

1
00:00:04.840 --> 00:00:09.520
Right? Why don't we get started?

2
00:00:09.520 --> 00:00:16.870
Uhm? It's 9:01 AM, December 9.

3
00:00:16.870 --> 00:00:21.659
2021 this is the contested case in the

4
00:00:21.659 --> 00:00:24.386
matter of a contested case regarding

5
00:00:24.386 --> 00:00:27.316
the continuation of revocable permits.

6
00:00:27.320 --> 00:00:29.606
RP's for tax map key numbers

7
00:00:33.100 --> 00:00:33.540
211001044 and

8
00:00:46.400 --> 00:00:49.840
050229014001005011012017211002. 002 portion

9
00:00:52.800 --> 00:00:53.450
Smit.

10
00:01:17.850 --> 00:01:20.506
OK, I'm sorry I'm going to start over.

11
00:01:20.510 --> 00:01:24.630
I had to get Linda Chow set up.

12
00:01:24.630 --> 00:01:29.080
Linda, Are you ready? OK.

13
00:01:29.080 --> 00:01:30.772
Alright, thanks everyone,

14
00:01:30.772 --> 00:01:34.446

it is 9:03 AM. December 9, 2021.

15

00:01:34.446 --> 00:01:36.806

This is I'm Suzanne case.

16

00:01:36.810 --> 00:01:38.790

The hearing officer in the matter

17

00:01:38.790 --> 00:01:40.834

of a contested case regarding the

18

00:01:40.834 --> 00:01:42.282

continuation of local permits

19

00:01:42.282 --> 00:01:44.450

arpis for tax map key numbers

20

00:01:46.970 --> 00:01:47.500

211001044 and

21

00:01:58.720 --> 00:01:59.193

5.0229E+32

22

00:01:59.193 --> 00:02:00.139

portion and

23

00:02:02.530 --> 00:02:06.486

21200. 4005007 for water use on the

24

00:02:06.486 --> 00:02:08.658

island of Maui to Alexander and Baldwin,

25

00:02:08.660 --> 00:02:10.908

Inc. A&B and yeah,

26

00:02:10.908 --> 00:02:13.377

East Maui Irrigation Company, LLC.

27

00:02:13.377 --> 00:02:18.468

EMI for the remainder of the 2021 RPS,

28

00:02:18.468 --> 00:02:21.038
if applicable, and for their

29

00:02:21.038 --> 00:02:23.691
continuation through the end of 2022.

30

00:02:23.691 --> 00:02:26.877
We are holding this contested case.

31

00:02:26.880 --> 00:02:30.906
Hearing on zoom, we have the.

32

00:02:30.910 --> 00:02:35.392
Parties here and witnesses and the

33

00:02:35.392 --> 00:02:37.383
parties designated representatives,

34

00:02:37.383 --> 00:02:40.341
we have a public viewing room

35

00:02:40.341 --> 00:02:43.269
here in the CONEMU building.

36

00:02:43.270 --> 00:02:44.970
Uhm, and for your information,

37

00:02:44.970 --> 00:02:47.490
we had two people there all day yesterday and

38

00:02:47.490 --> 00:02:50.274
I don't think we have anybody so far today,

39

00:02:50.280 --> 00:02:53.488
but anyone is welcome.

40

00:02:53.490 --> 00:02:55.912
Uh, we don't see that zoom box

41

00:02:55.912 --> 00:02:58.305

for the other is OK, sorry.

42

00:02:58.305 --> 00:03:00.690
Yeah, we're good.

43

00:03:00.690 --> 00:03:04.510
And uhm, let's see the the documents

44

00:03:04.510 --> 00:03:07.632
are all the exhibits from the trial

45

00:03:07.632 --> 00:03:10.446
and the documents in the in this.

46

00:03:10.450 --> 00:03:13.205
Proceeding or online I gave

47

00:03:13.205 --> 00:03:15.409
you the link yesterday.

48

00:03:15.410 --> 00:03:20.408
Uh, we uploaded the audio recording.

49

00:03:20.410 --> 00:03:21.190
Uh, yesterday.

50

00:03:21.190 --> 00:03:24.472
I think it was up around 6:00 o'clock,

51

00:03:24.472 --> 00:03:26.356
maybe a little earlier.

52

00:03:26.360 --> 00:03:29.300
And we also uploaded the transcripts.

53

00:03:29.300 --> 00:03:32.300
I believe we have uploaded the

54

00:03:32.300 --> 00:03:37.009
transcripts from the trial from last year.

55

00:03:37.010 --> 00:03:38.408
Going to have a lunch break.

56

00:03:38.410 --> 00:03:40.849
We're going to go from 9 to 4 roughly

57

00:03:40.849 --> 00:03:43.199
today will have a lunch break roughly 12

58

00:03:43.199 --> 00:03:45.257
to one will try to break every hour or

59

00:03:45.257 --> 00:03:47.448
hour and a half when it's the right time.

60

00:03:47.450 --> 00:03:50.208
If I'm not breaking, please remind me

61

00:03:50.210 --> 00:03:53.306
that it's a good time for a break.

62

00:03:53.310 --> 00:03:55.968
Please don't use the chat unless

63

00:03:55.968 --> 00:03:57.740
you're having technical difficulties.

64

00:03:57.740 --> 00:03:58.440
And uhm,

65

00:03:58.440 --> 00:03:58.790
OK,

66

00:03:58.790 --> 00:04:01.240
let me ask the parties to introduce

67

00:04:01.313 --> 00:04:03.293
themselves and their designated

68

00:04:03.293 --> 00:04:06.771

representatives that are in the room here

69

00:04:06.771 --> 00:04:09.767
starting with Alexander and Baldwin in MI.

70

00:04:13.410 --> 00:04:15.270
Good morning, Trisha Kogi

71

00:04:15.270 --> 00:04:16.665
and David schulmeister.

72

00:04:16.670 --> 00:04:19.598
Appearing on behalf of A and B&MI with

73

00:04:19.598 --> 00:04:21.668
us today, our client representatives

74

00:04:21.668 --> 00:04:23.969
merits Chang and Tim O'Loughlin.

75

00:04:23.970 --> 00:04:26.370
Nicole Yamani from our office is also here.

76

00:04:26.370 --> 00:04:29.044
She will be assisting with the exhibits.

77

00:04:29.050 --> 00:04:31.808
Thank you and the county of Maui.

78

00:04:31.810 --> 00:04:34.186
Good Morning Deputy corporation counsel KRB,

79

00:04:34.190 --> 00:04:36.066
on behalf of the County of Maui

80

00:04:36.066 --> 00:04:37.290
Department of Water Supply.

81

00:04:37.290 --> 00:04:39.420
I do not have a designated

82

00:04:39.420 --> 00:04:40.485
client representative today.

83

00:04:40.490 --> 00:04:43.226
OK, thank you and Sierra Club.

84

00:04:43.230 --> 00:04:45.258
Good morning David Franklin Sierra Club.

85

00:04:45.260 --> 00:04:47.864
UM Wayne Tanaka and Lucy and Danae

86

00:04:47.864 --> 00:04:50.607
of the Sierra Club are here today.

87

00:04:50.610 --> 00:04:52.658
Great OK so uhm.

88

00:04:54.800 --> 00:04:57.626
The rest of the people here we have heavy

89

00:04:57.626 --> 00:05:00.185
Coleman who's a court reporter for AMB MI.

90

00:05:00.190 --> 00:05:01.774
We have the deal on our board room

91

00:05:01.774 --> 00:05:03.298
with just the public viewing room.

92

00:05:03.300 --> 00:05:04.940
We have witnesses a mark,

93

00:05:04.940 --> 00:05:09.266
bought Michael Key to Granton comma.

94

00:05:09.270 --> 00:05:13.800
I think that's and seal how.

95

00:05:13.800 --> 00:05:17.199

OK, everyone come.

96

00:05:17.200 --> 00:05:20.900
Ready to start? That's one,

97

00:05:20.900 --> 00:05:23.918
well go ahead, sorry I come.

98

00:05:23.918 --> 00:05:27.859
David, I didn't receive a copy of Y 68.

99

00:05:27.860 --> 00:05:29.939
The new exhibit that you had yesterday.

100

00:05:29.940 --> 00:05:34.460
If you could email a copy out, please.

101

00:05:34.460 --> 00:05:36.636
Yeah, I'll do that in the first break.

102

00:05:36.640 --> 00:05:38.320
Thank you. And if I don't,

103

00:05:38.320 --> 00:05:39.930
would you remind me again?

104

00:05:39.930 --> 00:05:42.998
I will thank you.

105

00:05:43.000 --> 00:05:46.424
Uhm, and then my matter is two things.

106

00:05:46.430 --> 00:05:48.058
Just for the record,

107

00:05:48.058 --> 00:05:50.922
the audio is not available till 7:00

108

00:05:50.922 --> 00:05:53.520
PM last night not six and I would

109
00:05:53.520 --> 00:05:55.620
like to renew my request that there

110
00:05:55.690 --> 00:05:57.834
is a lot of confusion in trying to

111
00:05:57.834 --> 00:06:00.127
use the audio because there's no

112
00:06:00.127 --> 00:06:01.815
correspondence between the audio

113
00:06:01.815 --> 00:06:05.015
time and the time that you have

114
00:06:05.015 --> 00:06:06.899
articulated throughout the proceeding.

115
00:06:06.900 --> 00:06:07.764
It also appears,

116
00:06:07.764 --> 00:06:09.492
although I'm not sure about this,

117
00:06:09.500 --> 00:06:11.810
that you folks do not do any

118
00:06:11.810 --> 00:06:12.800
audio during lunch.

119
00:06:12.800 --> 00:06:14.340
Which makes it even more difficult to

120
00:06:14.340 --> 00:06:16.265
do the math to figure out where we are.

121
00:06:16.270 --> 00:06:18.430
So I'd like to repeat that you folks

122
00:06:18.430 --> 00:06:20.695

when a new witness comes on tell us

123

00:06:20.695 --> 00:06:23.471
where we are in the time for the audio

124

00:06:23.471 --> 00:06:25.546
so that we can appropriately put that

125

00:06:25.546 --> 00:06:26.944
information and track it down with

126

00:06:26.944 --> 00:06:28.446
the findings of vacuum pieces of law.

127

00:06:35.790 --> 00:06:37.094
Yeah, I I don't.

128

00:06:37.094 --> 00:06:39.839
I don't know how to timestamp the audio.

129

00:06:39.840 --> 00:06:42.264
So, uhm, but it's, uh, you know,

130

00:06:42.264 --> 00:06:45.490
this is a standard way of doing it so.

131

00:06:45.490 --> 00:06:47.514
Hold on, this is not the standard way

132

00:06:47.514 --> 00:06:49.569
of doing any contested case hearing.

133

00:06:49.570 --> 00:06:52.410
None of us have ever had a contested

134

00:06:52.410 --> 00:06:54.870
case hearing like this in our lives.

135

00:06:54.870 --> 00:06:59.397
Fair enough, OK, uh, are we ready to go?

136

00:06:59.400 --> 00:07:00.430
I think the next witness,

137

00:07:00.430 --> 00:07:03.388
so just the the witnesses today.

138

00:07:03.390 --> 00:07:04.922
Uhm, are gonna be.

139

00:07:04.922 --> 00:07:07.610
We're gonna have sealed how starting who

140

00:07:07.610 --> 00:07:10.146
was not not able to start last night.

141

00:07:10.150 --> 00:07:12.320
We were not able to start and

142

00:07:12.320 --> 00:07:14.658
then we will have Aaron stroke.

143

00:07:14.660 --> 00:07:16.718
And then, and both of those are

144

00:07:16.718 --> 00:07:19.044
witnesses for both A&B and Sierra Club.

145

00:07:19.044 --> 00:07:21.966
And then I have Michelle Reynolds

146

00:07:21.966 --> 00:07:24.622
for Sierra Club down. Uhm?

147

00:07:24.622 --> 00:07:27.550
Yeah, that's not understanding.

148

00:07:27.550 --> 00:07:29.580
Turkish air and stroke is

149

00:07:29.580 --> 00:07:31.610

going first before see how.

150

00:07:31.610 --> 00:07:34.620

First yes.

151

00:07:34.620 --> 00:07:36.840

That was our understanding 'cause Dr.

152

00:07:36.840 --> 00:07:39.050

Strout is only available today,

153

00:07:39.050 --> 00:07:41.550

so we want to make sure that we complete him.

154

00:07:41.550 --> 00:07:42.112

Whereas Mr.

155

00:07:42.112 --> 00:07:44.700

How, if need be could be available next week.

156

00:07:44.700 --> 00:07:46.610

Good alright with the Conemaugh

157

00:07:46.610 --> 00:07:51.012

everybody OK with that right will do that.

158

00:07:51.012 --> 00:07:53.642

Uhm, OK, any other matters.

159

00:07:53.642 --> 00:07:55.554

Before we get going.

160

00:07:55.560 --> 00:07:58.464

I have Linda Chow saying she'll try to

161

00:07:58.464 --> 00:08:01.080

figure out a way to put a time stamp

162

00:08:01.080 --> 00:08:03.788

on the OR somehow marked the audio.

163
00:08:03.790 --> 00:08:07.918
But for purposes of.

164
00:08:07.920 --> 00:08:08.840
Just I,

165
00:08:08.840 --> 00:08:12.690
I will try to again note the time when we

166
00:08:12.690 --> 00:08:15.508
start a new section in the in the audio.

167
00:08:15.510 --> 00:08:17.950
And uhm.

168
00:08:17.950 --> 00:08:20.342
And Will will will try again to make

169
00:08:20.342 --> 00:08:22.985
sure that the parties come that the

170
00:08:22.985 --> 00:08:24.965
attorneys and the parties introduce

171
00:08:25.035 --> 00:08:27.030
themselves at the beginning of

172
00:08:27.030 --> 00:08:30.420
each section and we start to talk.

173
00:08:30.420 --> 00:08:31.332
Alright everybody?

174
00:08:31.332 --> 00:08:32.700
OK with that.

175
00:08:35.940 --> 00:08:37.690
He lost AMD for a second here.

176
00:08:41.210 --> 00:08:42.799

I assume that's 'cause Mr Schulman St.

177

00:08:42.800 --> 00:08:44.648
Dealing with doctor stroke

178

00:08:44.648 --> 00:08:46.480
and not Trisha, yes.

179

00:08:50.050 --> 00:08:53.116
Got it OK. Alright, let's go ahead.

180

00:08:53.120 --> 00:08:56.700
Then it is, UM.

181

00:08:56.700 --> 00:09:00.633
9:10 AM and we're going to go ahead with

182

00:09:00.640 --> 00:09:06.135
witness Aaron Stroke and the Mr Xu Mr.

183

00:09:06.135 --> 00:09:10.548
Please go ahead. Swear him in.

184

00:09:10.550 --> 00:09:12.886
Doctor, Doctor Stroke these

185

00:09:12.886 --> 00:09:14.638
soundly swearred too.

186

00:09:14.640 --> 00:09:16.524
Tell the truth, the whole truth

187

00:09:16.524 --> 00:09:18.529
and nothing but the truth I do.

188

00:09:18.530 --> 00:09:18.980
Thank you.

189

00:09:22.800 --> 00:09:26.128
Good morning doctor Strout

190
00:09:26.130 --> 00:09:27.420
Can everyone hear me alright?

191
00:09:31.200 --> 00:09:34.399
She shaking her head and another reason

192
00:09:34.399 --> 00:09:38.058
why I'm asking is because my computer is.

193
00:09:38.060 --> 00:09:41.690
Acting, you know, halting fashion.

194
00:09:41.690 --> 00:09:44.096
So if someone could acknowledge what

195
00:09:44.100 --> 00:09:47.308
you can hear me, I would appreciate it.

196
00:09:47.310 --> 00:09:49.080
You're breaking up a little bit.

197
00:09:51.150 --> 00:09:52.210
You are a little bit,

198
00:09:52.210 --> 00:09:54.250
but I can hear you.

199
00:09:54.250 --> 00:09:56.086
Do you wanna try exiting and

200
00:09:56.086 --> 00:09:57.310
coming back in rebooting?

201
00:09:59.770 --> 00:10:03.890
Me yeah, meeting back in.

202
00:10:03.890 --> 00:10:05.726
I wonder if you're on Wi-Fi.

203
00:10:05.730 --> 00:10:06.468

I don't know if you can.

204

00:10:06.470 --> 00:10:07.598

Why are you computer?

205

00:10:09.630 --> 00:10:12.186

Can I? Because the computer I'm

206

00:10:12.186 --> 00:10:16.550

using doesn't have a Ethernet port.

207

00:10:16.550 --> 00:10:20.724

Uhm? So I can't. I can't do that.

208

00:10:20.730 --> 00:10:23.550

You want to try closing everything,

209

00:10:23.550 --> 00:10:26.100

rebooting and and opening just

210

00:10:26.100 --> 00:10:28.358

the minimum you need. Yeah,

211

00:10:28.358 --> 00:10:30.102

actually that's all I've got open right now,

212

00:10:30.110 --> 00:10:33.170

but let me try to exit and come back.

213

00:10:33.170 --> 00:10:37.200

And if that doesn't work.

214

00:10:37.200 --> 00:10:40.150

I guess I could do phone audio and

215

00:10:40.150 --> 00:10:41.760

you probably be able to hear me.

216

00:10:41.760 --> 00:10:44.658

Yeah, that should.

217
00:10:44.660 --> 00:10:45.536
Let me write,

218
00:10:45.536 --> 00:10:47.980
so I'm going to leave and come back.

219
00:10:47.980 --> 00:10:48.700
Right now.

220
00:13:07.030 --> 00:13:08.234
So while we're waiting,

221
00:13:08.234 --> 00:13:10.530
I can confirm the audio is posted.

222
00:13:10.530 --> 00:13:13.514
I got confirmation at 6:43 PM last night.

223
00:13:18.600 --> 00:13:20.550
Mine is labeled 7 PM.

224
00:13:25.830 --> 00:13:27.940
Guess the wires are slow.

225
00:13:27.940 --> 00:13:31.704
Hi there. Yes, OK try that.

226
00:13:31.704 --> 00:13:34.302
Can you hear me? OK, yeah,

227
00:13:34.302 --> 00:13:36.438
that's pretty good, right?

228
00:13:36.438 --> 00:13:39.078
Uh, good morning doctor stop.

229
00:13:41.490 --> 00:13:45.150
Morning. Uh. I come.

230
00:13:48.850 --> 00:13:51.325

My intention calling user witnesses

231

00:13:51.325 --> 00:13:54.319
primarily to meet you available for

232

00:13:54.319 --> 00:13:56.678
cross examination or the materials

233

00:13:56.678 --> 00:13:59.762
that you already testified to at

234

00:13:59.762 --> 00:14:02.539
the November 13th board meeting.

235

00:14:02.540 --> 00:14:05.870
Which include the instream flow

236

00:14:05.870 --> 00:14:07.390
assessment standard placement

237

00:14:07.390 --> 00:14:10.103
summary is dated October 2020, which.

238

00:14:10.103 --> 00:14:13.680
For the record, is exhibit D1.

239

00:14:13.680 --> 00:14:17.640
And also you had a PowerPoint

240

00:14:17.640 --> 00:14:20.150
which is exhibit D2.

241

00:14:20.150 --> 00:14:23.129
So, so actually what I'd like to begin by.

242

00:14:23.130 --> 00:14:27.094
It's just asking you whether any of

243

00:14:27.094 --> 00:14:32.100
the positions or conclusions or. Uhm?

244
00:14:32.100 --> 00:14:36.560
Statements contained in those presentations.

245
00:14:36.560 --> 00:14:41.080
Uhm, or as far as you're concerned still.

246
00:14:41.080 --> 00:14:42.904
Accurate still reflect your

247
00:14:42.904 --> 00:14:44.728
testimony and your position.

248
00:14:47.780 --> 00:14:50.118
So we have we being the Commission

249
00:14:50.118 --> 00:14:51.900
on water resource management,

250
00:14:51.900 --> 00:14:54.594
have coordinated with the division of

251
00:14:54.594 --> 00:14:57.290
aquatic resources to better characterize

252
00:14:57.290 --> 00:15:00.908
more streams than what were available

253
00:15:00.908 --> 00:15:04.776
before the land board last year,

254
00:15:04.776 --> 00:15:08.416
we've been working hard at.

255
00:15:08.420 --> 00:15:12.620
Getting to multiple elevations within.

256
00:15:12.620 --> 00:15:15.044
Have as many streams as possible

257
00:15:15.044 --> 00:15:17.330

in the East Maui region.

258

00:15:17.330 --> 00:15:19.145
So there are there are

259

00:15:19.145 --> 00:15:20.960
additional data that we have.

260

00:15:20.960 --> 00:15:22.946
We have not completely analyzed yet,

261

00:15:22.950 --> 00:15:27.822
but we have been gathering to

262

00:15:27.822 --> 00:15:30.258
refine our recommendations.

263

00:15:30.260 --> 00:15:33.269
OK, so uhm.

264

00:15:33.270 --> 00:15:35.130
And when you say with a

265

00:15:35.130 --> 00:15:36.370
division of aquatic resources,

266

00:15:36.370 --> 00:15:39.838
are there particular particular?

267

00:15:39.840 --> 00:15:41.800
Staff from visual aquatic

268

00:15:41.800 --> 00:15:44.740
resources to to be referring to.

269

00:15:44.740 --> 00:15:47.086
We've been coordinating with SKIPPY how.

270

00:15:49.970 --> 00:15:52.931
OK, and had there been a coordination

271
00:15:52.931 --> 00:15:55.429
of that nature or some nature

272
00:15:55.430 --> 00:16:00.780
prior to the October 2020?

273
00:16:00.780 --> 00:16:04.130
Hamstring flow standard assessment summary,

274
00:16:04.130 --> 00:16:06.370
which hereafter I'm just gonna

275
00:16:06.370 --> 00:16:10.767
refer to as a ifsar ifsa are we.

276
00:16:10.767 --> 00:16:13.962
Been working with SKIPPY for

277
00:16:13.962 --> 00:16:18.510
many years on UM. Toyota.

278
00:16:18.510 --> 00:16:21.846
And stream management throughout the island.

279
00:16:21.850 --> 00:16:27.582
OK, so so just so at this point I understand

280
00:16:27.582 --> 00:16:30.012
you're saying that there's analysis

281
00:16:30.012 --> 00:16:32.691
and discussions underway to refine it.

282
00:16:32.691 --> 00:16:34.726
To refine what was contained

283
00:16:34.726 --> 00:16:36.768
in that at this point,

284
00:16:36.770 --> 00:16:39.625

have any of the conclusions

285

00:16:39.625 --> 00:16:41.338
or recommendations changed?

286

00:16:41.340 --> 00:16:44.245
We we haven't gotten to the nitty

287

00:16:44.245 --> 00:16:46.897
gritty of utilizing all the data yet,

288

00:16:46.900 --> 00:16:51.030
so I can't say what's changed right.

289

00:16:56.690 --> 00:16:59.529
OK, one thing I wanted to ask

290

00:16:59.529 --> 00:17:01.841
you about and I'm going to try to

291

00:17:01.841 --> 00:17:04.223
do this without putting up the

292

00:17:04.223 --> 00:17:06.540
exhibit because I think that the

293

00:17:06.540 --> 00:17:08.900
everybody's pretty familiar with it.

294

00:17:08.900 --> 00:17:11.690
There's a couple of references

295

00:17:11.690 --> 00:17:14.115
throughout the Ifsar, and again,

296

00:17:14.115 --> 00:17:17.160
for the record when I say ifsar,

297

00:17:17.160 --> 00:17:20.220
I'm referring to exhibit D1.

298

00:17:20.220 --> 00:17:24.508

Uhm, about. You know,

299

00:17:24.508 --> 00:17:26.632

closed canopy's and some of the

300

00:17:26.632 --> 00:17:28.551

non petition streamed streams due

301

00:17:28.551 --> 00:17:30.825

to the dominance of non native.

302

00:17:30.830 --> 00:17:32.566

Riparian vegetation, so just.

303

00:17:32.566 --> 00:17:36.226

I wanted to ask you to maybe elaborate

304

00:17:36.226 --> 00:17:39.130

a little bit when you're talking

305

00:17:39.130 --> 00:17:41.990

about non native riparian vegetation.

306

00:17:41.990 --> 00:17:44.740

I mean what elevations are?

307

00:17:44.740 --> 00:17:47.540

Are you referring to?

308

00:17:47.540 --> 00:17:51.668

Uhm, generally speaking, uh.

309

00:17:51.670 --> 00:17:53.764

In certain streams,

310

00:17:53.764 --> 00:17:57.254

from the mouth upwards too.

311

00:17:57.260 --> 00:18:00.046

You know 12113 hundred feet in elevation,

312

00:18:00.050 --> 00:18:01.865
and that's that's where we've

313

00:18:01.865 --> 00:18:03.680
been focusing our field work.

314

00:18:03.680 --> 00:18:06.500
The riparian vegetation is

315

00:18:06.500 --> 00:18:08.951
dominated by non native species,

316

00:18:08.951 --> 00:18:11.108
such as how Bush, strawberry,

317

00:18:11.108 --> 00:18:11.876
guava,

318

00:18:11.876 --> 00:18:12.644
Java,

319

00:18:12.644 --> 00:18:13.412
plum,

320

00:18:13.412 --> 00:18:14.180
inkberry.

321

00:18:16.860 --> 00:18:21.228
Bamboo, a lot of species that occlude the

322

00:18:21.228 --> 00:18:24.853
stream channel that prevent the growth of

323

00:18:24.853 --> 00:18:28.242
Algy and the primary food source for the

324

00:18:28.242 --> 00:18:31.530
ecosystem and also restrict the movement

325
00:18:31.530 --> 00:18:34.410
of species upstream and downstream.

326
00:18:34.410 --> 00:18:36.924
OK, and and so the elevation

327
00:18:36.924 --> 00:18:39.380
you mentioned was up to 1100.

328
00:18:39.380 --> 00:18:41.582
The riparian would be include all

329
00:18:41.582 --> 00:18:44.688
the way up to 1100 feet elevation.

330
00:18:44.690 --> 00:18:47.160
Repairing just means along the

331
00:18:47.160 --> 00:18:50.870
stream channel. So, uhm, you or I.

332
00:18:50.870 --> 00:18:54.370
I didn't work on characterizing. Uh.

333
00:18:56.440 --> 00:18:59.020
The vegetation beyond the stream

334
00:18:59.020 --> 00:19:01.990
channel for for field work. OK.

335
00:19:05.290 --> 00:19:05.840
Oh

336
00:19:11.460 --> 00:19:12.780
at the uh.

337
00:19:15.450 --> 00:19:19.902
At the time that I mean of the. I mean,

338
00:19:19.902 --> 00:19:22.370

I assume but cricket if I'm wrong that you.

339

00:19:24.460 --> 00:19:27.190
Had access to and reviewed

340

00:19:27.190 --> 00:19:31.150
the staff submittal. Which.

341

00:19:31.150 --> 00:19:35.806
For the record, is exhibit Y 22,

342

00:19:35.806 --> 00:19:39.830
But this was a staff submittal that was.

343

00:19:39.830 --> 00:19:44.360
Published and presented to the board.

344

00:19:44.360 --> 00:19:46.440
For these previous agenda item,

345

00:19:46.440 --> 00:19:48.296
you know that you testified on November 13th.

346

00:19:48.300 --> 00:19:50.813
Did you have a chance to access

347

00:19:50.813 --> 00:19:53.350
and review that submittal prior to

348

00:19:53.350 --> 00:19:56.340
your testimony on November 13th?

349

00:19:56.340 --> 00:19:59.566
I believe I did, I, I mean.

350

00:19:59.566 --> 00:20:01.174
I've read through a lot of

351

00:20:01.174 --> 00:20:02.548
submittals in the last year,

352
00:20:02.550 --> 00:20:07.239
and III probably did.

353
00:20:07.240 --> 00:20:08.629
I'll say, well,

354
00:20:08.629 --> 00:20:10.481
do you remember specifically

355
00:20:10.481 --> 00:20:12.435
having been provided comments

356
00:20:12.435 --> 00:20:14.890
from division of aquatic resources

357
00:20:14.890 --> 00:20:17.290
and taxiing comments that were.

358
00:20:17.290 --> 00:20:19.924
Actually set forth in the body

359
00:20:19.924 --> 00:20:21.680
of the signal itself.

360
00:20:21.680 --> 00:20:23.370
I don't remember the specifics.

361
00:20:26.060 --> 00:20:30.873
I is there a? Like a disagreement

362
00:20:30.873 --> 00:20:33.450
or difference of opinion between.

363
00:20:35.490 --> 00:20:37.030
See more staff you know,

364
00:20:37.030 --> 00:20:39.496
sort of stream the stream surface

365
00:20:39.496 --> 00:20:41.612

water division and division aquatic

366

00:20:41.612 --> 00:20:45.340
resources in terms of. Uhm, the.

367

00:20:47.780 --> 00:20:49.530
You know the the restoration

368

00:20:49.530 --> 00:20:51.850
potential of a non petition streams.

369

00:20:54.300 --> 00:20:56.940
I don't think, uh, there's a

370

00:20:56.940 --> 00:21:01.018
a disagreement, I think, uh.

371

00:21:01.020 --> 00:21:05.329
There might be a. I need to.

372

00:21:07.410 --> 00:21:12.250
Characterize uh?

373

00:21:12.250 --> 00:21:16.756
The potential uh of specific streams

374

00:21:16.756 --> 00:21:19.304
for a reproducing population,

375

00:21:19.304 --> 00:21:22.735
as opposed to just a population

376

00:21:22.735 --> 00:21:26.554
of biota that occupies a habitat.

377

00:21:26.554 --> 00:21:29.690
Uhm? Well, we what we would call

378

00:21:29.690 --> 00:21:32.343
a A a sync population as opposed

379
00:21:32.343 --> 00:21:34.115
to a source population.

380
00:21:34.120 --> 00:21:35.510
We're still working on that,

381
00:21:35.510 --> 00:21:37.605
and that's partly why we're

382
00:21:37.605 --> 00:21:39.700
doing so much field work.

383
00:21:39.700 --> 00:21:41.405
OK, so so there's additional

384
00:21:41.405 --> 00:21:43.110
field work that's being done.

385
00:21:45.520 --> 00:21:48.076
It's in progress or has taken

386
00:21:48.076 --> 00:21:50.771
place after the field work that

387
00:21:50.771 --> 00:21:53.036
was referenced in the ifsar.

388
00:21:53.040 --> 00:21:59.261
Yes yes lot more work and and but

389
00:21:59.261 --> 00:22:01.427
that hasn't been analyzed to the

390
00:22:01.427 --> 00:22:04.346
point where you can say that any of

391
00:22:04.346 --> 00:22:06.118
the recommendations or conclusions in

392
00:22:06.118 --> 00:22:07.790

the hips are are going to be changed.

393

00:22:10.540 --> 00:22:13.132

Now at the time that you

394

00:22:13.132 --> 00:22:14.860

testified on November 13th.

395

00:22:14.860 --> 00:22:19.280

Uh, we had you. Uhm?

396

00:22:19.280 --> 00:22:20.549

Received and reviewed.

