been able to confirm that in the shaft.

Commissioner Kagawa-Viviani – requested to briefly explain and show the graph of slide-6 of the presentation.

Ms. Fujimoto – pointed out the high TPH-D levels detected in December and a decrease in levels when skimming the product in the shaft started.

Commissioner Kagawa-Viviani – it seems promising but may also be due to other processes besides the actual remediation actions and asked what the drop may be based on monitoring data.

Ms. Fujimoto – wouldn't be able to say other than the skimming operations and some absorbing's

Commissioner Kagawa-Viviani – are you seeing evidence of old products or legacy contamination in your chromatograms, or fingerprinting results? Or do you think it's more likely degradation?

Ms. Fujimoto – with the outlying Wells showing it's not resembling the JP-5 signature that we see in the chromatographs. It's uncertain what's causing those little humps and normally if there were petroleum impacts, we would see other petroleum constituents in the sample; possible issues in the lab as well.

Commissioner Kagawa-Viviani – asked how potential rate of transport could compare to the rate at which you can get monitoring wells installed assuming maybe the dissolve components are moving at the same velocities as groundwater constituents in the sample.

Ms. Fujimoto – apologies as I'll need to check with our modeling experts.

Commissioner Hannahs – are the aquifers like a flat lake or gravitational and is this a

downstream risk?

Ms. Fujimoto – the subsurface around Red Hill is HI-V heterogeneous with different features and types of rocks which can impact the direction and groundwater flow.

Commissioner Hannahs – asked in regard to shutting off certain wells, does your data either confirm or refute that the need to do that?

Ms. Fujimoto – it's more of a modeling question

Commissioner Hannahs – the major decisions that we must make and what data we need in order to intelligently make those decisions so we're not putting our aquifer or public at risk. In the advisory group or in the recovery committee, have we lined up those decisions – in terms of aquifer sharing and recovery of the system and Halawa Well; then check to see if our model and data we're collecting pursuant to its implementation provide us the information we need that can create a dashboard to target triggers.

Commissioner Buck – Commissioner Hannahs, I think the blank stares and lack of knowing really what that is and still having some disagreement on the type of models used, which are just approximations, leads you to your simplified thought process makes a lot of sense.

When we asked BWS how long it will take to turn on Halawa? They said it could take 3-5 years. Knowing that they said it had 72 leak incidents since the establishment of the facility with over 200,000 gallons leaked, we do not know the nature of the (fuel) migration and don't have the monitoring wells in place (yet). One of the challenges is the frame up of what is it that we need to know to be able to have access to our aquifer water?

Commissioner Kagawa-Viviani – asked when will you have full fingerprints of the contaminants not just JP-5, but of what's in the well? The challenge with testing is you have to know what to look for and it's quite expensive to run these tests.

Ms. Fujimoto – we have done the fingerprinting analysis of the fuel from the November 20th event to link the samples collected from the different points to show the relation. For the groundwater monitoring wells we're optimizing our monitoring program to look at what's tested as right now, we're testing the full suite of VOCs and SPOCs and not all are fuel related and if we can get that down to what we feel are fuel related, we can get more timely results from the lab, but it requires further investigations; so, nothing real conclusive at this time.

Commissioner Kagawa-Viviani – has there been attentive to what's toxicologically most concerning or the greatest hazard to human health?

Ms. Fujimoto – can't speak to the toxicological aspect in terms of well degradation.

Chair Case – with the various stages of work going on; to ensure our residents have clean water in their lines and also making sure what's contaminating in Red Hill is not spreading ensuring the GACs are pulling clean water at depth of 10 or 12 feet to make sure the water coming out is clean.

Ms. Fujimoto – that’s correct.

Chair Case – also picking up fuel that's floating on the top of the Red Hill shaft with absorbent materials.

Ms. Fujimoto – yes, both absorbents and using skimmers.

Chair Case – noted the amount of fuel gotten is a relatively small amount compared to the estimated release; 140 gallons compared to 19,000.

Ms. Fujimoto – don’t know the exact number but noted it was a small amount.

Chair Case – we want to make sure that pumping from Halawa Shaft and Aiea Shaft is not pulling fuel in that direction and that’s where the monitoring wells and the groundwater monitoring come in; noting the big issue being the impact of pumping from Waiawa on the rest of the aquifer with the question being is the rock between the tanks and the Red Hill Shaft saturated with fuel?

