

**ENVIRONMENTAL MANAGEMENT COMMISSION
COUNTY OF HAWAI'I**

MEETING MINUTES

Friday, August 2, 2024

9:03 a.m. to 12:45 p.m.

Hawai'i County Building, Hilo, and Zoom

Commissioners present:

Georjean Adams, Chair; Dorothy Norris, Vice Chair

Laura Acasio, Jim Beets, Dell Otsuka, Erica Perez, Lee McIntosh, Gonzalo Garcia

County staff present:

Ramzi Mansour, Director; Craig Kawaguchi, Recycling Coordinator; Christy Swafford, PIO; Alex White, Recycling Specialist; Juliana Holzman-Escareno, DAV Coordinator; Chris Sparber, Acting WWD Chief; Alan Fukamizu, WWTP Operator; Shelise Lamb, Project Coordinator; Mike Kaha, Acting SWD Chief; Lindsay Moore, Environmental Compliance Specialist; Peter Sur, Secretary; Sinclair Salas-Ferguson, Deputy Corporation Counsel

Others present:

Sue Aronson, Mr. K's Recycle and Redemption, others.

I. CALL TO ORDER

Chair Adams introduced Commissioners and called the meeting to order at 9:03 a.m.

II. APPROVAL OF MINUTES FOR JUNE 26, 2024¹

Motion, second, and vote: Commissioner Beets made a motion, seconded by Commissioner Otsuka, to approve the minutes as presented. Ayes 8 (Acasio, Beets, Garcia, McIntosh, Otsuka, Perez, Norris, Adams). Motion adopted by voice vote.

III. STATEMENT FROM THE CHAIR

Chair Adams acknowledged the presence of Commissioner Perez. So we're at full speed. We do have a vacancy. Again, I just saw a notice go out from the Mayor's Office, a vacancy for District 5. So if you know anybody who lives there, encourage them to join EMC.

IV. PUBLIC STATEMENTS ON ITEMS ON THE AGENDA

Alan Fukamizu: See page 21.

V. UNFINISHED BUSINESS

¹ II: Draft minutes: <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=137342>

1. Permitted Interaction Group on Cesspools and Sanitation – Presentation of findings and recommendations.²

Chair Adams thanked the members of the Permitted Interaction Group. I know it's a heck of a lot of work to work on a PIG, to pull together a report, she said. And there's a lot of good meat in this. Just to go over the process, we hear the report today, it's in our public record, and then we get to discuss it at our next meeting, which happens to be at the end of August, and we will then act on the recommendations- or not- as the Commission considers appropriate. I'm assuming that it is possible for us to ask for clarification on this report? Or do we just listen?

DCC Salas-Ferguson said he would need to check on that and get back to the group.

For now, what we're doing, we're just listening to the report and digest it over the month of August as we come back next time, Chair Adams said. And then we get to ask lots of questions and argue about this, that, and the other, and then select any action follow up that we would like to make or tell the PIG to go back and do some more homework. She asked Commissioner Perez to make the report.

I'm just going to encourage those members that were a part of the PIG to add anything that I am missing, Commissioner Perez said, including anything that you think is valuable and important. I tried to sift through the meeting notes, which is also attached in the summary that was shared with the rest of the Commission. The purpose of the PIG is, and some of these things are just- I'm going to read specifically just because I want to make sure to get the language correct- depending on what the answer is in regard to the kind of questions or clarifications, we'll go ahead and wait for DCC Salas-Ferguson to provide more information. So the purpose of the PIG was to have a kind of deeper dive into the cesspool conversion process, including the financing, existing statutes, and case laws, as well as looking into the current and future needs for wastewater and sanitation for Hawai'i County as a whole. There was consensus of us not having the allotted amount of time to kind of properly go through some of these bills and plans that are in place and gather a good understanding to be able to provide a little bit more comment or recommendations as a Commission moving forward.

So hopefully this report will at least start to have a little bit more of a deep dive discussion into wastewater, be able to support DEM and the huge list that they've been taking in kind of moving forward with our wastewater concerns across the island, Commissioner Perez said. Herself, Laura Acasio, Jim Beets, and Dell Otsuka are the PIG members. We had a chance to dig deep into different types of financing mechanisms and processes that could be put into place to help the affordability of wastewater improvements and sanitation. We discussed enterprise funds, which I was excited to see. Thank you Chair Adams for sharing that information with me. I missed last month's meeting, so I was really excited to see that you folks had a chance and opportunity to talk more about the enterprise funds and trying to investigate those forms of financing. We also spoke about things like public-private partnerships, the historic contracting processes that have taken in other arenas outside of wastewater, but county agreements and

² PIG report: <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=137743>

contracts, energy savings performance contracts that could potentially help assist in the affordability of wastewater improvements, as well as franchise organizations. We had a guest speaker. Steve Holmes was able to come and talk story with us a little bit about these types of financing mechanisms. And I know has personally encouraged the Commission as well as DEM to be able to look into the potential of deploying some of these within our wastewater projects. A number of us had an opportunity to visit wastewater treatment plants and I might lean towards those that actually went to those treatment plants. At the end of the report, you'll see photographs of what they were able to see specifically on the tour. And I encourage those that did go to please maybe give more information as to where they are. I wasn't able to include the locations in correspondence to the actual photographs. What we witnessed was a lot of dilapidated equipment, a lot of corrosion and rust. Some of the systems that were there were to the point of failure and needing hand removal versus screening that would normally take place. And we were able to see several different cases where there was a possible risk to those that were managing these systems because of the equipment itself in not proper operation.

There was a number of different resources that were shared in regard to EPA opportunities that could be put into place, Commissioner Perez said. There are a number of different technical advisory opportunities that EPA is offering right now for those that are wanting to submit for support from EPA. I know that we obviously are working toward Hilo and working very closely with EPA under the AOC, the PIG had an opportunity to go see even more treatment plants even outside of Hilo. And I think that there's a large opportunity to maybe engage EPA more with their technical advisory support that's being offered. They have opportunities that would help within planning and assessment, project development, partnership and engagement, funding and financing and program management. And there's examples of exactly what that means under item 6. You can kind of take a closer look as to what topics are within those broader categories that EPA would be able to assist. Again, just with the goal of trying to move projects forward and address affordability and some of the technical challenges that we are currently seeing within our County. We did end up with a fair amount of recommendations that we would like to propose for the commission in review to be able to potentially get these recommendations moving forward to DEM.

And there was some light discussion regarding distance to public and private sewer lines, but I think that that is a still pending conversation that will need to be discussed, Commissioner Perez said. Currently it is connection of all properties within 300 feet of County lines and what we're proposing is that all properties within the said number of feet of a public or private sewer line should be required to connect. That the county should establish a connection fee for all new connections to a public sewer line. We're proposing that the County should conduct a formal legal review or interpretation of the *Konno* decision outlining its applications or misuse for private sector partnerships regarding county wastewater projects. The County should support a sewer connection special fund to provide sewer connection assistance to homeowners who have insufficient income or are financially struggling. The County should support and encourage the County Council to adopt Chapter 21 County Code changes proposed by DEM- I apologize- this went through several edits and I'm looking for one specifically. I'm wondering if it was maybe edited incorrectly or accidentally deleted. I'll just continue and I can

add it in at the end or see the appropriate way we're supposed to- The County should identify the potential of EPA technical assistance programs to address innovative financing strategies such as the enterprise fund, franchise organizations, energy savings performance contracts, and service contracts for agreements to move forward. And the County should support a water technician certification program to address the workforce shortages. We absolutely spoke toward- and I apologize because I don't see it in the recommendations and I do know that it was there, but in regards to charging connection fees, and I'm wondering if it was actually this 1 (b) that got modified, but connection fees for future development so the actual developers are contributing financially to the existing system as well as future development and assuring that future development is connected to sewer lines when accessible and feasible. So I might lean on the Secretary or the Deputy Corporation Counsel to help us address how to appropriately incorporate that into the final findings. And then we also have some things that are up for discussion. There was some further discussion needed around Hawai'i County Code Chapter 23, Section 23-85, and this has specifically to do with the Keaukaha community connecting to existing sewer lines. That was brought up by Commissioner Otsuka and we didn't have too much of an opportunity to dive deeper into that discussion. We wanted to come back to the Commission and have a broader discussion on the distance of feet from a line that would be required to connect and speak also more with the Director, identify the potential EPA technical assistance program to address innovative financing strategies, and more specifically what kind of support DEM has already reached out. I know that they also are very familiar with the program and maybe us as a commissioner can help or assist in that.

I reversed- I messed up the Chapter 23, Section 23-85 is not Keaukaha, Commissioner Perez said. I apologize, she said. It's as if they were not able to meet- Okay, so the first chapter 23 is, if a subject division cannot connect, they shall meet minimum DOH requirements, so that goes back to larger developers and potentially not connecting the ROE, which is down lower, is the right of entry number 103-11. And that, I'm sorry, is regarding Keaukaha homesteads and the connection of Keaukaha to the Hilo Wastewater Treatment Plant. So we were able to do quite a bit. There's several resources and links that are shared down at the bottom regarding the Puakō and South Kohala Regional Wastewater Master Plan, the Cesspool Conversion Working Group recommendations and final report to the Legislature, and other items that we sifted through as we were having these conversations, just to get a complete landscape view of current existing projects and needs that are on the table. And I'm going to pause and turn it over to the other commissioners that were a part of the PIG and see what I missed. I apologize for fumbling over some of this. I'm returning back from medical leave and a tad slow.

Thank you very much, Chair Adams said. That was a lot of information that you guys put together, and I'll certainly give everybody else a chance that was on the PIG to talk. I wanted to pipe in with DCC Salas-Ferguson's finding that we can ask clarifying questions but not discuss. So we could ask questions but not talk about the answers.

You can ask questions, but no making statements, DCC Salas-Ferguson said. Just ask questions, listen to the answer, but not presenting your own opinion, and that would be considered discussion. Thank you.

Chair Adams asked about the “further discussion” items that are in the report but could not be finished for a resolution. What is the status of those? Is that for discussion by the whole Commission at the next meeting for us to tell the PIG?

Once the PIG presents its findings today, it's dissolved, DCC Salas-Ferguson said. So the PIG is no longer there. The PIG is done after today, and then the Commission can go forward at the next meeting in whatever way it desires. So if there's something that the PIG didn't get to, you guys would have to establish another PIG, or there are many options at that point, but you can discuss it at their next meeting.

I think it was great, Commissioner Acasio said. I thank you for presenting. It was very thorough. We definitely dove into a lot of aspects of it. I am wondering, as far as the report, if it's possible to add more photos in the final draft, because I do have some more that I wasn't able to label and put together. And then also, like Ms. Perez had said, is to more specifically label them as to location and what we're looking at. I guess that's a question for Sinclair. Is that okay for them to append some more information for our next meeting?

