

MINUTES
FOR THE MEETING OF
THE COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: January 24, 2023
TIME: 2:00 pm
PLACE: DLNR Boardroom
1151 Punchbowl Street, 1st Floor
Honolulu, Hawaii 96813
& Online via Zoom-Meeting ID: 880 5691 5295

Chairperson Chang called the meeting of the Commission on Water Resource Management to order at 2:00 p.m. and stated it is a hybrid meeting being held in the Kalanimoku Building boardroom, remotely via Zoom and others are viewing via YouTube. It was noted that people may testify via the information provided online. Chairperson Chang reminded the public not to use the chat feature for any comments as it presents a Sunshine Law issue. Chairperson Chang read the standard contested case statement and took a roll call of Commissioners. Deputy Manuel introduced the Commission staff.

MEMBERS: Ms. Dawn N. S. Chang, Mr. Michael Buck, Mr. Neil Hannahs,
Dr. Aurora Kagawa-Viviani, Mr. Wayne Katayama, Mr. Paul Meyer,
Ms. Kathleen Ho

COUNSEL: Ms. Julie China, Esq.

STAFF: Deputy M. Kaleo Manuel, Mr. Barrett Won, Mr. Neal Fujii, Ms. Katie Roth,
Ms. Alexa Deike, Dr. Ayron Strauch, Ms. Cody Ching, Mr. Patrick Casey,
Mr. Ryan Imata, Mr. Dean Uyeno, Ms. Kathy Yoda

OTHERS: Mr. Kevin Chang, Ms. Leimana DaMate, Mr. Wayne Chung Tanaka,
Ms. Karyn Kanekoa, Mr. Isaac Moriwake, Dr. Kamanamaikalani Beamer,
Ms. Kapua Sproat, Ms. Vicky Holt Takamine, Ms. Kanoelani Steward,
Ms. JoAnne Kaona, Mr. Erik Meade, Mr. Holden “Kalama‘ehu” Takahashi,
Mr. Kekai Keahi, Mr. Jonathan Scheuer, Ms. Joanna Seto, Ms. Liz Galvez,
Mr. Roger Brewer, Ms. Kelly Ann Lee, Ms. Fenix Grange

012423 00:09:40

A. APPROVAL OF MINUTES

November 15, 2022

PUBLIC TESTIMONY – None

MOTION: (MEYER/KATAYAMA)
To approve minutes as submitted
UNANIMOUSLY APPROVED

Commissioner Hannahs thanked Rae Ann Hyatt, former Private Secretary, for her services.

*012423 00:13:13***B. ACTION ITEMS**

1. Approval of Chairperson's Appointment of Marvin Kaleo Manuel, as First Deputy to the Chairperson of the Commission on Water Resource Management

PRESENTATION GIVEN BY: Ms. Katie Roth
Hydrologic Planning Program Manager

Ms. Roth stated that Mr. Manuel served as Deputy since January 28, 2019, and has been instrumental in moving forward significant decisions by the Commission. A list of those major accomplishments is in the submittal along with his background and resume. Staff stands on the submittal.

Chairperson Chang asked Ms. Yoda to read for the record the names of the public testimony received to date and their position on the appointment of Marvin Kaleo Manuel as First Deputy to the Chairperson of the Commission on Water Resource Management.

Ms. Yoda read the public testimonies received:

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| • Kevin Chang, Kua'aina Ulu Auamo | Support |
| • Hokuao Pellegrino, Hui o Na Wai 'Eha | Support |
| • Leimana DaMate, 'Aha Moku | Support |
| • Kaneolani Steward | Support |
| • Kekai Keahi | Support |
| • Wayne Chung Tanaka, Sierra Club | Support |
| • Karyn Kanekoa | Support |
| • Isaac H. Moriwake, Earthjustice | Support |
| • Dr. Kamana Beamer | Support |
| • D. Kapua Sproat, Ka Hui Ao | Support |
| • Tamara Paltin, Councilmember | Support |
| • Ashley Obrey, NHL | Support |
| • Dreana Kalili, Association of Hawaiian Civic Clubs | Support |
| • Mike Atherton | Support |
| • A. U'ilani Tanigawa Lum, Esq. | Support |
| • Erik Meade, UH Law School | Support |
| • Jocelyn Doane | Support |
| • Devon Haia, UH Law School | Support |
| • Kahoku Lindsey-Asing, Kahu Punana Leo | Support |
| • Rae Ann Hyatt | Support |
| • Joy Gannon | Support |
| • Glenn Ioane Teves | Support |
| • Aggy E. Kusunoki, PA'I Foundation | Support |
| • Lucinda K. Aina Lau, PA'I Foundation | Support |
| • Kyle Nakanelua | Support |
| • Kainani Medeiros and 'Ohana | Support |
| • Chris Kobayashi | Support |
| • Noel Kaleikalaunuoka'oia'i'o Shaw | Support |
| • Rebecca Justine 'Iolani Soon | Support |

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| • Charley Ice | Oppose |
| • Vicky Holt Takamine, Kumu Hula, PA'I Foundation | Support |
| • Sharde Mersberg Freitas | Support |
| • JoAnne Kaona | Support |
| • Charmane Yamada | No Position |

PUBLIC TESTIMONY

Mr. Kevin Chang, Kua'aina Ulu Auamo: Aloha, I am in support of B1. Personally, I just want to say I didn't know his name is Marvin, I've known him for 20 years and never thought I'd see any of us doing the kind of work we are doing today. I'm proud of him as an individual. On behalf of my organization, I think Kaleo has opened an ear to the folks in the community to talk about the significance in water to the culture and the ecosystems, the healthy streams and nearshore environment. Mahalo.

Ms. Leimana DaMate, 'Aha Moku: We stand on our written testimony:

- a list of the Pae 'Āina so you have a better idea of the scope of the Water Commission and their responsibility to native Hawaiian communities on the eight islands
- the Association of Hawaiian Civic Clubs (AHCC), at its annual convention in Seattle, Washington in November 2022 adopted Resolution No. 2022-AA "Urging the Incoming Administration to keep Kaleo Manuel in his current position as Deputy Director of the Commission on Water Resource Management"
- in regards to the Ota Well issue in Keauhou, Kona, Kaleo Manuel personally and with his staff, met with kupuna and lawai'a (fishing practitioners) of Kailua-Kona and the West Hawai'i coastline as well as with 'Aha Moku generational 'ohana of the Keauhou Aquifer and communities of the Public Trust to assist in the mitigation of water withdrawal requests from the Keauhou Aquifer and its impact on traditional ocean practices under the direction of Kaleo Manuel, CWRM employs the Kapa'akai Analysis to all CWRM applications that deal with water use permitting in the State of Hawai'i.

'Aha Moku strongly supports Kaleo Manuel as the Deputy Director, Commission on Water Resource Management.

Mr. Wayne Chung Tanaka: On behalf of The Sierra Club of Hawai'i, we strongly support the appointment of Deputy Marvin Kaleo Manuel to continue his vital role as the Water Commission Deputy. Over the past four years, Mr. Manuel has demonstrated a high level of diligence, commitment, and objective solution-seeking in his oversight of the administration and implementation of the State Water Code and the public trust doctrine. Under his leadership, the Water Commission and its staff have been able to successfully realize the prudent planning and protective mechanisms envisioned in our State Water Code including:

- updated instream flow standards for streams throughout East Maui
- water management designation for West Maui
- updated interim instream flow standard for He'eia stream, O'ahu
- updated interim instream flow standard for Wai'oli stream, Kaua'i

For these reasons, the Sierra Club of Hawai'i respectfully but strongly urges the Commission to approve the appointment and retention of Marvin Kaleo Manuel as the Deputy Director of CWRM.

Ms. Karyn Kanekoa: I'm from Maui and I live in Honokōhau Valley in the moku of Kā'anapali. I'm testifying in strong support of the appointment of Kaleo Manuel as First Deputy to the Chairperson of the Commission on Water Resource Management. Kaleo has invested and committed to responsibly and proactively caring for not only the kumu wai of our pae 'āina but also our kaiāulu and lāhui who depend on our water resources. As an 'ohana who relies on the wai and cares for our natural resources, we respect and appreciate and mahalo Kaleo for always being transparent and pono and for genuinely listening to our concerns and for putting our natural resource first. Mahalo nui. Without wai we are nothing. We know this job requires a special and skilled individual, someone who has the knowledge and ability to work effectively and fairly with this community, always putting our natural resources and those who rely on them first and foremost. In my opinion, Kaleo does all of this and much more. Mahalo nui.

Mr. Isaac Moriwake, Earthjustice: Good afternoon, Chair Chang and members of the Commission, Happy New Year everybody. Nice seeing you and here's to a good 2023. I'll keep it short since we all know Kaleo needs to get back to work. You don't need any encouragement or reminder of how he is objectively truly the best choice for this job. All these supporters and well-wishers, we see how Kaleo as Deputy of the Commission has stepped up its commitment and its progress in fulfilling its public trust kuleana. Of course, credit should go to the Commissioners themselves and all the Commission's dedicated and hard-working staff, but today is Kaleo's day. As a decades long advocate for the public trust and an admirer of true public servants, I'm glad that the Commission is keeping the band together here with Kaleo continuing under the new administration. He's worked hard over the years to grow into this role and we all need him to help lead the Commission in following through on the hard work ahead. Mahalo Kaleo and mahalo Commissioners for voting to confirm. Mahalo.

Dr. Kamanamaikalani Beamer: Aloha mai everyone. I'm a former eight-year, two-term Water Commissioner and served to the best of my ability with many of you here in this room and a pleasure to meet you Chair and appreciate the work that everyone is doing in this capacity. I'm here to strongly support with the utmost confidence the appointment of Kaleo to continue as Deputy. I think it's critical to continue the momentum that he has been able to achieve. Kaleo is one of the best facilitators I've known. As we all know a positive and important role of this Commission is to have a diversity of opinions and interests and Kaleo does a fantastic job facilitating all of that. I can go over numerous cases and decisions where I felt his leadership was pivotal. To be honest, the last day of my term on the Commission when we released the Nā Wai 'Ehā decision, Kaleo and I were on the phone multiple times. I think some of us remember there were some challenges or errors in that final Decision and Order and Kaleo was just on it through the whole process. I just want to firmly give my support for his leadership and I want to thank your administration for continuing and seeing his service and where it can take us and water in the future for Hawai'i. Happy to take any questions.