Ms. Fujimoto – agreed and noted delineated the fuel pool with the proposed plume delivery wells around the November 20th impacted area.

Chair Case – and trying to identify whether there's fuel in the rock from other spills prior.

Ms. Fujimoto – yes; by looking at the chromatographs to see if it’s contained within the facility or around the tanks and not migrating towards the other water receptors.

Chair Case – are you going to be developing plans for remediation that include the drinking water systems running but remediating the fuel itself. That would otherwise be creating a long-term continuing contamination problem; is that part of the horizon of monitoring and remediation aiming for?

Ms. Fujimoto – yes; the granular activated carbon treatment system was the initial step to create the capture zone. The Navy did recognize that other immediate strategies would be needed in addition and is still being developed.

Chair Case – just want to keep a handle on the immediate to long-term plans and tests that need to happen.

Commissioner Kagawa-Viviani – great to hear about the decision by the Pentagon to shut down the storage facility and Congress has committed to the 2022 DOD appropriations of \$600,000,000 to address the defueling with a quick turnaround of 90-days after the act is enacted to submit a report to the Congressional Defense committees detailing mitigation issues and future plans with details that include remediation to the affected residents but also the water supply and environment.

Can we get your commitment that the navy will work with DOH, the Water Commission, the Aquifer Recovery Group, and its different members and other Federal State and local entities in the development of that report meant to assess the costs of cleanup?

Mr. Mitchell – in terms of the fuel relocation, it'll be handled by a department outside of NAVFAC, the Naval Supply Fleet Logistics Center. With the environmental remediation efforts and everything inside of NAVFAC with the intent to run everything through the IDWST for all efforts and would keep the Commission, DOH and USGS in that process.

031522 06:00:34

1. **Non-Action Item - Presentations and Updates Related to Red Hill from the Following:**
 - b. **Board of Water Supply – Presentation on Data and Monitoring of the Affected Aquifer Sources and Water Conservation and Pumping Strategies Being Pursued as Emergency Response to Red Hill Situation**

INTRODUCTION/BRIEFING BY: Mr. Ernest Lau, Manager & Chief Engineer
Honolulu Board of Water Supply

(PUBLIC TESTIMONY)

Thank you. Chair case and members of the Commission Water Resource management and also commission staff under Deputy Director Kaleo Manuel. First off, Ryan you're right. We could do a better job of collaboration and sharing information. I'm sorry we caught you off guard with the Beretania Wells chloride situation. We'll work to improve that information sharing. Barry Usagawa Head of our Water Resources Division will be our point of contact with the Commission and the staff on sharing this information.

We are watching it very closely and what led up to our decision to request voluntary restrictions on 10% on people's water use was the rising chlorides that Barry will cover in his presentation. We saw a rapid rise in chloride levels at Beretania pump station and we knew we had to reduce our pumping rates. This is a result of the loss of Halawa shaft to our Honolulu water system of about 13,000,000 gallons a day of supply capacity that are being made up by pumping other wells make it more difficult or harder to meet the demands of our community.

The two things that we can control is demand for water and our supply that's available; but that's really limited by the capability of the aquifer to provide that resource in a sustainable fashion and not to damage that resource. I know the Commission and the Board of Water Supply were committed not to do. some of the things I'm glad to see was the presentation by the Navy, and I appreciate it. This is new information to me which I haven't actually seen so, it's brand new.

I think one thing if I can make a request to the commission in its role and authority might be able to help in this. Right now, for our community transparency of the nature and extent of the contamination of the investigative activities what the Navy presented today it's actually very critically important for our community to understand what's happened to the aquifer. How damage is the aquifer? What is the amount of fuel that was potentially released? I would make maybe a request to the commission to consider is the information data that's

being provided to the Department of Health and the EPA Regulators by the Navy. The Navy is now monitoring their monitor Wells on a weekly basis.

(continued briefing/testimony by Mr. Lau)

Perhaps, that information should also go to the Commission and staff, and it could be made more publicly accessible even to the Board of Water Supply, so we'd have better access; so good complete data helps with decision-making about what to do in the future, like a number of commissioners asked about. When can we turn on Halawa shaft? At this point, it's indefinite because I cannot afford to turn on the shaft and the two wells and pump fuel contaminated water into our bigger water system and impact, more people than what's impacted Joint Base Pearl Harbor-Hickam.

