

BOARD OF WATER SUPPLY  
COUNTY OF MAUI

REGULAR MEETING  
THURSDAY, FEBRUARY 25, 2010

Held at the Department of Liquor Control  
Conference Room, David Trask Building, Room 105,  
Wailuku, Maui, Hawaii, commencing at 00:00 a.m.

Transcribed from the audio recording by Gaye  
Hayashida, Commission Support Clerk, Department  
of Water Supply, County of Maui.

1                                   A P P E A R A N C E S

2   **BOARD MEMBERS:**

3       Michael Howden, Chair

4       Patricia Eason

5       Donald Gerbig

6       John Hoxie, Jr.

7       Kui Lester

8       Phyllis Robinson

9       Ted Yamamura

10

11   **STAFF PRESENT:**

12       Jeffrey K. Eng, Director of Water Supply

13       Edward Kushi, Jr., Deputy Corporation

14                   Counsel

15       Ellen Kraftsow, Water Resources & Planning

16                   Program Manager

17       Gaye Hayashida, Commission Support Clerk

18

19   **OTHERS:**

20       Jane Lovell, Deputy Corporation Counsel

21       John V. Duey

22       Lucienne de Naie

23       Carl Freedman

24       Isaac Hall

1 CHAIR HOWDEN: Ok, I'd like to call our  
2 February 25<sup>th</sup> meeting to order. In  
3 attendance is members of the board, Don  
4 Gerbig; Ted Yamamura; Phyllis Robinson;  
5 Patricia Eason; and John Hoxie; and Chair  
6 Michael Howden; Director of the Department  
7 of Water Supply, Jeffrey Eng; our Deputy  
8 Corporation Counsel, Ed Kushi; Gaye  
9 Hayashida, our board secretary; and many  
10 distinguished members of the public. Any  
11 announcements?

12 (silence)

13 CHAIR HOWDEN: Ok, might we approve the  
14 minutes from last time if there're any  
15 corrections or...? Might we have a motion to  
16 approve then?

17 MEMBER HOXIE: I wasn't here.

18 CHAIR HOWDEN: Ah ha.

19 MEMBER ROBINSON: Second.

20 CHAIR HOWDEN: Oh, John didn't do anything  
21 'cause he wasn't here.

22 MEMBER ROBINSON: Oh, I thought he made a  
23 motion.

24 MEMBER EASON: I think...I thought he did too.

1 MEMBER HOXIE: No.

2 CHAIR HOWDEN: No, he's being truthful.

3 MEMBER ROBINSON: He hasn't read 'em?

4 CHAIR HOWDEN: You never, seldom hear that.

5 Motion? Motion to approve minutes?

6 MEMBER GERBIG: I'll make a motion to  
7 approve the minutes.

8 CHAIR HOWDEN: Thank, thank you.

9 MEMBER ROBINSON: And I'll second that.

10 CHAIR HOWDEN: Phyllis has seconded it. Ah,  
11 those in favor?

12 (a chorus of ayes)

13 CHAIR HOWDEN: Thank you. Ok, we'll begin  
14 with Testimony from the Public. Our first  
15 testifier is John Duey. John?

16 MR. DUEY: Good morning Chair Howden, board  
17 members. My name is John V. Duey, taxpayer,  
18 land owner 'Iao Valley. I've been here  
19 before, I'll be, maybe be here again. You  
20 haven't seen me before, afraid you'll have  
21 to look at me at another date. I wanna talk  
22 a little bit about the Water Use and  
23 Development Plan. I know Carl is here.  
24 He's done a lot of work on it since 3 years,

1 4 years. How long has it been, Carl? Five,  
2 six? Long time. One thing I wanna talk  
3 about mainly is Steve Gingrich, USGS, done  
4 this I think it's a four and half year study  
5 on Groundwater Availability in Wailuku area.  
6 Came out, finally came out in, published I  
7 think, 2008, it says here. Wanna call your  
8 attention to if you don't have it or haven't  
9 seen this. He states that from his research  
10 that the Wailuku area, aquifer which is  
11 Wailuku, Waikapu and Waihe'e. The  
12 sustainable yield he comes up with 27.1  
13 million gallons a day. Withdrawals, that's  
14 just well withdrawals, so there's little bit  
15 more water from the upper level, upper level  
16 water, the tunnel and all that. But the  
17 main thing I wanna talk about the, in Carl's  
18 strategies the, I think the final, I think  
19 there's 5 final candidate strategies and the  
20 first one was of course Na Wai Eha, the  
21 water from Waiale Treatment Plant. And of  
22 course a lot of hullabaloo has been about  
23 that over the last couple months, 4 or 5  
24 months, about HC&S and all this sort of

1 thing. In my mind the water of HC&S is not  
2 the problem. It's management and, and the  
3 cost of, they can't make money with the  
4 water so if they don't have the water it's  
5 not going to make any difference. So anyway  
6 my point here is the recharge, Steve's page  
7 18 of his report, of course I'm involved in  
8 Hui Na Wai Eha and we want mauka to makai  
9 flow and Steve's report shows that if the  
10 streams are restored there would be 12.3  
11 million gallons a day restored to the  
12 aquifer. That's a lot of water. The 'Iao  
13 alone is 5 point, 5.5 for 'Iao, Waihe'e is  
14 1.3 million gallons, 'Iao is 5.5, Waikapu is  
15 2.8 which is not too critical for here us  
16 'cause that, for here in this Central Maui  
17 'cause that's Maalaea area but the 5.5 in  
18 'Iao would make a lot of difference. To me  
19 that's an easiest, cheapest and most logical  
20 way to get the water. Talk about Waiale  
21 Treatment Plant of course, the projection is  
22 or the thought is 9 million gallons a day  
23 and of course HC&S is screaming if you take  
24 a drop water, we'll go out of business. So,

1 if A&B wants to build a treatment plant in  
2 then HC&S went out of business. That's you  
3 know, if you read it, you read it we lose a  
4 drop of water we go out of business but A&B  
5 says we'll use 9 million gallons so here's  
6 your, here it is. One of the thing I'll  
7 give you, Mr. Howden, and you can put in  
8 your file...Oh, can't reach sorry. Thank you.  
9 I, this little report I've done for the  
10 Planning Commission, Maui County Planning  
11 Committee, rather, not the commission, is  
12 so, Water Usage for Central Maui and South  
13 Maui and it's based on projections for new  
14 use, part of the GPAC and Planning come up  
15 with 6.9 million, I come up with 6, there's  
16 8, 1400 new units for South Maui and 5,000  
17 new units for Central. This is by 2030,  
18 which would require 6 million gallons more  
19 water. And the big thing is the  
20 entitlements that already been, ohana units  
21 or units or properties that have not been  
22 developed yet, 6,600 units in South Maui and  
23 8,000 Central Maui which is a total of 18  
24 million gallons so the bottom line is

1 there's 24 million gallons of water needed  
2 by 2030. So my question is who are the  
3 bloody water coming from? So that's double,  
4 as Jeff's gonna attest to that's just about  
5 double of what project, what we're producing  
6 right now in Central Maui. With the Water  
7 Use and Development Plan that Carl has been  
8 working on, it hasn't got to council yet,  
9 hasn't come out of here yet, haven't got to  
10 council and it's gonna create a lot of  
11 static I'm afraid when the people understand  
12 where, where the water proposed to come from  
13 is gonna cause a lot more problems. So, as  
14 I said in this little statement there, Mr.  
15 Hunt doesn't agree with me. He's, he told  
16 me one day that water should not control  
17 growth and I make a statement that water,  
18 water or the cost of water will control  
19 growth. By cost of water I mean desal or,  
20 or water from Hana or whatever so. As we  
21 all know water's being issued; it ain't  
22 going away. The issue is gonna get larger  
23 and larger as people wanna develop and HC&S  
24 wants to stay in business. But HC&S has



1 that Well 7 they can pump water from so, 40  
2 million gallons a day; they pump from 1921  
3 to 1988. They pump 21 million gallons a day  
4 on average and they don't want to use it now  
5 'cause they save on electricity, Maui  
6 Electric so. Anyway that's all that I have  
7 to say for now. Anybody has any questions  
8 I'll be glad...

9 CHAIR HOWDEN: Any, any questions from  
10 board members? Ok, thank you, John.

11 MR. DUEY: You're welcome.

12 DIRECTOR ENG: Excuse me, Mr. Chair, maybe  
13 if I may just inform everyone, next Tuesday,  
14 is a Water Resources Committee meeting. Now  
15 on the agenda the USGS will be presenting  
16 that report. So if you have time it might  
17 be kinda interesting.

18 MEMBER HOXIE: What time?

19 MR. DUEY: Steve is coming then?

20 DIRECTOR ENG: Yeah, he's coming next  
21 Tuesday, probably, there's 2 agenda items.  
22 One is the ag definition and we're gonna  
23 work on that as well as the presentation by  
24 the USGS.

- 1 MEMBER ROBINSON: What time?
- 2 DIRECTOR ENG: Well the meeting starts at  
3 9. I don't know, I haven't seen the agenda  
4 so I don't know what order...
- 5 MR. KUSHI: It's first on the agenda.
- 6 DIRECTOR ENG: Is it?
- 7 MEMBER ROBINSON: And where is it?
- 8 MR. KUSHI: Council chambers.
- 9 DIRECTOR ENG: Council.
- 10 MEMBER ROBINSON: Council chambers?
- 11 CHAIR HOWDEN: Hi Kui. I'd like to note  
12 that Kui Lester has arrived. And we also  
13 have Jane Lovell from Corp Counsel's office.  
14 Someone else.
- 15 MEMBER GERBIG: In regards to next  
16 Tuesday's meeting, did you submit a letter  
17 to the, in regarding the last meeting from  
18 the Department of Water Supply to the  
19 council when they were, Mr. Victorino was  
20 talking about the water discussion. Did you  
21 submit any data to them?
- 22 DIRECTOR ENG: When was this specifically?
- 23 MEMBER GERBIG: It was...
- 24 DIRECTOR ENG: I wasn't at that...

1 MEMBER GERBIG: The most recent meeting on  
2 water, about this ag water thing. Did you  
3 submit anything?

4 DIRECTOR ENG: We, we recommended a  
5 proposed definition but there were some  
6 meetings within various departments that I  
7 wasn't a part of. So those participants  
8 were at the meetings and discussing..

