

## PUC Water Carriers Working Group Meeting

October 15, 2020, 1:30 – 3:30 p.m.

(Virtual Meeting via Zoom)

### Meeting Attendees (in alphabetical order)

P = Present; A= Absent

	<b>Name</b>	<b>Title</b>	<b>Company</b>
P	Jay Ana	President	Young Brothers, LLC
P	Vic Angoco	SVP	Matson Navigation Company, Inc.
P	Jesse Andrade	ILWU Member/Unit 4209 Chair	International Longshore and Warehouse Union, Local 142
P	Henry J.C. Aquino	Representative	House District 38 / Chair, House Committee on Transportation
P	Leodoloff (Leo) R. Asuncion	Commissioner	Public Utilities Commission
A	Jade Butay	Director	Department of Transportation
A	Kirk Caldwell	Mayor	City and County of Honolulu
A	Michael Caswell	SVP	Pasha Stevedoring & Terminals L.P.
A	Catherine Awakuni Colón	Director	Department of Commerce and Consumer Affairs
A	Derek J. Chow	Deputy Director	Department of Transportation, Harbors Division
A	Stacey Crivello	Community Liaison	Maui County Mayor's Office
A	Michael Dahilig	Managing Director	Kauai County – Office of the Mayor
P	Mary Alice Evans	Director, Office of Planning	Department of Business, Economic Development & Tourism
A	Lisa Hiraoka	Analyst	Department of Commerce & Consumer Affairs – Division of Consumer Advocacy
P	James P. Griffin	Chair	Public Utilities Commission
P	Justin Gruenstein	Deputy	City and County of Honolulu – Mayor's Office of Climate Change, Sustainability and Resiliency (CCSR)
P	Randy Grune (for Mike Caswell)	PASHA Managing Director	Hawaii Stevedores, Inc.
A	William "Baba" Haole IV	Division Director of Hawaii Longshore Division	International Longshore and Warehouse Union, Local 142
P	Steve Hunt	Deputy Finance Director	Hawaii County

P	Lorraine R. Inouye	Senator	Senate District 4 / Chair, Senate Committee on Transportation
P	Richard Kamoe	Vice Division Director of Hawaii Longshore Division	International Longshore and Warehouse Union, Local 142
P	Gilbert S.C. Keith-Agaran	Senator	Senate District 5 / Senate President designee
A	Harry Kim	Mayor	County of Hawaii
A	Chris Martin	Director of Operations	Young Brothers LLC
P	Reiko Matsuyama	Budget Director	Kauai County – Office of the Mayor
A	Mike McCartney	Director	Department of Business, Economic Development & Tourism
P	Kris Nakagawa	Vice President of External and Legal Affairs	Young Brothers LLC
A	Mark M. Nakashima	Representative	House District 1 / House Speaker designee
P	Dean Nishina	Executive Director / Consumer Advocate	Department of Commerce & Consumer Affairs – Division of Consumer Advocacy
P	Dori Palcovich (for Mike McCartney)	Administrator for the Small Business Regulatory Review Board	Department of Business, Economic Development & Tourism
P	Phyllis Shimabukuro-Geiser	Chairperson	Department of Agriculture
A	Michael P. Victorino	Mayor	Maui County
	Public Utilities Commission Staff		
P	Jodi Endo Chai	Executive Officer	Public Utilities Commission
P	Michael Chapman	Economist	Public Utilities Commission
P	Amanda Hustrulid	Attorney Trainee	Public Utilities Commission
P	Steven Iha	Consultant	Public Utilities Commission
P	Carolyn Laborte	Acting Chief Auditor	Public Utilities Commission
P	Naomi Landgraf	District Representative – Maui	Public Utilities Commission
P	Andrew Okabe	Utility Analyst	Public Utilities Commission
P	Anand Samtani	Supervising Economist	Public Utilities Commission
A	Gina Yi	Acting Chief Engineer	Public Utilities Commission
	Independent Facilitation		
P	Donna R. Ching	Facilitator	Pacific Center for Collaboration

P	Jennifer Cornish Creed	Recorder	Hawaii Alliance for Nonprofit Organizations (Director of Professional Development)
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**Welcome**

Leo welcomed attendees to the third meeting of the Water Carriers Working Group (WG), which was established through Senate Resolution 125. He thanked the group for their continued commitment to this process and noted that the hope is to end this year with the start of discussions towards recommendations that can be moved forward to the Legislature for the 2022 session.