One of the things we've requested for from January, is the release of the Navy's investigation that was commissioned by commander of U.S Pacific Fleet Admiral Paparo. required that investigative study be done to the May and November incidents last year, and that reports supposed to have been completed in mid-January. I just got word and maybe the Navy can confirm that Vice Chief of Naval Operations, Admiral William Lisher directed a supplemental investigation to the investigation that was completed in mid-January to gather additional information. He's directed Rear Admiral James Waters to receive that additional information, this is already mid-March, a couple months after the previous investigation was done.

It's important to know what created some of these problems that we're seeing right now. Commissioner Buck is correct in pointing out the history of leaks. The earliest that we can see dating back to 1947 from tank number 16, a leak of fuel into the aquifer into the subsurface area. So, there's legacy fuels there that's been used and stored in this facility that's been there almost 80 years from the time when ships burned some type of form of oil, motor gasoline, aviation gas, and other types of fuels.

I heard the Navy say earlier that it may have triggered some of these movements and Chair Case pointed out very correctly of what's between the 100 feet above the aquifer and that unsaturated rock or called the Abated zone above the aquifer what could have been stored there, and now is being released. That's why they're picking up different types of fuel in their drinking water source.

Just a request for greater transparency of the data and the investigative results of the aquifer investigations be made more public, and timelier available to everybody so we can understand what is the nature and extent. In the Navy's presentation, Monitor Well-9 now has a detection of fuel in it. Number 9 is on the east side of the facility or the Moanalua Valley side of the Red Hill Facility. To my limited knowledge of the data from these monitor Wells I don't think monitor well-9 had a previous detection of fuel, and this is something of great interest to us, because now instead of being on the west side toward the Halawa Valley they're now detecting fuel on the east side of the facility toward Moanalua Valley.

We want to be able to get access to information and data. We're still having challenges on the data flow and seek your help in getting that information. The data being releasing timelier, more transparently to the entire community.

QUESTIONS

Commissioner Buck – asked on the potential turn on of Halawa Shaft and what is needed to do that?

Mr. Lau – dependent on when the new monitoring wells and the groundwater modeling occurs would provide absolute confidence as the modeling will provide validated field data to provide the best extent in model parameters for decision-making; but I don't think it will occur in a year and maybe at least a few years. (*gave example of the Deep Monitor Well drilled by CWRM at the DPS Halawa Correctional Facility that also had fuel detection*); there's potential for cross-valley flow and the aquifer is hydraulically connected.

Fuel doesn't stay at the top of the water table as it moves further away it can start to move deeper as it dissolves deeper into the aquifer. The risk is real and why we need to get the Navy to move quickly. I was really disappointed to hear that the navy's going to do another supplemental study ordered by the Vice Chief of Naval Operations, it will delay the potential release. I don't see the commitment to release that report unredacted to our community, the Board of Water Supply and all the other stakeholders.

031522 06:12:30

PRESENTATION GIVEN BY: Mr. Barry Usagawa, Water Resources, Honolulu Board of Water Supply

Mr. Usagawa shared screen and showed BWS letter to CWRM dated 12/27/2021 which highlights what will be presented relating to the response strategy, pumping from other sources, expanding water conservation, and advancing new source development from other available sources as well as infrastructure challenges, pump optimization, current monitoring, and noting the 12-month moving average of the combined Waipahu-Waiawa Aquifer.

Mr. Usagawa presented the BWS Water Shortage Plan highlighting:

- Red Hill Water Shortage Situation
- Water Shortage Declaration
- Condition Triggers
- Objectives, Strategies and Tactics
- Response procedures
- Recovery

There are signs of strain on the Beretania Wells due to rising levels of chlorides due to additional pumping to make up loss of supply from Halawa Shaft. All O'ahu water users to voluntarily reduce by 10%.

Drought across Hawai'i is forecasted with expected drier summer months. There is a strong correlation between rainfall and source production. The conservation messaging is focused on irrigation outdoor use and trying to cut back. BWS is trying to see if there's enough sources and sufficient standby pumps available to meet this max-day demand and there's two pumping stations off-line due to the fuel contamination issue.

Conservation plays a significant role in recharging the aquifer. The 12-mo moving averages for the Honolulu aquifer area was shown and noted in terms of pumping relative to sustainable yield. Water is also being moved from the Pearl City Wells and other sources to supplement the reduction and loss of Halawa Shaft. Proposed FY2023 CIP projects were noted.