397

00:22:20.549 --> 00:22:23.087

The petition to amend the interim

398

00:22:23.087 --> 00:22:26.122

in stream flow standards for the non

399

00:22:26.122 --> 00:22:28.576

petition streams that was filed by

400

00:22:28.576 --> 00:22:31.338

the Sierra Club and for the record,

401

00:22:31.338 --> 00:22:34.626

I believe that in this proceeding.

402

00:22:34.626 --> 00:22:38.650

Is in evidence as exhibit Y50.

403

00:22:40.790 --> 00:22:43.215

So I believe the petition

404

00:22:43.215 --> 00:22:45.460

was received in this fall.

405

00:22:47.920 --> 00:22:50.758

Like September October of this year,

406

00:22:50.760 --> 00:22:55.860
so after. Last years. Testimony.

407

00:22:58.040 --> 00:23:00.400
Is that what you're asking? Yeah, yeah.

408

00:23:00.400 --> 00:23:02.920
I mean, I think the meeting that that

409

00:23:02.985 --> 00:23:05.295
you testified was November the 13th.

410

00:23:05.300 --> 00:23:08.495
I believe that the exhibit Y50.

411

00:23:08.495 --> 00:23:11.070
There's also exhibit Y 51,

412

00:23:11.070 --> 00:23:15.130
which is copies of some emails between

413

00:23:15.130 --> 00:23:18.224
water Commission staff and the Sierra Club.

414

00:23:18.230 --> 00:23:20.510
Seems like it puts through

415

00:23:20.510 --> 00:23:22.334
filing date of the.

416

00:23:22.340 --> 00:23:24.230
Petition around September

417

00:23:24.230 --> 00:23:26.120
29th or thereabouts.

418

00:23:26.120 --> 00:23:31.307
Uhm, so I believe that at least.

419

00:23:31.310 --> 00:23:33.770

The Water Commission had the petition

420

00:23:33.770 --> 00:23:35.780
had received the petition certainly

421

00:23:35.780 --> 00:23:37.790
by the beginning of October.

422

00:23:37.790 --> 00:23:40.238
So you testified in November 13th.

423

00:23:40.240 --> 00:23:42.988
So my question is whether you

424

00:23:42.990 --> 00:23:44.778
had reviewed the petition.

425

00:23:44.778 --> 00:23:47.460
By the time that you testified

426

00:23:47.545 --> 00:23:48.880
on November 13th.

427

00:23:51.400 --> 00:23:53.205
I'm confused, do you mean

428

00:23:53.205 --> 00:23:57.218
November 13th, 2020? Yes.

429

00:23:57.220 --> 00:24:02.030
Uh, But the petition was received in 2021.

430

00:24:02.030 --> 00:24:05.094
OK, I would draw that I was confused.

431

00:24:05.094 --> 00:24:08.460
I apologize, I'm embarrassed alright so so

432

00:24:08.460 --> 00:24:11.120
but now you you've reviewed that position,

433

00:24:11.120 --> 00:24:13.670
is that right? Yes, OK.

434

00:24:13.670 --> 00:24:16.958
And and part of that petition.

435

00:24:16.960 --> 00:24:18.808
Surprise here, uhm?

436

00:24:22.220 --> 00:24:23.879
With regard to the position number one,

437

00:24:23.880 --> 00:24:27.112
I want to state that I have not

438

00:24:27.112 --> 00:24:29.575
read Y50. And you know we are

439

00:24:29.575 --> 00:24:31.230
trying to be cautious here.

440

00:24:35.110 --> 00:24:37.980
About discussions about the petition.

441

00:24:37.980 --> 00:24:40.857
While we were in a contested case.

442

00:24:40.860 --> 00:24:42.252
Come on the RP's.

443

00:24:42.252 --> 00:24:44.929
So I think we can talk about

444

00:24:44.929 --> 00:24:47.399
the process of the petition.

445

00:24:47.400 --> 00:24:49.568
Yeah, let me do my I want to.

446

00:24:49.570 --> 00:24:50.500

For the record,

447

00:24:50.500 --> 00:24:53.240

I want to point out there's a Hawaii

448

00:24:53.240 --> 00:24:55.626

Supreme Court decision that about

449

00:24:55.626 --> 00:24:58.284

the water Commission in which the

450

00:24:58.284 --> 00:25:00.304

Water Commission hearings Officer

451

00:25:00.304 --> 00:25:02.424

attempted to preclude testimony

452

00:25:02.424 --> 00:25:05.555

because of its potential effect on

453

00:25:05.555 --> 00:25:07.890

a different contested case hearing.

454

00:25:07.890 --> 00:25:09.486

It was why holy that concern

455

00:25:09.486 --> 00:25:10.550

was the effect that,

456

00:25:10.550 --> 00:25:13.830

and the question was aimed to Steve Dollar.

457

00:25:13.830 --> 00:25:14.866

I believe it's wyola.

458

00:25:14.866 --> 00:25:17.417

I get why all the cucumis stuck in my mind.

459

00:25:17.420 --> 00:25:20.524

But I believe it's in right in real

460
00:25:20.524 --> 00:25:23.272
Biola and the Supreme Court said

461
00:25:23.272 --> 00:25:26.456
that you cannot prevent the cross

462
00:25:26.456 --> 00:25:28.824
examination or information just

463
00:25:28.824 --> 00:25:31.684
because you're concerned that it

464
00:25:31.684 --> 00:25:34.194
might affect a different proceeding.

465
00:25:34.200 --> 00:25:35.454
We're going to.

466
00:25:35.454 --> 00:25:37.962
So we're going to insist that

467
00:25:37.962 --> 00:25:40.045
exhibit Y50 be considered.

468
00:25:40.045 --> 00:25:42.265
You cannot exclude it.

469
00:25:42.270 --> 00:25:44.136
It is inappropriate to exclude it.

470
00:25:44.140 --> 00:25:45.610
And I just want to have my

471
00:25:45.610 --> 00:25:47.054
objection in the record right.

472
00:25:47.054 --> 00:25:48.910
I haven't excluded it,

473
00:25:48.910 --> 00:25:50.791

but I haven't read it is what I'm saying

474

00:25:50.791 --> 00:25:52.706

and I'm gonna take a short recess here.

475

00:27:57.860 --> 00:28:01.379

OK, uh, it's fine. We can go ahead with

476

00:28:01.379 --> 00:28:03.558

this line of questioning on the petition,

477

00:28:03.560 --> 00:28:07.210

and it is in the in the record in this case.

478

00:28:17.070 --> 00:28:21.935

Go ahead Mr. Schulmeister and it is 929.

479

00:28:21.935 --> 00:28:28.210

Right so uhm. OK.

480

00:28:28.210 --> 00:28:29.850

You know at this point.

481

00:28:29.850 --> 00:28:31.334

You know, I'm just gonna turn back.

482

00:28:31.340 --> 00:28:34.406

I'm going to just go with

483

00:28:34.406 --> 00:28:36.450

our designation of the.

484

00:28:36.450 --> 00:28:38.050

Testimony that he gave previously,

485

00:28:38.050 --> 00:28:39.372

including the.

486

00:28:39.372 --> 00:28:43.444

Uhm, do you want two and the

487
00:28:43.444 --> 00:28:45.736
testimony given at the meeting and

488
00:28:45.740 --> 00:28:47.300
turning over cross examination?

489
00:28:49.830 --> 00:28:51.475
K County of Maui. First of all,

490
00:28:51.480 --> 00:28:54.340
do you have any? Question.

491
00:28:57.010 --> 00:28:58.372
Sorry, didn't realize I had forgotten

492
00:28:58.372 --> 00:29:00.397
to turn my camera back on so we do not

493
00:29:00.397 --> 00:29:01.690
have any questions for this witness.

494
00:29:01.690 --> 00:29:04.138
Thank you. OK, thanks all right Mr Frankel.

495
00:29:07.730 --> 00:29:09.530
After stroke, have you discussed

496
00:29:09.530 --> 00:29:11.798
the subject upon which you are

497
00:29:11.798 --> 00:29:13.878
testifying today with anyone? No.

498
00:29:13.878 --> 00:29:16.686
K. On other, more native species

499
00:29:16.686 --> 00:29:20.275
in the streams in which stream flow

500
00:29:20.275 --> 00:29:22.880

has increased in recent years.

501

00:29:22.880 --> 00:29:26.228

We we haven't finalized that analysis,

502

00:29:26.230 --> 00:29:27.258

that's not my question.

503

00:29:27.258 --> 00:29:29.310

Is that if your analysis is complete,

504

00:29:29.310 --> 00:29:31.728

my question is, are there more?

505

00:29:31.730 --> 00:29:34.046

Have you seen more native species

506

00:29:34.046 --> 00:29:37.010

in the streams in which stream flow

507

00:29:37.010 --> 00:29:39.606

is increased in recent years? I.

508

00:29:39.606 --> 00:29:42.168

I haven't looked at the data is

509

00:29:42.168 --> 00:29:44.862

what I'm saying. OK, how about it?

510

00:29:44.862 --> 00:29:45.816

So you haven't.

511

00:29:45.820 --> 00:29:47.328

You've made observations right?

512

00:29:47.328 --> 00:29:49.213

And you've written them down.

513

00:29:49.220 --> 00:29:52.970

So we've done intensive biota

514

00:29:52.970 --> 00:29:56.720
surveys in which we've counted.

515

00:29:56.720 --> 00:29:57.466
Many species,

516

00:29:57.466 --> 00:30:00.077
and in some cases I'm not involved

517

00:30:00.077 --> 00:30:02.323
with every single survey so.

518

00:30:02.323 --> 00:30:05.947
And and I I have a big spreadsheet,

519

00:30:05.950 --> 00:30:07.990
but none of the data of an analyst,

520

00:30:07.990 --> 00:30:10.456
so I can't make any conclusions.

521

00:30:10.460 --> 00:30:13.636
When do you expect it to be analyzed?

522

00:30:13.640 --> 00:30:15.800
I mean.

523

00:30:15.800 --> 00:30:18.012
I was hoping to go on vacation

524

00:30:18.012 --> 00:30:20.258
this month so maybe next month.

525

00:30:20.260 --> 00:30:22.346
February maybe it's we have a lot

526

00:30:22.346 --> 00:30:24.479
on her plate and I I apologize.

527

00:30:24.480 --> 00:30:25.596

I know this is very important,

528

00:30:25.600 --> 00:30:27.340
but we also have other petitions

529

00:30:27.340 --> 00:30:28.959
that I'm trying to get to.

530

00:30:28.960 --> 00:30:30.348
I understand, I understand.

531

00:30:30.348 --> 00:30:32.430
I just want a time frame.

532

00:30:32.430 --> 00:30:36.046
So as Mr Show Mr asked you,

533

00:30:36.046 --> 00:30:38.342
you drafted what we call the five

534

00:30:38.342 --> 00:30:41.003
stars and also the instream flow

535

00:30:41.003 --> 00:30:43.840
standard assessment summary, right?

536

00:30:43.840 --> 00:30:44.941
That was yeah,

537

00:30:44.941 --> 00:30:46.776
our our best available information

538

00:30:46.776 --> 00:30:47.910
at the time.

539

00:30:47.910 --> 00:30:51.195
Understood who helped you with

540

00:30:51.195 --> 00:30:53.938
a particular for these and I

541
00:30:53.938 --> 00:30:55.723
should step back for clarity.

542
00:30:55.730 --> 00:30:58.178
I'm focusing here on the dozen

543
00:30:58.178 --> 00:31:00.290
huellas streams that are part

544
00:31:00.290 --> 00:31:02.295
of the Sierra Club's petition

545
00:31:02.295 --> 00:31:05.670
that was filed this year 2021.

546
00:31:05.670 --> 00:31:06.982
Who else helped you?

547
00:31:06.982 --> 00:31:08.622
And I I know that.

548
00:31:08.630 --> 00:31:10.947
So let me take a step back.

549
00:31:10.950 --> 00:31:13.278
I think it's fair to say that a

550
00:31:13.278 --> 00:31:16.484
good chunk of the isars is copied

551
00:31:16.484 --> 00:31:18.968
and pasted from other I've stars.

552
00:31:18.968 --> 00:31:20.036
Is that true?

553
00:31:20.040 --> 00:31:20.684
Yes,

554
00:31:20.684 --> 00:31:25.018

the bulk of the structure is the

555

00:31:25.018 --> 00:31:27.358
same from watershed to watershed

556

00:31:27.358 --> 00:31:29.230
or hydrologic into hydrologic,

557

00:31:29.230 --> 00:31:33.178
and our goal is to bring in as much

558

00:31:33.178 --> 00:31:35.189
new information as possible, right?

559

00:31:35.189 --> 00:31:38.730
So my question now is not about the sort of.

560

00:31:38.730 --> 00:31:39.462
Cut and paste.

561

00:31:39.462 --> 00:31:41.170
Copy and paste information that's in there.

562

00:31:41.170 --> 00:31:46.120
The structure, the the sort of outline, etc.

563

00:31:46.120 --> 00:31:49.570
But the information that's different

564

00:31:49.570 --> 00:31:52.010
for these particular hello streams.

565

00:31:52.010 --> 00:31:54.575
Who else helped you draft

566

00:31:54.575 --> 00:31:57.140
the language in your life?

567

00:31:57.140 --> 00:31:59.312
Stars and in the summer, and it's summary?

568

00:31:59.312 --> 00:32:00.408

Was it just you?

569

00:32:00.410 --> 00:32:03.574

Did anyone else help with the language?

570

00:32:03.580 --> 00:32:07.840

Uhm? I can't remember if we.

571

00:32:10.300 --> 00:32:12.808

You know, circulated it

572

00:32:12.808 --> 00:32:15.316

around within the staff.

573

00:32:15.320 --> 00:32:20.370

Uhm, I know a lot of the data came from.

574

00:32:20.370 --> 00:32:23.040

Or some of the data came

575

00:32:23.040 --> 00:32:25.223

from our few biota service.

576

00:32:25.223 --> 00:32:27.378

We were able to complete

577

00:32:27.378 --> 00:32:30.930

last year with DAR. So.

578

00:32:35.580 --> 00:32:39.395

So OK. Did anyone edit any portion

579

00:32:39.395 --> 00:32:43.465

of the summary or the draft five

580

00:32:43.465 --> 00:32:46.939

stars for these 12 wildest dreams?

581

00:32:46.940 --> 00:32:48.300

Uh, I can't remember.

582

00:32:48.300 --> 00:32:51.158
I mean, I usually send it to other

583

00:32:51.158 --> 00:32:53.499
staff and they provide some edits.

584

00:32:53.500 --> 00:32:54.922
But you don't recall in this

585

00:32:54.922 --> 00:32:55.870
situation I don't know.

586

00:32:55.870 --> 00:32:58.180
I had worked on like 20 I

587

00:32:58.180 --> 00:33:00.360
if stars last year I don't.

588

00:33:00.360 --> 00:33:02.165
I don't remember specifics like

589

00:33:02.165 --> 00:33:03.910
that and in terms of circulating

590

00:33:03.910 --> 00:33:06.098
it it would only be internal within

591

00:33:06.098 --> 00:33:07.948
the staff of the Commission,

592

00:33:07.950 --> 00:33:11.044
not not outside the staff.

593

00:33:11.044 --> 00:33:15.028
Usually we send them to Dar.

594

00:33:15.030 --> 00:33:18.518
Yeah, it just depends on and then we

595
00:33:18.518 --> 00:33:20.862
come seek public comment as much as

596
00:33:20.862 --> 00:33:23.258
possible so we we do circulate it,

597
00:33:23.260 --> 00:33:26.148
we post it online.

598
00:33:26.150 --> 00:33:27.560
But you didn't you didn't.

599
00:33:27.560 --> 00:33:29.294
You didn't attempt to get any

600
00:33:29.294 --> 00:33:31.128
public comment on the prior to

601
00:33:31.128 --> 00:33:32.668
posting the draft five stars.

602
00:33:32.670 --> 00:33:34.958
There was no public comments elicited, no no.

603
00:33:34.958 --> 00:33:36.876
The public comments come after we post

604
00:33:36.876 --> 00:33:38.838
'cause they're drafts right now, right?

605
00:33:38.838 --> 00:33:41.610
And you didn't send a a copy for comment

606
00:33:41.681 --> 00:33:44.274
to the chair of the Commission by 2K.

607
00:33:44.274 --> 00:33:44.898
Uhm, OK.

608
00:33:44.898 --> 00:33:47.854

I want to start by asking you about

609

00:33:47.854 --> 00:33:50.878

pulling all the streaming it's tributaries.

610

00:33:50.880 --> 00:33:53.130

You obviously are familiar with that

611

00:33:53.130 --> 00:33:55.480

that stream and those tributaries.

612

00:33:55.480 --> 00:33:58.048

Your draft 5 star.

613

00:33:58.048 --> 00:33:59.635

Uhm, and I again.

614

00:33:59.635 --> 00:34:02.206

So for the record, that's instream

615

00:34:02.206 --> 00:34:04.818

flow standard assessment report,

616

00:34:04.820 --> 00:34:05.189

right?

617

00:34:05.189 --> 00:34:07.772

So your draft types are states there

618

00:34:07.772 --> 00:34:10.684

are no endangered species along lava

619

00:34:10.684 --> 00:34:14.560

stream and its tributaries, doesn't it?

620

00:34:14.560 --> 00:34:18.892

Based on our analysis of EU.

621

00:34:18.892 --> 00:34:19.294

S.

622
00:34:19.294 --> 00:34:20.902
Fish and Wildlife Service

623
00:34:20.902 --> 00:34:22.431
endangered species data,

624
00:34:22.431 --> 00:34:23.152
yeah.

625
00:34:23.152 --> 00:34:27.366
Have you read the October 2019 US

626
00:34:27.366 --> 00:34:28.881
Fish and Wildlife Service report

627
00:34:28.881 --> 00:34:30.839
on Downs of Flying East Maui?

628
00:34:32.930 --> 00:34:34.480
Not that I know of.

629
00:34:34.480 --> 00:34:35.880
OK, let me bring it up for you.

630
00:34:35.880 --> 00:34:40.880
It's exhibit AY dash 41.

631
00:34:40.880 --> 00:34:41.950
If I can do this?

632
00:34:50.020 --> 00:34:52.190
Well, you have to share case you

633
00:34:52.190 --> 00:34:54.210
have to allow screen sharing.

634
00:35:02.260 --> 00:35:04.500
Can you see this report on your screen?

635
00:35:04.500 --> 00:35:05.640

I don't know what you can

636

00:35:05.640 --> 00:35:06.800
see versus what I can see.

637

00:35:06.800 --> 00:35:08.030
Yeah, I can see it.

638

00:35:08.030 --> 00:35:10.396
Have you ever seen this report before?

639

00:35:10.400 --> 00:35:13.120
I don't think so can.

640

00:35:13.120 --> 00:35:16.189
Is there a website I can get it from?

641

00:35:16.190 --> 00:35:17.070
Oh, you know what?

642

00:35:17.070 --> 00:35:18.804
I'll I'll send it to you after

643

00:35:18.804 --> 00:35:20.236
you're done testifying today,

644

00:35:20.240 --> 00:35:22.640
but we're gonna go through this a bit.

645

00:35:22.640 --> 00:35:24.488
It's by the way it's referenced

646

00:35:24.488 --> 00:35:26.634
in the Sierra Club petition that

647

00:35:26.634 --> 00:35:28.749
was filed regarding these streams.

648

00:35:28.750 --> 00:35:30.568
But let me go down to.

649

00:35:33.230 --> 00:35:34.358
Page 6 here.

650

00:35:36.520 --> 00:35:39.250
So your special Wildlife Service.

651

00:35:39.250 --> 00:35:41.830
Concluded that the tributaries

652

00:35:41.830 --> 00:35:44.410
to whole lava stream.

653

00:35:44.410 --> 00:35:48.430
Represent suitable habitat.

654

00:35:48.430 --> 00:35:53.410
For this and other damselfly species. Uhm?

655

00:35:57.610 --> 00:35:59.380
Let's see here for a second.

656

00:36:03.770 --> 00:36:05.866
So they have you ever heard of the

657

00:36:05.866 --> 00:36:08.229
and I I'm gonna garble this name?

658

00:36:08.230 --> 00:36:10.446
I'm not a I don't know Latin and

659

00:36:10.446 --> 00:36:12.457
I'm not a biologist but Meg.

660

00:36:12.460 --> 00:36:17.800
Mega Love green, damselfly species.

661

00:36:17.800 --> 00:36:21.568
Are you have are you aware of that?

662

00:36:21.570 --> 00:36:27.710

I am familiar with this a genius.

663

00:36:27.710 --> 00:36:30.280
You know we do reference.

664

00:36:30.280 --> 00:36:35.398
Or we there is a comprehensive.

665

00:36:35.400 --> 00:36:39.426
Book that UM has been published

666

00:36:39.426 --> 00:36:42.026
that describes their distribution,

667

00:36:42.026 --> 00:36:44.956
but it's it's not very.

668

00:36:44.960 --> 00:36:48.290
It's not specific to hydrologic units.

669

00:36:48.290 --> 00:36:49.754
It's kind of like.

670

00:36:49.754 --> 00:36:51.218
Somewhere in East Maui

671

00:36:51.218 --> 00:36:52.700
somewhere in West Maui.

672

00:36:52.700 --> 00:36:53.999
Elevational descriptions but

673

00:36:53.999 --> 00:36:57.030
and so I do know that there

674

00:36:57.111 --> 00:36:59.196
are quite a few endangered.

675

00:37:01.250 --> 00:37:05.790
Magnolia Medical, Eric that genius

676

00:37:05.790 --> 00:37:07.250
understood we could we could.

677

00:37:07.250 --> 00:37:11.600
So here is a specific document.

678

00:37:11.600 --> 00:37:14.655
With specific reference to the

679

00:37:14.655 --> 00:37:17.140
Hola tributaries that says they

680

00:37:17.140 --> 00:37:19.240
were found to harbor populations

681

00:37:19.240 --> 00:37:21.620
of this endangered species,

682

00:37:21.620 --> 00:37:25.316
now that you are aware of this information.

683

00:37:25.320 --> 00:37:27.495
Should that information

684

00:37:27.495 --> 00:37:30.395
affect your conclusion about?

685

00:37:30.400 --> 00:37:32.828
Do you? Weather, water,

686

00:37:32.828 --> 00:37:36.076
any water should be restored to whole

687

00:37:36.076 --> 00:37:38.780
lava stream and its tributaries.

688

00:37:38.780 --> 00:37:42.551
So I would need to know at what elevation

689

00:37:42.551 --> 00:37:44.599

specifically the species prefers.

690

00:37:44.600 --> 00:37:49.790

And so that might influence our.

691

00:37:49.790 --> 00:37:51.248

The recommendations are

692

00:37:51.248 --> 00:37:52.220

future recommendations,

693

00:37:52.220 --> 00:37:54.068

but I want to let me read this

694

00:37:54.068 --> 00:37:56.029

to you because even that said,

695

00:37:56.030 --> 00:37:59.705

read this before both of these branches.

696

00:37:59.710 --> 00:38:02.215

This is page 6 of exhibit Y-41.

697

00:38:02.215 --> 00:38:04.240

Both of these branches were

698

00:38:04.240 --> 00:38:06.410

previously surveyed by the author.

699

00:38:06.410 --> 00:38:10.826

In 2008, at their points of diversion on,

700

00:38:10.830 --> 00:38:11.606

the EMI,

701

00:38:11.606 --> 00:38:14.322

did system and both were found to

702

00:38:14.322 --> 00:38:17.222

harbor populations of the native skip.

703

00:38:17.222 --> 00:38:19.030
The Latin damselfly species,

704

00:38:19.030 --> 00:38:23.027
including the Endangered Species Act, listed.

705

00:38:23.027 --> 00:38:25.538
Megalo gorean pacificum.

706

00:38:25.538 --> 00:38:28.049
You see that?

707

00:38:28.050 --> 00:38:30.660
So that's a Pacific specific reference

708

00:38:30.660 --> 00:38:32.820
to a specific hydrologic unit,

709

00:38:32.820 --> 00:38:36.579
and not just that a specific place.

710

00:38:36.580 --> 00:38:40.899
So is this information useful to you?

711

00:38:40.900 --> 00:38:43.777
Will this information be useful to you

712

00:38:43.777 --> 00:38:46.272
in deciding whether any water should

713

00:38:46.272 --> 00:38:48.636
be returned to whole lava stream?

714

00:38:48.640 --> 00:38:51.734
Definitely it will be considered if,

715

00:38:51.734 --> 00:38:54.710
especially if the species.

716

00:38:54.710 --> 00:39:00.820

Prefers habitat below the diversion. Sure.

717

00:39:00.820 --> 00:39:04.236

Sure, and uhm, just so you know here.

718

00:39:04.240 --> 00:39:07.440

Let's see if I can bring it up.

719

00:39:07.440 --> 00:39:08.030

Uhm?

720

00:39:10.120 --> 00:39:12.580

This, according to this report,

721

00:39:12.580 --> 00:39:15.070

two species of Endangered Species Act

722

00:39:15.070 --> 00:39:17.207

listed down blowflies are currently

723

00:39:17.207 --> 00:39:19.655

known to occur in the drainage

724

00:39:19.655 --> 00:39:21.480

of northern Haleakala Volcano.

725

00:39:21.480 --> 00:39:23.856

Skip the name of the species

726

00:39:23.856 --> 00:39:25.440

a formerly widespread species,

727

00:39:25.440 --> 00:39:28.308

which breeds and stream overflow channels,

728

00:39:28.310 --> 00:39:30.565

and occurs a scattered colonies

729

00:39:30.565 --> 00:39:32.425

and 12 catchment catchments,

730
00:39:32.425 --> 00:39:35.455
traversed by the EMI Ditch system.

731
00:39:35.460 --> 00:39:37.390
Such kind of important information, isn't it?

732
00:39:40.310 --> 00:39:41.618
Is that you know we have

733
00:39:41.618 --> 00:39:42.810
to get this audio says,

734
00:39:42.810 --> 00:39:44.370
can you give a yes or no verbal?

735
00:39:44.370 --> 00:39:46.568
Yeah yes, but it's also important to

736
00:39:46.568 --> 00:39:48.299
know what elevation they live at.

737
00:39:48.300 --> 00:39:51.666
Sure, so when you have a

738
00:39:51.666 --> 00:39:55.390
chance to read this. Uh.

739
00:39:58.300 --> 00:39:59.615
Report you'll see that they

740
00:39:59.615 --> 00:40:01.498
went on the trip that I'm sure

741
00:40:01.498 --> 00:40:03.028
you've gone many times up to.

742
00:40:03.030 --> 00:40:04.920
I believe it's my lower ditch

743
00:40:04.920 --> 00:40:06.180

right around that area.

744

00:40:06.180 --> 00:40:10.466
So, uhm. OK, let's stop this,

745

00:40:10.466 --> 00:40:12.710
but move on to another US

746

00:40:12.795 --> 00:40:14.827
Fish and Wildlife letter.

747

00:40:30.710 --> 00:40:33.270
Uh. Whoops

748

00:40:38.380 --> 00:40:39.470
trans again.

749

00:40:43.480 --> 00:40:46.444
Alright, do you see the corrected

750

00:40:46.444 --> 00:40:49.270
final impact statement, volume 3?

751

00:40:49.270 --> 00:40:53.852
Yes. Can we go down here? Let me,

752

00:40:53.852 --> 00:40:56.100
I guess I'll just Scroll down like this.

753

00:40:56.100 --> 00:40:58.494
So this is a letter from EU.

754

00:40:58.500 --> 00:41:00.504
S. Fish and Wildlife

755

00:41:00.504 --> 00:41:02.290
Service dated December 2016.

756

00:41:02.290 --> 00:41:04.250
Have you ever seen this letter before?

757

00:41:04.250 --> 00:41:06.560
No, OK, let's go down to.

758

00:41:10.840 --> 00:41:16.408
Oh, let's see. Oh yeah, let's go down page 8.

759

00:41:18.760 --> 00:41:23.305
So let me come, read this off to you.

760

00:41:23.310 --> 00:41:25.090
The long history of stream

761

00:41:25.090 --> 00:41:27.598
diversions by the the EMI system

762

00:41:27.598 --> 00:41:29.894
on East Maui has created an array

763

00:41:29.894 --> 00:41:32.110
of impact to trust resources,

764

00:41:32.110 --> 00:41:34.090
including both the native

765

00:41:34.090 --> 00:41:35.575
stream bought biota.

766

00:41:35.580 --> 00:41:37.750
Other species which inhabit the

767

00:41:37.750 --> 00:41:39.920
adjacent upland forests and near

768

00:41:39.995 --> 00:41:42.200
shore marine ecosystems that rely

769

00:41:42.200 --> 00:41:44.405
on streams for nutrient inputs.

770

00:41:44.410 --> 00:41:46.398

Several native stream associated

771

00:41:46.398 --> 00:41:48.883
insect species occurring on East

772

00:41:48.883 --> 00:41:52.056
Maui water lease areas are now listed

773

00:41:52.056 --> 00:41:54.150
under the Endangered Species Act,

774

00:41:54.150 --> 00:41:55.671
specifically the damselflies,

775

00:41:55.671 --> 00:41:58.713
and there's three damselflies listed there.

776

00:41:58.720 --> 00:42:01.520
All three designated as endangered.

777

00:42:01.520 --> 00:42:03.310
The first mentioned species breeds

778

00:42:03.310 --> 00:42:05.690
and streams pools and side channels,

779

00:42:05.690 --> 00:42:07.635
with adults patrolling the margins

780

00:42:07.635 --> 00:42:10.071
of stream corridor on the stream

781

00:42:10.071 --> 00:42:11.755
corridor and therefore suffers

782

00:42:11.755 --> 00:42:14.366
direct impacts from loss of habitat

783

00:42:14.366 --> 00:42:16.526
linked to diminish stream flows.

784

00:42:18.810 --> 00:42:20.022
And then there's I'll go to

785

00:42:20.022 --> 00:42:21.370
the end of the paragraph.

786

00:42:21.370 --> 00:42:24.172
Higher rates of diversion will therefore

787

00:42:24.172 --> 00:42:26.941
lead to higher rates of direct

788

00:42:26.941 --> 00:42:30.470
impact to all these listed species.

789

00:42:30.470 --> 00:42:32.615
Is this information important in

790

00:42:32.615 --> 00:42:35.193
determining whether and how much water

791

00:42:35.193 --> 00:42:37.395
should flow in seiyo lava stream?

792

00:42:39.480 --> 00:42:41.972
Again, I would have to look at

793

00:42:41.972 --> 00:42:44.282
species by species if they are

794

00:42:44.282 --> 00:42:46.610
impacted at lower elevations or not.

795

00:42:46.610 --> 00:42:51.700
But you haven't done that yet, no. OK. Now.

796

00:42:54.130 --> 00:42:56.430
This. Ah.

797

00:43:01.090 --> 00:43:05.170

And this is not mentioned at all in

798

00:43:05.170 --> 00:43:08.090

your ISR. Types are correct, correct?

799

00:43:14.340 --> 00:43:17.422

Next, did you come? Consider the

800

00:43:17.422 --> 00:43:19.459

adverse impact of mosquitoes in any of

801

00:43:19.459 --> 00:43:21.467

your draft five stars or the summary.

