

US EPA ARCHIVE DOCUMENT

1  
2 NOTICE OF PUBLIC HEARING CONCERNING THE  
3 DRAFT UNDERGROUND INJECTION CONTROL (UIC) PERMIT  
4 FOR THE LAHAINA WASTEWATER RECLAMATION FACILITY  
5

6  
7 PUBLIC HEARING

8 NOVEMBER 6, 2008

9 6:15 P.M.

10 LAHAINA CIVIC CENTER

11 SOCIAL HALL MEETING AREA

12 1840 HONOAPI'ILANI HIGHWAY

13 LAHAINA, MAUI, HAWAII  
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22 Reported by:

Tonya McDade

23 Hawaii Certified Shorthand Reporter #447

Registered Professional Reporter

24 Certified Realtime Reporter

Certified Broadcast Captioner  
25

ATTENDANCE

David Albright, Hearing Officer, Environmental  
Protection Agency

Nancy A. Rumrill, U.S. Environmental Protection Agency

Brett P. Moffatt, U.S. Environmental Protection Agency

Chauncey Hew, Environmental Management Division, State  
Department of Health

Cheryl K. Okuma, Director, Department of Environmental  
Management

David Taylor, Division Chief Wastewater Reclamation,  
County of Maui

PRESS:

Akaku, Maui Community Television

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1 NOVEMBER 6, 2008

2 TRANSCRIPT OF PROCEEDINGS

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4 MR. DAVID ALBRIGHT: Microphone working? If  
5 people could have a seat, we're going to try to get  
6 started here, going to try to get started as close as  
7 possible to the 6:15 time.

8 I guess, first, thank you for coming tonight.

9 My name is David Albright. And I am with the  
10 Environmental Protection Agency, Region 9 office, in San  
11 Francisco.

12 And this is a public hearing on the proposed  
13 Underground Injection Control Permit for the Lahaina  
14 Wastewater Reclamations Facility.

15 And I would like to talk a little bit about  
16 what we're going to do tonight. And then we've asked  
17 people to sign up on these forms if they want to give  
18 oral testimony tonight. I know a number of you have  
19 done that. If you haven't done that yet, and would like  
20 to give oral comment, please fill out one of the green  
21 forms.

22 This is a public hearing. The intent here is  
23 to take comments from members of the public. You can  
24 submit written comments, if you would like to do that,  
25 or provide oral testimony as well.

1           We have quite a few people who have asked to  
2 speak tonight. So we're going to try to keep people to  
3 about five minutes, if that's okay. And, you know, we  
4 have a little bit of leeway on that, but we would like  
5 to give everyone an opportunity, who has filled out a  
6 form, to speak. So I would ask that you try to keep  
7 your remarks to five minutes.

8           I would like to introduce some people who are  
9 here with me. On the far right here is Nancy Rumrill,  
10 she is an environmental engineer in the Groundwater  
11 Office with U.S. EPA. And next to her is Brett Moffatt.  
12 He is an attorney with the Office of Regional Counsel.  
13 To my left here is Chauncey Hew, who is with the  
14 Department of Health, the Underground Injection program.

15           The hearing is being -- we have a court  
16 reporter. Her name is Tonya. And she is going to be  
17 taking a complete transcript of the hearing.

18           So what we're going to do first, before we get  
19 into the specific comments from members who -- of the  
20 public who have filled out these forms, is we're going  
21 to have a brief presentation by the County of Maui. And  
22 I would like to ask Cheryl Okuma, who is the Director of  
23 the Department of Environmental Management with the  
24 County, to come up. And she's going to say a few words  
25 to start it off.

1 MS. OKUMA: Thank you very much, Dave.

2 Good evening, everyone. As mentioned, I'm  
3 Cheryl Okuma, the Director of the Department of  
4 Environmental Management for the County of Maui.

5 The County appreciates the opportunity to be  
6 here this evening with a brief presentation by our  
7 Wastewater Reclamation Division Chief, Dave Taylor. We  
8 are aware of the concerns that have been raised by  
9 members of the community. And be assured that we have  
10 been and continue to be diligent in our efforts to meet  
11 the regulatory requirements and standards of the U.S.  
12 EPA as well as the State Department of Health.

13 I would like to turn this over to Dave Taylor,  
14 who will provide a background and some technical  
15 information with respect to the Lahaina wastewater  
16 facility and the injection wells.

17 Thank you.

18 MR. TAYLOR: Thank you, Cheryl.

19 And I really appreciate all of you coming.  
20 What's really helpful to us, when people, who care so  
21 much about the environment, come to these meetings, so  
22 that we can, you know, explain what we do, how we do it  
23 and how we -- we serve the public in protecting the  
24 environment.

25 One of the big misnomers about wastewater

1 utility management all across the country is that people  
2 think we're polluters. And it's important to remember  
3 that we don't make pollution. The public makes  
4 pollution. The public makes waste. And we treat that  
5 waste. We work for you.

6 The treatment plants and the injection wells  
7 are part of the treatment process. They are not  
8 pollution. Human waste is pollution. And we try to  
9 protect the environment from that -- from that waste  
10 that we all generate. So, in general, the treatment  
11 plant speeds up the natural methodology of waste  
12 treatment that happens in nature every day.

13 In nature, waste from animals is eaten by  
14 microorganisms. They breathe air, they eat waste and  
15 they breathe. And those microorganisms are eaten by  
16 larger animals that eat -- and larger animals eat them.

17 So essentially what we do at the treatment  
18 plants is we breed microorganisms by giving lots of air.  
19 And we turn the human waste into microorganisms that  
20 eventually we separate from the water, we take the  
21 microorganisms to a composting facility where it's mixed  
22 with green waste. And that's all fully composted. 100  
23 percent of the solid material generated on Maui from  
24 human waste is made into compost and sold as that eco  
25 compost material you guys see in the stores.

1           So in the Frequently Asked Questions that were  
2 handed out -- there's more copies at the -- at the -- at  
3 the front table -- we have a simplified process  
4 schematic of how the treatment plant works. And I'm not  
5 going to go through every box, but, in general, what  
6 happens, if you have this and follow along, the water  
7 comes into our treatment plant, we screen out things  
8 like -- like rags and other kinds of large things, like  
9 sticks, and then we give the wastewater a lot of air.  
10 We -- we, basically, breed the microorganisms. And  
11 while we're giving them air, we run them through  
12 different -- through different environments of air where  
13 we control their life cycle. And what we do is we --  
14 that takes the nitrogen, which is the big concern for  
15 ocean environment, which is a solid material, and  
16 through their life cycle turns it into gas and it goes  
17 off into the environment. And the air, the atmosphere  
18 is mostly nitrogen, anyway. So, basically, 60, 70  
19 percent of the nitrogen that's in wastewater is  
20 transmitted -- is transferred to gas and goes off into  
21 the atmosphere.

22           We keep -- we keep feeding the microorganisms  
23 air, they keep eating. And, eventually, they cling  
24 together and they separate from the water. So we end up  
25 with clean water that looks a lot like drinking water.



1 And these biosolids, which I already said go to  
2 composting. So the water is then chlorinated. We run  
3 it through another filtration process. And then it gets  
4 to the point where we have to get rid of it. So we get  
5 rid of our water in two ways.

6 Either we reuse it -- and reuse, from the  
7 Lahaina treatment plant, about a million gallons day, or  
8 about 20 percent of that water. And that's mostly used  
9 at Kaanapali, on the golf courses and for greenways and  
10 things like that. So that water that gets reused goes  
11 through ultraviolet disinfection, which are ultraviolet  
12 lamps that sterilize any pathogens that are in that  
13 water. And so about a million gallons of that water  
14 every day goes towards reuse.

15 The other water, about four million gallons,  
16 maybe a little less, goes down the injection wells. The  
17 injection well water is -- does not go through the  
18 ultraviolet treatment. It goes down these deep pipes  
19 into the ground, they go down a couple hundred feet.  
20 And that water moves outward through the ground,  
21 eventually it comes out into the ocean.

22 The -- one of the big questions is why don't  
23 we reuse more water. That's the big question everyone  
24 asks us.

25 It's important to know that although the water

1 is really clean, we clean it to very high standards,  
2 that water has to be distributed in a separate system  
3 from potable water. So to distribute reuse water, we  
4 need a whole separate water system, pumps, tanks,  
5 pipelines, et cetera. And that doesn't exist right now.

6 So that's what's really limiting our ability  
7 to reuse water. And those systems are very expensive.  
8 And they also take a lot of energy. So that's what's  
9 holding us back from reusing more water.

10 And the question is, well, why don't we build  
11 more?

12 The public here owns this wastewater system;  
13 not us. You're the owners of this system. And the  
14 wastewater system on Maui is 100 percent funded from  
15 your sewer bills. So, basically, we can build whatever  
16 the people want as long as the people are willing to pay  
17 for it.

18 And when this has come up in Council again and  
19 again, everyone always wants more reclaimed water. And  
20 the difficulty is that nobody wants to pay a higher  
21 sorbent. So that's really the dilemma we're in as a  
22 community. We all want to reuse more.

23 When it comes down to it, we've been raising  
24 -- we've raised sorbent about 40 percent over the past  
25 three years, just to replace our aging infrastructure,

1 to keep existing levels of treatment. And probably for  
2 the next 10 years, we're going to be fighting this  
3 battle with aging infrastructure and replacements of  
4 sewer systems. If -- you've seen it. You've seen, in  
5 Lahaina, we've got projects everywhere, we've been  
6 digging up the roads. South Kihei Road, right now we're  
7 doing projects, Kahului Beach Road. All over the  
8 island, we see these very expensive sewer projects going  
9 on because the wastewater system is about 35 years old,  
10 it's failing. And it's taken a lot of money and it's  
11 going to continue to take a lot of money to replace  
12 that.

13 So the question for us as the community, for  
14 us as the owners of this sewer system, what do we want a  
15 do? Do we want to raise rates and do more reuse, or do  
16 we want to keep rates low and not do that?

17 At the end of the day, we're going to listen  
18 to you. Through the elected officials, through  
19 processes like this, the public's going to decide what  
20 we do. And the public is going to pay for it.

21 So we're not a private company. You own the  
22 sewer system. And that's just one thing that's, a lot  
23 of times, lost when we -- when we have these  
24 discussions, is somehow people think that -- that we'll  
25 get money from somewhere else. But it's your money.

1           And if this is what you want to do with it,  
2           this is what the County will do. But that means higher  
3           rates. It means other things you may want, other sorts  
4           of environmental projects, roads, parks, whatever, this  
5           would be the priority. And that's something that --  
6           that, if that's the priority of the community, of course  
7           we'll do.

8           How this permit fits in is EPA doesn't give us  
9           money. The Federal Government doesn't give us money.  
10          They basically set permit requirements that we're  
11          expected to follow. So how the permit fits in with our  
12          operation is anything that they say in our permit that  
13          we have to do, that kind of goes to the top of the list  
14          when it comes down to County budget. And that's not  
15          really a choice anymore that we locally have -- get to  
16          make. We don't get to decide, hmm, is it worth it.  
17          Once it's in a Federal permit, we're mandated to do it.  
18          And we will, basically, just define how much money we  
19          need and make -- raise rates accordingly.

20          So I hope, just in general, that kind of gives  
21          you some background of the system we operate, the  
22          financial system we operate, and how -- the two things  
23          we really need to remember is we generate the waste,  
24          we're going to have to decide how we want to get rid of  
25          it, and we're all going to have to pay for it.

1           So with that, whatever the public feels we're  
2 gonna do -- we need to do, that's what we'll do. But we  
3 just need to remember, we all own the sewer system,  
4 we're all going to pay for whatever we want to do with  
5 it.

6           So that concludes.

7           MR. DAVID ALBRIGHT: Okay. Thanks, Dave.

8           If anyone -- we are not really having a  
9 question and answer session. If someone has any  
10 clarification questions about what Dave just presented,  
11 we could take a question or two. Otherwise, I am going  
12 to -- yes. Why don't you -- if you have a question,  
13 could you come up to the mike, just to clarify  
14 something? If you could say --

15           MS. IRENE BOWIE: My name is Irene Bowie. I  
16 am the Executive Director of Maui Tomorrow Foundation.

17           And I did just want to comment on what you  
18 just spoke on as far as not only wastewater, but isn't  
19 it true that -- that we have been taking leachate, a  
20 quarter of the leachate from Central Maui Landfill to  
21 Kahului treatment facility and Kihei treatment facility,  
22 and that has been ending up on the reefs? So it's not  
23 just our wastewater right now that's going out to the  
24 reef?

25           MR. TAYLOR: It is correct that we have -- we

1 do process the leachate from the landfills in the  
2 wastewater treatment plants. So our -- our belief is  
3 that most of the material from that probably ends up in  
4 the biosolids and not in the water.

5 MS. IRENE BOWIE: Although, we haven't done  
6 any testing of --

7 MR. TAYLOR: That is correct. That is  
8 correct.

9 MS. IRENE BOWIE: Thank you.

10 MR. DAVID ALBRIGHT: Okay. Why don't we take  
11 one more? And then I would like to move to the next  
12 speaker.

13 MR. JOHN SEEBART: Hi. My name is John  
14 Seebart. I just have two quick questions for  
15 Mr. Taylor. One is, how long at the Honokowai injection  
16 plant does it take for the water to get from the plant  
17 into the water?

18 MR. TAYLOR: No one is exactly sure. There --  
19 there has been a recent study in Kihei that the USGS did  
20 that showed that it took about two to five years for the  
21 water from the injection wells to reach the ocean. And  
22 our guess is because the -- the geometry is kind of  
23 about the same. They're about the same depth. The  
24 water has about the same specific gravity. It floats  
25 upward. We would guess it would be similar. But that

1 was a -- that was a mathematical model.

2 Anytime anyone has tried to actually do an  
3 empirical test, to dump like a trace element in the  
4 injection well and find it in the ocean, no one has been  
5 successful actually tracing it. So one knows for sure.  
6 But they do have these hydrogeologic models, computer  
7 models, that have estimated, you know, two to five  
8 years, depending on the conditions.

9 MR. JOHN SEEBART: All right. Thank you.

10 The other question was, I understand the  
11 dollar issue, you know, of what you have to spend, but  
12 I'm just curious about the water being treated with  
13 ultraviolet for the golf course, which makes sense, but  
14 what about the water -- I mean, why -- what's the  
15 thinking that we don't need to do that for the water  
16 that's going into the ocean?

17 MR. TAYLOR: That's a great question.

18 How we disinfect the water is driven by the  
19 Department of Health rules and regulations in State law  
20 for wastewater treatment. And, basically, the water  
21 that's reused on -- on golf courses and greenways and  
22 things is considered R-1 quality, which is used for  
23 reuse. And by Department of Health rules, that has to  
24 go through a certain level of disinfection, which  
25 includes either long periods of chlorination or

1 ultraviolet disinfection. Water that goes down the  
2 injection wells, by State law, does not need that same  
3 level because it doesn't have direct human contact in  
4 the short-term. And my guess is that the Department of  
5 Health feels that from the time it takes for that water  
6 to make it to anywhere where there's human contact,  
7 there's a long period of time where pathogens are  
8 naturally, you know, destroyed during that time period.  
9 I don't know that -- the exact reasons why Department of  
10 Health sets their laws that way, but we are -- we comply  
11 with those Department of Health rules.