The DCC said he did not get to review the written report, but no, that's it. It's done. The report is done.

So we can talk about follow up, whether we want to reinstitute the PIG at our next meeting or whether there are a couple other people that want to go off and get some more information, and we can talk about it at the September meeting, Chair Adams said.

There are a lot of options at the next meeting for the things that Commissioner Acasio is raising and also the issues you're raising, but you can discuss that at the next meeting. Today, take in the information, ask questions, DCC Salas-Ferguson said.

Chair Adams asked what the recommendation meant by “the County.”

I would say that when appropriate, both DEM as well as us as a Commission and our County Council, Commissioner Perez said. And we can clarify within the recommendations at the next round, if there is confusion.

Commissioner Beets added the Mayor's office to that list.

Consider it broad, and that's what we need to decide, if we want to take action on the recommendation at the next meeting, we can narrow it or direct it or do all of the above, Chair Adams said.

Recommendation 1(b), “The County should establish a connection fee for all new connections to a public sewer,” should be for DEM, Commissioner Otsuka said. And so other things might pertain to the County Council when it comes to different resolutions and ordinances.

That one does say the Wastewater Division, Chair Adams said. So that one had been narrowed and I was just wanting to make sure the scope of the county and I think we heard, "Okay, whatever's going to be appropriate, we will consider that part of the recommendations."

VI. NEW BUSINESS

1. Overview of the Derelict and Abandoned Vehicles program and review and comments about the performance audit (Council Communication No. 938)³

Chair Adams noted the audit report in the meeting packet and asked for an update and overview of the program.

Ms. Juliana Holzman-Escareno introduced herself. I oversee the Abandoned Vehicle section, she said. So I'll go over the audit and also give you guys a brief overview of the program, what's going on with the program now. I'll start with the audit results. So I'm hoping you looked at the audit. It did lean towards a favorable assessment. However, there were five recommendations. I'll briefly go over the five recommendations and what we plan to do to remediate those recommendations.

So, basically, the first one was **employee safety and personal protective equipment**, Ms. Holzman-Escareno said. What we're doing to remediate that is, we're currently working with our safety personnel to create a safety policy. We do have a draft out that we're currently reviewing. When the audit was in process, we did not require our staff to use safety footwear or vest while in the field. They were issued safety vests and boots, but it wasn't required. However, we have sent out a memo requiring them to use them while they're in the field. We're working with our contracts clerk to procure radios for our field workers. When they're in remote areas they have access to our clerk that's in the office. Also working on printing safety vests with the County logo so field workers are more identifiable. And then also looking into putting cameras into our impounds. Second recommendation was **reporting options for the public**. That one is a little hard because the reporting of abandoned vehicles lies with Hawai'i Police Department. So we'll have to work heavily with HPD to figure that out because reporting does go to their dispatchers, because we need to have a police report before we can tow the vehicle. Third recommendation was **policies and procedures**. Though AV does have admin rules, it seemed like the auditors wanted to see more procedures on what each position did. If you're a clerk, what does a clerk do on a daily basis? How do they do the job? So if somebody new comes in, they can do the position with minimal help. So we're working on that. The fourth one, **inconsistent auction processes**. Basically, what they were leaning towards was our auction schedules. And that's kind of the one that I didn't agree with because for us, we can't pre-schedule auctions because we don't know what inventory we're going to get. We don't know if the vehicles we get are going to be auction-able, so we can only schedule auctions when we find fit and when we find it's in the best interest of our section. However, for the past two years we haven't had auctions, not because we don't have the vehicles, but because we didn't have staff. As of June, we did hire a West Hawai'i coordinator. So we are fully staffed now, which is

³ VI.1: DAV Audit - <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=0&id=1080749>

great. So we do plan to hold an auction this fiscal year. And then the fifth was **lack of cross training**. So my position is new. This supervisory position has only been in existence for a year, and I'm the first to fill the position. So nobody has been cross trained to do my position because I've been helping with the vacant coordinator position, so I haven't had time to train anybody. But our DAV clerk is fully trained to do all aspects of the coordinator job and she can also do some aspects of the specialist job. And our senior coordinator is trained to do some clerk work, but is not trained to do any of the specialist work. So if with that, as far as auctions, that's all I have as far as what we're going to do to remediate. If anybody has questions, I can take the questions. If not, I can go on with the overview of the program.

Commissioner Otsuka said that with recommendation 1, is there now a new set of procedures in writing for DAV, and what did you do to comply with the recommendation from the audit?

We have a draft safety policy that's currently being reviewed by the department now, Ms. Holzman-Escareno said. It has to go to DHR after we review it.

On recommendation 3, Commissioner Otsuka asked if there is a set procedure.

No, Ms. Holzman-Escareno said. That's what the audit recommendation was. We have our DEM rules, but we don't have detailed policies and procedures in writing.

Commissioner Otsuka noted that on recommendation 4, there were already vehicles in your inventory that maybe could have been auctioned off.

Yes, but auctions take a lot of manpower and we didn't have that manpower, Ms. Holzman-Escareno said. We should be able to do it now.

Vice Chair Norris said that recommendation 3 was about setting down admin rules, and that would include employee protocols and that sort of thing. And that could facilitate your No. 5 of the cross training. It could allow you to have a checklist of things that people are trained in and also to ensure that they know the proper procedures for everything.

Chair Adams said DAV received some nice compliments from the Council, and I think everybody appreciates the program and you never can do enough fast enough, but in general, everybody's very impressed. So we thank you for that.

Commissioner Beets asked what Maui and Kaua'i counties do with their abandoned [vehicles]. It stated in your document that those counties do not hold auctions.

They just scrap the vehicles, Ms. Holzman-Escareno said. They recycle them. They don't offer for the public to purchase the vehicles.

Commissioner Acasio asked about a potential expansion. I do hear that they are currently understaffed, or at least building in that capacity. Wondering if there is potential for more of a parts recycling and scrap sales for parts, or if that's also incorporated.

Our vehicle disposal contractors are allowed to part out the vehicles, but they cannot sell the vehicles as whole, Ms. Holzman-Escareno said. She continued with a general overview of the program.

So I'm just going to give, during the past fiscal year, what we've been doing, what's been going on our numbers and whatnot, Ms. Holzman-Escareno said. Just so you can understand how busy we've been. As you know, we did start the free Vehicle Disposal Assistance program. So we do offer the two vehicles per year per property owner or registered owner. It's been pretty popular. Last fiscal year, we received 707 applications, and of those, 500 have been towed. I don't know if you have heard advertisements on the radio. The local businesses are kind of either doing real cheap tows and disposals or doing it for free too now. So I'm expecting maybe this program will slow down because we do require paperwork, whereas I'm not sure what the private businesses require. It may be a little bit easier for them to do it that way versus our way. So I'm going to be looking to see how that affects our numbers for this VDAP. So as far as abandoned vehicles, last year we received about 2,500 reports. So that's how many reports we investigated. But of those, only 1,600 were towed. So we're still doing beautification projects with the Hawai'i County Police Department. Most of these have been in Puna. Did a few in Hilo near Lanakila housing. Also planning to go to Miloli'i sometime next week. I got a call from a resident down there about some vehicles being down there, and they kind of want to do a cleanup down there. So we're finally fully staffed. Looking hopefully to do more outreach to the public. I know that was one thing in the audit, too. They wanted us to do more outreach. So we're definitely going to start doing more outreach. And that's basically how what our program's been doing.

Alan Fukamizu asked about the auctions. When the county auctions off county vehicles, is this the same auction that they use for these abandoned vehicles?

No, two separate auctions, Ms. Holzman-Escareno said.

Mr. Fukamizu asked if it could be merged into one auction.

These are different because we do bills of sale, Ms. Holzman-Escareno said. They come to our impounds, do the auctions, our staff are on site during the auctions. Whereas, if I'm not mistaken, the County auctions, they're at the different base yards and the public has to go and do their own kind of view of the vehicle. And we don't let anybody go inside our vehicles or open any hoods. So just the structures of auctions are a little bit different. We can look into it, but we've, we've never had discussions on combining the two auctions.

Thank you very much and keep up the great work, Chair Adams said.

Director Mansour wanted to thank Ms. Holzman-Escareno for doing a marvelous job with the DAV section. When we first started, we only had her and one for the whole County. So we fought hard to get additional staff. I don't believe we are fully staffed yet, but I think she's still doing a good job of what she got. I understand the need. So we're going to keep monitoring the needs, especially when we adopted the VDAP program. That's going to add to her workload as well. So, you're doing a great, excellent job and thank you for that. And also remember, we only get \$12 per year per vehicle. It would take about 40 years just to recoup the hauling or the towing cost per vehicle. So eventually that may need to be changed. But I keep planting the seed to make sure that. Still a live discussion as well.

2. Discussion with the Director of Environmental Management regarding Hawai'i Functional Equivalent Discharge Strategy Workshops hosted by the Department of Health.

Director Mansour shared a link⁴ to the workshops in the chat. This was our third meeting and we're going to continue meeting with the groups, he said. The groups are consisting of EPA, DOH, EarthJustice, and all the counties, and of course, the consultants. The link shows the different slides for the May 21, July 2, and July 31 meetings. And it's a lot of work that we try to navigate, the counties and the Department of Health and EPA. And we're trying to navigate because this is a new, different type of NPDES. How could it merge with the current NPDES? Because the easiest way for me to describe it is direct versus indirect [discharge]. Think of it as, you have a body water connected to another body of water with a straw. So the transportation of one water to another through the straw, that's direct. So when you take the straw out, then that becomes indirect. So you have to go through the "functional equivalent" to determine how the first body of water, which is, let's call it a waste treatment plant, connects to the second body of water without the straw being in the middle as a direct. EPA laws and DOH over the decades, they are designed, even the current NPDES form, is designed to allow for direct discharge. But after the Maui lawsuit, now the indirect became the functional equivalent. So what they saying, even though it's indirect, you still have to go through the exercise of functional equivalent, which is distance and time traveled. So if you have two bodies of water, a waste treatment plant and the ocean, and you have a distance in between, and that connectivity or the nexus between the two points could reach out within years, five to 18 months or whatever, then you'll be subject to NPDES. But if it takes 20 years, you may not be subject to NPDES, even though eventually we'll make it there.

So it's, it's a bit complex trying to navigate this water with trying to cover effluent limitation, monitoring and reporting special conditions and standard conditions between the current NPDES and the future or upcoming NPDES, Director Mansour said. It's not future, actually. Maui County has submitted a draft NPDES for their Lahaina treatment plant because that's the one that was under scrutiny. So we're going to have more workshops to be able to navigate through the permitting writing, versus how we're going to navigate through solutions. The bottom line is to encourage reuse, and that's been always the case. If you could find a better reuse for that water, treated water, why not? Why do we need to dispose of it in a way we dispose of it now?