9 MEMBER GERBIG: Could we get a copy of  
10 that? Was that in writing?

11 DIRECTOR ENG: What...

12 MEMBER GERBIG: Anything you submitted to  
13 the council on the recent water meetings in  
14 writing, could we get a copy of it?

15 DIRECTOR ENG: Yeah, I think I submitted a,  
16 a very simple...

17 MEMBER GERBIG: Yeah, that's all.

18 DIRECTOR ENG: Definition.

19 MEMBER GERBIG: So we're aware.

20 DIRECTOR ENG: This was quite a few months  
21 ago. Sure, I can get you a copy of that.

22 MEMBER GERBIG: Thank you.

23 CHAIR HOWDEN: Thank you. And also Ellen  
24 Kraftsow from Water Resources Division,

1 chief of Water Resources Division is  
2 present. Thank you. Ok, Jeffrey, Jeffrey  
3 Parker is our next testifier.  
4 MR. PARKER: Morning, Chairman Howden and  
5 members of the commission. I represent the  
6 Coalition to Protect East Maui Water  
7 Resources and as you know we are a consent  
8 decree party. And as you also know our  
9 focus is on the eastward basal aquifer  
10 strategy and the final candidate strategies  
11 report. Now, we brought with us today some  
12 very reasonable language that we would like  
13 you to include in your recommendations to  
14 the council. But first, I'd like to say, we  
15 agree with the, with several of the  
16 conclusions of the consultant, that the  
17 eastward project is far too costly, that the  
18 resources unknown, that the strategy would  
19 have adverse impact on residents who rely on  
20 springs and streams for their water in the  
21 project area. And that the strategy is  
22 constrained by the consent decree and that  
23 there is universal opposition to this idea  
24 by the residents that live in the region.

1 Now to explain that opposition I would like  
2 to tell you about my own situation. Already  
3 a 100% of our streams are diverted where we  
4 live. We have no water. But I've been  
5 farming on the same property for the last  
6 thirty years because I can get my water from  
7 Waipio Stream because there're springs that  
8 originate below the EMI diversion. It's a  
9 quarter a mile above my property. The  
10 stream is a 100% diverted. Now that USGS  
11 report entitled Groundwater in Hawaii  
12 concludes that large municipal type wells  
13 cause nearby springs and streams to dry up.  
14 And then at one of the meetings held by the  
15 consultant on this eastward strategy, a map  
16 was displayed showing theoretical placement  
17 of wells in our neighborhood. And one of  
18 those wells was located on our stream right  
19 above my property. So, I'd just like you to  
20 consider how you would feel if your water  
21 source which has sustained your farm for 30  
22 years was being threatened. And then the  
23 language is very simple that we would like  
24 you to include. I have some copies. I'll

1 just quickly read it. Number one, and this  
2 is the language we'd like you to use. This  
3 strategy would require an enormous  
4 investment in an unproven system. No  
5 mechanism has been put in place to determine  
6 what long term yields would be available.  
7 Number two, this strategy would have  
8 verifiable adverse impacts on residents who  
9 rely on surface water or private wells and  
10 who will receive no benefit. Number three,  
11 any plan for water sources should comply  
12 with the county general and community plans.  
13 Specifically, objective six in the Paia-  
14 Haiku Community Plan states, "ensure  
15 adequate supply of groundwater for residents  
16 of the region before water is transported to  
17 other regions of the island." And thank you  
18 very much for allowing me to present that  
19 testimony. Here's the language; some copies  
20 for everyone.

21 CHAIR HOWDEN: Ok.

22 MR. PARKER: Thanks.

23 CHAIR HOWDEN: Thank you Jeffrey. Any  
24 questions from members of the board?

1 (silence)

2 CHAIR HOWDEN: Good thing not council. Ok,  
3 Jeff. Ok, our next testifier is Lucienne de  
4 Naie from Sierra Club.

5 MS. DE NAIE: Thank you. Nice to see you  
6 all. As you may be aware Sierra Club is  
7 also a party to the consent decree on the  
8 East Maui wells. And I did come today, I  
9 support what Mr. Duey is saying and I  
10 support what Mr. Parker has just said. I  
11 want to add a little bit to that. And one  
12 is that I was going over my notes about the,  
13 the East Maui project and came across our  
14 notes during the consent decree consultation  
15 process and one of the real strong points we  
16 made is the need to base any decision on a  
17 real accurate study of the groundwater, a  
18 stream-spring interface. Now as you may  
19 know there's about 40 private wells in the  
20 area that would be affected by any proposed  
21 East Maui well system, in other words in the  
22 area between Maliko Gulch and Kakipi Gulch.  
23 These are the only sources of water for  
24 these folks. There aren't meters available

1 for them. And so when you look at that  
2 situation besides the people who are using  
3 springs, 'cause the streams in Haiku were so  
4 heavily diverted that they rarely run, so  
5 people even if they have a stream running  
6 through their property if they want it for  
7 agricultural purposes or so forth, it's  
8 usually just not there. So they rely on  
9 springs of which there are numerous springs  
10 in Haiku and they rely on these private  
11 wells and that's why there's a proliferation  
12 of these private wells in this area. I want  
13 to say that when Mr. Kent Smith proposed a  
14 private well for his subdivision on East  
15 Kuiaha Road the state water commission  
16 actually received a water, a letter from a  
17 Mr. David Craddick at the time asking them  
18 not to approve his well permit. And I just  
19 want to quote from his letter, he said to  
20 the commission, "It may negatively impact  
21 anticipated withdrawals at the Kulamalu Well  
22 which is immediately upgradient of it and a  
23 proliferation of wells in this area without  
24 a pump management protocol could damage the



1 aquifer." So, Mr. Smith ended up not  
2 drilling that second well. But it's  
3 interesting that the head of the Department  
4 of Water Supply did refer to the fact that  
5 having too many wells in the same area could  
6 impact the performance of these wells even  
7 if one, the Kulamalu Well was 2.7 miles  
8 upgradient of this particular well. And I  
9 just concur with Mr. Parker that this  
10 strategy is not practical unless we really  
11 get the information. There was supposed to  
12 be test wells drilled and information  
13 gathered. I'm not really sure that has  
14 happened but in order to really be in  
15 compliance with our community plan I think  
16 we would need that information. We would  
17 also need to know how an adequate supply of  
18 groundwater was going to be supplied to the  
19 residents because that's exactly what our  
20 community plan says. It's one sentence. It  
21 just says "insure an adequate supply of  
22 groundwater to residents of the region  
23 before water is transported to other regions  
24 of the island." Very simple statement.

1 Very simple, you can understand why when 40  
2 private wells exists because people can't  
3 get water meters and if there's gonna be a  
4 county sponsored system it should serve the  
5 residents of the area. So I hope that this,  
6 I think the language Mr. Parker suggested to  
7 you could include these concepts and as you  
8 get into the, the USGS head and shoulder  
9 study, I think you also see that the areas  
10 that have low head levels like under 10 feet  
11 are being looked at as under threat of  
12 future loss of potable water over the long  
13 term. So when you're investing a lot of  
14 money in infrastructure I think you want to  
15 really have a very, very reliable source  
16 with some robust head levels. Thank you.

17 CHAIR HOWDEN: Thank you. Any questions  
18 from members of the board? Jeff, any  
19 comments?

20 DIRECTOR ENG: No, I don't.

21 CHAIR HOWDEN: Ok.

22 DIRECTOR ENG: Thank you.

23 CHAIR HOWDEN: Thank you Lucienne. Ok, we  
24 have both Jane Lovell present, our deputy

1 corporation counsel and Isaac Hall who  
2 represented the consent decree appellants.  
3 It would seem to make more sense to change  
4 our order and let Jane make her presentation  
5 and perhaps Isaac could comment on that. So  
6 we have perhaps a more balanced  
7 presentation; is that ok with you, Ed?

8 MR. KUSHI: Well, Mr. Chair, I have  
9 requested Jane Lovell to be here in response  
10 to the board's questions which came up at  
11 public testimony as far as how this Central  
12 Maui Water Use and Development Plan affects  
13 the consent decree.

14 CHAIR HOWDEN: Uh huh.

15 MR. KUSHI: And within those parameters  
16 Jane Lovell is here. Now, if you combine  
17 the scope to that discussion, fine and well.  
18 Jane Lovell represents the department and  
19 the county. There's no request for, as much  
20 as I respect him, Isaac Hall to be here.  
21 But if you wanna ask him since he's here,  
22 that's fine and well but I would suggest  
23 confine the scope of the discussions to the  
24 relationship of the Water Use and

1 Development Plan and the consent decree.

2 Otherwise, if you just talk about the  
3 consent decree you could be here for days.

4 CHAIR HOWDEN: Of course. Mr. Hall, would  
5 that be agreeable to you.

6 MR. HALL: That's fine.

7 CHAIR HOWDEN: Ok.

8 MEMBER HOXIE: I have a question.

9 CHAIR HOWDEN: And members to the board..

10 MEMBER HOXIE: So this is, this is all in  
11 reference to the Central District plan?

12 CHAIR HOWDEN: Yes, yeah, to the consent  
13 decree, the eastward strategy that Carl  
14 presented in the plan.

15 MEMBER HOXIE: Ok.

16 MR. KUSHI: Mr. Chair, just because of Mr.  
17 Parker's testimony at the Wailuku hearing  
18 this is what, this is why Ms. Lovell is  
19 here.

20 CHAIR HOWDEN: Yes.

21 MEMBER ROBINSON: Is it only the eastward  
22 plan though because questions of the consent  
23 decree also came up about the 'Iao Aquifer  
24 and the use of water there so, I..

1 CHAIR HOWDEN: Oh, no. The consent decree  
2 simply, perhaps Ed could speak to this but  
3 it just refers to East Maui.

4 MEMBER ROBINSON: Oh, it does?

5 CHAIR HOWDEN: Yeah.

6 MEMBER ROBINSON: Ok.

7 MR. KUSHI: Well, no, no, no. The consent  
8 decree covered the department's plan at that  
9 time to bring water from the East Maui to  
10 the Central Maui.

