

MINUTES
FOR THE MEETING OF
THE COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: October 24, 2023
TIME: 9:00 a.m.
PLACE: J. Walter Cameron Center Auditorium
95 Mahalani St., Wailuku, HI 96793
Online via Zoom, Meeting ID: 841 0856 9375

Online link to the video recording of the October 24, 2023 Commission on Water Resource Management meeting: <https://vimeo.com/878031436>

Chairperson Dawn Chang called the meeting of the Commission on Water Resource Management to order at 09:19 a.m. and stated it is a hybrid meeting being held in the Kalanimoku Building boardroom, remotely via Zoom and live streamed via YouTube. It was noted that people may testify via the information provided online. Chairperson Chang reminded the public not to use the chat feature for any comments, as it presents a Sunshine Law issue. Chairperson Chang read the standard contested case statement and took a roll call of Commissioners and introduced Commission staff.

The following were in attendance and/or excused:

MEMBERS: Chairperson Dawn Chang, Mr. Neil Hannahs, Dr. Aurora Kagawa-Viviani, Mr. Wayne Katayama, Mr. Paul Meyer

STAFF: Deputy Director Kaleo Manuel, Mr. Dean Uyeno, Mr. Ayron Strauch, Ms. Alexa Deike, Ms. 'Iwalani Kaaa

EXCUSED: Dr. Lawrence Miike, Ms. Kathleen Ho

COUNSEL: Colin Lau

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

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A. APPROVAL OF MINUTES

September 19, 2023

QUESTIONS / COMMENTS

COMMISSIONER HANNAHS: I submitted what I believe are non-substantive edits to the minutes to 'Iwalani that will be made. The minutes go on for 79 pages and it's important to know what's in the minutes. Much of it discusses the decisions that we've made about the Water Management designation in West Maui, as well as the redeployment of our deputy. I must say that in the history that I've been on this Water Commission, I've never seen such a universal outpouring of support for a public official, as well as an affirmation of the public trust principles that underly the Water Code. That this team, led by Kaleo and you, Chair, are trying to rigorously and consistently apply. That's what the minutes say and that's what I'll be voting for.

PUBLIC TESTIMONY – None

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MOTION: (HANNAHS / KAGAWA-VIVIANI)

To approve the September 19, 2023 minutes.

UNANIMOUSLY APPROVED

(KATAYAMA/HANNAHS/CHANG/MEYER/KAGAWA-VIVIANI)

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Item B-1 has been withdrawn per recommendation of the Office of Information Practices.

B. NON-ACTION ITEM / INFORMATIONAL BRIEFING

3. Briefing on Site Visit to Lahaina Aquifer Sector, Water Resources and Systems of Kaua'ula, Maui held on October 18, 2023 at request of Chairperson Dawn Chang, with Commission Staff, and Community Stakeholders

PRESENTATION GIVEN BY: Dr. Ayron Strauch

Staff stated the purpose of visiting Kaua'ula Valley and shared data, requests of stakeholders, and photos of site visit.

QUESTIONS / COMMENTS

CHAIR CHANG: I do want to thank all the 'ohana, the hospitalities that they showed us when we did the site visit, so thank you very much.

COMMISSIONER MEYER: Thank you Ayron for the pictures as well, very interesting. Overall, what kind of condition do you think the pipes, the channels, the systems it's in at this point and is there a substantial amount of deferred maintenance to leaks and unintended spills?

DR. STRAUCH: I don't think that's the case. I think most of the ditch is concrete and the few pukas that are in place have been sealed over the years. The siphon is old but it's holding up. I'm not sure on long-term maintenance plan, but the forebay over the years or the penstock to Kaua'ula Hydropower Plant over the years has taken damage and been repaired over and over again. So, there's probably more work that could be done, but it's in pretty good shape overall.

COMMISSIONER HANNAHS: Continuing on the line of questioning about the condition of the system, we had a decision of the Commission that in lieu of a fine of nearly half a million dollars, the landowner was to make an investment, commence an investment in the rehabilitation largely of the reservoir systems there. Is there evidence that that work has been completed?

DR. STRAUCH: I believe that's in Olowalu.

COMMISSIONER HANNAHS: Oh, that's right further...

DR. STRAUCH: Different system.

COMMISSIONER HANNAHS: On the subject since we have that before us.

DR. STRAUCH: They are working on certain improvements with the community that have been made, yes. I didn't have the exact status of their rehabilitation off top my head.

COMMISSIONER HANNAHS: The reservoirs of that are the subject of that decision are Olowalu and?

DR. STRAUCH: Olowalu. They're not associated with LIC.

COMMISSIONER HANNAHS: Well, what are their names?

DR. STRAUCH: The lower Olowalu Reservoir and the Snake Reservoir, I hope.

COMMISSIONER KAGAWA-VIVIANI: Thanks, Ayron for giving us the sort of slideshow view. I was just wondering as Commissioners, except for Chair Chang, we haven't had the privilege of seeing the whole system and so can you give us an impression of your current view on the whole system and where as Commissioners we should really be paying attention to? I think we have abundant testimony that's going to help us focus on Mokuhinia, but it all flows from up there. You can give us your opinion

on, I mean there are certain sites you visited for certain reasons. Are there sort of broad take homes from that field trip?

DR. STRAUCH: The sites were chosen because they represent key points in the system in terms of water decision-making; how much water can be removed from the stream, how much water might get allocated to one user or another user, how much water gets returned to the stream, what alternatives exist, groundwater or surface water, and what are the consequences of utilizing those groundwater sources in terms of potential downstream hydrological effects. So, higher level on the instream flow standard we will discuss in another PowerPoint and then the groundwater consequences, it's going to depend on other analyses like water use permits and that sort of thing that I'm not prepared to talk about right now.

COMMISSIONER KAGAWA-VIVIANI: Okay, I have a follow up question. Just looking from the old map, it looks like Mokuhinia is completely spring fed and so we need to think about surface-groundwater connections. Do we have an ability to understand the status of the groundwater in this area? Wells other than spring flow or lack of?