12 MR. JOHN SEEBART: Thank you.

13 MR. DAVID ALBRIGHT: Okay. Thank you, Dave.

14 Next, I would like to have Nancy Rumrill give  
15 a very brief presentation about the permit, which is, of  
16 course, the reason that we're here tonight, and a little  
17 bit about the EPA's authority under the Safe Drinking  
18 Water Act. So let me turn it over to Nancy Rumrill.

19 MS. NANCY RUMRILL: Okay. I am just going to  
20 cover the Underground Injection Control program and,  
21 briefly, a little bit about the Draft Permit.

22 Under our Underground Injection Control  
23 program, we -- it's a Federal program under the Safe  
24 Drinking Water Act. And we are charged with protecting  
25 underground sources of drinking water.



1           Underground sources of drinking water or  
2           underground aquifers, they have less than 10,000 parts  
3           per million of total dissolved solids. And if you think  
4           of total dissolved solids as it's all inorganic and  
5           organic substances in water. For reference, this  
6           secondary drinking water standard is 500 parts per  
7           million total dissolved solids. And this is what your  
8           drinking water may have in it.

9           In comparison, seawater is 35,000 parts per  
10          million total dissolved solids.

11          Under the Underground Injection Control  
12          program, the most important requirement that we regulate  
13          is that no owner or operator shall construct or operate  
14          an injection well in a manner that allows the movement  
15          of fluid containing any contaminant into an underground  
16          source of drinking water if the presence of that  
17          contaminant may cause a violation of the primary  
18          drinking water standards or may adversely affect public  
19          health. So under the Safe Drinking Water Act and the  
20          Underground Injection Control regulations, EPA has the  
21          authority to issue permits for underground injection  
22          control activities in order to ensure protection of  
23          underground sources of drinking water.

24          EPA and the State of Hawaii both have  
25          responsibility to protect underground sources of

1 drinking water. But the Underground Injection Control  
2 program does not regulate surface water bodies,  
3 discharges to surface water bodies.

4 Maui County has applied for renewal for their  
5 Underground Injection Control Permit, to operate their  
6 four Class V injection wells to dispose of treated --  
7 secondary treated wastewater at the Lahaina Wastewater  
8 Reclamation Facility. And the renewed permit would be  
9 issued for a period of 10 years, and it would be  
10 reviewed every five years to determine if any  
11 modification or any other action would be required to  
12 protect underground sources of drinking water.

13 The permit conditions are being updated to  
14 reflect a permit modification that was done in 1999.  
15 But, otherwise, the permit conditions aren't changing in  
16 this Draft Permit.

17 The most important part of the -- the Draft  
18 Permit, there are conditions for well construction. And  
19 the well construction has a surface casing and it goes  
20 down to the full extent of protecting the shallow  
21 groundwater that has less than 10,000 parts per million  
22 total dissolved solids.

23 The total well depth is 180 to 255 feet below  
24 ground surface. The treated wastewater flows by gravity  
25 into the wells, and into the injection zone where the

1 water quality is up to 35,000 parts per million total  
2 dissolved solids. So similar to seawater.

3 The Draft Permit also has in it conditions for  
4 the injected wastewater. Its limited biological oxygen  
5 demand is at 60 parts per million, and total suspended  
6 solids is at 60 parts per million. And then the  
7 biological oxygen demand of total suspended solids are  
8 good indicators of how polluted the water is. And if  
9 these quantities are kept low, that indicates good  
10 quality wastewater.

11 Also, in the Draft Permit, there's a condition  
12 for total nitrogen action level. And that's at 10 parts  
13 per million.

14 In the Draft Permit is also requirements for  
15 Maui County to properly maintain and operate its  
16 injection wells.

17 And then, this public hearing is part of our  
18 effort to collect additional information and supporting  
19 materials.

20 The Draft Permit and statement of basis and  
21 the application and the comments we've received so far  
22 have been online. And they are currently online. So  
23 you can refer to those at  
24 [www.epa.gov/region09/water/groundwater/UIC-permits.html](http://www.epa.gov/region09/water/groundwater/UIC-permits.html).  
25 And if you want, I can give you a sheet on that website,

1 if you need to refer to it.

2 And as our Hearing Officer mentioned, our  
3 proceedings of our hearing is being recorded by the  
4 court reporter. And our transcript will be online.  
5 When we have it available, we'll post it online.

6 And that's it. And our Hearing Officer can  
7 take over.

8 MR. DAVID ALBRIGHT: Okay. Thank you, Nancy.

9 And, likewise, if anyone has any clarifying  
10 questions about what Nancy just spoke about and would  
11 like to ask them, we can entertain a couple.

12 And seeing no hands, I guess we'll move to the  
13 public comments. And so we do have quite a few people  
14 who have requested to speak. And, obviously, we want to  
15 hear from everyone tonight who has requested to speak.  
16 So I would ask that you try to keep your remarks to five  
17 minutes, at the most.

18 And what we're going to do is we will call  
19 people up to the podium here. And we'll call people in  
20 the order that they signed up. And if, when you come  
21 up, you could give your name and any affiliation that  
22 you have, that you would like to give, so that our court  
23 reporter could document that, that would be helpful.

24 Again, I just want to reiterate that we're  
25 here to listen to public comments. And I know that a

1 lot of people have a lot of issues and concerns. And if  
2 we can clarify matters, I certainly want to do that.  
3 But we are not looking to get into an extensive debate  
4 about these matters. We are really here to listen,  
5 mostly, to the comments that you have to give to us, in  
6 addition to any comments you would like to provide in  
7 writing, or perhaps have already provided.

8 So with that, I would like to call up Brooke  
9 Porter as the first commenter. Brooke.

10 MS. BROOKE PORTER: Good evening. My name is  
11 Brooke Porter. And I'm with Pacific Whale Foundation, a  
12 Maui-based nonprofit organization.

13 We're opposing the permit application to  
14 continue injecting the nitrogen-laden wastewaters into  
15 the nearshore environment off island.

16 According to a NOAA study, Hawaii's  
17 reef-related tourism and fishery activities generate  
18 \$360 million annually for the State's economy. Covering  
19 410,000 acres Hawaii's reefs are valued at an estimated  
20 \$10 billion. The degradation of the coral reefs in  
21 nearshore waters around Maui threatens to impact not  
22 only tourism and commerce, but, also, our local ways of  
23 life.

24 Maui's coral reefs provide a destination to  
25 visitors, a barrier against elements, they provide

1 residents with recreational activities, and allow others  
2 to practice subsistence gathering.

3 Studies show that, in some areas around Maui,  
4 our coral cover has diminished by 90 percent over the  
5 past decade. Resource managers from Maui's DLNR  
6 presented scientific evidence of the decimation of  
7 Maui's nearshore reefs to Maui audiences on June 19th  
8 and August 14th, 2008. The presentations depicted an  
9 abnormal and rapid shift from a dominant coral cover to  
10 a dominant algal cover in areas near injection wells.  
11 They're not the only contributing factor to coral loss.  
12 These areas show significant correlation to injection  
13 well sites. The hydraulic conductivity coupled with the  
14 differences in salinity between injectate in groundwater  
15 and causes leaching of effluent to surrounding aquifers  
16 in coastal waters, resulting in a buoyant plume that  
17 displaces other shoreward flowing groundwater.

18 According to a 2006 USGS model, groundwater  
19 discharging from the core of an injection plume is made  
20 up of nearly 60 percent effluent ashore. The high  
21 levels of nitrogen-bearing nutrients found in effluent  
22 are pollutants and trigger algal blooms adversely  
23 affecting our coral reefs. It's prudent that the  
24 Lahaina Injection Permit also meet permitting  
25 requirements defined under the Federal Clean Water Act

1 and State Pollution Control.

2 As a marine centric organization, Pacific  
3 Whale Foundation's goal is to protect the valuable coral  
4 reefs and their dependent organisms and ecosystems. We  
5 ask that a practicable approach be taken and that,  
6 "Water reuse is recognized as an environmentally  
7 preferred method of disposing treated wastewater when  
8 compared to the traditional disposal methods throughout  
9 holes in injection wells." As stated in the 2004 Hawaii  
10 Water Reuse Survey and Report prepared for Hawaii DLNR.

11 To date, the County has failed to bear the  
12 necessary burden of proof required by the permit  
13 application that the continued injection of wastewater  
14 will not result in the release of nitrogen-bearing  
15 nutrients and other water pollutants from our coral  
16 reefs or impair commerce and tourism.

17 The County has also failed to demonstrate that  
18 the continued injection will yield significantly lower  
19 costs and higher benefits for the citizens of County --  
20 of the County when compared to phasing out injection  
21 wells in favor of reuse. Rather, cultural and  
22 ornamental irrigation, fire prevention, stream flow  
23 restoration and replenishment and other purposes.  
24 Simply stated, the County has not adequately explored  
25 all possible uses of wastewater effluent.

1           Knowing that wastewater injection wells pose  
2 serious threat to nearshore waters and coral reefs, we  
3 ask that the permit application be denied and that the  
4 EPA require wastewater to be treated to an R-1 level and  
5 water reuse strategies be prioritized over the dated  
6 method of injection wells.

7           Thank you.

8           MR. DAVID ALBRIGHT: Okay. Thank you.

9           Tonya, are you okay?

10          MS. BROOKE PORTER: Does she want --

11          MR. DAVID ALBRIGHT: I was going to say, if  
12 people have prepared remarks that they're reading, if  
13 they would like to submit them, that would be great.  
14 Thank you.

15          Okay. Hannah Bernard.

16          MS. HANNAH BERNARD: Aloha. And mahalo for  
17 being here to hear our testimony.

18                 I am Hannah Bernard, President of Hawaii  
19 Wildlife Fund. I'm representing Hawaii Wildlife Fund,  
20 the Maui Reef Fund, and DIRE Coalition. That's the  
21 Don't Inject, Redirect Coalition, a group of nonprofits  
22 and residents concerned about our injection wells affect  
23 our nearshore environment.

24                 While we acknowledge that there are other  
25 sources of pollution that you have to nearshore waters,



1 land-based pollution, we understand that this hearing  
2 tonight is focused on the permit for the injection wells  
3 for the Lahaina wastewater treatment system. And I will  
4 be focusing on that.

5 In light of the legal, moral and ethical  
6 mandates of Public Trust Doctrine and the precautionary  
7 principle interpreted by Hawaii Supreme Court to be  
8 implicit or embedded in our State Constitution, the  
9 State's policies on water recycling and reuse of treated  
10 wastewaters, State and Federal pollution laws, the  
11 County's own Community Plan, and the steep decline of  
12 our reefs, we must act swiftly to stop the flow of  
13 wastewater into the ocean, or seepage. Maybe not flow,  
14 maybe it's creeping, but it's going there, as was  
15 already admitted.

16 We oppose an unlimited and unconditional  
17 renewal of the wastewater injection permit for this  
18 system and request, respectfully, that the EPA denies  
19 this permit on current record.

20 Instead, we ask that the EPA, Maui County and  
21 the community engage in a meaningful conversation and  
22 action plan about how to best stop or phase out this  
23 wasteful practice of injection of these waters, and,  
24 instead, redirect treated R-1 waters for beneficial  
25 uses, as is the State's policy.

1           We urge you to consider the seriousness of the  
2 dialogue in the face of ongoing drought. As many of you  
3 know, in August of this year, the County of Maui and the  
4 State of Hawaii were designated as Federal disaster  
5 areas by the U.S. Agriculture Secretary Edward Schafer,  
6 because of the ongoing drought conditions.

7           Annual wildfires. We have recurring  
8 wildfires. We've lost more than 10,000 acres of land to  
9 wildfires, partly because of these ongoing drought  
10 conditions. Reusing the wastewater could create a  
11 greenbelt.

12           Reef degradation. Significant algae  
13 overgrowth of Maui reefs is correlated with the three  
14 County wastewater injection well systems, significantly  
15 so. And we appreciate that the EPA employed the  
16 precautionary principle and asked for a cap on the  
17 amount of effluent that could go into the Lahaina  
18 injection wells, reduced the amount of nitrogen, and,  
19 also, encouraged some reuse of that water. But we can  
20 do better.

21           We can't afford to lose any more reefs. We've  
22 watched them decline in 10 years dramatically. Since  
23 Wendy Wiltsie was brought here from your office, in  
24 1994, because of the pernicious algae bloom, we have  
25 seen a steady decline. And we know now, from recent

1 studies by the USGH, UH, and Department of Aquatic  
2 Resources that our reefs are impacted by wastewater.

3 We also have issues of stream diversion. A  
4 recent Water Commission decision in just this year, or  
5 just September, will be returning millions of gallons of  
6 water to streams in East Maui. This has ramifications  
7 for West Maui.

8 Currently, the large ag farmlands are not  
9 using the stream water -- they're not using the  
10 wastewater because it's not cost-effective for them.  
11 Because they're diverting the streams and they're paying  
12 so little for that water per gallon, sometimes as little  
13 as 15 cents per gallon.

14 So this will be probably halted or, at least,  
15 reduced in the near future. And in order to support our  
16 ag as well as support the rightful return of water to  
17 the streams for the kalo farmers and for the health of  
18 the streams, we need to start reusing our wastewater.

19 We also want to decrease waterborne  
20 infections. We know from research done in the Florida  
21 Keys that human pathogens are found in coral mucous  
22 nearshore, both bacteria and human viral (inaudible)  
23 viruses. And, also, as far as seven miles offshore,  
24 human viruses are found in coral mucous.

25 Not to mention the harm to our economy.

1 That's already been discussed. If we add in the value  
2 of habitat loss from marine life, the loss of esthetic  
3 and cultural value and the loss of storm wave  
4 protection, if we lose our reefs, the cost is  
5 incalculable.

6 This is why we call our coalition DIRE, Don't  
7 Inject, Redirect, because the situation is dire and  
8 requires a change of direction starting now.

9 Maui's water is just too precious to waste,  
10 even the wastewater. Our coral reefs are too precious  
11 to waste. If we lose them, we lose not only our  
12 livelihoods, we lose our way of life and our quality of  
13 life.

14 This permit must be denied based on three  
15 arguments. And I am going to just summarize them  
16 because I know I'm -- do you have a time? Any idea how  
17 long I've got? Too long already?

18 There's three reasons that we -- that the  
19 County must be denied this permit.

20 First: The County of Maui, as the public  
21 trustee of the County's water resources, and the State  
22 of Hawaii, are mandated by the State Constitution and  
23 Supreme Court decisions to seek the best uses of all  
24 County waters, including wastewaters. Because the  
25 County has not conducted the necessary exploration of

1 possible beneficial uses for these wastewaters and has  
2 not concluded that such beneficial uses do not exist,  
3 the permit should be denied.

4           Secondly: The County has failed to bear the  
5 burden of proof of entitlement to the requested permit.  
6 Under the applicable Federal and State court decisions,  
7 it means that with respect to all material of issues  
8 effect, the permit applicant has the burden of  
9 persuasion. The precautionary principle applies to the  
10 County in its role as public vestee of all the State's  
11 water. Therefore, the County must practically seek the  
12 highest and best use of Maui's water and ensure  
13 protection of ocean waters and coral reef ecology, even  
14 in the face of considerable uncertainty.