11 MEMBER ROBINSON: Ok.

12 MR. KUSHI: So it's related to the Central  
13 Maui Water Use and Development Plan.

14 MEMBER ROBINSON: Got it. Ok. Thank you.

15 CHAIR HOWDEN: Any more questions? Is  
16 this, is the board in agreement that we do  
17 this or...? Just in the interest of that we  
18 really get the information we need. Jane,  
19 would you like to go ahead?

20 MS. LOVELL: Good morning, chair and, and  
21 board members. I must say I did not  
22 understand that I was here to make a  
23 presentation. I, I understood from your  
24 agenda that the board had questions about

1 the relationship between the consent decree  
2 and the draft Water Use and Development Plan  
3 and that I was to be here as a resource to  
4 answer those questions, so that really is my  
5 focus. I, I didn't do a, you know, sort of  
6 major presentation but I guess could just  
7 say very generally that the Water Use and  
8 Development Plan fully acknowledges the  
9 consent decree. It mentions it on pages 32  
10 and 35. It points out that the county, if  
11 the county wishes to develop wells in the  
12 East Maui region that compliance with terms  
13 of the consent decree is required. On page  
14 36 of, and I'm, I'm, I'm looking at the  
15 report review draft dated June 2009.

16 CHAIR HOWDEN: Uh huh. That's the one we  
17 have.

18 MS. LOVELL: Right and on page 36 it says  
19 for example, "the county is bound by a list  
20 of terms specified in the consent decree  
21 including the following and it goes into  
22 some of the things, so as far as, as I look  
23 at it the Water Use and Development Plan is  
24 a, a planning tool that is required by law

1 to look at a lot different strategies and  
2 scenarios to discuss the pros and cons of,  
3 of each scenario, to consider different  
4 potentials for increasing the water supply,  
5 to compare one potential way to go with  
6 another, to balance, to look at the cost  
7 benefit of each strategy and to point out  
8 what the pros and cons of each are. And I  
9 think, reading this latest draft, June 17,  
10 2009, that the plan actually does a pretty  
11 good job of doing that. It points out that  
12 yes, there is, is water in East Maui that  
13 could be available if wells were drilled,  
14 however, there are expenses involved, there  
15 are transmission issues and if the county  
16 goes with that strategy the county must  
17 comply with the terms of the consent decree.  
18 So, personally, as someone who helped draft  
19 and, and negotiate that consent decree, I  
20 don't see any disconnect between these 2  
21 documents. The consent decree itself, first  
22 all, covers only a specific area of East  
23 Maui. It, it covers only the eventuality  
24 that water will be taken from East Maui and

1 brought into the Central Maui system. It  
2 doesn't necessarily go into whether water is  
3 developed in East Maui for use in East Maui  
4 or for the Upcountry system. And it doesn't  
5 foreclose forever the idea that some day the  
6 county might need to drill additional wells  
7 in East Maui. And if you look at, at the  
8 consent decree it talks about, it, it, it  
9 talks about what the county would have to do  
10 before developing groundwater resources in  
11 the agreed upon portion of the East Maui  
12 region, which is described by an Exhibit A  
13 and a map to the consent decree. So, all  
14 through this consent decree are things that  
15 the county has to do first before going on  
16 to develop further water resources in East  
17 Maui. It's things like do a full EIS.  
18 Compare the cost of going there with the  
19 cost of getting water from some other place.  
20 Studying stream restoration; studying the  
21 effect if any of a well on an existing  
22 stream or, or spring or so forth. So, the  
23 consent decree, I think a lot of people have  
24 the mistaken notion that by entering into



1 this consent decree the county said that we  
2 will never, ever, ever consider putting  
3 additional wells in East Maui. And that was  
4 not the intent. The intent was to resolve  
5 litigation over the environmental impact  
6 studies that were done for this one  
7 particular plan which called for 10 wells.  
8 And the, the complaint in that case was that  
9 the EIS was not sufficient. That it didn't  
10 have enough detail, it didn't consider a lot  
11 of things that it should have, it was  
12 legally insufficient. And the county in  
13 settling that case after 10 or 12 years of  
14 litigation said, "you know what, let's not  
15 fight anymore over whether this EIS for this  
16 plan was sufficient or insufficient. Let's  
17 just agree that if we take this plan any  
18 further than it's already gone, we'll do a  
19 new EIS and hopefully will, will, any  
20 deficiencies in the old will be cured by  
21 doing a new one." That was the basic idea  
22 behind this settlement. So I hope that  
23 overview is helpful. I'm certainly willing  
24 to answer questions if you have them.

1 CHAIR HOWDEN: Any questions from board  
2 members?

3 (silence)

4 CHAIR HOWDEN: Thank you, Jane. That's  
5 actually very helpful.

6 MR. KUSHI: Mr. Chair? If I may?

7 CHAIR HOWDEN: Yeah.

8 MR. KUSHI: Ms. Lovell, couple questions.  
9 In the context of the consent decree  
10 language, is the proposed Water Use and  
11 Development Plan that the board is looking  
12 at now for Central Maui, can it be construed  
13 as an EA or EIS?

14 MS. LOVELL: No, no, but some of the work  
15 that's gone into the Water Use and  
16 Development Plan I think might conceptually  
17 or theoretically be included in an EIS.

18 MR. KUSHI: But standing alone wouldn't...

19 MS. LOVELL: No, standing alone no. It  
20 would at best be some information that could  
21 be included in an EIS, or information of the  
22 type that is included in an EIS.

23 MR. KUSHI: Ok. Another question. Again,  
24 the language of the consent decree, would

1 this Water Use and Development Plan be any  
2 how construed as a cost/benefit study?  
3 MS. LOVELL: Well, I think certainly any  
4 water use and development plan does include  
5 a consideration of cost versus benefit. I  
6 think that's one of the major things that a  
7 water use and development plan does. And  
8 throughout the draft, the June 2009 draft,  
9 there is quite a, quite a lot of discussion  
10 of if we go this way it's gonna cost this  
11 much, if we go that way it's gonna cost that  
12 much. So, I think a certain amount of cost  
13 benefit analysis has been done in the Water  
14 Use and Development Plan report review draft  
15 as it's required to do. This particular  
16 draft for the Central District doesn't maybe  
17 go into the depth that the cost benefit  
18 analysis that's contemplated in the consent  
19 decree would do. But, but one of the cost  
20 benefit analyses that the consent decree  
21 indicated the county should do was to  
22 consider whether it would be cheaper to get  
23 more surface water from Na Wai Eha than  
24 drilling groundwater wells in the Haiku

1 region. And at the time there was the  
2 thought that there was excess surface water  
3 in Na Wai Eha because Wailuku Water Company,  
4 Wailuku, yeah, now they are Wailuku Water  
5 Company but Wailuku Ag had gone out of ag  
6 and, and so in, in negotiating this consent  
7 decree I believe it was Lucienne de Naie who  
8 brought it up that we have this agricultural  
9 operation, it shut down, it's been taking  
10 all this water, since it doesn't need the  
11 water for ag anymore maybe that water could  
12 go into the Central Maui water supply and  
13 then you wouldn't have to go to the enormous  
14 expense of drilling wells and pipelines and  
15 all of that from East Maui to bring it into  
16 Central. And that was a very sensible idea.  
17 Look at a more available and cheaper source  
18 first before you start planning a very  
19 expensive project. The problem is now  
20 though, we know that they're actually, well  
21 I shouldn't say that there isn't extra water  
22 available, but Na Wai Eha is the source, is,  
23 is the subject of two ongoing contested  
24 cases. A surface water designation, area

1 designation was created by the state of,  
2 Water Commission with the support, the full  
3 support of the county I might add. And so  
4 now the county is actually looking at using  
5 more water from Na Wai Eha. We're at least  
6 considering a surface water treatment plant,  
7 the Waiale Plant, that would treat and use  
8 up to I think 9 million gallons of water.  
9 But that project has been very, has been  
10 criticized and opposed by a number of  
11 parties to the contested case hearings in Na  
12 Wai Eha. And a lot of people feel that that  
13 water should be put back into the streams  
14 and should not be used for the municipal  
15 water supply. Maui Tomorrow certainly took  
16 that position in those cases. And those  
17 cases aren't resolved yet so we don't know  
18 what the final decision is going to be. We  
19 don't know if we're gonna have that water  
20 available to us for use in the Central Maui  
21 system because depending on what the Water  
22 Commission decides to do, you know we may  
23 not have enough water to, to run or to  
24 justify even building such a plant. So,

1 it's kinda of a long winded answer I guess  
2 to your question.

3 MEMBER ROBINSON: It's very helpful.

4 MR. KUSHI: Yeah, Mr. Chair, one more  
5 question. Jane, the consent decree at page  
6 five, section 4.5, and I'll just read it to  
7 you. It's kinda specific. It specifically  
8 says, "Any new project planned by the County  
9 of Maui to develop groundwater in the agreed  
10 upon portion of the East Maui region shall  
11 be consistent with the Water Use and  
12 Development Plan for the Island of Maui and  
13 the state water code." As we sit today,  
14 we're, this board is looking at the Water  
15 Use and Development Plan. The process is  
16 if, I mean they can't say up or down, it  
17 goes up to the council and if the council in  
18 its wisdom states that the, any efforts to  
19 go to the east, east Maui region is out then  
20 doesn't that cover, that the consent decree  
21 speak for itself, because it wouldn't be  
22 consistent.

23 MS. LOVELL: Well, yeah, I think even  
24 without a consent decree any major project

1 to develop new water sources has to be  
2 consistent with our county zoning, our  
3 county land use plans, our county general  
4 plan, our community plans and the governing  
5 water use and development plan. So, even  
6 though that's what 4.5 says, I don't know  
7 that you even need that, that paragraph in  
8 the, in the document, in the consent decree  
9 because I think that general point that it  
10 makes is, is already a matter of law, that,  
11 that our, our planning, our water planning  
12 and any water development needs to be  
13 consistent with our water use and  
14 development plans and our county zoning and  
15 state zoning, and..

