

DEPARTMENT OF THE CORPORATION COUNSEL

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Attorneys for Employer-Appellee  
COUNTY OF MAUI

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of

LANA'I RESORT PARTNERS

To consider further matters related to an Order To Show Cause as to whether certain land located at Manele, Lana'i, should revert to its former Agricultural and/or Rural land use classification due to Petitioner's failure to comply with Condition No. 10 of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order filed April 16, 1991, Tax Map Key No. 4-9-002:049 (por.), formerly Tax Map Key No. 4-9-002:001 )por.)

DOCKET NO.: A89-649

RESPONDENT COUNTY OF MAUI'S  
LIST OF REBUTTAL WITNESSES;  
RESPONDENT COUNTY OF MAUI'S  
LIST OF REBUTTAL EXHIBITS;  
REBUTTAL EXHIBITS "R-1" - "R-2";  
CERTIFICATE OF SERVICE

**RESPONDENT COUNTY OF MAUI'S LIST OF REBUTTAL WITNESSES**

LAND USE COMMISSION

DOCKET NO./PETITIONER: A89-0649

PARTY: County of Maui

**LIST OF REBUTTAL WITNESSES**

<b>NAME/ORGANIZATION /POSITION (List in Order of Appearance)</b>	<b>TO BE QUALIFIED AS A WITNESS IN:</b>	<b>SUBJECT MATTER</b>	<b>WRITTEN TESTIMONY (Yes or No)</b>	<b>EXHIBIT NO.</b>	<b>LENGTH OF DIRECT</b>
<b>Dave Taylor, P.E., Director, Department of Water Supply, County of Maui or his Representative</b>	<b>Water Supply</b>	<b>Water Supply</b>	<b>Yes</b>	<b>R-1 &amp; R-2</b>	<b>15 Minutes</b>

DATED: Wailuku, Hawaii, OCT 10 2016, 2016.



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LIST OF REBUTTAL EXHIBITS;

**RESPONDENT COUNTY OF MAUI'S LIST OF REBUTTAL EXHIBITS**

LAND USE COMMISSION

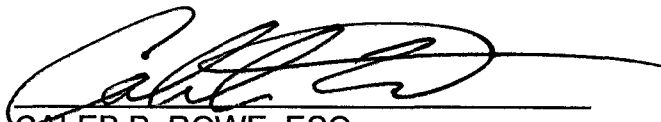
DOCKET NO./PETITIONER: A89-0649

PARTY: County of Maui

**LIST OF REBUTTAL EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
R-1	Resume for Dave Taylor, Director of Water Supply		
R-2	Testimony of the County of Maui Department of Water Supply		

DATED: Wailuku, Hawaii, OCT 10 2016, 2016.

A handwritten signature in black ink, appearing to read "Caleb P. Rowe", written over a horizontal line.

CALEB P. ROWE, ESQ.  
MICHAEL J. HOPPER, ESQ.  
Deputies Corporation Counsel  
Department of the Corporation Counsel

**David Taylor, P.E., Director**  
County of Maui, Department of Water Supply  
200 South High Street  
Wailuku, Hawaii 96793  
(808) 270-7816

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## **CURRENT POSITION**

Director, Maui County Department of Water Supply

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## **WORK HISTORY**

*Director, Department of Water Supply, County of Maui.* Manager of all aspects of Maui County's potable water infrastructure and operations. January 2011-present

*Wastewater Division Chief, County of Maui.* Manager of all aspects of Maui County's wastewater and recycled water infrastructure and operations. January 2006 – December 2010.

*1<sup>st</sup> Assistant to the Managing Director, County of Maui.* Acted as deputy to the Managing Director and advisor to the Mayor. Involved in a variety of County-wide administrative, management and supervisory activities. June 2004-December 2005.

*Civil Engineer IV, County of Maui, Department of Public Works.* Managed and supervised all aspects of planning, design and construction on a wide variety of wastewater and recycled water projects including transmission lines, pump stations and treatment plants. April 1992 - June 2004.