⁴ Discharge workshops: <https://health.hawaii.gov/cwb/announcements/2024-fe-discharge-strategy-workshops/>

So that reuse will become an option to consider as part of the studies. So that's an overview of the last three meetings, but it's going to continue. But what I would like for the Commission to do, because I do represent the County in this meeting, is to review, get into the link I sent you in the chat, and see if you have the time to over go over the slides that we had over the last three meetings and if you have comments so I could relay these type of comments in my next meeting.

So it's very unique and interesting discussions, the Director said. I try to throw in as many questions as I can. If you have the chance and the time to review the slides, because there's going to be a lot of challenges. Because they are even thinking percolation requires NPDES, which is to me new territory. So every leach field on the septic tanks potentially may require NPDES. So if you have the chance, review these slides. And I would love to hear from you because we were talking about the zone of mixing, dilution requirements, diffusers, et cetera, of the water quality. How would you set up the limits? Where is your receiving body of water? Is it the groundwater or is it the ocean or is it both? Where would you discharge? Where's your point of discharge? Where would you start your sample? How would you trace your contaminant? How do you know they are your contaminant, not somebody else's contaminant? So there's a lot of challenges that I've been asking, trying to navigate a more site-specific analysis rather than one size fits all, because as you all know, if you worked with regulations, usually they end up writing regulations to have the intent of one size fits all. And they deprive municipalities and consultants from exploring site-specific and site cases and what have you. So hopefully we [can] direct that discussion to that. That's why they came up with the idea of General Permit versus Individual Permit. So if you have a site specific, you may choose to file for Individual Permit rather than a General Permit. So that discussion is going. It's a good thing that we start talking about it. It's a good thing that reuse is being brought to the surface, especially on the west side as we have dry climate. And even on the Hilo side, if we could find usage to any of our treated effluent, that would be the ultimate solution. With that, I'll take and entertain any questions, but please take the chance and the time to go through the slides. For the last three meetings, it seemed like Department of Health promptly shares these website links because the stakeholders and the public need to know the direction where the state is taking this.

I appreciate it, Chair Adams said. Just to get a flavor for where you are right now, you were saying the indirect equivalence is a function of distance and time. How close equivalents are they talking? I mean, you gave the example of some places in Puakō, it's 5 hours to go from the cesspool into the ocean. And if you've got a pipe for a direct source out of a wastewater treatment plant that's immediate, are they talking within minutes, hours, years, decades?

I think it's a good question, the Director said. And that's the question everybody's asking. Where do you draw the line? They were talking within two years, 24 months period. And you don't know what happened in between. But if you have direct, like Lahaina, was within months. So. And they were able to detect the dye when they did the testing. Their answer to that was there are some studies and maps accessible to the engineers and public that define areas that potentially have seen some connection between wastewater and shoreline. And they said you

could start with these studies and figure out if your area is within these studies, then you could assume that you're already within that requirement of NPDES. So the discussion is going to continue. I went and reviewed cited cases within the United States. I believe I was able to find four cases, and some of them are on the mainland as well, where for a mining company that allowed percolation and they were discharged. They told me they got sued, and they said it doesn't apply to you because companies use basins to allow the water to settle. Some areas you could reach the water within 12 to 18 months, and then as long as there's that connectivity within that short period of time, then it may be considered. So it's case by case, and if people want to fight it, then they have to take it to court and let the court decide, what is the time? Because for EarthJustice and others, they were just, everybody get an NPDES or everybody goes to reuse, and that way, at least everybody will be able to monitor the quality of the effluent rather than not knowing what you've been discharging and where it goes. There are pros and cons to that argument. It's the time, the resources, and to what extent are we talking about every possible leach field, every possible discharge point, every thing. It's a unique discussion, but good question. I heard so many things said, yeah, maybe the court will decide on case by case, but do people have the money to fight every case by case?

Commissioner Perez asked, when you folks are looking at this, is it specifically just the discharge component? The Maui lawsuit was started from the actual injection well itself and the discharge of the utility. Or are you folks also discussing the potential of the whole system, including transport, including pumps, just in recognition that a lot of our infrastructure sits around our shorelines? I've seen infrastructure from a home scale install that directly interacts with groundwater and the ocean. And so is the system being looked at as a whole and the potential discharge of just making it into a large body of water, or is the discussion a little bit more focused on the discharge methodology?

There are five components to any NPDES permit, the Director said. You have first, the (CFR 40 Section 122.45(f)(1) limitation, which is technology based, water quality based. So when you know, because it's really, what are you discharging to that body of water within the water quality standard? And how you treat that effluent and to what level you treat in it to be able to control the limits of these pollutants and nutrients? Because you have pollutants, you have toxicity, you got a nutrient. So all of these kind of work on the current technology you have at your facility to be able to treat your wastewater to that level of standard. And there's many multiple technologies. So part of it, and that's why I was telling them, you cannot just ignore current infrastructure and facility and what they could deliver versus new technology. And if there's a new technology, to what level are they capable to treat to be able to meet certain standards? And also you have the monitoring, reporting in special conditions that requires you to comply, utilize risk management practices, and do more monitoring as needed and required. So all of that put together kind of addresses the need for NPDES. So they are really concentrating on the discharge under the Clean Water Act, which is to protect the drinking water or ocean water, what have you. And through the NPDES permit and through the outcome of your facility, that discharge of the (f)(1), you link the facility, because if your facility is failing, then you're not going to be able to meet your effluent standard. Therefore, you have to improve your facility. So they don't have a direct discussion about facilities. No, you have to do

this. Usually, NPDES is for discharge. It's driven for effluent limitation rather than equipment, infrastructure, type of enforcement.

There are also discussions around, the portion of, is it the leach field that is also- and I get the leach field is on that back end of discharge, Commissioner Perez said. I was just curious, knowing the pump issues that we've seen across the island of just transport in general, making its way to the environment. And so that's why I asked the question. And then I just had a very, just one quick overall question is how many other states use injection wells for disposal?

The intention of injection wells is to recharge your groundwater, the Director said. In California, for example, it's very usable to allow you to recharge your groundwater because of droughts and what have you. So you don't want to drink water after [it] gets treated out of the waste treatment, right? Just the perception. So what they did, they start doing a recharge of groundwater by having injection wells that take these tertiary treated effluent and allow it to either through the injection well or through natural attenuation of this geology in between the two bodies' surface to allow that mixing and eventually that water through natural attenuation gets treated more than at the point of discharge. And people have the tendency to overcome that perception, right? Because now it's a groundwater being pumped to the surface and being treated again through these water utility districts for distribution. And it makes me wonder with this lawsuit, you know, is as long as they use it for the purpose of recharge and far away from making it to the ocean, I guess it's case by case specific.

You could still have injection wells here in the State of Hawaii, but you still have to prove that the functional equivalent doesn't exist, the Director said.

They were considering distance from the receiving water as the criterion of whether you need an NPDES or not, Vice Chair Norris said. Is that correct?

That is correct, the Director said. Distance and travel time. You could be a mile away, but if you got multiple aquifers or if you got lava tube and the water decides to meander or exit somewhere else, that mile could take probably years and years or it may never make it to the ocean. So they do consider travel time, not only the distance.

Do they consider volume and the hydrology of the area that they would travel through, Vice Chair Norris asked.

Yes, the Director said. You have to get an idea of the hydrology to be able to figure out how it's going to meander. The State of Hawai'i doesn't really have groundwater intensive regions- I guess they may, but I have seen it more detailed on the mainland where you have the groundwater profile maps for the entire regions where you could see the direction of the groundwater and the aquifer. And because groundwater is a major, major topic for any state. Right. I mean, this is major resource. And there's a lot of science went behind studying aquifers and groundwater surfaces and profiles. And here are we trying to put our hand, but I think it's more restricted trying to coordinate with different department's waters versus wastewater. It

just, part of it is for security purposes, it doesn't exist. So. But you need to be able to map the plumes and the hydrology and the gradients and understand how the water below ground travels.

And the amount of filtration or that sort of thing before it gets to the receiving water, Vice Chair Norris said.

You have to consider, from a technical engineering point of view, analysis or science, you have to consider all of these, of course, the Director said. And like I said, if it's injection well, it's direct. Think of it as a straw connecting the surface of groundwater to your wastewater, treated wastewater, and just straight transmission. But if you're going through geology, if you're doing it like we are doing in Kealakehe, which is open sump, then there's unknowns between the point of discharge to the receiving water because you could have a lava tube that could keep turning around and taking a different direction.

Chair Adamas directed the Secretary to send an email with the Director's link to the slide deck. It boggles the brain if they really want to get into NPDES on every spill you make on the ground, she said.

3. Discussion with Wastewater Division regarding Wastewater Treatment Plant Emergency Spill Prevention and Response Procedures:
 - a) Status of written operation and maintenance procedures at Department of Environmental Management facilities;
 - b) Public communication and notification procedures;
 - c) Applicable requirements under Administrative Order on Consent (Docket No. CWA-309(a)-24-003), specifically the spill response report due July 1, 2024;
 - d) Plans to ensure safety and compliance.

Chair Adams said this is somewhat a follow up to the discussion that happened last time. It wasn't on the agenda, so she put it on the agenda officially, and that is discussion about wastewater treatment plant emergency spill prevention and response procedures. There was some verbal information provided last time, so I wanted to get a little bit more detail. And if you want to provide us with some follow up documentation, we'd love to get that as well. But these were my series of questions, Chair's prerogative. We had the Hilo spill and the Hilo spill may be an example to use for the issues, but I'm more interested in the more generic issue of just as we had with the DAV audit, the concern about, do we have written operating and maintenance procedures, SOPs, as they've been called for our wastewater management facilities, wastewater treatment plants, and then the issue of, how do those procedures detail who needs to be called what and when, in terms of other agency contacts, but particularly for the public. The third item was, does that AOC that we just got for the County have some specific things that you have already done or will be doing? I read that there was some report that was due July 1 dealing with spill response issues. And then last but not least, is the continuing focus on plans to ensure safety for the employees at the plants, safety for the public, as well as compliance. So that's kind of the picture that I'm after, and they are a pain in the butt to write. But SOPs are helpful for training people, for reminding people what we do, for

evaluating the operations that you have and whether you need to make some changes to beef up how things are operated and maintained. The Chair asked Chris Sparber to discuss further.