He invited those new to the group to introduce themselves.

**Housekeeping**

SharePoint Files

Leo reminded the WG that all the documents, including the Rules of Operation, are in the SharePoint file, which will be a repository for all WG-related documents going forward. PUC staff will still send documents by email, but in case you need to reference anything and can't locate it in email, the SharePoint file is easy to access at any time.

All WG members are asked to please share the Rules of Operation and other documents in the file with anyone who substitutes for them at the WG meetings.

Update on Chapter 92 Accommodations

Amanda reported back in response to the request from Lorraine at a previous meeting to check on whether Chapter 92 accommodations applied during the WG meetings.

Chapter 92 applies to “any agency, board, commission, authority, or committee of the state or its political subdivisions which is created by constitution, statute, rule, or executive order” tasked with having “supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings to take official actions.” First, if we look at the purpose of our Working Group, while composed of members from various State and County agencies, water carriers, and the legislature, it is not itself an agency, board, commission, authority, or committee of Hawaii, created by the constitution, any statute, rule, or executive order, rather the working group was created by Legislative Resolution. Second, the nature of the working group is not a decision-making body but rather an advisory one, tasked with combining various parties’ expertise to inform the Legislature and assist a utility in achieving more efficient practices moving forward.

However, if anyone requests special accommodations such as a sign language interpreter, the group, through the PUC, would arrange for that accommodation. Alternatively, we can provide our written record to anyone needing assistance.

## Group Memory

Donna asked if there were any corrections that need to be made to the group memory from the September 17<sup>th</sup> meeting. There were no corrections suggested.

## Stakeholder Groups

Donna mentioned that the feedback from WG participants on additional stakeholders mostly identified groups rather than specific individuals. When the group memory from this meeting is sent out, the stakeholder document will be included so that WG members can continue to identify individuals from the groups listed.

## **Starting Point and Parameters Presentation**

Donna shared with the group that some questions about the group's mandate had been received via email. Leo put together a presentation to address the questions and clarify what the mandate is. This was shared in advance with the WG.

Leo briefly reviewed the presentation.

*Q1: What is our (the Working Group's) starting point?*

A: The starting point resulted from the emergency rate relief and the Senate Resolution. For convenience, the date was September 1, which is the effective date of Young Brothers having updated tariffs in place and to go back to the full sailing schedule (pre-Covid).

*Q2: What are the parameters (limitations) for proposed recommendations?*

A: We have a blank slate. Moving forward now, our recommendations are wide open. We want to hear all the different ideas that will allow us to meet our task from S.R. 125 to balance ensuring continuous water carrier service throughout the islands while ensuring that the carriers are financial sustainable. Recommendations have to address both sides of this issue or we could end up in a worse position. As we form recommendations, we'll seek input, gather background information, then the WG will discuss and determine which ones will get us the most "bang for the buck."

## **Q = Question, A = Answer, C = Comment**

C: Donna: As the facilitator, I'm hearing and reading everything along with the group so we share a common context. As a result of reading your homework, it's become more obvious to me that we have *parallel* mandates. There are concerns about what's happening *now* – that's one track. We'll be working on that track as it informs the future. We're mandated to discuss the second track, which are the *medium- and long-term goals*. We'll be continuing these two parallel tracks throughout this process.

C: Leo: Correct. We see the recommendations for medium- and long-term goals flowing through the WG or sub-groups of the WG. The WG will do the research, form these recommendations, weigh the pros and cons, and get input from stakeholders. However,

this doesn't preclude the WG from also identifying "low-hanging fruit" recommendations – things that could go to Legislature as early as the 2021 session. That's why we're pushing to get past the introductory phase of the WG, so that we can really dig into any low-hanging fruit issues in a timely way.