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## **EDUCATION AND QUALIFICATIONS**

B.S., Mechanical Engineering, University of California, Santa Barbara

M.S., Civil Engineering/Structural Analysis and Design, University of California, Berkeley

Program Completions, California State University, Sacramento

- Wastewater Treatment Plant Operation, Volumes I & II
- Water Treatment Plant Operation, Volumes I & II
- Small Water System Operation and Maintenance
- Water Distribution System Operation and Maintenance
- Utility Management

Registered Professional Engineer, State of Hawaii, CE-8505

**EXHIBIT R-1**

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RESPONDENT COUNTY OF MAUI'S  
TESTIMONY OF DAVID TAYLOR  
BEFORE THE STATE LAND USE  
COMMISSION RELATING TO COUNTY  
DEFINITION OF POTABLE WATER

**RESPONDENT COUNTY OF MAUI'S TESTIMONY OF DAVID TAYLOR  
BEFORE THE STATE LAND USE COMMISSION  
RELATING TO COUNTY DEFINITION OF POTABLE WATER**

Section 14.01.040, Maui County Code ("MCC") defines "Potable Water" as "water that has been certified by the department of health as suitable for cooking or drinking purposes."

Our experience indicates that drinking water systems are approved by the Department of Health (DOH). The term certified is not usually used in conjunction with a water system. However, we believe that the terms are interchangeable for this

situation. As the issue in this case involves a well, a relevant regulation is the Ground Water Rule (GWR) which was promulgated in the 1996 Amendments to the Safe Drinking Water Act (SDWA). The Environmental Protection Agency document called "The Ground Water Rule (GWR) Implementation Guidance" is available at the following location:

<http://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1004S1V.txt>

Section 1.1 Introduction, includes the following language:

"Key provisions of the GWR include ... Compliance monitoring to ensure that treatment technologies, installed to treat drinking water, reliably achieve at least 99.99 percent (4-log) inactivation of removal of viruses"

Therefore, in order for water from a well to be classified as "potable", it must meet GWR requirements. As the GWR requires treatment to inactivate viruses, untreated water from a well cannot be considered "potable" under Maui County Code Chapter 14.01. This treatment is commonly referred to as "disinfection" in our industry. It should be noted that definition in 14.01.040 only applies to water the County provides (not a private system).

Whether or not this definition legally applies to the wells subject to condition 10 in this particular case is outside of my expertise. However, as Director of the County of Maui Department of Water Supply, it is my interpretation that a groundwater well producing water that is not disinfected is not producing potable water according to the definition contained in the County Code.

In addition, MCC Section 14.08.010 (Ord. No. 3688, § 2, 2009) states:

"The purpose of this chapter is to prohibit the use of potable water for irrigation and other nondomestic uses at new golf courses by restricting the approval of any permit necessary for new golf course construction, if that new golf course cannot show that it will use a nonpotable source of water".

Section 14.08.020 contains the following definitions:

"New golf course" means any golf course that was not in operation prior to the effective date of the ordinance codifying this chapter, or whose development requires approval by the council of a community plan amendment and rezoning of the golf course properties.


"Potable water" means water that meets the standards established by the department of health as suitable for cooking or drinking purposes. A supply of water that at one time met the standards established by the Department of Health as potable water may not be used for golf course irrigation or other nondomestic uses, regardless of

whether it is rendered nonpotable through such activities including, but not limited to, mixing or blending with any source of nonpotable water, storage in ponds or reservoirs, transmission through ditch systems, or exceeding the established pump capacity for a groundwater well.

This ordinance only applies to "new" golf courses as opposed to "existing" golf courses. It is my understanding that the Manele Golf Course was already in existence at the time of this ordinance.

In addition, I do not consider the "potable water" definition in this section to be different in substance than the definition in MCC Section 14.01.040. Both require water to meet all standards of the Department of Health before it is considered potable, including treatment/disinfection.

DATED: Wailuku, Maui, Hawaii, October 10, 2016.



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DAVID TAYLOR, P.E.  
Director of Water Supply



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CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing document was served upon the following by email and by depositing same via U.S. Mail, postage prepaid on:

DANIEL E. ORODENKER  
Executive Director  
Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804

(daniel.e.orođenker@hawaii.gov)

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(william.spence@co.maui.hi.us)

This Affidavit is provided in compliance with §15-15-50(c)(5)(C), HAR.

DATED: Wailuku, Hawaii, OCT 10 2016, 2016.



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