Chief Sparber said that for Item 3a, which is the status of written operation maintenance procedures at DEM facilities, per DOH standards, we are required to have operations and maintenance manuals on site. We are going through this transitional period where we have a consultant under contract and hired to help us do some operation maintenance plan updates at our treatment facilities and our pump stations. Those manuals do get superseded by various repairs, equipment becomes obsolete, and it does take a good amount of effort to keep all of those manuals 100% up to date and always incorporating all the operational nuances that get detailed. Currently, we do have procedures internally that are written, SOPs for various portions of the work, but then somehow some are outdated and due to constraints, potentially have not been updated. But as a general rule, procedures are to have these in place. We are aware that a couple of our facilities need their manuals updated and returned because sometimes that they get taken away from that physical facility and moved to another, more of a base yard facility. And DOH is very clear that it is required at the specific facility. So as far as our procedures, that's what we have. We're implementing, we're in the process of implementing our asset management system where we're scheduling our preventative maintenance schedules within the asset management system. So the system itself is able to have self automated, "hey, we need to go clean and check this pump." So, we know that we need to do it every two weeks. So the NexGen system does have that capability to do that. And we've been programming a lot of that in so that that can be accomplished. And also too, that system also allows us to document, "hey, there's a hundred work orders that are open. They're preventative work orders. And look at our vacancies. We have six vacancies that aren't filled." So we actually have documentation that says, "hey, there's 100 staff hours here that of things that really do need to be addressed." But we haven't been successful in finding operators or recruiting operators or other classifications that can do that work. So there is that aspect.

In terms of item 3b, Chief Sparber said, public communication and notification procedures, currently, if we end up with some type of an event that requires public notification, the public notification is managed through our public information officer. Now our PIO came on board four to eight weeks ago. She's been with us for a couple months now. And so with her on board, we were able to funnel all of those things through her operations itself. I'm required by State law to immediately inform DOH and when spills occur or certain events happen immediately when I have essentially a working knowledge of the status of the event. Once we have working knowledge that means your estimated spill volume, actual parameters of the event, then you have a means to communicate with DOH and provide the notification. I've also sat down with Civil Defense because Civil Defense has their own notification platform, and in certain events, we will coordinate that information through our administration, and then our administration can work with Civil Defense and the Mayor's Office.

Regarding 3c, Chief Sparber said, applicable requirements under our AOC specifically for spill response, that was due July 1. Per our spill response plan, the specific AOC requirement for that was that we shall develop and submit a spill response plan for force mains and gravity mains.

The spill response plan shall be developed with regional considerations and include procedures for immediate response to contain spills and minimize spill volume, standard procedures for estimating spill volume, standard operating procedures for reporting spills. So that's the specific language within our AOC. So we submitted our spill response plans to EPA. I think it was June 30. That submittal consisted of ERP 01. So that's our emergency organization. So that's the structure. That's our standard operating procedure for what position does what during a spill. So, for example, and I can release these following our meeting. But what that does is that defines the roles of the response. What are the expectations for the Chief, the Deputy Chief, Supervisors? Then we maintain an ERP 02, which is our emergency evacuation plan. This was developed, it used to be the facilities would use chlorine gas. We have since switched to a safer chlorination method, being hypochlorite. But previously, if the chlorine gas room had an issue and you got a leak, everybody just better get out of the plant and run the opposite way that the wind is blowing, because it was a challenging system, and it was very common. And then a lot of the utilities, including us, have completely moved away from this because there are much safer alternatives. And so what we did is we kind of overhauled this to mainly say, hey, if there's a structure fire at our facility, if there's an event where we need to emergently evacuate, we have a rally point, a point where we can meet, and a specific process for communication to ensure that everybody that was at that facility got out and to identify those who potentially didn't.

Then ERP 03 goes through our sewage spill and bypass, the Chief said. So this procedure is fairly detailed because we have a couple different flavors of sewer spills. I know it seems kind of like well, sewer spill is a sewer spill is a sewer spill, but really it's not. Sewer spills, depending on volume, where it is, what it is, how it is, maybe to the public it's the same, but to us internally it's a little different because, as every facility has a unique permit, and unique requirements. So we have a couple different things. So we have spills to surface waters, groundwaters only, bypasses, and upsets. So, within an NPDES permitted facility, if any part of your process gets bypassed and it causes a discharge or an exceedance of your discharge limitations, essentially that is reportable. And there's a procedure for doing that. And then if you don't have an NPDES permit, then there's a different procedure for that as well. And then we have underground injection-controlled facilities as well as the sewer spills that occur within the collection system. So we have different procedures for different events, and that's outlined in ERP 03. Then during emergency situations and things, when everybody's scrambling around, it's always good to have facility information. So essentially, what is your bypass plan at this facility, if you're station fails?

So you don't want to be thinking about that at 2 o'clock in the morning when it happens. You want to know that. Usually you want to know kind of what your plan is ahead of time. So we've prepared ERP 04 with that in mind. So we can say, hey, at this pump station, we can use this generator or this trash pump if this happens. And that type of, that type of plan. And so we maintain that document as well. And then something else was our force main failure. In the past, Pua Force Main has failed in the most inconvenient location, being within the airport in Hilo. And so after that event, the ERP 05, the response plan for Pua, was developed. But we took this plan and developed this a little bit further in terms of more recently, for all force mains. If you have a force main that breaks, we've had issues with various force mains. Here's

our process, this is what we'll do. And we'll go that route. So all that was bundled up and sent into EPA, and EPA has since responded and has identified that they agree that these plans meet their requirements. So that's the current status on that.

Chief Sparber expressed that these ERPs are living documents. My goal with our emergency preparedness activities is to review these consistently, whether it's a year, every 18 months, or every six months, and keep them more current than what was maybe potentially done in the past. That's our current goal. Item 3d involved plans to ensure safety and compliance. In my mind, safety is a program. It's just one of the programs that wastewater needs to do in terms of keeping staff and the public safe. We're expending effort in going through our facilities and updating, various aspects of our on-site first aid, first response equipment. Also we're ensuring that, we have an audiometric program for our division. The county does have a countywide audio metric monitoring program, but we want to make sure that ours fits our needs and everything. I know that some things have been brought up with our lockout tagout program. In terms of, we think about lockout tagout, it seems that there's tremendous focus on the electrical aspect, but in reality, that can be expanded to other things such as valving or other areas. So we're going to be looking at that. We have an online safety training program. So I believe it's about an hour a month that staff go through a specific set of training refresher courses. It's set up by our safety program coordinator for the Department. Compliance can be everything from tracking our AOC deadlines to your ground storage tanks to NPDES permits, DOH requirements. So as far as compliance goes, I guess I can break it down into a couple different areas. So compliance at our facilities, Hilo, for example, and maintaining the NPDES permit compliance, I have staff, lab staff, and internal engineering staff that prepare the reports, that have everything documented into a schedule. And we have a regimented set of forms that we submit for the various compliance submittals. There's different processes for our UICs, for our NPDES, for our HAR 11-62 facilities. Then internally on the AOC side, like I've mentioned before, we have three separate AOCs. We have a pretreatment AOC. We have the countywide AOC, and then we have the AOC for Nā'ālehu and Pāhala. So the countywide AOC and the Nā'ālehu and Pāhala AOC, those have reporting requirements as well as capital improvement projects. So each capital improvement project has a master schedule. And we continuously meet to review that master schedule for any sort of event that would cause us a critical flaw, or I think that the term within Wastewater Division is "fatal flaw," something that threatens the schedule. Then the countywide AOC has programmatic requirements. So our programmatic requirements for collection compliance, for collection system expansion, for Emergency Response Plans, for Operations and Maintenance. So we have a big table of those requirements, all the dates. We're developing master schedules for each of the programmatic requirements. Those are all not complete at this time. Our asset management group has a critical path implementation schedule that has been drafted. We have not baselined it yet. When I say baseline, I mean that everybody feels comfortable that we can meet the deadlines on that schedule and then we baseline it and we move on, and then it goes into the implementation. And so, we have the collection system assessment schedule, which we still need to do, and we still need to hammer out a couple of the specifics of our annual reports to EPA, which we're going to be doing for that particular AOC. And then the pretreatment AOC, I think as far as that goes, compliance with that is a challenge because as far as that is concerned, there's a lot of moving parts with our ordinance as well as getting to, the actual sites to perform

what needs to be done. And that's been challenging for us. As for other areas of compliance like our, underground storage tanks we have the permits and then within that, various inspections and on site records. Are there any clarifications that are needed?

Chair Adams said there's an awful lot in there. I have been impressed with the approaches you guys are taking as far as compliance requirements and planning and scheduling and all, Kelly Hartman's program management, you're doing a good job of getting on top of it. I think the two areas of concern. One is worker safety and community safety. If the facility fails, the neighbors are going to feel it, too. But first off, the importance of employee safety. And I realize we've got a set of old, held together with duct tape facilities in Wastewater Division, and it's hard to talk about having standard operating procedures when a lot of things were fixed over the years and maybe not fixed so well. And we've got plans. We're going to be replacing this plant. So spending a lot of time documenting procedures, it takes away from that effort when you guys are so understaffed. But the idea that people need to know what do I do and when? Who do I talk to and when? What is the equipment I'm supposed to be wearing? That whole concern with safety is never ending and is changing, and we may hear some thoughts on that as well. So the AOC is going to drive a lot of the compliance issues and preventative maintenance and focus on our management of wastewater. But there's also just the facility as it exists today, and what should they do to keep themselves safe. So working on written procedures, I'm glad to hear that you've got many of them started or have a contractor who's going to be working on it. And so just from my view, restating the importance of that, that it needs to be done along with all the other stuff you've got to do. The other area that I'm not sure I heard enough of is around public communication. When there is a spill, how do people find out whether or not they should be concerned? And it may not be entirely DEM's role. It may also be DOH or other parties. And just what that process is to make sure that when there is an "oops," that it gets communicated to anybody who has a stake in their own personal safety.

Chief Sparber said that regarding the spill response, once I have working knowledge, immediately there's a call that goes to DOH. That's stipulated in the law, and then after that, we immediately notify administration and start working on the press release. And then that goes to the public information officer. Then from there, then the information goes out through whatever necessary channels. Usually there's a press release through the media. There are means that DOH uses. I can't totally speak for DOH. I think they put out advisories as well.

Vice Chair Norris had worked on public notification with San Francisco, and it seemed like it did not require other agencies. Once a spill was known and went to receiving waters that had public access, a public notification of posting up beaches and that sort of thing was implemented immediately so that the public could be protected. Even if there wasn't a real danger, at least they could be alerted to the possibility of a spill affecting their health. I wonder if your SOPs would cover something like that.

Chief Sparber said we immediately go out, we post signs, and we're immediately sampling and reporting that data back to DOH until they tell us that everything's fine, no need sample anymore. And so that's the immediate boots on the ground response, is that we're posting

signs, we're out. We're doing that. So that actually happens simultaneous to when I'm calling DOH, to when I'm letting administration know and preparing the press release and that kind of stuff. So those things actually happen in parallel. And the way that the emergency response procedures are designed is generally the acting or current deputy chief is the one in the field managing the field response in parallel to the chief who's managing the communication with administration with other jurisdictions.