The Water Shortage Declaration Plan provides strategic and tactical steps to assess, declare, and control water demand. BWS engineers have been assessing capacity to meet next day demand which can be met but the challenge and concerned is what happens in the summer. Based on that assessment, a water shortage was declared. Recovery of the aquifers is priority and do not want to over-pump in times of a shortage. The BWS water shortage definitions were stated as well as the BWS rules and regulations Chapter II: Water service to consumers.

The water shortage condition triggers were briefly explained and noting the different stages of triggers. The water shortage objectives and strategies shape the compensatory water system operations, water conservation, outreach and development control tactics. The six objectives and the five strategies were noted as well as the tactics of measures to improve efficiency. The water shortage response procedures of the voluntary conservation measures for water shortage conditions in the “alert”, “critical” and “mandatory” stages was highlighted noting implemented penalties that can occur. The response and recovery phase were also noted which identified water conservation efforts.

The BWS Water Sense program provides incentives and help consumers understand how their using water will more likely ensure water is used more efficiently.

QUESTIONS/COMMENTS

Commissioner Meyer – appreciated the depth of the presentation

Mr. Usagawa – noted he will forward presentation to the Commission

Commissioner Buck – sounds like we’ll be in an emergency water situation over the next 3 to 5 years and asked if there were any changes to the existing water permits that need to be done to implement in the future?

Mr. Lau – drilling 5 to 6 new Exploratory Wells to replace for the wells that can’t risk turning back on and if those permits can really be expedited in a way similar to what the Navy is requesting. I’m in discussions with our Mayor and Governor about a potential Emergency Proclamation; and yes, we will be in this at least 3-5 years or longer depending on our ability to find replacement capacity or prove that the aquifer will not produce contaminated water into our system.

What also hinges on all of this is also what happens with the massive amount of development pressure that is especially in the Honolulu water system as transit-oriented development is real with the need to develop affordable housing especially in urban Honolulu and core and keeping up with existing BWS water users demands. And being upfront in full disclosure, of the potential for the Governor to assist and possibly cut through some of the State regulations that might impede our progress.

Chair Case – noted for her (the Chairperson) and Water Deputy to be able to participate in those discussions (with the Mayor and Governor) as well.

Commissioner Hannahs – what percentage of our potable water is being used for non-potable use?

Mr. Usagawa – not known; but BWS has approximately 10,000,000 gallons of non-potable use throughout the system, island-wide. The recycle water system produces about 8, and 2-3 brackish or non-potable sources that are used for irrigation and mgd over 145 but it's not 10% yet.

Mr. Lau – rule of thumb use is about half of the water use in a typical single-family dwelling go to non-potable uses and half to indoor uses but varies from area-to-area and the density.

Commissioner Hannahs – are we doing enough to reclaim water and looking at other potential sources to create or alleviate concerns we have about shortage?

Mr. Lau – we're looking at some of the reservoirs in Nu'uano for potential to generate hydropower and to generate recharge and direct recharge of the underground aquifer but it's still under study stages.

Mr. Usagawa – we're still working on the feasibility study on that and still need to do a Chap. 343 EA. Tried to transfer those reservoirs but it was difficult.

Mr. Lau – no one wants those reservoirs and liability.

Mr. Usagawa – it's capturing the storm water and redirecting it through a pipe for Nu'uano #1 & #4 through a turbine to create hydroelectric power through a simple cartridge filtration system then inject it into the ground for recharge that may recharge our Beretania or Kalihi pump stations. BWS still need to meet with the water commission and Department of Health on the ground injection control.

Relating to outdoor use, we can't extend non-potable systems throughout the island, it would be too costly and with more sea level rise, there'll be more seawater infiltration into the collection systems so there are some big capital challenges to expand reuse. But it doesn't mean that we can't look at on-site reuse for new developments like stormwater capture, gray water reuse for all these developments and make that part the requirement. Those rules do not exist and have been working with DoH on updating them but there are many codes for it.

Mr. Lau – although with this unfortunate situation there maybe one positive, is that it might spur evolutionary development in conservation and onsite reuse as people look at larger projects, it's time to maybe bite the bullet in terms of cost and look seriously at onsite reuse or stormwater capture and more aggressive conservation in these developments.