802

00:43:25.670 --> 00:43:28.410

I can't recall we generally.

803

00:43:28.410 --> 00:43:30.426

I mean, mosquitoes are a big

804

00:43:30.426 --> 00:43:32.177

problem that are affected by

805

00:43:32.177 --> 00:43:33.887

a number of factors including.

806

00:43:33.890 --> 00:43:39.200

Presence of pig wallows and other.

807

00:43:39.200 --> 00:43:42.158

You know predation by other species.

808

00:43:42.160 --> 00:43:46.344

I mean it's it's. A challenging

809

00:43:46.344 --> 00:43:49.908

issue to try and address alright,

810

00:43:49.908 --> 00:43:52.344

so let me go through this again.

811

00:43:52.350 --> 00:43:55.045
It's a letter from EU S Fish

812

00:43:55.045 --> 00:43:58.790
and Wildlife Service. Uhm?

813

00:43:58.790 --> 00:44:01.994
Let me read this to you from page 10.

814

00:44:02.000 --> 00:44:04.712
Among the major threats,

815

00:44:04.712 --> 00:44:07.942
major threats to the survival in the wild

816

00:44:07.942 --> 00:44:11.101
of the two listed forest bird species is

817

00:44:11.101 --> 00:44:14.227
mortality caused by avian malaria malaria,

818

00:44:14.230 --> 00:44:16.495
which is vectored by the

819

00:44:16.495 --> 00:44:17.854
introduced mosquito Culex.

820

00:44:17.860 --> 00:44:20.366
Again I can't deal with the Latin.

821

00:44:20.370 --> 00:44:22.035
This mosquito species

822

00:44:22.035 --> 00:44:24.255
breeds in stagnant pools,

823

00:44:24.260 --> 00:44:25.868
free from fish,

824

00:44:25.868 --> 00:44:27.476

in dewatered streambeds,

825

00:44:27.480 --> 00:44:30.552
and is by contrast uncommon along

826

00:44:30.552 --> 00:44:32.600
stream channels with continuous

827

00:44:32.687 --> 00:44:35.367
flow and healthy fish populations.

828

00:44:35.370 --> 00:44:37.738
By converting continuously flowing

829

00:44:37.738 --> 00:44:40.698
streams into nearly dry beds

830

00:44:40.698 --> 00:44:43.389
with scattered small spools,

831

00:44:43.390 --> 00:44:46.030
the current EMI diversions thus

832

00:44:46.030 --> 00:44:48.670
create corridors of habitat by

833

00:44:48.761 --> 00:44:51.486
which Culex mosquitoes can penetrate

834

00:44:51.486 --> 00:44:54.932
uphill more deeply into the native

835

00:44:54.932 --> 00:44:58.082
forest and more readily reach

836

00:44:58.082 --> 00:45:00.602
susceptible native force populations.

837

00:45:00.610 --> 00:45:03.734
This represents a significant.

838
00:45:03.734 --> 00:45:08.060
Although indirect impact at the proposed

839
00:45:08.060 --> 00:45:11.155
diversions to this set of listed

840
00:45:11.155 --> 00:45:13.560
species now given this information

841
00:45:13.653 --> 00:45:16.747
from EU S Fish and Wildlife Service.

842
00:45:16.750 --> 00:45:18.650
You have not considered this

843
00:45:18.650 --> 00:45:20.170
information in drafting your

844
00:45:20.170 --> 00:45:21.908
life stars or the summary,

845
00:45:21.910 --> 00:45:22.775
correct,

846
00:45:22.775 --> 00:45:23.640
correct?

847
00:45:26.480 --> 00:45:27.548
It is, however,

848
00:45:27.548 --> 00:45:30.050
relevant information, isn't it?

849
00:45:30.050 --> 00:45:34.448
Again, if there are endangered birds,

850
00:45:34.450 --> 00:45:36.058
malca of these diversions,

851
00:45:36.058 --> 00:45:38.068

we definitely should consider it.

852

00:45:38.070 --> 00:45:39.360

OK, thank you.

853

00:45:41.970 --> 00:45:43.878

Can't stop sharing.

854

00:45:47.930 --> 00:45:51.110

No one issue that you've noted

855

00:45:51.110 --> 00:45:55.109

along the two hot lava tributaries

856

00:45:55.110 --> 00:45:58.758

are overhanging barriers, right?

857

00:45:58.760 --> 00:46:04.270

Now they form. A.

858

00:46:04.270 --> 00:46:06.510

Restriction to upstream migration.

859

00:46:06.510 --> 00:46:10.006

OK, let's I'm going to bring up a photo

860

00:46:10.006 --> 00:46:12.699

that you've provided in your report.

861

00:46:12.700 --> 00:46:14.338

If I can find that ago.

862

00:46:17.770 --> 00:46:20.040

Ah, keep messing this up.

863

00:46:28.810 --> 00:46:29.760

Try again.

864

00:46:34.770 --> 00:46:35.400

Mara.

865
00:46:37.710 --> 00:46:40.530
So. Uhm, I believe it's

866
00:46:40.530 --> 00:46:43.350
page 11 of your report.

867
00:46:47.580 --> 00:46:48.080
No.

868
00:46:50.140 --> 00:46:52.465
Oh Europeans liven up the

869
00:46:52.465 --> 00:46:55.180
PDF that these are the UM.

870
00:46:55.180 --> 00:46:56.806
Overhanging barriers you've

871
00:46:56.806 --> 00:46:59.620
described right. Correct?

872
00:46:59.620 --> 00:47:01.928
Hum. How many diversions

873
00:47:01.928 --> 00:47:04.236
are above these overhangs?

874
00:47:07.450 --> 00:47:09.599
Well, I should say how many dishes?

875
00:47:09.600 --> 00:47:16.119
Uh, to ditch is, UM, better at being.

876
00:47:16.120 --> 00:47:22.150
I mean, while while I knew Hamaker yes.

877
00:47:22.150 --> 00:47:26.504
And so there are. Two stitches below

878
00:47:26.504 --> 00:47:29.730

these overhanging barriers, correct, yes?

879

00:47:29.730 --> 00:47:35.150

And that that would be Laurian haiku, yes.

880

00:47:35.150 --> 00:47:40.259

OK, so it might make sense to ensure there

881

00:47:40.259 --> 00:47:43.376

is at least some water flowing through both

882

00:47:43.376 --> 00:47:46.216

haiku Ditch and Lowry did so that Opeiu,

883

00:47:46.220 --> 00:47:48.480

Alamo and Hope I can at least get as far

884

00:47:48.539 --> 00:47:53.370

as this overhang, right, correct? OK.

885

00:47:53.370 --> 00:47:56.436

So these overhangs are not a justification

886

00:47:56.436 --> 00:47:58.871

for complete diversion by either Lowry

887

00:47:58.871 --> 00:48:02.299

ditch or haiku, ditch, correct? OK.

888

00:48:05.030 --> 00:48:07.640

And have you performed any underwater

889

00:48:07.640 --> 00:48:10.368

surveys above these overhangs to see if

890

00:48:10.368 --> 00:48:12.503

there are any native fish above them?

891

00:48:12.510 --> 00:48:15.709

Yes, and you haven't found him correct.

892

00:48:15.710 --> 00:48:18.206
How many surveys did you do?

893

00:48:18.210 --> 00:48:20.218
2. When you say 2 is that one

894

00:48:20.218 --> 00:48:22.090
on each of the tributaries?

895

00:48:25.140 --> 00:48:28.817
Two twice I guess isn't so.

896

00:48:28.817 --> 00:48:32.156
So you did two on each tributary.

897

00:48:32.160 --> 00:48:34.295
One on whole Ave E and one

898

00:48:34.295 --> 00:48:36.260
on a tributary of Whole Ave.

899

00:48:38.860 --> 00:48:41.300
OK, so you did. So I'm and you

900

00:48:41.300 --> 00:48:45.610
did each of those twice, yes?

901

00:48:45.610 --> 00:48:49.048
And how long did you spend in the water?

902

00:48:49.050 --> 00:48:50.643
Couple of hours.

903

00:48:50.643 --> 00:48:53.298
And when did that occur?

904

00:48:53.300 --> 00:48:56.450
I guess my. Well, go ahead.

905

00:48:56.450 --> 00:48:57.620

2012 and 2017.

906

00:48:59.950 --> 00:49:04.566

2012 2017 Yes, and I guess more specifically,

907

00:49:04.570 --> 00:49:09.346

how long after a big rain event did

908

00:49:09.346 --> 00:49:12.650

you do that in other because right,

909

00:49:12.650 --> 00:49:14.180

'cause it's a big great event?

910

00:49:14.180 --> 00:49:16.490

Maybe they can get up above.

911

00:49:16.490 --> 00:49:19.172

So how long after big Rain event did did

912

00:49:19.172 --> 00:49:22.159

your surveys take place, right? I can't.

913

00:49:22.159 --> 00:49:25.930

I don't know that popped up my head.

914

00:49:25.930 --> 00:49:28.205

Yep. Whether we should draw a conclusion

915

00:49:28.205 --> 00:49:31.740

from from those two surveys, right?

916

00:49:31.740 --> 00:49:35.700

Definitely freshets can affect recruitment.

917

00:49:35.700 --> 00:49:38.010

Uhm, an absence of evidence

918

00:49:38.010 --> 00:49:40.320

is not evidence of absence.

919
00:49:40.320 --> 00:49:44.775
Sure, so there could be a Opal up there.

920
00:49:44.775 --> 00:49:47.250
We just don't know yet, correct?

921
00:49:49.470 --> 00:49:52.039
I mean, if they've learned how to

922
00:49:52.039 --> 00:49:54.864
jump across the so the problem with

923
00:49:54.864 --> 00:49:57.336
these two overhangs is that there's

924
00:49:57.411 --> 00:50:00.179
no wetted path naturally over them.

925
00:50:00.179 --> 00:50:04.075
What about when there's a huge, fresh,

926
00:50:04.075 --> 00:50:06.350
yet absolutely enormous rest fresh

927
00:50:06.350 --> 00:50:10.354
at along the sides now, so they they?

928
00:50:10.354 --> 00:50:13.630
Climb up in the margins of

929
00:50:13.752 --> 00:50:16.300
the flow and there's.

930
00:50:16.300 --> 00:50:18.836
It's it's not like they swim up the

931
00:50:18.836 --> 00:50:20.560
waterfall, so there's there's no.

932
00:50:20.560 --> 00:50:22.660

There's no substrate for them to

933

00:50:22.730 --> 00:50:24.767
climb on the right or left side.

934

00:50:24.770 --> 00:50:26.709
I mean, the photograph is only partial,

935

00:50:26.710 --> 00:50:28.138
but on the right or left side

936

00:50:28.138 --> 00:50:30.350
there's no way, right? OK.

937

00:50:32.430 --> 00:50:37.494
Uhm, no. In reaching the conclusions

938

00:50:37.494 --> 00:50:41.190
that you did in Exhibit D1,

939

00:50:41.190 --> 00:50:43.350
which is your summary and maybe

940

00:50:43.350 --> 00:50:46.076
I can go up to the top here.

941

00:50:46.080 --> 00:50:51.640
I think this is your summary, yeah? Uhm?

942

00:50:51.640 --> 00:50:55.679
You relied on the Hawaii Stream assessment.

943

00:50:55.680 --> 00:50:59.192
Correct? Correct? Now.

944

00:50:59.192 --> 00:51:02.684
Are you familiar with the caveats

945

00:51:02.684 --> 00:51:06.379
that the Hawaii Stream assessment

946
00:51:06.380 --> 00:51:11.410
produced in 1990 provides? Generally.

947
00:51:11.410 --> 00:51:14.020
Do you recognize that the assessment

948
00:51:14.020 --> 00:51:17.542
itself says it is a quote of a

949
00:51:17.542 --> 00:51:19.234
general nature is incomplete?

950
00:51:19.240 --> 00:51:23.188
Yes, do you realize that it

951
00:51:23.188 --> 00:51:25.162
specifically cautions quote?

952
00:51:25.170 --> 00:51:28.635
It may well be that some streams

953
00:51:28.635 --> 00:51:31.530
otherwise ranked would qualify as

954
00:51:31.530 --> 00:51:33.789
outstanding if their resources

955
00:51:33.789 --> 00:51:35.388
were sufficiently understood.

956
00:51:35.390 --> 00:51:37.605
The product the process should

957
00:51:37.605 --> 00:51:40.442
not be used to disregard those

958
00:51:40.442 --> 00:51:43.127
streams not ranked as outstanding.

959
00:51:43.130 --> 00:51:44.780

Yes.

960

00:51:44.780 --> 00:51:45.431
Nevertheless.

961

00:51:45.431 --> 00:51:49.337
You relied on the stream assessments

962

00:51:49.337 --> 00:51:53.252
report saying that none of the 12 streams

963

00:51:53.252 --> 00:51:57.129
in Halo were outstanding to diminish.

964

00:51:57.130 --> 00:51:59.610
Their quality, didn't you?

965

00:51:59.610 --> 00:52:02.480
Yes, we have to rely on the

966

00:52:02.480 --> 00:52:03.710
best available information.

967

00:52:03.710 --> 00:52:08.180
OK, and this assessment also warns.

968

00:52:08.180 --> 00:52:10.329
A rank of unknown was assigned to

969

00:52:10.329 --> 00:52:12.855
many streams when there is little or

970

00:52:12.855 --> 00:52:14.395
no published information available

971

00:52:14.395 --> 00:52:16.558
upon which to make an assessment.

972

00:52:16.560 --> 00:52:19.536
Streams with missing data should not

973
00:52:19.536 --> 00:52:22.410
be interpreted as without resources,

974
00:52:22.410 --> 00:52:24.818
but merely as without enough data to

975
00:52:24.818 --> 00:52:27.199
support a rank other than unknown.

976
00:52:27.200 --> 00:52:27.912
You realize.

977
00:52:27.912 --> 00:52:29.760
Assessment says that right, yes,

978
00:52:29.760 --> 00:52:32.700
which is why we're trying to do

979
00:52:32.700 --> 00:52:35.559
follow up information gathered.

980
00:52:35.560 --> 00:52:36.030
Great.

981
00:52:38.610 --> 00:52:41.714
When you drafted the Isars and this summary.

982
00:52:46.250 --> 00:52:47.810
How many people who live?

983
00:52:49.990 --> 00:52:51.838
How many people who live in whole

984
00:52:51.838 --> 00:52:53.700
of the stream had you talked to?

985
00:52:59.800 --> 00:53:02.145
I can't say I've thought my head.

986
00:53:02.150 --> 00:53:04.327

Have you talked to more since then?

987

00:53:04.330 --> 00:53:06.314

Yes, many more. Yes.

988

00:53:06.314 --> 00:53:10.560

When you drafted the stars and the summary,

989

00:53:10.560 --> 00:53:12.960

how many people who live on

990

00:53:12.960 --> 00:53:15.459

Opiola stream had you talked to?

991

00:53:15.460 --> 00:53:18.798

Nobody. How about since then?

992

00:53:18.798 --> 00:53:21.600

There's there's nobody who lives along, OK.

993

00:53:25.690 --> 00:53:27.834

Have you had you spoken to anyone who

994

00:53:27.834 --> 00:53:29.977

lives on any of the dozens who live

995

00:53:29.977 --> 00:53:31.940

streams for us to truck in water?

996

00:53:31.940 --> 00:53:35.960

When the streams run dry? Yes.

997

00:53:35.960 --> 00:53:38.024

You had spoken to them before you wrote.

998

00:53:38.030 --> 00:53:39.434

You write stars,

999

00:53:39.434 --> 00:53:42.428

know you've spoken to since, yes.

1000
00:53:42.428 --> 00:53:45.564
Does that information affect the

1001
00:53:45.564 --> 00:53:46.652
recommendations, conclusions,

1002
00:53:46.652 --> 00:53:49.916
characterizations that you provided in your?

1003
00:53:52.630 --> 00:53:55.756
A summary and I've stars yes.

1004
00:53:58.440 --> 00:54:01.224
In what way? Uhm,

1005
00:54:01.224 --> 00:54:04.068
the need to protect repairing uses.

1006
00:54:04.070 --> 00:54:07.154
That might include agriculture that are

1007
00:54:07.154 --> 00:54:10.839
reliant on their own stream diversions.

1008
00:54:10.840 --> 00:54:13.608
So you now believe more water should be

1009
00:54:13.608 --> 00:54:16.191
restored to these streams than you did

1010
00:54:16.191 --> 00:54:18.979
back in November 2020, correct, yes?

1011
00:54:21.710 --> 00:54:23.880
So nobody should be relying.

1012
00:54:23.880 --> 00:54:27.384
Today on that summary and those five stars.

1013
00:54:27.390 --> 00:54:30.030

Because you have new information correct.

1014

00:54:32.190 --> 00:54:37.146

The summary provides the baseline to start.

1015

00:54:37.150 --> 00:54:39.887

The analysis, but then we are working

1016

00:54:39.887 --> 00:54:41.900

on gathering additional information.

1017

00:54:45.190 --> 00:54:47.605

I understand that, but you've just said

1018

00:54:47.610 --> 00:54:49.528

in talking to people you realize now

1019

00:54:49.528 --> 00:54:51.418

what you didn't realize before is that

1020

00:54:51.418 --> 00:54:53.729

more water needs to be in these streams.

1021

00:54:53.730 --> 00:54:55.500

Some of these streams, yes.

1022

00:54:55.500 --> 00:54:58.468

Therefore, given that no one should be

1023

00:54:58.468 --> 00:55:01.189

relying on what's called exhibit D1,

1024

00:55:01.190 --> 00:55:03.254

or the summary correct?

1025

00:55:03.254 --> 00:55:05.318

Relying on the conclusions

1026

00:55:05.318 --> 00:55:06.350

and recommendations.

1027

00:55:06.350 --> 00:55:07.958
Correct, thank you.

1028

00:55:13.630 --> 00:55:16.550
Are the lower portions.

1029

00:55:16.550 --> 00:55:19.068
Oh follow Hulu stream shaded.

1030

00:55:21.080 --> 00:55:25.332
Uh, yes. Yet the Commission called

1031

00:55:25.332 --> 00:55:26.840
for its full restoration, right.

1032

00:55:35.650 --> 00:55:38.002
Hello, hold on I gotta think

1033

00:55:38.002 --> 00:55:40.729
I I thought you said Punaluu

1034

00:55:42.890 --> 00:55:43.570
a man.

1035

00:55:49.950 --> 00:55:52.064
Sorry, where is Paula who hold on?

1036

00:55:52.070 --> 00:55:54.510
I'm I you've changed locations

1037

00:55:54.510 --> 00:55:57.770
on me sorry sorry yeah we were.

1038

00:55:57.770 --> 00:56:00.675
I'm not I've gone beyond the wildest

1039

00:56:00.675 --> 00:56:04.820
dreams for comparison purposes. Pull out.

1040

00:56:04.820 --> 00:56:06.224

It would help if I brought up a map.

1041

00:56:09.110 --> 00:56:12.360

Hello hello in can I?

1042

00:56:12.360 --> 00:56:14.208

We're sorry, yeah. Bring up a map.

1043

00:56:16.510 --> 00:56:17.140

K.

1044

00:56:57.710 --> 00:56:59.620

I don't know if I'm going to go too far here.

1045

00:57:01.780 --> 00:57:03.026

And if I scroll and going too

1046

00:57:03.026 --> 00:57:05.448

fast for you, it probably is. Uh.

1047

00:57:11.990 --> 00:57:17.232

Is DC. Yep. So do you,

1048

00:57:17.232 --> 00:57:20.228

do you recall that this is a stream

1049

00:57:20.228 --> 00:57:22.532

that's full restoration, correct?

1050

00:57:22.532 --> 00:57:24.392

And yet it's shaded at

1051

00:57:24.392 --> 00:57:26.265

the bottom right, correct?

1052

00:57:26.265 --> 00:57:31.000

OK, other shaded sections of kopila.

1053

00:57:33.940 --> 00:57:36.759

I have not been active. I have not

1054
00:57:36.759 --> 00:57:38.824
accessed the entirety of kopila.

1055
00:57:47.430 --> 00:57:51.490
What about white boy? Yes.

1056
00:57:51.490 --> 00:57:54.100
It is shaded sections, yes.

1057
00:57:54.100 --> 00:57:56.420
What about Marco PP.

1058
00:57:56.420 --> 00:58:00.810
Uhm? Yes, to some extent.

1059
00:58:00.810 --> 00:58:05.390
OK, which streams up?

1060
00:58:05.390 --> 00:58:07.780
Has Colon fully restored that

1061
00:58:07.780 --> 00:58:09.214
have terminal waterfalls?

1062
00:58:15.000 --> 00:58:18.040
None. What about like Camilo?

1063
00:58:21.460 --> 00:58:24.380
OK, yeah, like Camilla.

1064
00:58:24.380 --> 00:58:27.212
OK, and even way comma is

1065
00:58:27.212 --> 00:58:28.658
a 64% based flow stream,

1066
00:58:28.658 --> 00:58:30.610
but it has a terminal test terminal.

1067
00:58:30.610 --> 00:58:32.404

Waterfalls, right, correct?

1068

00:58:32.404 --> 00:58:35.439

Hello Michael, Michael pee pee.

1069

00:58:35.440 --> 00:58:38.910

Has a small waterfall III.

1070

00:58:38.910 --> 00:58:40.919

Don't know if it would be characterized

1071

00:58:40.919 --> 00:58:43.070

by DAR as a terminal waterfall,

1072

00:58:43.070 --> 00:58:46.094

but it does have a small waterfall.

1073

00:58:46.100 --> 00:58:47.144

Do you characterize it

1074

00:58:47.144 --> 00:58:48.188

as a terminal waterfall?

1075

00:58:56.380 --> 00:58:58.420

I'd have to look at it

1076

00:58:58.420 --> 00:58:59.970

close more closely, it's.

1077

00:59:02.040 --> 00:59:03.612

It doesn't have the same characteristics

1078

00:59:03.612 --> 00:59:05.696

of what we would normally call it

1079

00:59:05.696 --> 00:59:07.662

terminal waterfall, which is cleaner.

1080

00:59:07.662 --> 00:59:10.702

The fact that stream has a

1081
00:59:10.702 --> 00:59:13.306
terminal waterfall is not.

1082
00:59:13.310 --> 00:59:16.382
A litmus test or bright line

1083
00:59:16.382 --> 00:59:18.430
in determining whether stream.

1084
00:59:18.430 --> 00:59:20.105
Stream flow should be restored

1085
00:59:20.105 --> 00:59:21.836
to the stream, correct? Correct?

1086
00:59:21.836 --> 00:59:23.651
There are other instream uses

1087
00:59:23.651 --> 00:59:25.839
that must be considered great.

1088
00:59:25.840 --> 00:59:26.400
Thank you.

1089
00:59:30.760 --> 00:59:33.829
I want to talk to you about Cole Airstream.

1090
00:59:37.270 --> 00:59:39.244
There are two cool air streams in

1091
00:59:39.244 --> 00:59:41.013
the revocable permit area, right?

1092
00:59:41.013 --> 00:59:44.631
Correct? One collect stream is a

1093
00:59:44.631 --> 00:59:49.130
tributary to Punaluu Stream, yes.

1094
00:59:49.130 --> 00:59:52.820

And that connects Malcov the highway.

1095

00:59:52.820 --> 00:59:55.972

Yep. The reach is Malka that it's called

1096

00:59:55.972 --> 00:59:59.496

cola is amalka the highway correct? K.

1097

00:59:59.496 --> 01:00:04.840

It's found in the Hahnemann new area, yes.

1098

01:00:04.840 --> 01:00:07.252

And the Water Commission set an

1099

01:00:07.252 --> 01:00:09.754

instream flow standard for it, right?

1100

01:00:09.754 --> 01:00:12.824

Yes. No, there's a different

1101

01:00:12.824 --> 01:00:16.250

cholest stream in the whoeler.

1102

01:00:16.250 --> 01:00:20.816

Yes, right? It was not part of the

1103

01:00:20.820 --> 01:00:22.644

Water Commission's contested case.

1104

01:00:22.644 --> 01:00:26.150

Hearing. Correct, correct?

1105

01:00:26.150 --> 01:00:27.720

That the collection we're talking

1106

01:00:27.720 --> 01:00:30.032

about right now in the whole area

1107

01:00:30.032 --> 01:00:31.742

ends with a terminal waterfall

1108
01:00:31.742 --> 01:00:33.420
entering the ocean, right?

1109
01:00:33.420 --> 01:00:34.070
Correct?

1110
01:00:36.350 --> 01:00:40.330
Now. The division of Aquatic

1111
01:00:40.330 --> 01:00:43.056
Resources recommended restoration of

1112
01:00:43.056 --> 01:00:46.766
STREAMFLOWS to this collective stream.

1113
01:00:46.770 --> 01:00:50.590
Do you realize that? Correct?

1114
01:00:50.590 --> 01:00:54.188
Do you disagree with the end of

1115
01:00:54.188 --> 01:00:55.730
aquatic resources recommendations?

1116
01:00:55.730 --> 01:00:58.338
Yes, you do, yes.

1117
01:01:02.140 --> 01:01:08.169
In 2017, a number of parties entered into

1118
01:01:08.169 --> 01:01:11.410
the Waimea Watershed Area Agreement.

1119
01:01:11.410 --> 01:01:13.826
Uhm, are you familiar at all with that?

1120
01:01:13.830 --> 01:01:17.330
Yes. OK, and the Water Commission

1121
01:01:17.330 --> 01:01:21.110

ratified that you know that yes.

1122

01:01:21.110 --> 01:01:22.790
And among the guiding principles,

1123

01:01:22.790 --> 01:01:25.200
the agreement states any diversion

1124

01:01:25.200 --> 01:01:27.610
from extreme must be justified

1125

01:01:27.690 --> 01:01:30.231
with no more water taken than is

1126

01:01:30.231 --> 01:01:32.590
needed for other beneficial uses,

1127

01:01:32.590 --> 01:01:34.865
and even then the health of the

1128

01:01:34.865 --> 01:01:37.548
stream must be preserved at all times.

1129

01:01:37.550 --> 01:01:39.662
All water is not needed at any time

1130

01:01:39.662 --> 01:01:42.072
at any given time, belonging or sorry.

1131

01:01:42.072 --> 01:01:45.589
All water is not needed at any given time.

1132

01:01:45.590 --> 01:01:48.890
Belong in the stream.

1133

01:01:48.890 --> 01:01:52.418
That sound familiar, yes.

1134

01:01:52.420 --> 01:01:55.660
Do you agree with that principle?

1135

01:01:55.660 --> 01:01:56.988

He said yes, yes,

1136

01:01:56.988 --> 01:02:00.489

and you apply it to your work in East Maui.

1137

01:02:00.490 --> 01:02:04.826

And what any smelly? What about you smelling?

1138

01:02:04.826 --> 01:02:06.420

Sorry, do you apply that principle

1139

01:02:06.420 --> 01:02:07.950

in your work in East Maui?

1140

01:02:07.950 --> 01:02:08.520

Yes.

1141

01:02:10.530 --> 01:02:14.610

What's what's the definition of waste?

1142

01:02:14.610 --> 01:02:20.324

Water removed out of a source that is

1143

01:02:20.324 --> 01:02:24.044

not utilized. What's the difference

1144

01:02:24.044 --> 01:02:26.284

between system loss and waste?

1145

01:02:26.290 --> 01:02:30.586

A system loss is the UM.

1146

01:02:30.590 --> 01:02:33.260

Incidental loss of water removed from

1147

01:02:33.260 --> 01:02:36.240

a source before it gets utilized,

1148

01:02:36.240 --> 01:02:39.930

so it's incidental, right? Yeah, OK.

1149

01:02:39.930 --> 01:02:41.642
Now if I take a glass of water

1150

01:02:41.642 --> 01:02:43.746
and I just pour it on the ground.

1151

01:02:43.750 --> 01:02:46.730
Have I wasted the water?

1152

01:02:46.730 --> 01:02:49.466
I mean, are you growing something on this Mr.

1153

01:02:49.470 --> 01:02:52.662
Frankel? You know, we've,

1154

01:02:52.662 --> 01:02:53.758
we've gone pretty extensively

1155

01:02:53.758 --> 01:02:55.040
into the waste argument,

1156

01:02:55.040 --> 01:02:57.728
which was an argument at trial.

1157

01:02:57.730 --> 01:02:59.805
So unless you're covering some

1158

01:02:59.805 --> 01:03:03.230
new ground here. Uhm I am I am.

1159

01:03:03.230 --> 01:03:05.486
This is foundational to

1160

01:03:05.486 --> 01:03:07.178
understanding his understanding.

1161

01:03:07.180 --> 01:03:09.640
Before I asked my next questions.

1162

01:03:09.640 --> 01:03:12.800
So again, Doctor Straub I'm.

1163

01:03:12.800 --> 01:03:13.668
I'm not throwing anything,

1164

01:03:13.668 --> 01:03:14.753
just pouring in the ground.

1165

01:03:14.760 --> 01:03:17.248
Haven't wasted the water.

1166

01:03:17.250 --> 01:03:21.275
It would appear to be self right.

1167

01:03:21.280 --> 01:03:28.200
OK, now. I wanna show you exhibit Y1.

1168

01:03:35.090 --> 01:03:38.114
Why one free information is a

1169

01:03:38.114 --> 01:03:41.200
summary of the reports that come.

1170

01:03:44.080 --> 01:03:45.844
EMI and NBA put together in

1171

01:03:45.844 --> 01:03:47.749
terms of how they use water.

1172

01:03:54.350 --> 01:03:59.490
Can you see that yes? Now. Uhm?

1173

01:04:02.450 --> 01:04:05.780
Yesterday we learned from Mark Vaughn.

1174

01:04:05.780 --> 01:04:07.960
That the total capacity,

1175

01:04:07.960 --> 01:04:11.790

the capacity of all the reservoirs that.

1176

01:04:11.790 --> 01:04:16.158

Uhm, Mahi Pono is using this year.

1177

01:04:16.160 --> 01:04:18.300

And has been using.

1178

01:04:18.300 --> 01:04:20.153

There are nine of them, right?

1179

01:04:20.153 --> 01:04:23.184

She add up all the individual figures.

1180

01:04:23.190 --> 01:04:25.698

Their total capacity is

1181

01:04:25.700 --> 01:04:27.161

350.7 million gallons.

1182

01:04:27.161 --> 01:04:31.260

Is that a figure you've ever heard before?

1183

01:04:31.260 --> 01:04:36.363

No, OK, now I want to go back to.

1184

01:04:36.370 --> 01:04:41.020

Come November 2020.

1185

01:04:41.020 --> 01:04:42.675

And let's assume just for

1186

01:04:42.675 --> 01:04:46.090

the sake of argument that.

1187

01:04:46.090 --> 01:04:48.477

So actually I should explain this chart

1188

01:04:48.477 --> 01:04:50.850

a little more before we go into it.

1189
01:04:50.850 --> 01:04:53.013
This top line shows how much water

1190
01:04:53.013 --> 01:04:55.236
was diverted from all the East Maui

1191
01:04:55.236 --> 01:04:57.090
streams as measured at Home Depot.