DR. STRAUCH: We're working on monitoring. We are getting pump rates at least on a daily basis and we're working with our groundwater team to assess the consequences of groundwater withdrawals on spring flows.

COMMISSIONER KAGAWA-VIVIANI: Are there any shallow wells where you can monitor chlorides?

DR. STRAUCH: Yeah, the shafts are.

COMMISSIONER KAGAWA-VIVIANI: But is there data coming from them?

DR. STRAUCH: Off the top of my head, I'm not sure. I'm not the groundwater team.

COMMISSIONER KAGAWA-VIVIANI: Okay, sorry. I'm just trying to understand what information we need to better understand this complex system. You know, there's been a lot of calls for recycling. Are there opportunities or would that even make sense for Kaua'ula?

DR. STRAUCH: That's also in another presentation.

CHAIR CHANG: Okay commissioner, you're kind of jumping the gun here.

COMMISSIONER KAGAWA-VIVIANI: The next section, okay.

CHAIR CHANG: That's on Item B-2. We sort of took this out of order so we could kind of lay the site visit, but the staff intends to get into greater detail on an update which will include them.

COMMISSIONER KATAYAMA: Ayron, you mentioned the hiring load. What capacity is that hydro? Is it active?

DR. STRAUCH: It is not currently active. It was active up until 2018. What's the max capacity of the penstock? Is that the question?

COMMISSIONER KATAYAMA: Well, that leads to the question that you mentioned that the flow out of the penstock was used to pressurize water to feed existing users.

DR. STRAUCH: The pen stock is pressurized by the...

COMMISSIONER KATAYAMA: But the water exiting the forebay that is what's driving the head to deliver water?

DR. STRAUCH: Yeah, but because of the variable inflows from the stream...

COMMISSIONER KATAYAMA: I assume it's a run of the river hydro?

DR. STRAUCH: Yes, that variable inflow changes the pressure felt at the nozzle and therefore the amount of water. They don't want to blow the pipes and they want to have sufficient pressure to get water uphill. The operator has to constantly adjust the valve because the system was never designed to deliver water uphill. We can get into the details later.

COMMISSIONER KATAYAMA: I guess the question is who's managing it and what are they managing?

DR. STRAUCH: LIC (Launiupoko Irrigation Company).

COMMISSIONER KATAYAMA: Just the water pressure if you drive the head?

DR. STRAUCH: Yes.

PUBLIC TESTIMONY

Hi'ialo Palakiko

- Wai should not be owned, restore mauka to makai flow
- Their water is used to fight fire because of where they are located

Danny Palakiko

- Native Hawaiians are the stewards of this land who know solutions to environmental issues
- Give Kaua'ula time to go through wet season before changing the IIFS

Jason Jeremiah

- Represents Kamehameha Schools
- Willing to work with neighboring land owners and other agencies to ensure proper balance of water resource

Hōkūao Pellegrino

- President of Hui o Nā Wai ‘Ehā
- Concerned about groundwater use as some permits were granted before West Maui was designated as a water management area
- CHAIR CHANG: I will tell you that for the Water Commission, I think we realized there's more that we don't know. I mean I think Red Hill has been a real good example of that we don't know what's happening underneath, so you know we're really looking at how we need better data, we need better monitoring, and we need better gauges monitoring. Your point is well taken and we are well aware of that and recognize that water is integrated whether it's ground or surface. Thank you again for that reminder, Hōkūao.

Lucienne de Naie

- Testifying on behalf of the Sierra Club Maui
- Head in a new direction, listen to the people of those places and the data they have

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B. NON-ACTION ITEM / INFORMATIONAL BRIEFING

2. Update on Water Resources in the Lahaina Aquifer Sector Area

- Wells in the Fire-Impacted Area**
- Interim Instream Flow Standards**
- Water Management Area and Water Use Permit Applications**
- Water Resource Alternatives**

PRESENTATION GIVEN BY: Deputy Kaleo Manuel and Dr. Ayron Strauch

Staff presented the Commission an update on surface and groundwater resources in the Lahaina Aquifer Sector. They shared data, photos of relevant wells and streams, the number of permit applications received, and further information on water alternatives like recycled water (R1).

QUESTIONS / COMMENTS

COMMISSIONER HANNAHS: Do your recommendations represent best practice or just minimal triage?

DEPUTY MANUEL: That's a great question. In conversations with our survey team, it's triage but it's best practice. In general we hope that there would be some kind of protection of well source across the board. I don't know if Ryan wants to add anything from our Groundwater team. He is here on Zoom, but at minimum these are the minimum recommendations I think at this time staff are recommending for the well owners to pursue.

COMMISSIONER KAGAWA-VIVIANI: Just for my understanding, of all of these wells the only one that's currently being used is Lahaina Shaft A, is that correct?

DEPUTY MANUEL: That's correct based on staff's understanding.

COMMISSIONER KAGAWA-VIVIANI: And is that for non-potable use?

DEPUTY MANUEL: Correct.

COMMISSIONER KAGAWA-VIVIANI: I just want to put out there, given the conversations about groundwater, maybe including the possibility of these providing monitoring points could be potentially used for [inaudible].

COMMISSIONER KATAYAMA: These recommended actions for each of these wells, is there a time table or some kind of point where the owners need to make a decision on which way they're going to go with each of these wells? And is there a sense of urgency at least on the basal line to ensure that the underground water system is free of contamination or the effect of that contamination?

DEPUTY MANUEL: That's a great question. I'm hoping Ryan's online to jump in. This is Survey Branch's assessment. We wanted to present this to the Commission before we addressed or directed any of these recommendations to the land owners and well owners to make these improvements. The goal is to get these improvements done as soon as possible based on potential threat to the resource. Whether or not there's further formal action and or ordering by the Commission to take action on these things is something that we need to pursue and consider with Chair, but at this point we wanted to just present our initial findings and recommendations to the body and then talk about and discuss what are some of the next steps in terms of time frame. What is a time frame that we would want to see these actions completed by?