Commissioner Kagawa-Viviani – what do you see as the State's kuleana in dealing with the water shortage situation and what would the benefits of what the Commission can exercise?

Mr. Lau – as applicants come in for new permits, to look very carefully what they're doing

and help to ensure that their use is efficient and appropriate.

Mr. Usagawa – I know that the Commission has looked closely at every permit you review and deeply into the alternative water sections of the permit. The idea brought up previously on contributions to watershed management, forestry management and taking care of the source where it is, is an important add because right now it's just voluntary to do those. It's very difficult for a single small developer to create a broader type of non-potable system but on-site reuse is definitely something they should incorporate.

Commissioner Kagawa-Viviani – in reading written testimony there there are a lot of concerns about restrictions and the equity issues as residents perceive the cost they must bear of tourism, is that built into your shortage restriction plans?

Mr. Lau – deferred to Ms. Kathy Mitchell to share on outreach efforts as there have been meetings scheduled with the tourism industry.

Ms. Kathleen Mitchell, BWS – met with HTA this morning and talked about how we are able to assist them to help gauge what is being used in tourism. Remember, most hotels are very efficient in their water use. It's a bottom-line issue for them terms of net profit. Most of the hotels are already very water efficient.

The areas we can work with them are in their restaurants, outdoor irrigation and ensuring that there's no leaks in their property or within their pool. We'll be working very closely with HTA and syncs with their D-maps they're working on, and the metrics of their water uses in the business industry and we're going to be able to give them data that gives them a baseline they can work from and see how we're affecting that use.

We have a meeting with an unnamed larger hotel chain in Waikiki that we have developed an aggressive outreach program to their visitors and be exploring with them. It'll include all levels, not just in the hotel rooms but in their retail establishments and restaurants, where we hit their visitors at all the touch points. We have a meeting with the Hawaii Tourism Association and Authorities Board in a couple weeks and tomorrow with the Waikiki Improvement Association. We have meetings with the various large shopping centers and hospitals as well as other key industry stakeholders.

Barry's team has developed a very robust commercial outreach rebate program we think will be very impactful in helping us achieve these conservation measures.

Mr. Usagawa – this campaign is called Building a Culture of Freshwater Stewardship. It's a conservation message directed to residents but it's through tourists because the residency talks about being a responsible tourist. Hawaiian Air has a travel portal program video on their flights coming in but doesn't have a water component and would like to fill that gap so they understand it's not just conserving at the tap but most residents know that the tourist may not know where is the source of that water; like if you go hiking in the mountains, you need to be responsible because that's where our water comes from. Tying those messages together is a pilot we're working on and help implement with HTA. If it works in Waikiki, it could work statewide.

PUBLIC TESTIMONY

Ms. Gina Hara – Hi. This morning I went to the Halawa shaft, and I could see the aquifer which is shut down presently, which is 50% of Halawa residents water; it's 20% for the rest of the island and I wanted to point it out. I'm wondering if the permit for the navy is also going to be 20% shut down just like the rest of the island.

Ever since 2014 it's been so difficult to get any information exactly what happened during the leaks. The first leak in 2014 was because they forgot to; made holes in the tank to test it and they forgot to weld it back. Recently, with the in the 2021 leaks the past 2 weeks, there was an electric cart, an explosion because of the wrong sequencing in the release of fuel during testing for trim, tank tightness. I feel that we need to have transparency blow by blow, minute by minute of what exactly happened when these accidents happened. Even Fukushima has a minute by minute, second by second accounting of what happened.

The fact that this cannot be explained or does not want to be released from last week, shows how dangerous it's going to be when they do the defueling. At this point is it's not over until you really look at the details. Nobody is talking about this and wanted to bring this up. Have them cough it up and if we don't have an injunction hearing again, we're not going to know there was 19,000. 33,000 last year was released and that's bigger than the 27,000 in 2014.

CWRM is the only advocate for Hawai'i. I feel that the Department of Health has not fought on behalf of how people feel about their water and the EPA literally has no sensitivity whatsoever. From the first meeting they said that Jet Fuel is organic. They never said it's toxic, dangerous or remediation. Please keep up what you're doing but remember, they will try not to be responsible about this.