16 MR. KUSHI: So, again, if this plan to go  
17 eastward is taken out as a..

18 MS. LOVELL: As a strategy.

19 MR. KUSHI: Strategy, then can do it,  
20 right?

21 MS. LOVELL: Um, yeah. I mean, I, I, I  
22 think that true but also I, I would caution  
23 I think, I don't read this Water Use and  
24 Development Plan as a, as a plan to go

1 eastward so much as that is one of the  
2 strategies, one of the options that is being  
3 considered. This, this plan considers a  
4 whole bunch of options. It considers going  
5 to Kahakuloa, it considers going into the  
6 Waikapu Aquifer, it considers more surface  
7 water and I think that the people in the  
8 planning division of the Water Department  
9 have to look at, at every possible source  
10 and then it's up to them to do as they've  
11 done in this plan, I think a very good job,  
12 to show, ok, if we go with, with option  
13 number one, here are the costs, here are the  
14 detriments, here are the pros and cons. We  
15 go with option two, here are the costs, here  
16 are the benefits, here are the pros and  
17 cons. So I really think that the fact that  
18 an East Maui direction is being considered  
19 in this plan, is really no different than  
20 the fact that a north Maui concept is being  
21 considered. It's a, it's, it's a, it's an  
22 option that being considered. It doesn't  
23 mean that that a full-fledged plan has been  
24 developed and I think before we did plan any



1 kind of eastward expansion there would be a  
2 lot, a lot more would have to go into it.  
3 As I, as I read the draft what, what this  
4 draft includes are options and approaches.  
5 I wouldn't say they are yet at the level of  
6 a plan. You know it doesn't go into we'll  
7 put a well here and we'll put another well  
8 there and this well will produce so much and  
9 it will cost X dollars and it will take so  
10 many miles of pipe. None of that is in the  
11 Water Use and Development Plan. The Water  
12 Use and Development Plan deals with  
13 strategies and concepts.

14 CHAIR HOWDEN: Thank you. Don?

15 MEMBER GERBIG: I just want to clarify my  
16 understanding. I agree with you that it is,  
17 this, it's an option, it's not cast concrete  
18 but just speaking about the East Maui and  
19 the consent decree, if the county decides to  
20 go into this area for water, well however,  
21 through state law or county law, if they do,  
22 am I correct to assume that they will have  
23 to comply with the consent decree?

24 MS. LOVELL: Oh, yes.

- 1 MEMBER GERBIG: That, that's it so.
- 2 MS. LOVELL: As, as long as the, where  
3 the...
- 4 MEMBER GERBIG: In that area.
- 5 MS. LOVELL: Yeah, as long as it's within  
6 the area that's covered by the consent  
7 decree, if the county comes up with another  
8 plan, say we wanna put 3 new wells in the  
9 Haiku area then we would, we would certainly  
10 have to comply with the consent decree.
- 11 MEMBER GERBIG: Yeah, so anything involved  
12 in that area where the consent decree  
13 covers...
- 14 MS. LOVELL: Right, right.
- 15 MEMBER GERBIG: Would have, I mean the  
16 county does anything in there would have to  
17 comply consent decree.
- 18 MS. LOVELL: Yes, yes and we would have to  
19 do an EIS because it would be a use of  
20 county money, it would be a major project,  
21 we'd be looking at probably, you know  
22 millions of dollars...
- 23 MEMBER GERBIG: That's part of the consent  
24 decree?

1 MS. LOVELL: Well, it's part of the consent  
2 decree and it's also a part of state law,  
3 yeah.

4 MEMBER GERBIG: Yeah, so it's all the same.

5 MS. LOVELL: So...

6 MEMBER GERBIG: So it would be the consent  
7 decree just demands, requires additional  
8 things be done.

9 MS. LOVELL: Yes.

10 MEMBER GERBIG: Additional well drilling,  
11 etcetera.

12 MS. LOVELL: Yeah, that's right. The test  
13 well language, I, I don't want to say that  
14 it requires that a, a test well be drilled.  
15 It certainly contemplates that the county  
16 will work with USGS to, to try to get a test  
17 well to study certain, the impact, the  
18 potential impact of well on stream flow and  
19 so forth. You know it's interesting the  
20 consent decree also requires the county to  
21 actually initiate stream restoration and you  
22 know I read that now, I helped write this  
23 thing, I'm wondering how the heck are we  
24 supposed to do that, you know if we don't

1 own the land, if, if it's not our stream, if  
2 the Water Commission is already working on  
3 stream restoration and I'm not quite sure  
4 how we would do that but...

5 MEMBER GERBIG: Again, in the consent  
6 decree all these things and it wouldn't,  
7 would it be necessary prior to any, to going  
8 into this area and complying with the  
9 consent decree to sit down with everybody  
10 and discuss exactly what, like you say the  
11 stream restoration thing, to clarify what  
12 everybody would feel would be right.

13 MS. LOVELL: Yes, I think before any  
14 concrete plan was put into place there is  
15 provision in the consent decree that the  
16 parties have to consult with each other.

17 MEMBER GERBIG: Oh, ok.

18 MS. LOVELL: It's in paragraph 5 on page 6.  
19 The county agrees to consult with  
20 representatives or designees of plaintiffs  
21 with respect to any future plans to develop  
22 water resources in the agreed upon portion  
23 of the East Maui region. Now there's one  
24 thing that, that paragraph requires the, the

1 parties to provide the Department of Water  
2 Supply with the name, address and phone  
3 number of the person who is supposed to be  
4 contacted for those consultations and I  
5 don't know that we've ever received that  
6 information but I do know that the Water  
7 Department has felt free to consult with  
8 Isaac Hall when questions have arisen so, I  
9 think until such time as we're told  
10 otherwise that that's the person that we  
11 feel that we should be consulting with.

12 CHAIR HOWDEN: Yeah, relative to stream  
13 restoration, Dr. Miike in his book called  
14 Water and Law in Hawaii, suggests that the  
15 state water code and the commission is  
16 inadequate really to enforce the provisions  
17 of the state water code and it may well fall  
18 to the counties to some how facilitate the  
19 accomplishment of the intentions of the  
20 state water code. Phyllis?

21 MS. LOVELL: Yeah, no my, my remark was just  
22 intended to, to say that if we don't own the  
23 land that the stream runs through and, and  
24 it's already under the jurisdiction of the

1 state Water Commission, I don't know how the  
2 county could go in and force a diverter to  
3 stop diverting, you know what I mean. It's  
4 just, it's, it's because it's under the  
5 jurisdiction of the state water code and the  
6 state Water Commission. I'm just kinda  
7 questioning what were we thinking? How did  
8 we think the county was gonna be able to do  
9 that?

10 CHAIR HOWDEN: Well, optimistic viewpoint.

11 MS. LOVELL: Yeah.

12 CHAIR HOWDEN: Phyllis.

13 MEMBER ROBINSON: The actual area that the  
14 consent decree covers, is it the area that  
15 is being discussed as a strategy or are  
16 there areas that are outside of that that  
17 come under the strategy?

18 MS. LOVELL: Well, that, I, I'm not sure  
19 that in the draft Water Use and Development  
20 Plan if the actual area is as, as neatly and  
21 clearly defined as the area that the, the  
22 consent decree covers. Because the consent  
23 decree attaches a map and says this is the  
24 area that's covered. And I think that the

1 consent, the draft Water Use and Development  
2 Plan is a little more general. It talks  
3 about the Haiku area...

4 MEMBER ROBINSON: Right

5 MS. LOVELL: The Honopou area and so forth.  
6 But there, there are areas of East Maui that  
7 are discussed as potential areas for  
8 expansion of the water supply that are  
9 outside of the consent decree area.

10 MEMBER ROBINSON: So, so the consent decree  
11 gives specific things that have to be  
12 followed. Would those same things have to  
13 be followed for areas that are not, that are  
14 maybe being looked at within the Water Use  
15 and Development Plan that might be outside  
16 of the decree? Are there similar procedures  
17 and ways that would have to be followed?

18 MS. LOVELL: Well, certainly, let's say,  
19 let's say the county wants to put a well  
20 outside of the area of the consent decree,  
21 let's say a mile away, eastward, south,  
22 whatever. It wouldn't be covered by the  
23 terms of this consent decree document. But  
24 the county would still have to do an EIS...

1 MEMBER ROBINSON: Ok.

2 MS. LOVELL: I would imagine because it  
3 would be a major expenditure of county  
4 money. So that would be covered by Chapter  
5 343. I think in general the county, well,  
6 we'd have to get all the right permits and  
7 so forth from the state Water Commission,  
8 well drilling permits. We would have to  
9 consider the, the costs and, and benefits  
10 of, of putting a well in spot A versus spot  
11 B, because after all we'd be using taxpayer,  
12 you know rate payer money. So I, I'm sure  
13 that that kind of consideration would be  
14 done.

15 MEMBER ROBINSON: Ok, thank you.

16 CHAIR HOWDEN: Any other questions? Ok.

17 Mr. Hall. Do you have any comments or...?

18 MR. HALL: I do.

19 CHAIR HOWDEN: Please. And, and Jane if  
20 you'd like to stay there...

21 MS. LOVELL: Ah, ok.

22 CHAIR HOWDEN: Comment on Mr. Hall...

23 (laughter)

24 CHAIR HOWDEN: I mean if you don't want to...



1 MS. LOVELL: I didn't know it was gonna be  
2 the Jane and Isaac Show but I'm, I'm always  
3 happy to see my distinguish colleague.

4 MR. HALL: Good morning, Chairperson Howden  
5 and members of the Board of Water Supply.  
6 Thank you for the opportunity to speak. My  
7 name is Isaac Hall. I'm the attorney for  
8 the Coalition to Protect East Maui Water  
9 Resources. The Water Use and Development  
10 Plan as it exists as a document now and  
11 discusses the east, eastward basal aquifer  
12 strategy suggests that it's more expensive  
13 than the other options as it is. Without  
14 considering complying with the requirements  
15 of the consent decree, it very clearly says  
16 that those requirements have to be complied  
17 with. So you have the additional costs and  
18 expenses of complying with the consent  
19 decree that had not even been taken into  
20 consideration that need to be added on that  
21 make that option even more expensive in ways  
22 that you don't even know.