COMMISSIONER KATAYAMA: As a permit holder though, you would think that there's some fiduciary responsibility to protect the resource immediately and then they can make the decision on do they want to maintain the permit and the water usage or [inaudible]. But I think at a minimum we need to protect the resource.

DEPUTY MANUEL: I think staff agree. Half of it is just trying to get that work done. Let's just throw this out there for discussion, there's been conversations about us as a regulator seeing something that potentially poses a potential threat. Right now, we don't have any authority or funding or staff to actually seal it and then collect later, just in order

to protect the resource. That is something that we could pursue but, right now we want to work with the private land owners and our well owners to manage and maintain these sources so that way they aren't contaminated.

COMMISSIONER KAGAWA-VIVIANI: Other than Anae joining the team for the survey, has there been conversation with DOH because it sort of falls within their responsibilities to make sure there's no contamination. I want to also maybe strongly recommend that in addition to potentially sealing that access to that as a monitoring point be maintained because people are concerned about contamination. So, having access to data, having negative results will help people feel more comfortable moving forward and we don't want to seal off the ability to get us samples.

DEPUTY MANUEL: That's a great recommendation if we can include that into our monitoring program. That might be an opportunity to analyze that. We've had some initial conversations with DOH in the interim. I'm looking to staff because I haven't been here, but we do need to follow up with them on water quality coordination throughout this region.

COMMISSIONER KAGAWA-VIVIANI: I think having their input on whatever recommendations would be really important and maybe provide the public some sense that we are coordinating on our side.

COMMISSIONER MEYER: I had some experience with shafts like this in the past and it seems to me that given the events that we've encountered that a serious inspection of these well shafts should take place. You should have divers down there swimming those shafts and have water samples taken. That should be the responsibility of the owner of those to complete that, deliver that within a reasonable time frame. In addition to that rather than just temporary covers for these open shafts, I think the owner should be responsible for preparations reasonable and permanent covers as well. I don't know if this Commission has the power to order that. I would suspect that the Department of Health certainly does but we got to try that and get that moving. First discussion would be with the owners to discuss the feasibility of getting those done.

CHAIR CHANG: Kaleo, can you remind me who are the owners of these various wells?

DEPUTY MANUEL: There's the slide deck, sorry can you pull that up? I don't have a memorized. There are multiple landowners for these current wells.

CHAIR CHANG: I do believe that under the debris removal by FEMA, they are looking at some of these...I'm not sure, Dean. Did we provide them the update on these shafts to FEMA as part of the debris removal? I mean to the extent that we can get them to help pay for some of this. Have we had some coordination with them?

DEAN UYENO: We did provide the information but we haven't heard anything yet.

CHAIR CHANG: Okay. Only recently FEMA also recently agreed to pay for water quality monitoring in ocean waters so, we have been trying to bring these matters to their attention. They've been very cooperative so, I think this is one that we'll continue to monitor with the owners. We're trying to utilize all available resources as Kalo said. We don't have the capacity or the money but, I think it is appropriate that during the debris removal to actually include this as part of the scope of their work.

COMMISSIONER HANNAHS: It just seems like the Commission is of one mind in encouraging and demanding really that the owners act with urgency; that we're looking at triage in the short term but best practice in the long term, not kapulu work. This is an important resource we're protecting and three, that we're looking at a need for commitment to ongoing monitoring.

DEPUTY MANUEL: Mahalo for that. We will follow up with that right away.

CHAIR CHANG: Thank you. This is not an action item but a good update and I think the Commission's inclinations have provided the staff a good direction upon which to work with both DOH and FEMA on potential resources as well as the landowners.

PUBLIC TESTIMONY

Kanoelani Steward

- Commission should issue public apology to Kaleo Manuel, his family, supporters, and Lahaina community
- Uphold the law, including IIFS
- Listen to the kama'āina who best know the land and how to care for it
- Restore Moku'ula and Mokuhinia

Kalā Tanaka

- Restore the streams throughout Lahaina which will aid in disaster resilience
- Taro farmers have priority over purveyors

**'Ōlelo Hawai'i transcription for the following testifiers will be provided as an additional supplement upon completion.*

Students of Ke Kula Kaiapuni 'o Lahaina

Lehiwa Balagso

Pikake Ahia

Tawailele I'i

Kalehua Paltin-Vierra

Lacy Lokelani Requelmann

Kolea Ortiz-Alboro

Pu'uwai Naho'oikaika

Manalani Yamada

Hāwea Lindsey

Kama‘ehu Keo
Wai‘ihi Lindsey
Kana‘i Vasquez Keahi
Kaliko Teruya
Pililani Wilsey-Botelho
Nahiku Paltin-Vierra
Kona Kanekoa
Po‘okela Keo
Kahalua Garcia
Kanoa Casco
Keneke Kūkahiko
Kekuanao‘a Salasua
Maximus Maleko Burke
Kauna‘oa Garcia
AilaniRose Medeiros-Noury
Melina Cabrera

Student of Ke Kula Kaiapuni ‘o Lahainaluna
Hana Losano

Students of Ke Kula Kaiapuni ‘o Kekaulike
Makamae Alipio
Ka‘iulani Pa‘a
Kehaulani Kealoha-Franco

Sesame Shim

- Opening of tourism shows corporate interests are in control
- CWRM is where power can be given back to the people
- Should not cater to tourists until Mokuhinia, Moku‘ula, and Lahaina are restored

Liko Rogers

- Lost home in the fire
- After sugar plantations, water has been diverted for more development, including Launiupoko
- Restore all streams in Lahaina and Maui for the people

Kalama‘ehu Takahashi

- Demand public apology to Kaleo Manuel and his family
- Hold irrigators accountable to staff submittal, October 2021, on Honokōhau Stream
- Please process water use permits in Maui Komohana in a timely manner, advocate in the legislature for water as a public trust, enforce stream flow standards, hold those accountable for water mismanagement accountable

Karen Kanekoa

- Prioritize the keiki, working class, and kama‘āina over private purveyors
- Restoring wai to streams, holding water purveyors accountable
- Concerned over Honokōhau, make sure Maui Land & Pine follow through on ditch upgrades

20231024 2:49:30 – Lunch

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B. NON-ACTION ITEM / INFORMATIONAL BRIEFING

- 2. Update on Water Resources in the Lahaina Aquifer Sector Area**
 - a. Wells in the Fire-Impacted Area**
 - b. Interim Instream Flow Standards**
 - c. Water Management Area and Water Use Permit Applications**
 - d. Water Resource Alternatives**

QUESTIONS / COMMENTS

COMMISSIONER MEYER: What’s the elevation of that storage?