Also, I think you need an insurance fund, a rotating fund because it's a 30% chance it's going to happen again according to the Navy studies; so please you need \$250,000,000 revolving fund just in case it happens. What if that December incident was not a navy issue, a military issue? What if it was in the local people's houses? Do you think 250,000,000 going to come and help us? The local people were not housed when it happened anyway. I want to focus on the remediation that is not being discussed which I've been trying to research for the past 8 years is based on Korean natural farming which is used from Japan like EM like the Ala Wai. Yes, it's a microorganism aerobic base but it also is very strong with anaerobic. I don't think the navy people are going to come up.

To summarize, please invest in this. It will help not just the water from Red Hill, it will help the 'Ewa plains. It will create a new industry. It is something that all the military contaminated sites can use, and it will be good for everybody, thank you.

PUBLIC TESTIMONY (CONT'D)

Ms. Marti Townsend, Earthjustice – Thank you very much for the opportunity testify. You received my written testimony, and I also want to echo appreciation to the Board of Water Supply for providing such a detailed and very calm, cool, and collected plan the stop, drop and roll what we're going to do for water shortage. I really appreciate that.

It highlights the important role of collaboration in solving this problem. I'm first in line to blame the navy for putting us in the situation but at the same time I also recognize that we all have a role to play in the solution and want to offer that I as an individual, and the many people like me that I work with, there are things that we can do to help with public education outreach for people to understand the importance of us all playing a role in this.

Ernie talked about the silver lining here and for me, if we could come out of this with people seeing themselves as part of the water cycle, and we are holding water during the flashy flood seasons and we're releasing water during the dry season and helping to maintain our aquifers, and humans are actually like a part of this whole water cycle, that would be a pretty darn good silver lining.

I'm a little concerned that I see the Water Commission kind of letting up because the announcement has been made that the Red Hill Fuel system at some point will be decommissioned and shut down which is great, it still hasn't happened yet. There's still fuel in those tanks in those pipelines, and honestly there is zero trust with the Navy. The Water Commission has an incredibly important role to play in ensuring transparency and ensuring coordination. Department of Health is doing what it can with the capacity that it has and zeroed in on its mission. We have seen that this issue affects everything from the health of our streams to whether we're going to be able to house the homeless.

The Water Commission provides that role of keeping that large view and helping the Department of Health to also encourage the transparency. Department of Health does not have the same kind of regular public meetings like the Water Commission does, to be able to provide this kind of interaction and for the public to understand what's going on and to help be part of the plan, part of the solution. It really is critical that the Water Commission not rest. I know it's exhausting but Red Hill is critical. It's going to be 3 to 5 years of us putting up with this, and you all are in a position to help make sure that we handle this in the most efficient, effective and professionally way possible. Thank you very much.

Ms. Ann Wright, Former US Diplomat & Ret. Col. US Army – I was in the Army 29 years. I will say that I am very distressed with the Navy and its performance, and I hope that the Commission will please make sure that the Navy coughs up all of the reports that they've already done. I think it's in everyone's best interests that we find out exactly what has happened with the Red Hill fuel tanks and any problems that there are in getting that fuel out of there.

I would also ask that the Commission be very careful about all of its permits in terms of big developments from the perspective of how much water we have on and under our dear island, how much development, can we really have? I too was out at Halawa shaft this morning and want to compliment the Board of Water Supply for allowing the public to go in there and much better appreciate all of the challenges that there are. We want to save the water and we just can't have unlimited growth. We've already seen with the Red Hill contamination, how delicate our water supply is, thank you.

(end of public testimony)

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DISCUSSION

Commissioner Buck – on behalf of the Advisory Group, I'd like to ask fellow Commissioners look at potential modifications of permits to deal with some of these issues. Do any of you have other insights that you gained from those presentations that you want to let the Permitted Interaction Group work on for the future?

Chair Case – I'm not sure we've quite gotten to what is our role in supporting the water shortage process; and not sure from this discussion what the intersection is between the work of the BWS in declaring a water shortage and the work of the Water Commission?

Commissioner Buck – noted on internal discussions and note the commission impacts on water quality effect water quantity as well. This isn't going away and will be a longer-term type of monitoring that's needed to. Should we consider putting some of those requirements in permits in the future? Specifically for the Navy or other water users?

Chair Case – very clearly the Water Commission has a big role to play in the monitoring process, the planning and permitting of monitoring wells that's going to be a key part of this equation.

Commissioner Hannahs – lining up the key policy questions that we have or tools and working backward from how they can be used to alleviate some of the issues would be a good step for us. Perhaps we can make more conditions regarding contributions to conservation stewardship and watershed protection and have all tools available to address this issue.