23 MEMBER ROBINSON: Right.

24 MR. HALL: And I'd like to back up a second.

1 One of the reasons for the consent decree  
2 were unresolved issues. I know sometimes  
3 that, that what's said in the plan is that  
4 the community members are passionate but  
5 it's really scientific issues that lead to  
6 the consent decree. The area has been  
7 subject to extensive diversions already. So  
8 the streams are de-watered, the water  
9 resources have been taken out of the area.  
10 So to take them out again through another  
11 method is something people don't want to  
12 see. Are you sleeping, Ed?

13 MR. KUSHI: I'm listening, every word.

14 MR. HALL: Oh ok, alright. And the area  
15 also is subject to extensive use of DBC and  
16 pesticides that have percolated into the  
17 basal aquifer and so that there are water  
18 quality issues, so that some areas as you  
19 know you can't even use the groundwater, you  
20 don't want to pump in those areas. And then  
21 thirdly the impact of groundwater pumping on  
22 stream flow although when this came up at  
23 first, the, the department and the board was  
24 saying there wouldn't be any. I think it's

1 more generally understood at this point that  
2 there would be an impact on stream flow from  
3 further pumping. So, it's another way we  
4 view of taking the same stream flow that's  
5 already been diverted once so that we don't  
6 want to see it happen again. Now the, the  
7 consent decree is a court order binding on  
8 the County of Maui and the Board of Water  
9 Supply. It's a legal order. And I think  
10 one of these that comes into play here is  
11 when does the binding nature take effect?  
12 And, and I think one of the things that  
13 this, this, this section 4 that sets out  
14 what has to happen says and it, where it  
15 sets out what has to happen starts with this  
16 paragraph 4, it says, "Studies to be  
17 conducted before any further effort is made  
18 to develop groundwater resources in the  
19 agreed upon portion..." Any further effort,  
20 well, is the, is this development plan an  
21 effort to develop groundwater resources?  
22 And it says, "Any further," 4.1, "any  
23 further efforts by the county defendants to  
24 develop groundwater resources shall be

1 treated as a completely new county project  
2 commenced with a new planning process, new  
3 plans and an appropriate time..." and the EIS  
4 goes on. So part of the, when, when Jane  
5 says, I, I heard her say there's a  
6 disconnect, well certainly you couldn't  
7 select a strategy without doing these  
8 things. I think we all agree on that. But  
9 now what these words that are actually in  
10 the consent decree, it's, it really is  
11 saying when you go down further in 4.2,  
12 "before any new project is planned," it's,  
13 that's before selection. You select an  
14 option, you talk about an option, you start  
15 talking about strategies, what strategies  
16 are you gonna pick as an option. It's not  
17 clear to me at what point you're forbidden  
18 to go without having done these various  
19 things that are set out in the consent  
20 decree. Certainly you can't select an  
21 option but you maybe going over the  
22 boundaries of what's required in this  
23 consent decree by taking too many steps in  
24 planning an East Maui strategy or selecting

1 an option or putting it in your Water Use  
2 and Development Plan without doing these  
3 studies. Ed asked Jane if (s)he thought  
4 the, this development plan constituted the  
5 cost benefit analysis, certainly not. It's  
6 not the EA or EIS that's required. It says  
7 4.2, "before any new project is planned by  
8 the County of Maui develop groundwater in  
9 the agreed upon region," it says, "a  
10 rigorous cost benefit analysis including the  
11 evaluation of economic and environmental  
12 factors," which this study which is, I have  
13 no problem with, certainly not studying  
14 environmental factors, "of developing and  
15 transmitting these water resources has to be  
16 prepared." That has happened yet. I don't  
17 think Jane is really arguing strongly that  
18 that, this study does that. But I don't  
19 think that cost benefit analysis has taken  
20 place. And then another cost benefit  
21 analysis has to be done of all the  
22 availability of surface water, Waikapu,  
23 'Iao, Waikapu, 'Iao and Waihe'e hydrologic  
24 units. And then it says, "If those reports

1 do not conclude or that, that there is not a  
2 sufficient amount of water," well, they  
3 conclude that there's sufficient, now water  
4 is served the public needs of Maui from  
5 those water resources then the county may  
6 not re-commence planning, may not re-  
7 commence planning for East Maui. In other  
8 words, you have to do those studies and  
9 determine if there's sufficient amount of  
10 water basically as Jane said, in West Maui  
11 or elsewhere, if those studies conclude that  
12 there's a sufficient amount of water there  
13 you cannot re-commence planning for a  
14 project to develop groundwater resources in  
15 East Maui. I hope I said that right. But  
16 you have to do those studies before you can  
17 re-commence planning. So what is re-  
18 commence planning? Again, when are you  
19 crossing that line? Are you crossing that  
20 line by putting it in your WDP? Are you  
21 crossing the line by selecting it or, or, or  
22 putting it in as a final candidate strategy?  
23 Are you, at what point, you certainly would  
24 be if you selected it without having done

1 that but it, it's, that, that's, that's  
2 another issue. Has to be consistent with  
3 the WDP. Right now it's not consistent with  
4 the WDP. The EI, EA, EIS has to happen.  
5 And this additional test well has to be  
6 constructed and has to be built and it has,  
7 the tests have to be conducted to determine  
8 and the whole purpose I don't think came  
9 out. The purpose of that was to determine  
10 whether pumping groundwater in that area is  
11 gonna have an impact on stream flow. And  
12 you can't re-commence planning or can't plan  
13 to get water from East Maui until you have  
14 got your test well, which there is none now,  
15 built it, drilled it, conducted the tests  
16 and determined whether there's an impact on  
17 stream flow in East Maui. And only then  
18 could you decide ok, we're gonna go to East  
19 Maui to get water. None of that has  
20 happened. The cost of that hasn't happened.  
21 And then stream flow restoration, actually  
22 the language in here says that the, let see  
23 here. It's further on. The county agrees  
24 it is long term agricultural water needs are

1 reduced which I think we would agree is  
2 occurring, a stream restoration program  
3 shall be studied, developed and initiated by  
4 the county. And Jane is saying, "Well, we  
5 don't control the streams and all that."  
6 But what we've found occurring is that we're  
7 all parties in the same case about stream  
8 restoration and the county is fighting us.  
9 They're supporting the Upcountry water  
10 users, saying you can't restore these  
11 streams because we want the water for our  
12 Upcountry users, so...

13 MS. LOVELL: No, no. I said that's not  
14 true.

15 MR. HALL: Well, that's what I hear. Anyway  
16 that's my view on it. What the county could  
17 be doing is supporting us, the stream  
18 restoration in this existing proceeding.  
19 But in any event, I guess my main point here  
20 before you is that the consent decree is  
21 binding on you as the Board of Water Supply.  
22 You are a party to the consent decree. It's  
23 a court order that the costs of the, that  
24 already even without taking consideration



1 the compliance with the consent decree going  
2 eastward is already more expensive than  
3 other options. And that at a certain point  
4 you are planning to go to East Maui which is  
5 forbidden by the consent decree. And so you  
6 need to be mindful of that. We all need to  
7 be mindful of that.

8 CHAIR HOWDEN: Thank you. Board members,  
9 any questions?

10 MEMBER YAMAMURA: So, so...

11 CHAIR HOWDEN: Ted.

12 MEMBER YAMAMURA: Ultimately, Isaac, are  
13 you saying that the consent decree has  
14 already been triggered?

15 MR. HALL: I, well, no. I, I, this is an  
16 interesting thing 'cause I think, I know you  
17 all are familiar with the, with the, with  
18 the Hawaii water plan itself says the water  
19 quality plan has to be consistent with the  
20 water development plan. Water development  
21 plan has to be consistent with the, the, the  
22 consent decree is a little bit like that in  
23 that the consent decree requires, one of the  
24 requirements of the consent decree is that

1 the, any new project by the county to  
2 develop water in East Maui shall be  
3 consistent with the Water Use and  
4 Development Plan. I take what you're doing  
5 now is in part complying with the consent  
6 decree because you are updating the  
7 development plan. But as it stands now, I  
8 don't, the, the, the, that option is not  
9 consistent with the consent decree because  
10 it's more expensive and potentially even  
11 more expensive. So I don't, I don't see,  
12 the effort of the county in general to amend  
13 its development plan is not violating the  
14 consent decree. But at, at some point when  
15 you get to, to, to formulating these  
16 candidate strategies and, and definitely  
17 when you get the point, if you picked one,  
18 you said I think this is the one we should  
19 do, I believe you would be violating the  
20 consent decree. If, if there, if, if the  
21 plan says here are a bunch of strategies and  
22 some are, and some are good and some are bad  
23 and left it at that, I don't think there  
24 would a violation of the consent decree.

1 But I think if there's anything that  
2 intimated in the development plan that you  
3 were picking East Maui that would violate  
4 the consent decree. I don't know if that  
5 helps.

6 MEMBER YAMAMURA: Yeah, yep, thank you,  
7 thanks Isaac.

8 CHAIR HOWDEN: Phyllis.

9 MEMBER ROBINSON: It, I'm still going back  
10 to the areas outside of the consent decree,  
11 maybe Carl you could answer this. Is the,  
12 the stream, the wells that were talked about  
13 with elevations above 1,000 up to 1500, are  
14 those outside of the area of the quote  
15 consent decree?

16 MR. FREEDMAN: You want me to come up to the  
17 mike?

18 MR. HALL: Want me to yield?

19 MR. FREEDMAN: Is it ok for me talk back  
20 here?

21 CHAIR HOWDEN: Better to come closer, Carl,  
22 so Gaye has a better record of it.

23 MR. FREEDMAN: Yes, hello. This is Carl  
24 Freedman. There were a number of strategies

1 that were included under the kind of general  
2 strategy of east, eastward water  
3 development. And some of those were in the  
4 Honopou area, some of those were in the  
5 Waikamoi aquifer and some were in the Haiku  
6 aquifer. Clearly the ones in the Honopou  
7 and Waikamoi aquifers do not fall within the  
8 square map that was the attachment to the  
9 consent decree. And I'm not, I'm not making  
10 any statement about what the consent decree  
11 says or doesn't say. I'm just talking about  
12 this square map..