Ms. Kapua Sproat: Aloha Chair Chang and Commissioners. I'm testifying today in strong support of agenda item B1. Like many of you, I wear lots of different hats in our community and in that capacity, I have had the great privilege of working closely with Deputy Director Manuel on several issues impacting many different islands across our pae 'āina, but today I am here in my personal capacity. I have been fortunate to have been appearing before this Commission since the 1990s. Yes, I am that old. I was trying to recall how many Deputies I had worked with over the years from Linnel Nishioka, and Yvonne Izu, to Ken Kawahara and more recently Jeff Pearson and then Kaleo. For me, Kaleo stands out as the very best for all the reasons you have already seen detailed in the voluminous written testimony as well as the people who have already appeared today. My voice joins the chorus of others who are deeply grateful that you, Chair Chang, have nominated Deputy Director Manuel to continue the important work of this Commission. Like Wayne Tanaka, I was also at the meeting four years ago supporting Deputy

Director Manuel's first term and I'm excited to be back here again to support him continuing and as someone who tracks water issues closely. I really scrutinized his work over the last four years and have been impressed not simply with his grasp of the issues but by his integrity and aloha and how as a process person he brings so much to this Commission - I think as Commissioner Beamer pointed out. You've already heard a lot from folks and as Isaac said we need him to get back to work. I just have a couple of things I'd like to highlight. In his first term he implemented some important changes. I think having issues presented for discussion at one commission meeting and then decision-making at a second meeting has really helped the Commission and all affected stakeholders be able to engage in meaningful discussions without the fear of a contested case hearing hanging over everything. I also got to work closely with him on several issues. One example is our Native Hawaiian and environmental rights clinic supported the Wai'oli Valley taro hui with challenges to restore their lo'i kalo and mānowai. This was incredibly important work and incredibly complicated work and you folks know we were working side by side. I cannot say enough about how important Kaleo's role was as a facilitator to bring together all the different entities, not just with Commission staff, Ayron and others, but also folks throughout DLNR and that was crucial in helping us leverage resources and to make meaningful changes not just with what happened before this Commission but also from a larger policy perspective so that other kalo farmers don't have to have these issues. Others have also mentioned what an important bridge he's been and now we can have meaningful two-way discussions not just one-way directives. Kaleo has also had the courage to uphold the law and the Commissions processes and that has garnered some grouching, but I think as an attorney, I think that better protects this Commission and has reduced the number of appeals that we've seen during his term, at least compared to others. I can go on and on but suffice it to say I think you see I strongly support his reappointment and I want to urge all of you folks to vote in support. Thank you so much and I'm happy to take any questions.

Ms. Vicky Holt Takamine, Kumu Hula, PA'I Foundation: I have had the privilege of meeting Kaleo as a young undergraduate at the University of Hawai'i and throughout his graduate studies at UH Mānoa. He took several of my classes and he also joined halau. I've never been so proud of him over the past four years and watching him grow under DHHL. He led our PA'I board through an amazing planning process to develop our PA'I strategic plan and watching him facilitate those meetings and watching him in the community, I know that he has done such amazing work in the last four years with his team here. I thank the team here, his staff for the support that they give to Kaleo because a leader can only lead if you have people, and you have staff that strongly support the vision. The fact that he's holding us all responsible not just the people at the Commission, but to the laws that were put into place to preserve our natural and cultural resources, and water is our most valuable resource. I know that he takes this very seriously and his kuleana to support and abide by and hold up the Water Commission standards and the laws of our 'āina is going to be something that he takes very seriously, and he also knows that he must answer to his kumu. Thank you very much, I have such strong support for Kaleo. I have gotten to know him, and he is just going to be super for you.

Ms. Kanoelani Steward: Aloha I come from Lahaina, Maui. I am just testifying in strong support of Kaleo Manuel to be reappointed to his position as Deputy. Strong kāko'o to all of the Commissioners of CWRM. We saw him in Lahaina quite a few times especially the past year. I think last spring was when he came out to facilitate a public meeting with all of us. I just really want to commend the awesome work that he did navigating the crowd that we had. He was informing us about the water designation in Lahaina and not pushing any kind of agenda on us but just showing reasons why designation was important and how it could only support the future of Lahaina and how it can help our community as well. Just wanted to quickly testify and show my kāko'o as a community member of Lahaina for Kaleo Manuel.

Ms. JoAnne Kaona: I'm the secretary for the Wai'oli Valley Taro Hui. Four generations of kalo farmers of Hawai'i, our organization works in partnership with you and your staff, including Kaleo to amend the IIFS for Wai'oli Stream in Spring 2021. Our testimony today is in strong support of agenda item B1 and I'm here on behalf of our hui of farmers to support Kaleo because he has supported us after a very long road starting with the 2018 flood. There were tons of applications, exemptions, studies, consultations, time at the Legislature and potential easements. Last year, Chair Case confirmed that we are pau with the water leasing process and can focus all of our efforts back to restoring our farm and we have life in Wai'oli Valley. It took four years but it felt like a lifetime and we never would have gotten here without the help and support of Kaleo and Ayron. I'm not just talking about the IIFS. Kaleo was an important liaison with the Land Division and DLNR more generally. He was a bridge to ensure clear and transparent communication, a process that was completely confusing for us as kalo farmers. He even came to Wai'oli to see firsthand the waters and other resources we were talking about and together with Ayron, was key regarding the installation of our gage so we can better monitor both streamflow and water use in our 'auwais. This is a wonderful example of agency and community working together and this is just one example. I'm sure there are many more across Hawai'i so please vote to confirm him.

Mr. Erik Meade: I'm a Law Student at the William S. Richardson School of Law and given the overwhelming and powerful support already provided, I'll keep this really short. I'm in strong support of B1 and I will stand on my written testimony. Also wanted to thank Kaleo and the Commission for the ability to testify via Zoom, which makes access to these meetings and information much more open to people who usually have to travel to Honolulu.

Mr. Holden "Kalama'ehu" Takahashi: Aloha mai everybody. I'm here to testify in support of the reappointment of Deputy Director Manuel and just wanted to say we have had a lot of positive and very respectful lōkahi and engagement with Deputy Director Manuel. The Honokōhau Valley residents had the opportunity to hike up the valley to see the state of wai as we were renegotiating the IIFS and beginning the conversations in terms of the designation of West Maui. I think it speaks volumes when you have somebody in the Deputy Director's position to come and walk with the community in their place to sort of really see what the historical impacts are and what other things like developments and other interests have on the 'āina and on these resources. I would like to see at least one more term from a fellow kanaka and somebody who is truly dedicated to this resource, to our community, to our 'ohana and hopefully his work and the work that we can do together as a lāhui will benefit the little ones like this and hopefully Deputy Director Manuel, if my boy here needs a job, I hope you can give him one. Mahalo. And I say this in full trust that you will do your best to mālama your kuleana to this next term to ensure the security and integrity of wai for all of us. Mahalo nui.

Mr. Kekai Keahi: I want to support the picking of Kaleo for the position. I met him way back before he worked for the State, and he has always been honest and truthful which is in my experience somewhat rare in government these days. And even when it's things I don't want to hear, he tells it to me. I just want to say I support Kaleo and I hope you folks pick him. Thank you.

Mr. Jonathan Likeke Scheuer: Aloha mai kākou. I often appear before you on behalf of various entities, but I am here today solely on my own behalf. Like Professor Sproat and Mr. Moriwake, I'm part of the folks who have been here for three decades. Not only was I here when Kaleo was last appointed, I was also here when the previous Deputy was appointed and the previous Deputy and at one point I was in that seat and the person before that. The thing I wanted to share other than to echo the long support that we've heard today for Kaleo is how different it is with respect to those who have come before Commissioners and Deputies. This has been a body that has been

deeply hostile to local communities and Hawaiian communities. You have all these voices coming from across the pipeline saying hey, they recognize what you do, and we support what you do, we don't always agree with what you do but we have a connection now. Not everybody has been happy during Kaleo's time, but I think that's also because it's not that conflict didn't exist before, but it was suppressed. Voices were suppressed, issues were suppressed, and we know what happens when that happens for too long. Bringing up a process where many entities now feel at least they have the opportunity to come before this really important board and have a fair hearing, will make our lives and Hawai'i so much better. Mahalo nui.

Chairperson Chang: I would like to just say mahalo to all of those who have provided written and oral testimony. It is very clear as Mr. Scheuer very aptly stated, things have changed, and it is nice to see these voices at the table. I appreciated reading through all the testimonies as they were individualized based upon a personal experience and I think that really matters. I appreciate everyone who took the time to submit testimony for our consideration, so thank you again.

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

DISCUSSION

Commissioner Buck: I was so happy to hear that Kaleo was coming back. Incoming Chair if you had anything to do with that it was a very wise move. I'm so happy for the Water Commission because Kaleo has done an unbelievable job in managing the Water Commission. I am so happy for the State of Hawai'i. We've heard a lot of descriptions of the last four years, we've had an opportunity, maybe for the first time to really implement the Water Code over large regional areas. I am so happy for the State of Hawai'i that Kaleo is back. Finally, I am so happy for Kaleo himself. He is a unique individual with knowledge, skills and abilities and he has an opportunity to be in a position, which he has demonstrated, over the next four years to make a positive impact and those are experiences and memories that he will always cherish. I am incredibly happy for Kaleo and I am 100% in support of his reappointment.

Commissioner Hannahs: First of all, I want to thank the testifiers who came forward, took time from your day to be here and be a part of the process and for all that you shared largely in support of Kaleo. I acknowledge the testimony of Charley Ice in opposition and appreciate Charley's courage and status and stepping forward and stating his views. We've heard certainly a strong support from our Hawaiian community and grass roots of our supporters, of our culture and our environment. I also appreciated the testimony of Mike Atherton as a developer who is trying to restore agriculture and other uses in a balanced way, and I think that his testimony was key and an important element of support for your continuation in this position. When Kaleo first came into this position, I met with him in his office and we talk about this all the time, I saw this number on the whiteboard and it was the number of meetings he would have in his term of this Commission and a recognition that every one that passed without productive outcome was a lost opportunity. That is a profoundly important attribute of a public servant who is trying to work especially in this area where so much needs to be done for such a vital resource. That attitude was telltale, and it is one thing to want to get the work done and it is another thing to get the work done. The unprecedented results that we've seen in your submittal, Chair, as well as in other testimony, I think testifies to the fact that it's not only a matter of wishing things can happen but an ability to make things happen. So appreciate that and I love Kevin's comment that we provided an ear to people who didn't feel like they had one before and we've provided opportunities to really kind of work out the differences so that we have a framework for how to move forward not only to protect the resource, not only to perpetuate the culture, but also to provide for development of agricultural and other urban uses in a way that's very compatible with

those goals and outcomes. That's balance and I think it's an important duty of this Commission. I think the team, not only Kaleo, but this team is doing a remarkable job in achieving that. I recognize that as a new administration steps in, there's a desire to eagerly bring your team in and I appreciate that Governor Green has recognized that some members of the team that came before were really, valuable attributes and deserve recognition for what they've done in the past and are going to be valuable in his administration going forward in continuing progress and achieving greater results. For these reasons, I've seconded the motion and eagerly await not only the approval of this motion but also the months ahead. I think I have about a year and a half while we continue to work with the work we've done. Mahalo.