Commissioner Acasio said the biggest concern for us in our oceangoing community, is that that response is really slow and that a spill may happen on a Thursday, and notification in the press is not out till Sunday, Monday, and there's a lot of people using the ocean, camping, living in the vicinity. I know oftentimes you point to DOH as far as the obligation for signage, but is it possible to incorporate that as well into the response of the County? And so that timeframe is more realistic in terms of protecting safety, speeding up that process. How does the EMC or the County speed up that? I mean, how does the EMC help, if possible, to help speed up that process or address that issue in lag time?

The county does post the signs, Chief Sparber said. We notify our operators and our sewer collection system maintenance staff will go out, and we have maps of the areas that we post the signs and we put up the signs. So that is part of the response. DOH may do their own thing, but immediately the County is posting signage.

Commissioner Acasio said in her experience there have been spills from Pāpa'ikou. For example, I've surfed Honoli'i for 23 years, and I've never seen a sign posted at Honoli'i. It's not very far away. I'm assuming that, in terms of DOH testing, often we're told that it gets tested. There's only one person testing the whole island, so obviously not necessarily going around. Although myself, I participated in Blue Water Task Force with Surfrider Foundation, doing our own lab testing through University of Hawaii. And there were exceedances often, but again that was more on the citizen science. And I think Commissioner Perez could also perhaps speak a little bit to that. But I've never seen anything posted at Honoli'i. It's not very far away. And same thing with a lot of our family surfs at Pāpa'ikou Mill, which is literally underneath the cliff. And I know it's more anecdotal, but that's not the feedback that's coming from the community.

I don't have a response for that at this time, Chief Sparber said. I think that I would take that as we need to sit down and have a look at our sign plans in that area. And potentially there's a better solution, because that's concerning, that you've never seen our signs in that area.

It sounds like if you've got some maps, there might be some opportunity for community inputs, Chair Adams said. And maybe that's something we can help sponsor or something to work with your new PIO.

Commissioner Perez thanked the Chief for this information and opportunity to talk about safety, both to our communities as well as to county employees and staff. I also spent a great deal of time on the shoreline, and I also don't tend to see a lot of signage posted in regards to water quality. I spent the last two years running Hawai'i Wai Ola that samples Keaukaha as well

as two sites of Hilo Bay, and can recall a small handful of times I've actually seen Department of Health signage in regards to water quality. What are some of the timelines of response to these processes that you say are set up for notification. And is there a bridge that could be established between county communication and Department of Health communication in regards to public awareness of our water quality? I feel like I consistently hear from both ends, from Department of Health as well as county folks, in saying, well, we don't sample that area or we don't have understanding of water quality in that area. And to be honest, I feel it's our kuleana to understand the water quality that we're discharging effluent into and operating wastewater technology around. So if you could touch on maybe some of those timelines, as well as maybe some bridges between Department of Health and County DEM that could assist in public safety.

So as far as bridges between Department of Health and DEM, Chief Sparber said, we have a good relationship with them. When a spill to receiving waters occurs, I will call them directly and talk directly with the Chief and we'll detail our response and what happened. And then she has a water advisory website that they post to that that's used. So the other thing is that we will also say, this is our sampling plan for the receiving water, and then we get concurrence on that. And I feel like we have good communication. I think that the challenge is in terms of providing the information, getting all the information, having that all together in a spill situation sometimes takes a bit of effort because you're immediately working to stop the spill.. So sometimes, estimating the spill volume, getting the response together to get signs out, it might be 25 or 30 minutes before you have all the pieces of information to call DOH with. And so you can call DOH to say, there's a spill, but it's challenging to create the response without the other pieces of information. I think that as we are updating our facilities, we're going to have additional monitoring equipment, methods, different things that will help us increase the reliability of our facilities, as well as get to having all of the information to provide to DOH faster in emergency situations. And sitting down with DOH and looking at ways that we could improve our communication and speed at which we communicate is also a good avenue for us to evaluate. As for timelines, in the case of receiving waters, it's laid out in the ERPs. So, with respect to notification of DOH, once you have all the information is immediate. And then following the press release, comes out of within 24 hours of the working knowledge of your spill. And so those are the timelines for that. There are other different events that trigger different timelines, but our goal is to provide the public the information as soon as possible and ensure that it's correct and we have the appropriate response in place for the public safety.

Chair Adams asked if commissioners could access these ERPs. Not that I want to dive into every nit and pick, but I think just to skim it, to develop some comfort level, that, yes, there are procedures there and when we ought to be able to see things. We'll do that.

Commissioner Otsuka shared the sentiment with her other commissioners and thanked Chief Sparber. The SOPs will be continually evolving, and you're going to include that, and with that inclusion, you're going to also have, like, JSAs, job safety analyses, for every employee and have a record of that, and then working with the operators at these little plants like Pāpa'ikou and Kula'imano, because there are issues that they deal with every day. So some of their input

would be real critical in when you're working on your SOPs. So that was just my take on that, because, we cannot always rely on the consultants to give us what we want to hear or what we ought to know. It's the people actually out there working under the conditions that they are having to improvise where they need to. So I think they're critical in helping you set up SOPs.

Commissioner Garcia asked if WWD conducts drills.

We don't typically have the drills, Chief Sparber said. We do offer training for various procedures as far as setting up the pumps, getting the generator set up, because those are used for maintenance as well. There may come a time that we have specific tasks that require those pumps or different things, or we get a new pump if we want everybody to be familiar with it. But as far as drills, not at this time.

Commissioner Garcia suggested WWD consider developing some drills for some of your higher risk scenarios and actually train them and then do lessons learned with your staff and field response teams and all that stuff. I have found them to be incredibly valuable in my professional practice, he said.

That's a great point, and thank you, Chief Sparber replied.

Mr. Fukamizu asked about the spill. From what I understand, DOH has outlines regarding the communication to the public via radio, online, and also publications, he said.

Correct, Chief Sparber said. DOH does identify that, there are specific entities that are to be notified, and that's within their rules. It's HAR 11-62.

Mr. Fukamizu noted the spill reporting didn't include the gallonage till Sunday. Was it not calculated or was it just not provided to DOH or the respective entities for communication?

The gallons were provided. They were provided in my initial call to DOH, as well as in my correspondence with the other folks, Chief Sparber said.

Mr. Fukamizu asked about the corrective action of the spill. What type of corrective action was put in place and when was it put in place?

Chief Sparber said immediately the spill was stopped, within the facility. The operational parameters were adjusted. That ended the process bypass.

I'm speaking about as far as preventing it in the future, Mr. Fukamizu said. Was there any type of, right after the spill, any type of operating procedure SOP put in place regarding the valving or anything? Or if so, when was it put in place?

At this point in time, we have no approved SOP in place, Chief Sparber said. But you bring up a good point in that we will develop one.

And as far as spills go, when it happens off hours, who would you communicate with, Mr. Fukamizu asked.

Chief Sparber said it would be communicated to himself and then to the DEM Director and Deputy Director. They're on call 24 hours a day, and then they would provide direction at that point. Department of Health doesn't have a 24-hour number. So they are communicated to at the next working day. And in that case, we may need to evaluate using our Civil Defense means. An off-hour spills would be reported to the state hospital system.

Mr. Fukamizu then proceeded to provide his oral testimony:

Alan Fukamizu: As far as the safety goes, everybody knows the facilities are aging, but my concern is, on Monday, we had an operator fall through the grating at Kula'imano treatment plant, the steel grating, and so a lot of the grating is aging, and some of the grating, we do have it say at the Hilo treatment plant, and I think some of the other plants is fiberglass that's out, directly in the sunlight. And it's aging, too. And I know we had another operator years ago fall through that, so it's something, I think, that needs to be addressed, too, as far as operator safety and maybe tours with the safety go through these plants.

4. Discussion with DEM regarding Inflow and Infiltration of water at the Hilo WWTP system and Wastewater Division's efforts to address it.

(Postponed to next meeting)

VII. REPORTS/CORRESPONDENCE

• Director's Informational Report⁵

Director Mansour thanked Chief Sparber for his presentation. He added that the Department has invested quite a bit of money into getting TargetSolutions safety software that could allow staff members to log in for an hour, once a month, to be able to select any safety topics that are assigned for the year, and take that online course. And they get a certificate printed out for them. The software could enhance the safety protocols and safety training to our employees. It's a great tool. Hopefully, WWD staff are using it. We implemented it more than a year and a half ago, and that covers potential falls and slips, potential job hazard training, potential tag out lockout type of procedures. So it has a whole library of safety topics. It's video and it's also presented based on actual people doing the training through these videos. He told Chief Sparber to make sure that the program is being utilized, because the Department has spent quite a bit of money on making sure that all staff have access to this safety program because safety is our No. 1 priority. We did inherit a lot of facilities as being outdated, and we have a lot of work ahead of us. I'm not saying we're there yet. There's a lot of improvement still to go. We

⁵ VII: Director's Report - <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=137478>

need to go. The good thing is that the Hilo facility is out to bid, and hopefully we can start construction and issue a notice to proceed before the end of this year, which is a good thing.

1. Legislative update
2. Solid Waste Division Projects and Updates

Commissioner Otsuka, commenting on the photos of new trailers, asked if there are enough trucks to haul the trailers or operators for those trucks.

Acting Division Chief Mike Kaha agreed those are really nice trailers. We had some problems with our trucks. We had some trucks that were delivered in 2023 that are still being- we didn't accept them. The vendor had some problems getting them taken care of. We do have some trucks online for which can use those trailers right away, but unfortunately, to be honest, we really could use those trucks that we returned back to the vendor. The hydraulic systems weren't what we expected, and then they're getting that taken care of for us. Additionally, in May and June, our new trucks were- our invitation for bid was pulled. So Finance had commented that they wanted to take that on a little bit more. So we couldn't put that out. And that pushed us off on getting our new equipment coming in. We're getting that taken care of right now, and hopefully we can get that bid put out on the road within the next 30 days.

That just leads me to think that we're still renting or hiring contractors, outside contractors to haul, Commissioner Otsuka said.

We are renting, yes, Chief Kaha said. We are renting two trucks right now in Hilo and using that in addition. And then we're using some of our older vehicles. So we bought in new vehicles to replace some of our older vehicles that, because of the age of it, it's just the efficiency is not quite there. So it's down a lot and it takes a lot longer. So I really want to get my hands on those new vehicles soon. And for moving greenwaste we have been hiring third-party contractors.

I don't understand why they would have, whatever department thought that it was too costly to fix the trucks, rather than having to hire and rent, Commissioner Otsuka said.