15           The County has failed to bear that burden of  
16 persuasion with respect to all the facts necessary for  
17 entitlement to the permit under applicable -- under  
18 applicable principles of law. Accordingly, the permit  
19 should be denied.

20           Third: We offer, in a document that I will  
21 leave with you, specific information, data and studies  
22 that together demonstrate that the permit should not be  
23 issued. And this block of information, even if the  
24 burden of proof was ours, which it is not, the opponents  
25 to the permit, is far more persuasive and far bigger

1 than anything the County has put forth to support the --  
2 the permit.

3 If the EPA concludes that it cannot deny the  
4 permit, we request that you employ a suite of special  
5 conditions and pollution prevention goals which are  
6 documented in writing, which I won't go into now.

7 We are losing over 11 and-a-half million  
8 gallons of wastewater a day into injection wells,  
9 billions of gallons a year. And that water is needed on  
10 the land.

11 And we support and request that the EPA and  
12 the County of Maui engage the communities of Maui to  
13 discuss the best use of our water and to keep our  
14 healthy reefs thriving.

15 Mahalo for your time.

16 (Applause.)

17 MR. DAVID ALBRIGHT: Thank you for those  
18 comments. And I do appreciate people keeping their  
19 remarks to five minutes. And if you're going too long,  
20 I will start waving or something.

21 I realize I didn't point out that the men's  
22 room is on this side. We're going to be here a little  
23 while tonight. So the men's room is over here through  
24 the doors, and the ladies' room is on the other side.

25 The next speaker is George Lavenson.

1           MR. GEORGE LAVENSON: Thank you very much. I  
2 am George Lavenson.

3           First, I'd like to thank you for -- all of you  
4 from San Francisco for making the great sacrifice to  
5 come out here to Maui and hear us with this problem.

6           And, very simply, the way we feel is we would  
7 like to recommend increase in the recycling of our waste  
8 and using it for irrigation purposes, for two reasons.

9           First: By using it for irrigation purposes,  
10 we don't have to use our potable water for that. And by  
11 using it, it's a better end for it than in the injection  
12 wells. What potable water we have is solely needed for  
13 human consumption here in West Maui, since it's often  
14 inadequate and at a premium, because of low rainfall,  
15 increase in population, overdevelopment, and use of  
16 potable water for irrigation purposes. Obtaining water  
17 for irrigation of crops and landscaping by recycling  
18 wastewater would leave more potable water for the human  
19 consumption.

20           In addition, this is a better way of dealing  
21 with the wastewaters than the practice of injecting it  
22 into -- the excess into wells, with unavoidable seepage  
23 and into the coastal areas with resultant damage to our  
24 priceless and dwindling pristine oceanic treasure.

25           I have two recommendations.

1           First, I think that we should limit -- here we  
2           are. We need to increase the infrastructure to recycle  
3           more of the wastewater and deliver it to the irrigation  
4           places -- I realize this is expensive -- and, thereby,  
5           increase our irrigation of water, decreasing the waste  
6           that has to go into injection wells.

7           And the second recommendation is maybe more  
8           ours than yours, but with the Long Range Committee,  
9           Planning Committee, getting some handle on the  
10          overdevelopment that is producing the excess waste, and,  
11          also, making the development companies more accountable  
12          for providing the infrastructure you spoke to. And it's  
13          needed to handle the excess waste.

14          Thank you very much.

15          (Applause.)

16          MR. DAVID ALBRIGHT: Thank you for those  
17          comments.

18          The next speaker is Irene Bowie.

19          MS. IRENE BOWIE: Aloha. Irene Bowie of Maui  
20          Tomorrow Foundation. And Maui Tomorrow is also a member  
21          of the DIRE Coalition.

22          Thank you for providing this meeting tonight.

23          Anyone with knowledge of Hawaiian hydrology  
24          knows that coastal groundwater is connected to ocean  
25          water. Yet, there seems to be a disconnect between Maui



1 County's stated plans and responsibilities under our  
2 water use plan and the County's decision to continue to  
3 inject these waters instead of conserving and reusing  
4 them. This is not the kind of public stewardship of  
5 County waters that is required by both the Hawaii  
6 Constitution and the County's own policy.

7 Maui County recognized that it has the  
8 responsibility to manage the County's waters when it  
9 developed its 2007 Water Use Development Plan. That  
10 plan finds and declares that water is a valuable natural  
11 resource that should always be used wisely and managed  
12 as a public trust. The 2007 plan also states that the  
13 County's policy is to promote water conservation. Yet,  
14 Maui County's wastewater permit application does not  
15 mention this 2007 Water Use Development Plan, and is  
16 inconsistent with this plan, as the County's permit  
17 application to inject these wastewaters doesn't consider  
18 the possibility of conserving the wastewaters through  
19 recycling and reuse. Nor does it recognize, let alone  
20 satisfy, the County's duty to treat these waters as a  
21 public trust.

22 For these reasons, Maui Tomorrow Foundation  
23 asks that the EPA not renew the injection well permits  
24 without a plan of action and a timeline to correct this  
25 harmful practice.

1 Maui Tomorrow Foundation has taken this  
2 position because we fear that not all of the injected  
3 wastewater stays in the well, but, instead, migrates,  
4 leaks or seeps into the groundwater and may eventually  
5 be entering Maui's streams and ocean waters.

6 It's clear from scientific reports that  
7 underground injection and treated wastewaters is not a  
8 foolproof way to ensure that no leaks occur. A recent  
9 EPA report indicated that tracer studies in Florida's  
10 Keys showed the release and migration of effluent into  
11 area surface waters as soon as eight hours after  
12 introduction of viral tracers.

13 The problems in West Maui's wastewater  
14 treatment have become very obvious in recent years. Our  
15 supporters have long advocated for the need to protect  
16 the nearby reefs along Kahekili Beach, directly seaward  
17 from the wastewater treatment facility, from excess of  
18 nutrient rich waters.

19 Sadly, there were no studies in 1996, when the  
20 permit was first issued, linking reef health and the  
21 nutrient levels of waters discharged from the Lahaina  
22 wastewater plant through their injection wells. But now  
23 studies have been done. And the reefs of Kahekili  
24 undeniably show negative effects of not finding other  
25 solutions for this problem. High degrees of bacteria

1 and viruses have been found in the waters immediately  
2 surrounding Lahaina wastewater plant's injection wells.

3 Ironically, the same reclaimed effluent  
4 causing severe problems offshore is desperately needed  
5 to irrigate the dry lands of Lahaina during times of  
6 prolonged drought, such as we are experiencing now.

7 Maui Tomorrow Foundation supports redirecting  
8 treated R-1 effluent to non-potable water uses. We  
9 believe public and private funding should be found to  
10 create additional treatment storage capacity and  
11 delivery lines to transport the treated water. Not only  
12 for fire prevention, but, also, for irrigation of parks,  
13 community gardens, greenbelts and other uses.

14 In addition, gray water could be used for  
15 residential yard irrigation and toilet flushing.  
16 Thereby, freeing up clean water now being used for these  
17 purposes.

18 It is imperative to use this effluent for  
19 irrigation and other non-potable uses in order to keep  
20 our reefs healthy and protect them from nutrient-rich  
21 wastewaters increasing algae blooms. Wastewater  
22 reclamation is the best solution. Existing reclamation  
23 facilities should be upgraded and enlarged, and water  
24 and sewage lines laid as funds become available.

25 We respectfully ask that any treatment plant

1 permit include conditions which will result in a  
2 substantial reduction of wastewater pumped into  
3 injection wells and an increase in the amount of  
4 reclaimed water, as well as distribution systems to  
5 utilize those reclaimed water.

6 Thank you.

7 (Applause.)

8 MR. DAVID ALBRIGHT: Thank you for your  
9 comments.

10 The next speaker is Russell Sparks.

11 MR. RUSSELL SPARKS: Yeah. Good evening and  
12 welcome to Maui. My name is Russell Sparks. I am with  
13 the Department of Land and Natural Resources, Division  
14 of Aquatic Resources here on Maui.

15 I would, first off, like to thank the folks  
16 from EPA for coming over here and holding a public  
17 hearing, and hearing from all the people who have showed  
18 up tonight.

19 It's interesting for me to be here testifying  
20 in that I'm usually in the seat you're in, hearing from  
21 the very same people who are speaking here tonight.  
22 I'll be, just briefly, going over some of the points on  
23 the testimony that we already submitted for the record,  
24 submitted from my Administrator, Dr. Dan Polhemus.

25 Basically, our Division is responsible for

1 managing the living resources within the water. And,  
2 ultimately, that also involves coral reefs.

3 We've -- the monitoring team that works here  
4 on Maui has been working pretty much yearly, as well as  
5 multiple different types of surveys, for the last 14 to  
6 15 years. And when we stitched together the long-term  
7 data set, it was really clear that a lot of reefs are  
8 declining quite substantially. The reefs right offshore  
9 from the wastewater treatment plant have in fact lost  
10 about 50 percent of their coral cover over the last 14  
11 years.

12 Recent work by the University of Hawaii Botany  
13 Department is starting to show more evidence that the  
14 nutrients that are fueling some of these declines are in  
15 fact likely the result of injection plumes.

16 Overall evidence that we see on the reef is  
17 that the coral reef cover is declining, erosion is  
18 increasing, and there's periodic blooms on the base of  
19 algae that tends to smother out and kill and stress the  
20 coral further.

21 We recognize, certainly, that there's numerous  
22 causes for coral reef decline. But what we would like  
23 to see is that certain things that we can deal with and  
24 can address be addressed. And although that is costly,  
25 as Dave Taylor mentioned, and as though it will probably

1 cost the taxpayers and citizens of Maui a fair amount of  
2 money to do that, it seems to be a high priority to  
3 protect something so valuable for us here.

4 The conditions that we would like to see is  
5 that, one, the EPA change the standards by which they  
6 issue these permits. Groundwater should be --  
7 protecting groundwater for drinking purposes is  
8 important, certainly. But in areas like Hawaii, where  
9 the injection wells clearly percolate into the nearshore  
10 waters, the Clean Water Act should also be an indicator  
11 of whether or not permits should be issued.

12 The County of Maui currently injects somewhere  
13 between three to five million gallons per day. The  
14 water they treat to a very high level. In fact, we're  
15 lucky here that our sewage treatment plants are run very  
16 professionally, by excellent staff, and they have  
17 implemented measures to greatly reduce nutrient levels.  
18 So, currently, about seven milligrams per liter on the  
19 high end with the nutrient levels. What we ask is that  
20 the permits be set at those levels. In other words,  
21 volume should be set somewhere around five million  
22 gallons per day and nutrient levels should be capped at  
23 seven milligrams per liter. This would certainly  
24 prevent these standards from getting any worse, and the  
25 situation from getting any worse as we move forward.

1           We would like to see that overall permit  
2 conditions are set in such a way that ultimately stage  
3 out injection wells and encourage reuse. Certainly we  
4 don't think that the County can stop injecting water  
5 tomorrow. But we would like to see that, over the  
6 years, there's an incentive for them to move that way.

7           And, last, we would strongly encourage that  
8 our Federal partners, in managing our resources, such as  
9 the EPA, and others, help our local governments fund the  
10 needed infrastructure. Unfunded mandates don't help  
11 anybody.

12           So, again, I will drop off a copy of this  
13 testimony. We do have some of the science behind our  
14 concerns with the reef declines on it as well. And,  
15 again, I thank you for the time. Thanks.

16           (Applause.)

17           MR. DAVID ALBRIGHT: Thank you for the  
18 comments.

19           The next speaker is Jill Laffin.

20           MS. JILL LAFFIN: Hello. My name is Jill  
21 Laffin. I have been a resident of West Maui since 1987.

22           I do want to thank you all for being here and  
23 listening to all our testimonies.

24           We understand and sympathize with the  
25 challenges that the EPA has faced during the last years

1 of the exiting administration. However, the West Maui  
2 Mountains and her watershed have been severely abused  
3 and neglected for far too long.

4 Tonight, you're receiving testimony on  
5 scientific, physical and economic reality of the  
6 injection well system used here in this very, very  
7 fragile ecosystem.

8 Thank you to all the professionals and  
9 volunteers and members of this diverse community that  
10 are here sharing testimony tonight.

11 In the late eighties, I used to make jokes  
12 about what would happen if everybody in Kaanapali  
13 flushed their toilet at the same time. Since then,  
14 we've added many, many toilets. Being reminded of the  
15 substandard level that this system is currently  
16 operating, the thought of the five new towers being  
17 erected in Honokowai, at 500 rooms per building, being  
18 added to this substandard system is no joke.

19 Before you begin the process of considering  
20 all the facts presented here tonight, I personally am  
21 here to encourage you all to take some time to acquaint  
22 yourself with the West Maui Mountains and her many  
23 rivers, from Ukumehame to Honokohau Valley.

24 You will have to refer to topographical maps  
25 prior to 1919 and the agricultural diversions presented



1 to our precious water system. This knowledge of the  
2 blatant disregard for the flow of the watershed from the  
3 mountain to the ocean might give you a better  
4 understanding of the multitude of environmental issues  
5 that we are facing here in West Maui.

6 Tonight, you're learning about the true  
7 effects of the injection well system on our reefs, our  
8 marine life and, ultimately, us. The word  
9 "responsibility" is simply the ability to respond. You,  
10 as the Federal Environmental Protection Agency, have  
11 that ability. With the Hawaii State Constitution Water  
12 Rights and the Clean Water Act, I am confident that you  
13 will respond to the magnitude of this ecological  
14 situation and do what is highest and best for this  
15 sacred part of earth, no matter what it costs.

16 Thank you.

17 (Applause.)

18 MR. DAVID ALBRIGHT: Thank you for those  
19 comments.

20 And the next speaker is Robin Knox.

21 MS. ROBIN KNOX: Hi there. Thanks for coming  
22 to hear our concerns.

23 My biggest overall comment -- first of all,  
24 I'm Robin Knox, I'm representing myself. I am a water  
25 quality consultant with 25 years experience, including

1 ecological studies and being a regulator like yourself,  
2 writing permits.

3 My overall comment is that neither the EPA nor  
4 the County of Maui have provided sufficient information  
5 to the public to demonstrate that the permit as written  
6 is protective of the environment and in compliance with  
7 applicable State and Federal laws and regulations,  
8 including the Safe Drinking Water Act, Coastal Zone  
9 Management Act, Clean Water Act, Hawaii State  
10 Constitution and Hawaii Revised Statutes.

11 Your permit, in Part 3, Paragraph A, says that  
12 it doesn't authorize any injury to persons or property,  
13 or any infringement on state or local law or regulation,  
14 and that nothing in the permit should be construed to  
15 relieve the permittee of any of these duties under other  
16 regulations. So your own permit recognizes that there  
17 are other laws and regulations that need to be complied  
18 with.

19 And the County is a public trustee of the  
20 waters of the State. And has a duty not only to comply  
21 with your permit and -- but to live up to that public  
22 trust.