1192
01:04:57.090 --> 01:05:01.880
Uh, the third line is this sort of

1193
01:05:01.880 --> 01:05:03.940
amorphous category that Ambien MI

1194
01:05:03.940 --> 01:05:06.425
used to describe water put in their

1195
01:05:06.425 --> 01:05:08.982
reservoirs that might be used for Fire

1196
01:05:08.982 --> 01:05:10.822
Protection might evaporate a little

1197
01:05:10.822 --> 01:05:13.041
bit used for dust control, hydroelectric,

1198
01:05:13.041 --> 01:05:15.867
but then at water still used.

1199
01:05:15.870 --> 01:05:16.560
And this water,

1200
01:05:16.560 --> 01:05:18.570
by the way in this category is distinct

1201
01:05:18.570 --> 01:05:20.670
and different from the other categories,

1202
01:05:20.670 --> 01:05:22.952

so the other categories are the county's

1203

01:05:22.952 --> 01:05:25.364

Department of water supplies using water,

1204

01:05:25.370 --> 01:05:25.741

the.

1205

01:05:25.741 --> 01:05:28.338

Cooler AG Park my Pono which is

1206

01:05:28.338 --> 01:05:31.090

measured in divided difference I tag,

1207

01:05:31.090 --> 01:05:32.302

but apparently there's some

1208

01:05:32.302 --> 01:05:33.817

additional folks beyond my point

1209

01:05:33.817 --> 01:05:35.450

who are doing some diversified.

1210

01:05:35.450 --> 01:05:36.650

I gets captured there.

1211

01:05:36.650 --> 01:05:38.150

This sort of strange category

1212

01:05:38.150 --> 01:05:39.662

historical industrial uses that we

1213

01:05:39.662 --> 01:05:41.402

don't need to trouble ourselves with.

1214

01:05:41.410 --> 01:05:43.482

Now we mostly want I want to

1215

01:05:43.482 --> 01:05:45.500

focus on this third category,

1216
01:05:45.500 --> 01:05:47.550
reservoir Fire Protection of operation,

1217
01:05:47.550 --> 01:05:50.638
test control, etc. So.

1218
01:05:50.640 --> 01:05:53.392
If you go to November 20, November 2020,

1219
01:05:53.392 --> 01:05:56.347
let's assume on November 1st.

1220
01:05:56.350 --> 01:05:59.200
All the reservoirs were completely empty,

1221
01:05:59.200 --> 01:06:01.699
right completely empty.

1222
01:06:01.700 --> 01:06:02.426
Now.

1223
01:06:02.426 --> 01:06:05.330
If they had 18.

1224
01:06:07.670 --> 01:06:10.822
.11 million gallons a day to pot of

1225
01:06:10.822 --> 01:06:13.400
water deposited into these reservoirs.

1226
01:06:16.140 --> 01:06:17.529
In 30 days.

1227
01:06:19.610 --> 01:06:23.770
That would be 540 million gallons of water.

1228
01:06:23.770 --> 01:06:29.775
Which is more? Then the 350. .7 will say

1229
01:06:29.775 --> 01:06:32.570

351 million gallon capacity. Much more.

1230

01:06:34.720 --> 01:06:39.364

And then in the next month they used even

1231

01:06:39.364 --> 01:06:42.470

more water and then January even more.

1232

01:06:42.470 --> 01:06:45.564

February even less, but still a lot.

1233

01:06:45.570 --> 01:06:48.048

And in March 18th these are all

1234

01:06:48.048 --> 01:06:52.080

what they're getting are. Uhm?

1235

01:06:52.080 --> 01:06:54.635

Significantly more water than the

1236

01:06:54.635 --> 01:06:57.190

capacity of all these reservoirs.

1237

01:06:57.190 --> 01:06:59.800

Now they say this water is being used, but.

1238

01:07:02.250 --> 01:07:04.734

Do you have any idea where that water goes?

1239

01:07:08.100 --> 01:07:10.879

It would probably be site specific I'm.

1240

01:07:10.880 --> 01:07:14.970

I don't know their farm system. K.

1241

01:07:17.980 --> 01:07:21.795

If water from the dozen hello streams.

1242

01:07:21.800 --> 01:07:25.478

With the status quo, I FSS.

1243

01:07:25.480 --> 01:07:27.850
He's not actually being used.

1244

01:07:27.850 --> 01:07:29.754
Should that water be flowing in the streams?

1245

01:07:34.750 --> 01:07:37.900
If the Commission decides that its waste.

1246

01:07:41.750 --> 01:07:44.750
Well, if it's not being used.

1247

01:07:44.750 --> 01:07:46.916
And I believe that's pretty consistent

1248

01:07:46.916 --> 01:07:48.770
with your definition of waste.

1249

01:07:48.770 --> 01:07:49.690
It's not being used.

1250

01:07:49.690 --> 01:07:50.610
Should it be going?

1251

01:07:50.610 --> 01:07:52.848
Should it be in the streams?

1252

01:07:52.850 --> 01:07:55.394
So if water is being discharged

1253

01:07:55.394 --> 01:07:58.106
into a dry Gulch, that is.

1254

01:07:58.106 --> 01:08:00.646
Should be in another Gulch,

1255

01:08:00.650 --> 01:08:02.546
then yes, that would be waste.

1256

01:08:02.550 --> 01:08:06.876

But this water is remaining in reservoirs.

1257

01:08:06.880 --> 01:08:08.728

I mean, that's that's a decision

1258

01:08:08.728 --> 01:08:10.310

for the Commission to make.

1259

01:08:10.310 --> 01:08:12.788

I I don't deal with that,

1260

01:08:12.790 --> 01:08:13.900

except it's not, you know,

1261

01:08:13.900 --> 01:08:15.430

remaining in these reservoirs because,

1262

01:08:15.430 --> 01:08:18.006

at least as we've talked about the capacity

1263

01:08:18.006 --> 01:08:21.219

to 50 million gallons and in a single month.

1264

01:08:21.220 --> 01:08:22.705

More than 500 million gallons

1265

01:08:22.705 --> 01:08:24.190

is going to these reservoirs.

1266

01:08:24.190 --> 01:08:25.618

That water is going somewhere right?

1267

01:08:25.620 --> 01:08:27.240

'cause the capacity is capacity,

1268

01:08:27.240 --> 01:08:29.310

either it's seeping into the ground,

1269

01:08:29.310 --> 01:08:30.603

or it's evaporating,

1270
01:08:30.603 --> 01:08:33.620
or something else is happening to it.

1271
01:08:33.620 --> 01:08:36.609
But if they haven't documented its use.

1272
01:08:36.610 --> 01:08:38.835
How can that be characterized

1273
01:08:38.835 --> 01:08:40.615
as anything but waste?

1274
01:08:40.620 --> 01:08:44.225
Again, that's not from me to decide.

1275
01:08:44.230 --> 01:08:45.898
Well, how about when you make

1276
01:08:45.898 --> 01:08:47.318
your staff recommendation in terms

1277
01:08:47.318 --> 01:08:48.878
of the five stars you've looked?

1278
01:08:48.880 --> 01:08:50.014
You've talked about?

1279
01:08:50.014 --> 01:08:50.770
Offstream uses.

1280
01:08:50.770 --> 01:08:51.730
You do analyze waste.

1281
01:08:51.730 --> 01:08:53.584
When you do that, don't you?

1282
01:08:53.584 --> 01:08:58.806
We look at the actual use of a demand by

1283
01:08:58.806 --> 01:09:02.626

agriculture and other industrial needs,

1284

01:09:02.630 --> 01:09:05.960
and that's what we have done.

1285

01:09:05.960 --> 01:09:09.137
Do you know if this category is actual use?

1286

01:09:09.140 --> 01:09:10.700
I can't tell my head,

1287

01:09:10.700 --> 01:09:12.220
I don't.

1288

01:09:12.220 --> 01:09:14.294
Recall what you know.

1289

01:09:14.294 --> 01:09:16.510
What we did was we ran IW Reds,

1290

01:09:16.510 --> 01:09:18.595
which is our integrated water

1291

01:09:18.595 --> 01:09:20.263
resource decision support tool.

1292

01:09:20.270 --> 01:09:22.442
Which models irrigation needs

1293

01:09:22.442 --> 01:09:24.614
for different drought scenarios

1294

01:09:24.614 --> 01:09:26.970
for various crops and soils.

1295

01:09:26.970 --> 01:09:29.562
And we have estimated the actual

1296

01:09:29.562 --> 01:09:31.762
irrigation demand for a variety

1297
01:09:31.762 --> 01:09:34.527
of crops for a variety of parcels

1298
01:09:34.530 --> 01:09:38.780
in the AG lands owned by A&B, so.

1299
01:09:38.780 --> 01:09:42.430
In that sense, we've estimated.

1300
01:09:42.430 --> 01:09:44.806
How much water is necessary to

1301
01:09:44.806 --> 01:09:45.994
grow various crops?

1302
01:09:46.000 --> 01:09:48.430
So that's how we estimated demand,

1303
01:09:48.430 --> 01:09:49.024
I understand,

1304
01:09:49.024 --> 01:09:51.103
but I'm not talking about this category,

1305
01:09:51.110 --> 01:09:52.565
which is down here talking

1306
01:09:52.565 --> 01:09:53.438
about diversified tags.

1307
01:09:53.440 --> 01:09:55.610
I'm talking about this category.

1308
01:09:55.610 --> 01:09:56.640
But if you don't know,

1309
01:09:56.640 --> 01:09:58.424
you don't know, let me ask you this.

1310
01:10:00.920 --> 01:10:03.880

If more water was returned.

1311

01:10:03.880 --> 01:10:07.360

To all or some of these dozen huellas

1312

01:10:07.360 --> 01:10:10.590

streams that have the status quo is.

1313

01:10:10.590 --> 01:10:13.690

Would there be some recreational

1314

01:10:13.690 --> 01:10:15.500

biological benefits? Yes.

1315

01:10:17.730 --> 01:10:21.946

And is there a golfer in central Maui, more

1316

01:10:21.946 --> 01:10:25.260

analogous cup or calendar, would you say?

1317

01:10:28.380 --> 01:10:32.680

I. Only anecdotally know this because I'm

1318

01:10:32.680 --> 01:10:35.042

not the groundwater person who analyzes

1319

01:10:35.042 --> 01:10:37.184

the geology of the Central Valley,

1320

01:10:37.190 --> 01:10:39.745

but I, I believe it's fairly Sandy,

1321

01:10:39.750 --> 01:10:44.670

so probably more like a collender.

1322

01:10:44.670 --> 01:10:46.497

So it's just. It's not stored there

1323

01:10:46.497 --> 01:10:49.396

like in a reservoir, it's more.

1324

01:10:49.396 --> 01:10:54.126
More likely as it were. I mean,

1325

01:10:54.126 --> 01:10:56.815
there's definitely still groundwater. Sure.

1326

01:10:56.815 --> 01:11:01.735
Sure, I'm just the soils are much sandier.

1327

01:11:01.740 --> 01:11:03.978
You want to talk about the

1328

01:11:03.978 --> 01:11:06.050
timing of the five stars.

1329

01:11:06.050 --> 01:11:07.418
When did you complete the draft?

1330

01:11:07.420 --> 01:11:08.090
Five stars.

1331

01:11:11.370 --> 01:11:12.170
May

1332

01:11:15.480 --> 01:11:17.470
2020. I think somewhere in

1333

01:11:17.470 --> 01:11:20.540
that give or take a month.

1334

01:11:20.540 --> 01:11:23.634
Isn't it more accurate to say they

1335

01:11:23.634 --> 01:11:25.833
were completed after the trial

1336

01:11:25.833 --> 01:11:28.185
that was held in August 2020?

1337

01:11:28.190 --> 01:11:29.758

They were well when you say complete,

1338

01:11:29.760 --> 01:11:30.840
there's still not complete.

1339

01:11:30.840 --> 01:11:32.190
There's still a draft form.

1340

01:11:32.190 --> 01:11:33.334
We're still making edits.

1341

01:11:33.334 --> 01:11:34.478
We're still adding data,

1342

01:11:34.480 --> 01:11:36.435
so there they won't be

1343

01:11:36.435 --> 01:11:37.999
complete for quite awhile.

1344

01:11:38.000 --> 01:11:41.280
The first initial pass through.

1345

01:11:41.280 --> 01:11:43.268
So the first initial pass through those

1346

01:11:43.268 --> 01:11:45.477
posted on your website that was provided

1347

01:11:45.477 --> 01:11:47.433
to the border land natural resources

1348

01:11:47.487 --> 01:11:49.167
at its meeting in November 2020,

1349

01:11:49.170 --> 01:11:52.200
when when were those that

1350

01:11:52.200 --> 01:11:54.624
draft that iteration completed?

1351

01:11:54.630 --> 01:11:56.670
I don't know whenever.

1352

01:11:56.670 --> 01:11:58.710
They were posted approximately

1353

01:11:58.710 --> 01:12:00.170
with that one October 2020.

1354

01:12:00.170 --> 01:12:02.168
Makes sense after the trial but

1355

01:12:02.168 --> 01:12:04.464
before the board and not resources

1356

01:12:04.464 --> 01:12:06.256
met sounds roughly accurate,

1357

01:12:06.260 --> 01:12:09.536
but I don't do the posting online

1358

01:12:09.540 --> 01:12:11.070
who told you to prepare this.

1359

01:12:11.070 --> 01:12:15.750
These eyesores and the summary. Uhm?

1360

01:12:15.750 --> 01:12:21.668
Yeah, as we states back to 2017, 2018,

1361

01:12:21.668 --> 01:12:25.820
as we were analyzing or coming up with.

1362

01:12:25.820 --> 01:12:29.558
R. Rough framework for developing in

1363

01:12:29.558 --> 01:12:33.960
stream flow stands for the entire state.

1364

01:12:33.960 --> 01:12:36.756

It was clear that even then,

1365

01:12:36.760 --> 01:12:38.704
that additional instrument clusters

1366

01:12:38.704 --> 01:12:42.640
would be necessary for the East Maui streams.

1367

01:12:42.640 --> 01:12:46.201
Uhm? Hi, you know.

1368

01:12:46.201 --> 01:12:49.820
That's so we're working across the state.

1369

01:12:49.820 --> 01:12:51.728
We have high priorities on Kawaii,

1370

01:12:51.730 --> 01:12:53.794
Molokai, Big Island.

1371

01:12:53.794 --> 01:12:55.170
So it's.

1372

01:12:55.170 --> 01:12:57.852
I mean, I can't tell you when or who

1373

01:12:57.860 --> 01:12:59.552
you can't tell me at all who I mean.

1374

01:12:59.560 --> 01:13:01.506
Was it your decision to prepare these

1375

01:13:01.506 --> 01:13:03.490
I've stars, or did somebody tell you?

1376

01:13:03.490 --> 01:13:06.829
Can you do this by certain date?

1377

01:13:06.830 --> 01:13:09.518
No, there's never been a deadline.

1378

01:13:09.520 --> 01:13:10.870

There's never been.

1379

01:13:14.990 --> 01:13:18.108

We work as fast as we can, but you know, I.

1380

01:13:18.108 --> 01:13:20.742

I don't think there was a single

1381

01:13:20.742 --> 01:13:25.130

person who said do this. OK.

1382

01:13:25.130 --> 01:13:27.643

Were they intended to provide the border

1383

01:13:27.643 --> 01:13:29.551

land natural resources key information

1384

01:13:29.551 --> 01:13:31.843

before its November 2020 decision to

1385

01:13:31.843 --> 01:13:33.700

continue their allocable permits.

1386

01:13:33.700 --> 01:13:37.444

No, they were really intended to start the

1387

01:13:37.444 --> 01:13:41.120

process of gathering field work too than.

1388

01:13:41.120 --> 01:13:44.900

Work on establishing IFC for these strings.

1389

01:13:44.900 --> 01:13:48.020

I mean the problem with 2020 is that we had

1390

01:13:48.095 --> 01:13:50.999

limited availability for field work and.

1391

01:13:51.000 --> 01:13:53.597

Now we specially the beginning of 2020.

1392

01:13:53.600 --> 01:13:55.640
We're really focused on some

1393

01:13:55.640 --> 01:13:58.564
other areas of the state, so.

1394

01:13:58.564 --> 01:14:03.110
I understand, I understand. So.

1395

01:14:06.390 --> 01:14:08.430
Well, talk about your summary.

1396

01:14:08.430 --> 01:14:10.870
I've started again, uhm?

1397

01:14:13.320 --> 01:14:14.204
That summary.

1398

01:14:14.204 --> 01:14:17.298
Is based on the draft five stars,

1399

01:14:17.300 --> 01:14:20.363
which are being refined as we said, right?

1400

01:14:20.363 --> 01:14:24.878
So the recommendation in there.

1401

01:14:24.880 --> 01:14:27.844
Is it is also?

1402

01:14:27.844 --> 01:14:30.808
A draft basically correct.

1403

01:14:30.810 --> 01:14:32.670
Has the Water Commission

1404

01:14:32.670 --> 01:14:34.995
voted to approve the summary?

1405
01:14:35.000 --> 01:14:37.334
I've never heard of the Water

1406
01:14:37.334 --> 01:14:39.660
Commission doing an action like that.

1407
01:14:39.660 --> 01:14:43.324
OK, so the summary is basically it's not

1408
01:14:43.324 --> 01:14:45.856
really the Commission's some Reaper say

1409
01:14:45.856 --> 01:14:48.280
it's the Commission Staffs draft summary,

1410
01:14:48.280 --> 01:14:50.488
right, correct? OK.

1411
01:14:55.080 --> 01:15:00.297
Uhm? You have agreed now that that summary

1412
01:15:00.297 --> 01:15:03.540
should not be relied upon to justify

1413
01:15:03.540 --> 01:15:07.070
not having more water in these streams,

1414
01:15:07.070 --> 01:15:10.345
because it's based on incomplete

1415
01:15:10.345 --> 01:15:12.164
information which and you've received

1416
01:15:12.164 --> 01:15:13.783
more information since then, right?

1417
01:15:13.783 --> 01:15:17.407
So that summary was good as of the

1418
01:15:17.407 --> 01:15:20.786

draft publication online, but you know

1419

01:15:20.786 --> 01:15:23.110
we were 14 months removed from that,

1420

01:15:23.110 --> 01:15:25.042
so we've gathered substantial.

1421

01:15:25.042 --> 01:15:29.195
You know, a lot more information to

1422

01:15:29.195 --> 01:15:33.600
refine our recommendations. OK, and uhm,

1423

01:15:33.600 --> 01:15:39.683
there's this one sentence that is.

1424

01:15:39.683 --> 01:15:45.040
In your. Uhm?

1425

01:15:45.040 --> 01:15:49.410
Report see if I can find it.

1426

01:15:49.410 --> 01:15:51.408
Uhm, it's a pretty. It's a.

1427

01:15:51.410 --> 01:15:56.240
It's a statement that has been used.

1428

01:15:56.240 --> 01:15:59.880
I'd say significantly up and it is.

1429

01:15:59.880 --> 01:16:01.147
Let's see if I can find it.

1430

01:16:04.170 --> 01:16:09.560
Thus. This is exhibit D1, page 15,

1431

01:16:09.560 --> 01:16:11.064
and maybe I'll bring it up for you.

1432

01:16:27.340 --> 01:16:30.290

OK, can you see that? Paige uhm.

1433

01:16:32.820 --> 01:16:34.348

Where is the page 15 of your summary?

1434

01:16:34.350 --> 01:16:36.580

Can you see that yeah.

1435

01:16:36.580 --> 01:16:38.806

Last, the non petition stream support

1436

01:16:38.806 --> 01:16:41.980

limited to not to know recruitment or

1437

01:16:41.980 --> 01:16:43.735

reproduction and existing diversions

1438

01:16:43.735 --> 01:16:46.165

have minimal impact on the life

1439

01:16:46.165 --> 01:16:48.180

history of native aquatic biota.

1440

01:16:48.180 --> 01:16:51.636

Do you still stand by that statement or a

1441

01:16:51.636 --> 01:16:54.660

statement that you feel needs to be refined?

1442

01:16:54.660 --> 01:16:56.207

I think it needs to be refined.

1443

01:16:56.210 --> 01:16:58.436

I also want to put in the

1444

01:16:58.436 --> 01:17:01.360

caveat that it was based on.

1445

01:17:01.360 --> 01:17:04.594

Only a few surveys that we were,

1446

01:17:04.600 --> 01:17:09.016

we had concluded by the time that this

1447

01:17:09.020 --> 01:17:11.588

these this data was put together.

1448

01:17:13.600 --> 01:17:17.134

As well as the Lowery and

1449

01:17:17.134 --> 01:17:20.500

haiku dishes were not in use.

1450

01:17:20.500 --> 01:17:21.750

In the last four years,

1451

01:17:21.750 --> 01:17:24.970

so you know, we've been.

1452

01:17:24.970 --> 01:17:26.754

Working on the assumption

1453

01:17:26.754 --> 01:17:28.538

that there would be.

1454

01:17:28.540 --> 01:17:30.157

Restored flow temporarily.

1455

01:17:30.157 --> 01:17:33.930

At least two gather that bio data.

1456

01:17:36.190 --> 01:17:38.171

OK, and you know that that there's

1457

01:17:38.171 --> 01:17:39.466

some still, even though those

1458

01:17:39.466 --> 01:17:40.676

dishes are not gathering water,

1459
01:17:40.680 --> 01:17:42.375
there's still some diversion structures

1460
01:17:42.375 --> 01:17:44.070
that are actually blocking the

1461
01:17:44.123 --> 01:17:45.818
stream from having continuous flow.

1462
01:17:45.820 --> 01:17:47.572
You understand that, right?

1463
01:17:47.572 --> 01:17:49.028
Yeah, OK, so.

1464
01:17:49.028 --> 01:17:53.100
Let me see if I can summarize this.

1465
01:17:53.100 --> 01:17:56.299
You've talked to people that live along

1466
01:17:56.299 --> 01:17:59.410
streams since this summary was produced.

1467
01:17:59.410 --> 01:18:01.828
You now have information about at

1468
01:18:01.828 --> 01:18:03.440
least the endangered damselfly.

1469
01:18:03.440 --> 01:18:05.260
You have some more information

1470
01:18:05.260 --> 01:18:05.988
about mosquitoes.

1471
01:18:05.990 --> 01:18:09.959
You've seen the effect of stream restoration,

1472
01:18:09.960 --> 01:18:12.308

and given all that,

1473

01:18:12.310 --> 01:18:14.640
because you have that information,

1474

01:18:14.640 --> 01:18:17.280
the recommendation conclusions in the

1475

01:18:17.280 --> 01:18:21.040
summary should not be relied upon anymore.

1476

01:18:21.040 --> 01:18:23.320
Right moving forward, correct.

1477

01:18:23.320 --> 01:18:24.460
Thank you.

1478

01:18:24.460 --> 01:18:27.470
Now I want to go to UM.

1479

01:18:29.510 --> 01:18:35.010
Stupid. D2 which is your PowerPoint.

1480

01:18:57.330 --> 01:19:00.650
Do you recognize this? Yes.

1481

01:19:00.650 --> 01:19:05.347
Uhm, so you know there's one thing.

1482

01:19:05.350 --> 01:19:07.566
That annoys me as much as wasting water,

1483

01:19:07.570 --> 01:19:09.720
and that's the passive voice.

1484

01:19:09.720 --> 01:19:12.180
You say here at the bottom.

1485

01:19:12.180 --> 01:19:14.994
Assumed water would be available from

1486
01:19:14.994 --> 01:19:17.719
non petition streams to meet Nons.

1487
01:19:17.720 --> 01:19:19.415
Non instream uses.

1488
01:19:19.415 --> 01:19:24.250
When you use the word assumed who assumed

1489
01:19:24.250 --> 01:19:27.785
the Commission, how do you know that?

1490
01:19:27.790 --> 01:19:31.417
Because is this is this are you drawing that?

1491
01:19:31.420 --> 01:19:32.808
Are you speculating that

1492
01:19:32.808 --> 01:19:34.196
they made that assumption?

1493
01:19:34.200 --> 01:19:35.964
Or do you know that your

1494
01:19:35.964 --> 01:19:37.490
personal knowledge of that fact?

1495
01:19:37.490 --> 01:19:39.919
I have personal knowledge of that fact.

1496
01:19:39.920 --> 01:19:41.726
Did you help write the decision?

1497
01:19:41.730 --> 01:19:44.988
No. So how could you?

1498
01:19:44.988 --> 01:19:47.400
Did you vote in the decision?

1499
01:19:47.400 --> 01:19:48.380

Absolutely not.

1500

01:19:48.380 --> 01:19:50.830

Did you participate in the

1501

01:19:50.830 --> 01:19:53.080

deliberations in the decision?

1502

01:19:53.080 --> 01:19:56.878

I answered questions from the Commission.

1503

01:19:56.880 --> 01:19:58.995

Did anyone in the Commission

1504

01:19:58.995 --> 01:20:01.622

ask you at anytime about the

1505

01:20:01.622 --> 01:20:03.346

ecological or recreational value

1506

01:20:03.346 --> 01:20:06.939

of any of the non petition streams?

1507

01:20:06.940 --> 01:20:08.610

No.

1508

01:20:08.610 --> 01:20:10.250

With any evidence whatsoever

1509

01:20:10.250 --> 01:20:12.300

provided to the Commission regarding

1510

01:20:12.300 --> 01:20:14.332

the biological recreational value

1511

01:20:14.332 --> 01:20:16.880

regarding non petition streams, no.

1512

01:20:19.050 --> 01:20:22.778

Does it make sense to allocate stream water?

1513
01:20:22.780 --> 01:20:25.180
Denon in stream uses before

1514
01:20:25.180 --> 01:20:27.580
you assess the streams value.

1515
01:20:27.580 --> 01:20:31.100
We weren't allocating what I was asked was

1516
01:20:31.100 --> 01:20:35.099
how much water is available from the system,

1517
01:20:35.100 --> 01:20:38.010
which includes non petition streams both

1518
01:20:38.010 --> 01:20:41.359
within and outside of the license area.

1519
01:20:41.360 --> 01:20:43.997
So you assumed that it would be OK to

1520
01:20:43.997 --> 01:20:46.905
take all the water from the non petition

1521
01:20:46.905 --> 01:20:49.207
streams prior to assessing their

1522
01:20:49.207 --> 01:20:52.048
ecological or recreational value, right?

1523
01:20:52.048 --> 01:20:55.933
I did not assume. I did not.

1524
01:20:55.933 --> 01:20:58.688
That was a Commission decision.

1525
01:20:58.690 --> 01:21:02.398
So you're saying the Commission acted

1526
01:21:02.400 --> 01:21:06.096

to approve the use of non instream use,

1527

01:21:06.100 --> 01:21:10.890
non approved non instream uses?

1528

01:21:10.890 --> 01:21:14.914
Even though it had no information before it.

1529

01:21:14.920 --> 01:21:16.392
Regarding the biological and

1530

01:21:16.392 --> 01:21:18.600
recreational value of the streams from

1531

01:21:18.657 --> 01:21:20.469
which that water was coming from,

1532

01:21:20.470 --> 01:21:23.390
I believe the Commission question

1533

01:21:23.390 --> 01:21:27.339
was how much is available from the

1534

01:21:27.339 --> 01:21:29.187
rest of the system.

1535

01:21:29.190 --> 01:21:33.408
That isn't included in this decision.

1536

01:21:33.410 --> 01:21:36.399
And whether it was intentional or not.

1537

01:21:36.400 --> 01:21:39.320
The effect of the Water Commission's

1538

01:21:39.320 --> 01:21:44.560
decision decision. Was too. Ascentia Lee.

1539

01:21:44.560 --> 01:21:50.489
Allow all the water from the non.

1540
01:21:50.490 --> 01:21:54.978
Petition streams to be diverted for.

1541
01:21:54.980 --> 01:21:57.840
Non instream uses right?

1542
01:21:57.840 --> 01:21:59.469
Correct, thank you.

1543
01:22:01.610 --> 01:22:02.120
Uhm?

1544
01:22:05.500 --> 01:22:08.830
If let's say another 22 streams.

1545
01:22:08.830 --> 01:22:11.850
Are quote more important than

1546
01:22:11.850 --> 01:22:14.266
these dozen hello streams?

1547
01:22:14.270 --> 01:22:16.652
Does that make these dozen hello

1548
01:22:16.652 --> 01:22:17.843
streams entirely worthless?

1549
01:22:17.850 --> 01:22:22.550
No. OK. Thank you uhm?

1550
01:22:27.370 --> 01:22:30.040
I have no further questions.

1551
01:22:30.040 --> 01:22:31.570
Hey, let's take 5 minute break.

1552
01:22:40.700 --> 01:22:42.788
And Mr. Frank, can you stop

1553
01:22:42.788 --> 01:22:44.770

sharing your screen? Sorry, sorry.

1554

01:29:37.060 --> 01:29:37.850

Stop.

1555

01:31:08.430 --> 01:31:10.580

OK, I think we're back.

1556

01:31:10.580 --> 01:31:14.045

We can get started again. Mr.

1557

01:31:14.045 --> 01:31:17.675

Schulmeister, do you have further questions?

1558

01:31:17.680 --> 01:31:22.040

I have no further questions. OK.

1559

01:31:22.040 --> 01:31:27.089

Uh, I think, uh, sorry, uhm, let's see.

1560

01:31:27.090 --> 01:31:28.098

Uhm, Connie Maui.

1561

01:31:28.098 --> 01:31:30.114

Do you have any further questions?

1562

01:31:30.120 --> 01:31:31.569

We have no questions for this witness.

1563

01:31:31.570 --> 01:31:34.394

Thank you. OK, I think we're done then.

1564

01:31:34.400 --> 01:31:35.980

Thank you very much.

1565

01:31:35.980 --> 01:31:37.955

Doctor stroke for your time.

1566

01:31:37.960 --> 01:31:41.754

I hope you get a vacation this month.

1567

01:31:41.754 --> 01:31:44.839
And we appreciate you your

1568

01:31:44.839 --> 01:31:47.250
time this morning and.

1569

01:31:47.250 --> 01:31:50.370
You can stay in the zoom room if you want

1570

01:31:50.452 --> 01:31:53.728
to just turn off your video and your audio,

1571

01:31:53.730 --> 01:31:57.510
but otherwise it's OK, I'll leave.

1572

01:31:57.510 --> 01:32:01.000
Alright thank you bye bye.

1573

01:32:01.000 --> 01:32:05.070
OK, next we are going to seal how who is

1574

01:32:05.173 --> 01:32:09.037
a witness for both NB and Sierra Club.

1575

01:32:09.040 --> 01:32:12.466
So we'll ask our Deputy Attorney

1576

01:32:12.466 --> 01:32:15.190
general to swear you in.

1577

01:32:15.190 --> 01:32:15.760
Stay home.

1578

01:32:18.290 --> 01:32:21.670
I'm ready. OK, hang on I gotta.

1579

01:32:23.980 --> 01:32:26.292
There you go. Mr,

1580

01:32:26.292 --> 01:32:29.100

how do you solemnly swear to tell the truth?

1581

01:32:29.100 --> 01:32:31.540

The whole truth and nothing but the truth?

1582

01:32:31.540 --> 01:32:37.438

I do thank you so thank you, uh Mr Kogi.