Chair Case – it goes to the importance of all water permittees, particularly including the Navy and the Board of Water Supply to support watershed management because of the drought and with limitations on the supply of water itself is very critical. I don't honestly think we have a good connection yet between water permits and watershed management. We can look hard at storm water reuse, R-1 and water conservation methods but got to look at the supply side with respect to the water purveyors.

Commissioner Kagawa-Viviani – one of the ways that the Permitted Interaction Group was thinking about this was terms associated with the permits for Navy and Board of Water Supply, but there is also exploration of the water shortage. Tools that exist in the code that haven't really been exercised. Their water shortage plan has been developed for Pearl Harbor. This is where Deputy Manuel can update on what the Planning Branch has done

They have already reached out to Honolulu Aquifer system users besides Board of water Supply in the affected areas.

Deputy Manuel – Planning Branch is definitely continuing to coordinate on the water shortage side. We sent out letters requesting updates to individual water shortage plans for water use permittees in Honolulu. We've started to do an evaluation of the actual needs and what past current 12-month moving average is and what the allocated amounts are to get a better handle of what's supply and demand. That is currently ongoing, and Neal is here with the team.

We're multi-pronging this and it is an all-hands-on deck team effort to really look holistically like what Chair Case had mentioned about connecting watershed supply source protection to how we operate and regulate water use because our job is truly to balance the protection and management of the resource itself with the use of that resource. And so, what tools do we have to make that happen is important for us to evaluate now. I'm hopeful in this process as well as other processes coming forward, the remainder part of this administration and year, we can start to float some policy or ideas to this Commission to act and bridge those gaps that currently exist.

Commissioner Buck – noted it will cost a lot on the kind of monitoring we're going to need long-term and important to frame out permit requirements, so people have the scale and scope of what that looks like. I don't think the public realizes we're in this 3 to 5-year time horizon of emergency water.

Chair Case – noting it's an intermediate to long-term issue and we're really at the front end of it and still trying to collectively as a society get water back to the residences and users and wells that were shut down and trying to get a handle on the scope of the contamination and keep it from spreading. The prospect of a longer-term source of contamination combined with the drought is a big deal.

The mapping out the movement of water and the monitoring wells is a critical part of that. That's a very clear point of intersection with the Water Commission with our technical capabilities and abilities.

Commissioner Buck – we've heard from both stakeholders the ability to prop-up process with establishment of new monitoring wells and the permitting process. I'm not sure that could be incorporated if indeed, the Governor decides to call an emergency proclamation that might be helpful to speed up those processing requirements.

Commissioner Hannahs – with the Navy, I always feel like we're grasping one leg of the elephant at a time when we deal with their representatives. Whoever's here when we ask questions, they don't know about or have the authority to answer other parts of the question. As this is a serious issue, is there a way to encourage the Navy to put in a management or lead on this to whom everybody reports so that we have one person we can go to with answers to questions that would make this more efficient and help us progress.

Chair Case – yes, it would and it's clear there are different parts to this. There's the response team of engineers in the overall management of the facility itself which is separate. Maybe the Permitted Interaction Group might come up with a list of questions in advance so that the Navy has the right representative to answer.

Commissioner Kagawa-Viviani – after these last two sets of meetings, we have a better idea of what we're dealing with, and the Advisory Group can come forward with a concrete analysis to put forth at the next meeting.

Chairperson Case noted it's an ongoing issue and thanked and appreciated everyone for their presentations and participation as this is a public forum that we can ask questions which the public can hear the answers to and of the discussions and guidance on the

directions that are going to be useful, which is the long-term protection and allocation of water from the aquifers.

Deputy Manuel thanked the Commissioners, Board of Water Supply and NAVFAC-HI for their time and sharing of information and coordination in finding solutions.

E. NEXT COMMISSION MEETINGS (TENTATIVE)

April 19, 2022 (Tuesday)
May 17, 2022 (Tuesday)

This meeting adjourned at 4:34 p.m.

Respectfully submitted,



RAE ANN HYATT
Commission Secretary

OLA I KA WAI:



M. KALEO MANUEL
Deputy Director

Written Testimonies Received:

***Please refer to the Commission's website at:
<https://dlnr.hawaii.gov/cwrm/newsevents/meetings/>
to read and view written testimonies received.***