DR. STRAUCH: 1,600 feet, I think?

COMMISSIONER KATAYAMA: Why can't we do both?

DR. STRAUCH: We are definitely suggesting the county go all in on multiple fronts.

COMMISSIONER KATAYAMA: On the option one, does it include land acquisition cost or some kind of compensation process?

DR. STRAUCH: Definitely some of the reservoirs are potentially on private lands. The Field 140 Reservoir is owned by Maui Land and Pine, but the Wahikuli Reservoir is owned by the State. There are other end uses that could utilize the R1 system that have reservoirs available to take the water. They wouldn't necessarily be owned by the county, but I would say that the biggest cost would be engineering and procurement of materials to run the pipeline for seven or eight miles.

COMMISSIONER KATAYAMA: So, the \$30-\$40 million does not include any acquisition cost?

DR. STRAUCH: No, it does. It’s an estimate.

COMMISSIONER KATAYAMA: If you were to exclude the land acquisition cost, what would that be?

DR. STRAUCH: If I remember correctly only about \$2 million was allocated to land acquisition.

CHAIR CHANG: Ayron, did we know whether in talking to the county, the county was considering using any FEMA funds for this, either of these options?

DR. STRAUCH: I can't speak for the county.

CHAIR CHANG: No, fair enough, fair enough. I don't know if there's a county representative here, but Eva. Sorry to catch you off guard. Did you want to come up and respond? Thank you for being here. You want to provide us any update on any of these two options?

EVA BLUMENSTEIN, MAUI DWS: Yes, it was actually our CIP engineer that provided the cost estimates with Ayron on that. I'm just familiar with the concepts of them. It does include the land acquisition costs. We have a long kind of wish list for FEMA reimbursement that include a lot of alternative resource exploration including desal and expansion of recycled water. We provided that before the cost estimate for these, but they do overlap. I'm not sure, ultimately what solution is going to benefit the community. There's so many different ways of doing this. It's definitely one of the options for FEMA.

CHAIR CHANG: I greatly appreciate the county concerns. I think we're really looking to support the county, not necessarily to take the lead, but whatever we can do to provide you support for this.

COMMISSIONER HANNAHS: When we designated this as a Water Management Area, there was some objection that we shouldn't. Do you see anything in the data that you disclose that should give us reason to reconsider our decision? Let me answer the question. I only see greater interest in doing so. Is that a correct analysis of your data?

DR. STRAUCH: Yes. There's less water, the pie has shrunk.

COMMISSIONER HANNAHS: Eva, you were amongst those who opposed designation, as I recall. Do you still hold that position or you think we're on the right track here?

EVA BLUMENSTEIN, MAUI DWS: [inaudible] That was the county's position, too, who brought that to the Commission. I did feel there was an opportunity there for more collaboration up front that we should have provided that. But ultimately the end result is a very equitable sharing of the resources and we certainly need Commission's expertise to do it. I'm signed up for oral testimony, too.

CHAIR CHANG: We'd actually let you come up to the front of the list if you want to testify.

COMMISSIONER KAGAWA-VIVIANI: My question might also be addressed by Eva and it has to do with the water recycling situation. I don't know if I want to know the answer for this, but given sort of rising concerns about emerging contaminants and the proposed use of like R1 for agriculture. I'll just say specifically like growing concerns about PFAS. Is that something on the radar of this kind of initiative, to utilize wastewater recycling and the degree to which it might need to be treated if it's going to be used potentially for agriculture. I don't know if that's to Ayron or to you, so just put it there.

EVA BLUMENSTEIN, MAUI DWS: I can take a stab at it. When we have proposed strategies to use R1, it has been for non-edible crops such as energy crops. I think that's something that has to be scrutinized further by DOH before we know for certain what crops are compatible with R1.

DR. STRAUCH: DOH does heavily regulate the use of R2, R1, and R0 water and the way that they require you to meet specific standards for crops that are like grow crops, for example. They heavily scrutinize those systems so there's already a mechanism in place to regulate recycled water water quality.

COMMISSIONER MEYER: In County, where groundwater is sort of captured and that's in 'Iao Valley if I'm correct and that water is not treated [inaudible] as potable water. Is that feasible and what are the issues involved in that you certified etc. You could do that on the left side as well.

EVA BLUMENSTEIN, MAUI DWS: It depends, I guess. If it's considered groundwater under direct influence of surface water, it would probably require additional treatment. It can't go through the ditch, it would have to be... So yes we had hoped that if we are pursuing that that would be considered a ground water and not [inaudible].

COMMISSIONER KATAYAMA: From an implementation standpoint of turning on the water, of the two strategies what kind of timeline would you estimate for option one and option two?

DR. STRAUCH: I don't think a timeline has been specifically discussed.

COMMISSIONER KATAYAMA: Sort of looking at the legal hurdles, you're looking at the physical engineering. Both seem like pretty low hanging fruit. It's \$2 million-\$4 million just for the plumbing. One is you know, land acquisitions will probably take you a long time depending on if you have cooperating land owners. In option two what are sort of the legal thresholds or obstacles in using that pretty good source of water. I would think it's almost portable.

DR. STRAUCH: I would say the either negotiating Rights of Entry or an easement is going to be critical. Especially the Honokōhau Ditch itself runs across both State and Kā'anapali Land own parcels. Kahoma Ranch, Kamehameha Schools, for example. There are a variety of entities that need to be negotiated. I'm not an expert in land issues.

COMMISSIONER KATAYAMA: Good to understand that.

CHAIR CHANG: I'm assuming no discussions with private land owners.