1583

01:32:37.440 --> 01:32:41.059

Thank you good morning Mr Hal morning,

1584

01:32:41.060 --> 01:32:43.452

could you please state your full name for

1585

01:32:43.452 --> 01:32:47.320

the record seal Walter? How the third?

1586

01:32:47.320 --> 01:32:52.160

And sorry, let me say 10:34 AM.

1587

01:32:52.160 --> 01:32:56.468

Thank you and your last name is spelled Howe,

1588

01:32:56.468 --> 01:32:58.500

correct, that is correct.

1589

01:32:58.500 --> 01:33:02.124

And first name CEIL yes. OK, great,

1590

01:33:02.124 --> 01:33:06.209

thank you and could you give us your title?

1591

01:33:06.210 --> 01:33:09.816

I am the CEO and managing

1592

01:33:09.816 --> 01:33:12.220

partner of Mahi panel.

1593

01:33:12.220 --> 01:33:13.504

Thank you Mr.

1594

01:33:13.504 --> 01:33:16.072

How you had submitted 2 declarations

1595

01:33:16.072 --> 01:33:18.780

in connection with this contested

1596

01:33:18.780 --> 01:33:22.074

case hearing correct that is correct.

1597

01:33:22.080 --> 01:33:24.501

And at this time do you have any changes

1598

01:33:24.501 --> 01:33:26.841

that need to be made to the testimony

1599

01:33:26.841 --> 01:33:28.899

that's given in those declarations?

1600

01:33:28.900 --> 01:33:32.154

I do not. OK, great, thank you.

1601

01:33:32.154 --> 01:33:35.738

I will tender the witness to whoever is next.

1602

01:33:35.740 --> 01:33:37.808

Hey Connie, in Maui.

1603

01:33:37.810 --> 01:33:39.136

Thank you, I have no questions

1604

01:33:39.136 --> 01:33:40.509

for this witness at this time.

1605

01:33:40.510 --> 01:33:43.170

Thank you Sierra Club.

1606

01:33:43.170 --> 01:33:47.140

Sure, uh, Mr? How come?

1607

01:33:47.140 --> 01:33:49.660

Is did you get in law school?

1608

01:33:49.660 --> 01:33:51.606

No, Sir.

1609

01:33:51.606 --> 01:33:53.190

OK, uhm,

1610

01:33:53.190 --> 01:33:57.460

is there a lawyer representing you today?

1611

01:33:57.460 --> 01:33:57.930

Uh,

1612

01:33:57.930 --> 01:34:01.064

we have our Co counsel who's representing

1613

01:34:01.064 --> 01:34:04.200

me when you say company is that EMI

1614

01:34:04.277 --> 01:34:08.540

or is it my pony up MI and Mahi Pono.

1615

01:34:08.540 --> 01:34:08.832

Well,

1616

01:34:08.832 --> 01:34:10.876

when the bills come to the bills,

1617

01:34:10.880 --> 01:34:13.400

go to EMI and he might send half

1618

01:34:13.400 --> 01:34:15.360

the building malipo know or is

1619

01:34:15.360 --> 01:34:17.712

this the cage firm send the bill

1620

01:34:17.712 --> 01:34:20.090

directly to Mahiko know comes to

1621
01:34:20.090 --> 01:34:22.925
EMI and we pay our portion and

1622
01:34:22.925 --> 01:34:25.098
additionally I have Tim O'Loughlin

1623
01:34:25.098 --> 01:34:28.260
who's Mahi Pono's Co counsel online.

1624
01:34:28.260 --> 01:34:31.468
OK, so in fact.

1625
01:34:31.468 --> 01:34:34.225
Uhm, the cage firm does not

1626
01:34:34.225 --> 01:34:35.789
actually represent my opponent.

1627
01:34:35.790 --> 01:34:37.029
They represent EMI,

1628
01:34:37.029 --> 01:34:41.970
of which my Pono is 1/2 owner, correct?

1629
01:34:41.970 --> 01:34:44.022
This was already decided,

1630
01:34:44.022 --> 01:34:45.692
not really today,

1631
01:34:45.692 --> 01:34:49.544
so let's let's skip this line,

1632
01:34:49.550 --> 01:34:49.925
Mr.

1633
01:34:49.925 --> 01:34:50.300
Frankel.

1634
01:34:52.480 --> 01:34:55.637

Mr. How over the past two years,

1635

01:34:55.640 --> 01:34:59.447

how many days have you spent working in Maui?

1636

01:34:59.450 --> 01:35:01.310

Oh, that's a good question.

1637

01:35:01.310 --> 01:35:02.870

During COVID I was limited,

1638

01:35:02.870 --> 01:35:05.198

but prior to that I was there every

1639

01:35:05.198 --> 01:35:07.720

two weeks to 10 days for three or four

1640

01:35:07.720 --> 01:35:10.732

days and of recent I'm there almost

1641

01:35:10.732 --> 01:35:14.509

once a month for three or four days.

1642

01:35:14.510 --> 01:35:17.030

Recently, more often than that.

1643

01:35:17.030 --> 01:35:20.726

So I just want to go for 20.

1644

01:35:20.730 --> 01:35:24.180

20 and 2021 how many days?

1645

01:35:24.180 --> 01:35:25.850

Have you spent working on

1646

01:35:25.850 --> 01:35:28.010

Maui over the last two years?

1647

01:35:28.010 --> 01:35:30.242

I I couldn't give you a good daily estimate,

1648

01:35:30.250 --> 01:35:31.294
Mr. Frankel.

1649

01:35:31.294 --> 01:35:34.426
It's it's more than it's more

1650

01:35:34.426 --> 01:35:37.459
than 30 and less than 100.

1651

01:35:37.460 --> 01:35:37.710
OK.

1652

01:35:44.000 --> 01:35:45.770
How much experience did you

1653

01:35:45.770 --> 01:35:47.540
have farming in Hawaii prior

1654

01:35:47.603 --> 01:35:49.118
to working for my *****?

1655

01:35:49.120 --> 01:35:50.420
Farming in Hawaii none.

1656

01:35:56.000 --> 01:35:57.695
How much do other farmers

1657

01:35:57.695 --> 01:35:59.910
in the state pay for water?

1658

01:35:59.910 --> 01:36:01.866
Uh, I I can't answer that.

1659

01:36:01.870 --> 01:36:04.096
I don't know the personal businesses of

1660

01:36:04.096 --> 01:36:06.248
other farmers in the state of Hawaii.

1661

01:36:06.250 --> 01:36:07.852

You've never done any research to

1662

01:36:07.852 --> 01:36:09.320
find out what your competitors

1663

01:36:09.320 --> 01:36:10.680
are paying for water.

1664

01:36:10.680 --> 01:36:12.306
Uhm, no, we haven't done any

1665

01:36:12.306 --> 01:36:13.760
research of what our competitors

1666

01:36:13.760 --> 01:36:15.930
and we don't view them as our

1667

01:36:15.930 --> 01:36:17.550
competitors or paying for water.

1668

01:36:20.770 --> 01:36:24.510
How much does it cost, uhm?

1669

01:36:24.510 --> 01:36:26.994
My pointer for the water gets

1670

01:36:26.994 --> 01:36:31.030
now well on an annualized basis.

1671

01:36:31.030 --> 01:36:33.375
We have a water budget

1672

01:36:33.375 --> 01:36:35.720
of seven to \$10 million.

1673

01:36:35.720 --> 01:36:37.988
A portion of that is West Maui,

1674

01:36:37.990 --> 01:36:39.790
so I would I would subtract

1675

01:36:39.790 --> 01:36:41.863
about 20 to 25% from that.

1676

01:36:41.863 --> 01:36:43.427
In addition to that,

1677

01:36:43.430 --> 01:36:46.310
we have our legal fees,

1678

01:36:46.310 --> 01:36:49.365
which are quite substantial that

1679

01:36:49.365 --> 01:36:52.420
are only occurring because of.

1680

01:36:52.420 --> 01:36:53.636
Reviewing our water and

1681

01:36:53.636 --> 01:36:55.156
challenges to our water side,

1682

01:36:55.160 --> 01:36:57.884
add that in addition we make

1683

01:36:57.884 --> 01:37:00.590
last year just on infield.

1684

01:37:00.590 --> 01:37:02.288
Uhm, irrigation improvements.

1685

01:37:02.288 --> 01:37:05.118
So new irrigation system technology.

1686

01:37:05.120 --> 01:37:09.588
We have about 7 to \$9 million

1687

01:37:09.588 --> 01:37:11.820
depending what we have in inventory

1688

01:37:11.895 --> 01:37:14.292

that we've invested in 2021 K.

1689

01:37:14.292 --> 01:37:17.460

So I'm not interested in the legal fees.

1690

01:37:17.460 --> 01:37:19.578

I'm not interested in the infrastructure.

1691

01:37:19.580 --> 01:37:21.470

I'm interested in how much you're paying

1692

01:37:21.470 --> 01:37:23.435

for the water that's delivered to you

1693

01:37:23.435 --> 01:37:25.340

folks in central Mali from East now.

1694

01:37:25.340 --> 01:37:28.420

And it sounds like it may be between

1695

01:37:28.420 --> 01:37:30.780

approximately 6 and \$8 million.

1696

01:37:30.780 --> 01:37:32.430

That's correct, OK?

1697

01:37:34.610 --> 01:37:37.782

And dumb. As a percentage of

1698

01:37:37.782 --> 01:37:38.980

your operating budget, how?

1699

01:37:38.980 --> 01:37:40.960

What percentage of that is is?

1700

01:37:40.960 --> 01:37:43.123

Is this \$68 million for the again

1701

01:37:43.123 --> 01:37:45.258

the fields in central Mali that

1702

01:37:45.258 --> 01:37:47.538
irrigated from the east East Maui?

1703

01:37:49.750 --> 01:37:54.304
Streams, uh, that that's pretty close

1704

01:37:54.304 --> 01:37:58.211
to estimate somewhere between 18 and

1705

01:37:58.211 --> 01:38:00.400
30% of our operating budget annually,

1706

01:38:00.400 --> 01:38:03.165
depending on there's a variety of factors.

1707

01:38:03.170 --> 01:38:06.428
How much it rains, how much we have to,

1708

01:38:06.430 --> 01:38:08.300
you know, you know currently,

1709

01:38:08.300 --> 01:38:09.716
right now we're spending a lot

1710

01:38:09.716 --> 01:38:11.220
of money cleaning up the debris,

1711

01:38:11.220 --> 01:38:13.425
so there's just a variety of factors

1712

01:38:13.425 --> 01:38:15.389
that factor into that understood.

1713

01:38:15.390 --> 01:38:18.198
You gotta pay people.

1714

01:38:18.200 --> 01:38:19.840
Yeah, by your plans etc.

1715

01:38:19.840 --> 01:38:20.734

But that's.

1716

01:38:20.734 --> 01:38:23.664
Part between 18 and 30% of your

1717

01:38:23.664 --> 01:38:25.746
operating budget is spent on one.

1718

01:38:25.750 --> 01:38:28.254
Approximately correct OK currently

1719

01:38:28.254 --> 01:38:32.010
and that will increase as the

1720

01:38:32.111 --> 01:38:35.339
planted acres increase and as the

1721

01:38:35.340 --> 01:38:36.600
age of the trees to increase,

1722

01:38:36.600 --> 01:38:39.006
so there will be a more

1723

01:38:39.006 --> 01:38:40.209
regular irrigation cycle.

1724

01:38:40.210 --> 01:38:42.218
And you have less employees at that .2.

1725

01:38:42.220 --> 01:38:43.428
Probably know we'll have

1726

01:38:43.428 --> 01:38:44.938
more employees at that point,

1727

01:38:44.940 --> 01:38:46.210
but then the percentage wouldn't

1728

01:38:46.210 --> 01:38:47.572
necessarily grow, would it?

1729

01:38:47.572 --> 01:38:50.128

Well, that's that's to be estimated.

1730

01:38:50.130 --> 01:38:52.466

We you know that that would be speculating.

1731

01:38:52.470 --> 01:38:54.575

I'm not going to speculate, right.

1732

01:38:54.575 --> 01:38:57.900

How many acres of trees?

1733

01:38:57.900 --> 01:39:02.679

Tree crops have you been have you planted?

1734

01:39:02.679 --> 01:39:07.450

That will not bear fruit until after 2022.

1735

01:39:07.450 --> 01:39:08.371

Uh, the majority.

1736

01:39:08.371 --> 01:39:09.906

While we'll have one field

1737

01:39:09.906 --> 01:39:11.704

actually that fields in West Maui

1738

01:39:11.704 --> 01:39:13.114

that will harvest this year,

1739

01:39:13.120 --> 01:39:14.856

so the majority of the rest of

1740

01:39:14.856 --> 01:39:16.469

the fields will not bear fruit

1741

01:39:16.469 --> 01:39:18.480

until 2023 and beyond and what.

1742

01:39:18.480 --> 01:39:20.310

How many acres is that?

1743

01:39:20.310 --> 01:39:23.478

That's probably close to by then,

1744

01:39:23.480 --> 01:39:25.520

probably 7 to 8000 acres.

1745

01:39:29.880 --> 01:39:31.640

How much have you spent planting these trees?

1746

01:39:31.640 --> 01:39:34.174

Again, my questions are focused on not.

1747

01:39:34.180 --> 01:39:35.844

I don't know when I want to ask

1748

01:39:35.844 --> 01:39:37.330

about West Nile, be specific.

1749

01:39:37.330 --> 01:39:40.954

So my question here is for the fields that

1750

01:39:40.954 --> 01:39:44.500

are irrigated with East Maui stream water,

1751

01:39:44.500 --> 01:39:48.847

how much have you spent planting these

1752

01:39:48.847 --> 01:39:51.700

approximately 6000 acres of trees?

1753

01:39:51.700 --> 01:39:54.742

Uh, you know, in in excess of \$30 million.

1754

01:39:59.710 --> 01:40:01.957

And you have no guarantee that you're

1755

01:40:01.957 --> 01:40:03.939

going to receive any water from

1756
01:40:03.939 --> 01:40:05.977
the revocable permit area in 2023.

1757
01:40:05.977 --> 01:40:09.203
Do you know we do not? OK.

1758
01:40:09.203 --> 01:40:11.615
Nevertheless, you've spent \$30

1759
01:40:11.615 --> 01:40:14.044
million planting these trees.

1760
01:40:14.044 --> 01:40:15.260
That's correct.

1761
01:40:17.880 --> 01:40:21.226
I want to turn to your declaration.

1762
01:40:21.230 --> 01:40:23.975
And if you well, I guess they will help

1763
01:40:23.975 --> 01:40:26.543
you if I bring it up on the screen.

1764
01:40:26.550 --> 01:40:28.080
See if I can do this.

1765
01:40:31.710 --> 01:40:34.502
Is this your declaration?

1766
01:40:34.502 --> 01:40:36.596
Recognize that yes.

1767
01:40:36.600 --> 01:40:39.174
OK, see if we can pull this up kids.

1768
01:40:39.180 --> 01:40:42.910
Let's go to paragraph seven.

1769
01:40:42.910 --> 01:40:45.335

You talked about the 9000

1770

01:40:45.335 --> 01:40:47.275
acres of pasture land.

1771

01:40:47.280 --> 01:40:48.810
You're not irrigating those 9000

1772

01:40:48.810 --> 01:40:50.663
acres of pasture land, right?

1773

01:40:50.663 --> 01:40:51.909
Not currently.

1774

01:40:54.290 --> 01:40:55.520
Paragraph 12.

1775

01:40:58.360 --> 01:40:59.314
You still have.

1776

01:40:59.314 --> 01:41:01.540
My opponent has been able to reduce

1777

01:41:01.612 --> 01:41:04.030
its overall water diversions by 24.4%.

1778

01:41:04.030 --> 01:41:07.658
You see that, yes, can you tell me

1779

01:41:07.658 --> 01:41:09.793
how you derive that calculation?

1780

01:41:09.800 --> 01:41:13.342
Well, we just base that calculation on

1781

01:41:13.342 --> 01:41:16.368
some historical numbers and real data that

1782

01:41:16.368 --> 01:41:18.630
we collect from our irrigation systems.

1783

01:41:18.630 --> 01:41:20.565

We have digital meters on

1784

01:41:20.565 --> 01:41:21.726

every new installation,

1785

01:41:21.730 --> 01:41:24.835

and so we had some projections and

1786

01:41:24.835 --> 01:41:26.845

then so based on those projections,

1787

01:41:26.850 --> 01:41:28.353

and this is kind of some of the what.

1788

01:41:28.360 --> 01:41:30.928

The information is telling us well I

1789

01:41:30.928 --> 01:41:33.440

I need you to be a lot more specific.

1790

01:41:33.440 --> 01:41:37.320

Uhm, whoops. You shouldn't have done that.

1791

01:41:40.310 --> 01:41:45.910

Oh, and stop sharing for a second.

1792

01:41:45.910 --> 01:41:48.045

My question, I want specifically

1793

01:41:48.045 --> 01:41:50.790

this is a very specific figure.

1794

01:41:50.790 --> 01:41:53.589

24.4% now I can bring up the table that

1795

01:41:53.589 --> 01:41:55.878

you've produced that shows your water

1796

01:41:55.878 --> 01:41:58.410

use over the past almost two years.

1797

01:41:58.410 --> 01:41:59.706

If you'd like, I could bring that up,

1798

01:41:59.710 --> 01:42:01.654

but I want to know precisely

1799

01:42:01.654 --> 01:42:03.760

how this figure was calculated.

1800

01:42:03.760 --> 01:42:06.136

Which month did you look at?

1801

01:42:06.140 --> 01:42:08.204

What numbers did you use and would it

1802

01:42:08.204 --> 01:42:10.564

help if I bring up your exhibit Y dash?

1803

01:42:12.810 --> 01:42:16.410

Sorry X 13, sure. OK.

1804

01:42:18.780 --> 01:42:20.588

So let's see if I can do this.

1805

01:42:45.370 --> 01:42:47.326

OK, So what did you use?

1806

01:42:47.330 --> 01:42:49.592

What information from this table did

1807

01:42:49.592 --> 01:42:52.254

you use to declare you've reduced

1808

01:42:52.254 --> 01:42:54.630

overall dead versions by 24.4%?

1809

01:42:57.480 --> 01:43:01.008

Well, Mr Frankel on this, there's no really.

1810
01:43:04.530 --> 01:43:05.400
Are you frozen?

1811
01:43:11.570 --> 01:43:14.270
We had crop models using the

1812
01:43:14.270 --> 01:43:16.002
estimated crop coefficients, right?

1813
01:43:16.002 --> 01:43:19.058
Mr Hope can you start that over you?

1814
01:43:19.060 --> 01:43:22.028
You froze for a second there, so I I'm sorry.

1815
01:43:24.160 --> 01:43:25.030
Should start from the beginning.

1816
01:43:25.030 --> 01:43:26.100
We didn't hurt the last

1817
01:43:26.100 --> 01:43:26.956
thing like Mr Frankel.

1818
01:43:26.960 --> 01:43:30.328
This this chart, whatever.

1819
01:43:30.330 --> 01:43:32.210
Oh, OK, I I apologize,

1820
01:43:32.210 --> 01:43:36.098
uhm this chart does not have any specific

1821
01:43:36.098 --> 01:43:38.748
information related to that calculation.

1822
01:43:38.750 --> 01:43:40.550
We we model everything on

1823
01:43:40.550 --> 01:43:42.350

a field by field basis.

1824

01:43:42.350 --> 01:43:44.206

And So what we've seen so far in

1825

01:43:44.206 --> 01:43:45.919

our plant that citrus and coffee

1826

01:43:45.919 --> 01:43:47.707

crops has been a reduction from

1827

01:43:47.768 --> 01:43:49.469

what we had modeled and that is

1828

01:43:49.469 --> 01:43:53.170

based on the use of weed mat wiscon,

1829

01:43:53.170 --> 01:43:54.525

which is a irrigation technology

1830

01:43:54.525 --> 01:43:56.462

that we turn on and off the

1831

01:43:56.462 --> 01:43:57.767

fields and stuff like that.

1832

01:43:57.770 --> 01:44:00.724

So we monitor those on specific fields.

1833

01:44:00.730 --> 01:44:04.118

And so it's it's a not really

1834

01:44:04.118 --> 01:44:06.839

relevant to this chart here,

1835

01:44:06.840 --> 01:44:08.625

so it's this is a macro chart

1836

01:44:08.625 --> 01:44:10.414

and we look at things that

1837

01:44:10.414 --> 01:44:12.322
micro micro levels on the farm.

1838

01:44:12.330 --> 01:44:13.770
Well, except Mr.

1839

01:44:13.770 --> 01:44:16.170
How your declaration specifically talks

1840

01:44:16.170 --> 01:44:19.022
about the overall water diversions

1841

01:44:19.022 --> 01:44:21.987
and the overall water diversions

1842

01:44:21.987 --> 01:44:25.330
are all reflected in this column.

1843

01:44:25.330 --> 01:44:27.868
These are the overall water diversions,

1844

01:44:27.870 --> 01:44:29.830
so I want you to tell me if

1845

01:44:29.830 --> 01:44:31.289
you're not talking about.

1846

01:44:31.290 --> 01:44:33.030
If your declaration is inaccurate,

1847

01:44:33.030 --> 01:44:34.530
I'd like to know that.

1848

01:44:34.530 --> 01:44:38.232
But you say the overall water

1849

01:44:38.232 --> 01:44:40.377
diversions decreased by 24.4%,

1850

01:44:40.377 --> 01:44:42.386

and I'd like to know how you

1851

01:44:42.386 --> 01:44:44.170
came up with that number,

1852

01:44:44.170 --> 01:44:46.558
not regarding how much you're irrigating,

1853

01:44:46.560 --> 01:44:51.016
but how much you reduced in water diversions.

1854

01:44:51.020 --> 01:44:51.410
Well,

1855

01:44:51.410 --> 01:44:53.750
in my declaration I was referring

1856

01:44:53.750 --> 01:44:55.720
to how we irrigate,

1857

01:44:55.720 --> 01:44:57.634
so there was a misunderstanding of

1858

01:44:57.634 --> 01:44:59.830
how that has been characterized.

1859

01:44:59.830 --> 01:45:00.380
Sure.

1860

01:45:34.630 --> 01:45:38.610
So here's your declaration.

1861

01:45:38.610 --> 01:45:43.208
And the words you use. Taken as a whole,

1862

01:45:43.208 --> 01:45:46.205
these circumstances allowed my point to

1863

01:45:46.205 --> 01:45:48.575
reduce to reduce not projected reduction.

1864
01:45:48.580 --> 01:45:54.052
It's allowed them to allow it to reduce its

1865
01:45:54.052 --> 01:45:58.692
overall overall water diversions by 24.4%.

1866
01:45:58.692 --> 01:46:01.460
Can you tell me?

1867
01:46:01.460 --> 01:46:05.312
How you came up with this 24.4% figure?

1868
01:46:05.312 --> 01:46:07.988
Mr. Frankel, as I stated before,

1869
01:46:07.990 --> 01:46:10.881
that's my explanation and I can't provide

1870
01:46:10.881 --> 01:46:13.256
any further information for you at this

1871
01:46:13.256 --> 01:46:15.749
time other than the way we evaluated it.

1872
01:46:15.750 --> 01:46:19.080
You use the word we who came up with

1873
01:46:19.080 --> 01:46:21.286
this 24.4% figure you or someone else.

1874
01:46:21.290 --> 01:46:23.408
The variety of my myself and

1875
01:46:23.408 --> 01:46:25.630
staff members of at Mahi Pono,

1876
01:46:25.630 --> 01:46:27.028
which staff members.

1877
01:46:27.028 --> 01:46:29.358

There's a large variety of

1878

01:46:29.358 --> 01:46:31.328
people included in that Mark,

1879

01:46:31.330 --> 01:46:34.235
fought other members of the

1880

01:46:34.235 --> 01:46:37.140
irrigation crew grant Andrew Crawford.

1881

01:46:37.140 --> 01:46:39.312
David Radke Raphiel Tara Shannon there

1882

01:46:39.312 --> 01:46:41.682
there's a lot of people that are

1883

01:46:41.682 --> 01:46:44.130
part of the staff at my hip on oh,

1884

01:46:44.130 --> 01:46:46.020
I understand you have a large staff.

1885

01:46:46.020 --> 01:46:47.624
That's not my question.

1886

01:46:47.624 --> 01:46:51.480
My question is who came up with this number?

1887

01:46:51.480 --> 01:46:53.472
I provided you the names of

1888

01:46:53.472 --> 01:46:54.800
everybody who contributed Mr.

1889

01:46:54.800 --> 01:46:56.928
Frankel to this number.

1890

01:46:56.928 --> 01:46:59.686
Yes, he had eight people working on

1891
01:46:59.686 --> 01:47:02.140
a on a mathematical calculation.

1892
01:47:02.140 --> 01:47:03.412
That's objection,

1893
01:47:03.412 --> 01:47:04.048
argumentative.

1894
01:47:08.040 --> 01:47:10.784
What's the baseline figure you're using to?

1895
01:47:10.790 --> 01:47:13.198
You know when you say there's a reduction.

1896
01:47:13.200 --> 01:47:15.230
Generally you start with a.

1897
01:47:15.230 --> 01:47:16.415
There's a delta.

1898
01:47:16.415 --> 01:47:18.785
This kind of basic math math.

1899
01:47:18.790 --> 01:47:20.130
You start with a number.

1900
01:47:20.130 --> 01:47:22.722
You look at the change and that's how you

1901
01:47:22.722 --> 01:47:26.300
collect the come up with 24.4% difference.

1902
01:47:26.300 --> 01:47:29.200
What was the baseline number?

1903
01:47:29.200 --> 01:47:32.154
The baseline number again is numbers we

1904
01:47:32.154 --> 01:47:35.151

calculated on the estimated crop water use

1905

01:47:35.151 --> 01:47:37.650

for every week we come up with that number,

1906

01:47:37.650 --> 01:47:40.330

we base it towards our orders so it's,

1907

01:47:40.330 --> 01:47:41.900

you know we have coffee.

1908

01:47:41.900 --> 01:47:43.172

We have potatoes,

1909

01:47:43.172 --> 01:47:44.868

we have row crops.

1910

01:47:44.870 --> 01:47:45.854

We have citrus,

1911

01:47:45.854 --> 01:47:47.822

we have citrus at different ages,

1912

01:47:47.830 --> 01:47:49.690

so it's a variety of different

1913

01:47:49.690 --> 01:47:51.569

baselines that contribute to the number.

1914

01:47:51.570 --> 01:47:52.998

But this says total.

1915

01:47:52.998 --> 01:47:54.783

This is overall water diversion.

1916

01:47:54.790 --> 01:47:57.070

It doesn't talk about water use.

1917

01:47:57.070 --> 01:47:58.542

It talks about diversion.

1918

01:47:58.542 --> 01:48:01.641

So you have to have had a number

1919

01:48:01.641 --> 01:48:03.661

of baseline number from which

1920

01:48:03.661 --> 01:48:05.438

this 24% figure was calculated.

1921

01:48:05.438 --> 01:48:07.490

What was that baseline number and

1922

01:48:07.556 --> 01:48:09.668

where did you where did it come from?

1923

01:48:09.670 --> 01:48:11.680

I can't tell you the specific

1924

01:48:11.680 --> 01:48:12.350

baseline number.

1925

01:48:12.350 --> 01:48:13.382

I'm sorry,

1926

01:48:13.382 --> 01:48:13.898

alright.

1927

01:48:16.970 --> 01:48:20.961

Uhm? You've said that the

1928

01:48:20.961 --> 01:48:22.524

diversions were reduced.

1929

01:48:22.524 --> 01:48:25.563

How physically were they reduced? How?

1930

01:48:25.563 --> 01:48:28.161

What, what mechanisms were employed to

1931

01:48:28.161 --> 01:48:31.084

reduce the amount of water diverted, Mr.

1932

01:48:31.084 --> 01:48:32.728
Franco? I'm not in the operations

1933

01:48:32.728 --> 01:48:34.859
in MI and don't spend time out

1934

01:48:34.859 --> 01:48:36.414
there with the field staff,

1935

01:48:36.420 --> 01:48:38.373
so you would have to ask somebody

1936

01:48:38.373 --> 01:48:40.090
else to answer that question.

1937

01:48:40.090 --> 01:48:47.090
K. Uhm? In your exhibit X14.

1938

01:48:47.090 --> 01:48:48.974
Which I have to bring up

1939

01:48:48.974 --> 01:48:50.230
here with this aside.

1940

01:49:16.370 --> 01:49:19.514
This is a chart that you've referred to

1941

01:49:19.514 --> 01:49:23.960
your declaration right. Uh, yes. Uhm?

1942

01:49:26.330 --> 01:49:29.290
The first column talks about the

1943

01:49:29.290 --> 01:49:31.140
water requirements for each crop.

1944

01:49:31.140 --> 01:49:34.185
You see that. Yeah, can you zoom?

1945
01:49:34.190 --> 01:49:37.025
I have a hard time seeing each column, sure,

1946
01:49:37.025 --> 01:49:40.000
although it's not critical at this point,

1947
01:49:40.000 --> 01:49:44.602
but I will. Uhm where is this?

1948
01:49:44.602 --> 01:49:47.380
Where did this information come from?

1949
01:49:47.380 --> 01:49:49.340
Well, this information was calculated.

1950
01:49:49.340 --> 01:49:52.609
We we use a engine engineering design

1951
01:49:52.609 --> 01:49:55.544
firm of certified civil engineers,

1952
01:49:55.544 --> 01:49:58.624
agriculture engineers who are also

1953
01:49:58.624 --> 01:50:01.239
certified irrigation technicians.

1954
01:50:01.240 --> 01:50:02.275
So they collaborate.

1955
01:50:02.275 --> 01:50:03.655
A variety of data.

1956
01:50:03.660 --> 01:50:06.090
They they collaborate,

1957
01:50:06.090 --> 01:50:08.154
some environmental data,

1958
01:50:08.154 --> 01:50:10.906

some kolfage crop coefficients,

1959

01:50:10.910 --> 01:50:12.962
some water evapotranspiration rates

1960

01:50:12.962 --> 01:50:16.040
collected for the state of Hawaii.

1961

01:50:16.040 --> 01:50:18.688
Then we design in.

1962

01:50:18.688 --> 01:50:20.802
A the number of trees or whatever

1963

01:50:20.802 --> 01:50:22.010
crop we're going to use,

1964

01:50:22.010 --> 01:50:24.050
they multiply their cropping coefficient,

1965

01:50:24.050 --> 01:50:26.978
and then we come up with.

1966

01:50:26.980 --> 01:50:28.550
I you know an irrigation

1967

01:50:28.550 --> 01:50:29.806
design that's based on,

1968

01:50:29.810 --> 01:50:30.454
you know,

1969

01:50:30.454 --> 01:50:32.708
they calculate the annual water use per

1970

01:50:32.708 --> 01:50:35.266
month and then we come back to this number.

1971

01:50:35.270 --> 01:50:37.280
This number also includes a little

1972
01:50:37.280 --> 01:50:39.568
bit of over irrigation 'cause it was

1973
01:50:39.568 --> 01:50:41.626
assumed that at times will be using,

1974
01:50:41.630 --> 01:50:43.016
well water that are high in

1975
01:50:43.016 --> 01:50:44.679
chlorides and so you have to build

1976
01:50:44.679 --> 01:50:46.059
in a leaching factor to this.