C: Donna: There was a group I worked with from the formation point who were coming together to address energy issues in this state. That group realized they were stronger if they worked together. They chose not to move any recommendations forward unless the group had heard all voices and vetted the recommendations together. There was more power in doing it this way – the recommendations could go to Legislature with a stronger voice.

Donna asked if there were any questions or comments on this presentation.

C: Thanks, that was very much appreciated.

C: Donna: It was great that these questions were asked. It gave us the opportunity to create some clarity.

### **Presentation on Gaps and Critical Areas**

Donna shared that not everybody responded to the homework between meetings – likely because a lot of people for whom this is not their main job hung back because they don't have enough info yet to participate in the activity. Some people even said they don't have enough info to know what gaps are or identify the critical issues. She acknowledged that she introduced this exercise early, but did so because the WG needs to move things forward. Those who did the homework gave the WG a great starting point to begin the discussion.

Leo and the team took the first shot at the documents. Some people provided detailed information on the critical areas. Leo formatted the document to show how things are related.

### **Q = Question, A = Answer, C = Comment**

Q: Donna: What were your initial responses to seeing this material? Is anything bubbling up as starting point? Are there smaller groups within the larger WG that we can form based on this?

C: This is really handy and important. It clarifies how the gaps and the critical issues connect.

C: Leo: To clarify, these are what we've received so far. I put in my best guess on who might have the information. Let us know if you have additional thoughts. I'm not 100% sure on who else needs to provide information. Each of us has different objectives.

C: Donna: This is a lot of info that we want to gather. Can we prioritize it? What are things we need to know initially and what are things that we can put on the back burner?

C: My understanding is that the statute that guides what the PUC can do on behalf of managing YB is rather old. It was created years ago and we're in a different stage in this decade. We should review the statute, but in order to explore the potential for making changes to it, we'll need guidance from an attorney on the technical aspects.

C: Something's missing from this that needs to be addressed. We get a lot of imports from CA. If we're considering changes to the current statute as to what PUC and YB can do, we have to look at the SIT issues. I think that's something I've heard during these sessions, and from my colleagues and the general public.

Q: Donna: **So, our task might be to review and update the statute so that it best meets the needs of the water carrier system and the users?** We're suggesting that updating that statute might be an important activity for us to be engaged in?

Q: Is that the whole statute that you're sharing with us?

A: No, but 269 is a large portion of it.

A: YB is regulated by 271G, not by 269.

Q: Donna: Who might want to work on this issue of reviewing and recommending changes to the statutes? If a sub-group is formed, they can work on this, get clarity and come back to large group with the information.

C: We definitely need an attorney. Can Gilbert join this group?

*Kris, Lorraine, and Dean volunteered to be part of this group.*

C: Dean: I identified this gap. I think this work might be premature. We can update the statute, but we need to know the medium- to long-term goals first, so we can modify the statute in accordance with those goals. We need to know which services the state identifies as critical services that need to be maintained. Maybe there are some services that water carriers don't need to provide. That would affect updates to statute. We need to identify what stakeholder needs are as well as what the State's needs are. I think we have to identify both of these first. This is a priority area that we need to engage in because it informs all the rest of the work.

C: Donna; Okay, let's put this group/work on hold for now. We need a group to identify stakeholder needs (both the State's and the water carriers') and to identify a process for how to get that information.

Q: Would DBEDT and Mary Alice be willing to help, to share from their perspectives on the water carrier services what are really critical? Is there any State analysis on this?

A: Mary Alice: Yes, I'd be willing to help.

C: Phyllis could represent the agricultural perspective. Gilbert could offer a legal perspective and Jay Ana could represent YB's thoughts.

Q: Donna: We know nothing gets done unless there's a deadline. I'm cognizant of the upcoming holidays. Can this group meet and come back to the WG by the next meeting?

A: We can come back by the December meeting. We know the system won't be perfect, but we'll get the voices of the various stakeholders.

Donna asked if there were other gaps that could be worked on by smaller sub-groups.

Q: Jay and Kris, how do the items look in terms of things you might need to address? What about additional financial info from YB?

A: The vast majority of that information is public. Regarding planned capital investment – we have a 5 year plan. I'm not sure what is meant by better info on schedule and load. We went through the schedule at our last meeting.