Two different things, just to be clear, Chief Kaha said, the cost to fix the trucks that, long term, we needed to replace those trucks just from an inefficiency standpoint, repairing the equipment continually; and then having a slowdown in trying to get equipment across the island and breaking down. We need to replace the trucks just right off the bat. So there's no question that getting the trucks replaced matters. We continue to use them, but it is an impact to our operations. The contractor not getting them to us as we spec'd, that's a whole different issue, and we're getting that taken care of. As far as the third party hauling, that's more of a contract issue, which we probably won't go into here. A little bit different from us hiring, purchasing new equipment. It's just a matter of whether we agree with the contractor's interpretation of the contract and whose responsibility it is for us to haul. In this case, the Department has decided that for the public's benefit, it is worth us to move it. It doesn't make sense for us to leave the greenwaste in place or to take it somewhere else. That it means it

doesn't need to go. So we are expanding that additional funds to bring the greenwaste to Hilo, but it's added cost to the Department.

1. Recycling, Greenwaste, and Landfill Diversion updates

(See written report)

2. Solid Waste Operational Study update

Shelise Lamb said we have provided all of the documents to our consultant to be able to proceed with their analysis. We are still on track for the draft to be presented to the COH DEM team on August 23, and we're looking forward to seeing the draft of the report. When they were out last, they were able to interview Gene Quiamas as well as Mike Kaha and receive the employment documentation from our business management team. So definitely want to give kudos to all those that participated from EMC to our entire DEM staff to provide E2 with everything that they needed to begin and complete their analysis. Ms. Lamb thanked the Chair. After the last meeting, I did receive your email with the COH Source Reduction Report, she said. So that is useful. And we have given that information to the consultant.

3. Wastewater Division Projects and Updates.

1. Pāhala and Nā'ālehu Large Capacity Cesspool Closure AOC⁶
2. Countywide Wastewater AOC
3. Hilo WWTP upgrades

Director Mansour said that we hired a consultant on July 11 - they ended up diving, running a dye test through the outflow at Hilo. We're still waiting on the final report. Our staff was doing the observations and in talking to the consultant, the system is working as intended. There are no leaks through that outfall, which is good news for the community. We kept hearing rumors that, oh my God, we got a leak, we got wastewater? coming out of the outfall, we cannot swim, and what have you. So the good thing is we got divers who went out there, they assessed the entire length of the outflow, and there's no leak at the diffuser section at the end of the pipe. Part of the design is to allow diffusion within the last 200 feet of the pipe to allow equal distribution for the mixing zone, because that's how you get the mixing zone and the dilution through the process. So we may have to do minor maintenance to some of the diffusers at the end of the pipe. But that's almost a mile out. But the entire pipe itself, my understanding from staff and the consultant is it has no leak. The coral reef around the pipe looks beautiful. They took pictures. Very healthy. But the good news is there was no leak detection from the dye they inserted. We'll wait for the final report. This was a hot issue, but we need to make sure that we are being transparent.

4. County's application for a National Pollutant Discharge Elimination System for the Kealakehe Wastewater Treatment Plant.

Because the settlement was signed, the Director said, the first phase of the settlement is to apply for an NPDES permit. We have until the end of the year to submit the application. So Chris Sparber is working with our consultant to make sure that the NPDES gets submitted to the Department of Health as agreed on.

⁶ VII.3.1: Ka'ū - <https://www.dem.hawaiicounty.gov/projects/pahala-na-alehu-large-capacity-cesspool-closures>

So the settlement was, yep, we've got a point source and we require an NPDES on the current discharge method, Chair Adams asked.

It's not a point source, it's functional equivalent, the Director said. So we have to go through that process. We are in new territory, we need to fill the application. I gave you the scenario of the straw between two bodies of water. So the whole form was designed to address that particular scenario. So now you took the straw out. How are you going to fill the same forms that may have questions not applicable to the one without the straw? So that's what we are trying to navigate.

Certainly something to keep us updated on and hopefully it'll all come together. It'll be good to have the pretreatment rules get into place as well to help make sure any and all effluent coming out of that plant is qualified for their NPDES, Chair Adams said.

Chief Sparber added that draft NPDES permits do come out for public comment. So once we get to that point with Kealakehe, you will have the ability to see that and comment, but I also just wanted to toss out that the Kula'imono NPDES permit is out for draft comment.⁷ So that's out. We ran a notification in the newspaper. Kealakehe is a unique situation. I think that for us, being the permittee and for the State, being the regulatory agency, there's going to be a lot of discussion and teamwork on what fits our situation and how to proceed. So those conversations have started, and so we're working with them.

I worked on NPDES before and mostly in the implementation of the plans and that sort of thing, Vice Chair Norris said. I would really like to review your NPDES to see if it's applicable to our situation.

Director Mansour said Chief Sparber had another resource in the Vice Chair.

5. Wastewater Plans

1. Integrated Wastewater Management Plan and Public Engagements⁸

(No discussion)

4. Status of existing staff vacancies and recent hires

1. Recycling Coordinator, Storekeeper, others

Chair Adams congratulated Mr. Craig Kawaguchi for being appointed the Recycling Coordinator.

Congratulations, the Director said. He's one of our stars, and I really appreciate him being a major team player and his thoughts of analyzing the situation, being involved. He brings so many assets to the department. And thank you. Thank you for being major team player.

⁷ Public notice: <https://health.hawaii.gov/cwb/active-public-notice-and-upcoming-public-hearings/20240801-hi0020770-kulaimano-wastewater-treatment-plant>

⁸ VII.4.1: IWWMP - <https://www.dem.hawaiicounty.gov/projects/integrated-wastewater-management-plan>

Chair Adams asked what a Storekeeper is.

The Storekeeper is WWD's inventory control, small purchase procurement, individual warehouse manager. They do those various functions and they also help with the Asset Management System and they also track procurements that are going through the large purchase, the small purchase, out for IFB, out for RFP.

It sounds like you are making some progress on being able to fill some vacancies, the Chair said.

Correct, the Chief said. The administration has been working on that and everybody who has been through the interview training that has some experience is jumping in to help out.

2. Other vacancies

Commissioner Otsuka asked how many vacancies DEM still has. Not only the total number of positions posted for each division for June and July, she continued, but the titles of those positions, the number of applicants for each position, and the number of hires made, or positions currently in the hiring process. And I keep asking that because when we're talking about taking away services that we're supposed to be providing, the main reason is we have no staff. We have nobody to do that. And so it's important to know with the existing staff how many are on the extended leaves, administrative leaves, workers comp, or helping other divisions, or military leave. It's critical, I think, for us to know, or for me, because we're supposed to be providing services to the community. And we have a big island, but if we cannot address the staffing, there's other programs and projects, that's not going to happen. So this is why I keep- it's a need to know, and that's kind of it on that, if then we could get an update every month, because every month we're hearing that we're always short-staffed. I mean, people are being overstressed. I mean, even talking to some of the operators at the wastewater, it's like one person alone, not only is it a safety issue, it's compliance issues and it's a health issue. So I think we need to maybe take more of a direct interest in the hiring.

I am going to take you offline, Chair Adams said, not only because we've been going way too long today, but we also have some, again, charter issues on whether or not and just how far into the HR world EMC is allowed to go. So I will be in contact with you and with DCC Salas-Ferguson to get some clarification on that, I think there is some concern about overstepping our bounds in terms of what kind of advice we can give. So I'll be back at you so that we can work on that.

That's been brought up before, Commissioner Otsuka responded, but it's like for every month that we have these meetings. The operation suffers because we have no bodies. So that becomes a function of the Department. It's not real clear what for me, because it is a function of the Department when we cannot staff properly.

Director Mansour recommended that commissioners put the word out. Our major requirement now is to fill our HR positions. So to even start recruiting, we don't even have the people that could recruit. So when Heather Beckford left, she left a major vacancy. And we still are having a hard time recruiting for HR program specialists. So if you know somebody, we need a HR

program specialist to apply as soon as possible, like three months ago. We've been recruiting for her vacancy when she left and fortunately, my understanding is the list, probably one had submitted, maybe, I don't know, or none. So we're thinking about what other ways we could bring in HR. I recommend it, could we contract the agency to help us? But I don't know. The HR issues here in the County are complex. But if you put the word out, if somebody has the experience, the Human Resources, we have the position that Ms. Beckford left behind about three months ago.

This has always been an issue, Commissioner Otsuka said. We had a full staff months ago and then all of a sudden there is nobody. So the turnover on your HR for this department has been kind of questionable.

People get better opportunities, the Director said. Unfortunately, we don't pay enough. That's way beyond your scale and my scale. This is at a state level to deal with compensations. But all I could tell you, we got the vacancies out in the street. If you know somebody, have them apply. Because without the bodies applying for these positions, you're not going to be able to fill the positions.

So what happened to the ones that you already have, Commissioner Otsuka asked. Other positions came up for them? Is that what it was?

Chair Adams declared the discussion out of order.

Commissioner Perez commented that she sees the Director solicit all over. I truly believe that he is trying. I also just wanted to mention that some of the staffing concerns and even some of the recommendations and resources from EPA within that Technical Advisory Group, some of them touch on this kind of complication. And so I do think that this could be a deeper conversation next month when we go over some of the EPA resources for technical assistance that they can offer in trying to navigate some of the challenges.

5. Questions from Commissioners

1. What is the impact to Department of Environmental Management operations and finances of opening Kalapana Transfer Station two days a week? (Adams)

Chair Adams asked if everyone had a chance to look at the Mayor's veto message for Bill 140, and asked the Director to make a statement.

Director Mansour thanked the Chair. Bill 140 came before you two months ago or more, when Councilmember Kierkiewicz presented that to EMC. In the Department's comments to the Council we agreed with the intent, but not the way it was presented, because there are different vehicles to achieve the same intent, which is through the budgeting process. And we did work with CM Kierkiewicz prior to the budget, with the idea is to submit it as a budget amendment. But the route that was chosen is different than budget amendment, and it was submitted as Bill 140, which is changing the law rather than allowing the department to navigate through the current study and other challenges that the Department has from

financial and operational perspectives. And that's when the attorneys came in and they submitted the letter to County Council recommending that Bill 140 requires some modification, because that's a separation of powers issue. And when it went before County Council, the author of Bill 140 refused to do the modification that was requested by Corporation Counsel, and then it was approved 6-3.

So it went to the Mayor, and Mayor vetoed that bill because the premise of that bill is the separation of powers, the Legislative branch versus the Administrative branch, two different authorities and two different tasks assigned to different bodies within the government. So it's more of a legal issue. And our legal department and Corporation Counsel and even County Council were notified by their own Counsel. It is about separation of powers as per the letter given. So I guess August (7) it is going to go, I believe Councilmember Kierkiewicz requested that that item is to go before County Council to override the mayor's veto. So that's where we at on Bill 140.