1977
01:50:46.060 --> 01:50:48.720
So it this number was derived based

1978
01:50:48.720 --> 01:50:51.048
on industry standards used by third

1979
01:50:51.048 --> 01:50:52.540
party professionals and that's

1980
01:50:52.540 --> 01:50:55.200
how we came up with these numbers.

1981
01:50:55.200 --> 01:50:55.535
OK,

1982
01:50:55.535 --> 01:50:57.880
even though it says gallon per acre

1983
01:50:57.880 --> 01:51:00.548
per day water requirement from EIS.

1984
01:51:00.550 --> 01:51:03.119
So these numbers are not from the

1985
01:51:03.119 --> 01:51:05.030

ISP's were separately calculated.

1986

01:51:05.030 --> 01:51:05.459

Well,

1987

01:51:05.459 --> 01:51:07.175

these numbers were calculated

1988

01:51:07.175 --> 01:51:09.890

and inputted into the EIS through

1989

01:51:09.890 --> 01:51:12.038

our design teams I see OK,

1990

01:51:12.040 --> 01:51:13.531

so tell me about this team that

1991

01:51:13.531 --> 01:51:14.899

came up with these numbers.

1992

01:51:14.900 --> 01:51:16.895

These third party people, whoever they who?

1993

01:51:16.900 --> 01:51:17.798

Is it?

1994

01:51:17.798 --> 01:51:20.492

They work for a company called

1995

01:51:20.492 --> 01:51:22.919

Bennett Bennett and Pacific Pipe.

1996

01:51:22.920 --> 01:51:25.420

They've been in the irrigation

1997

01:51:25.420 --> 01:51:27.420

design and installation business

1998

01:51:27.420 --> 01:51:30.544

for a 90 years and they have

1999

01:51:30.544 --> 01:51:32.338
expertise operating worldwide,

2000

01:51:32.340 --> 01:51:34.986
and so they're the ones that

2001

01:51:34.986 --> 01:51:37.198
calculated these numbers for us.

2002

01:51:37.198 --> 01:51:39.418
How long is Bennett Bennett?

2003

01:51:39.420 --> 01:51:40.270
Is that the right name?

2004

01:51:40.270 --> 01:51:42.230
Bennett Bennett and Pacific

2005

01:51:42.230 --> 01:51:44.190
Pipe operated in Hawaii.

2006

01:51:44.190 --> 01:51:46.334
Pacific Pipe is off by I couldn't tell

2007

01:51:46.334 --> 01:51:48.423
you how long they have been it and

2008

01:51:48.423 --> 01:51:50.460
then it came with us when we came in,

2009

01:51:50.460 --> 01:51:52.815
they've been in there since 2018

2010

01:51:52.815 --> 01:51:55.365
when we began our due diligence.

2011

01:51:55.370 --> 01:51:55.820
OK.

2012

01:52:08.020 --> 01:52:12.458

No. Without my portal greed to limit.

2013

01:52:12.460 --> 01:52:14.958

Agreed to a limit of 2500 gallons

2014

01:52:14.958 --> 01:52:17.471

per acre per day of stream water

2015

01:52:17.471 --> 01:52:19.699

in its navajas stipulation.

2016

01:52:19.700 --> 01:52:23.336

Didn't we never have a final agreement,

2017

01:52:23.340 --> 01:52:23.970

unfortunately?

2018

01:52:23.970 --> 01:52:28.380

So the we don't have an agreement.

2019

01:52:28.380 --> 01:52:29.888

It's currently under appeal,

2020

01:52:29.888 --> 01:52:32.150

so there's not a formal agreement.

2021

01:52:32.150 --> 01:52:34.726

Well, my point is sign an agreement

2022

01:52:34.726 --> 01:52:37.486

in which it agreed to limit itself

2023

01:52:37.486 --> 01:52:39.578

to 2500 gallons per acre per day.

2024

01:52:39.580 --> 01:52:41.602

Correct object to this line of

2025

01:52:41.602 --> 01:52:44.046

questioning to the extent that this is

2026
01:52:44.046 --> 01:52:45.761
talking about a settlement agreement

2027
01:52:45.761 --> 01:52:47.840
that is entirely not relevant,

2028
01:52:47.840 --> 01:52:49.365
Judge Crabtree determined that this

2029
01:52:49.365 --> 01:52:51.205
was not relevant and refused to

2030
01:52:51.205 --> 01:52:52.795
allow this information in the trial.

2031
01:52:52.800 --> 01:52:54.991
So I would argue that it is

2032
01:52:54.991 --> 01:52:56.350
also not relevant here.

2033
01:52:56.350 --> 01:52:58.779
Yep, it was covered in the trial.

2034
01:52:58.780 --> 01:52:59.972
No, it was not.

2035
01:52:59.972 --> 01:53:01.462
You cannot exclude this is

2036
01:53:01.462 --> 01:53:02.829
absolutely directly relevant.

2037
01:53:02.830 --> 01:53:03.928
In fact, Mr.

2038
01:53:03.928 --> 01:53:06.124
Caughey raises the issue in her

2039
01:53:06.124 --> 01:53:08.697

reply brief by asserting that well.

2040

01:53:10.810 --> 01:53:13.246
You can't, she actually talks about

2041

01:53:13.246 --> 01:53:16.439
the use of water now by a hot water.

2042

01:53:16.440 --> 01:53:17.505
You cannot they.

2043

01:53:17.505 --> 01:53:20.350
They cannot talk about the use of now.

2044

01:53:20.350 --> 01:53:22.120
They have water in the reply

2045

01:53:22.120 --> 01:53:23.790
and not let us cross.

2046

01:53:23.790 --> 01:53:28.908
Examine my pono's CEO or CEO.

2047

01:53:28.910 --> 01:53:31.850
Regarding the agreement it entered into.

2048

01:53:31.850 --> 01:53:34.378
You cannot lie believe.

2049

01:53:34.380 --> 01:53:36.634
I believe our reply stated my exact

2050

01:53:36.634 --> 01:53:38.614
argument that this is a settlement

2051

01:53:38.614 --> 01:53:40.194
agreement that is not relevant

2052

01:53:40.194 --> 01:53:42.473
and to the extent that we address

2053

01:53:42.473 --> 01:53:44.530
an argument that is raised by the

2054

01:53:44.530 --> 01:53:46.410
Sierra Club that does not in any way

2055

01:53:46.466 --> 01:53:48.266
shape or form make this relevant.

2056

01:53:48.270 --> 01:53:50.060
It's totally relevant because it

2057

01:53:50.060 --> 01:53:52.459
talks about how much water they use.

2058

01:53:52.460 --> 01:53:55.200
If they're willing to use 2500 gallons

2059

01:53:55.200 --> 01:53:57.965
per acre per day using Navajo Water,

2060

01:53:57.970 --> 01:53:59.596
there's no way they can't do

2061

01:53:59.596 --> 01:54:01.490
that for East Maui Stream water,

2062

01:54:01.490 --> 01:54:02.918
it's totally relevant.

2063

01:54:08.840 --> 01:54:11.268
Write a short recess.

2064

01:56:02.190 --> 01:56:05.326
OK, uh. We're not going to talk

2065

01:56:05.326 --> 01:56:07.970
about the settlement in the Via Ha.

2066

01:56:07.970 --> 01:56:09.770

You can talk about the decision,

2067

01:56:09.770 --> 01:56:11.098
but not the settlement.

2068

01:56:11.098 --> 01:56:13.090
What's the basis on your ruling?

2069

01:56:13.090 --> 01:56:19.760
Because settlement agreement is. Is UM?

2070

01:56:19.760 --> 01:56:23.504
Has all kinds of provisions in it that.

2071

01:56:23.510 --> 01:56:25.844
Number #1 is a is a

2072

01:56:25.844 --> 01:56:27.400
discussion among the parties.

2073

01:56:27.400 --> 01:56:29.560
It was not any official.

2074

01:56:29.560 --> 01:56:31.318
Uhm, decision and number two has

2075

01:56:31.318 --> 01:56:33.255
all kinds of other things that

2076

01:56:33.255 --> 01:56:35.020
that factor into that decision.

2077

01:56:35.020 --> 01:56:37.832
So settlement agreements generally

2078

01:56:37.832 --> 01:56:41.360
are not to be used as evidence.

2079

01:56:41.360 --> 01:56:42.692
The rules of evidence do not

2080

01:56:42.692 --> 01:56:43.860
apply in a contested case.

2081

01:56:43.860 --> 01:56:46.920
Hearing this agreement while the Water

2082

01:56:46.920 --> 01:56:50.339
Commission did not sign it is in

2083

01:56:50.339 --> 01:56:52.919
agreement that Mahi Pono entered into,

2084

01:56:52.920 --> 01:56:55.105
in which it voluntarily said

2085

01:56:55.105 --> 01:56:57.565
it would limit itself to 2500

2086

01:56:57.565 --> 01:56:58.940
gallons per acre per day.

2087

01:56:58.940 --> 01:57:01.328
It was not. Any final agreement?

2088

01:57:01.330 --> 01:57:02.020
It doesn't matter.

2089

01:57:02.020 --> 01:57:03.400
It doesn't matter if the Water

2090

01:57:03.400 --> 01:57:04.250
Commission didn't sign it.

2091

01:57:04.250 --> 01:57:06.446
This is what my PO is willing to do.

2092

01:57:06.450 --> 01:57:07.674
That's what's relevant.

2093

01:57:07.674 --> 01:57:09.714

They were willing to limit

2094

01:57:09.714 --> 01:57:12.006
themselves for you to say that's

2095

01:57:12.006 --> 01:57:13.418
not relevant is ridiculous.

2096

01:57:13.420 --> 01:57:14.020
Thank you.

2097

01:57:19.910 --> 01:57:20.830
Please continue.

2098

01:57:23.400 --> 01:57:27.680
So. While Hippona agreed to limit.

2099

01:57:27.680 --> 01:57:30.970
Its use of water from West Maui,

2100

01:57:30.970 --> 01:57:37.340
Navajo sources to \$2000 per acre per day.

2101

01:57:37.340 --> 01:57:38.928
Mr Franklin, Mr Frankel.

2102

01:57:38.928 --> 01:57:41.959
We said we are not going to hear

2103

01:57:41.960 --> 01:57:44.525
discussions about a settlement agreement

2104

01:57:44.525 --> 01:57:46.845
in that that was never finalized

2105

01:57:46.845 --> 01:57:49.530
in a in a in a different matter.

2106

01:57:49.530 --> 01:57:52.437
You can use the decision in the hot if

2107
01:57:52.437 --> 01:57:54.733
you want but not the settlement agreement.

2108
01:57:54.740 --> 01:57:55.900
Well, the settlement agreements

2109
01:57:55.900 --> 01:57:56.770
already in evidence.

2110
01:57:59.590 --> 01:58:00.950
So it's already in there.

2111
01:58:00.950 --> 01:58:02.885
We're going to site to it or find it

2112
01:58:02.885 --> 01:58:05.086
in fact and will site to it on appeal.

2113
01:58:05.090 --> 01:58:06.595
Let's turn to paragraph 20

2114
01:58:06.595 --> 01:58:08.110
of your declaration, Mr. Hal.

2115
01:58:40.920 --> 01:58:44.750
You see paragraph 20 there I do.

2116
01:58:44.750 --> 01:58:46.577
Do you have any idea how much water you

2117
01:58:46.577 --> 01:58:48.357
guys are using daily for dust control?

2118
01:58:50.400 --> 01:58:52.440
Can you repeat that question?

2119
01:58:52.440 --> 01:58:54.762
Do you have any idea how much water you

2120
01:58:54.762 --> 01:58:56.968

folks are using daily for dust control?

2121

01:58:56.970 --> 01:58:58.638
Using as I as I stated,

2122

01:58:58.640 --> 01:59:00.242
you'd have to speak with one of the guys.

2123

01:59:00.250 --> 01:59:01.710
It's on the operational teams.

2124

01:59:01.710 --> 01:59:03.670
I'm not directly involved in

2125

01:59:03.670 --> 01:59:05.630
the day to day operations.

2126

01:59:05.630 --> 01:59:07.544
Do you know how much water

2127

01:59:07.544 --> 01:59:09.244
the fire department needs in

2128

01:59:09.244 --> 01:59:10.668
reservoirs to fight fires?

2129

01:59:10.670 --> 01:59:12.810
That is a conversation that

2130

01:59:12.810 --> 01:59:14.950
happens between Mark and Shannon,

2131

01:59:14.950 --> 01:59:16.725
the operation team and data

2132

01:59:16.725 --> 01:59:18.145
request of the county.

2133

01:59:18.150 --> 01:59:19.554
I am aware I have seen

2134

01:59:19.554 --> 01:59:20.490
the schedules of there.

2135

01:59:20.490 --> 01:59:23.490
Use rates, but I don't know the official

2136

01:59:23.490 --> 01:59:26.298
requirement of what they need in reservoirs.

2137

01:59:26.300 --> 01:59:28.643
Is paragraph F.

2138

01:59:28.643 --> 01:59:31.767
Subparagraph of paragraph 20.

2139

01:59:31.770 --> 01:59:34.280
You say there's a cushion.

2140

01:59:34.280 --> 01:59:35.925
Is the cushion you describe

2141

01:59:35.925 --> 01:59:38.140
the same thing as a buffer?

2142

01:59:38.140 --> 01:59:40.330
You could characterize that the same.

2143

01:59:40.330 --> 01:59:40.773
Yes,

2144

01:59:40.773 --> 01:59:43.874
thank you going down to paragraph 21.

2145

01:59:47.150 --> 01:59:48.956
You say that water is only diverted

2146

01:59:48.956 --> 01:59:51.133
when the water can be used on the farm

2147

01:59:51.133 --> 01:59:54.740

for gation, right? That's correct.

2148

01:59:54.740 --> 01:59:56.070
So when it's not needed to water

2149

01:59:56.070 --> 01:59:57.460
stage in the streams, right?

2150

01:59:57.460 --> 02:00:00.062
That is our intention, yes?

2151

02:00:00.062 --> 02:00:03.430
OK, in paragraph 19.

2152

02:00:03.430 --> 02:00:04.690
Sorry, going up,

2153

02:00:04.690 --> 02:00:07.210
you say prudent manage dictates a

2154

02:00:07.210 --> 02:00:09.107
conservative use of groundwater

2155

02:00:09.107 --> 02:00:10.975
resources given these factors.

2156

02:00:10.980 --> 02:00:12.865
This prudent management also dictated

2157

02:00:12.865 --> 02:00:14.750
conservative use of stream water.

2158

02:00:16.770 --> 02:00:19.170
Uh, I, I don't think my statement has

2159

02:00:19.170 --> 02:00:21.128
anything to do with stream water,

2160

02:00:21.130 --> 02:00:24.058
so I'm asking you, does prudent

2161
02:00:24.058 --> 02:00:26.010
management dictate a conservative

2162
02:00:26.087 --> 02:00:28.640
use of streamline yes or no? Yes.

2163
02:00:36.150 --> 02:00:38.800
Going down to paragraph 29.

2164
02:00:42.040 --> 02:00:44.080
You talk about direct

2165
02:00:44.080 --> 02:00:45.610
flow irrigation emitters.

2166
02:00:45.610 --> 02:00:47.045
You're in the process of

2167
02:00:47.045 --> 02:00:47.906
installing these emitters.

2168
02:00:47.910 --> 02:00:50.472
What percentage of crops are currently

2169
02:00:50.472 --> 02:00:54.020
relying on a direct flow irrigation emitter?

2170
02:00:54.020 --> 02:00:56.618
I would say other than some

2171
02:00:56.618 --> 02:00:59.339
of our row crops over 90%,

2172
02:00:59.340 --> 02:01:01.678
but if you include your real crops.

2173
02:01:01.680 --> 02:01:03.930
Uh, my eye, the row crop varies from time

2174
02:01:03.930 --> 02:01:06.575

to time of what we have undercut coloration.

2175

02:01:06.580 --> 02:01:08.896

Sometimes it uses sprinklers to germinate.

2176

02:01:08.900 --> 02:01:10.764

It then switches over to a direct admit

2177

02:01:10.764 --> 02:01:12.647

are so it's kind of a combination,

2178

02:01:12.650 --> 02:01:16.280

so I would still stay with

2179

02:01:16.280 --> 02:01:18.700

my number over 90%.

2180

02:01:18.700 --> 02:01:21.199

What percentage of your crops have the

2181

02:01:21.199 --> 02:01:23.983

weed mats on that's in installation?

2182

02:01:23.983 --> 02:01:27.409

I would say we're approaching somewhere

2183

02:01:27.409 --> 02:01:30.695

between 20 to 30% as we install.

2184

02:01:30.695 --> 02:01:33.870

It's a very labor intensive

2185

02:01:33.870 --> 02:01:36.170

and expensive process.

2186

02:01:36.170 --> 02:01:38.495

We have the materials for

2187

02:01:38.495 --> 02:01:41.016

70 or 80% on island.

2188

02:01:41.016 --> 02:01:43.831
It's just a very tedious

2189

02:01:43.831 --> 02:01:45.520
and time-consuming process.

2190

02:01:45.520 --> 02:01:47.076
Now, according to Mark,

2191

02:01:47.076 --> 02:01:49.914
what the combined capacity of all the

2192

02:01:49.914 --> 02:01:51.654
my opponents reservoirs currently

2193

02:01:51.654 --> 02:01:53.917
being used is 350.7 million gallons.

2194

02:01:53.917 --> 02:01:55.831
Do you have any information to

2195

02:01:55.831 --> 02:01:58.430
contradict that? Does that sound right?

2196

02:01:58.430 --> 02:01:59.394
Uh, you know I,

2197

02:01:59.394 --> 02:02:01.190
I couldn't tell you exactly other there.

2198

02:02:01.190 --> 02:02:03.602
There are some control parameters put

2199

02:02:03.602 --> 02:02:06.338
in by Department of Dan and safety,

2200

02:02:06.340 --> 02:02:08.140
so I think you're talking about

2201

02:02:08.140 --> 02:02:09.040

the theoretical capacity.

2202

02:02:09.040 --> 02:02:09.525

However,

2203

02:02:09.525 --> 02:02:12.920

I think the actual capacity has been

2204

02:02:12.920 --> 02:02:14.975

altered due to some maintenance

2205

02:02:14.975 --> 02:02:17.345

safety issues and stuff and such,

2206

02:02:17.350 --> 02:02:19.331

so the water capacity is probably less

2207

02:02:19.331 --> 02:02:22.186

than 3 to 50 million gallons could be.

2208

02:02:22.186 --> 02:02:24.814

OK, I want to look at.

2209

02:02:27.870 --> 02:02:33.796

Uhm? Exhibit what is what exhibit is it now?

2210

02:02:45.720 --> 02:02:49.444

Go to Y1. Which is a summary.

2211

02:03:00.990 --> 02:03:04.378

OK can you see this? Some cable I can?

2212

02:03:04.378 --> 02:03:08.192

Yes, so this is a table that shows

2213

02:03:08.192 --> 02:03:11.020

all of the quarterly reports that

2214

02:03:11.020 --> 02:03:14.199

Ambien MI have submitted for the past.

2215

02:03:14.200 --> 02:03:16.808

Yes, seven quarters. Now.

2216

02:03:19.300 --> 02:03:22.462

Let's go back to November 2020.

2217

02:03:22.462 --> 02:03:25.234

OK, Yep, and let's just assume

2218

02:03:25.234 --> 02:03:27.850

for the sake of argument.

2219

02:03:27.850 --> 02:03:29.446

That all your reservoirs are empty.

2220

02:03:29.450 --> 02:03:31.855

Heaven has never heard that

2221

02:03:31.855 --> 02:03:34.260

all your reservoirs are empty.

2222

02:03:34.260 --> 02:03:36.780

Not since I've been on the farm,

2223

02:03:36.780 --> 02:03:37.222

but nevertheless,

2224

02:03:37.222 --> 02:03:38.990

let's for the sake of argument and for

2225

02:03:39.029 --> 02:03:40.408

the benefit of doubt for you folks.

2226

02:03:40.410 --> 02:03:43.338

Let's assume that on November 1st.

2227

02:03:43.340 --> 02:03:48.050

2020 These UM reservoirs were empty.

2228

02:03:48.050 --> 02:03:53.300

Now there was 18.11 million gallons of water.

2229

02:03:53.300 --> 02:03:56.888

Per day entering into these reservoirs.

2230

02:03:56.890 --> 02:04:00.796

Now, if you multiply that by 30.

2231

02:04:00.800 --> 02:04:04.234

OK, 30 days in a month N31 I think,

2232

02:04:04.234 --> 02:04:06.450

but let's say maybe I can't keep track.

2233

02:04:06.450 --> 02:04:08.871

But let's say that 30 days to make the

2234

02:04:08.871 --> 02:04:12.100

math easier and you multiply 18 by 30,

2235

02:04:12.100 --> 02:04:16.068

get 540 million gallons.

2236

02:04:16.070 --> 02:04:18.670

That sounds about right.

2237

02:04:18.670 --> 02:04:20.890

I'll take your word for it.

2238

02:04:20.890 --> 02:04:22.470

8 * 3 is 24,

2239

02:04:22.470 --> 02:04:24.180

so you carry the two,

2240

02:04:24.180 --> 02:04:26.060

two and one so.

2241

02:04:29.030 --> 02:04:32.171

I said 2 + 3 is to get 540 million gallons.

2242

02:04:32.171 --> 02:04:37.280

So in the month of November 2020.

2243

02:04:37.280 --> 02:04:40.031

You would have 540 million gallons of

2244

02:04:40.031 --> 02:04:42.440

water deposited into these reservoirs,

2245

02:04:42.440 --> 02:04:44.498

which appeared to have a capacity

2246

02:04:44.498 --> 02:04:46.784

of less than 350 million gallons.

2247

02:04:46.784 --> 02:04:50.485

So it's 5:40 and 3:50. That's five

2248

02:04:50.485 --> 02:04:53.350

forty significantly more than 350.

2249

02:04:53.350 --> 02:04:57.118

Where is all that water going?

2250

02:04:57.120 --> 02:04:58.125

But Mr. Franco,

2251

02:04:58.125 --> 02:05:01.170

I believe that water is going to recharge,

2252

02:05:01.170 --> 02:05:02.400

and I know everybody has a

2253

02:05:02.400 --> 02:05:03.220

different definition of this,

2254

02:05:03.220 --> 02:05:06.364

but we rely on EU S Geological Study

2255

02:05:08.440 --> 02:05:10.660

2014, 5168. That was conducted

2256

02:05:10.660 --> 02:05:12.880
that was conducted, I believe,

2257

02:05:12.880 --> 02:05:17.016
in the 2000 through 2008 or ten period,

2258

02:05:17.020 --> 02:05:19.939
and that it states that those aquifers

2259

02:05:19.939 --> 02:05:23.128
rely on reservoir recharge in that area

2260

02:05:23.128 --> 02:05:25.448
to sustain the groundwater yields.

2261

02:05:25.450 --> 02:05:27.720
And it helps maintain additionally.

2262

02:05:27.720 --> 02:05:30.880
The salinity level, so it's not as brackish.

2263

02:05:30.880 --> 02:05:33.218
We have records that show that the

2264

02:05:33.218 --> 02:05:35.157
water gets really brackish when

2265

02:05:35.157 --> 02:05:37.299
you begin to enter into longer,

2266

02:05:37.300 --> 02:05:39.145
sustained pumping areas.

2267

02:05:39.145 --> 02:05:42.835
Understood, so let's go to so.

2268

02:05:42.840 --> 02:05:46.256
So by the end of November 2020,

2269
02:05:46.260 --> 02:05:48.125
these reservoirs are completely full

2270
02:05:48.125 --> 02:05:50.789
based on all the pumping in November.

2271
02:05:50.790 --> 02:05:53.974
So then we get to December and we're

2272
02:05:53.974 --> 02:05:56.303
pumping another 19.91 million gallons

2273
02:05:56.303 --> 02:05:59.369
every day into reservoirs that are

2274
02:05:59.369 --> 02:06:02.190
theoretically full or are draining at an

2275
02:06:02.190 --> 02:06:04.466
incredible rate into the ground, right?

2276
02:06:04.466 --> 02:06:06.467
That's a lot of water, so in this.

2277
02:06:06.467 --> 02:06:09.402
Month alone if if if the if the

2278
02:06:09.402 --> 02:06:12.222
reservoirs are already full by the

2279
02:06:12.222 --> 02:06:15.622
end of November in December you're

2280
02:06:15.622 --> 02:06:18.158
pumping in another approximately

2281
02:06:18.160 --> 02:06:19.760
600 million gallons into these

2282
02:06:19.760 --> 02:06:21.360

reservoirs where the 600 million

2283

02:06:21.412 --> 02:06:23.190
gallons in the course of the month.

2284

02:06:23.190 --> 02:06:24.430
Where is that water going?

2285

02:06:24.430 --> 02:06:26.090
It's going all down.

2286

02:06:26.090 --> 02:06:28.165
It's draining into the aquifer.

2287

02:06:28.170 --> 02:06:30.060
I I couldn't tell you where it all goes Mr.

2288

02:06:30.060 --> 02:06:30.443
Frankel.

2289

02:06:30.443 --> 02:06:34.180
And then you get to January of 2021,

2290

02:06:34.180 --> 02:06:36.830
another 21.3 million gallons to

2291

02:06:36.830 --> 02:06:38.830
every single day into reservoirs,

2292

02:06:38.830 --> 02:06:41.180
which by now certainly should

2293

02:06:41.180 --> 02:06:43.060
be overflowing capacity unless

2294

02:06:43.060 --> 02:06:45.204
they're draining like a calendar

2295

02:06:45.204 --> 02:06:47.610
that I drained my spaghetti into.

2296

02:06:47.610 --> 02:06:50.190
Those reservoirs are draining fast,

2297

02:06:50.190 --> 02:06:52.480
aren't they?

2298

02:06:52.480 --> 02:06:56.128
You're gonna object to counsel's testimony.

2299

02:06:59.790 --> 02:07:02.202
Yeah, uh, can you just stick

2300

02:07:02.202 --> 02:07:03.770
to your questions, right?

2301

02:07:03.770 --> 02:07:05.210
Those those reservoirs are

2302

02:07:05.210 --> 02:07:07.102
draining really fast, aren't they?

2303

02:07:07.102 --> 02:07:08.726
Mr, That's your statement.

2304

02:07:08.730 --> 02:07:11.277
Mr Frank will not mine and I'm asking you.

2305

02:07:11.280 --> 02:07:13.890
Aren't they draining really quickly

2306

02:07:13.890 --> 02:07:15.630
with the information you provided?

2307

02:07:15.630 --> 02:07:18.414
I can't make that determination and you

2308

02:07:18.414 --> 02:07:19.828
don't know where this so you don't.

2309

02:07:19.830 --> 02:07:22.110

You don't know where this

2310

02:07:22.110 --> 02:07:23.934
unused water goes do.

2311

02:07:23.940 --> 02:07:26.610
Excuse me you don't know

2312

02:07:26.610 --> 02:07:29.280
where this unused water goes.

2313

02:07:29.280 --> 02:07:30.456
As I stated before,

2314

02:07:30.456 --> 02:07:32.220
it goes to recharge of the

2315

02:07:32.289 --> 02:07:33.569
groundwater aquifer.

2316

02:07:33.570 --> 02:07:36.335
Because you have personal knowledge of that.

2317

02:07:36.340 --> 02:07:37.172
I don't.

2318

02:07:37.172 --> 02:07:41.470
I was relying on a study that I've reviewed.

2319

02:07:41.470 --> 02:07:42.559
No further questions.

2320

02:07:46.080 --> 02:07:47.420
Could you stop screen

2321

02:07:47.420 --> 02:07:49.190
share please? Yep, sorry.

2322

02:07:52.670 --> 02:07:57.010
Right Mr Caughey. Is it a should?

2323
02:07:57.010 --> 02:07:59.709
Is it a good time for a break or would

2324
02:07:59.709 --> 02:08:03.129
like a little bit, yeah. OK, thank you.

2325
02:16:16.790 --> 02:16:19.409
Michael Kido, I think you have your audio on.

2326
02:16:27.020 --> 02:16:28.280
If you could put it on mute,

2327
02:16:28.280 --> 02:16:29.148
that would be helpful.

2328
02:16:31.990 --> 02:16:34.158
OK, see. Thank you.

2329
02:16:36.510 --> 02:16:41.118
Uhm? Right, we're just waiting for Mr.

2330
02:16:41.120 --> 02:16:43.460
Franklin. Then we'll get going again,

2331
02:16:43.460 --> 02:16:47.428
alright, forget it all. OK, uhm. So.

2332
02:16:47.428 --> 02:16:52.200
Just to touch base on the schedule here.

2333
02:16:52.200 --> 02:16:53.352
Well, first of all,

2334
02:16:53.352 --> 02:16:55.558
back on the tape, it's 1118.

2335
02:16:55.558 --> 02:16:59.226
Uhm will be finishing with Mr Hal.

2336
02:16:59.230 --> 02:17:01.379

We have one other person Michelle Reynolds,

2337

02:17:01.380 --> 02:17:04.326
scheduled for today. So Mr Frankel,

2338

02:17:04.330 --> 02:17:06.950
I think this would be a good time to work

2339

02:17:07.022 --> 02:17:09.647
in some of your witnesses this afternoon.

2340

02:17:09.650 --> 02:17:12.947
So, uhm, so doctor Oz is available.

2341

02:17:12.950 --> 02:17:15.130
1:30 that was the time

2342

02:17:15.130 --> 02:17:17.920
that I let the child know.

2343

02:17:17.920 --> 02:17:19.915
Lucian has a site visit at one,

2344

02:17:19.920 --> 02:17:23.014
so she's not going to be available.

2345

02:17:23.020 --> 02:17:25.460
Uh, I don't think any of our mean

2346

02:17:25.460 --> 02:17:27.469
the county actually goes next,

2347

02:17:27.470 --> 02:17:29.390
but the county is not providing

2348

02:17:29.390 --> 02:17:30.670
their witness till Tuesday,

2349

02:17:30.670 --> 02:17:31.454
so it's not really.

2350

02:17:31.454 --> 02:17:32.630
We're not going to take any

2351

02:17:32.676 --> 02:17:33.930
of our witnesses out of order.

2352

02:17:45.490 --> 02:17:47.978
What about Merlin stop?

2353

02:17:47.980 --> 02:17:51.109
Uh, she I think she said she's

2354

02:17:51.109 --> 02:17:53.329
available on Tuesday the 14th.

2355

02:17:53.330 --> 02:17:57.146
You never got back to me this afternoon.

2356

02:17:57.150 --> 02:17:58.998
Excuse me, can you find out if

2357

02:17:58.998 --> 02:18:00.370
she's available this afternoon?

2358

02:18:02.710 --> 02:18:05.640
Uhm? This year, are you listening?

2359

02:18:05.640 --> 02:18:06.756
Can you send her a text?

2360

02:18:10.990 --> 02:18:13.456
Uhm, I can, but you know,

2361

02:18:13.460 --> 02:18:14.905
lots of people have power

2362

02:18:14.905 --> 02:18:16.350
out in Internet out here.