A: Donna: Andrew has pulled together some of the documents you mentioned. He's put some of it in the historical background. He's willing to work with people on a one-to-one basis to help them understand this information. For those who listed this as a gap, please contact Andrew and he'll go over the material that was in his document that relates to this topic.

C: The SIT gap is actually the broader one. What about the information from the carriers/ about harbors? That's different from the government one.

C: Vic: It all depends on what the questions are. Will tie into the clarification on the SIT. I don't want to paint a picture that SIT is bad. It's just that a lot of things have changed. We're happy to answer questions about how we move cargo to other islands. We need to also ensure (with customers) that it's legitimate SIT cargo and NOT intrastate cargo.

C: This component of the system is critical – on top of that there are incorrect assumptions being made. We could put a presentation together and focus on neighbor islands and the SIT program and what it means.

C: We need to go beyond the neighbor islands and look at the whole system.

Q: Should PASHA and YB both be involved to help us understand the whole system? And then how cargo gets treated when it gets to Hawaii? I could work on this with PASHA – YB can also be part of it as well. We might not need DOT harbors for this part. But as far as flow of cargo, PASHA and YB can do a collective presentation on interstate cargo moves. We can do this at the next meeting.

**(ACTION) We'll add this presentation to next agenda.**

Q: Donna: What about the harbors issue? Can harbors people take this on and anyone with additional interest in this area can get in touch with harbors person?

A: Derek Chow is not on the call today.

- C: Derek participated in homework and is actively engaged. Leo will get in touch with Derek about this.
- C: Someone wanted more info on lease terms at each harbor. That is DOT harbors jurisdiction. If there are other items you want to know about, then it might be someone else.
- C: Steve Hunt: It's really related to financial information. If there are escalations in the lease, ground rent and lease rent are going to be factors. As an appraiser, I'd ask when these were created. Will next negotiation be higher or lower? This affects financial viability. I'll be my own committee for Hawaii County – if there are additional things you want harbors to address, send to me. I'll be the point person.
- C: Lorraine: I haven't spoken to harbors, but for all the agencies – DOA, DBEDT, etc. – October is usually the month they work on their budgets for the Governor. This year they're under pressure to make cuts from their budgets. This is affecting all state agencies, that's probably why they're not here this month.
- C: I'm sure there is a tremendous amount of pressure right now, especially around budget shortfalls.
- C: Leo will link Steve with Derek.
- C: Donna: I suggest that *additional resources* is an issue we might put on the back burner until we get other issues responded to, unless someone advocates differently.

Note: There was no advocacy in opposition to Donna's suggestion.

### **Critical Needs List**

- Q: Donna: Are we missing any areas? The Operations one has issues about customers. As groups are formed, they should look at this material as it points to some foci that should be looked at.
- C: Lorraine: The impacts that the current rate increase is having on shippers/users have been brought to my attention by my stakeholders. Maybe it belong with SIT? It should be addressed somewhere.
- Q: Donna: Where does this fit?
- A: Leo: I see it more under financial side. Goes towards finances of the water carriers. (ACTION) **Maybe we can add another bullet there that says "Investigate impact of rate increases on current users of YB."**
- C: It was hard to weed out operations and customers separately – they're intertwined. It's lumped together a bit here. Not a real distinct gap. It's very interrelated.