Chair Adams said she was interested in looking at the recommendations in the Mayor's letter if everybody can read them well enough, because EMC has some roles here and whether or not we would want to support or not support as a Commission, or each of you individually, obviously can comment to the Council. So the legal arguments, I think, appear to be the first recommendation to say, this is DEM's job to do those first two. But the third one on the list talks specifically about us, asking us to identify access issues involving solid waste disposal sites and make recommendations for their resolution. And then obviously, we're all dying to see this operational study. It's coming, so we'll get that. But I did want to raise whether or not, as EMC, we wanted to make any recommendations or response on that access question. I will say that within the Integrated Solid Waste Management Plan 2019, one of the specific recommendations that we made in Chapter 8, the fourth recommendation was to reduce operating hours at recycling and transfer stations and consider closing one or more stations. In Chapter 8, Section 7.6, we also had the consultant - we were using Parametrix to help us write the plan - offered an option for closing 10 different transfer stations. And if you would like, we could- the Secretary could send that section to you. So EMC is on record supporting the recommendations that are in the Solid Waste Management Plan, as is the council. So I just wanted to raise that as facts. Whether or not we want to restate them in any communication to the council is the question.

Commissioner McIntosh asked for clarification.

Chair Adams reiterated that the Mayor vetoed Bill 140, and in that veto letter, there are a set of recommendations being made and whether or not we want to support, or not support, as a commission, any of them. And in particular, one of the recommendations was to have EMC identify access issues involving solid waste division sites and make recommendations for their resolution. Do we want to do that? Do we want to get something into Council next week when they're going to review this again?

I would say just wait and see if they override the veto or not, Commissioner McIntosh said. I can't think of anything off the top of my head except access issues would be like, at least for the Wai'ōhinu Transfer Station, the times are different for the recycling and the regular trash during the day. I know that has caused some problems with some residents. And you can't take a trailer in, even though there's tons of room. I don't know what to say other than that.

Commissioner Beets asked to clarify about a document that addresses the access issues.

It wasn't so much access as just the existence of transfer stations and the hours they're open, Chair Adams said. The 2019 ISWMP had a set of more than 80 recommendations in them. One of them dealt with the issue of our transfer stations and how it was the recommendations from the SWAC that are in the plan that we needed to reduce the hours, even consider closing some of the transfer stations because we have too many to be able to efficiently and cost effectively operate. So we were going the total other direction than Bill 140.

Commissioner Beets asked if EMC supported those statements.

It was a general support for the recommendations in the ISWMP, Chair Adams said. And the Council also supported it. It's devil in the details. Didn't go through and separately check each recommendation. I just wanted to say that it has been discussed and considered by another group that focused on our solid waste management.

Commissioner Otsuka said that if she understood this correctly, that's saying that based on the integrated plan of 2019, they want to reduce and close some of the transfer stations.

That was a recommendation, Chair Adams said. It was basically, we had more than we could handle as a County.

Could it be because they don't have the bodies, because the service is definitely needed, Commissioner Otsuka asked. It may just create more of a problem if we do take.

It was primarily a resource question that the County did not have sufficient staffing and funding to support the scope of services that currently existed and existed back when we were writing the 2019 plan. And so looking for ways to become more efficient, Chair Adams said. One of the other recommendations we had was do an operational study. They're finally doing one. It's now 2024. In 2019 we said, do one. So we're hoping that the results of that will guide where we can go. And the purpose was to look through a lot of the recommendations that were in the waste management plan. They could look at how do we have a more sustainable solid waste management program. It would be nice if we all had curbside, everybody, on the island. It's not happening. So how do we rationalize the kinds of services we provide at the most efficient and effective way we can? So that's where it came from.

So it's the rural areas that are affected more, Commissioner Otsuka said, by taking away their services. So the island is so big, they're all far apart. I don't see how it would be we can take it away.

That was part of the reason for the operational study, and I'm dying to see what they come back with, Chair Adams said.

Commissioner Beets asked about whether it would be valuable for EMC to state to the Council that we are looking forward to the results of the operational study to address this issue.

We could certainly do that, Chair Adams said. We did not include that in our previous communication to Council. We just said we support the intent. We could send another letter supporting, waiting for that operational study to look at what the best approach would be.

We didn't want to do that last time we voted, but we can change our minds, Chair Adams said.

Commissioner Beets said he was thinking about making a motion to that effect.

Commissioner McIntosh had a question for the Director: The lawyers consider this breach of our separation of powers. Breach of that. If the Council does override the veto, what happens then? Because one branch is exceeding their authority even their own lawyer advised them on. So does the county sue itself or do you just comply or what? I guess a what-if scenario is what I'm asking.⁹

Well, the scenario is, I guess we could sue each other and waste taxpayers money or we already added the additional day, the Director said. We didn't have issue with the intent, but the way it's being presented and taken away from separation of powers, it creates the big issue here. If you remember Ocean View Transfer Station, when Maile David added an additional day of recycling, she went through the amendment of the budget process and we went through that where we worked with finance. It was brought up during the budget process for hearings and she got nine votes. So there is an existing process, but to start impeding into the operation of the Solid Waste Division and administrative aspect of the government it becomes a big issue, because sooner or later you have to keep that line clear so everybody understands what they need to focus on.

Director Mansour said it was the same Council Member who approved reduction of hours and waste in 2019. So we have to be consistent with the message and allow the Department, based on their resources, financial restrictions, and whatever makes good for the benefit of all constituents and the taxpayers to make the proper operational decision. And our take was, we are doing the study, we are following the Integrated Solid Waste Management Plan that they adopted, and they asked to do operational study. So we're doing the study. Why put the cart in

⁹ Secretary's response: A private citizen who has standing and who believes the County is not properly administering the law could initiate an action for a declaratory judgment in Circuit Court.

front of the horse, and circumvent this whole study that we are doing based on their approval? I understand it could be an election year, but let's not get involved into that process, please. We got things to do from a Department perspective and we are following the procedures and the recommendations that came from the current County Council members and from the Commissioners themselves. So you are the advisory body to the Department. It's vital for you to speak out on this topic because you're the same body that approved the ISWMP. After we spent so much money on consulting, you laid out a stack of lists for us as a department to follow. We are following the same list you approved. So now you tell us, oops. So stay consistent, you are an advisory committee, give the advice, show your recommendations so we could continue doing what we are tasked to do. From a Department view, there are currently existing methods to add days to any operation. But if people select not to follow the current process and they want to overrule separation of powers, nobody want to get into that dilemma where the two governing bodies are suing each other, or are trying to. It doesn't make sense.

Commissioner Otsuka said that on the operational analysis, I know we're supposed to wait till October for the final draft, but I had a problem from the beginning because last September, I had to remind you that we weren't contacted by the consultants regarding the plan. So I had wanted to know from the consultants what exactly was wrong with the 2019 ISWMP for me to give meaningful feedback. I never got a response. So when you're talking about this operational plan that we all voted for, I didn't know what was wrong with the existing plan to give feedback. If I did know, I probably would have researched more things to find out and bring out stuff more toward a better study. I don't know how the study is going, but all I'm saying is I wasn't given the opportunity to know what was wrong with the original integrated plan to give feedback.

You always bring a good point, Director Mansour said. Maybe what we need to do when they do the draft, maybe we could have the consultant share the draft with you. I have not seen the draft myself. I had a conversation with a consultant about two weeks ago on a Zoom. But Ms. Lamb, she's the project lead coordinator for that project. She knows the tasks that she's assigned. My apology if she has not kept you in the loop, but we could check. We probably need to get some feedback before it becomes final. And you will have a major part in the review because I hate to make it final and you are not in concurrence with the findings or what have you. So, yes, you play a major role in this. He asked Ms. Lamb to address Commissioner's Otsuka's concerns.

I can confirm that all Council and Commission members were contacted, Ms. Lamb said. And Georjean and Dell, we did have the email correspondences back and forth about that. So the offer definitely still stands if you would like to provide any additional information. But we have reached out to each person, so just wanted to communicate that.

I would be willing, Commissioner Otsuka said. So I don't know what's going on so far, but I still don't know what you wanted us to look at in relationship to the 2019 ISWMP for us to give meaningful feedback. We can give feedback, but I don't know what I'm giving feedback on the whole plan or part of the plan, or the wastewater or the solid waste. I don't know.

We tried to guide you into what you could focus on, Chair Adams said. The ISWMP is like 500 pages long, and so there's a lot in there, and it was still at too high a level for many of the things. All I think at this point is, let's see the draft at the end of this month, and we'll get a chance to chew on it once we've got something in hand. And I'm sure there'll be gaps and things that were covered that we think should be covered, and that would be the purpose of our review, is to say, okay, this is what you think. Here's what I think. So we'll do that. That is an important part of our charter, is to look at that plan and what we would advise the department to do. But until we see it, it's kind of hard to talk. She asked Commissioner Beets about his pending motion.

Commissioner Beets said he was ready.

Motion and second: Commissioner Beets made a motion, to which Commissioner McIntosh seconded, "that the EMC recommends that the County Council defers action on Bill 140 until the requested Solid Waste operational study is completed in October."

Discussion: The Secretary asked the Chair whether the motion would recommend the Council "not to override the Mayor's veto."

Yes, that's essentially what we're saying, Commissioner McIntosh said.

The beginning line would be, we'd recommend not overriding the veto until the operational study is done, Chair Adams said. Is that fair?

Well, I guess, Commissioner Beets said. I need some clarification. Can we request the vote to be delayed on the override?

I assume there's some timing requirement for overriding a veto, the Chair said. I saw the memo from Council Member Kierkiewicz to Chair Kimball and didn't know if an official agenda has been issued. And if it has, then I think that's what we're referring to is that we would recommend not overriding the veto until we've had a chance to look at that operational study.

I have a clarifying question because I'm kind of getting lost, Commissioner Perez said. What you shared of the historic vote that was taken, was that decision, could that be umbrella'd under the same type of decision that we're saying now as to mandating a day? So I'm just confused as to what this separation of powers and this legal issue is exactly. Taking into consideration the old agreement that was put forth by EMC of removing a whole bunch of days, recognition that it's kind of the swinging pendulum of going in the opposite direction of what we are wanting to support now. But was that same kind of legal question had when we were trying to remove days as the legal question is being now? Because we're trying to make sure that provisions are

made? Because that's kind of what my takeaway is. But I'm not sure if I'm again understanding all this legalese correctly.¹⁰

My understanding is we had written and adopted an Integrated Solid Waste Management Plan, Chair Adams said. The plan contained a series of recommendations, not orders, not instructions, and not something that every recommendation was necessarily going to be adopted by DEM and the council. A lot of it is in form of recommendations. And so the plan as a whole was adopted. Each individual recommendation and its detail, I would not say has been approved and should be considered an order of the Council or EMC because we don't order anything. It was a recommendation and it was included in the intent of the overall plan, to try to come up with an integrated plan that would work.

It was a package, basically, is what you're saying, Commissioner Perez said. It was a huge package, one recommendation of which was to lower services to where what essentially Council Kierkiewicz is, what she's trying to do is, outside of a plan, set this standard that all communities should be allotted two days of solid waste disposal across the board, outside of it being umbrella'd within an actual integrated plan.