Commissioner Kagawa-Viviani: It's with great relief that I heard Deputy Manuel was going to be reappointed. I'm the newest person on the Commission and it was a very eye-opening experience to realize how much of the work of this Commission really happens between the meetings. The Deputy and staff working together to really organize information and provide it to us so that we can make informed decisions. As testifier Kapua Sproat pointed out, the informational briefs that precede decision-making have been really helpful. The submittals are super dense so it's helpful to have that lead time to wrap our brains around these complicated issues. I've had the opportunity to get out to East Maui to walk and really see the area that we are making decisions on. We can't always go out there, it's hard logistically with Sunshine Laws but it was facilitated by Deputy and staff. I've seen him and a lot of his staff take lead on different issues, Ayron Strauch on streams, Ryan Imata on Red Hill and really take the long view on many things. We've had conversations on capacity building, we all know that CWRM doesn't have enough staff and wanting to do all that it should and wants to do, so how do we take the long view? That's somebody not looking at a four-year term but really with a long-term kind of intergenerational interest in mind. Alongside with that we've had conversations about climate change, how do we better think about climate change in the context of our decision making and that played into the Lahaina Water Management Area Designation. I'm relieved that we can continue the work because these are challenging. As people have noted his facilitation skills are impressive and humbling. I don't know how to learn those skills or how to create more people who have those skills who can really leverage them in public service. It's not easy to be an agent of the State especially working in community where there's been so much distress. I really respect the rapport he's built especially as I was on the Red Hill permitted interaction group, I've seen what happens when we break trust with institutions and how harmful that is when really taking care of our waters. I appreciate the stamina that you bring, and you will find in the coming years. I'm looking forward and I fully support your nomination. I'm looking forward to continuing the important and complicated work ahead.

Commissioner Katayama: I think Kaleo's accomplishments over his tenure as Deputy have been well documented and described by oral testimony as well as written testimony. I think this is an interesting and unique situation, could you provide some historical perspective? My first question is, I don't think any agency in the State other than the Water Commission has a Deputy and Chair to be confirmed by two different bodies. How does the relationship work with the Chair being temporary and the Department Deputy being confirmed; should that not run in tandem? But let's put that aside for a moment, I think it's a very powerful situation that we have a resident Deputy that's being nominated again and in reference to Mr. Ice's testimony, has that been vetted to see if the internal mechanisms of the department have been working as intended? I don't know if that was ever articulated in the narrative that was presented as well as the resume. All the big stuff for the future I agree with because I was there for most of it. But we do have a fiduciary responsibility to mandate things that we need to interface with the public in terms of well permits or other kinds of administrative things. I was wondering, has that been vetted? That's sort of my big areas - do we need to talk about it a little more?

Deputy Manuel: Aloha Commissioner Katayama, mahalo for the question. First of all, I want to say mahalo to the community for support of my nomination as well as the Commissioners and staff that are here. I think the question is tied to that in terms of internal management and staff management and resources. I know what it is like to come in as staff as I used to work for the Department of Hawaiian Home Lands as staff and the change in administration every four years and sometimes shorter if they don't last, so continuity is really important. I will say in my defense, I've always come in working within the systems that have been created, but constantly asking questions about efficiency. How can we do things smarter with less resources, take advantage of opportunities when we see them? A lot of the internal dialogues that we have with staff, hopefully eventually some of them will talk with you one on one, or the freedom to do that, and I encourage staff to share their thoughts with me. We've constantly had great conversations, we don't always agree but I'm always willing to listen to staff and look at ways that we can improve our systems. Some of the criticisms in Mr. Ice's letter I was unaware of. I process permits, well construction and pump installation permits, as they are presented to me and I take every signature I put on a piece of paper very, very seriously. Most of my staff can attest to that as they probably get things sent back to them if there is even just a typo because I want it to be as perfect as it can be. That's the type of person I am. The commitment to quality, that I'm committed to. I've worked with a supervisor and the supervisor would work with me, so we work through some of the issues especially related to well construction/pump installation permits that we've reviewed. Again, my commitment is just to be as good as I can, be an open door for staff to work with. As my kumu talked about in her running her halau, you as a leader are only as good as your team. I believe in every single one of my team members and the staff that are here today because I cannot lead without them. They really support me and I actually support them, I've uplifted them and a lot of the credit that has been given to me is actually credit that should be given to them because a lot of the initiatives and work that's been presented, they've been worked on but have never gotten to the agenda or have never been prioritized. That's my response to Commissioner Katayama's question about a review and analyses of time frames. We were in the middle of a pandemic, I just want to highlight that. I got caught with that one so a lot of the time for review and processing were not only potentially stalled because of the pandemic, staff had retired, other agencies that have to do reviews for example, the Department of Health and State Historic Preservation Division (SHPD) also established new processes that we had to work through and navigate through. While some of the numbers may not line up, I do have data and statistics on permits processed, etc. through my four years. I think a lot of it was just situation based and timing.

Commissioner Katayama: Thank you Kaleo. I guess in going through this process, I believe my fiduciary responsibility is to cover all the bases. All the testimony in support was well deserved.

Deputy Manuel: Mahalo and I appreciate the question and hopefully item C2 will also highlight some of the limits of our resources and the budget and staff that we do have.

Commissioner Meyer: I do have a concern and the concern really is that over many years, I worked on a lot of different teams and a lot of corporate and governmental positions and it's absolutely critical for the effectiveness for the organizations to have the boss and the assistants to the boss and the Director, Deputy Directors or Deputies to be of one mind and be pulling in the same direction and that usually implies that folks have worked together for some time and they've had adequate time and effort devoted to conforming their goals and objectives for the organization and the mission. This is a situation where it appears to me, that we haven't had that time, unfortunately and that's the nature of the beast perhaps but we don't even know for example, if the Chair's position is final, if that's correct. I'm concerned about that and this is something that should be discussed in executive session, but that's a concern because the Chair and the Deputy should be able to finish each other's sentences. They should have complete

agreement, they should really conform the concepts of goals and directions and in a small organization, a relatively small organization like the Commission, that is a big task and shortfalls and budget and in staffing, that's something that is critical. It's critical to achieving the correct objectives for the people of Hawai'i to filling our obligations under the Water Code and I'm just concerned that we haven't had the time for that conformance and unity of goals and missions and thoughts to take place. I hope it doesn't appear that there are difference of opinion or things don't get done as efficiently as possible because that would be unfortunate and again, this is something that we should have talked about in executive session. I really think that we need to make use of that vehicle more often in situations like this. I admire Kaleo, I admire his work and he certainly has a lot of energy and I appreciate and admire that. Thank you very much.

Commissioner Ho: I've only been sitting as Commissioner for 18 months and in that time, I've worked with Kaleo, I must say he has a lot of energy and positive energy. He is committed to the mission of the Commission and that is to protect and sustain our resources and our precious water, which I am also committed to. We have some disagreements, we've talked about them, and we will continue to work towards the betterment of our State. I am pleased that he has been nominated and fully support his nomination.

Chairperson Chang: Thank you very much, Kathy, appreciate the comments. I just have a few comments. I appreciated both Mr. Katayama's and Mr. Meyer's comments. This is a historic moment for us, one that the Governor has had confidence in nominating me as the first Native Hawaiian woman, with a team with Laura Ka'akua as the First Deputy and Kaleo Manuel as the Deputy for the Water Commission. I think it is a statement about the Governor's commitment and his recognition of sensitivity to the Hawaiian community and that we do bring that to a department that touches and concerns every single person, whether you live here or whether you visit, but most particularly Native Hawaiians. You will find that I am a process person and there are people that are far smarter than me on substance, but I am a process person who believes in providing a safe venue and platform for genuine community engagement. I have appreciated the good work of Kaleo, as articulated by many of you who have provided testimony. Sometimes the pendulum swings a bit, and the pendulum has swung a bit where we are creating a platform for voices that historically have not been heard and it is those people who have probably been most affected by the decisions of the Water Commission and other agencies. Both in DLNR and at the Water Commission, it is my intention to create a space for those good conversations. I intend to use the Board of Land & Natural Resources as well as the Water Commission as a vehicle to hear community voices and concerns. We may not all have the same decision, but we are going to try very hard to create a place for those voices to be heard. Our first duty is to the mission of the Water Code. We're not here to necessarily advocate, but it is to ensure that the Code is being upheld not only in the letter of the law but the spirit of the law. What was it intended to do with respect to my style of management. I say I am much too makule, too old, to micromanage but it is to provide the team, the staff with the tools for them to be successful whether it's resources, capacity or funding but it is also to provide good input as we all make informed decisions. We are going to do a lot of internal coordination. To Mr. Meyer's & Mr. Katayama's comments, we're going to speak very candidly within these walls, all the divisions will speak, and we have numerous divisions that don't necessarily have the same mission, but when we leave DLNR we better have one voice but that means that we're going to have a lot of hard discussions internally. Not everybody agrees with me, and I don't agree with everybody, but we are going to create an environment where people can feel like they have the ability to say what they have to say and you're right, I am not confirmed. I am here, I am the interim appointee, subject to Senate confirmation and I don't know how that's all going to go but during the time that I have here I am going to make the most of my time here sitting on both the Water Commission and DLNR. And like Kaleo, we come from similar values, and we share similar experiences and I think visions for the implementation of the Water Code. We may not all agree on how we get there but I think we

want to get to the right place. I am optimistic that with the Water Commission as a collective body and the good guidance by staff, we will be able to continue the good work that's already been instituted by the previous Commissioners and the Chairperson. I know that I have big shoes to fill with Suzanne Case but I will do the best that I can. I am extremely grateful that Kaleo has come back to return, that is the Governor's decision to reappoint Kaleo but I think he has already heard a lot of the people in the community. Mahalo. I'm going to call for the motion that has been made by Commissioner Buck and seconded by Commissioner Hannahs, to approve the recommendation by the Chairperson to appoint Kaleo Manuel as the Deputy Director of the Water Commission, all in favor please say aye. Let's take a roll call vote for this one to make sure we get it on the record, a unanimous vote. Ms. Yoda will you please do a roll call vote?