2363

02:18:16.350 --> 02:18:18.850

Still, they haven't fixed everything,

2364

02:18:18.850 --> 02:18:20.610
so hopefully she'll get it.

2365

02:18:20.610 --> 02:18:22.394
No guarantees, thank you.

2366

02:18:22.394 --> 02:18:24.178
Hopefully should have Internet.

2367

02:18:24.180 --> 02:18:25.320
Thank you for checking.

2368

02:18:28.040 --> 02:18:30.940
OK, uh, let's continue with

2369

02:18:30.940 --> 02:18:34.320
Mr how misogi you are up.

2370

02:18:36.860 --> 02:18:40.524
Thank you. Hi Mr Howe,

2371

02:18:40.524 --> 02:18:42.396
good morning again morning.

2372

02:18:42.400 --> 02:18:44.856
I just have a couple of areas that

2373

02:18:44.856 --> 02:18:47.500
I want to cover with you that

2374

02:18:47.500 --> 02:18:49.450
were addressed by Mr Frankel.

2375

02:18:49.450 --> 02:18:52.620
So, uhm, their first is.

2376

02:18:52.620 --> 02:18:56.708
You had, Mr. Franco had asked you

2377

02:18:56.708 --> 02:18:59.980
about UM exhibit export team,

2378

02:18:59.980 --> 02:19:03.280
which was a table of.

2379

02:19:03.280 --> 02:19:06.794
Mahi Pono is water requirements by crop.

2380

02:19:06.800 --> 02:19:09.296
Do you remember him asking you about that?

2381

02:19:09.300 --> 02:19:14.210
I do. OK, and you had mentioned

2382

02:19:14.210 --> 02:19:15.590
crop coefficients.

2383

02:19:15.590 --> 02:19:18.857
Can you tell us what a crop coefficient is?

2384

02:19:18.860 --> 02:19:22.856
So crop coefficient is the measurement

2385

02:19:22.856 --> 02:19:26.332
they use to differentiate the base

2386

02:19:26.332 --> 02:19:28.362
of apple transpiration rate for

2387

02:19:28.362 --> 02:19:30.250
each different types of crops.

2388

02:19:30.250 --> 02:19:31.606
So for example,

2389

02:19:31.606 --> 02:19:34.318
everybody is familiar with sugar cane,

2390

02:19:34.320 --> 02:19:38.877

I believe it has a crop coefficient of 1.1.

2391

02:19:38.877 --> 02:19:41.662

Everybody had also is additionally

2392

02:19:41.662 --> 02:19:43.890

familiar with Mac nuts,

2393

02:19:43.890 --> 02:19:46.830

and depending on the elevation it has

2394

02:19:46.830 --> 02:19:49.296

their crop coefficient from point 82.95,

2395

02:19:49.296 --> 02:19:52.278

and so you take that crop coefficient

2396

02:19:52.278 --> 02:19:54.887

and multiply that times the base

2397

02:19:54.887 --> 02:19:56.982

evapor transpiration rate to come

2398

02:19:56.982 --> 02:20:00.060

up with your daily crop water

2399

02:20:00.060 --> 02:20:03.710

needs for that specific crop.

2400

02:20:03.710 --> 02:20:07.182

So when you see the base Eve

2401

02:20:07.182 --> 02:20:08.670

Apple transpiration rate,

2402

02:20:08.670 --> 02:20:10.632

are you talking about a like

2403

02:20:10.632 --> 02:20:13.430

a reference crop? Correct?

2404

02:20:13.430 --> 02:20:14.669
OK, so uhm.

2405

02:20:14.669 --> 02:20:18.870
In that case of from a hippos calculation,

2406

02:20:18.870 --> 02:20:20.742
it was at the alfalfa that

2407

02:20:20.742 --> 02:20:21.990
was the reference group.

2408

02:20:21.990 --> 02:20:22.584
It's alfalfa,

2409

02:20:22.584 --> 02:20:24.366
and also there's a grass crop

2410

02:20:24.366 --> 02:20:26.227
that the state of Hawaii uses.

2411

02:20:26.230 --> 02:20:29.320
So we used a combination thereof

2412

02:20:29.320 --> 02:20:31.564
because alfalfa has a deeper

2413

02:20:31.564 --> 02:20:34.150
root system then the grass crop,

2414

02:20:34.150 --> 02:20:36.446
and so citrus trees and other permanent

2415

02:20:36.446 --> 02:20:38.747
type crops have a deeper root system,

2416

02:20:38.750 --> 02:20:41.004
so we chose to use the combination

2417

02:20:41.004 --> 02:20:41.970

of the two.

2418

02:20:41.970 --> 02:20:43.972

So we made sure we had an

2419

02:20:43.972 --> 02:20:45.595

accurate measurement and just not

2420

02:20:45.595 --> 02:20:46.657

a surface measurement.

2421

02:20:46.660 --> 02:20:50.668

OK, and you had mentioned evapotranspiration.

2422

02:20:50.670 --> 02:20:53.494

Can you just tell us what that is?

2423

02:20:53.500 --> 02:20:53.930

Well,

2424

02:20:53.930 --> 02:20:57.370

I'm not a soil scientist or an agronomist,

2425

02:20:57.370 --> 02:21:00.177

but it it's it's a measurement of

2426

02:21:00.177 --> 02:21:03.257

the amount of water a Livia a plant

2427

02:21:03.260 --> 02:21:06.160

transpires during a certain period

2428

02:21:06.160 --> 02:21:10.080

of time during the day or month,

2429

02:21:10.080 --> 02:21:11.870

or whatever.

2430

02:21:11.870 --> 02:21:12.331

OK,

2431

02:21:12.331 --> 02:21:15.097
so when you're trying to come

2432

02:21:15.100 --> 02:21:16.830
when you irrigate your crops,

2433

02:21:16.830 --> 02:21:19.190
are you trying to replace amount of the

2434

02:21:19.190 --> 02:21:21.888
amount of water that has evap or transpired?

2435

02:21:21.890 --> 02:21:23.810
Yes.

2436

02:21:23.810 --> 02:21:24.194
OK,

2437

02:21:24.194 --> 02:21:25.730
so that's the general,

2438

02:21:25.730 --> 02:21:26.345
UM?

2439

02:21:26.345 --> 02:21:28.805
I guess association between

2440

02:21:28.805 --> 02:21:30.650
evapotranspiration and determining

2441

02:21:30.650 --> 02:21:33.710
irrigation needs correct and there there

2442

02:21:33.710 --> 02:21:36.332
are other factors such as rainfall,

2443

02:21:36.340 --> 02:21:37.756
wind temperature,

2444

02:21:37.756 --> 02:21:38.464

location,

2445

02:21:38.464 --> 02:21:41.296
soil water holding capacity.

2446

02:21:41.300 --> 02:21:43.802
There's there's a variety of other

2447

02:21:43.802 --> 02:21:45.890
things that contribute to this.

2448

02:21:45.890 --> 02:21:47.918
So the amount of applied water

2449

02:21:47.918 --> 02:21:50.420
needed for a crop up state in

2450

02:21:50.420 --> 02:21:52.574
Hawaii may be different than the

2451

02:21:52.574 --> 02:21:54.767
amount of applied water needed for

2452

02:21:54.767 --> 02:21:57.118
that same crop stay in Florida.

2453

02:21:57.118 --> 02:22:01.440
That would be correct. OK.

2454

02:22:01.440 --> 02:22:02.794
Now, Mr.

2455

02:22:02.794 --> 02:22:06.434
Frankel was asking you about I'm

2456

02:22:06.434 --> 02:22:08.314
going to pull up an exhibit, Mickey,

2457

02:22:08.314 --> 02:22:11.125
if you could pull up exhibit X13,

2458

02:22:11.125 --> 02:22:11.810
please.

2459

02:22:27.210 --> 02:22:28.356
Great, thank you.

2460

02:22:28.356 --> 02:22:30.648
Do you remember Mr Franco asking

2461

02:22:30.648 --> 02:22:34.040
you about this exhibit? I do.

2462

02:22:34.040 --> 02:22:38.944
OK, and Mr Frankel was asking you about.

2463

02:22:38.950 --> 02:22:43.210
Water diversion amounts in the November

2464

02:22:43.210 --> 02:22:46.910
2020 December 2020 January 2021 timeframe.

2465

02:22:46.910 --> 02:22:49.490
Do you recall that I do?

2466

02:22:49.490 --> 02:22:53.396
OK, in your declaration you talk

2467

02:22:53.396 --> 02:22:56.000
about some operational changes

2468

02:22:56.106 --> 02:22:59.081
that were made in June of 2021.

2469

02:22:59.081 --> 02:23:02.209
Do you recall that part of your declaration?

2470

02:23:02.210 --> 02:23:06.615
I do? OK, and would you say

2471

02:23:06.615 --> 02:23:08.907

that these operational changes

2472

02:23:08.907 --> 02:23:11.812
that were made in June 2021?

2473

02:23:11.812 --> 02:23:14.802
Did that make Mahi pono's water

2474

02:23:14.802 --> 02:23:17.690
use more or less efficient more?

2475

02:23:19.910 --> 02:23:23.960
So the water diversion amounts.

2476

02:23:26.410 --> 02:23:31.716
From before June 2021, well,

2477

02:23:31.716 --> 02:23:33.594
let me ask it this way.

2478

02:23:33.600 --> 02:23:37.149
What is a more accurate reflection of

2479

02:23:37.149 --> 02:23:39.920
the efficiency of makimono's water?

2480

02:23:39.920 --> 02:23:43.670
Use the diversion numbers before June

2481

02:23:43.670 --> 02:23:48.370
2021 or the numbers from June 2021 on.

2482

02:23:48.370 --> 02:23:50.220
I would say the numbers

2483

02:23:50.220 --> 02:23:54.520
June 2021 on as the farm.

2484

02:23:54.520 --> 02:23:57.684
Gain some size and planted acres increase.

2485
02:23:57.690 --> 02:24:01.620
We've been able to run water 24 hours a day,

2486
02:24:01.620 --> 02:24:03.630
so when we complete an

2487
02:24:03.630 --> 02:24:05.640
irrigation cycle on a field,

2488
02:24:05.640 --> 02:24:07.200
that water goes directly to the

2489
02:24:07.200 --> 02:24:08.869
next field and the next field,

2490
02:24:08.870 --> 02:24:11.530
and then we can cycle back around

2491
02:24:11.530 --> 02:24:14.915
and so we don't have to deal with the

2492
02:24:14.915 --> 02:24:17.337
reactionary time on a system designed

2493
02:24:17.337 --> 02:24:19.975
to divert 165 million MGD and we're

2494
02:24:19.975 --> 02:24:22.399
operating at a small fraction of that.

2495
02:24:22.400 --> 02:24:25.768
So as time increases in our planting acres.

2496
02:24:25.770 --> 02:24:28.510
Increase in water demands increase.

2497
02:24:28.510 --> 02:24:31.291
We hope not to put hardly any water in

2498
02:24:31.291 --> 02:24:34.014

the reservoirs and it'll be all diverted

2499

02:24:34.014 --> 02:24:37.120

to to the fields and manage that way.

2500

02:24:37.120 --> 02:24:39.752

But it takes time to get to a

2501

02:24:39.752 --> 02:24:41.561

certain critical mass where it

2502

02:24:41.561 --> 02:24:43.709

allows you to operate that way.

2503

02:24:43.710 --> 02:24:44.289

Additionally,

2504

02:24:44.289 --> 02:24:47.184

sometimes there's a few fields

2505

02:24:47.184 --> 02:24:50.149

that the reservoir actually serves

2506

02:24:50.149 --> 02:24:52.098

as the pressurization unit,

2507

02:24:52.098 --> 02:24:53.646

so we don't use any energy.

2508

02:24:53.650 --> 02:24:55.110

The water enters the reservoir,

2509

02:24:55.110 --> 02:24:56.046

it has an elevation.

2510

02:24:56.046 --> 02:24:57.450

And then it flows down and

2511

02:24:57.504 --> 02:24:58.849

served four or five fields.

2512
02:24:58.850 --> 02:25:00.103
So there are going to be sometimes

2513
02:25:00.103 --> 02:25:01.433
in the future where we need to

2514
02:25:01.433 --> 02:25:02.368
put water in the reservoirs.

2515
02:25:02.370 --> 02:25:04.485
But it's it's going to be a pass through,

2516
02:25:04.490 --> 02:25:08.010
but it takes us a certain critical mass.

2517
02:25:08.010 --> 02:25:10.746
Taken a system and re using it for

2518
02:25:10.746 --> 02:25:13.164
a completely different use than it

2519
02:25:13.164 --> 02:25:15.654
was engineered for in the beginning

2520
02:25:15.727 --> 02:25:17.967
over 100 years ago and so it's

2521
02:25:17.967 --> 02:25:20.414
taken us some time to learn that.

2522
02:25:20.414 --> 02:25:22.269
Get that and get these.

2523
02:25:22.270 --> 02:25:24.100
The trees and fields installed.

2524
02:25:24.100 --> 02:25:26.508
It's about a 20 month process from the

2525
02:25:26.508 --> 02:25:29.047

day we decide we're going to plant.

2526

02:25:29.050 --> 02:25:31.578

Be certain field by the time we get

2527

02:25:31.578 --> 02:25:33.653

the trees purchased or propagated,

2528

02:25:33.653 --> 02:25:36.058

grown and nursery to size.

2529

02:25:36.060 --> 02:25:38.080

Perch design the irrigation system.

2530

02:25:38.080 --> 02:25:41.188

Purchase it, get all the NRCS permits,

2531

02:25:41.190 --> 02:25:43.470

and do that so it's just not something

2532

02:25:43.470 --> 02:25:45.798

that happens within a short period of time.

2533

02:25:45.800 --> 02:25:47.660

So now that we're in progress,

2534

02:25:47.660 --> 02:25:51.615

we should see improvements in these areas,

2535

02:25:51.620 --> 02:25:53.320

and I I will say,

2536

02:25:53.320 --> 02:25:56.729

Mahi Pono is committed to being transparent,

2537

02:25:56.730 --> 02:25:58.380

and we're only going to divert

2538

02:25:58.380 --> 02:25:59.480

the water we need.

2539

02:25:59.480 --> 02:26:01.867

And I think this chart shows a

2540

02:26:01.867 --> 02:26:03.700

commitment to continuous improvement.

2541

02:26:03.700 --> 02:26:05.744

And we understand that we need to

2542

02:26:05.744 --> 02:26:08.190

do our part to continually improve.

2543

02:26:10.270 --> 02:26:11.700

Thank you Nikki. You can

2544

02:26:11.700 --> 02:26:12.844

stop sharing your screen.

2545

02:26:16.200 --> 02:26:18.069

Thank you, I have no further questions.

2546

02:26:21.160 --> 02:26:23.379

Now we counted. I have no questions

2547

02:26:23.379 --> 02:26:27.270

for this witness, thank you right up.

2548

02:26:27.270 --> 02:26:30.378

Mr Frankel anything more. Yes please.

2549

02:26:34.100 --> 02:26:36.228

So these you talked about you just

2550

02:26:36.228 --> 02:26:38.003

talked about this operational changes

2551

02:26:38.003 --> 02:26:40.800

that occurs in 2021 on June. Uhm,

2552

02:26:40.800 --> 02:26:44.329

and in the future you're hardly going to use.

2553

02:26:44.330 --> 02:26:46.110

A water in the reservoir,

2554

02:26:46.110 --> 02:26:48.838

I mean the with that caveat you noted,

2555

02:26:48.840 --> 02:26:52.215

when do you think this is going to occur?

2556

02:26:52.220 --> 02:26:55.090

We will. I can't tell you specifically,

2557

02:26:55.090 --> 02:26:57.938

but overtime, hopefully by the end of and

2558

02:26:57.938 --> 02:27:00.916

it depends on a lot of things on hydrology,

2559

02:27:00.920 --> 02:27:03.538

what the inflow is if we have

2560

02:27:03.538 --> 02:27:05.739

enough water to meet demand.

2561

02:27:05.740 --> 02:27:07.492

If not, we may have to put well

2562

02:27:07.492 --> 02:27:08.777

water in reservoirs at times

2563

02:27:08.777 --> 02:27:10.618

so we can build up a supply.

2564

02:27:10.620 --> 02:27:12.671

So it's a question I can't give

2565

02:27:12.671 --> 02:27:14.930

you a specific answer other than we

2566
02:27:14.930 --> 02:27:17.500
will work towards it and we will

2567
02:27:17.500 --> 02:27:19.180
openly and transparently report.

2568
02:27:19.180 --> 02:27:20.810
Have we've been doing so.

2569
02:27:20.810 --> 02:27:23.827
And as we make. Progress towards that.

2570
02:27:23.830 --> 02:27:25.670
Well, so but well,

2571
02:27:25.670 --> 02:27:28.430
are you talking months or years?

2572
02:27:28.430 --> 02:27:29.670
I couldn't tell you I.

2573
02:27:29.670 --> 02:27:30.930
I mean, it's going to be years.

2574
02:27:30.930 --> 02:27:31.944
It's not going to happen in

2575
02:27:31.944 --> 02:27:32.930
a short order or months,

2576
02:27:32.930 --> 02:27:35.474
but we will continue to endeavor

2577
02:27:35.474 --> 02:27:36.746
to make improvements.

2578
02:27:36.750 --> 02:27:39.522
As we've shown since June and will

2579
02:27:39.522 --> 02:27:41.830

continue to our best efforts.

2580

02:27:41.830 --> 02:27:43.214

And why is that?

2581

02:27:43.214 --> 02:27:45.290

Because the farm is growing and

2582

02:27:45.368 --> 02:27:47.278

the crop water requirements are

2583

02:27:47.278 --> 02:27:50.371

growing and so we can use the water

2584

02:27:50.371 --> 02:27:52.947

efficiently and get more into a sweet

2585

02:27:52.950 --> 02:27:55.110

spot on how the system operates.

2586

02:27:55.110 --> 02:27:57.438

The system was designed 100 years

2587

02:27:57.438 --> 02:27:59.700

ago for large volumes of water.

2588

02:27:59.700 --> 02:28:02.885

When we want to get into these

2589

02:28:02.885 --> 02:28:03.795

infinitesimal adjustments,

2590

02:28:03.800 --> 02:28:06.880

it's very hard to make those in there

2591

02:28:06.880 --> 02:28:09.337

1224 hours away before you see him on farm.

2592

02:28:09.340 --> 02:28:11.662

It's very precise the adjustments and

2593
02:28:11.662 --> 02:28:14.772
then we have the county relying on us

2594
02:28:14.772 --> 02:28:17.300
and some other users relying on us.

2595
02:28:17.300 --> 02:28:19.732
So it's it's a very fine increment and

2596
02:28:19.732 --> 02:28:22.409
it would be irresponsible for us to say,

2597
02:28:22.410 --> 02:28:23.580
yeah, we can do it tomorrow,

2598
02:28:23.580 --> 02:28:24.956
or we can do it in six months.

2599
02:28:24.960 --> 02:28:27.480
It's going to take years to get it just

2600
02:28:27.480 --> 02:28:29.756
right and we need to get the farm up.

2601
02:28:29.760 --> 02:28:32.292
To maturity and get a balanced

2602
02:28:32.292 --> 02:28:34.860
point of operating to make these

2603
02:28:34.860 --> 02:28:37.639
decisions based on a spot in time

2604
02:28:37.640 --> 02:28:40.838
when the whole thing's been changed.

2605
02:28:40.840 --> 02:28:43.240
From how it's operated for over a century,

2606
02:28:43.240 --> 02:28:44.995

and to say we're going to do it tomorrow,

2607

02:28:45.000 --> 02:28:45.780

I would.

2608

02:28:45.780 --> 02:28:48.120

We had irresponsible statement by myself,

2609

02:28:48.120 --> 02:28:48.742

I understand,

2610

02:28:48.742 --> 02:28:50.919

but you seem to suggest when Mr

2611

02:28:50.919 --> 02:28:52.819

Caughey asked you that the time

2612

02:28:52.819 --> 02:28:55.035

frame for hardly putting any water in

2613

02:28:55.035 --> 02:28:57.226

reservoirs was going to be pretty soon.

2614

02:28:57.230 --> 02:28:59.174

And now you're suggesting it's going

2615

02:28:59.174 --> 02:29:01.185

to be several years away, right?

2616

02:29:01.185 --> 02:29:03.375

Well, pretty soon in the farm.

2617

02:29:03.380 --> 02:29:06.540

Mr Frankel, it's it's a 10 or 12 year cycle.

2618

02:29:06.540 --> 02:29:08.550

So pretty soon a couple years

2619

02:29:08.550 --> 02:29:10.800

is pretty quick in my estimate.

2620

02:29:10.800 --> 02:29:12.508

Thank you now again.

2621

02:29:14.690 --> 02:29:16.985

So you are hoping to use the water more

2622

02:29:16.985 --> 02:29:20.534

efficiently than you have been, correct? Uh,

2623

02:29:20.534 --> 02:29:24.086

not that we've just begun using the water.

2624

02:29:24.090 --> 02:29:26.034

So we believe we are using

2625

02:29:26.034 --> 02:29:27.330

the water very efficiently.

2626

02:29:27.330 --> 02:29:28.950

Well, Mr Caughey presented that.

2627

02:29:28.950 --> 02:29:30.564

You've been using it far more

2628

02:29:30.564 --> 02:29:32.210

efficiently since June then you agreed.

2629

02:29:32.210 --> 02:29:34.070

So is that not true?

2630

02:29:34.070 --> 02:29:35.810

No, that that's a true statement,

2631

02:29:35.810 --> 02:29:38.522

and it's just based on there's more acres

2632

02:29:38.522 --> 02:29:41.565

and so we have irrigation needs that

2633

02:29:41.565 --> 02:29:43.930

continually operate around the clock.

2634

02:29:43.930 --> 02:29:46.126

So you, you're operating more efficiently

2635

02:29:46.126 --> 02:29:48.819

now than you were prior to June, correct?

2636

02:29:48.819 --> 02:29:49.686

That's correct, yes.

2637

02:29:49.686 --> 02:29:52.100

So you are not using the water as

2638

02:29:52.100 --> 02:29:53.900

efficiently prior to June, correct?

2639

02:29:53.900 --> 02:29:56.650

I wouldn't say as efficiently

2640

02:29:56.650 --> 02:29:58.850

is is a characterization.

2641

02:29:58.850 --> 02:30:00.446

I still believe we were using

2642

02:30:00.446 --> 02:30:01.510

the water efficiently before.

2643

02:30:01.510 --> 02:30:02.650

Well, if it's more efficiently

2644

02:30:02.650 --> 02:30:04.380

now than it was less efficiently.

2645

02:30:04.380 --> 02:30:06.138

Before, let's not play word games.

2646

02:30:06.140 --> 02:30:07.752

Mr Ho, Mr Frankel.

2647

02:30:07.752 --> 02:30:10.170
We're going to keep this civil.

2648

02:30:10.170 --> 02:30:13.830
Thank you. So Mr. Hal.

2649

02:30:13.830 --> 02:30:15.588
You are using water less efficiently

2650

02:30:15.588 --> 02:30:17.590
than you are now prior to June,

2651

02:30:17.590 --> 02:30:18.031
correct?

2652

02:30:18.031 --> 02:30:21.118
No, the system is operating more efficiently

2653

02:30:21.118 --> 02:30:24.459
now due to greater lengths of irrigation,

2654

02:30:24.460 --> 02:30:26.090
which means it was operating

2655

02:30:26.090 --> 02:30:27.720
less efficiently prior to June,

2656

02:30:27.720 --> 02:30:28.177
right?

2657

02:30:28.177 --> 02:30:29.548
Frank will come.

2658

02:30:33.180 --> 02:30:35.763
You know you see him to say it a

2659

02:30:35.763 --> 02:30:37.697
different way because I'm pretty,

2660

02:30:37.700 --> 02:30:40.838

I'm pretty clear what he's saying.

2661

02:30:40.840 --> 02:30:42.835

He doesn't want to admit the obvious,

2662

02:30:42.840 --> 02:30:44.535

which is obvious.

2663

02:30:44.535 --> 02:30:47.925

The system was using water less

2664

02:30:47.925 --> 02:30:50.547

efficiently then prior to June 2021

2665

02:30:50.547 --> 02:30:52.269

then you're asserting it's using now,

2666

02:30:52.270 --> 02:30:53.782

correct? I I'm gonna ask Mr

2667

02:30:53.782 --> 02:30:55.719

how to say it one more time.

2668

02:30:55.720 --> 02:30:56.989

And then we're going to be done with that.

2669

02:30:59.060 --> 02:31:02.764

Prior to June we did not have enough

2670

02:31:02.764 --> 02:31:05.934

acres planted to operate the delivery

2671

02:31:05.934 --> 02:31:09.156

system as efficiently as we could.

2672

02:31:09.160 --> 02:31:12.248

We did not have 24 hour irrigation cycles,

2673

02:31:12.250 --> 02:31:14.426

so when we finished one field we couldn't

2674
02:31:14.426 --> 02:31:16.920
move it right to the next field currently.

2675
02:31:16.920 --> 02:31:19.116
Now as the farm has grown

2676
02:31:19.116 --> 02:31:20.214
planting tab increased.

2677
02:31:20.220 --> 02:31:23.660
We have the ability to use the farm,

2678
02:31:23.660 --> 02:31:26.120
the water continuously on the farm,

2679
02:31:26.120 --> 02:31:29.282
reducing the need to make diversions

2680
02:31:29.282 --> 02:31:31.404
to reservoirs so you no longer

2681
02:31:31.404 --> 02:31:33.752
need to have as much water in the

2682
02:31:33.752 --> 02:31:35.798
reservoirs as you were having before,

2683
02:31:35.800 --> 02:31:39.308
correct before June 2021.

2684
02:31:39.310 --> 02:31:42.836
Uh, correct, and that's a good thing, right?

2685
02:31:42.836 --> 02:31:45.366
That could be your determination.

2686
02:31:45.370 --> 02:31:46.880
I'm asking for your opinion.

2687
02:31:46.880 --> 02:31:49.480

Is that a good thing to have less

2688

02:31:49.480 --> 02:31:51.658
water going to those reservoirs?

2689

02:31:51.660 --> 02:31:53.535
Uh, that's dependent upon hydraulic

2690

02:31:53.535 --> 02:31:56.106
conditions and you know a lot of

2691

02:31:56.106 --> 02:31:57.996
other factors that factor in that.

2692

02:31:58.000 --> 02:31:59.320
So I'm not in position to

2693

02:31:59.320 --> 02:31:59.980
make that statement.

2694

02:31:59.980 --> 02:32:01.745
Well, you've said you're putting

2695

02:32:01.745 --> 02:32:03.800
less water in the reservoirs now.

2696

02:32:03.800 --> 02:32:06.400
Is that a bad thing?

2697

02:32:06.400 --> 02:32:09.900
I know it's Jackson asked and answered.

2698

02:32:09.900 --> 02:32:13.309
So having less water going into the

2699

02:32:13.309 --> 02:32:15.440
reservoirs is actually a good thing,

2700

02:32:15.440 --> 02:32:15.798
right?

2701

02:32:15.798 --> 02:32:17.946
He did answer action asked and

2702

02:32:17.946 --> 02:32:19.869
answered and answered that already.

2703

02:32:23.220 --> 02:32:25.170
There's going to be a different

2704

02:32:25.170 --> 02:32:26.145
a different question.

2705

02:32:26.150 --> 02:32:28.046
Thank you. Did not answer the

2706

02:32:28.046 --> 02:32:29.670
question here is Officer case.

2707

02:32:29.670 --> 02:32:31.350
He needs to answer the question.

2708

02:32:31.350 --> 02:32:33.010
You can't prevent me from

2709

02:32:33.010 --> 02:32:34.338
cross examining a witness.

2710

02:32:34.340 --> 02:32:35.880
He can be re directed by Mr.

2711

02:32:35.880 --> 02:32:38.575
Cogley later ask the question one more

2712

02:32:38.575 --> 02:32:42.376
time and he can answer it one more time.

2713

02:32:42.380 --> 02:32:47.140
So. It is a good thing.

2714

02:32:47.140 --> 02:32:50.080

From my hip owners perspective and

2715

02:32:50.080 --> 02:32:52.040
from the environment perspective

2716

02:32:52.116 --> 02:32:54.881
that there is less water going into

2717

02:32:54.881 --> 02:32:57.164
the reservoirs now than there was

2718

02:32:57.164 --> 02:33:00.980
prior to June 20, 2021, correct?

2719

02:33:00.980 --> 02:33:02.316
As I stated before,

2720

02:33:02.316 --> 02:33:04.320
the farm has become more efficient

2721

02:33:04.385 --> 02:33:06.723
in our use of water because the

2722

02:33:06.723 --> 02:33:08.310
planting has increased and we're

2723

02:33:08.310 --> 02:33:10.390
able to use to use the water too

2724

02:33:10.390 --> 02:33:12.780
in 24 hour irrigation cycles.

2725

02:33:12.780 --> 02:33:13.732
Six days a week,

2726

02:33:13.732 --> 02:33:15.861
so we have less of a need to

2727

02:33:15.861 --> 02:33:17.745
put the water in the reservoir,

2728
02:33:17.750 --> 02:33:19.766
and I'm asking you to characterize that.

2729
02:33:19.770 --> 02:33:21.709
Is that a good thing or not?

2730
02:33:21.710 --> 02:33:23.480
You have not answered that question.

2731
02:33:23.480 --> 02:33:25.080
Is that a good thing?

2732
02:33:25.080 --> 02:33:27.150
Operationally, that's a good thing.

2733
02:33:27.150 --> 02:33:29.950
Thank you. How about for the environment?

2734
02:33:29.950 --> 02:33:31.480
Is that a good thing?

2735
02:33:31.480 --> 02:33:33.650
I'm not a scientist and I cannot

2736
02:33:33.650 --> 02:33:35.130
provide that answer alright.

2737
02:33:37.670 --> 02:33:39.546
And you don't know when this critical

2738
02:33:39.546 --> 02:33:41.875
mass is going to be achieved or have

2739
02:33:41.875 --> 02:33:43.345
you already achieved the critical

2740
02:33:43.404 --> 02:33:45.138
mass we are working towards that.

2741
02:33:45.140 --> 02:33:47.876

But as the crops mature their crop water

2742

02:33:47.876 --> 02:33:49.628
requirements will increase as well.

2743

02:33:49.630 --> 02:33:51.478
So it'll take a period of

2744

02:33:51.478 --> 02:33:53.270
time to get things mature,

2745

02:33:53.270 --> 02:33:55.070
get all of our plantings in,

2746

02:33:55.070 --> 02:33:57.212
get off all of our infrastructure

2747

02:33:57.212 --> 02:33:59.004
improvements in so this will

2748

02:33:59.004 --> 02:34:00.774
take a long time to achieve.

2749

02:34:00.780 --> 02:34:04.604
No did my hippo use the Ferris model?

2750

02:34:04.610 --> 02:34:05.780
I don't understand.

2751

02:34:05.780 --> 02:34:07.730
I'm not familiar with that.

2752

02:34:07.730 --> 02:34:10.684
OK, let me bring up this exhibit.