- C: Donna: This is another example of the fact that when we cluster things, they look autonomous, but really there are overlaps. In focusing on that, we might create unintended consequences on the things that overlap.
- C: This is the raw stakeholder data. We're trying to honor this as much as possible and be as transparent as possible.
- C: Vic: As I look at this and the operations piece, continue service freight all kinds, etc., knowing that YB is back to normal schedules as of September 1 – I think a lot of this is already being done. It sounds like most of this should really be happening, as mandated in the current statute. Now, it's a matter of asking the question as we move forward – *will this continue as is or change?*
- C: Donna: As the facilitator, I'm going to make an observation. Because we're going back to what was, the underlying assumption was that what we had met peoples' needs. I think that might be an incorrect assumption. In addition, with pressures from the rate increase, it might now be less efficient or effective for those stakeholders. Maybe this is low-hanging fruit – we may be able to take some of the pressure off of those users, to make the system better. That's the baseline. Continue freight services of all kinds.
- C: Steve: A truer gap analysis would be if you assess need on the one side, with current pricing to run operations most effectively, and then asked what would routes be? It runs parallel to what the Post Office is currently dealing with. Paying more for fixed overhead in employee costs. If we used the gap analysis to determine flexibility, we could consider running 1 route a week and using a different rate structure instead of running 2 routes a week. Then we could build up to capacity to run 2 routes a week.
- C: When I read this, I agree with Vic, isn't this done already? It could be a timing aspect. They might not know that YB is back to a full schedule. It might be the timing of the homework – did they know what was at the current moment?
- C: Steve is offering a proactive idea – take some of the pressure off on the valve of the increase schedule.
- C: Jessie: I wanted to comment in response to Vic's concern and share a couple of bullet points from ILWU – it's my understanding that the sailing schedule did change back to the regular hours, but the gate hours have not. Only the sailing schedule has changed. Not everything went back to zero on September 1.
- C: There is an abbreviated gate schedule in order to be compliant with COVID-19 safety mandates. Gate hours are COVID-related. We're looking at how to manage gate hours.
- C: Pursuant to what Vic and Steve said, it goes back to the question of whether or not we are coming to the table with an open mind. For example, do we do 12 shipments each week regardless of load? We need to understand that's where the variability is – in cost - a service-based variability. It still boils down to WHAT ARE THE NEEDS? We need to do the gap analysis and cost-benefit to determine what the pillars are that are not negotiable.

Q: Is this an area that bears some additional scrutiny?

C: If we only have one provider it might bring the rate down so people would rearrange their business to do only one delivery.

C: I need that now.

C: I don't need it now but I want to pay less. Could there be a two-tiered schedule? Where shipment goes out on a compromise schedule. Meet demand with load capacity but give consumers another choice? How often do things need to go out?

Q: Who wants to volunteer to be in this group? Mary Alice could address the interaction between the needs and finances – liaison between Steve's group and the first group that Donna set up.

C: A good level-set of critical services for mid- and long-term. What Steve was describing is the regulatory process of the PUC. Regulatory-wise – what are costs to be incurred? As long as it remains regulatory, the PUC has to keep it fair for all shippers/users. Customers who can afford a different type of service could use a charter service and pay rates on a different schedule.

C: You have to throw in all volumes: LCL, full from Oahu to neighbor island ports, match up with barge service capacity. Full or not, the barge has to go. Maybe you fill it one time a week and it satisfies needs. Molokai or Lanai are subsidized, one way or another. Have to assess what is the level of service you can provide and whether the new rates pay for it or not. How does it balance out and keep carrier operation sustainable?

C: Vic will join this group. The group will share back in December as much as you can of what you're going to do and what the process will be.

C: There are information gaps about demand. Until you know the operations, it's hard to understand the pricing/economics of it. If it's priced too high, people aren't shipping. If not regulated, you'd be looking at demand load and the pricing. Through the regulated side, you'd look at the efficiency gap, etc. You'd potentially have half-empty ships in many places.

C: With COVID-19, the statistics that you'll be basing this analysis on may not be that valid. We'll see people going out of business.

**(ACTION) The Stakeholder group will give a status report at the December meeting.**

**(ACTION) The Harbors group will report out at the next meeting (November).** Steve and Derek.

**(ACTION) Vic (and others in his group) will provide info about cargo coming in and out of the state and help us understand the whole system.**

Q: Donna: Are there other things we need to do between now and next meeting?

Q: A point of clarification, can we have the names of the subcommittee regarding the statute?

A: I think we put the statute issue on the back burner right now. Other items will inform the discussion about the statute.

A: We don't have a committee yet. We started but then sidelined this.

### **Discussion of YB Response to WG**

YB provided answers to the questions that the Department of Agriculture asked. WG members got the response from YB in the packet of information we shared between the last meeting and this one. If there's any follow up now, let us know. YB is available to answer questions beyond this meeting as well. They're willing to talk story with anyone who has a questions.

Donna asked the group if there were any follow up questions or comments.