Ms. Yoda took a roll call vote:

| | |
|------------------------|-----|
| Michael Buck: | Aye |
| Neil Hannahs: | Aye |
| Aurora Kagawa-Viviani: | Aye |
| Wayne Katayama: | Aye |
| Paul Meyer: | Aye |
| Kathy Ho: | Aye |
| Chairperson Chang: | Aye |

Chairperson Chang: The motion has been made, seconded, and **unanimously approved**. Congratulations! Mahalo to all of those who are here today and those on Zoom and Kaleo for your willingness to serve another four years.

Kaleo Manuel: Mahalo. My white board is empty so I can put that number on the white board. I appreciate the confidence and again, thank you and mahalo for the support from the community that are here and online as well as staff, mahalo for all that you do and I look forward to another four years.

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C. NON-ACTION ITEMS / INFORMATIONAL BRIEFINGS

1. Department of Health Update on Red Hill Response and Remediation

Commissioner Ho asked Ms. Joanna Seto, DOH Environmental Management Division Chief, to introduce the Department of Health team.

Ms. Seto stated that the DOH will give a brief update of the situation at Red Hill and introduced the DOH team:

AFFF (Aqueous Film Forming Foam) HEER Incident Case No. 20221129-1438:
Ms. Liz Galvez

PFAS Environmental Action Levels: Mr. Roger Brewer

DOH Emergency Order: Ms. Kelly Ann Lee and Commissioner Kathy Ho

Aquifer Monitoring and Recovery: Ms. Fenix Grange

Red Hill Shaft Filtration and Discharge into Halawa Stream: Ms. Joanna Seto

RECESS: 3:20 pm

RECONVENE: 3:25 pm

Ms. Seto introduced Liz Galvez, HEER (Hazard Evaluation & Emergency Response)

Ms. Galvez: I have been asked to present current information for the AFFF incident. On November 29, 2022, at about 12:30 pm/1:00 pm the Navy reported that a worker discovered an AFFF release. At about 2:38 pm the Navy notified DOH that approximately 1,100 gallons of an aqueous film forming foam concentrate was released in the tunnel and it impacted areas such as Adit 6 itself, it went out of Adit 6 onto the asphalt and down the soil area and a culvert. My coworker and I went to the scene at approximately 3:30 pm and what we had discussed with the Navy on scene coordinator that was present on site, was to make sure that they delineated the spill and immediately remove the AFFF impacted media. We requested for EPA's technical assistance. DOH also requested a response action plan and a written sampling plan for soil and groundwater knowing the importance and gravity of the AFFF that was released. DOH has been overseeing the cleanup action and the cleanup response that has been going on at Red Hill and DOH did receive the emergency response sampling plan for soil and groundwater on November 30th. The Navy and DOH along with EPA's assistance came to an agreement with the sampling plan for soil and groundwater. DOH also requested for a waste management and disposal plan. DOH wanted to ensure that the waste was handled properly, and the disposal can be tracked from cradle-to-grave. In addition, we wanted to make sure that there is a decontamination plan for Adit 6. The Department of Health issued a notice of interest requesting for those things and additionally wanted to make sure that they provide us with other AFFF releases that had happened in the past to ensure that the cleanup is done properly. As part of our mandate, the Department also expected to receive from the Navy a 30-day written follow-up which DOH received. The first part of the cleanup was to do exterior excavation. The initial excavation is complete and they had collected approximately 150 cubic yards and that is currently stored off-site awaiting analytical results of how to and where to dispose of it. On December 14, we had approved a temporary cap of asphalt to prevent potential contamination from spreading and this action reduces the risk to public health and the environment. As the operations were ongoing 24/7 we were there and we could clearly observe the rains would collect in plastic covered excavated areas, so upon further discussion with the Navy it was best that they temporarily cap it knowing that depending upon the sampling results, that more work needs to be done and they are prepared to do the excavation. Sampling has also been done for soil and groundwater, sampling for groundwater wells continues to be done weekly. For the wells, we are awaiting validated data and results will be discussed with the EPA and the Navy. Are there any questions? Thank you.

Commissioner Kagawa-Viviani: I just had a question, I got a little bit confused, so have you received the response plans, sampling plans, waste management and disposal plans?

Ms. Galvez: Yes, we have received those, and they are posted online on our website.

Commissioner Kagawa-Viviani: Have they met DOH expectations?

Ms. Galvez: It had undergone reiterations and with emergency response plans those plans change depending on the situation. The latest one that is posted is the current one. The waste disposal plan is also posted on our website. The DOH had provided comments and we will be working with them but know that in the meantime the waste has not gone anywhere. Thank you.

Ms. Seto introduced Roger Brewer, Senior Scientist, Department of Health

Mr. Brewer: For the past 30 years one of my job tasks is to compile toxicity information for different compounds working with toxicologists to develop action levels as we call them for different compounds and drinking water. The EPA has posted drinking water screening levels for three, or four maybe five PFAS by now. We've been doing other studies around Hawai'i and we know we need a lot more than that so I've been talking with multiple states around the U.S., compiling information they have as well as the EPA and we have drinking water action levels now for 19 almost 20 of these compounds and we're still working with other agencies to continue compiling data. It mostly reflects information the EPA has published but again that is limited so we're working with other states giving presentations to multiple states plus EPA headquarters on what we're doing.

Ms. Seto introduced Kelly Ann Lee, Red Hill Project Coordinator

Ms. Lee: I am going to give a brief summary of work being done under our Emergency Order that was finalized on May 6, 2022. It requires the Navy to close and defuel the facility as quickly and safely as possible. In November 2022, the Navy with our oversight was able to unpack one million gallons of fuel from the facility pipelines without incident. Now that the facility is unpacked, the Navy can begin doing repairs. On November 1st they gave us a list of 253 repairs that were recommended before safety defueling can occur. We are working with them to shorten that list to expedite the defueling timeline so repairs that are redundant or represent a low risk if they do not occur, we are giving the Navy permission to remove those repairs. For example, two weeks ago we approved a deviation from the repairs list that the Navy tells us may shorten the defueling timeline by three months. That's the sort of thing we're going for. Now I'll talk about the closure side. On November 1st as well, we received the Navy's closure plan. We found it a little lacking in detail, so we provided a list of 86 questions to them, and we are awaiting their response and we have not yet approved the closure plan.

Commissioner Ho: As you probably all know, the Navy and EPA are about to enter an Administrative Order on Consent. The EPA was required to come out for public hearing which took place on Wednesday and Thursday, the DOH participated in a science fair project to talk about all these things that are going on at Red Hill. The big question that came up to us is why isn't the DOH a party to the EPA and the Navy's Administrative Order on Consent? That really is because the Department of Health feels very strongly that its administrative order is protecting the public health and the environment, and we want to ensure that we don't yield any of our regulatory authority to anyone and keep it within the state. Does anybody have any questions on the Emergency Order or the AOC emergency order interface?

Commissioner Aurora Kagawa-Viviani: I haven't tracked this as much recently so this is a different Administrative Order on Consent?

Commissioner Ho: That's correct. There was a 2015 Administrative Order on Consent that the EPA just entered and is doing a 2023 Administrative Order on Consent [Administrative Consent Order]. It's online and they are taking public comment until February 6.

Commissioner Aurora Kagawa-Viviani: What does this mean for the regular voting public?

Commissioner Ho: The DOH had its Emergency Order and EPA did not have something similar so this Administrative Order on Consent [Consent Order] allows them to regulate the defueling/decommissioning aspect of it. There are other aspects of it that you should read if you are very much interested but that's the gist of it.

Commissioner Buck: This is not a question, Chair this is for your radar screen. Last administration formed a Permitted Interaction Group which strongly recommended that we use further regulatory authority of the Water Commission specifically to modify their water permits to assure that long term recovery would happen. That motion was unanimously approved by the full Commission, there was some resistance to implement that at the end of this last administration and I think some of this may be better discussed in executive session which I'm not recommending now but Deputy Manuel is totally aware of the issue and can brief you. I think we want to give you some time to absorb the full breadth of the Red Hill situation but that is because it was unanimously approved by the Water Commission that's an issue that we would like to discuss with you and in cooperation with the Department of Health sometime for future Water Commission meetings. Thank you.

Chairperson Chang: Thank you very much Mike, appreciate getting the update on that and I will get briefed by Kaleo regarding the status of Red Hill and Water Commission's interplay and the current situation. Thank you. Are there any other questions by the Commissioners? Kathy, I just want to confirm the fact that DOH is not a signatory to the Consent Order, you are still retaining your regulatory authority and oversight on the Navy's compliance with your own resolutions?

Commissioner Ho: Very much so with our Emergency Order.

Chairperson Chang: Are you ready to go toe to toe with them?

Commissioner Ho: Yes, of course I am. I'm ready to protect public health and the environment.

Chairperson Chang: I know you are, and I appreciate that very much. Thank you so much.

Commissioner Kagawa-Viviani: Is there any kind of environmental surveillance that is being conducted that the Navy isn't doing, or a Navy contractor isn't doing just as the defueling happens because we don't want to be learning after-the-fact.

Commissioner Ho: I think if you hold that thought, your question may be answered in the next two speakers.

Ms. Seto introduced Dennis Lopez, Safe Drinking Water Branch Chief.

Mr. Lopez: The water testing to date indicate compliance with the long-term monitoring. Exceedances has predominantly been lead found in fixtures such as premise plumbing. [Mediation] Remediation response include replacement of the fixture or to take the fixture out of service. Periods 1 to 3 starting April 2023 sampled 5% of homes and buildings for each monthly period. Approximately 1,630 buildings and home locations were sampled in the first three periods adding to the already 1,000+ building and homes sampled in stage 4. Stage 5 is the long-term monitoring plan. Period 4 was completed in November 2022, approximately 1,122 buildings and home locations were sampled, and we are now in period 5 which is slated to end in May 2023 with another 1,122 buildings and homes. The LTM will run to February 2024 and we're keeping continued vigilance on all the buildings and homes and distribution systems. As a reminder, Red Hill shaft is not part of the distribution system, that is [it is] isolated [from the distribution system]. The Navy's Aiea Halawa shaft is currently not in use and the joint base Pearl Harbor and the consecutive system Aliamanu military reservation is being served by a single source in Waiawa.