23 And, also, as all parties do, everyone has a  
24 duty to comply with State water quality standards. No  
25 one is allowed to violate State surface water quality

1 standards.

2           However, if someone did discharge at the  
3 levels allowed in your permit, they would be causing or  
4 contributing to violations of those State water quality  
5 standards.

6           So I urge you to really look at the rationale  
7 for your permit limits and see if they could not be  
8 stricter.

9           For instance, you have 60-60, 60 BOD, 60 TSS,  
10 as your limits, and you call that secondary treatment.  
11 But most places in the country, secondary treatment  
12 would be 30 BOD, not 60. And, in fact, I believe the  
13 State permit actually limits them to 30. So why  
14 shouldn't the Federal? I mean, if they are already  
15 limited by another permit, this permit should be just as  
16 stringent.

17           Also, the flow that's allowed seems really  
18 high compared to what they're actually discharging. And  
19 so I think there needs to be a rationale for that.

20           And these two things combined, when you look  
21 at the concentration and flow, your permit is allowing a  
22 much larger mass discharge than I think is really  
23 justified by any rationale that's presented. And I  
24 think if we got sufficient information to look at the  
25 water quality impacts that we would in fact come up with

1 water quality base limits that are much lower.

2 The County has a duty to comply with these  
3 water quality standards, whether your permit requires it  
4 or not. But I think that if there are other  
5 requirements that they have to comply with that you  
6 certainly should have the authority to write your permit  
7 at least that stringent. And especially if the County  
8 would agree to it.

9 The overall effect of that would be to lower  
10 the nitrogen loads which would improve the circumstances  
11 of what's going on.

12 I believe that not only does this permit need  
13 to be issued with those kind of conditions, but that,  
14 also, another permit is needed. And the MPDS permit,  
15 the permit to protect surface water qualities. The  
16 groundwater and coastal ocean waters are hydrologically  
17 connected. That means that the groundwaters fit under  
18 the definition of waters of the U.S. And there is no  
19 allowed discharge from point source to waters of the  
20 U.S. of pollutants without an MPDS permit. So I think  
21 one is warranted in this case.

22 And I submitted written comments that have  
23 supporting details for that.

24 So -- and in closing, I would just like to  
25 remind everybody that either reuse or injection wells

1 are merely disposal technologies and they are not  
2 treatment technologies. And regardless of what disposal  
3 technology we choose, we need to make sure that the  
4 treatment level is appropriate to go with it and that  
5 the risk of exposure to aquatic life and human health is  
6 minimized as much as can be. And that is a societal  
7 decision because, as Dave said, we all have to pay for  
8 this.

9 So I urge you to not only get the Clean Water  
10 Act people involved, but, also, get the water quality  
11 management and planning aspects of that program involved  
12 so that we can help the County to know what does it mean  
13 to comply with -- with State water quality standards.  
14 And I think that is EPA's job in this case.

15 Thank you.

16 (Applause.)

17 MR. DAVID ALBRIGHT: Thank you for those  
18 comments.

19 The next speaker is Ke'eaumoku Kapu. I'm  
20 sorry if I didn't pronounce that correctly.

21 MR. KE'EAUMOKU KAPU: Aloha. You live in  
22 Oahu? You live in Oahu?

23 MR. MOFFATT: No, I do not.

24 MR. KE'EAUMOKU KAPU: Oh, no. Okay. There's  
25 a famous street called Ke'eaumoku Street. Everybody

1 knows it. Kind of interesting.

2 Oh, yeah. My name is Ke'eaumoku Kapu. I am  
3 here from Lahaina.

4 Kind of interesting that we find one subject  
5 that has a commonality in all of us, and it's a pile of  
6 crap. Kind of interesting that we all on the same side  
7 of the fence, too, when we discussing this matter of --  
8 about injection wells.

9 So I sitting back over there in the back,  
10 trying to gather some notes. And here's the kind of  
11 things I came across: Probably; possibly; may not; and  
12 between two to five years; and last, but not least, the  
13 County says that it belongs to us.

14 That kind of doesn't sit right for me because  
15 I don't know where the concept of this injection well  
16 came and whether or not it came to our families of this  
17 place to be considered that an injection well for this  
18 part of a historic -- national historic registered  
19 district would be applicable for the constituents of the  
20 representatives here.

21 Well, for me, I'm in -- I'm here as a  
22 representative of Kuleana Kuikai (phonetic), LLC, and as  
23 a minority of the wards of the State. Minority, that's  
24 a big word. Ward, also, is a big word.

25 And when it comes to the general consensus,

1 whether or not these things can be done, cannot be done,  
2 where does the money go, who pays for what, what  
3 percentage goes where, the minorities, the wards of the  
4 State, always left out.

5           There was a time when our kupuna, back then,  
6 said -- you know, all these policies and changes are  
7 coming. And they used to tell us, it's for our best, no  
8 worry, let it go, we gotta take care of everybody, we  
9 live on an island, we got to know how to take care of  
10 everybody, not just ourself. And that's coming from the  
11 minorities. And I talking about the Kanaka Maoli.

12           So we set ourselves aside to be pono in our  
13 place, to make sure that, because of the political  
14 process we go through -- there's a process that we elect  
15 the right officials to sit in office to make sure that  
16 they do things that will benefit us all.

17           Well, 50 years went by, influxation of new  
18 people come into our islands. Now we at the top of the  
19 most endangered list in the State of Hawaii as  
20 minorities to this State, where we have a Constitution  
21 that's supposed to protect our rights, our gathering  
22 rights, all these different types of rights. Now it  
23 boils down to whether or not the County said they going  
24 to take care of our system.

25           Never once any of my kupuna ever came and said

1 that we did this, we had to allow these things to happen  
2 for your future generations. We were never considered.  
3 None of us.

4 When policies came in, all these different  
5 changes, ordinances, CC&Rs, covenants, came over here,  
6 we couldn't make sense of all these kinds of madness,  
7 all these things, these new invasive ideas that came to  
8 our 'aina. But our kupuna said, take heed, be pono,  
9 don't worry, we gotta find ways of compromising.

10 Well, it's 2008. And down to the line, no  
11 more compromise. 'Nough already.

12 I don't know what the possible solution is  
13 gonna be based upon taking care of the environment, but  
14 these are the kind of things that we were looking for  
15 when they came down to the most simplest thing which had  
16 to do with our Constitution of our Native Hawaiian  
17 gathering rights and how, all of a sudden, Maui County  
18 lost their rights of gathering, fishing. And these kind  
19 of issues was never considered, to see whether or not it  
20 was probable that the effect from these injection wells  
21 may possibly had a lot to do with the reproductive cycle  
22 and the replenishment of our reefs.

23 Mahalo to Russell Sparks for his input on  
24 algae bloom, his input on all the information that he  
25 shared with us. It still defies the fact that we don't



1 take into consideration about these kinds of things when  
2 we start changing or reimplementing or allowing new  
3 permits. We don't take into consideration about how  
4 this gonna affect the fishing guy who trying to feed his  
5 family, how it's going to affect the guy who want to  
6 stay in the mountains trying to grow kalo and feed his  
7 family. They don't take into consideration all those  
8 kind of things.

9 I sit here in the back, and I listen to all  
10 this scientific terminologies on milligrams and 500  
11 million gallons of sewage going into the ground, and a  
12 certain percentage, and how many years it's going to  
13 surface to the top, until our environment gets affected.  
14 It drives me crazy to sit here and listen to all this  
15 madness, knowing that our brain -- we so intelligent, we  
16 more intelligent than the earth. And the earth cannot  
17 catch up with our intelligence. We killing her. We  
18 killing her faster than we realize.

19 And the bottom line, all it boils down to, is  
20 one simple little permit, we need to consider on how we  
21 gonna take care of the mass people that we have now, not  
22 take into consideration maybe possibly asking the County  
23 how many more development on the west side is coming. I  
24 hear 10,000 homes. So, what? That means more injection  
25 wells, more sewage plants, more this, more that. Drives

1 me crazy.

2 So on behalf of the minorities of this state,  
3 find it within you na'au, think about the most simplest  
4 thing, the farmer and the fisherman, the person that  
5 just trying to provide for his family. Which literally,  
6 to this point, we getting screwed and to the point where  
7 I guess our representative for the County said it  
8 belongs to us. Nah, that's just an excuse. It's just  
9 an excuse to say that, because none of my kupuna told me  
10 that, oh, we did this for you. They told us, oh, hamau,  
11 no get involved, no worry.

12 Kind of interesting, I standing over here.  
13 Because, normally, when I come up and testify, I stay on  
14 the opposite side of the fence. So the commonality of a  
15 pile of shit, wow, I love it, because it brings  
16 everybody together.

17 Mahalo. Thank you very much.

18 (Applause.)

19 MR. DAVID ALBRIGHT: Thank you, Mr. Kapu.

20 Corrin [sic] Pang is the next speaker. Lorrin  
21 Pang. I'm sorry.

22 DR. LORRIN PANG: It's okay. Thank you. I  
23 will speak as a private citizen. I am a physician. I  
24 used to run the bacteriology lab for Walter Reed. I've  
25 taught epidemiology and biostatistics for the World

1 Health Organization since 1985.

2 I'm a little bit new to this field, but I'm  
3 not new to regulations versus science. The whole thing  
4 really is summed up in Number 10 of your fact sheet  
5 where it says, "Studies do not prove that nutrients,"  
6 dah, dah, dah, "damage the reef." We've seen this kind  
7 of statement before, "studies do not prove." You can  
8 also say studies do not prove that it doesn't hurt the  
9 reef or that it does hurt the reef. The thing is  
10 studies -- you will never study the system adequately.

11 There was just a publication last month in  
12 proceedings of National Academy of Science saying how  
13 difficult it is to predict the ecological effects, both  
14 affecting the reef and on health issues. So, tonight, I  
15 was just going to speak about health issues. But since  
16 everyone is concerned about the reef, we can talk about  
17 that.

18 The next thing, the issue that comes up, is  
19 Number 13. You have criteria for the nitrogen. You  
20 have criteria for BOD. You got criteria about  
21 sedimentation. I'm not real sure how these criteria  
22 relate to science, reef protection or health. And I  
23 will bet you -- having read what the proceedings of  
24 National Academy of Science said, I bet you that no one  
25 really knows. So shall we study it some more?

1 I bet you we could study it more and, after 10  
2 years, never come up -- never be closer than we are  
3 today. Well, we might be a little bit closer, but not  
4 for sure. So we will always be kind of vague. Studies  
5 that show this and study that show that. So on the  
6 precautionary principle, I have to agree with the former  
7 speakers that said, let's not do it.

8 But let me tell you a little story about --  
9 about criteria versus science. It's about five years  
10 ago, on Maui, we followed the EPA criteria, Region 9,  
11 this was the water Upcountry. And not only did we meet  
12 the criteria, there was a mandated additive, it's called  
13 C9. We were told to put C9-phosphate into the drinking  
14 water. Well, lo and behold, people complained of rash.  
15 And lo and behold, when we brought this up with the EPA,  
16 they said, gee, Dr. Pang, 500 communities put this thing  
17 in and nobody complains about rash except us.

18 Well, first of all, us is a little different  
19 because we're in tropical climates. And when we did  
20 call the EPA, they did admit that, in the summer months,  
21 in Ohio, all the way through Louisiana, people did  
22 complain about the rash. And so this kind of came up  
23 that, gee, were we covered up, or did they just think  
24 that we were just like the mainland. Because in  
25 tropical climates, staph, all these pseudomonas, the

1 reef, things are very different.

2 And so we do not follow, very closely,  
3 criteria, especially if they're set in different  
4 climates or different kinds of waters with that  
5 nutrient.

6 But to make a long story short, we actually  
7 did prove that all samples from Upcountry drinking water  
8 were highly contaminated with very high levels of  
9 pseudomonas. Okay. And the EPA had to rethink and they  
10 cut down the additive, then they removed the additive,  
11 and the rashes went away.

12 So when you set criteria or you set mandates,  
13 in this case it's a criteria, I'm not sure the science  
14 is there to back it up.

15 But I want to say something constructive.  
16 What shall we do? Shall we go ahead with the permit or  
17 what do we do? Why don't we just go ahead with it on a  
18 year-by-year basis and kind of step it in? We approve  
19 it, but I want to see progress into reclamation of  
20 water. And I want to see more and more (inaudible).  
21 It's kind of like switching from oil to wind power. We  
22 can't just cold turkey switch, but I want to see  
23 progress. And the permit is looked at every year or two  
24 years. And if we don't see progress, then it's ended.

25 So I know it's a shocking system to switch,

1 but can't we have some kind of step wise adjustment?

2 I do not think -- you can study up the wazoos,  
3 I will try to look at the data itself, but I don't think  
4 we're gonna get too far with studies.

5 Thank you.

6 (Applause.)

7 MR. DAVID ALBRIGHT: Thank you for those  
8 comments.

9 And thanks, everyone, for keeping to time  
10 limits. I think we are doing well.

11 The next speaker is Wayne Cochran.

12 MR. WAYNE COCHRAN: Hi. Thanks for coming and  
13 hearing us. My name is Wayne Cochran. I am with  
14 several environmental groups, Maui Unite, Honolua  
15 Coalition and, also, DIRE.

16 I'm -- I am representing the surfers, I think.  
17 I own Maui Surfboards. It's a mom and pop shop. It's  
18 over 40 years old. I'm in the water nearly daily. And  
19 I started doing stand-up paddle-boarding, where you  
20 paddle up and down the coast. And, you know, from six  
21 feet up, you get a real good view of the reef.

22 The last five years, I've seen the reef  
23 just -- the live coral disappear right before my eyes.  
24 It's just fading so fast. And I've also seen the fish  
25 disappear.

1           Like Ke'eaumoku said, they got gathering  
2 rights. And there's no more fish because there's no  
3 more reef. And I see this because of the algae bloom.  
4 And it's incredible, you know. And it's been proven  
5 where the injection wells are, the algae bloom is -- has  
6 just destroyed the reef and the sea life.

7           The reef-related tourism business and  
8 fishing-generated businesses have given an average of  
9 \$360 million a year, according to the NOAA Economic  
10 Study.

11           Now, if we lose this reef because of  
12 injecting, you know, that's a god-awful shame, and  
13 that's our fault, you know. This is -- this is our  
14 mission to change this.

15           You know, 25 years ago, when we -- when we cut  
16 off the direct sewer into the ocean, we started  
17 injecting it, thinking that would filter, that was state  
18 of the art then, to inject it. But, now, we don't have  
19 the time for our reefs to keep doing that. I totally  
20 think we should at least get that ultraviolet channel in  
21 here. At a cost of \$5 million to make that ultraviolet  
22 channel, we're going to at least save those microbes,  
23 those bacteria from going in the reef which, you know,  
24 we can know if a beach is polluted. If you go there,  
25 you know.

1 I go in the water. This is a scratch from  
2 about -- (indicating) -- it's about three or four weeks  
3 old. You know, it just -- I keep it clean. But all our  
4 little scratches turn into craters, you know.

5 And, anyway, we got to keep the bacteria out.  
6 The fish don't know that there's bacteria in there. The  
7 turtles end up with tumors and stuff. We really gotta  
8 -- we gotta really -- the ultraviolet channel is a quick  
9 -- a quick save on that one, you know.