13 MEMBER ROBINSON: Square map.

14 MR. FREEDMAN: You know what's inside of the  
15 square of the map.

16 MEMBER ROBINSON: Right.

17 MR. FREEDMAN: The, the wells that would be  
18 in the Haiku aquifer probably would fall  
19 within that area, just as a matter of  
20 practicality although specific sites were  
21 not identified for the scenarios identified  
22 in the Water Use and Development Plan. And,  
23 I think that's an important point to  
24 clarify. In order to do the economic

1 analyses, I did actually have to put dots on  
2 maps in order to measure the lengths of  
3 pipeline. These were not dots that would  
4 say this is where the well goes but they  
5 were a means to characterize the economics  
6 of, of, of the options. I mean, one of the  
7 testifiers said you know one of those dots  
8 landed right on their house or right on  
9 their stream.

10 MEMBER ROBINSON: Right.

11 MR. FREEDMAN: And that would probably, you  
12 know looking at the map, that may have been  
13 the case. But we did not identify specific  
14 sites. This is not a site location  
15 analysis. But it's, it's necessary in order  
16 to do meaningful economic analysis to plot  
17 out the general locations of the wells in  
18 order to figure out the interconnection  
19 costs with the system. So those scenarios  
20 that I did for the, for the Haiku analysis,  
21 the Haiku aquifer analysis in the eastward  
22 strategy, those did fall within that square  
23 map that was attached to the consent decree.

24 MEMBER ROBINSON: Ok, yeah, thank you.

1 CHAIR HOWDEN: Any other questions? Jane,  
2 do you have any closing remarks or you're  
3 all done?

4 MS. LOVELL: Well, again I didn't understand  
5 it was that, that this was going to be  
6 debate or a presentation or, or anything  
7 like that. I'm here to give you information  
8 if you have any further questions, happy to  
9 answer them.

10 CHAIR HOWDEN: I, I just say semantically  
11 what, because you're so articulate that  
12 whatever you say to the board I consider a  
13 presentation. That's all. Truthfully. I,  
14 I, thought you did very well and it was  
15 quite helpful to us certainly. Ed, do you  
16 have questions?

17 MR. KUSHI: Yeah, Mr. Chair, not being  
18 articulate but since he's here...  
19 (laughter)

20 MR. KUSHI: I have a question for Isaac.  
21 Isaac, have you looked at your client's  
22 proposed language that Mr. Parker submitted?

23 MR. HALL: I think I have a copy of it.  
24 Yeah.

1 MR. KUSHI: Jane, you have a copy?

2 MS. LOVELL: Yeah, I haven't seen it so.

3 MEMBER YAMAMURA: Here's an extra copy.

4 MS. LOVELL: Oh, thank you.

5 MR. KUSHI: He submitted at, when he  
6 testified.

7 (silence)

8 MR. KUSHI: Your comments?

9 (silence while Mr. Hall reads the document)

10 MR. HALL: I think they're well made points.  
11 I think they're all substantiated. That the  
12 strategy, number one, the strategy would  
13 require an enormous investment in an  
14 unproven system is true. I think the, that  
15 the plan itself says that. And that the,  
16 what, what yield would be available is  
17 unknown. That's true. The strategy would  
18 have verifiable adverse affects on residents  
19 who rely on surface water and private wells.  
20 That's the USGS study they're talking  
21 about.

22 MR. KUSHI: Did it say would or may?

23 MR. HALL: Ahhh, the USGS study? What did  
24 it say? May have? Groundwater pumping

1 would have or may have impact, adverse  
2 impacts on the stream flow.

3 MS. DE NAIE: Ah, the study did in '98?

4 MR. HALL: Yeah, I don't know. The one  
5 you're referring to.

6 MS. DE NAIE: Well, I was referring to the  
7 new head and shoulders ones.

8 MR. PARKER: No, I was referring..

9 MS. DE NAIE: So, 2 different, 2 different  
10 studies.

11 MR. PARKER: It says it "does".

12 MR. HALL: Ok.

13 MS. LOVELL: Ah, I think...

14 MR. HALL: The study you're referring to?

15 MS. LOVELL: Wouldn't it depend on where you  
16 put the well?

17 DIRECTOR ENG: If I may add, it is so site  
18 specific. Even...

19 MS. LOVELL: Yeah.

20 DIRECTOR ENG: Thinking about the test well  
21 and its impact on the stream flow is it'll  
22 be so site specific. Some areas would have  
23 no impact probably, some may. So even  
24 making a comment like that..



1 MR. PARKER: There's a sphere of influence..

2 DIRECTOR ENG: We, we need to know.

3 MR. PARKER: Out from the well.

4 DIRECTOR ENG: Depending on the site.

5 There are some well sites that would not  
6 have any impact on springs particularly that  
7 feed the streams. So, I don't think we'd  
8 make a blanket statement such as that.

9 MR. HALL: Well, even "may", I mean because  
10 the, if you wanna change it to "may" is  
11 fine.

12 MR. KUSHI: And the last one? That's,  
13 that's..

14 MR. HALL: And I think that's fine too  
15 because that's in the Haiku community plan.

16 MS. LOVELL: Could I comment? On this? You  
17 know, no, I understand the, you know the  
18 thinking that went into this, but some of  
19 this language I think is a little imprecise  
20 and I think that the, the draft Water Use  
21 and Development Plan says the same things  
22 but perhaps more precisely. For instance,  
23 "enormous investment", I don't know what  
24 that tells us that's any different than what

1 the plan already discussed in terms of, you  
2 know this will be costly, etcetera. It's  
3 just kind of another way of saying the same  
4 thing but a little less precise. I, I agree  
5 with Jeff Eng that point number 2 really  
6 depends on where you put the well. How big  
7 the well is, how much is pumped, where the  
8 spring is, where the stream is and so forth.  
9 So I think it's just too much of a blanket  
10 statement and it's not, because it's so  
11 broad it isn't strictly accurate. And as  
12 for point number 3, clearly any water  
13 project has to comply with county general  
14 plans, zoning, community plans and so forth.  
15 But I don't know if, if you need to be that  
16 specific. Those, those are my, my thoughts.

17 CHAIR HOWDEN: Ok, any further questions  
18 from board members? Don.

19 MEMBER GERBIG: Ah, I think we all see what  
20 this is, but like Ms. Lovell said that if  
21 it's in the report we don't have to worry  
22 about, it's already there. And I, I don't  
23 think that we will probably take this word  
24 for word but there's possibility we can take

1 things out of it as far as the  
2 recommendations that are not there. But I  
3 wouldn't want to take things that are in  
4 here that are say in violation of the  
5 consent decree or violation of the law but  
6 we should be careful how we word but I think  
7 this has valuable usage but maybe not as  
8 written but it should be taken into  
9 consideration in our recommendation. If  
10 there isn't anything in there now, doesn't  
11 specify this, that's my point.

12 CHAIR HOWDEN: Ok. Thank you very much.

13 MR. HALL: Thank you.

14 CHAIR HOWDEN: I'd like to take a ten  
15 minute break and then we'll get back to the  
16 Water Use and Development Plan. Amen.

17 (recess, resumed at 10:25 a.m. with the  
18 Water Use and Development Plan discussion)

19 CHAIR HOWDEN: Ok, I'd like to call the  
20 meeting back into order and move on to  
21 Unfinished Business, 7A, the Water Use and  
22 Development Plan. Carl, feel free to come  
23 forward. I don't know if you've seen our  
24 comments so far.

1 MR. FREEDMAN: I've seen a few emails. I  
2 don't know if I have all of them or not.  
3 But I have scanned some emails, yeah.

4 CHAIR HOWDEN: Well, it's Don first, then  
5 John then me and then Kelli wrote a little  
6 bit this morning. Phyllis has already made  
7 her comments. Any other board members have  
8 comments? I mean this is not homework.  
9 This is if you, if you really feel some, you  
10 have something to say, you're free to say  
11 it. And, and if not we're ok too. I just  
12 want to involve everyone in the process.

13 (silence)

14 CHAIR HOWDEN: Any comments or questions by  
15 board members?

16 (silence)

17 CHAIR HOWDEN: By counsel? Director Eng?

18 DIRECTOR ENG: I have no comments, thanks.

19 CHAIR HOWDEN: Ok. My feeling is I'd  
20 simply like to include our comments and have  
21 them forwarded to the council and move the  
22 process forward. Bring it, you know and,  
23 and comments, you know the plaintiffs in the  
24 consent decree, I, I think that the council

1 is a very good form for further discussion  
2 of these issues. But I, I think we  
3 basically made our comments and I think it  
4 would be appropriate to forward them on,  
5 depending on legal protocol of course.

6 MR. KUSHI: Yeah, Mr. Chair, for, for, for  
7 food for thought. We had a meeting with the  
8 staff, I think Jeffrey was there but more so  
9 Carl and Ellen, outside of this board  
10 meeting and we're, we're trying to figure  
11 out the mechanism as to how to transmit your  
12 comments to the council. And Ellen, correct  
13 me if I'm wrong, Carl, at one point in time  
14 we're, we're thinking doing a matrix. Is  
15 that, is that still a possibility? I mean  
16 you would have to gather the comments from  
17 the board and review the minutes, especially  
18 today. And then item by item, and then, say  
19 this is what the plan says, this is what the  
20 public testimony said, this is what the  
21 board recommends. And now council, it's up  
22 to you. So, at least they can see the areas  
23 and maybe you don't have to do it for the  
24 whole plan or just the, just the items that

1 the board would have comments on; at least  
2 some semblance of order for the people on  
3 the 8<sup>th</sup> Floor to look at. Otherwise,  
4 they'll, they'll just spend months and days.

5 CHAIR HOWDEN: Don.

6 MEMBER GERBIG: I agree. My only point is  
7 that we should, well, Ellen or whoever does  
8 this, that they evaluate what we're, what is  
9 required of us and we don't get off the, of  
10 the boat, we get all these side issues in  
11 because, and my, one of my points is kuleana  
12 water is not part our, of this, this thing  
13 at all. We're, we're just evaluating this  
14 plan, that's all, my understanding. It's  
15 just this plan. What are we, do we, and  
16 what testimony or what our thoughts are on  
17 the plan and like Ms. Lovell said it's a,  
18 it's a, what did she describe it, but it's  
19 a, it's an economic, well it's economic and,  
20 and potential for these five sources of  
21 water. That's basically it and so what are  
22 our comments?