DR. STRAUCH: We've discussed the use of R1, definitely. We've had discussions dating back to 2017 on how can we take advantage of the availability of R1 to reserve groundwater for best and highest usage of drinking water supply.

COMMISSIONER KATAYAMA: Right now there been seen zero benefit in the water management analysis. Water is coming out of the tunnel...it's pure surface flow that is being deducted from the aquifer but no recharge benefit from it.

DR. STRAUCH: Can you repeat the question?

COMMISSIONER KATAYAMA: Water coming out of the horizontal tunnels were deducted from the groundwater aquifer, but there was no credit given for recharge as was just flowing down the ditch. And that was pretty good quality water.

DR. STRAUCH: Yes, groundwater.

COMMISSIONER KATAYAMA: Okay, sounds like low hanging fruit.

COMMISSIONER KAGAWA-VIVIANI: I have a question on B2-B. Can we go back to that section? This is just dream stuff for Ayrton. On the Kaua'ula stream flow duration with no diversions which you kind of, I sorry I don't even know what slide that is. But you were talking through the restoration and basically coming to the conclusion that it would not allow for mauka to makai connectivity. What assumptions, because you were using sort of a static assessment from the seepage runs, right? And you're making certain assumptions when you're projecting that.

DR. STRAUCH: The seepage runs are the estimates of seepage loss are an average of three or four values.

COMMISSIONER KAGAWA-VIVIANI: Taken across different points at different times of the year.

DR. STRAUCH: Different times; definitely under maybe wetter conditions there might actually be more seepage loss, but at the same time the rates might change. Again, it's just an ability to superimpose a snapshot of seepage loss, an average snapshot of seepage loss at various elevations with our current understanding of flow duration values for Kaua'ula starting at the USGS gauge which is I believe at 1,560 feet in elevation. Moving from mauka to makai under medium flow, how much makes it to the siphon. How much makes it to the 230 foot elevation, how much makes it to the mouth under low flow conditions. That's the best way to present the data.

COMMISSIONER KAGAWA-VIVIANI: Sure. I'm just trying to square up, too. There's strong interest in that coastal region and the way we think about IIFS has tended to be kind of mauka focused. How do we need to think about the flows in order to really center the muliwai?

DR. STRAUCH: Exactly.

COMMISSIONER KAGAWA-VIVIANI: I'm not looking up mauka, I need to think about the muliwai.

DR. STRAUCH: If we were to put all the water back in the stream mauka of the diversion, it's really not benefiting the muliwai most of the time because it's going to dry out. The goal is actually to release more at a lower elevation so we protect more traditional and customary practices in the valley. There's more flow at the mouth, there's more flow at the muliwai. There are increased benefits to the near shore environment.

COMMISSIONER KAGAWA-VIVIANI: You're saying basically that restoring flow even in the mauka areas wouldn't be a significant contribution to the basal aquifer and increased head lower down? How much do we understand about the...I think because there are different competing interpretations of what is happening in the sub-surface.

DR. STRAUCH: The Kaua'ula Stream is channelized by the highway and then it's un-channelized near the mouth. If we want surface flow at the muliwai, we have to release more at a lower elevation. I also know when there was more being released at a lower elevation we did see other amphidromous species, not just the nākea that can survive at the moment, but we saw 'oeha'a and 'akupa. There are other tangible benefits to getting more surface flow at a lower elevation. More species live at a lower elevation, for example. I understand that there is some unknown... there are some springs that also could benefit, but I think they are also benefiting from releasing at the lower elevation.

COMMISSIONER KAGAWA-VIVIANI: If you were to think about temperature then because ground water is always going to be colder than surface water and colder water holds more oxygen. I'm just trying to wrap my head around it again not having walked it, would there be a differential effect if more water is coming through a spraying pathway then over surface because that groundwater would potentially be better for certain species. Maybe this is more a question to the community who watches this, but I'm curious what you know.

DR. STRAUCH: The dozen or so times I've walked from mauka to makai and makai to mauka, the springs that are benefiting are actually far out of the stream channel. They're the ones down in Lahaina town. They're benefiting from the recharge and not necessarily springs in the stream channel. I don't know if that helps.

COMMISSIONER KAGAWA-VIVIANI: I think the bottom line is maybe I should try and get out there. Sometimes I can imagine it through maps.

CHAIR CHANG: Did you hear Danny Palakiko's testimony recognizing that we may be coming in with modifications of the IIFS. I know when I went not on the site visit there were concerns raised by some members of the community to put some water back into that connection point, to do that mauka - makai connection, to assist in the saturation. What I heard Danny talk about and I may be misunderstanding but wanting to take a pause on our modifications. What's your thought about that?

DR. STRAUCH: There was 3.5 cfs in the stream about an hour and a half ago. That is what we are proposing to put in the stream at the siphon. I mean yes you can put it in the stream way up mauka but that's actually less that is available for the kalo farmers in the valley. If you want to do that, it will recharge. That's a benefit, but ultimately that's less water that's available for the lower elevation instream uses.

COMMISSIONER HANNAHS: I think this is the second time we've see these options in the context of informational briefings. what's the critical path going forward? when do we see these as actionable items?

DR. STRAUCH: I don't choose the agenda.

COMMISSIONER HANNAHS: What more work needs to be put into this to make it an item that is properly in form for action?

DR. STRAUCH: I am comfortable with the data that are available. It is an interim solution, we can change it in a year.

CHAIR CHANG: I'll step in...I think that the site visit, the information that Aaron came up with I think there is some level of comfort in trying to bring this back to the commission for decision as soon as November. But I think part of today is wanting to hear from the community what their thoughts are about this proposed modification to the IIFS.