Ms. Seto introduced Fenix Grange, Hazard Evaluation Emergency Response Office.

Ms. Grange: I have been leading the environmental team, evaluating the groundwater, and doing our best to understand what's happening in the subsurface with the previous spills and looking ahead to ensure that the Navy has done the work necessary to be ready should a spill happen. During defueling there are many efforts being overseen by our engineering folks as well as to ensure that the likelihood over these is low but nonetheless it is very important, we understand where fuel might go should that happen so that we can be prepared and protect our groundwater sources. We do that in a few ways in terms of directing the Navy to put in additional sentinel wells so that we have early warning systems to protect the Board of Water Supply wells as well as other water sources. The way the data that we ~~collect~~collect is regular monitoring, groundwater monitoring, so they put monitoring on a very frequent basis and then we have our subject matter expert study those to understand what kinds of patterns we are seeing.

The other thing that has been the responsibility of the Navy was to complete a groundwater flow model to be able to understand how the water is moving, what direction it is moving and so that helps us understand how contaminants are transported.

We also require contaminant fate and transport, that's generally how fluid spilled on the ground, into the ground, moves above the water table, but underground. With the lava flows here, fuels can get trapped in pockets in some places, but they can flow rapidly through cracks and other sorts of things like that, so we are working hard to try to understand what is happening there. The groundwater modeling efforts the Navy have done to date, we have not found satisfactory in terms of their ability to represent well data that we collect, changes in temperature, chemistry of the water and sorts of things like that so we continue to work with them on that, for now we are also very focused on additional efforts including field studies. The University of Hawai'i received a grant from the Office of Naval Research with Don Thomas as the principal investigator so he has independent federal funding to be able to further investigate and help us with modeling. We do have a lot of data coming in and one of the questions from one of the constituents, Katherine McCallahan, she had a list of questions and to save time today I'm not going to go over them one by one, but I have them ready to send to her and I'd be happy to send them to the Commission as well. It really has to do with understanding what the long sheets of data that come from the Department that are posted on the DOH website and what they mean, etc.

Chairperson Chang: I just want to confirm, are you going to be able to make that data available to the Water Commission?

Ms. Grange: The results are available on our DOH website and it's a cumulative summary of all the data collected under our EO, May and November 2021 releases. Katherine had specific questions why there appear to be data gaps in certain areas and why sometimes the data didn't get posted especially right after the May release samples were collected starting in May. We were not able to get our hands on the data until late in the summer and some of the data in June and July, we didn't get until late September, so we were not able to post those in time. Again, there's a lot of detail here and I'm happy to send both the data sheet and this information together, that might be the easiest way to understand what we are talking about, what the questions are and what our answers are.

Commissioner Kagawa-Viviani: Thanks, Fenix for the update. My understanding was that at a time when you were waiting for the Navy to hand over data and there were lags, so now DOH is taking independent sampling? Is that correct? Categorizing them separately?

Ms. Grange: We don't do that consistently but yes, we do. We did quite a bit of that after the November release and in December and January. That also involves our field staff, observing, collecting samples, etc. Similarly, with the AFFF spill that happened recently our folks were out there watching and collecting samples as well.

Commissioner Kagawa-Viviani: Are those data back from the lab? Are they posted on the DOH website and is it in the same place? From what I remember it was sometimes hard to navigate what information was where.

Ms. Grange: We have an agreement with the Navy to produce that data so it should be posted on Friday of this week for the PFAS release and that includes data from the soil and groundwater wells.

Commissioner Ho: Aurora, there's a recognition on my behalf, our website can be difficult or unfriendly, so we are actively working on trying to make it easier to navigate.

Commissioner Kagawa-Viviani: I think I noticed that it was more organized for public access so it's good to know it will all be accessible through that website, thank you.

Ms. Grange: Just one more note, the AFFF the laboratory they are using for the PFAS has been what we understood from talking with the Navy is it's taking time for those data to come back as well. They have most of the first week's data so the goal for Friday is to be able post all of the first two weeks of data that were collected. Those are the most significant, the ones they were trying to categorize or figure out where the edges of contamination were, etc.

Chairperson Chang: I'm kind of the new kid on the block, is DOH the repository of data? Do you collect BWS data as well?

Ms. Grange: The BWS data belongs to them. We would certainly be delighted to have it and I think there is interest on all parties to be able to share data so we can all see what's going on. We have acted as a repository of the Navy's data and of our data and the Navy has it online as well. They are currently expanding their safe water site that was originally for the drinking water for neighborhoods that were affected by the spill, but they now have an environmental data section online. It is in its beginning stages but that is there as well and as Kathy mentioned we're looking to figure out how to make access to the information and the way the information is presented in a more user-friendly way, so you don't end up having to go through lots of different documents or search through large excel files. We are still working on that, and the Navy is doing that as well.

Chairperson Chang: Essentially, you don't have BWS data?

Ms. Grange: We do not have BWS data. We have spoken about that with them and still hope that we can get it. Every piece of data that we have about what is happening in different parts of the region especially around their wells helps model and understand what might be happening in that area and they are also similarly interested in our data.

Chairperson Chang: Thank you very much.

Commissioner Kagawa-Viviani: Given this new potential AOC what does DOH feel is an optimistic timeline for defueling since you folks have been on this for a long time?

Commissioner Ho: We recognize that fuel in the tanks can lead to a catastrophe, but there is also

a recognition that if we defuel too quickly without critical repairs to the pipeline, it could lead to a similar catastrophe. We are trying to balance the two. We do believe the repairs to the pipeline are critical as we defuel and we're hoping that the repairs to the pipeline will be done sometime in early 2024 and defueling subsequently.

Commissioner Kagawa-Viviani: Completed in early 2024?

Commissioner Ho: DOH and EPA are looking at any possible way that we can shorten that timeline.

Commissioner Kagawa-Viviani: Without cutting corners.

Commissioner Ho: Absolutely, we don't want another catastrophe.

Ms. Seto: Commissioner Kagawa-Viviani, we have the Navy's latest defueling schedule as a link on our website so you can find that there. We also have a condensed timeline version that the department has compiled that was shared at our open house last week Thursday.

Commissioner Kagawa-Viviani: Would you mind screen sharing just for those watching and the public so they know that we should all go check out the website?

Ms. Seto: This is our DOH website for the Red Hill Water Information (<https://health.hawaii.gov/about/red-hill-water-information/>) you would go to the EO and the condensed timeline would be at this location here. This is the summary of the defueling timeline where we have the Navy's estimate of repairs to be completed by November 7, 2023, and defueling estimated to be completed by June 24, 2024.

Commissioner Kagawa-Viviani: That's helpful thank you for giving us a brief tour of the site.

Commissioner Katayama: I'm not sure if this is for Joanna or Kathy, this is forward looking as you've gone through the Red Hill experience you have a 900-pound gorilla sitting on top of a 1,800-pound valuable resource and from the cheap seats at 60,000 feet, it seems like the institutional knowledge of the operators of that 900-pound gorilla weren't very good. Looking forward, can you recommend things that the Commission can look at to be more proactive rather than reactive to these situations? I recognize DOH has a certain responsibility for safe drinking water and EPA has a certain responsibility for water quality, but it seems that the Navy's institutional knowledge and coping with the potential hazard of the fuel has been suspect in my mind where they keep turning wrong valves or getting contractors who are directed to do work.

Commissioner Ho: That's a good question, operationally the Navy has demonstrated they were not able to operate that facility safely which led to our first Emergency Order, which is why we issued that first Emergency Order. We are committed to overseeing the defueling in addition to the repairs. There are going to be drills on the defueling itself and there is going to be monitoring both by EPA, DOH and independent contractors as they defuel. Hopefully it will go as it did with the unpacking which we went through similar drills. They didn't release any fuel at that time, and they unpacked approximately one (1) million gallons of fuel out of those pipelines and so I think if we continue to be vigilant and make them go through the steps and monitor, hopefully we can successfully defuel these tanks.

Commissioner Katayama: Are you recommending organizational changes to develop institutional knowledge so they can be proactive in managing the current water systems that they have responsibility for?

Commissioner Ho: That's a separate question so you're talking about the use of their water and managing their water system.

Commissioner Katayama: With all the different hazards that they have, being in the military, that's what you deal with.

Commissioner Ho: I think that can be best answered by Dennis who is the Manager of the Safe Drinking Water Branch.

Commissioner Katayama: Are there any other situations like that where you have maybe a 400-pound gorilla sitting on a 400-pound water resource?

Commissioner Ho: Generally speaking, the DOH regulates the water system provider. We would regulate BWS or the Navy, it's up to the purveyor of that water to provide safe drinking water to its customers. The other thing is, currently the Navy is not getting its water from Red Hill shaft. They're getting it from Waiawa Shaft which is the same shaft that we are all getting our water from. First, we need to remediate the aquifer before we can come to that determination on how they are going to regulate that water to their users, if anybody...Joanna or Dennis if you want to chime in?

Commissioner Katayama: I'm looking more to be in proactive mode, I don't want to be in reactive mode.

Commissioner Ho: I understand that and maybe that's a discussion we can have as a Commission.

Commissioner Katayama: I think that's the value of what we provide as CWRM, you have your job and I understand and thank goodness for that, thanks, Kathy.

Commissioner Kagawa-Viviani: I wasn't sure if there was a response from Dennis?

Mr. Lopez: I thought I was being asked to comment, I can still comment if Commissioner Katayama wants me to, if he can rephrase the question for me.

Commissioner Katayama: I just wondered from the lessons learned, as you're going through this Red Hill situation, rather than being reactive to situations, what can we do to be more proactive in assuring ourselves whoever the purveyor is, has institutional knowledge to anticipate before a situation gets out of hand, where it endangers our water systems, what can we do?