2753

02:34:10.690 --> 02:34:12.738
It's your folks exhibit.

2754

02:34:24.220 --> 02:34:27.781
This is exhibit X24 R shoot can

2755

02:34:27.781 --> 02:34:31.027
you can you see exhibit X24?

2756

02:34:31.030 --> 02:34:33.697
Uh, yes, if that's what you're sharing

2757

02:34:33.697 --> 02:34:37.129
is the this is developed by Holly Ferris.

2758

02:34:37.130 --> 02:34:38.610
Do you see that?

2759

02:34:38.610 --> 02:34:40.438
Yeah, now did you take data from

2760

02:34:40.438 --> 02:34:42.420
this report or did you actually use

2761

02:34:42.420 --> 02:34:44.328
the software and model he developed?

2762

02:34:44.330 --> 02:34:46.730
Well, I I am familiar with the software,

2763

02:34:46.730 --> 02:34:49.075
it was hard to open and I

2764

02:34:49.075 --> 02:34:50.990
know our design engineers.

2765

02:34:50.990 --> 02:34:52.616
I think they either conferred with

2766

02:34:52.616 --> 02:34:54.770
them or you know they use this data.

2767

02:34:54.770 --> 02:34:56.492
But the model had they had some

2768

02:34:56.492 --> 02:34:57.730

technical problems with the model.

2769

02:34:57.730 --> 02:34:59.529

It didn't quite operate all the time,

2770

02:34:59.530 --> 02:35:01.000

but I know they've they.

2771

02:35:01.000 --> 02:35:02.554

Had access to it and opened

2772

02:35:02.554 --> 02:35:04.348

it in and use some of it,

2773

02:35:04.350 --> 02:35:06.374

but I'm not sure you'd have to speak

2774

02:35:06.374 --> 02:35:08.014

with them of what portions they

2775

02:35:08.014 --> 02:35:09.790

use or they didn't use all right

2776

02:35:12.140 --> 02:35:18.068

now. Uhm, you talked about using both the,

2777

02:35:18.070 --> 02:35:21.444

uh, data from that old alfalfa report,

2778

02:35:21.450 --> 02:35:23.289

you know, by the way, one that alfalfa

2779

02:35:23.289 --> 02:35:25.446

report was written I, I don't know.

2780

02:35:25.446 --> 02:35:27.351

I was not involved in in the

2781

02:35:27.351 --> 02:35:29.236

middle of those technical details.

2782

02:35:29.240 --> 02:35:31.207
OK, but you also said you looked

2783

02:35:31.207 --> 02:35:33.586
at that and you look at some data

2784

02:35:33.586 --> 02:35:35.440
from graphs at the state uses.

2785

02:35:35.440 --> 02:35:37.841
Right, that's what you testified to some

2786

02:35:37.841 --> 02:35:39.778
state data regarding grass is right.

2787

02:35:39.780 --> 02:35:41.784
I think that was related to

2788

02:35:41.784 --> 02:35:42.786
the fairest model.

2789

02:35:42.790 --> 02:35:44.407
OK, well the state data is that

2790

02:35:44.407 --> 02:35:46.189
come from the part of agriculture.

2791

02:35:46.190 --> 02:35:47.460
Uh, I couldn't tell you.

2792

02:35:47.460 --> 02:35:49.148
I don't know where they gathered their data.

2793

02:35:49.150 --> 02:35:52.035
I'm not a technical expert on that, OK,

2794

02:35:52.035 --> 02:35:54.795
and if you folks collected any data on

2795

02:35:54.795 --> 02:35:57.446

salinity of the wells you've been pumping,

2796

02:35:57.450 --> 02:35:59.565

we have some recent data and we do have

2797

02:35:59.565 --> 02:36:01.786

some historical data that we've reviewed.

2798

02:36:01.790 --> 02:36:04.158

Yes, have you provided any of that recent

2799

02:36:04.158 --> 02:36:07.045

data to the Board of Latin Natural Resources?

2800

02:36:07.050 --> 02:36:09.640

The Department of Natural Resources?

2801

02:36:09.640 --> 02:36:13.888

I'm I'm unaware if we've shared that or not.

2802

02:36:13.890 --> 02:36:18.210

Thank you, no further questions. Right?

2803

02:36:18.210 --> 02:36:20.177

Anybody else are we done with Mr.

2804

02:36:20.180 --> 02:36:23.380

Hunt? I have no further questions.

2805

02:36:23.380 --> 02:36:25.640

I have no questions.

2806

02:36:25.640 --> 02:36:27.900

OK thank you alright.

2807

02:36:27.900 --> 02:36:29.970

Thank you Mrs Caison staff II.

2808

02:36:29.970 --> 02:36:32.028

Appreciate everyone's time very much Mr.

2809
02:36:32.030 --> 02:36:36.335
How appreciate your time and your patience.

2810
02:36:36.340 --> 02:36:40.000
Alright, it is a 1140.

2811
02:36:40.000 --> 02:36:43.852
So we have we have one witness scheduled uhm.

2812
02:36:43.860 --> 02:36:46.380
Michelle Reynolds is she?

2813
02:36:46.380 --> 02:36:49.279
She not available until 1:30,

2814
02:36:49.279 --> 02:36:50.416
is that correct?

2815
02:36:50.416 --> 02:36:53.080
Correct Doctor Ellis is available at 1:30,

2816
02:36:53.080 --> 02:36:53.501
right?

2817
02:36:53.501 --> 02:36:55.606
Did we find out about?

2818
02:36:58.720 --> 02:36:59.920
Let me check my messages.

2819
02:36:59.920 --> 02:37:02.388
I don't think so.

2820
02:37:02.390 --> 02:37:04.721
How long do you think Lucy and

2821
02:37:04.721 --> 02:37:06.040
Denise testimony will run?

2822
02:37:08.060 --> 02:37:09.446

Their cross examining,

2823

02:37:09.446 --> 02:37:14.660
she submitted her testimony OK so Andy.

2824

02:37:14.660 --> 02:37:16.908
Less than 30 minutes.

2825

02:37:16.910 --> 02:37:18.782
Do you want to try to do her

2826

02:37:18.782 --> 02:37:20.125
now before lunch before she

2827

02:37:20.125 --> 02:37:22.015
has to go on her site visit?

2828

02:37:22.020 --> 02:37:23.226
I think that would be helpful.

2829

02:37:29.650 --> 02:37:31.442
We see and you need time to prepare

2830

02:37:31.442 --> 02:37:33.607
or you Are you ready to testify today?

2831

02:37:37.350 --> 02:37:39.366
I am not ready to testify today.

2832

02:37:39.370 --> 02:37:41.510
I'm still in my pajamas.

2833

02:37:41.510 --> 02:37:43.926
I've just came on as a scribe as

2834

02:37:43.926 --> 02:37:46.842
I was asked to be today because we

2835

02:37:46.842 --> 02:37:49.763
can't get her a video recording,

2836

02:37:49.763 --> 02:37:53.369
so I'm trying to take notes.

2837

02:37:53.370 --> 02:37:55.645
That's been my only preparation

2838

02:37:55.645 --> 02:37:57.030
for today. Thank you.

2839

02:38:00.760 --> 02:38:03.357
Uh, OK, so we're waiting to hear

2840

02:38:03.357 --> 02:38:04.824
about another witness weekend.

2841

02:38:04.824 --> 02:38:06.948
She's in town. She won't be

2842

02:38:06.948 --> 02:38:09.319
back in town till after three.

2843

02:38:12.010 --> 02:38:15.433
OK. So that means we only have

2844

02:38:15.433 --> 02:38:17.490
Michelle Reynolds available today.

2845

02:38:17.490 --> 02:38:19.430
Is that correct? Correct?

2846

02:38:22.890 --> 02:38:25.170
Anybody else have any witness

2847

02:38:25.170 --> 02:38:28.230
available? What about my kiddo?

2848

02:38:28.230 --> 02:38:31.590
He's going to go after. Skippy

2849

02:38:42.920 --> 02:38:44.954

Tony can you get your witness

2850

02:38:44.954 --> 02:38:46.310
available today at all?

2851

02:38:50.530 --> 02:38:52.280
Who are you talking to?

2852

02:38:52.280 --> 02:38:56.710
County, Caleb I know my witness

2853

02:38:56.710 --> 02:38:58.380
is not available today, right?

2854

02:39:05.110 --> 02:39:07.468
Alright, then, I guess we are

2855

02:39:07.468 --> 02:39:10.618
going to take a break until 1:30.

2856

02:39:10.620 --> 02:39:12.306
And we will only hear from

2857

02:39:12.306 --> 02:39:13.149
Michelle Reynolds today.

2858

02:39:13.150 --> 02:39:15.904
But I do want to ask everyone to make

2859

02:39:15.904 --> 02:39:18.405
sure your witnesses are available and

2860

02:39:18.405 --> 02:39:20.948
can adjust their times as necessary

2861

02:39:20.948 --> 02:39:23.982
so that we can get through this just

2862

02:39:23.982 --> 02:39:27.260
quickly as possible. Preferably.

2863

02:39:27.260 --> 02:39:31.118
In not three days next week.

2864

02:39:31.120 --> 02:39:32.530
I think we'll finish on Tuesday.

2865

02:39:37.180 --> 02:39:40.250
Right so we it is now, UM.

2866

02:39:42.300 --> 02:39:46.464
1141 and we will take a break until 1:30.

2867

02:39:46.464 --> 02:39:48.040
Everybody OK with that,

2868

02:39:48.040 --> 02:39:49.608
so I have a question about the audio.

2869

02:39:49.610 --> 02:39:51.826
Do you guys turn off the audio clock

2870

02:39:51.826 --> 02:39:53.796
during lunch or does it keep running?

2871

02:39:56.690 --> 02:39:59.300
I turn, I pause the audio

2872

02:39:59.300 --> 02:40:02.340
recording that I have during lunch.

2873

02:40:02.340 --> 02:40:04.584
So the time is going to we're not,

2874

02:40:04.584 --> 02:40:05.844
so there were no law.

2875

02:40:05.850 --> 02:40:08.216
Not only would have we never been

2876

02:40:08.220 --> 02:40:09.560

in conjunction with the clock,

2877

02:40:09.560 --> 02:40:10.766
we're going to be for them.

2878

02:40:10.770 --> 02:40:12.366
You know, I think it's a it's

2879

02:40:12.366 --> 02:40:14.038
a math thing we can calculate.

2880

02:40:14.040 --> 02:40:16.100
We can help you do that if you need help,

2881

02:40:16.100 --> 02:40:18.380
I would love that when we go back at 1:30.

2882

02:40:18.380 --> 02:40:19.136
If you could tell me where

2883

02:40:19.136 --> 02:40:19.860
we are in the audio,

2884

02:40:19.860 --> 02:40:21.570
they'll be wonderful or I can't

2885

02:40:21.570 --> 02:40:23.909
tell you where they are in the audio

2886

02:40:23.909 --> 02:40:25.619
until the audio tape is downloaded

2887

02:40:25.678 --> 02:40:27.298
and then uploaded at the end.

2888

02:40:27.300 --> 02:40:29.586
But we will be tracking it.

2889

02:40:29.590 --> 02:40:32.190
And do our best to give you the

2890
02:40:32.190 --> 02:40:34.790
calculation so that you can make that

2891
02:40:34.790 --> 02:40:37.458
adjustment that we can provide you a

2892
02:40:37.458 --> 02:40:39.985
approximate times on the from the audio.

2893
02:40:39.990 --> 02:40:42.190
That'd be great, thank you.

2894
02:40:42.190 --> 02:40:43.822
OK thanks everyone where

2895
02:40:43.822 --> 02:40:45.710
I'm breaking till 1:30.

2896
02:40:45.710 --> 02:40:47.030
Thank you.

2897
02:41:02.960 --> 02:41:03.500
Tina

2898
02:41:07.800 --> 02:41:09.168
yes very good.

2899
02:41:12.140 --> 02:41:13.750
I thought you were talking to somebody.

2900
02:41:26.510 --> 02:41:28.718
OK, we're we're. We're recording again.

2901
02:41:33.650 --> 02:41:36.930
And I'll just make sure everybody is here.

2902
02:41:36.930 --> 02:41:44.430
Uhm? It's 1:31 PM on my recording we have.

2903
02:41:44.430 --> 02:41:47.448

A couple uhm so Michelle Reynolds.

2904

02:41:47.450 --> 02:41:51.190

Are you able to turn your. Device.

2905

02:41:55.780 --> 02:41:59.580

Yeah, great. You're on mute,

2906

02:41:59.580 --> 02:42:00.380

so we don't hear you,

2907

02:42:00.380 --> 02:42:01.436

but that that's great.

2908

02:42:01.436 --> 02:42:02.756

This is the right direction.

2909

02:42:02.760 --> 02:42:04.376

OK, uhm, everybody else.

2910

02:42:04.376 --> 02:42:06.800

If you wouldn't mind just turning

2911

02:42:06.877 --> 02:42:09.317

on your video for a short bit here,

2912

02:42:09.320 --> 02:42:11.390

just so we all know who's in the room.

2913

02:42:14.090 --> 02:42:22.918

K. Here it is smart. Wow, we Nicole.

2914

02:42:22.920 --> 02:42:26.985

KCL, how are you here and my key to are

2915

02:42:26.985 --> 02:42:28.948

you here and hitting Coleman? Are you here?

2916

02:42:33.900 --> 02:42:36.060

OK, it might take you heady.

2917

02:42:36.060 --> 02:42:38.436

Thank you. What about Seal house?

2918

02:42:38.440 --> 02:42:43.910

He's still. In the meeting. You know?

2919

02:42:46.400 --> 02:42:48.008

Can you guys can turn back off things?

2920

02:42:57.250 --> 02:42:58.794

Driver administrative manager addressed.

2921

02:42:58.794 --> 02:43:01.110

Before we begin with Doctor Reynolds.

2922

02:43:01.110 --> 02:43:02.356

Yeah, I just want to confirm if

2923

02:43:02.356 --> 02:43:03.800

she'll how is in the meeting or not.

2924

02:43:07.360 --> 02:43:12.076

Anybody know? Spell checking with him.

2925

02:43:12.080 --> 02:43:14.678

I think it's OK to proceed.

2926

02:43:14.680 --> 02:43:16.723

OK, how about if I put him in the

2927

02:43:16.723 --> 02:43:18.597

waiting room and then if he wants to

2928

02:43:18.597 --> 02:43:21.416

come back in you can let let us know.

2929

02:43:21.420 --> 02:43:23.268

OK. Great thanks.

2930

02:43:25.770 --> 02:43:27.492

But if somebody wants to send him

2931

02:43:27.492 --> 02:43:29.470
an oh **** saying we're doing that.

2932

02:43:52.100 --> 02:43:54.389
I can let him back in anytime.

2933

02:43:54.390 --> 02:43:57.750
Uhm, OK? OK, uh, yeah Mr.

2934

02:43:57.750 --> 02:44:00.210
Frankly, you had an administrative matter.

2935

02:44:00.210 --> 02:44:02.880
Yep, given your concern over time

2936

02:44:02.880 --> 02:44:05.612
and given the testimony we got

2937

02:44:05.612 --> 02:44:07.787
from Doctor struck this morning,

2938

02:44:07.790 --> 02:44:09.646
the Sierra Club is not going to call

2939

02:44:09.646 --> 02:44:11.195
Skippy how, as a witness on Monday

2940

02:44:11.195 --> 02:44:12.989
and will let him know that he can

2941

02:44:12.989 --> 02:44:14.508
do work in the field rather than

2942

02:44:14.566 --> 02:44:16.150
coming to the hearing on Monday.

2943

02:44:16.150 --> 02:44:17.480
So does that mean you're not going

2944

02:44:17.480 --> 02:44:18.780
to call him at all, correct?

2945

02:44:18.780 --> 02:44:20.760
We don't need to, OK?

2946

02:44:26.180 --> 02:44:30.240
Right, I'm sure it helps everyone.

2947

02:44:30.240 --> 02:44:33.840
And I will. I will email everybody to.

2948

02:44:33.840 --> 02:44:35.694
We currently have Tony Linder from

2949

02:44:35.694 --> 02:44:37.799
the county going in the afternoon,

2950

02:44:37.800 --> 02:44:39.858
but I will see if he's available

2951

02:44:39.858 --> 02:44:41.384
in the morning since Mr.

2952

02:44:41.384 --> 02:44:42.968
House not going we can squeeze

2953

02:44:42.968 --> 02:44:44.439
enough people in the morning.

2954

02:44:44.440 --> 02:44:46.547
I think I would like to believe,

2955

02:44:46.550 --> 02:44:48.008
but maybe if he could be

2956

02:44:48.008 --> 02:44:49.350
flexible that'd be great, OK?

2957

02:44:55.760 --> 02:44:59.216

OK, so then uh so Monday morning we

2958

02:44:59.216 --> 02:45:02.527
would have kaleo Manuel Scott frats.

2959

02:45:02.530 --> 02:45:04.390
And Tony Linder.

2960

02:45:04.390 --> 02:45:08.190
Maikido could go before like a mic,

2961

02:45:08.190 --> 02:45:10.290
key to and then Tony Lindner.

2962

02:45:10.290 --> 02:45:12.705
So would Lucy and Danae and learn,

2963

02:45:12.710 --> 02:45:14.610
and Scott potentially be

2964

02:45:14.610 --> 02:45:16.510
available Monday afternoon Lucy.

2965

02:45:16.510 --> 02:45:18.226
And yes, I believe that Linscott

2966

02:45:18.226 --> 02:45:19.850
only available on the Tuesday,

2967

02:45:19.850 --> 02:45:21.830
but I will follow up with her on that.

2968

02:45:21.830 --> 02:45:23.580
That was my understanding, OK?

2969

02:45:27.060 --> 02:45:29.308
Any other administrative matters.

2970

02:45:33.480 --> 02:45:39.688
OK, hearing none. Uhm? Right again we are.

2971

02:45:42.260 --> 02:45:47.390
It's December nine 1:35 PM.

2972

02:45:47.390 --> 02:45:50.246
Uh, and we have this afternoon only.

2973

02:45:50.250 --> 02:45:51.818
Michelle Reynolds to hear.

2974

02:45:51.818 --> 02:45:55.180
And that is a witness of Sierra Club.

2975

02:45:55.180 --> 02:45:59.246
So C. Would you like Linda Chow?

2976

02:45:59.246 --> 02:46:02.270
Would you like to please swear her in?

2977

02:46:02.270 --> 02:46:05.282
Sure. Mr. Reynolds,

2978

02:46:05.282 --> 02:46:07.730
do you solemnly swear to tell the truth,

2979

02:46:07.730 --> 02:46:10.418
the whole truth and nothing but the truth?

2980

02:46:10.420 --> 02:46:13.920
We do thank you.

2981

02:46:13.920 --> 02:46:15.705
Doctor Reynolds are the statements

2982

02:46:15.705 --> 02:46:17.849
made in your declaration true and

2983

02:46:17.849 --> 02:46:19.949
accurate to the best of your knowledge.

2984

02:46:19.950 --> 02:46:22.708

Yes, and just your 25 years of

2985

02:46:22.708 --> 02:46:25.869
work as a wildlife biologist.

2986

02:46:25.870 --> 02:46:28.480
What state was that in?

2987

02:46:28.480 --> 02:46:34.748
Boy, thank you. We offer circle offers.

2988

02:46:34.748 --> 02:46:36.103
Michelle Dr.

2989

02:46:36.103 --> 02:46:39.018
Michelle Reynolds for cross examination.

2990

02:46:39.020 --> 02:46:39.800
You have her statement.

2991

02:46:39.800 --> 02:46:40.190
Thank you.

2992

02:46:47.280 --> 02:46:50.408
OK, Alexander Baldwin EMI.

2993

02:46:50.410 --> 02:46:53.830
Thank you, good afternoon Doctor Reynolds.

2994

02:46:53.830 --> 02:46:55.250
My name is Trisha cocky.

2995

02:46:55.250 --> 02:46:57.235
I represent A and B&MI

2996

02:46:57.235 --> 02:46:59.884
can you hear me OK yes.

2997

02:46:59.884 --> 02:47:05.196
OK, are you still employed by the USGS?

2998

02:47:05.200 --> 02:47:07.635
No, I'm no longer employed

2999

02:47:07.635 --> 02:47:10.070
by department of issues here.

3000

02:47:10.070 --> 02:47:13.118
And when did your employment with

3001

02:47:13.118 --> 02:47:16.560
the Department of Interior stop? 2019

3002

02:47:21.650 --> 02:47:24.394
uh, at the time that you were working

3003

02:47:24.394 --> 02:47:26.918
for the Department of Interior,

3004

02:47:26.920 --> 02:47:29.464
you stated that you were working in Hawaii,

3005

02:47:29.470 --> 02:47:33.780
correct? Yes, uh, what part?

3006

02:47:33.780 --> 02:47:35.348
What part of Hawaii were you working in?

3007

02:47:37.640 --> 02:47:39.800
All the way up and down the archipelago.

3008

02:47:39.800 --> 02:47:41.114
Actually from curious.

3009

02:47:41.114 --> 02:47:43.742
All to all the main islands.

3010

02:47:49.830 --> 02:47:51.380
Were you located on the

3011

02:47:51.380 --> 02:47:52.930

Big Island at the time?

3012

02:47:52.930 --> 02:47:55.260

The office was on the Big Island, yes.

3013

02:48:00.460 --> 02:48:02.756

As part of your work for USGS,

3014

02:48:02.760 --> 02:48:05.510

did you study or analyze

3015

02:48:05.510 --> 02:48:07.710

the East Maui watershed?

3016

02:48:07.710 --> 02:48:10.926

I did forestburg surveys on the

3017

02:48:10.926 --> 02:48:13.070

eastern slopes of Haleakala.

3018

02:48:16.280 --> 02:48:17.140

And when was that?

3019

02:48:20.390 --> 02:48:25.040

In the 90s and it's late at 2004.

3020

02:48:29.800 --> 02:48:32.600

Are you currently employed? Yes.

3021

02:48:34.850 --> 02:48:37.190

And who are you employed with?

3022

02:48:37.190 --> 02:48:38.480

I'm self employed.

3023

02:48:40.490 --> 02:48:42.890

Doing what kind of work?

3024

02:48:42.890 --> 02:48:48.150

I do detector dog biological surveys.

3025

02:48:50.890 --> 02:48:51.880
Animal care

3026

02:48:55.560 --> 02:48:57.054
is that very different work than

3027

02:48:57.054 --> 02:48:58.719
what you were doing for the USGS.

3028

02:49:01.200 --> 02:49:02.070
Yes.

3029

02:49:06.360 --> 02:49:08.886
And how long have you been

3030

02:49:08.886 --> 02:49:10.339
self employed? Out of here.

3031

02:49:14.700 --> 02:49:16.482
Were you retained by the Sierra

3032

02:49:16.482 --> 02:49:18.689
Club to testify in this proceeding?

3033

02:49:18.690 --> 02:49:20.622
Which I would, were you retained

3034

02:49:20.622 --> 02:49:22.733
by the Sierra Club to testify

3035

02:49:22.733 --> 02:49:24.430
in this proceeding, retained?

3036

02:49:24.430 --> 02:49:26.670
Where does that mean?

3037

02:49:26.670 --> 02:49:28.692
Are you being paid to testify

3038

02:49:28.692 --> 02:49:29.703

in this proceeding?

3039

02:49:29.710 --> 02:49:31.279

No, I volunteered.

3040

02:49:33.720 --> 02:49:36.540

So you're, UM, testifying pro bono,

3041

02:49:36.540 --> 02:49:39.604

then, is that correct?

3042

02:49:39.604 --> 02:49:41.921

Yes. And can you,

3043

02:49:41.921 --> 02:49:45.023

are you a Sierra Club member?

3044

02:49:45.030 --> 02:49:46.458

I have been in the past.

3045

02:49:46.460 --> 02:49:50.128

My membership is not active right now.

3046

02:49:50.130 --> 02:49:52.104

Do you recall when with the when

3047

02:49:52.104 --> 02:49:54.553

was the last time that you were an

3048

02:49:54.553 --> 02:49:56.470

active member of the Sierra Club?

3049

02:49:56.470 --> 02:49:59.206

It's probably been 15 years longer.

3050

02:50:01.370 --> 02:50:04.799

Do you do other work for the Sierra Club?

3051

02:50:04.800 --> 02:50:08.598

No, I've never done work for the Sierra Club.

3052
02:50:08.600 --> 02:50:11.301
How is it that you, uh, came about

3053
02:50:11.301 --> 02:50:13.383
to be involved in this proceeding?

3054
02:50:15.440 --> 02:50:18.962
I was asked to speak about

3055
02:50:18.962 --> 02:50:22.242
my experience working on the

3056
02:50:22.242 --> 02:50:24.934
eastern slopes of Haleakala,

3057
02:50:24.940 --> 02:50:28.380
particularly my bird expertise.

3058
02:50:28.380 --> 02:50:29.850
And who was it that asked you?

3059
02:50:32.070 --> 02:50:36.058
David Frankel David Frankel.

3060
02:50:36.060 --> 02:50:40.410
And when was that? No.

3061
02:50:40.410 --> 02:50:42.940
You got a couple weeks ago, OK?

3062
02:50:53.020 --> 02:50:55.988
So in your declaration,

3063
02:50:55.988 --> 02:50:59.410
you stated that you had the opportunity to

3064
02:50:59.410 --> 02:51:01.993
spend time in the upper elevation forests

3065
02:51:01.993 --> 02:51:05.290

of East Maui while conducting bird surveys.

3066

02:51:05.290 --> 02:51:08.433

Is this the surveys that you conducted

3067

02:51:08.433 --> 02:51:11.560

on the eastern slopes of Haleakala?

3068

02:51:11.560 --> 02:51:14.680

Yes, they were in white boy.

3069

02:51:14.680 --> 02:51:18.159

I worked in one of the and

3070

02:51:18.159 --> 02:51:20.250

also Haleakala National Park.

3071

02:51:22.330 --> 02:51:24.857

So besides the time that you spent

3072

02:51:24.857 --> 02:51:26.520

conducting these bird surveys,

3073

02:51:26.520 --> 02:51:29.024

did you spend any more time in the

3074

02:51:29.024 --> 02:51:31.038

upper elevation forests of East Maui?

3075

02:51:34.910 --> 02:51:38.738

As a private citizen.

3076

02:51:38.740 --> 02:51:41.393

Did you do any kind of studies

3077

02:51:41.393 --> 02:51:43.613

or investigation to prepare for

3078

02:51:43.613 --> 02:51:46.108

your testimony in this proceeding?

3079
02:51:50.960 --> 02:51:56.448
No, but I'm fairly current on the literature.

3080
02:51:56.450 --> 02:52:00.200
At the first bird declines.

3081
02:52:00.200 --> 02:52:02.135
She didn't do any field work on your own,

3082
02:52:02.140 --> 02:52:07.900
correct? No, not in the last 10 years.

3083
02:52:07.900 --> 02:52:12.139
OK, uhm. I want to ask you about your

3084
02:52:12.139 --> 02:52:15.268
statements regarding the damselflies.

3085
02:52:15.270 --> 02:52:19.410
Sure, so uhm.

3086
02:52:19.410 --> 02:52:23.712
You cite some publications regarding the

3087
02:52:23.712 --> 02:52:26.546
damselflies other than those publications,

3088
02:52:26.546 --> 02:52:30.820
is there any basis for your statements?

3089
02:52:30.820 --> 02:52:36.610
Basis for my statements. Uhm, I.

3090
02:52:36.610 --> 02:52:39.518
Basically describes the habitat

3091
02:52:39.518 --> 02:52:43.880
that is used by the endangered

3092
02:52:44.007 --> 02:52:47.998

species that could be using the

3093

02:52:47.998 --> 02:52:51.754
streams of the eastern slopes of

3094

02:52:51.754 --> 02:52:54.196
polyacrylate or your statements based

3095

02:52:54.196 --> 02:52:56.920
on the publications that you cited.

3096

02:52:56.920 --> 02:53:00.034
Yes, did you conduct any field

3097

02:53:00.034 --> 02:53:03.154
work to support your statements

3098

02:53:03.154 --> 02:53:05.977
regarding the damselflies?

3099

02:53:05.980 --> 02:53:07.774
Really, there's no one really doing

3100

02:53:07.774 --> 02:53:09.710
field work on the damselflies,

3101

02:53:09.710 --> 02:53:11.480
and that part of Maui.

3102

02:53:11.480 --> 02:53:14.990
They're pretty understudied.

3103

02:53:14.990 --> 02:53:17.048
Their distribution is not well known.

3104

02:53:20.360 --> 02:53:22.060
I have no further questions, thank you.

3105

02:53:26.570 --> 02:53:29.012
Tony Maui, I have no questions

3106
02:53:29.012 --> 02:53:31.076
for this witness. Just Franco.

3107
02:53:31.076 --> 02:53:32.748
Thank you, no questions.

3108
02:53:32.750 --> 02:53:34.678
Thank you Doctor Reynolds.

3109
02:53:34.680 --> 02:53:36.528
Thank you, thank you very much

3110
02:53:36.528 --> 02:53:38.660
for your time and availability.

3111
02:53:38.660 --> 02:53:41.364
Uh, you're welcome to stay if you want,

3112
02:53:41.370 --> 02:53:43.418
uh, just turn off your video and audio,

3113
02:53:43.420 --> 02:53:44.878
but I think we're wrapping up for the day.

3114
02:53:44.880 --> 02:53:46.848
Is that correct, everyone?

3115
02:53:49.020 --> 02:53:52.626
Hey. Alright, thank you, thank you.

3116
02:53:52.630 --> 02:53:55.115
So we are going to reconvene at

3117
02:53:55.115 --> 02:53:58.294
9:00 AM on Monday with our revised

3118
02:53:58.294 --> 02:54:01.014
witness list and just to confirm

3119
02:54:01.014 --> 02:54:03.828

that's going to be a little.

3120

02:54:03.828 --> 02:54:07.790
Manuel had threats. Mike Quito.

3121

02:54:07.790 --> 02:54:11.290
And then Tony Lindner in the morning.

3122

02:54:11.290 --> 02:54:15.040
And hopefully, Lucy and Danae.

3123

02:54:15.040 --> 02:54:16.680
And possible possible open linscott

3124

02:54:16.680 --> 02:54:19.380
to see if she can make it as well.

3125

02:54:19.380 --> 02:54:23.750
Lee Lynn Scott. OK.

3126

02:54:23.750 --> 02:54:29.110
That let's see it is 1:43 PM.

3127

02:54:29.110 --> 02:54:30.478
144 December 9 and we are

3128

02:54:30.478 --> 02:54:31.650
wrapping up for the day.

3129

02:54:31.650 --> 02:54:34.366
Thank you all very much on that

3130

02:54:34.366 --> 02:54:37.292
thing chair so I will be emailing

3131

02:54:37.292 --> 02:54:39.229
you a everybody's spreadsheet of

3132

02:54:39.229 --> 02:54:41.887
the approximate timings on the audio

3133

02:54:41.887 --> 02:54:44.228

file for the witnesses for today.

3134

02:54:44.230 --> 02:54:48.550

Thank you. Thank you. Thanks everyone.

3135

02:54:48.550 --> 02:54:52.000

Thank you thanks bye bye.