PUBLIC TESTIMONY

Kekai Keahi

- Support the use of R1 for farming and non-potable uses, cost should not be a deterrent

Ke'eumoku Kapu

- Lives in Kaua'ula Valley
- Ask to cease operation of all commercial wells in Lahaina
- Follow the plan to restore Lahaina and put it on the historical register
- Kaua'ula Stream needs continual flow because of the kuleana users along the stream

U'ilani Kapu

- Restore mauka to makai flow for physical and spiritual healing

Charlie Palakiko

- Kuleana farmer in Kaua‘ula Valley
- IIFS should be met at all times, traditional & customary rights should be protected and enforced by the State

Lauren Palakiko

- Has had to fight water purveyor, Launiupoko Irrigation Company, for water to farm
- Enforce the law, prioritize public trust purposes, ho‘i i ka nani

Tiare Lawrence

- Speaking on behalf of Ka Malu o Kahālāwai, non-profit committed to environmental stewardship and protection of West Maui
- Tourism management is crucial to well-being of Lahaina, County and State need to work together
- Moku‘ula and Mokuhinia need to be restored

Pa‘ele Kiakona

- Prioritize Honokōwai in future meetings, Launiupoko Stream for water code mitigation

DeAndre Makakoa

- Restore the streams for the future generations

Hōkūao Pellegrino

- Listen to the stewards of the land, they know what goes on each day
- Give Kaua‘ula a chance, let the water flow

Blossom Freteira

- Economic development of the last century drove the water use practices, not for the benefit of traditional & customary practices, historical sites, and shorelines
- Moku‘ula and Mokuhinia to be restored

Kapali Keahi

- Reverse further development in Launiupoko because it is not sustainable for Kaua‘ula Stream
- Justice for the wrongs done to the people, Queen, and land
- Restore Moku‘ula and Mokuhinia, the right of the people to worship

Julene I‘i

- Restore Moku‘ula, mauka to makai streamflow

Shannon I‘i

- Hold the people in charge accountable

- Mauka to makai streamflow, restore Moku‘ula and Mokuhinia

Danny Palakiko

- 1973, Robertson v. Wright Sugar Company – the State has the right to control water
- State needs to take back control of the water from private purveyors to uphold the law
- COMMISSIONER HANNAHS: Before Mr. Palakiko leaves, can you shed light on the Kaua‘ula Valley issue for us please?
- Please wait at least six months before you make a decision regarding IIFS for Kaua‘ula Stream
- COMMISSIONER KAGAWA-VIVIANI: This you can answer, that in these next six months, what do you need to kilo or measure metrically to have that data that would be useful? You don’t have to answer now.
- Kaua‘ula is not complicated, there is a tier system of priority rights with traditional & customary practices at the top

Keoni Palakiko

- With right water management, Lahaina can be restored even better than before

Mr. Soong

- Do what is right, be pono in your decisions

Kailee Soong

- Na‘aupō is the cause of a lot of our problems
- Release the water back to the streams

Katie Austin

- Restore streams, no private entity should be able to control the water
- Restore Moku‘ula

Kelly Keahi

- Lost home in the fire
- Put the private developers in their place

Cornelia Dizon

- Commission should use their power to empower the kānaka in making solutions and decisions for the land, water, and people

Kawaiola Ka‘uhane

- Restore mauka to makai streamflow, Moku‘ula and Mokuhinia

Justice Kane

- Listen to the people to restore wetlands, farming, and natural streamflow

Michiko Smith

- Recycled water should be implemented in Lahaina: rainwater catchment, residential rainwater recycling systems

Lucienne de Naie

- Needs to be more discussion on Honokōwai Stream and all streams
- R1 water: federal funds available, unity – make the first step to begin this process

Kalei Ka‘uhane

- Honokōhau Aokaki ditch, need to follow up with Maui Land & Pine to ensure they follow through on installing steel grate

Eva Blumenstein

- Have submitted new use and existing use applications in Maui Komohana
- Trying to diversify their water source – desalinization, recycled water, dual water system
- CHAIR CHANG: So you guys are really pursuing the dual lines to keep the existing as fire suppression, adding new lines for potable use?
- Eva Blumenstein, Maui DWS: We’re exploring both options because keeping trying to test the existing infrastructure to be used for potable is an immense amount of testing and time so I don't know which one's going to pan out, but I think that's a viable solution.
- COMMISSIONER KAGAWA-VIVIANI: Lucienne had suggested that there's going to be a need to sort of convene different entities. In your written testimony it was saying DWS is willing to take the lead on...sorry director is saying DWS is willing to take the lead on this effort. You also mentioned and correct me if I'm wrong that DWS has submitted water use applications, including also for Maui Land and Pine? It was the first thing you said and I want to make sure I caught it correctly.
- EVA BLUMENSTEIN, MAUI DWS: We have submitted existing use water use permit applications for all the sources that are used by our customers whether we own that source or not. They may be actually competing with Maui Land and Pine because Maui Land and Pine may own the source and they are submitting water use permits for their end uses.
- COMMISSIONER KAGAWA-VIVIANI: Okay, this is where I'm going to learn how water use permit applications work and who submits it and who is standing. Where do you see the convergence of that conversation because my understanding...I'm on O‘ahu and Honolulu Board of Water Supply has great PR and seem to have very good relationships with the public. It's a very different system situation on Maui where there's multiple private purveyors and maybe people trust or don't trust Maui DWS. What do you see as important conversations and I'm remembering you didn't oppose designation, but DWS was requesting deferral because of the need to collaborate. Now, the landscape literally has changed, but people are wanting to come together. Where is that

conversation? Who hosts it, your opinion and you can decline if you think it's appropriate. Who needs to be there and if you guys have had any visions because the water use development plan that we approved is now very different looking.