Mr. Lopez: When we did assist the EPA with the water system portion of the AOC proposed 2023 EPA Consent Order, we worked it with them to put together a plan to increase their capability to respond to clear the drinking water system. A couple of items that we had them put in is to have a hydraulic model which the water distribution system was lacking. During the response time it prohibited flushing techniques that they couldn't do. Other items that we wanted them to make sure that the Navy had as part of their response is a valve maintenance program. Some of the excuses the Navy had is they didn't want to touch certain valves and hence they couldn't do unidirectional flushing. All the excuses that came up to us, we helped the EPA put that into the plan. We couldn't mandate it because we had to think about all the other water systems out there and not everybody has the resources to come up with a flushing plan with a hydraulic model. But the Navy is a special situation, and with the proposed 2023 EPA[{}] Consent

Order it allowed us that path to assist them to improve their water system. The Navy has a lot of money that was put into their maintenance program but when the money gets there it gets pushed in different directions. They have a utility, that had in our opinion, deferred maintenance over time and we want to make sure that they're able to respond if something happens. The threat is not only Red Hill they could have a backflow issue with all the industrial processes over there and so we're hoping that will create the model and encourage systems to learn from this and improve their systems accordingly. We're not a permitted driven entity, we want to bring everybody into compliance with the Safe Drinking Water Act. We do provide funding through our low interest loans, the SRF Program to help the water systems deliver that clean water to their customers. However, the Navy as a federal entity cannot participate in our SRF Drinking Water State Revolving Fund funds but there's a lot of funds out there for the rest of the 130+ systems around the islands. We also have principal forgiveness loans for the small systems that are disadvantaged so this is a great opportunity. I know I kind of diverted on my conversation, but I just want to promote that we do have a SRF program and we want to not only help the Navy, but we want to help all our public water systems.

Commissioner Katayama: Good to know, thank you.

Commissioner Kagawa-Viviani: My question riffs off Commissioner Katayama's which is we didn't have a December meeting and it would have been a good chance to think about what have we learned in the last year and what kind of institutional changes do we need to implement to function better in future potential water crises? One thing the permitted interaction group struggled with, and it seems like we're talking more openly now, not in executive session, so that is helpful, but what is the role that the Commission plays? As you said, we need to clean up the aquifer and that has implications for how we consider our available water, if it's contaminated, is it available at cost for cleanup? What is the role that you guys see? Couple of us know where we think the Commission should be at the table with DOH, but where does DOH see the Commission playing an important a role?

Commissioner Ho: As you know, we do have a meeting with the Navy, EPA, CWRM and USGS to talk about these things, so perhaps that could be a place where all of the trustees of the resource can determine what roles we play. I think there's going to be a meeting of the RRAPR in February.

Commissioner Hannahs: First of all, I'd like to thank the DOH for the presentation today and for all that you're doing in this regard. What's challenging for me in these reports whether it's the Navy or EPA or Department of Health, what does it mean for us? What is our kuleana here and how do we optimize our working relationship and collaboration with other agencies? Kathy if it exists, let me know if it can happen. I'd like your opinion on that as well as is there some kind of collaboration agreement amongst the agencies that identifies our shared goals, that talks about the duties of the parties and talks about how we are going to coordinate our action plans to optimize each other's outcomes. Does that exist? Shouldn't it?

Commissioner Ho: I think that's one of the goals of what we call the RRAPR (Red Hill Remediation & Restoration Action Plan Roundtable). One of the goals is to get all the trustees together and to work towards understanding with EPA and the Navy on remediation of the aquifer.

Commissioner Hannahs: I think that's essential, it's critical for us to do our job.

Commissioner Ho: Kaleo has been participating in the RRAPR.

Commissioner Hannahs: Well it would be good to see that as we sit here and we see the actions and the duties of the parties and they coordinate a plan, then we have milestones when these reports come in we can have a discussion of what the milestone was for various agencies and their progress toward achieving that and what the variances are and then what the consequences of those variances are for our own individual efforts that are our kuleana and not yours or EPA's or the Navy's. So brand new year, let's set some goals and maybe we could come up with that collaboration agreement.

Second, with respect to our Commission, it seems to me and correct me if I'm not getting this and when I use the word resource, I mean freshwater resource. Our job is to protect resource quantity, to manage resource accessibility, usually that's by giving permits to wells and so forth or in some cases taking wells offline.

Third, allocate resource prudently so as this crisis unfolds it seems to me we are wanting to know are we doing all that we can and using all the tools that we have to dispatch those three key kuleana that we have. We work together with BWS and DOH - what's the threat to this resource that we need to protect and what do we need to do? Number one, we took it offline along with the BWS so that helps to reduce the threat. With respect to resource accessibility, we're not going to access that, we need to develop more resources, we need more well permits out there, we need to support that - what are we doing and what is the timeframe for that, what are the targets for that?

Finally, as we're allocating resources, what do we need to do to change the permits that we have outstanding? Whether it's to the Navy or anybody else do we need to reduce people's allocations, what do we need to do? This is not a criticism, it's just as we look forward with excitement about how to do our jobs better in this new year. Can we get to that, where we then are having these reports and getting this information, all this detail in the context of a plan, where are targets are and where we're on plan and where we're ahead of plan?

Deputy Manuel: I totally agree, just in trying to keep up with DOH as our sister agency on the quality side. This past year has been really trying to figure out how to best support each other in this process. The permitted interaction group started last January and wrapped up with its report in June or July, so it took us some time to figure out where we wanted to go and what we wanted to see done. I think there's been clear guidance at least from the Commission thus far, we need to update and refresh with this new administration of where we want to go. As Governor Green said in his State of the State Address, he and his administration are committed to taking on a more active role and coordinating at the state level. Deputy Ho will be the lead and we are all going to find ways to support her through that. Just in case you didn't get the State of the State Address, that is what he said, Deputy Ho will be the lead.

We as a member of this body, it is critical that we find ways to coordinate between DOH and the Water Commission in what we do. The RRAPR was brought up, Katie Roth, Head of our Planning Branch, it is a planning function and it's the idea of bringing together all these various plans and commitments that have been made, related to remediation of the aquifer, but also just to short term plans of defueling into one repository of information. Commissioner Buck was also a part of that RRAPR conversation so we've provided critique on how we can improve that and we're working with those parties to make it the best tool that we can all work on and use. What I do see happening is we may need to develop one specifically for the Water Commission, so we don't get gobbled up in the larger kuleana of remediation. We have our specific goals and metrics that we want to see accomplished so that's something I'm committed to. You will see more data and more information coming back to the Commission and my commitment is to hold

space on Red Hill with this body because it is complicated, it is complex, there's a lot of information that needs to be shared. Having something to report to you every month, I think like you mentioned, is going to be helpful to see forward progress and not a bunch of running in circles on this issue.

Commissioner Hannahs: I certainly appreciate the Governor's confidence in Kathy and the department and support that. We want to be a member of the team, but we have an important responsibility in and of ourselves for managing this vital resource and it seems to me it helps her do her job as well as help us do our job if we really have a clear understanding of what our needs are to make the decisions we need to make about this resource. Let's lock that in and then you're informed and with that you're able to carry that to the meetings that you have with all the other agencies.

Chairperson Chang: I appreciate that and if I could just chime in, I think as Kathy mentioned if this RRAPR meeting is going to occur in February, perhaps the next meeting we can have a real good hard conversation whether that is in executive session or open session. This is what I've been telling our DLNR divisions, our kuleana is hard enough as it is so I'm about staying in our lane, but I want to know what our lane is too. Likewise, with the Water Commission, coming back on what Commissioner Hannahs is talking about, I think we need to be very clear so that when our representative sits on that meeting, they're advocating a clear message from where we see our kuleana to be. Kaleo will schedule that for our next meeting, and if we need a special meeting or something in preparation for that just to empower you with a clear message from the commission. Clearly, I need to get up to speed so you and I can talk story about outcomes and where we need to go forward.

Ms. Seto: I have one last portion of the website to share. This is on the Red Hill Shaft filtration and discharge into Hālawā Stream. This is the last section of the table, and it provides you with a Red Hill weekly operations report for the discharge that is going through the GAC system and into Hālawā Stream. The report of January 8-14 says that they have been averaging a discharge of 4.23 mgd per day. There have been 42 samples taken per week for influent and effluent and all the result have been non-detect. That is all I have for the report that we are giving today.

Chairperson Chang: I greatly appreciate DOH's comprehensive update to the Water Commission.

PUBLIC TESTIMONY

Ms. Katherine McClanahan: Thank you so much for having me, my family and I were guests of the island during the contamination at Red Hill, I wanted to come today and I've appreciated just listening to the Commission's role and if you'll bear with me just ever so slightly off of the questions that Fenix already said she would offline discuss with me based on some of the data Commissioner Katayama commented about being proactive versus reactive. Our families really experienced that the down side of being reactive if you look at the future of O'ahu's aquifer, your public health, your environment, I think what Commissioner Katayama was saying is indeed the focus. Couple of my questions still have to do with that. One of the main ones is for the Department of Health, when did you receive groundwater sampling data for the May 2021, June 2021, July 2021 dates? I'll leave the remainder of the question but it kind of has to do with that answer.

Ms. Grange: I did have a chance to go through your questions. The first data over that summer we did not get data from the Navy for a long time, so we didn't get what was going on. I think our first data we received was in August 2021, so the release was made in May, it took a while to

get sampling under way, etc. Then the July data we didn't receive until the end of September and the Navy reported that the labs were backed up and it was just taking a very long time. We didn't get those data until later and then things had already happened and eventually some effects, the ripple effect.

Ms. McClanahan: Is that a common practice that the DOH struggles with, to receive data that you're expecting to receive from the Navy? Groundwater sampling data, has that been a pattern, a history there?

Ms. Grange: We have had some continuing issues with that, yes, partly some of it had to do with simply the volume of samples that were coming in. One of the things that is very important to us is as soon as they do get access to the data, we need to see it right away.

Ms. McClanahan: I guess I'll leave it with this, to your Commission and just focusing on the future of your aquifer. Just as a resident, that to me, is a problem that we have all experienced and if somebody has the magic answer to being able to provide your Commission, families, the public, data in a timely manner, is there some force of consequence for public notice that can go out when data is delayed by default? I feel like in the future, for your aquifer and your protections if every time the Navy has something of concern, and they just decide to not give you the data, what are your recourses? Maybe getting the Governor involved to have a stronger force to come back and alert the public and the purveyor who is delinquent in getting the information. I appreciate all your work. I wish you all a wonderful and healthy future aquifer. My family and I have moved off now but we are going to continue fighting for the future for our loving friends and family on O'ahu and for your future aquifer. I'll take offline conversation with Fenix, I appreciate it.