10 I know a lot of guys that work in the  
11 Honokowai Sewer Treatment Plant. I've toured it four  
12 times, at least. And for your -- for the community's  
13 information, a couple of choice items they found  
14 clogging the sewer line, one was a bowling ball. How  
15 that got there. And pig, there were pig -- pig and pig  
16 parts in there all the time. So --

17 But the main clogger right now is pretty new.  
18 It's those paper wipes. You know all the different kind  
19 of wipes, that stuff clogs. It doesn't break down like  
20 everything else with the treatment plant. That's our --  
21 that's something we got to think about. Throw those  
22 things away, don't flush 'em.

23 The three million gallons plus that are daily  
24 injected could be applied to a pipeline and water the  
25 Civic Center area, right around here, instead of using



1 sweet water from the mountains, and, also, water the  
2 park area. They could take -- we could have this whole  
3 park so green and lush, you know, with the R-1 water.  
4 And -- and it would -- it's less -- it's less than two  
5 miles to run the piping down here. It already goes to  
6 the end of Kaanapali Golf Course, which isn't very far.

7 And the Kaanapali Golf Course also uses sweet  
8 water mix. They take almost two million dollars -- two  
9 million gallons a day of water for that.

10 The algae blooms confirm there's nitrates,  
11 they're killing our reef. The EPA must improve --  
12 impose conditions that will eliminate the injection  
13 wells eventually.

14 With so much new development, the Kaanapali  
15 Treatment Plant will be maxed out in the foreseeable  
16 future. Those guys are -- they're working hard to keep  
17 up with what gets -- coming -- comes to 'em, you know,  
18 with all -- it's just -- it's always outdated.

19 The community needs to support modernization  
20 of all the Maui's treatment centers. And they got to  
21 try to don't inject, redirect.

22 Thank you.

23 (Applause.)

24 MR. DAVID ALBRIGHT: Thank you. Thank you for  
25 your comments.

1 The next speaker is John Seebart.

2 MR. JOHN SEEBART: Hello. My name is John  
3 Seebart. And I am speaking as a private citizen, also.  
4 However, I do volunteer with DAR as a reef surveyor.  
5 And we look at herbivore species on the reef and what  
6 they're eating and how much they're eating and so forth  
7 over a period of time.

8 We've primarily studied sturgeon fish and  
9 parrotfish, which is about 25 different actual  
10 varieties.

11 I got involved in this about a year and-a-half  
12 ago. And, subsequently, I've learned about some of  
13 these things in the -- the injection plant and so forth,  
14 and the phosphates and nitrates, and how they cause the  
15 algae blooms, because essentially they're fertilizer.

16 This reef out here at Kahekili is one of our  
17 spots where we are actually working on a regular basis.  
18 And we also work in Olowalu and Honolua Bay and Kapalua  
19 Bay, and some other places occasionally.

20 We don't work in Ma'alaea Bay, which is an  
21 interesting place because Ma'alaea Bay, 25 years ago,  
22 had about, they reckon, 75 to 80 percent coral cover  
23 throughout the bay. And now that bay is down to four  
24 percent with invasive algae covering the reefs. And  
25 the fish are gone and the reefs are gone. And there are

1 -- there are places along there where the private condos  
2 in Ma'alaea inject, also, as well as there's a --  
3 there's a Maui treatment plant in Kihei.

4 I'm not really sure what happened there, but  
5 we do have invasive algae. And these are things that,  
6 once the algae starts to go and the reef starts to go,  
7 this provides an environment for human pathogens to live  
8 in. And it doesn't really matter -- I mean, well, it  
9 does matter, but we can't prove whether the pathogens  
10 are coming from the treatment plant or not. But once  
11 the pathogens are -- or the pathogens are in the water.  
12 And as the reef declines, the water gets worse.

13 Now, it turns out that Maui County has the  
14 highest level of methicillin-resistant staphylococcus  
15 orius hospitalizations in the country of about 188 per  
16 100,000. And the natural average is somewhere around 80  
17 per 100,000. Kauai is right up there, too, with -- I  
18 think with 172 per 100,000.

19 MRSA started in hospitals. And because of  
20 using various antibiotics improperly over time, the  
21 bacteria became resistant until Vancomycin is now being  
22 used as a prophylactic antibiotic in some hospitals for  
23 surgery. Well, Vancomycin was referred to, 10 years  
24 ago, as a gorilla antibiotic that would kill anything.  
25 Now we're risking losing that as an antibiotic that will

1 work against these things.

2 Now -- so you have the decline of the reef on  
3 the one hand and you have the -- the human threat on the  
4 other hand. The water that comes from that plant in  
5 Lahaina exits very, very closely nearby, within half a  
6 mile of Kahekili. And I'm sure there are other seeps up  
7 closer to the plant itself. But the concentration of  
8 the fresh water mingling with the saltwater along the  
9 shoreline in very shallow water increases the amount of  
10 nutrients that are being injected in that area. If the  
11 -- if the pipe was out further in the water, say in 600  
12 feet of water, maybe that would -- and nobody has talked  
13 about that yet. But I -- I'm not sure it's a great  
14 idea. But if -- it seemed to me that if it was put  
15 further offshore that might be helpful, especially if it  
16 wasn't released directly on the ocean floor, because  
17 there are flora and fauna on the shore. But if it was  
18 at some level, 15, 20 feet above the ocean bottom, maybe  
19 that might be a help. I don't know. That's my own  
20 guess.

21 But the environment here in Hawaii -- so we  
22 have the reef itself and we have the human illness as  
23 two big issues that have been talked about tonight. But  
24 -- and, also, in essence, the environment in Hawaii for  
25 most of the residents here is the economy. So when the

1 County talks about dollars and cents, they're really  
2 talking about cutting off their nose to spite their  
3 face. Because if you destroy the reefs -- if this is,  
4 in fact, destroying the reefs -- and it seems that the  
5 DAR has shown that -- that if you destroy the reefs, you  
6 -- you detract from the tourist industry. If tourists  
7 come and find out that they're gonna get staph from  
8 going in the water, you're destroying the tourist  
9 industry.

10 I can't agree more with Ke'eaumoku that this  
11 is crazy. And it's -- it drives you nuts to think about  
12 it.

13 So I think that we should do something. And I  
14 -- I agree with the doctor here who said, obviously,  
15 this can't be remedied overnight, but -- but there needs  
16 to be some kind of conditional -- conditions --  
17 conditional use permit, where things can improve over  
18 time, hopefully rapidly.

19 And that's my own personal take on it. Thank  
20 you.

21 (Applause.)

22 MR. DAVID ALBRIGHT: Thank you.

23 The next speaker is Elle Cochran.

24 MS. ELLE COCHRAN: Good evening. My name is  
25 Elle Cochran.

1           And thank you, Nancy, for hearing all our  
2     testimonies and having this public hearing. I  
3     appreciate you folks being here. I get to see a real  
4     live EPA guy. You know, it sounds like such a big  
5     entity. And thank you.

6           Hopefully, this will set precedence for us to  
7     have a lot more interaction together. You know, I  
8     believe in keeping public involved and educated on  
9     issues is very, very important.

10          And that's one reason why DIRE, the group that  
11     I am also with, had done that. And, also, we brought up  
12     all our major points, pretty much, through Hannah  
13     Bernard. So I don't want to sound redundant, but I  
14     believe it is very important that, eventually, we phase  
15     out these injection wells. I mean, obviously, you've  
16     been hearing over and over this evening the negative  
17     impacts it has. There are definitely the studies to  
18     prove that.

19          And, obviously, we can't just phase it out,  
20     like Dr. Pang had mentioned. But, hopefully -- or  
21     completely cut it out. But, hopefully, you know, phase  
22     it out. And in the meantime, if we have to continue to  
23     use injection wells, to beef up the standards, get  
24     stricter, you know, standards there, and make sure that  
25     the injection wells comply with that.

1 I don't want to knock our injection well  
2 peoples, Steve Beribacoli, Dave Taylor, everybody,  
3 they're doing awesome work. You know, they are  
4 following their standards. But right now, I feel they  
5 aren't up to par. They need to be more strict. And,  
6 you know, even, you heard that from Robin Knox's  
7 testimonies and everything. So the scientific data is  
8 there. And I would like to see that.

9 I know money is a really big issue with all of  
10 this. To get UV treatment, you know, plants, to get  
11 it -- even pure water, and the reuse and recycling, that  
12 is number one. But, again, you know, we need the  
13 transmission lines to get it to where we can be reused.  
14 And we don't have that right now. So we understand that  
15 storage, that's a problem, too. So that's all going to  
16 take money.

17 And, you know, the funding that the -- that  
18 came from the government back in the early 1990s, I  
19 guess, had put up all these treatment facilities  
20 nationwide, and then they totally cut out funding. I  
21 mean, that, to me, just doesn't make sense. You know, I  
22 think they should have some kind of responsibility in  
23 what happened here. You know, now we're suffering. I  
24 mean, our land, our sea, our people. You know, human  
25 health is suffering because of what they had, actually,

1 you know, put into use.

2 So where is their accountability with all of  
3 this, is what I would like to know? And, hopefully,  
4 they can, you know, put up some funding, because that's  
5 exactly the bottom line what's happening.

6 So, you know, the reuse thing I think is very  
7 important.

8 A lot of people spoke with restoring stream  
9 flow -- stream flows. I'm a big advocate of that. I do  
10 know that there is a agricultural -- well, there's a  
11 company further north that has access to using this  
12 recyclable water and they have denied use of it. It is  
13 one of their options, but because they divert the  
14 streams and get water for free, then why should they  
15 purchase water from the County?

16 So I believe I would like to see a mandate to  
17 say -- require it for people who have even access to  
18 those waters to actually use it, you know. So that is  
19 something to, please, look into.

20 And, yes, you harm our environment, you know,  
21 you're harming our economy. That's really the bottom  
22 line.

23 And development. There's a lot more  
24 development coming down the pipes right now. A lot of  
25 us aren't very happy about that and will do all we can



1 to, hopefully, stem it. But the truth is there will be  
2 some. Why don't we somehow put in some kind of mandate  
3 for these developers to put in that infrastructure to  
4 use the recyclable water? You know, I mean, it's --  
5 it's the price you pay to build here in paradise.

6 So somehow -- I don't know who is out there  
7 listening, but I would like to just put the costs on the  
8 developers. You know, I know the users will -- will  
9 also have to pay. But I think, you know, the  
10 majority -- it should be accordance -- the rates should  
11 be in accordance to the usage. And a lot of these big  
12 timeshares with big ol' bathrooms and, you know,  
13 everything, they're using a lot of the water.

14 Personally, I live off the grid, so I'm not  
15 part of that system. But, you know, anyways, I just  
16 want to thank everyone again for being here. And aloha.

17 (Applause.)

18 MR. DAVID ALBRIGHT: Thank you for those  
19 comments.

20 The next speaker is Meghan Dailer.

21 MS. MEGHAN DAILER: Hi. I am Megan Dailer.  
22 And I represent the University of Hawaii.

23 Can you guys hear?

24 MR. DAVID ALBRIGHT: Pull it up.

25 MS. MEGHAN DAILER: Pull it up?

1 MR. DAVID ALBRIGHT: Pull it up.

2 MS. MEGHAN DAILER: There, okay.

3 I've submitted my testimony to you already  
4 that's quite long. And I am not going to read any --  
5 I'm just reading the summary from that.

6 So, nuisance algal blooms consisting of red  
7 alga *Hypnea musciformis* and the green alga *Ulva fasciata*  
8 are problematic in shallow closer waters around  
9 urbanized areas of Maui.

10 The Kahekili area is an area of problematic  
11 algal growth, primarily of *Ulva fasciata*, but other  
12 species at times, and substantial reef decline, which  
13 has already been mentioned. Kahekili has the highest  
14 microagal N15 value on Maui. N15 signals that are high  
15 are indicative of sewage. So this indicates the  
16 presence of sewage in the nearshore marine environment  
17 in the Kahekili area.

18 Sewage effluent contains elevated levels of  
19 many nutrients compared to oceanic background levels,  
20 some of which are important for algal growth and  
21 photosynthetic needs.

22 From laboratory studies with reagent grade  
23 nutrient enrichments, we see that nitrogen and  
24 phosphorous play important roles in the photosynthetic  
25 needs of *Hypnea musciformis*, but are unable to promote

1 excessive growth on their own. They need more than just  
2 nitrogen and phosphorous to grow.

3 Our sewage effluent addition experiments  
4 resulted in growth rates similar to those observed in  
5 bloom situations for both *Hypnea musciformis* and *Ulva*  
6 *fasciata*, which were significantly higher with  
7 increasing levels of sewage effluent. Whereas no  
8 significant difference was found between treatment for  
9 *Acanthophora spicifera* and other blooming species here  
10 in the islands that's also invasive, or *Dictyota*  
11 *acutiloba*. Anyway, another native plant that is common  
12 to reef flats everywhere in Hawaii.

13 Therefore, in terms of growth, *Hypnea*  
14 *musciformis* and *Ulva fasciata*, primary -- respond --  
15 similarly respond to excess nutrients more positive and  
16 faster than *A. spicifera* and *Dictyota*.

17 Additional results from the sewage effluent  
18 additions, were that *Ulva fasciata* requires fewer  
19 nutrients to increase photosynthetic performance. So --  
20 anyway, than what is required for *H. musciformis* and *A.*  
21 *spicifera*. All three species, except for *Dictyota*,  
22 positively respond to excess nutrients in terms of  
23 building photosynthetic capacity. And *Ulva fasciata* is  
24 the most responsive.

25 The last conclusion here is that the native,

1 the non-blooming reef plant, Dictyota, does not enhance  
2 photosynthetic properties in the presence of elevated  
3 nutrients.

4 From another aspect of this study where we did  
5 a nutrient uptake rate determination, we see that  
6 substantial decreases in nitrogen, phosphorous, iron,  
7 molybdenum and manganese were found over a 24-hour  
8 period in the Hypnea musciformis experiment, which  
9 displays the ability of the species to utilize  
10 substantial levels of these nutrients in a short amount  
11 of time.

12 In addition, these experiments present the  
13 importance of considering more stringent limits on the  
14 total allowable daily loads of algal-promoting macro and  
15 micronutrients such as manganese, total nitrogen, total  
16 phosphorous, iron and molybdenum.

17 (Applause.)

18 MR. DAVID ALBRIGHT: Thank you for those  
19 comments.

20 The next speaker is Daniel Palakiko.

21 MR. DANIEL PALAKIKO: Thank you guys for  
22 coming and listening to our testimony.

23 I don't come here with written testimony. I  
24 don't come with high-ranking positions in an  
25 organization. I come as a concerned person about the

1 way our water has been -- is being used.

2 First of all, I believe that nature takes care  
3 of itself, that God created this earth in such a way  
4 that, if something happens, it will take care of itself.  
5 It's man that is the trouble. There is a process that  
6 God has put into play where the water comes from the  
7 cloud, gets on there, on the ground, it gathers and it  
8 soaks down and, on the way down, it clears. Man comes  
9 along, drills a well, takes the shortcut, and tells me,  
10 from other people, that you can drink the water. Well,  
11 if you want to drink the water, drink it. Not me. I  
12 want the surface water.