23 CHAIR HOWDEN: Yeah, I...

24 MEMBER GERBIG: Go ahead.

1 CHAIR HOWDEN: I, I think, if I can respond  
2 to Don.

3 MEMBER ROBINSON: Sure

4 CHAIR HOWDEN: I think my first set of  
5 comments were really trying to put it in  
6 something of a cultural context. I think  
7 that that's, that's certainly not Carl's  
8 strong suit. Nor is it the primary mandate  
9 of, of the study.

10 MEMBER GERBIG: That's right, it's not.

11 CHAIR HOWDEN: Yeah, but I think we need to  
12 look at that simply in terms of the issues  
13 especially that Dr. Miike brings up in Water  
14 and the Law in Hawaii. I think that that's  
15 kind of like in the context within which I  
16 myself have been looking at this. So and  
17 that's, that's my response.

18 MEMBER GERBIG: But, may I interject?

19 CHAIR HOWDEN: Please.

20 MEMBER GERBIG: I, I see what you're  
21 saying. I'm not saying it against that but  
22 that if the cultural, yeah, the cultural  
23 issues should be evaluated, we recommend  
24 that but this study doesn't, wasn't mandated

1 on that basis either so like I say we don't  
2 want to get too far out. But on the other  
3 hand, the study back, go back to the consent  
4 decree. I think we all agree something  
5 should be said on the consent decree when  
6 our recommendation goes to the council.  
7 That, like Mr. Hall said, it's gonna cost  
8 more money and it's gonna have to be  
9 complied with if water, if we tap into that  
10 area and just make that known to everybody  
11 in, in this response. That's all I'm  
12 saying. And maybe there's other things but  
13 I'm just saying cultural could be one but I  
14 say one thing for I think everybody agrees  
15 that the consent decree should be, said  
16 something about it so that the council sees  
17 that it's out there with glowing lights.  
18 And maybe there's other issues but not to go  
19 beyond the kuleana thing or the cultural  
20 kuleana could be combined maybe. But the  
21 ideas that this is not what we, we're  
22 responding to. Somebody wants to, if we  
23 wanna say that the council should, dot,  
24 don't, must be considered as you go forward,



1 ok. I mean I'm for that. But not to get  
2 into a real specific and be all of that is  
3 gonna be combined into one thing, but, but  
4 it wasn't it included in Carl's, you know  
5 read his requirement for the study.

6 CHAIR HOWDEN: Uh huh, yeah, I think he..

7 MEMBER GERBIG: Now it was not, whether  
8 then, when you, when they go into individual  
9 investigating each source maybe it should,  
10 it should be considered or something like  
11 that. Ok, enough.

12 CHAIR HOWDEN: Ed, you look like you're  
13 ready.

14 MR. KUSHI: Oh no, I just, I mean it's,  
15 it's, how can I put it? Native Hawaiian  
16 water rights, cultural or kuleana preempts  
17 whatever anything anybody does in this  
18 state. I mean it states, stated in the  
19 state water code section 174-C-101 that  
20 whatever plan anybody comes up with is  
21 subject to native Hawaiian water rights.

22 So, that being said, you can say it again  
23 but it's state law. And you had lot of  
24 public testimony about those issues in the 2

1 hearings that you had and I think you should  
2 mention that.

3 MEMBER ROBINSON: Yes.

4 MR. KUSHI: But again, state that the board  
5 understands or recognizes the state law. So  
6 I don't know what else I can say.

7 CHAIR HOWDEN: Yeah, that's, that's fine.

8 Phyllis?

9 MEMBER ROBINSON: I just wanna, and thank  
10 you, Ed, for, for putting it in that way is  
11 that you know part of our job as the Board  
12 of Water Supply was to go out and listen to  
13 the public and hear what they had to say and  
14 then consider our recommendations based that  
15 information that we got from the public.  
16 So, and I, I just, I agree that a lot of the  
17 testimony that we heard was referring to  
18 kuleana rights and so to the degree that we  
19 acknowledge that in our recommendations not  
20 to get us entangled, I respect what you're  
21 saying, Don, but some of questions and  
22 issues that were brought up about the  
23 cultural aspects of this plan is the lack of  
24 detail that, that is in this, this

1 particular central district document. And I  
2 believe you had said that it is in and will  
3 be in the larger that takes into account all  
4 of the districts. But it's missing in  
5 detail in this. So maybe we can just make a  
6 statement that acknowledges that it doesn't  
7 mean that just because the central district  
8 doesn't have specific language regarding  
9 cultural rights that, that we know that that  
10 will be addressed in the, the overall plan,  
11 so.

12 CHAIR HOWDEN: Carl.

13 MR. FREEDMAN: Yeah, I guess I just want to  
14 add 2 points to this discussion. As Phyllis  
15 suggested it is intended that there will be  
16 a part of this plan that specifically  
17 addresses the kuleana concerns. It's  
18 included in some of the statutory  
19 requirements in terms of what needs to be  
20 inventoried in the plan. What you have is a  
21 draft before you, is a component of the  
22 overall plan that most specifically  
23 addresses the infrastructure plans for the  
24 Department of Water Supply's systems. So

1 there is going to be something, it's not  
2 complete that will be included in the plan.  
3 But another point to make is that in the  
4 consideration of the strategies kuleana  
5 water concerns, cultural concerns were  
6 explicitly considered in the evaluation of  
7 these strategies. And if you see the matrix  
8 that's there, we looked at each of the, each  
9 of the strategies and made on very general  
10 level a note on what the, what the impacts  
11 would be on stream use, on stream flows,  
12 whether there would be impacts on the  
13 streams, on the stream resources themselves,  
14 and on kuleana water use. Now that probably  
15 does not rise to the level of a thorough  
16 treatment of those issues. But it fits just  
17 like all the objectives that were identified  
18 for considering the strategies. I mean it  
19 was considered for each of those, what, what  
20 those impacts would be. So it's not like we  
21 ignored them. But I think the, the concept  
22 of a real rigorous thorough treatment of  
23 these issues is not part of the draft that  
24 you have and I don't know exactly what's

1 gonna be submitted. It's not part of my  
2 contract in particular but I think there's  
3 the intent that it will be part of the  
4 overall draft. This is gonna, you know  
5 we're looking at one part of this and we're  
6 gonna have several laps for the different  
7 districts and the original intent was that  
8 the end would be all the glue that puts it  
9 all together. I think we need to kinda re-  
10 think as we're going, basic, clearly you  
11 need some context for each of these 2 so.  
12 That's the other thing we've been discussing  
13 kinda off the record is to how do we make,  
14 make a sensible presentation given the  
15 process that we have to go through for, for  
16 all the, all the drafts.

17 MEMBER ROBINSON: So the, the matrix that  
18 you're referring to, Ed...

19 MR. KUSHI: Yeah.

20 MEMBER ROBINSON: Is this a way to present  
21 our recommendations to the council is in the  
22 form of a matrix? Is that what you were  
23 suggesting?

24 MR. KUSHI: I guess that's what we're

1 discussing with staff. It's easier for them  
2 to read if you have it done in a matrix  
3 form.

4 MS. KRAFTSOW: What, what typically happens  
5 with like the community plans for instance  
6 is that as it goes to each level, I think  
7 from the submittal from the department to  
8 the Planning Commission then from, the  
9 department submits, in that case it's the  
10 department and in our case it would be you,  
11 but with the submittal to the council  
12 there's a matrix that says here's what the  
13 document says, here's what the commission  
14 recommends, here's what the department  
15 recommends. So that if there are  
16 discrepancies all, all three things are  
17 carried forward and then the council also is  
18 included in the matrix like that.

19 CHAIR HOWDEN: And Ellen, why don't you  
20 feel free to come forward and sit next to  
21 Carl so that Gaye has a better..

22 MEMBER ROBINSON: Yeah, so it's on the  
23 tape.

24 MS. KRAFTSOW: Oh.

1 CHAIR HOWDEN: Yeah. You're very soft  
2 spoken unlike the rest of us. I mean not  
3 you Phyllis.

4 MEMBER ROBINSON: (laughing) It's my  
5 theater training.

6 MS. KRAFTSOW: So that's all that that is.  
7 I've, you know, looking through the comments  
8 some of them might be difficult to capture  
9 in a matrix because they're not saying in  
10 this section you haven't given adequate  
11 attention to this. They're kinda more, some  
12 of them, are kinda expressing more general  
13 thoughts. Loud and clear I'm hearing we  
14 need more cultural context stuff and maybe  
15 we need to expedite working on the T&C  
16 sections of the plan, but we're not, it's  
17 gonna be quite some time before those are  
18 ready. But we can definitely acknowledge  
19 that that needs to be included and that we  
20 need to look harder on that, faster, harder  
21 on that.

22 CHAIR HOWDEN: Yeah, you may want to  
23 identify, I mean it may be necessary, for  
24 instance like on the use of eminent domain

1 because that's my personal fear and  
2 certainly doesn't reflect the board as a  
3 whole, if that, how would you matrix that  
4 in?

5 MS. KRAFTSOW: I would think that the board  
6 would need to discuss among itself, I mean  
7 we could, I don't wanna make any, any,  
8 assign any work to Gaye but one option might  
9 be to try compile whatever testimony has  
10 come in from the board and organize it  
11 according to issue and or section of the  
12 chapter and then have the board discuss and  
13 decide what they are in fact unanimous on  
14 versus what is in, you know unanimously the  
15 board recommends this and individual board  
16 members have also recommended that. And  
17 then also where, in that way or I could or  
18 work with you on, whatever anyway we could  
19 figure that out but then in that way also if  
20 we had failed to accurately capture  
21 something in the matrix the board would have  
22 a chance to review that and say, "no, that's  
23 not what I meant." Or, "you missed this  
24 point," or...



1 CHAIR HOWDEN: Yeah, we only have one more  
2 meeting before the document is due to the  
3 council. John, you had something to say?  
4 No?