### **Q = Question, A = Answer, C = Comment**

Q: Phyllis: We're aggies, we're not in the shipping business. We just want to understand the definition of what is considered "proper interstate movement" in this regulated industry and the definition of "illegal shipments originating from the West Coast." We don't know what these terms mean. We just want to better understand the terminology.

A: YB: SIT is an extremely complicated discussion as Vic referenced. He wants to make sure we know SIT itself isn't illegal. At a later date we can make an in-depth presentation on this.

A: Interstate cargo/Trans-Pacific cargo is anything that originates from the West Coast and finds its way to Hawaii. Intrastate cargo originates within our state – on any island. The complexity of SIT is that it allows certain cargos to be seen as interstate for a number of months.

A: Illegal SIT is when, for certain customers, we see their cargo volumes drop immediately. When PASHA sees the exact same increase in their cargo volumes we have reason to believe that they're moving cargo through illegal SIT means.

A: We've had customers that during the pandemic moved container volumes with us, and the moment we changed the Hilo shipping schedule, their volume changed. When we reinstated the sailing schedule, their volume didn't immediately come back. Now they're saying they're going to move it back. This leads us to believe that consumers are finding alternate ways to move cargo and that's leading to a degrading of the system.

A: To assist our stakeholders, we want to understand this. In small rural communities with small volumes, they have to eat the increase. They don't have that scale. Throughout the process, I'll reach out to Kris to get more clarity.

A: We do want to get more in depth about this as we go along.

C: Donna: When you have those questions, there is real value in sharing them with the larger group. They help all of us to have a better understanding. It's great that Vic volunteered to do a presentation on larger system at next session. We'll get closer to having the SIT situation explained to us and to better understanding it.

C: Vic: This is part of what I was planning on including in the presentation. We can discuss what makes it illegal.

Q: Donna: How long will the presentation be? I want to build in discussion time to tease out what we need to look at.

A: 15 minutes.

**Plus/Delta:**

Donna asked the group to identify things that went well during the last 3 meetings (pluses) and things that could be improved for future meetings (deltas).

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<ul style="list-style-type: none"> <li>• Notes that go out for us to review before the meeting gives us an opportunity to prepare and understand what's coming up – that's really helped!</li> <li>• Seeing more structure today. The more we get into subcommittees, we'll start to get more into the meat of what we're doing.</li> <li>• Thanks to Sandra Leong for being flexible with the agriculture folks...we're keeping long hours right now and she's keeping up with us and getting us into the meetings even at the late hours.</li> </ul>	<ul style="list-style-type: none"> <li>• At last meeting, I brought up that there is still dissatisfaction from stakeholders that want to know if they're going to be called up on to give input. They're also unhappy about the rate increase on Hilo side. My ask is – do we go to the neighbor islands as a WG to get input from the users? We're hearing the same message about costs. At a recent meeting, businesses that want to export out of Hawaii Island shared that the barge leaving out of Hilo is not filled. If not through WG, maybe Legislators can take it on? It seems like we're neglecting them.</li> </ul> <p>Note: Donna suggested that maybe this is something Legislators could do on their islands. Maybe they can work with Donna to create a consistent format for collecting information – an agenda and a process that would help us collect the same kinds of info across Counties and would release some of that pressure immediately. Lorraine added that she feels the groups would need a facilitator.</p>

Donna asked the group if the current practice of getting the materials to the WG by the Monday of the week of the Thursday meeting is working. The group affirmed that it is working for them.

### **Next Steps**

- Subcommittees will work on their assignments (see ACTIONS).
- We will compile the group memory and work on the next agenda to send out to the WG.
- The next meeting will be on November 19<sup>th</sup>.

### **GROUP AGREEMENTS:**

- There were no specific group agreements at this meeting.

### **ACTIONS:**

- On the *Critical Needs List*, add another bullet that says “Investigate impact of rate increases on current users of YB.”
- To the November agenda, add a presentation from PASHA and YB on the whole system and how cargo gets treated when it gets to Hawaii.
- At the November meeting, the Harbors group (Steve and Derek) will report out.
- At the December meeting, the Stakeholder group will give a status report.