13 You guys say the water is clean -- they say  
14 the water is clean enough to drink. Well, I don't  
15 believe the County.

16 So many things that's happening in the State  
17 and in the County. And I been fighting with the County  
18 because of our place, where I don't believe them  
19 anymore. They say it's safe, but I seen. I come with  
20 observation from what I've seen since they started these  
21 injection wells.

22 I was sitting at a cliff one day and looking  
23 down and enjoying myself. Then I see a turtle coming up  
24 with (Hawaiian) on it. You know what the (Hawaiian) is?  
25 Tumors. It's terrible.

1 I've seen the fish dwindle. I've seen the  
2 limu disappear.

3 I don't have to be a rocket scientist to know  
4 that something is happening. And then there's a algae  
5 bloom. Then there's a study where they say they gonna  
6 put a dye, so they gonna watch the dye, where the dye  
7 goes, but it's inclusive. Well, nature is taking its  
8 taking care of itself. It's gonna drift from there to  
9 there. The dye is not gonna be there. It's gonna be  
10 cleaned out. Common sense will tell you.

11 The County spends money. County says we own  
12 the water, the wastewater, because the -- the money is  
13 spent for cleaning it. Well, the County is wrong. We  
14 owned the water before had doodoo inside. That's the  
15 public trust. And now they tell, we own the wastewater?  
16 We owned the water from the beginning. Not because the  
17 money was spent, but because it's a public trust.

18 I say -- drilling a well, last I heard was  
19 \$100 a foot, 300 feet you gotta drill. That's a lot of  
20 money. I say let nature takes its course. If you can't  
21 get rid of the water that they clean, go and make  
22 reservoirs, put the water inside, let the sun evaporate  
23 it, let it sit through and let nature takes its course.  
24 Then I believe, then, it's clean, I can drink the water.

25 But to tell me you're gonna take a shortcut

1 down there and you -- you don't know where the water  
2 goes. We see the ocean, what's happening to the ocean.

3 So for me, I say don't give 'em the permit  
4 until such time as the County catches up with the  
5 infrastructure. Why continue getting more  
6 rubbing-stamping permits which we are against? And then  
7 when all the doodoo come, it's our water?

8 Come on, you guys. That's -- let's wake up.

9 You know, I told many people, when it comes to  
10 water, you guys gonna hear my anger. You guys are  
11 hearing my anger in my voice. Usually, I'm a nice guy.  
12 But water is the essence of life. So today, I'm not the  
13 nice guy. I got anger in me because of all the times --  
14 I live next to river. And then you have somebody for a  
15 million come and tell me what happens to the river.  
16 Come on. He's not there when there's a storm and big  
17 boulders as big as a Volkswagen rolls on and hits  
18 another one and shake your house. I'm there. If you  
19 guys want some input, get the people, the grass roots,  
20 not the guys with all the studies, with all the  
21 sophistications.

22 Go with observations. Man has come a long way  
23 through observation. So I say maka'ala, use your eyes,  
24 use your common sense, deny the permit. Amen.

25 (Applause.)

1 MR. DAVID ALBRIGHT: Thank you for your  
2 comments.

3 The next speaker is David Hartley.

4 MR. DAVID HARTLEY: My name is David Hartley.  
5 I'm a resident on the west side. And I retired, but I  
6 have had over 45 years of experience in financing public  
7 infrastructure throughout the western part of the United  
8 States, particularly California.

9 This hearing is excellent, listening to these  
10 people and their concerns. The injection system, I  
11 think, is understood by most of us not to be the best  
12 way to do this. There are other procedures, there are  
13 other alternatives that should be explored. And I think  
14 it should be the responsibility of the County, together  
15 with the EPA, giving conditions to any permits, that  
16 they undertake immediate action -- that's difficult on  
17 Maui -- to undertake a plan looking at alternatives to  
18 how to finance, other than an injection system, to keep  
19 the water so it's -- can be used, particularly gray  
20 water. We're using entirely too much potable water on  
21 this island for purposes of irrigation. And it's not  
22 necessary. If you're getting five and six million  
23 gallons a day out of a sewage treatment facility, there  
24 are ways to create infrastructure systems to put this  
25 water into an irrigation system for the entire west side



1 of this island, certainly this side, Lahaina, north and  
2 south. And there are financing procedures available.

3 There sits in the County now, sitting, getting  
4 dust on their desks, a procedure under which long-term  
5 financing could be done for this particular area, which  
6 is the benefit area. And the people who are using the  
7 toilets and who are using and producing the sewage  
8 should pay on the basis of what they're doing and what  
9 the gallons are that they are putting into the system.

10 And everybody could take responsibility to  
11 step up to the plate, the County Council first, and the  
12 people behind it, to stand up, take responsibility and  
13 pay their fair, just and equitable share of assisting.  
14 Because we are not gonna get it from Uncle Sam and we  
15 are not gonna get it from the State. But we can do it  
16 ourselves, if we choose to and if we have the political  
17 will.

18 Thank you.

19 (Applause.)

20 MR. DAVID ALBRIGHT: Thank you for your  
21 comments.

22 The next speaker is Gordon Clay.

23 MR. GORDON CLAY: I guess everybody can wait  
24 to hear me and not go home.

25 I would like to thank you all for coming here.

1 I've heard most of what I would have imagined  
2 saying already, so I am going to keep it brief.

3 I came to Maui a year ago to live, after being  
4 away for 15 years. I consider myself to be a guest  
5 here.

6 The reason I'm here tonight is, basically,  
7 three reasons.

8 Number one, I was absolutely shocked to see  
9 the degradation of the reefs compared to how I remember  
10 them from 15 years ago. I spent most of my recreation  
11 time snorkeling on this side of the island.

12 And number two, I took a course, through the  
13 Maui Reef Fund, on reef awareness. And I'm not a  
14 scientist, but I am not stupid, either. And what I  
15 learned in that course was shocking, absolutely  
16 shocking, to me, as an outsider looking at something  
17 with clear eyes, that this can be allowed to occur.

18 And the third reason I'm here is because I  
19 know that switching from putting sewage into water  
20 bodies, whether they're lakes, rivers or oceans, and  
21 using them for irrigation works. It's very  
22 cost-effective and it's very doable. I have seen it in  
23 my lifetime in several places.

24 I, also, in most of my adult life, have been  
25 involved in environmental remediation work. I have

1 watched species go extinct. I have watched reefs. I  
2 was in Florida just earlier this year. I have seen  
3 reefs that have collapsed. That can happen. It will  
4 happen if nothing is done. And they don't come back  
5 very fast.

6 On the positive note, I have seen a lake that  
7 I grew up near go from being an algae-filled, green,  
8 cloudy mess that you wouldn't want to go near, and stink  
9 because of sewage, treated sewage, being put into it,  
10 transformed into a healthy, vibrant, essential part of  
11 both the tourism and domestic, you know, local  
12 community. And that's Okanagan Lake in British  
13 Columbia.

14 Now, I ask you, as, you know, people who I  
15 believe are well-intended and trying to do the best you  
16 can do, to meet your responsibilities.

17 I don't know. Is there any elected officials  
18 here tonight? No. Where are they?

19 To communicate the facts, the truth, the  
20 common sense of what needs to be done -- okay. If I do  
21 the math correctly, where I live, paying a very low  
22 rate, we pay \$3 per 1,000 gallons of fresh water. Okay.  
23 At five million gallons a day, that translates into  
24 about \$50 million over the life of this permit. If you  
25 assume that all of that fresh water that's being used

1 for irrigation can be used for potable purposes in a  
2 place where there's people waiting for water, you know,  
3 I mean, it's just -- it is common sense.

4 The final thing I have to say is that for  
5 those who, you know, don't want this permit to be  
6 approved for a 10-year period, but would agree to a  
7 highly conditionalized annual renewal process that  
8 ensures the public continued input into the solution to  
9 the problem. And, again, the solution is very  
10 achievable. We've heard that here tonight. Is that --  
11 I have here the Hawaii Environmental Law Handbook. I am  
12 sure at least one of you is familiar with it. And the  
13 law is on our side. Everything in this book that I am  
14 newly acquainted with -- and I am not a lawyer -- tells  
15 me that the solution is available to the public if we  
16 don't fail.

17 Thank you.

18 (Applause.)

19 MR. DAVID ALBRIGHT: Thank you for your  
20 comments.

21 The next speaker is Ed Lindsey.

22 MR. ED LINDSEY: Aloha. My name is Edward  
23 Robert (Hawaiian) Lindsey. I represent the Maui Nui  
24 Marine Resource Council. I also represent the kupunas  
25 who have lived here for over 1,000 years. I am a living

1 representative of their voice.

2 (Hawaiian.) We're killing ourselves.

3 I have a prepared text, but I would like to  
4 preface it in what Western technology is doing to us.  
5 The Kumulipo, the Creation Chant, coming from the  
6 darkness, and going on into the darkness, the first  
7 thing to have been created was the coral. And all  
8 things from the ocean had been created long before man.  
9 The fish was created, the limu was created, the sea  
10 mammals were created, and still man had not been  
11 created.

12 The first plant to get onto land is called  
13 akahi akahi, that's number one, number one. And then  
14 the things from the plants were created, the insects,  
15 the birds -- and there's one insect here -- have been  
16 created, but not man.

17 After everything had been finished and had  
18 been created, then man was created. And man was created  
19 to use all of the resources to sustain himself. But as  
20 we go along, and as we become more populated, we have  
21 such things as these injection wells.

22 So what is happening to us? We are killing  
23 the corals. We are killing the animals in the water.

24 And the secret that nobody has really  
25 acknowledged yet is that we, according to the Kumulipo,

1 are related to the coral and everything that had been  
2 created before humankind. So we have a responsibility  
3 not only to ourselves but to all things that God had  
4 created.

5 When you cry, the tears are salty. Evidence  
6 that we came from the ocean.

7 What we need to do is to become smarter and to  
8 use the technology that God has given us to clean up our  
9 act. The current system does not provide for  
10 sustainable living.

11 Maui, most recently, had been elected,  
12 so-called, if there's such a thing, as the best island  
13 in the world. But don't go back out and tell 'em all  
14 secret, we have poo-poo problems.

15 You know, the prepared speech had been already  
16 turned in. And so as a chairperson to the Maui Nui  
17 Marine Resource Council, I would like to read parts of  
18 it with your permission.

19 The Maui Nui Marine Resource Council is a  
20 broad-based community group, working to apply ecological  
21 principles to education, research and agency management  
22 such as this so that our nearshore waters will be  
23 restored with an abundance of fish, healthy corals,  
24 avoid algae bloom.

25 I took my grandson out to the ocean to

1 introduce him to his family, the fish and the corals,  
2 that my dad had put out what we Hawaiians call koa. The  
3 Hawaiian word for coral is koa. When you have a fishing  
4 koa, that means this is where the fish gather.

5 (Hawaiian) means to gather over here. A fishing koa is  
6 a practice, cultural practice, to bring the fish in.

7 And then I took him out, there was no fish. I took him  
8 out -- he is a four-year-old little boy. I took him out  
9 to introduce him to the limu. I found only weeds that  
10 they call invasive limu.

11 So these things are really impacting not only  
12 our culture, but our souls.

13 There is no time to get angry. We must act.  
14 When the ship is sinking, you don't discuss false  
15 scientific evidence. You go out and do the work that  
16 needs to be done.

17 Our coral reefs are sinking. We don't have  
18 time for anything else.

19 And to do purpose, credibility to the Maui Nui  
20 Marine Resource Council, I would like to read the  
21 recommendations. We ask that your permit include  
22 conditions to protect our groundwater sources for  
23 drinking water use and all aquatic ecosystems that  
24 support cultural fishing and recreation. We ask that  
25 you specifically include water-quality-based permit

1 limits designed to achieve compliance with surface water  
2 quality standards in the coastal waters.

3           You know, if you walk down the seashore, you  
4 can feel -- if you walk in the sand, you can feel cold  
5 water coming -- seeping out from under the sand. But  
6 sometimes, some places that's, also, drinking water.  
7 Some animals on Lana'i, where the spring water is still  
8 going out into the ocean, you see the animals going out,  
9 the deer, and what used to be cattle before, and some of  
10 the goats went out into the water. And they know where  
11 the seepages are coming through and they drinking that  
12 water.

13           So guess what our injection wells are doing?

14           We ask that the permit be required to comply  
15 with any total maximum daily loads established to  
16 support attaining water quality standards. I don't know  
17 if the total maximum daily loads have been established  
18 or not.

19           And the fourth one we ask is that the EPA  
20 address comprehensive watershed planning -- let me  
21 repeat that, comprehensive watershed planning -- to  
22 ensure that this and all decisions support clean and  
23 healthy nearshores waters that we and our visitors and  
24 our (Hawaiian) can fish or swim with no concern for  
25 health hazards.



1           Currently, it is paramount that solutions are  
2           beneficial to all concerned. Currently, there are  
3           people on the West Coast who are finding pathogens are  
4           impinging on the swimming population on California. We  
5           have some friends who are doing that kind of work. And  
6           they are amazed and they're very concerned that we don't  
7           have this thing going on over here on Maui.

8           And with that, I thank you for coming. And I  
9           bid you aloha. And let's get things done.

10           (Applause.)

11           MR. DAVID ALBRIGHT: Thank you for those  
12           comments.

13           The next speaker is Alan Arakawa.

14           MR. ALAN ARAKAWA: Good evening. And thank  
15           you very much for having this hearing here at Lahaina.

16           As a former mayor of Maui County, I also was a  
17           former wastewater operator and supervisor at the Kahului  
18           Treatment Plant. And I worked at Kahului, Lahaina and  
19           Kihei Wastewater Treatment Plants.

20           One of the things that you should be looking  
21           at is the fact that division is entitled Wastewater  
22           Reclamation Division. The very purpose of the Division  
23           is to take the water, reclaim it so that we can have  
24           reuse.

25           Now, early on, when the treatment plants were

1 created, there was very little scientific data that was  
2 available because no one was doing baseline studies of  
3 how the oceans were being affected, no one was doing  
4 studies on exactly what the cause and effects are.

5 When you look at the Lahaina Treatment Plant  
6 and the Kahului Treatment Plant, the effluent is very  
7 close, the wells are very close to the ocean. They are  
8 not miles above the ocean; they're hundreds of yards  
9 above the ocean. And I think that you will find that  
10 the water that's going from the treatment plant, going  
11 into the ocean, is probably getting there a lot sooner  
12 than most people think. Even though there's no  
13 definitive scientific proof, there's a common sense  
14 application of that.

15 I know that, in Kahului, the water goes into  
16 the injection well, it comes out almost immediately at  
17 the ocean side. We can even see traces of it bubbling  
18 up almost as a stream.

19 In Lahaina, we're not much further. I believe  
20 the effects of the water getting into the ocean is a lot  
21 sooner than what we think.

22 Okay. That being said, there's also a severe  
23 water shortage problem that the Water Department of the  
24 County is having to go through. So you have to balance  
25 off what are the community needs. The community needs

1 to have more water availability. We cannot continuously  
2 dilute streams to get more water. So it makes sense --  
3 and a lot of speakers have pointed this out -- that we  
4 start to reuse and make it a requirement to reuse water  
5 that we have available that can be used in the proper  
6 way, like for irrigation.