- EVA BLUMENSTEIN, MAUI DWS: I can speak to that and that was one of the ideas that we think we tried and failed with board designation. Even throughout the public process of the one-year development plan would really get more of a collaboration between the larger private purveyors and stakeholders and large land owners to kind of fix this on a home basis and that didn't work out. I think there's still opportunity to do that and that's why we put that in testimony, too. It would build on Ayron Strauch's initiative with a West Maui working group that he started in 2018 or even 2017. I was at those early meetings. Where you know best scenario if we can both come to collaborate on those comprehensive water resource strategies. Does it involve every major land owner, Department of Environmental Management who manage recycle water, us, etc. If even that effort could be some of the compromises to avoid a contested case, that would be great because we've been through a couple of those decade-long ones everywhere else. That's something I was worried about with estimation that that's going to be delayed and just developing needed source for the existing community in West Maui. Who would be at the table? I mean I'm not going to say, but I think it would build on the initiative that Ayron Strauch started which was the major water purveyors, large land owners, folks from Honokōhau Valley. We've been busy since the fire, so honestly this is something we talked about earlier and haven't really come to it yet. But I know our director has spoken to some of the key folks and we're willing to lead efforts. And I think CWRM staff needs to be involved because this will also help the water use permit process coming to some agreements that would make these comprehensive water resource strategies actually work.
- CHAIR CHANG: If I can come from my standpoint as a chair of the Water Commission, I would greatly appreciate it if...we're the regulators. We're ultimately going to have to review all the water permit applications. So my preference is that the county is leading that charge, that the county is coordinating with the community, all of the different stakeholders. Clearly, CWRM staff will participate but to avoid because we will be the ones who ultimately approve any permits. Again, I look at my lane. My lane is we're the regulators. You guys came up with a really good plan. I know council member staff down in West Maui...I'm sorry East Maui. That was a really good community engagement process I thought. If you could duplicate that with West Maui and try to bring as many of these stakeholders together. I don't know if we could ever totally avoid a contested case hearing or lawsuit, but I think if so much of what I'm hearing is rebuilding trust or building trust. I'd like to believe we had some trust at one time, but nonetheless it would be very helpful for us collectively as government entities if we are investing in that Community engagement process. I would greatly appreciate it if the county would indeed take that lead and I think there's a really

nice leadership right now in the county to spearhead that. If I walk away with anything from here today, I convey that to you, thank you.

- COMMISSIONER KATAYAMA: I was going to ask you, are you planning to revisit the West Maui Water Use and Development Plan? That would be sort of the vehicle to rebuild and recast moving forward what you've heard in the last two sessions here, I would think. But is there a plan to do that?
- EVA BLUMENSTEIN, MAUI DWS: It wasn't anything that was budgeted and prioritized until we finalized the ongoing efforts. We're updating the Moloka'i Water Use and Development Plan and we're supposed to do Lāna'i after that. We're not going to tackle an island-wide plan like that ever again as long as I'm alive. Of course, the priority area would be West Maui. So what format? I know that Kaleo folks are working on revamping this framework, so it may be very different how that will be done. I think nevertheless we have an already outdated water use development plan. Some of those water resource strategies are still very relevant. They are the ones we're still talking about today, maximizing R1 use and distributing ground water, the portfolio and all that stuff. I don't know if it's going to be a joint effort with the Department of Planning and more community driven because we don't have any directive of how this rebuild of Lahaina is going to look like. We don't know. It's a very good question and I can't answer how that's going to be done and when, but I think it's going to look very different than what we presented to you a year ago.
- COMMISSIONER KATAYAMA: Again, I'm sorry. It provides a vehicle and provides a reason to build a consensus group. At least what you've heard in the last two sessions here from the community and sort of incorporate that in your water development.
- COMMISSIONER MEYER: I might, you mentioned dual water systems and that's been something that I've always been very interested in. Kapalua is a dual system and the obvious disadvantage is the capital cost of having two sets of pipes, two sets of meters, two sets of water storage, etc. But once that capital cost is put in place, the operating efficiencies are tremendous and the users, for example Kapalua started out on non-potable irrigation for about 70% of consumption in the water rate there was about one-half of the potable water rate and the size of the water treatment plants from the portable water storage etc. It ended up being I think a system that was highly desirable. Longwinded way of asking a question. Is there a possibility that the county could step-wise perhaps move in that direction, converting geographical areas to a dual system? You'd have to spend a lot of time to add it, but does it make sense? The frontend capital cost you think the County of Maui...
- EVA BLUMENSTEIN, MAUI DWS: Now, it's an opportunity because for FEMA reimbursement or for any federal fund reimbursement. Now as in term of response required you're going to have to first move the damage which would require all this testing. So, you can't recommission this particular water service lateral. We can leave it in base and use that for fire protection not potable needs. I

don't know, maybe my director knows, but I don't know exact costs and looking at that as the alternative of testing all the service laterals and rebuilding assets. This is certainly an opportunity to do that for West Maui, a dual system.

- COMMISSIONER MEYER: It is logical for the area with the geographic separateness.
- COMMISSIONER KAGAWA-VIVIANI: This is less of a question for Eva, but maybe I can speak to the audience. There's a really good point made that revisiting the water use development plan, the water plan is maybe something that should be highly considered given all the aspirations that were articulated and a way to bring it into a revised version. It's not the whole island's plan but there were those chapters and to revisit, make your specific recommendations. I think that's a county level discussion with your County Council as well who are your elected representatives. They will understand and are responsive to your needs. I don't know, this is interesting because I don't know who trusts who right now on Maui. I know it's been destroyed. I'll stop talking, okay thanks.

Kaleikoa Ka'eo

- If the philosophy is wrong, we will go down the wrong path – water is the future

Peter DeAquino

- Restore mauka to makai streamflow, will benefit the nearshore waters

Lisa DeAquino

- Should feel accountability for the loss of Lahaina

Kalani Caldito

- Restore the water and the rights of the Hawaiian people
- CHAIR CHANG: Kalani, I want to be very clear. Nobody on this board is being bought out. Actually everybody here, they're volunteers. They don't get paid, I'm the only one who gets paid here but they don't get paid. Nobody's been bought out, nobody owns the water so I just want to be clear about that. 75% is managed by private purveyors, they distribute the water but they don't own the water. I just want to be very clear, but I appreciate the sentiment, I appreciate the anger and the frustration. I just want to be very clear nobody on this commission has been bought out or has been told what to do, okay?

Jackie Keefe

- Reforest Maui, regenerative agriculture

Pōmaika'i Crozier

- Pu'u Kukui is the watershed that feeds Lahaina – take care of the mountain to recharge the streams and groundwater
- Align ourselves to create solutions

Tamara Paltin

- Different elements contributed to the fire
- All decisions regarding land use and water use need to be made in conjunction

Kaniloa Kamaunu

- Kānaka have the power to water since the Admissions Act

Shannon C.