Correct, the Chair said.

There's a lot to this decision in the Council, both the original unanimous vote as well as an override, Commissioner Acasio said. And I feel like I personally don't know enough about the technicality of that separation. Yes, I know it's been stated, and I recognize the authority of the Corporation Counsel in terms of giving that information to the Council. But I feel like I'm personally not prepared at this moment to make a decision that tells the council to override a veto that they've been deliberating on separately from the information that we have. I know we were in discussion with Council Member Kierkiewicz and she did come to those meetings that we discussed this on, but it feels very limited to that legal portion. And then also I feel like in this new ISWMP, that we are awaiting the final information that it could be also similar recommendations. But again, it's not an order, and this would be recommendations either to leave it the same, reduce days or increase days, but it's still a recommendation. And again, I feel like that information is what the council will also take into consideration if they're discussing those details as well. And I feel like then it's their responsibility to recognize that that is coming out. Perhaps it could be amended by saying, there is a recommendation coming and then they could decide to defer it or not.

The department is doing an operational study, Commissioner McIntosh said. They're not redoing the ISWMP.

¹⁰ Comment: The closure of transfer stations in the 2019 ISWMP was presented by the consultant as one of a series of cost-saving options to consider in the future, as opposed to a recommendation for action.

That's correct, the Chair said. The operational plan was one of the 80-plus recommendations made. And so it's executing that one recommendation. It's supposed to be integrated, so it all kind of fits together, doing all these bits and pieces.

That is true, the Director said. As part of that ISWMP, one of the recommendations was to do operational analysis, and that's what we took before County Council and they approved. The big challenge here is from a Department, how could we operate? I mean, look at them. Our whole discussion now is about operational issues. And that's where you guys come in to say, okay, from operational issues, this is what we recommend or do not recommend, and that's already a work in process. But to have somebody else come through the back door and circumvent us doing what we're doing now and say, "I don't care what you guys say, this is what I'm going to implement, that's where the separation of powers comes in. The current process allows us to go through the commissioners for advisors, for implementations, for recommendations, but once we open the door for somebody else, Council Members to circumvent this process and what good is it for EMC and the Department to exist if tomorrow they could come up with another bill? We lose track of going through a process to making a decision rather than somebody makes a decision for you. And that's the difference. That's what we have before us. Do you want somebody to make a decision or do you want to go through a process to come to a decision? That's what you are facing with as a Commission, and if you feel that, yes, any Council Member, anytime from now on, could come and whatever they suggest becomes the law versus, let's go through the process and vet out what's good for the community and everybody plays his or her role. You and the Department are playing their role, and that's why we're doing the studies and we are following the recommendation that you provided the department. But we need to be very clear of ramifications moving forward when we start. And I think that's why Corporation Counsel recommended to add the language, but the refusal of adding the language to me is very dangerous moving forward with any projects, not because of the Department. It could be any department. It could be anything that we need to do for the County.

We need to draw the line that it is not the role of the EMC to talk about or make recommendations one way or the other over this issue of separation of powers, Chair Adams said. We are not a legal advisory group. We are more an operational advisory group, if you will. So I don't want to deal with that aspect of it. I have personal opinions, but they really aren't relevant to EMC at this time. What I do care about is ripping up two years of work, working on that ISWMP. That said, we got to get this operational study, and we've got to make sense. And one of the things that may be the right way to do it is to look at, do we need fewer transfer stations? Can we cut back hours so that we can manage this? You need to look at it and look at it through this operational study. So I don't have any problem at all making a recommendation to, would you guys hold off? We really want to be able to see and digest this operational study.

Director Mansour offered another example. Somebody else comes two years down the road and says, you know what? The seven days is going to become two days, because I'm only required to provide two days. So the law could even be spun the other way. That's what I'm

saying. I don't understand. Without having to study, trying to figure out, because, technically we could make two days for every facility on the island. But that's not the right answer.

I'm wrapping my head around the legal language of this discussion, Commissioner Perez said. It was my understanding from listening to Council Member Kierkiewicz last time she spoke is that her goal really is to just create a minimum standard. And so I don't think that it's a thought of transfer stations going from seven days to two days. I think it's a concept of that if dense communities needs solid waste removal, that at a minimum we would like to see at least two days. I just keep going back to the concept of what was being proposed. And aside from the veto, I feel like we still kind of have that same desire to be able to- I know that we played with the language last time of just like, how do we want to say that we're basically supporting the concept, but maybe the vehicle to change might be in question. And I feel we're kind of going in another circle of the same kind of conversation to where the concept of offering a minimum of services to dense communities is needed. The legal framework of how the Council Member was doing it was because there was a lack of movement within our County to make a decision to offer that service. So I don't know where that leaves us, but it leaves me in this mindset of, I do believe that equitable services should be had amongst all of our communities to the level of the need. And I also am not a legal person to understand all of the ins and outs of, of the appropriate body to do that. And I feel that what the Council Member was trying to do based off of what I learned in her discussion and presentation was that this was kind of an end of the road option for her to get services to her constituents. I don't know where that leaves us for today, but those are my main takeaways from, I think, the discussions that we've had today.

Commissioner McIntosh said that when you pass laws, not only do you have the intent, but you also have to consider how it can be abused by other parties. And so the Director was showing one way that even though the Council Member's intent was to have a minimum, a future director could come in and say, hey, I want to use X amount of dollars for something else. We'll just put everyone at two days a week, and he meets the requirements of the law, even though that wasn't the intent and when it was passed back then. So that's why you have to be careful when you pass laws. You keep that in the back of your mind and why departments like to be able to make rules as they go along rather than have it enshrined in the law, because then it has to be changed that way. But we have the motion on the floor. So we have to get back to that.

I agree with everything Commissioners McIntosh and Perez said, Commissioner Beets added. If we are pursuing things through legislation, DEM's response, if this were to pass, could be closing Hilo for an additional day, then we go back into the next legislation of reinstating Hilo. So the use of legislation in this is not how government works best. This is how government works best, what we're suggesting.

Amendment to motion: Commissioner Beets proposed to amend his motion, to which Commissioner McIntosh seconded, to read as follows: "The EMC recommends to not override the Mayor's veto on Bill 140 to allow review of the requested solid waste operational study due in October." The amendment to the main motion was accepted without further discussion, dissent, or objection.

Discussion on amended motion: I just wanted to respond to Commissioner Beets' statement about how we, as a Commission, are not pursuing the legislative fix to this, Commissioner Acasio said. We just recommended that we support the idea of the transfer stations being open at a minimum of two days. And then there was the Council Member that brought it to the legislative piece. And so I would still like to maintain that we are not responsible for that legislation going forward and then the subsequent conversation around the legal authority. And so I wanted to also ask DCC Salas-Ferguson if we can have clarification on two things: Is there a timeframe in which the override needs to happen? I know, Chair, you mentioned that there may be, and so I wanted clarification on that because I think we might be asking something that is not possible and then would inadvertently or subsequently mean that we are asking for them to override it, period, because there is a deadline. And then the other piece is, I would like some clarity on the difference in this vote between an abstention and a no-vote. If enough folks decide to abstain, myself included, and then there's only yes votes, does then it still pass in that same regard, or just to have some clarity around the difference between a no vote in this particular case and an abstention?

The Secretary put in the chat the section a section of the Charter, 3-12 that provides the timeline, the objections of the Mayor, DCC Salas-Ferguson. I have to read that and kind of digest it. It's like kind of old language, but I can read it right now and give you an opinion. "The objections of the Mayor shall be entered in the journal of the Council, and the Council may, after five and within 30 days after the bill has been so returned, reconsider the vote." So they have, after the mayor vetoes it with his objections, it looks like they have between five and 30 days to reconsider that bill. So that looks like the timeframe. I don't know if Council has some rules or some wiggle room in that. I think your second question, as I understand it, was what happens if some members of this EMC abstain from the vote of the motion that's on the floor right now? Standard rules would apply. This board cannot conduct any action unless they have a majority of the quorum voting in favor or against. So if there's not enough votes to carry it, then nothing happens. If there is, then it goes through, is my understanding, because you are voting on to provide your thoughts to the Council regarding this veto. And I hear everybody kind of struggling about the Mayor's objections that were basically legal arguments. And there's a lot of nuances in here.

Commissioner Acasio asked if this is in our purview as EMC to recommend a non-override of the veto. DCC Salas-Ferguson said he would need to take a moment to review.

HCC Chapter 2 says the "the Council shall refer a bill to the EMC for consideration," DCC Salas-Ferguson said. So that happened, right? The bill came over, and EMC rendered an opinion. So that happened. If the bill was amended, then they have to send it back again. The bill was amended and sent back to EMC. So you already provided your input. I think it's done already. And it's not even on your agenda to be providing comments. So I think it's buried in there, in the Director's Report as an update. But as far as section 2-207 of the Hawai'i County Code, which explicitly provides your guys powers, duties, authorities, and what you're supposed to be doing, I think you've already done it.

Chair rules motion is out of order. So I think it's all conversation, and that's fine, Chair Adams said. It's a lesson in civics and the issue of this operational study and how we really need to go through it with a fine toothed comb because that is within our purview to provide comments to both DEM and Council if there are some things in there we really want to recommend get done. That's off our plate. So thank you, Sinclair. And the motion is mooted or whatever the official language is. So we're not talking about that anymore.

- Update on the Sustainability Summit Solid Waste Reduction workshops (Adams)
(Postponed)

VIII. FUTURE AGENDA ITEMS

1. Follow up on action items determined today.
 1. Discussion of findings on the Permitted Interaction Group on Cesspools and Sanitation (August 28).

We will be talking about the PIG report and be able to discuss items, Chair Adams said.

2. Other (Commissioners may suggest items they would like placed on the next agenda.)

IX. ANNOUNCEMENTS

The next meeting is scheduled for Wednesday, August 28, at the Community Meeting Hale (Building G) of the West Hawaii Civic Center, 74-5044 Ane Keohokalole Highway, and via Zoom. Please contact the Board Secretary or review the agenda posted on the County Calendar within six days of the next meeting for confirmation.¹¹

The Final Draft of the General Plan is out for public comment until September 20, and there will be public meetings, Chair Adams said.

X. ADJOURNMENT

Motion, second, and vote: Commissioner Beets made a motion, seconded by Commissioner McIntosh, to adjourn. Ayes 6 (Beets, Garcia, McIntosh, Otsuka, Perez, Adams); absent 2 (Acasio, Norris). Motion adopted by voice vote and meeting adjourned at 12:45 p.m.

Respectfully submitted,

Peter Sur, Secretary

¹¹ IX: Hawai'i County Calendar: <https://www.hawaiicounty.gov/our-county/county-calendar>