7 It's a question of cost. And when we start  
8 talking about cost, we also have to talk about the  
9 deferred cost from having to deal with many of the  
10 things that we do not know what is occurring. You had  
11 Department speak to you representing the State,  
12 representing the University, you've had scientists  
13 talking to you about different effects on the ocean  
14 life, what studies they have. At the same time, you  
15 have heard that there is no definitive study that the  
16 County is using or can look at and say there is no  
17 problem that is occurring because there are no  
18 scientific studies that can back that up.

19 I think you have a very clear mandate with  
20 what is available to seriously consider banning the  
21 injection well use and start doing things to clean up  
22 that water so that it's actually much cleaner and you  
23 have much better tracking system for it.

24 Now, you cannot do it overnight. As Dr. Pang  
25 was pointing out, perhaps we need to be able to step it

1 so that it's a requirement that is met, you know,  
2 periodic improvements, so every year, so many percent of  
3 it has to be reused, and get away from the injection  
4 wells altogether.

5 Now, there's also a couple of other things  
6 that need to be considered when you're -- when you're  
7 looking at this. If the Water Department is having to  
8 go through the cost of looking for water and providing  
9 water for the community, some of those costs could be  
10 deferred into the wastewater treatment system to be able  
11 to get water that's readily available, and substitute  
12 that water for drinking water that's being used for  
13 irrigation and other -- other kinds of uses like that.

14 So you would be trading one cost for another  
15 cost. So it might become more cost-effective. That's  
16 something that needs to be looked at.

17 But if it's not mandated, if it's not mandated  
18 as a condition, it will probably not happen. And you,  
19 as administrators of this system, really need to look at  
20 are we gonna be responsible, later on, for trying to  
21 work on tumors that the fish life have or possibly other  
22 kinds of consequences that we really don't have any  
23 scientific basis to say is not occurring, when all the  
24 scientists that have spoken to you are saying that there  
25 is a challenge that is occurring and they're seeing

1 definite problems that are arising that are changing the  
2 environment?

3 I think the evidence is overwhelming that  
4 something needs to be done to make sure that we are on  
5 the right side of the scientific evidence. And that is  
6 seeing what is occurring, taking that as a reality and  
7 recognizing what we don't have as information and taking  
8 that as a reality as well.

9 I'd like to recommend that we really start  
10 looking at this, as you start mandating. And as Dave  
11 Taylor pointed out, if you start mandating that the  
12 County has to be able to start changing systems, going  
13 to total reuse, then the budget has to be altered to  
14 require that.

15 There are many conflicting areas in trying to  
16 get the financing done. There are a lot of water that  
17 have been very inexpensively used in the area -- the  
18 agricultural area in the past. But the competition for  
19 that water, now that the cane fields and the pineapple  
20 fields seem to be disappearing, should also be altered  
21 so that more water are returned to the streams, more  
22 water are left in the natural habitats, so we are not  
23 diluting a lot of these areas. And the areas of water  
24 where we're wasting, such as the reused water, should be  
25 applied to make it balance out a little better. And you

1 have it within your control to be able to do this in  
2 your permitting process.

3 I'd also like to recommend that -- when you  
4 start doing this, that baseline studies be required, you  
5 know, to -- to track what is happening.

6 Now, when Wendy Wiltsie came here in the early  
7 1990s, I was working in wastewater. And we actually  
8 started the discussion on doing tracking studies as to  
9 what's happening in the ocean. And many of these  
10 scientists that are talking to you today are starting to  
11 do a lot of that tracking, which is why they can see the  
12 reef degradation, which is why they can now tell you  
13 about the fish population changing, or the algae  
14 population growth changing, because that scientific  
15 background is there, it's being accumulated, where there  
16 was nothing when we first started the injection well.  
17 And I think that -- that scientific evidence is  
18 overwhelming and you really need to consider that  
19 strongly.

20 It's not a question in -- in my mind, it's not  
21 a question for you to have to decide what the costs are  
22 or whether it's going to take a lot of money to do it or  
23 not do it. I think, in my mind, your decision is, is  
24 the scientific evidence that is available showing that  
25 there could be much more damage by not requiring the

1 reuse and not requiring the change of the system from  
2 injection well to total reuse. Is that damage much more  
3 pressing than allowing the cheaper, less expensive way  
4 of disposing of water? I think that is the question  
5 that you have to decide as administrators of this.

6 And are you protecting the public health,  
7 safety, welfare and quality of life, when you -- when  
8 this is showing that there's a lot of degradation, and  
9 the quality of life is degradating [sic]. You  
10 protecting that to the level that it should be versus  
11 just allowing a cheaper way to drop water away from the  
12 site and not have to deal with it?

13 From a practical standpoint, if you require  
14 reuse -- if there are any kind of accidents that happen  
15 or upsets within the system, 100 percent reuse will  
16 require that some kind of treatment be made and not just  
17 disposed of in the wells, never to be seen again. It  
18 will require much more and better management by the  
19 County in how they run the systems. But then shouldn't  
20 that be what it -- is being required?

21 You know, as we advance scientifically, we  
22 have to start advancing the way we handle our treatment  
23 systems and the way we handle the response to the  
24 public.

25 So I thank you very much for your time. I

1 hope you take this into consideration. And I would  
2 recommend that you make very decisive measures,  
3 requirements within your recommendations of how you're  
4 going to allow the injection wells to continue or not  
5 continue. Thank you.

6 (Applause.)

7 MR. DAVID ALBRIGHT: I am going to ask that we  
8 take a very short break, say three minutes, and then  
9 we'll resume with the next speaker.

10 (Recess, 8:16 p.m. to 8:24 p.m.)

11 MR. DAVID ALBRIGHT: Okay. I think we're  
12 ready to get started again. If you can take your seats,  
13 please. If we could get started again, please, in the  
14 interest of time, I know we want to hear from all the  
15 people who have signed up to speak.

16 Okay. I would like to call the next speaker  
17 up. And that is Tamara Paltin. Thank you.

18 MS. TAMARA PALTIN: Hi. My name is Tamara  
19 Paltin. I'm here representing myself. And I also  
20 belong to a couple environmental organizations -- I also  
21 belong to a couple organizations. And I work at the  
22 beach as a lifeguard, too.

23 So just kind of saying like we heard over like  
24 couple hours of testimony. And pretty much nobody asked  
25 you to approve the permit. So I just was -- wanted to



1 point that out.

2 But, seriously, that us guys that live in the  
3 ocean and have to work in the ocean and things like  
4 that, we hear all of the studies of Meghan Dailer and  
5 Robin Knox. And that's why I came over here today, just  
6 to like ask your guys' help to help our County.

7 None of the elected officials are here today,  
8 but if you deny the permit, then they'll have to fall in  
9 line because that's the law. Right? So just pretty  
10 much just asking your help, if you can help us out, to  
11 deny the permit. Or at least do what the people  
12 suggested, you know, like to set up a process by which  
13 we can eventually phase out of injection wells. Because  
14 like the former mayor and everybody else was saying, it  
15 just makes sense, it's logical. We need water and we're  
16 dumping it into the ocean. And it's kind of messing up  
17 the system. And people are getting all kind of diseases  
18 and things like that.

19 Like us guys that are right there on the  
20 beach, we see it more than, I think, someone sitting in  
21 the office. And it's true. And I just hope that you  
22 would listen to everybody and follow the community  
23 wishes and help us to let the Council see the light, at  
24 least. It's one of the most important issues facing  
25 Maui, is water, natural water, how we deal with our

1 wastewater. It's all kind of interconnected. And if  
2 you can help us out and deny the permit, then they'll  
3 have to fall in line. That's just the way I feel like.

4 And thanks for coming here and listening to  
5 us.

6 (Applause.)

7 MR. DAVID ALBRIGHT: Thank you for your  
8 comments.

9 The next speaker is Lucienne deNaie.

10 MS. LUCIENNE deNAIE: Aloha, everyone. My  
11 name is Lucienne deNaie. I am the Chairperson of the  
12 Sierra Club, Hawaii Chapter. That's the statewide  
13 Sierra Club. But I live here on Maui. And I'm here  
14 offering comments on behalf of the Sierra Club, Maui  
15 Group.

16 We are really, really happy that you folks  
17 have come here. You can see the need. And you can see  
18 how much we are looking forward to having both our local  
19 and our Federal regulations move us all forward here.  
20 We really need to not let the same thing happen on our  
21 watch that's been happening the last 15 years.

22 You know, over the years, the Sierra Club here  
23 in Hawaii has had a long history of weighing in on  
24 wastewater facilities. In fact, we just settled a  
25 lawsuit in Honolulu for their improper dumping of

1 sewage. And our settlement said, you know, don't give  
2 us any money, fix the problem. We're solution-oriented.

3 Here on Maui, we've weighed in on this  
4 particular facility, oh, for over a decade. And our  
5 members have expressed concern about the continued  
6 degradation of the nearby reefs, the marine life habitat  
7 and the marine water quality in this area that is just  
8 ocean side of the injection wells. We call it North  
9 Beach, this area, Kaanapali, North Beach, Honokowai.  
10 It's -- it's really a very popular area. It's very  
11 culturally significant. And it's a place a lot of folks  
12 go to fish, to swim, to dive, to go surfing. So folks  
13 spend time in this water. And we need those waters to  
14 be healthy.

15 And right now, the situation that we have with  
16 the level of treatment that's going in there from the  
17 injection wells, as well as the onslaught of new sewage  
18 that's gonna be generated by all the developments  
19 surrounding here, it's just a recipe for disaster. Now  
20 is the time to act.

21 During the last decade, our members have  
22 reported, you know, to us, through letters, through  
23 attending meetings -- we have a yearly meeting, we have  
24 breakout groups and things like water quality and things  
25 like, you know, ocean access. And we have folks talking

1 about the shocking decrease in native fish species,  
2 especially in the West Maui area, and especially in that  
3 general area, all along the developed part of Kaanapali.  
4 Also, the degradation of the living coral formations and  
5 the mats of algae that people are seeing. We have folks  
6 that email us photos, "You're the Sierra Club, what are  
7 you going to do," like we're the government. But, you  
8 know -- so we're here talking to the government. That's  
9 what we're gonna do.

10 We have many members who regularly have  
11 recreational activities in these waters. They fish  
12 there. They go boating. They -- you know, they  
13 snorkel. And some have even reported an increase in  
14 infections, you know, like Wayne was speaking of,  
15 Mr. Cochran. That it's just hard to feel that these  
16 waters are clean now. They -- they can't like carry the  
17 load of what is going into them.

18 So these things are all happening because we  
19 are not having the right balance in how we're treating  
20 our oceans in these highly urbanized areas.

21 So we would really like to find a better  
22 solution. Our Sierra Club volunteers have addressed  
23 this over the years. They, actually, have strongly  
24 supported the land-based reuse of this reclaimed water,  
25 long before it was popular. You know, at least 10 years

1 ago, folks were advocating for this.

2 When Wendy Wiltsie was here and working with  
3 the EPA, we attended, you know, some of her groups. And  
4 we were told, yeah, yeah, yeah, you know, less is going  
5 to happen. And Steve Beribacoli, bless his soul, has  
6 done a wonderful job. And our wastewater treatment  
7 operators, they're all behind this, too. It just seems  
8 to be that, you know, it's all about money. So --

9 But in the early nineties, when the EPA issued  
10 a permit for this same facility, you know, the County  
11 was asked to reduce the nitrogen levels and to begin to  
12 use the wastewater for irrigation rather than injection.  
13 And we testified at that time. And we said that we  
14 thought there was a very strong connection between the  
15 injected effluent and the algae that was growing on the  
16 reefs, which was, you know, the reason Wendy was here,  
17 because of all these algae. And we were told that no,  
18 no, no, there's studies that prove it isn't true and so  
19 forth.

20 Well, we're like all the other people, common  
21 sense doesn't tell you that. You know, this didn't used  
22 to happen, it's happening now, it has to be connected,  
23 what's going on. And, of course, there are more recent  
24 studies that finally are linking these two.

25 And we realized that we really can't just kind

1 of wait for more studies to prove more things. Everyone  
2 who said that is absolutely right. It's time to like  
3 have progress and have, you know, a real timetable for  
4 getting something done.

5 Because we're hampered by the political will  
6 to find the funding for the necessary pipelines and  
7 storage areas and distribution infrastructure, we feel  
8 that you folks have a role to play. And as folks have  
9 said, you know, in your permit review, if you can help  
10 put the pressure on that this is a condition of any  
11 permit, that we need to actually have a real timetable  
12 to redirect from the injection wells and get this water  
13 out into a land-based use where it's desperately needed.

14 I just want to give you example, you know,  
15 about how hard it can be to accomplish this, you know,  
16 from a citizen level. About four or five years ago,  
17 Sierra Club members, myself included, testified in our  
18 State Land Commission, Land Use Commission, at our  
19 County Planning Commission, and we advocated that these  
20 commissions would impose conditions on a large proposed  
21 luxury development in Kapalua, just north of the --  
22 where the treatment plant and everything is. And these  
23 conditions that we asked for would have required the  
24 development to extend reclaimed water lines when it  
25 installed its sewage hookup lines. We thought, hey, you

1 get one trench, you know, just put in two pipes, one one  
2 way, one the other. And this would have allowed the use  
3 of several million gallons or more of the R-1 effluent  
4 from the Lahaina Wastewater Facility.

5 This resort has extensive golf courses and  
6 lush landscaping. Well, these folks were proposing over  
7 600 new multi-million-dollar residences. And, yet, they  
8 couldn't afford this onetime investment. And no one  
9 would require them to afford it.

10 It was very frustrating because, you know, you  
11 have folks say, well, development should pay for this,  
12 you know, they have impacts, they need to be part of the  
13 solution, but we don't have the backbone here to make  
14 that happen.

15 I went to three Land Use Commission meetings.  
16 I had to drive all the way here. I live 100 miles from  
17 here, round trip. But it was worth it to try to have  
18 something happen. Instead, these developers were  
19 allowed to continue bleeding the waters of Honokohau  
20 Stream that are really needed to have healthy stream  
21 life, simply because it's cheap water.

22 So, you know, we need to make it possible to  
23 use the effluent well and use it to replace our fresh  
24 water supplies, to use it to replace our potable water  
25 supplies. But this ain't gonna happen by just kind of

1 business as usual.

2 So we are very happy that you are here. It  
3 makes ecological sense to start reusing as much water as  
4 possible.

5 I am a water junkie. You know, I've studied  
6 water resources here for the last five years. Our  
7 rainfall levels have fallen to record lows throughout  
8 West Maui. We really need to use and reuse every drop  
9 of water that is, you know, coming into the public  
10 system. And, yet, we are, instead, sending it out in  
11 the ocean where it's impairing our ocean waters.

12 So, please, we are asking of you to put  
13 conditions on this permit which will result in a  
14 timetable and help create a Federal/local partnership to  
15 provide the infrastructure solutions for redistribution  
16 of all of the reclaimed water for the Lahaina Treatment  
17 Facility to land-based uses.