Ms. Susan Pcola-Davis: Lots of interesting conversation and lots of catching up from December. I will go through my questions. I don't know if you saw them ahead of time. I also provided seven attachments you can look at later. I'm not going to digress from my questions. I'm going to start with environmental action levels, and I have questions, but I don't know if they can be answered. Using a plume degradation scenario, non-degrade JP-5, action levels are currently at 266 ug/l. When posed with this question of how a sample indicating a 265 would be described as non-detect, I'm not sure why I could not get an answer yesterday. Say you're in your house and you get your sample report back and highest action level is 266 and you get a finding of 265, would you feel comfortable having an only one-unit difference between being called it's detected or non-detected? Mr. Brewer explained how the number is determined. Mind you at the December 15, 2022, BWS meeting, he said his spreadsheet had an error and he had to recalculate. He also explained how he is a risk assessor not a toxicologist. He says he solicits information from many sources, which is great, but in the most recent publication by the Department of Health, there are updated environmental action levels with strict calculation models for EALs. Did you use that model to develop the spreadsheet? In my questions I'm also asking for your credentials, exactly how are EAL levels decided, by whom, give us the names. Does that make you feel confident that his spreadsheet doesn't have any more errors?

Next on my agenda is sampling. During the actual sampling, Department of Health used several lower incident specific levels 300, 200 and 211. The Department of Health still hasn't clearly explained to the public why that was, so my question is why? Upon review of the online sampling reports, it appears that any sample of TPH-g,o,d that fell below the incident specific level was determined as "non detect," leading customers to believe their drinking water was clear of any fuel, which is not true. If a sample is collected, using the incident specific level of 200 and the sample is 199, 199 will be notated as "non detect" and not 199.

Lastly, is the Department of Health and the EPA and the consent order. The thing I wanted to say and maybe a question Ms. Ho can think about, is what regulatory authority would you be giving up or the state be giving up if you partnered with the EPA on this consent order? Although I have heard you several times say that you're going to stick with the 2015 Emergency Order, which I plan to go over tonight to compare it with the Consent Order to see what's the big deal. What power is this that you're trying to give up?

We're talking about the amount of water that is going from Red Hill Shaft into the Hālawā Stream. At the meeting yesterday we talked about when was the last time that fuel was detected at the Red Hill Shaft discharging millions of gallons into Hālawā Stream? There probably was a date but they have not found or determined whether all this water going into Hālawā Stream is beneficial or not but after 14 months of doing this and wasting our water, wouldn't it be nice to know? Dennis, I appreciate your understanding of unidirectional flushing and hydraulic models and the valves. The Navy is not understanding of this and if you provide any information to them to keep them on track for the long-term monitoring project to go on, the public will send you flowers. Thank you very much.

Deputy Attorney General Julie China: This is public testimony. I guess it is at the option of DOH to respond but they are not required to provide a response in this forum. I just wanted to say that.

Commissioner Ho: Thank you for that, I think what we'd like to do is, there were so many questions, could we respond to her questions in writing? Is it different questions than what we received yesterday? If we put it up on our website is that the best way to respond?

Deputy Attorney General China: Yes, they are somewhat different.

Chairperson Chang: Ms. Picola-Davis, if you could forward those to DOH and then DOH if you could just make sure we get a copy of whatever the public response is. I would agree with Deputy Attorney General Julie China, this is public testimony but not intended to be a forum where DOH is required to answer.

Ms. Picola-Davis: I know that they are not required to answer nor was I expecting them to. I was just sharing my questions as a person of the public. I appreciate all the work that you do. These questions have been emailed to DLNR for today's meeting and if Kathleen wants me to forward that email, I can. Kathleen you are not obliged to answer the questions, I understand that. If you choose to do that, I would appreciate it, but I know that you are a busy woman.

Mr. Tanaka: I really want to express appreciation for the hard work that the Commission, Commission staff, the Department of Health and their staff have been doing over the last 18 months to address this crisis. I wanted to highlight three problems.

First, I appreciate that there was swift action needed to prevent the spread of AFFF concentrate after the 1,300 gallons were spilled last year. I think I have deep concerns about the capping, and it wasn't only the capping but the backfilling over excavated areas which essentially means it is going to be very difficult to re-excavate if necessary. I'm not sure if the DOH was able to conduct an assessment, where the soil samples were taken, if they were able to take their own samples and have independent objective testing or if we are just relying on the Navy to indicate whether they were able to clean up their own mess. Also, the facility is porous right? A tremendous amount of concentrate was released in the facility, and we know that rainwater infiltrates continually. The concrete floor is also not watertight and there is also concern about what is going on in the inside - it may be difficult to assess the remediation efforts. Also looming

is the fact that they are going to continue using potentially AFFF. They need some kind of fire protection capability within the facility. I think it is important that we to keep the pressure up to ensure that they don't continue holding these forever chemicals just 100 feet above our groundwater aquifer. The chemicals are tremendously toxic parts per quadrillion - for PFOA I think that's one drop in a thousand Olympic-sized swimming pools that could render this water unsafe under the EPA's interim advisory guidelines.

The second problem is the drinking water system that is not just the Navy but also civilian housing. I really appreciate there were multiple attempts to refine the water testing process that has been going on, but we know from the September 2022 CDC/ATSDR survey that there are almost 300 people that continue to report seeing sheens in their water as well as almost 800 people continue to have health effects. I want to urge continued thinking, regarding what might be the cause of the discrepancies. We can't just dismiss one dataset because another dataset says the water is fine. There are folks moving into these housing units who really don't have much informed consent to determine what their risk is should they decide to use their tap water for domestic use and consumption. We know there are many other issues with the water systems, there could be other things in there both in jet fuel which isn't just pure TPH-d but could include antimicrobial, antifreeze chemicals as well as just issues with their water systems - as we know from the EPA's investigation has not been operated and still isn't being operated in compliance with safety water regulations.

The third problem/issue is the need to be hypervigilant about the Navy's water use. We just heard that they are dumping on an average 4.3 million gallons per day, multiply that by 360 days you get over 1.5 billion gallons. This Commission has been urging them for over a year now to start planning on some kind of alternative reuse of some of that water so we're not wasting our most precious resource. There's been discussions about evaluating the Navy's water uses under their water use permits issued by the Commission. I do want to urge that you do take some bolder positions. I know the tendency is to be conservative about the state's authority when it comes to the federal government, but we do have a gray area where now is the time to be assertive. If you're going to assert an aggressive position, this is it. If it's not now, I don't know when that would be so to get a quick ask of you folks of the Commission members and basically everyone listening, this EPA consent decree does provide an opportunity for us to get provisions and concrete mechanisms and proactive tools that can avoid the issues with the 2015 Administrative Order and Consent which the non-enforcement have led the exacerbation of this crisis. For your Commission members in your individual capacity, your comments as trustees of our public trust, as guardians of our most precious resource will carry weight even if it is in your individual capacity. I have three basic talking points that you might want to raise or that I'd like to respectfully urge you to raise if you do choose to reach out. One is we need concrete deadlines, there's no deadlines in the consent decree and the deadlines aren't something to be afraid of. The Navy's pipeline repair is going to be done by November. Ask for a deadline for August, which I think is within the realm of possibility by talking to the EPA if they miss the deadline. It doesn't mean you just let it go, you can have an order to show cause, you can have the Navy come forward and explain what kind of extenuating circumstances may have caused them to miss the deadline. It's not like you're going to force them to let it rip and endanger but at least you'll have something there so the Navy knows they'll have to identify any excuses or justifications they may have. That way we have some safeguards against some of the foot-dragging we've seen. Advocate for concrete deadlines where you can check on the Navy's progress, urge the Navy not to use P5 concentrates because we don't want another spill to push us past the point of no return and we need on-island testing. I'm happy to talk to any folks offline about these ideas and if you have any questions. Thank you for your time and attention.

Ms. Gina Hara: I'm from Hālawā Valley and I've been testifying at every board meeting since last January. I just want you to know exactly what I said last January. You are going to have meeting, after meeting, after meeting, everyone is super polite and here we go one year later. We are that much closer to another leak. My positive suggestion for Commissioner Katayama, Commissioner Hannahs, for everyone on this board, was to ask for a blow-by-blow accounting of the leaks that have happened so far. How those mistakes have been incorporated and how the defueling, blow-by-blow, minute by minute, is really going to go down from the mouths of the actual engineers. This is a major surgery from which we, the people, who will be living with the after-effects. If it is a botched surgery because we weren't looking at the details enough, it's going to be catastrophic. If we know anything from the past leaks, it's not about the tanks, it really wasn't about the pipes, it was about the humans and the system, just like Commissioner Katayama pointed out. This series of exercises of dissecting what is the plan, we need that, I would like to ask this Commission to write a letter to be in support of this with a timeline of this month. I would like independent engineers from our community other than the Navy to weigh in and talk about these details. It may take a series of at least 10 times if you ask me, but let's just have one this month. That's my proposal and I agree with everyone prior, and I would like to ask you two things. Can you also see yesterday's BWS meeting? It's going to be online you'll see the testimonies of people there in combination with what the Department of Health and the EPA were saying. I think it's a must see along with the movie Dark Waters, that will explain to us what we are facing with our aquifers with respect to the forever chemicals. Thank you for your time.

Chairperson Chang: Thank you so much Department of Health for your presentation and your updates and participation in our meeting. Thank you, Joanna, thank you so much for your team, thank you Kathy.

2. CWRM Budget and Legislative Updates

PRESENTATION GIVEN BY: Deputy Manuel

Deputy Manuel: Chair, Commissioners, as well as community, we wanted to take this opportunity in the beginning of the Legislature to highlight where we're at in the budget and some of the bills, at least the Administrative Bill that's been introduced as of yesterday and some of the things that we may see or might not see coming out. I don't think we've done this before with the Commission, but I think it's timely and hopefully we can do this more often, keep you updated as our decision-making body.

We're known as LNR 404 in the DLNR budget, so you see that in budget worksheets, it's very budget oriented, tons of spreadsheets in excel - that is our budget number. In general, here's our base budget we've talked a lot about lack of resources or need for more resources and this is a quick summary from my very simplistic view as an administrator. We have 27 positions within the Water Commission, four of those were added in during my last tenure, prior to that we've been short. Since 1987 it's been around this much between the teens and the twenties. These are 27 positions juxtaposed against the 1,084 positions of the overall DLNR budget. When you talk about balance and need for resources, 27 out of 1,084 for water is really telling and that is the picture I try to paint for most people. Twenty-two of those are general funded, 5 are special funded out of the state land development fund, those are revenues generated from leases developed by Land Division before the Board. Our FY 23 operating budget was a little over \$4 million that includes almost \$3 million in GF. We have a ceiling of \$356,474 from our water resource management special fund and a ceiling of \$812,768 from what we call our SPAM Special Fund. This funds 5 positions but also has about \$110,000 that comes from the SLDF fund for steam studies. It primarily pays for staff travel, the team that you see here doing our

stream monitoring measuring, etc. as well as pay for some of our stream gages. The other general funds that are used, almost \$2 million goes to staff personnel cost right now, about \$1 million goes to the USGS gaging contract, so we have maybe less than half a million of discretionary funding for our general operations. That's just the world we have to work within. We talk about resources, managing resources, so those are some of the challenges we work on.