- Water is life, restore the streams

Jeron Clark

- The health of the corporate economy does not necessarily indicate health of the people

John Carty

- Store mauka and makai flow in Honolulu, too

Darsis

- Find innovative solutions from neighboring countries and cities who are also facing water problems

Jocelyn Costa

- Connect back to knowledge of kūpuna, know the water

Claire Apana

- Represents Mālama Kakanelua
- Listen to kānaka maoli who have stewarded these lands

Clarence Ma'oe

- Fighting for water rights has been a lifelong undertaking
- Listen to this generation in their demands for water

Kaneali'i Williams

- Hoping there is no collusion between CWRM and private entities regarding water

Kecia Joy

- Restore Moku'ula and Mokuhinia, may your choices be for the people

Kahu Laki Ka'ahumanu

- Turn to God for the answers, no Hawaiians no aloha

Dennis Ka'aihue

- Lā'au lapa'au
- We want to heal, protect the wai

Gretchen Losano

- Her daughter bore testimony earlier today, she has the best role models in aunties and uncles who fight for natural resources in Maui Komohana
- Commission has the power to direct pono water management

Jonathen Scheuer

- Summarized ideas and requests from each testifier

Tara Rojas

- The Commission is required to analyze impacts on traditional & customary rights with each decision they make
- What is preventing the Commission from releasing the water and doing what is right?

Sybil Lopez

- 'Ohana is also impacted by Kaua'ula Stream decisions, expects to be included in future discussions on the stream
- Commercial applications should not hold precedence over their own applications

Alicia Kalepa

- Ho'i i ka nani, restore mauka to makai flow in all streams to rejuvenate lo'i and fishponds, prioritize their traditional & customary uses according to the law

U'ilani Tevaga

- Challenge the status-quo, what has hurt the community
- This is not just a Native Hawaiian issue, but one of humanity

COMMISSIONER KAGAWA-VIVIANI: I just want to thank the staff and Chair for organizing this meeting on island. I'm on O'ahu and Maui is the island that I'm the least...To be able to be here and to listen to everyone even if it's not in your home, but to be able to have this alo a he alo is really valuable and it makes me realize we should probably do this more often in all cases because not everybody can make it to O'ahu and even Zoom is not the same. I think I just want to echo I hear loud and clear you guys are telling us to, excuse my language do our jobs. We only have meetings monthly, but now we have a deputy kind of back and we've got some work to do internally. I put my thoughts out to the public on Sunday but appreciate the specific guidance that everyone provided in testimony because it lays out what you guys expect of us. I appreciate you taking the time out of your days to do so, so thank you.

COMMISSIONER HANNAHS: I have eight meetings left. I'm going to do as much as I can in the eight meetings I have which means I'll be succeeded. We just saw the governor put two candidates up with Hawaii Supreme Court. We ought to think about who's going to sit in my seat. I hold a seat where it's required to have Hawaiian background. We need to start that recruitment process and vetting process now. I retired from Kamehameha in

2015; I did a lousy job because I'm still involved in all these issues when I step off this panel on June 30th. I'll still be involved in all these issues somehow, so I'll be around and it's just so impressive just to see our Hawaiian community. Those kids, that's it, doing good. That's the advancement of our people and we'll continue to listen to them. I think all those who worried whether we're not listening, you can't help but hear them and so the time though is now for action and I hope we see a whole lot of those permits in the next eight months that I'm on and then thereafter. Mahalo.

CHAIR CHANG: What I realized in this position of being the chairperson, part of my job is actually to show up, to be present. It is to come out to the communities that are being impacted and it's a showing of respect. After hearing everybody in the October meeting I realized I need to be present and see what Kaua'ula, this must be late in the afternoon, Kaua'ula stream. I needed to see what it was. I needed to talk to the people who are the stakeholders from that place and I was honored that they treated me with great hospitality and respect. Kāpua, she can attest, I was dehydrated and I was not feeling well, but I will tell you when I went to the Palakiko's place, it was sort of a place of healing. I think it was the coolness of the place, but it was also the people and my body just started to feel better. It was either that or the electric lights started to fill in. Nonetheless, it was an appreciation of all of the people whose lives we touch. Decisions that we make have a meaning and impact and I think we do owe it to those people to be present. This meeting on Maui was appropriate. It was important for us to be here, to show up, to hear you. As you can see this Commission is not shy from having very long meetings. We will stay as long as we can to try to hear everybody whether you're on Zoom or whether you're in person. I greatly appreciated everybody who took the time out especially the young children who came, who spoke with great passion and obvious commitment about place. I really do appreciate everybody and there was nothing but civility here. Nothing but a desire but extreme frustration. We get it. No decisions were made today. I think it was very important for the Commission to hear from everybody. I will tell you we have the best staff. Kaleo has really provided great leadership, but the staff at CWRM, they go beyond the call. I would tell you Ayron, he's out there still going in and monitoring and doing all the work that needs to be done as is everybody else at CWRM. I don't make any guarantees to any of you, we are going to do our best. I think we've heard a lot of what the people who show up, we heard what you had to say. Our next meeting is November 21st, it's going to be back in Honolulu. We have one more meeting in December, December 19th. Again, we appreciate all of you who took the time to be with us all day to share your mana'o, to listen to others, and to listen to what we have to share.

D. NEXT COMMISSION MEETINGS (TENTATIVE)

November 21, 2023 (Tuesday)

December 19, 2023 (Tuesday)

The meeting adjourned at 05:56 p.m.

October 24, 2023

Minutes

Respectfully submitted,

Iwalani Kaaa

‘IWALANI KAAA
Commission Secretary

APPROVED AS SUBMITTED:



KALEO MANUEL
Deputy Director

WRITTEN TESTIMONIES RECEIVED:

Please refer to the Commission website to read and view written testimonies received:

<https://dlnr.hawaii.gov/cwrn/newsevents/meetings/>