18 We also request that the EPA ensure compliance  
19 with its own Clean Water Act standards, which we do not  
20 feel are really being met right now, by phasing out the  
21 use of the Lahaina Wastewater Facility injection wells  
22 except in emergency situations. And we feel that, you  
23 know, with the new Administration, there is going to be  
24 an interest in supporting communities to find ways to  
25 improve their own infrastructure, instead of throwing



1 this money down a rathole in Iraq, pardon my political  
2 leanings here. But we need to find a way to keep this  
3 multi-million-dollar resource, our coastal areas, which  
4 are valuable to Hawaiian culture, which are valuable to  
5 our people, and which are the basis of our  
6 resort-oriented economy, we need to keep it healthy.  
7 And we need you to take a hard line here.

8 So thank you for helping us. Aloha.

9 (Applause.)

10 MR. DAVID ALBRIGHT: Thank you for those  
11 comments.

12 The next speaker is Kai Nishiki.

13 MS. KAI NISHIKI: Aloha, you guys. Thanks for  
14 coming over and listening to the concerns of the  
15 community.

16 And I also want to say thank you very much to  
17 our wastewater treatment facility operators. They do a  
18 great job every day with equipment and technology that  
19 they have available to them.

20 Because of overdevelopment, we can barely even  
21 see the ocean when we're driving. And it has also  
22 impacted our coastal access. And, lastly, our water  
23 quality has been diminished.

24 We have all these studies and we have the  
25 observations and the experiences of our people. And I

1 think that those experiences and observations should  
2 hold just as much water as the studies do. Pardon the  
3 pun. But we don't really need to have these studies to  
4 see what the negative effects are.

5 And I hope that you will consider those  
6 observances and experiences of our people with as much  
7 weight.

8 We can see that there's extreme damage  
9 happening. And how can you put a price on the ocean,  
10 the reef, and the native people who rely on those  
11 resources? We really need the infrastructure to reuse  
12 the water. And we are hoping and asking for your help  
13 to make it a mandate that they must phase out the use of  
14 injection wells. We can see that they are just  
15 unnecessary and that we could be reusing this water.

16 And, also, for the reuse of -- of gray water  
17 and water catchment, that lessens the impact of -- or  
18 lessens the impact on our water treatment facilities.

19 So we need a lot of things to be done here.  
20 And this is a first step. So we just ask you to please  
21 phase out the use of injection wells and put conditions  
22 on the permit that will -- will allow us to do that.

23 Thank you very much.

24 (Applause.)

25 MR. DAVID ALBRIGHT: Thank you.

1 The next speaker is Uilani Kapu.

2 MS. UILANI KAPU: Good evening. My name is  
3 Uilani Kapu.

4 You have heard everybody, so I won't -- I  
5 looked at the time and it was 8:30 already, so it must  
6 be going on to 9:00. You guys have been here for so  
7 long. The community has spoken out.

8 We need to reuse our waters. I am a living  
9 testimony to having staph twice from our oceans out  
10 here. I got infected from these waters. My kids don't  
11 go into 'em anymore because of how many people have  
12 caughten staph, algae bloom and everything.

13 Everybody has testified to you folks on behalf  
14 of all of the studies that has been done in Kahekili.

15 It has been going on around our whole island.  
16 We live on an island. We need to protect what we have  
17 here.

18 Everybody has spoken out. I don't want to  
19 repeat anybody. So do the right thing, you folks are  
20 here for it, community has spoken.

21 Mahalo.

22 (Applause.)

23 MR. DAVID ALBRIGHT: Thank you for that.

24 The next speaker -- it looks like we have two  
25 speakers remaining. The next speaker is Yolanda Dizon.

1 MS. YOLANDA DIZON: Aloha. My name is Yolanda  
2 Dizon, not Dizon, but that's okay.

3 Can I ask you, any of you live on the islands?  
4 It was asked before, but I -- I didn't hear.

5 MR. DAVID ALBRIGHT: No. Well, Chauncey lives  
6 on the islands.

7 MR. CHAUNCEY HEW: Oahu.

8 MS. YOLANDA DIZON: You're Oahu? And how long  
9 have you three been here?

10 MR. DAVID ALBRIGHT: You mean this trip?

11 MS. YOLANDA DIZON: Yeah, this trip.

12 MR. DAVID ALBRIGHT: We got here yesterday.

13 MS. YOLANDA DIZON: Oh, yesterday. How long  
14 are you going to stay?

15 MR. DAVID ALBRIGHT: We're leaving tomorrow.

16 MS. YOLANDA DIZON: Oh, tomorrow already.

17 The only reason why I'm asking this question  
18 is I would like to invite you to come swim in our  
19 waters, please. I am not really joking. I mean, I am  
20 serious. Come swim in our waters.

21 UNIDENTIFIED SPEAKER: For how long?

22 MS. YOLANDA DIZON: Because this is testimony,  
23 yeah, for what is happening. All this that you see, you  
24 see, all this -- (indicating) -- it's from out there.  
25 So I invite you, come swim in our waters with your

1 families, your children, and enjoy it. And I pray you  
2 don't look like this when you come out.

3 Every life in this room, everyone who gave a  
4 testimony, their lives are priceless. There is no  
5 compromise for any individual, any living human being  
6 that lives on our islands, or anywhere in the world. So  
7 when it comes to the weighing of cost and life, there is  
8 no -- life is precious.

9 So after hearing all the testimonies -- and I  
10 am so happy to be here tonight, because this is the  
11 first meeting I've ever been to that everyone in the  
12 room are all on one side of the fence and all agree.

13 (Applause.)

14 MS. YOLANDA DIZON: And I love it. Because it  
15 is about lives, our precious human lives.

16 So, please, EPA -- what is that, Environmental  
17 Protection Agency -- I ask you, please, do your  
18 fiduciary duties for our lives.

19 Mahalo.

20 MR. DAVID ALBRIGHT: Thank you for those  
21 comments. And if I mispronounced that last name, I am  
22 sure I'm gonna mess up on this one. It's the last  
23 speaker, Kekai Keahi.

24 (Applause.)

25 MR. KEKAI KEAHI: Aloha. My name is Kekai

1 Keahi. I'm a convicted criminal. And just keep that in  
2 mind. I going to tell you why.

3 I gonna start off with young kid days, yeah,  
4 when we used to go ocean, always out there, we get hurt,  
5 we get cut, the old folks used to tell us go (Hawaiian),  
6 go down to the ocean and go clean your cut, because the  
7 ocean gonna heal 'em. My mother is one white wahine  
8 from the mainland, not used to that kine stuff. We went  
9 to the doctor one time. The doctors told my grandpa and  
10 my mother, which was -- he was a haole, too -- go down  
11 to ocean, go clean your cut. That's the truth, yeah.

12 Nowadays, I coach (inaudible) with 250  
13 members. You should see the staph outbreaks we get.  
14 You wouldn't even believe one -- one guy, two years ago,  
15 got -- was so bad, he had staph, he had to go in  
16 surgery. They almost going to take off his arm. That's  
17 how bad he was.

18 And I -- to me, I don't know where this staph  
19 problem came from, until I start learning about  
20 injection wells and all that kind of stuff like that.

21 This is a -- another -- you know, one of the  
22 old folks, he used to be the foreman at the golf course  
23 right here in Kaanapali. If you look at the golf  
24 course, there's only -- at some places, it's only about  
25 six feet above sea level, maybe less. He tell me that

1 they fertilize their golf courses using 144,000 pounds  
2 of fertilizer, that they water with two million gallons  
3 of water, and that thing percolate right back down into  
4 the ocean. Six feet above sea level.

5 One other thing, too, is, me, I born and  
6 raised in the ocean. I'm a fisherman. I'm not one  
7 commercial fisherman, but subsistence fisherman. From  
8 my tutu to my father to me, we always were taught for  
9 respect the ocean, no take more than you need. If you  
10 get extra, you go give your friends or your family.  
11 That's how we live. That's Hawaiian style, yeah.

12 Recently, maybe one past couple years, they  
13 went put one law into place that I cannot use nets at  
14 nighttime, because we was a problem. Us Hawaiian people  
15 was a problem, the reason why no more fish in the ocean  
16 anymore because we overfishing. But that's not how us  
17 guys was raised. We only take what we need.

18 But then, at the same time, I look back at all  
19 these injection wells, the hotels is right on the beach,  
20 with the fertilizers. If you go to Kaanapali, they get  
21 this big lake kind of thing where all the fertilizers  
22 collect. And they -- they turn on the pumps and they  
23 pump 'em out into the ocean. I think that's an EPA  
24 violation. You guys should go check that thing out, you  
25 know what I mean, for real. Yeah.

1           And us guys, we live there, we catch the fish  
2           and we eat 'em.

3           Going back to the criminal thing. Because  
4           that's the way I was raised and we go use net, yeah,  
5           respectfully of the ocean. Because the law did pass  
6           saying because we was a problem, now me, as one  
7           Hawaiian, practicing what we did for 2,000 years, has  
8           become one criminal, yeah. And I give you permission to  
9           judge me. Am I a criminal for living my -- you know,  
10          the way our people have lived for 2,000 years? Am I a  
11          criminal? I mean, you can answer yes on no. Because I  
12          think I'm not one criminal.

13          I think the criminals is the guys who using  
14          injection wells, all the hotels that pumping the  
15          fertilizers into the lawns and into the golf courses,  
16          the Maui Land and Pineapple, Amfac, sugar cane and  
17          pineapple, who use pesticides beyond, before 100 years,  
18          they been pumping into the ground. All this problem is  
19          surfacing right now, yeah.

20          And we was the one, us Hawaiians, we was the  
21          one, who had to better problem because our fault the  
22          reason why the fish is depleting in these oceans?

23          I want to tell you just one thing. Back in  
24          maybe up to the late sixties, this whole west side was  
25          plantation camps. In those plantation camps, the



1 majority of people was subsistence fishermen. If you  
2 look nowadays, we no more have those camps. The  
3 majority of the people now is subsistence Foodland  
4 buyers. They go Foodland and Safeway. You get -- I can  
5 tell you we probably get, on this side of the island,  
6 less than half the amount of fishermen that there was  
7 before. And we still practice the same way we  
8 practiced. But, yet, we get less fish.

9 And so us Hawaiians was made criminals for  
10 living the way we lived respectfully, yeah.

11 We was in one contested case hearing at one  
12 time. And a lawyer told me, are you -- are you -- are  
13 you educated, did you go to college, how do you know  
14 about the ocean, yeah. I said, I never go college for  
15 learning about the ocean, anything like that, I just  
16 know. They say, well, then you no expert on the ocean  
17 because you don't know, you're not educated. But,  
18 funny, 'cause I came back, told him, you know what, I  
19 educated in the ocean, I didn't go to one college and  
20 get one degree for and say that I'm a doctor or  
21 anything, but I betcha I more educated than you because  
22 my education comes from 2,000 years of trial and error  
23 and observation. So who would know more, a person that  
24 go to college and study the ocean for five, six, seven  
25 years, or me, who born and raised in here, where I get

1 my (Hawaiian) come back from 2,000 years, yeah.

2 So, again, if you looking at me, do you think  
3 I am one criminal for living how I like live? Because  
4 we went build a pond for everybody.

5 So you know what, no to the injection wells.  
6 In fact, go beyond that, go tag all the hotels, go tag  
7 all the golf courses, Maui Land & Pine and Amfac, who  
8 was the true problem to this place.

9 And that's all I got. Different angle on the  
10 situation.

11 (Applause.)

12 MR. DAVID ALBRIGHT: Thank you for those  
13 comments.

14 And thank you to everyone for coming out  
15 tonight, for providing the comments that you did, for  
16 staying this long. We really do appreciate it.

17 I just want to say a bit about the process  
18 that we're going forward from here with. Obviously, we  
19 are going to get a transcript of tonight. We've gotten  
20 a substantial number of comments in the mail, by email,  
21 turned in tonight, a lot of public comments tonight.  
22 The EPA will need to process all those comments and  
23 concerns and start to look at this issue in relation to  
24 what we've proposed with the injection well permit.  
25 This is going to take a little while, obviously, for us

1 to do that. But as of tonight, there will be -- the  
2 formal public comment period is closing. And we will  
3 then undertake this review of the comments and make a  
4 decision on the permit, whether to issue the permit as  
5 proposed, whether to modify the permit, whether to deny  
6 the permit, just what the precise action is that EPA  
7 will take on the permit based on the comments that have  
8 been submitted, the day that it has been submitted, and  
9 the County's application.

10 So with that, I just want to thank you -- I  
11 guess we got a couple questions. Hold on.

12 If you have a quick question or two, why don't  
13 you come to the podium?

14 MS. UILANI KAPU: I just wanted to know when  
15 the draft comment period is closed?

16 MR. DAVID ALBRIGHT: The comment period on the  
17 Draft Permit, we opened that period in August when we  
18 first issued the proposed permit. It was extended, I  
19 think it was September 23rd, through tonight, to afford  
20 people the opportunity to submit written comments and  
21 then, obviously, to come tonight and submit any comments  
22 or provide oral testimony. But after tonight, the  
23 comment period is closed. That doesn't mean that we  
24 wouldn't consider information that was provided to us,  
25 but the formal public comment period is closed after

1 tonight.

2 MR. BILL FRAMPTON: Once the -- the next step,  
3 the permit will be issued? Once it's issued, is there a  
4 review of that or an appeal process we're looking at?

5 MR. DAVID ALBRIGHT: I can't say that the  
6 permit will be issued. I can say that the agency needs  
7 to take into consideration the comments that have been  
8 submitted and make a final decision. That decision  
9 could be to issue the permit. It could be to deny the  
10 permit. It could be to issue a permit that's different  
11 from the proposed permit.

12 MR. BILL FRAMPTON: Okay. Thank you.

13 MR. DAVID ALBRIGHT: If EPA or -- in a  
14 situation where EPA issues a UIC permit -- this isn't  
15 just for the Lahaina permit, but for any permit -- there  
16 is a 30-day period of time after issuance of a permit  
17 where anyone who has commented upon the permit,  
18 including providing comments at a public hearing such as  
19 this, can appeal to the Environmental Appeals Board, if  
20 they feel that is appropriate.

21 Okay. Again, thank you very much. And that  
22 closes the public hearing.

23 (Applause.)

24 (Public Hearing adjourned at 8:55 p.m.)

25

## CERTIFICATE

1  
2  
3  
4  
5  
6  
7 I, TONYA MCDADE, a Court Reporter of the State  
8 of Hawaii, do hereby certify that the proceedings  
9 contained herein were taken by me in machine shorthand  
10 and thereafter was reduced to print by means of  
11 computer-aided transcription; that the foregoing  
12 represents, to the best of my ability, a true and  
13 accurate transcript of the proceedings had in the  
14 foregoing matter.

15 I further certify that I am not an attorney  
16 for any of the parties hereto, nor in any way concerned  
17 with the cause.

18  
19 DATED this \_\_\_ day of \_\_\_\_\_, 2008.  
20  
21

22 \_\_\_\_\_  
23 Tonya McDade, RPR, CRR, CBC  
24 Certified Shorthand Reporter #447  
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Certified Realtime Reporter  
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