Commissioner Hannahs: Are all the positions funded positions?

Deputy Manuel: Great question. No, the four Aquatic Biologist positions in SPAM Branch that make up the 27, those four were created in 2019, taken away during the pandemic and just got put back in last session. We are working on establishing those. We have one vacancy in Groundwater Branch that we are trying to fill. On February 1, we'll just have those four Aquatic Biologists positions and the 1 groundwater position that's vacant, so we'll have 22 filled positions.

Commissioner Hannahs: Where do fines go?

Deputy Manuel: Fines will go into the Water Resource Management Fund, under 174C 5.5, that articulates what that fund can be used for. In general, I've advocated for \$2 million annually in the CIP budget for deep monitoring well development. It costs about that much to do one deep monitoring well and we've been successful in upping that to a yearly request. Prior administrations or strategies have been to ask every supplemental year, so every other year, but in our USGS monitoring program, our proposed build out, it's going to take 100 years if we just do one every two years. We really need to ramp this up and ask for more development funds if we want to get a better understanding especially of our groundwater resource and aquifers in the face of climate change.

Next, I'm going to talk about what's in the budget now. The four Aquatic Biologist positions were reestablished but whenever you reestablish start positions you only get half the year funding. This year we are asking for full year funding which is identified there for those four Aquatic Biologist positions. We are working with our HR office to determine whether that classification is appropriate or not and we may be shifting to some other classification like general professionals that gives us more flexibility to meet the needs of our staff and the work we need to do. The CIP appropriation for deep monitoring wells, those are the two funding budgets that were approved that made it into the Ige Administration budget. Legislation Senate Bill 1386 was just introduced yesterday but that was an administrative bill that we put in and this is relating to declaring water shortages and emergencies. Dealing with this Red Hill disaster and issue, one of the things, working with the Attorney General's office, is that the bill declaring emergencies was tied to the shortage and shortage planning as articulated in the Code, so what we are recommending is to split it out to say that if there is an emergency that the Commission has the explicit authority to declare an emergency. There's language and amendments to the Code to give the Commission that authority to deal with situations like this, hoping that we don't ever have to use it and that we can anticipate shortage with better data and planning and proactive research, but if we didn't use that, we'd have that tool available to us and that was in response to this Red Hill situation.

Next is a graphic of DLNR's overall CIP budget. The greenish color is the \$2 million in CIP for deep monitoring well development. Last year we got a lump fund appropriation from the Legislature and as part of the kuleana of the Chair is to prioritize all the CIP projects throughout the agency. Fortunately, Water Commission has been able to stay on top of that table and get part of that lump sum of the portion of the \$20,000,000. I just wanted to show graphically some of the things that are also being balanced within the overall agency.

Lastly, the Green Administration had asked us for potential budget modifications or requested budget items. We added some but some of these were part of our original Ige Administration ask but weren't in the Governor's budget. We submitted a request to add seven new positions to Groundwater Branch and Survey Branch and that's really to ramp up and meet the needs of some of our groundwater work and our water use permit approvals and reviews dealing with the Red Hill issue, etc. I framed this under a climate crisis research and monitoring but it's important that we start to put monies towards this. We've asked for additional funding to add more stream gages to our system. USGS can only handle about five gages a year so we're asking for five every year and the idea is just to keep asking for that every single year. It's still not going to get us to build-out for another couple decades but we're hoping that we can beef that up and partner with USGS and working with our Congressional Delegation to increase the federal resources in that program as well. Limu research we've been working with Water Resource Research Center, University of Hawai'i, DAR and KUA to build off the year of limu and actually look at how groundwater dependent ecosystems and the research that they've done in Keauhou on limu. We can start to partner with them because that is the next thing we have to understand is how groundwater affects nearshore ecosystems and the nearshore environments as another public trust use of water and just to support our work with Water Resource Research Center funding to help with the management of the Hawai'i Mesonet program through the Hawai'i climate data portal. To shorten that timeframe of 100 years, if we develop a deep monitor well every year or every other year, we need to do more and we're wanting to increase that \$5 to \$10 million but we're also looking at federal funding resources to hopefully supplement or double down on our state budget that we do get allocated here. That's generally our budget - omit the increase of \$5 million a year that didn't make it into the CIP. Sorry, that was a typo that didn't get changed.

Chairperson Chang: We are trying to be optimistic with Governor Green's commitment to climate change. To utilize that we need to be prepared from the Water Commission side to address Commissioner Katayama's question about being proactive. What can we do in light of climate change? I think we need to be situated to take advantage of federal funds as well as the Governor's commitment to climate change. I do want to use our public Water Commission meeting also as a public forum as appropriate legislation arises to bring that to the Commission's attention as well as the public's attention so that we create a forum for public to provide us testimony or comments on proposed legislation.

Commissioner Kagawa-Viviani: I know this is constrained with the practicality of the budget but two questions – one, where in your positions is there a point person to interface with DOH as we have joint responsibilities and two, are there positions that do not yet exist in divisions, that may not exist, that would be ideal to have, just so we keep in mind the ideal capacity of CWRM versus the current?

Deputy Manuel: We haven't dreamt yet about what the ideal CWRM full build-out would look like. You're quickly reminded in government - that's too big and too much. I hear what you're saying and one of the things in the next four years I'm committed to, is helping to support staff to build their capacity and get more bodies in and part of that is growing smartly in a smart way. When you throw massive lumps of money and resources, the training, the onboarding, that change in culture is a shock. What I've been proposing with staff is these realistic requests for staffing and budget so we can grow smart and help to build that capacity over time. What you're seeing, is talking with staff, where we believe we need to focus right now to meet current needs, but also will help to build capacity in the long term. That's my short answer. With DOH, the groundwater team does interface regularly with DOH, especially on their safe drinking water side. Planning also takes a large role with coordinating with DOH. One of the things Kathy and I have talked about as Deputies in this next round, and thanks for confirming me, is to really tighten up our DOH and CWRM staff collaboration, our processing, and to really understand who

is on first and in certain situations tighten up that relationship. Looking at funding opportunities, they have the revolving loan funds - whether those resources could be used and leveraged with CWRM's limited resources to align projects or move together in certain ways. It's a long-winded answer, but I think there's enough momentum to better align the limited resource we do have with the leadership that's in place. Kathy and I are continuing from the last administration so I think we can hit the ground running, unlike other departments that really have to build that momentum up. I'm hopeful, not putting Kathy on the spot, but I think we can do good things together and keep up the momentum that we've created.

Chairperson Chang: I appreciate the question, too. I think this administration as well as our own internal is really committed to better internal coordination. We need to be in sync - there's really no reason because it all goes back to the public trust. When we aren't in sync it leads to public mistrust. I think this administration is really emphasizing the need for greater coordination internally both within your own agency and externally with your sister agencies before we go out to the public. There's a real desire to do that. Also, with respect to DLNR we have been living quite frankly over the last decade, hand to mouth, but there's going to be a great infusion of both federal funds and this administration, as well as the Legislature's commitment to climate change, for us to be in the lead of that. Like Kaleo said, we need to think big, and we need to start planning. We need to look at strategic planning, over the next 10, 20 years so all this emphasis on being more proactive, there is going to be a change of a mindset internally at DLNR. Many of our divisions are generating revenue that they have not done before so we are looking at more strategically at the future. We ask for your patience but there is a desire to be much more efficient and effective with our resources so that we can do better for the general public.

Deputy Manuel: Chair, getting to the full build-out, what resources and staff would be appropriate. The framework update to the Hawai'i Water Plan, it is a tool and a mechanism, and putting that out there as a fellow planner, to really take that long-term perspective and build-out to that. I think once that framework update is completed and approved by this body, we are going to set the tone and vision for the next 20, 30, 40, 50 years. Then we'll be able to figure out and determine what are the resources we need to accomplish those overall long-term plan goals. That framework is looking at climate change, place-based management and elevating traditional and ecological knowledge and practice of native Hawaiians, that holistic world view on water resource management. Once that framework is solid, and this body adopts it, then we can start to build-out that team to accomplish those large goals and visions.

Commissioner Kagawa-Viviani: This is me switching to my UH hat. I just want to put it out here while DOH and CWRM are in the same room. The University and especially some departments are undergoing a big turnover and there's going to be a lot of hires in the next several years because people have retired during the pandemic and there will be new openings. I think it would a great opportunity to make sure the UH is engaged - Water Resource Research Center is also rebuilding and to think about that. I'm also part of a scoping effort to think about what are the pathways we need to place people in water professions and it's not just in engineering. To the extent possible, please don't forget UH is part of your resource team.

Chairperson Chang: We've already engaged President Lassner about having more internships, having greater pathways, so that you get trained here within DLNR and when positions become available, there's a nice smooth transition. There's no reason why government should not be looking upon itself to provide a lot of these resources so we can keep our local kids here. We are committed just as you are to both the University as well community colleges and even high schools, to start them on this pathway towards this conservation, preservation, movement so thank you for that.

Commissioner Ho: Just so you know, DOH is also looking at work force development so please send people our way as well.

Chairperson Chang: We're all tapping into the same people. Kaleo, do we have the meeting schedule for the next two meetings?

Deputy Manuel: The next two meetings are there on the agenda and we will be coordinating, with your guidance, on some of the follow-up on what you wanted to hear and see. Thank you so much for the flexibility on shifting to the last Tuesday for today's meeting.

Chairperson Chang: I appreciate that, we've been kind of jamming on a lot of things, but we did want to have a meeting this month, so I appreciate everybody making it and this concludes our meeting. Mahalo, mahalo, mahalo. A hui hou.

D. COMMISSION MEETING SCHEDULE (*tentative*)

February 21, 2023 (Tuesday)

March 21, 2023 (Tuesday)

Meeting adjourned at 5:14 pm.

Respectfully submitted,

Kathy Yoda

KATHY YODA
Secretary Pro Tem

OLA I KA WAI:

M. Kaleo Manuel

M. KALEO MANUEL
Deputy Director

Written Testimonies Received:

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