5 MEMBER HOXIE: Well, I think the matrix is a  
6 good idea but I was just gonna comment on,  
7 on what has been done so far. I think the  
8 amount of work that Carl has done on this  
9 Water Use and Development Plan is really,  
10 really outstanding. But I, I go back to the  
11 purpose of this thing. This is, this is a,  
12 it's a mandate of the state water code  
13 relative to water resources planning and  
14 it's a, the, and it's a, it's to aid in the,  
15 in the Commission on Water Resource in the  
16 County of Maui, in the conservation  
17 development and use of our water resources  
18 for county so I look at this as a planning  
19 document. I look at it as something that  
20 shows a bunch of different options. They're  
21 not cast in concrete. I expect that the  
22 kind of comments that we and we, we, some of  
23 us put together comments, we're probably  
24 gonna have the same comments on the all the

1 plans and I think we need to remember that.  
2 So when we develop this matrix what we  
3 should probably think about the fact that  
4 we're gonna have other plans that are gonna  
5 fit in there. But I think we need to  
6 approve this and move it on with our  
7 comments because we have 6 more coming so.  
8 Those are my comments.

9 CHAIR HOWDEN: Yeah, I agree, I agree.  
10 Thank you. I think we're really close.  
11 It's a question of timing and really, I mean  
12 you're working on the Lana'i plan, the  
13 revisions of that. Can, can, can we get  
14 this by the next meeting so we can have a  
15 chance to look at it.

16 MS. KRAFTSOW: The matrix?

17 CHAIR HOWDEN: Yeah.

18 MR. KUSHI: Gaye, you have 2, we have 2  
19 more meetings, March and April.

20 MEMBER ROBINSON: Right.

21 MR. KUSHI: We need to finalize by April.

22 CHAIR HOWDEN: Oh, I thought, I thought  
23 it's due to the council by, before?

24 MS. HAYASHIDA: April 30<sup>th</sup>.

1 CHAIR HOWDEN: Thirtieth. Oh well then 2  
2 meetings.  
3 MS. HAYASHIDA: Yeah, because it's, that's  
4 a Friday.  
5 CHAIR HOWDEN: I stand corrected. Don?  
6 MEMBER GERBIG: I'm on this matrix. I, I,  
7 I hope that we can keep it to a minimal or  
8 on subject matter that it doesn't get all,  
9 my, all out of hand. Beyond things that you  
10 know, opinions and things like, that it  
11 gets, we specifically on those items that  
12 we've all, all have concerns on. I mean  
13 even if only one person had concern that's  
14 alright. But the point is that we don't go  
15 off, take a lot of testimony that we've  
16 already evaluated because most, as my cohort  
17 just said, most of the kuleana thing that  
18 should be mentioned, further mentioned under  
19 cultural or whatever, but anyway the point  
20 is I'd just try and keep to a minimum. Not  
21 get too wordy about it, not get too, that  
22 some things can be combined into one subject  
23 like, that's all I, cultural versus, could  
24 include kuleana water and so on.

- 1 CHAIR HOWDEN: Yeah, I mean, Gaye, when,  
2 when the documents are transmitted or maybe  
3 I should be asking Ed, when the documents  
4 are transmitted to the council, to Water  
5 Resources, will public, the public testimony  
6 be appended to that?
- 7 MS. HAYASHIDA: That's up to the board.
- 8 MEMBER ROBINSON: That's a good question.
- 9 MR. KUSHI: I would recommend it.
- 10 CHAIR HOWDEN: Yeah, I mean, and then that  
11 way a lot of stuff we don't have to re-hash.
- 12 MEMBER GERBIG: Yep.
- 13 CHAIR HOWDEN: It's already there.  
14 Assuming the council reads it.
- 15 MEMBER ROBINSON: So that brings up a  
16 distinction that's happening in my mind  
17 right now, which I need all your help on, is  
18 that as a board we have our own opinions  
19 about this plan. And then there are the  
20 opinions that have been raised through the  
21 public process. So when we make our  
22 recommendations, what I'm hearing you say,  
23 Michael, is that the, the things like this  
24 document that was brought here today by

1 Jeffrey Parker gets put in but it's not  
2 necessarily put in under our board's  
3 recommendation. But it's put into an  
4 appendix. So, I'm a little a confused  
5 because I thought that part of the board's  
6 recommendations are coming through our  
7 reflecting back what happened in these  
8 public hearings so I just need some  
9 clarification there.

10 MR. KUSHI: Ok. Written recommendations  
11 such as that, you received it in public  
12 testimony to the, on the proper agenda item.  
13 You can do one of 2 things. I would say  
14 that the board needs to review and possibly  
15 act on that and accept it as the board's  
16 recommendations. If it doesn't, it fails on  
17 a motion such as reference in the matrix and  
18 attach it.

19 MEMBER ROBINSON: Ok. Thank you. That's,  
20 that's helpful.

21 MR. KUSHI: And you would, would put that  
22 kind of a recommendation under candidate  
23 strategies, specifically East Maui Land that  
24 the board received testimony and

1 recommendation from the public...

2 MEMBER ROBINSON: About this.

3 MR. KUSHI: And the board voted up or down  
4 on it and adopted it as its own and if it  
5 didn't then you just attach it for the  
6 council's consideration.

7 MEMBER ROBINSON: Ok. Thank you.

8 MR. KUSHI: I, I, I look at the process  
9 you're going through as a filtering process,  
10 subject to your own recommendations, right.  
11 But again, the people who gonna say yea or  
12 nay or, or modify are those people on the 8<sup>th</sup>  
13 Floor. And they'll hear all of these public  
14 testimonies again.

15 CHAIR HOWDEN: Absolutely.

16 MEMBER ROBINSON: (laughing) If they don't  
17 respond.

18 CHAIR HOWDEN: You know, I mean we don't  
19 need a comment on artificial turf for  
20 instance. But you know, I mean there..

21 MEMBER ROBINSON: Well, his point was about  
22 conservation and we do need to comment on  
23 that.

24 CHAIR HOWDEN: Oh, yeah, no, we definite,

1 I, I think that's the best part of the plan  
2 myself is demand side management.

3 MEMBER ROBINSON: Yeah, I agree.

4 CHAIR HOWDEN: And, and very well done.

5 MEMBER ROBINSON: So, so, the next step  
6 then is the, is the taking of all of this,  
7 all of these comments that people have given  
8 from the board and doing almost like a  
9 qualitative research where you're then  
10 seeing how many, if some overlap, there's  
11 some repeats but then there's some uniques  
12 and get all those out and then we get to  
13 look at them and see, ok, we're going with  
14 this one, this one eh...

15 CHAIR HOWDEN: Are you suggesting we go  
16 back into the testimony and the public  
17 hearings or simply append that to the  
18 report. 'Cause that, that...

19 MEMBER ROBINSON: Well, that's what Ed was  
20 saying is that there, you know we have to,  
21 we have to decide whether we want adopt some  
22 of the public testimony into our  
23 recommendations and for those that we don't  
24 want to we do append it because it is, it

1 came under an official public testimony that  
2 needs the council's eye if it isn't housed  
3 in our recommendation.

4 CHAIR HOWDEN: Yeah, I think it would be  
5 our kuleana to really select...

6 MEMBER GERBIG: Some were not.

7 CHAIR HOWDEN: Parts of these testimonies  
8 that we wanna bring forward rather than drop  
9 another pile of paper on Ellen..

10 MEMBER ROBINSON: I agree.

11 CHAIR HOWDEN: Who has enough paper  
12 already. So, I would just suggest that  
13 that's something we should do, I, I, I think  
14 we've all read the public testimony at least  
15 once and if, if there are things we wanna  
16 cull from that and bring forward fine.

17 MEMBER GERBIG: Yeah, I agree, summarize  
18 the public testimony into other basic  
19 subsections and then we can either vote to  
20 eliminate it or keep it, to bring up, bring  
21 up what we thought was pertinent in the  
22 public testimony and if anybody wants  
23 reference we can refer back but just a  
24 summary of what we thought was presented in



1 here and from the public and then isn't that  
2 part of the matrix and then put all those  
3 little items together on one page and to  
4 select or improve or delete.

5 CHAIR HOWDEN: I think that probably on  
6 more looking at neatly sidestepping other  
7 than what we feel as a board, as members of  
8 the board, we feel is relevant and that we  
9 wanna bring forward into the Water Use and  
10 Development Plan for further attention.

11 Because we will append the testimony at the  
12 2 public hearings to our recommendations as  
13 we forward the plan to the council.

14 Otherwise it, I think it would drive anyone  
15 nuts to try to deal with all this stuff  
16 individually. And some of those comments,  
17 obviously are somewhat superfluous so we're  
18 looking for essence. Yeah.

19 MS. KRAFTSOW: I guess my main concern is  
20 how far back to go and if I have the board's  
21 permission to have the table just include  
22 the board's testimony, the board's  
23 discussion and any minutes of the board  
24 meetings as opposed to all the way back to

1 the start of the committee or there's things  
2 that have come in on prior drafts and, but  
3 like the matrix starts with the board  
4 review, is that?

5 CHAIR HOWDEN: Yeah, I think we're meant to  
6 review rather than...

7 MEMBER HOXIE: You know this is getting  
8 into be a lot of work.

9 MEMBER LESTER: Yeah.

10 MEMBER HOXIE: And I think we got to be  
11 reasonable about this. When, when, not to  
12 focus on my comments but all the public  
13 hearing stuff I kinda boiled it down to just  
14 some few bullet points.

15 CHAIR HOWDEN: Yes.

16 MEMBER HOXIE: And you know I think that's  
17 what we all need to do. Otherwise we're  
18 gonna be talking about stuff that, you know.  
19 You're never gonna get the...

20 MEMBER GERBIG: I agree with John.

21 MEMBER HOXIE: We're never gonna solve  
22 anything. So I think we need to boil it  
23 down to a few things that we're concerned  
24 about. Reuse of water needs to be

1 emphasized was one of my things. And just,  
2 we need to get some specific things  
3 otherwise we're gonna give 'em a thing  
4 that's, nothing's gonna happen.

5 CHAIR HOWDEN: Don.

6 MEMBER GERBIG: I don't know what time it  
7 is but why don't, why don't we suggests  
8 these items now and then everybody vote, we  
9 get a majority, we put it on or if we don't.  
10 I mean it just that, a vote, I mean I wanna  
11 bring out one. Ok, one item is that should  
12 be mentioned is the, this consent decree.  
13 Does everybody agree that that should be in  
14 there? Raise your hand.

15 CHAIR HOWDEN: Sure.

16 MEMBER HOXIE: It's in there already.

17 CHAIR HOWDEN: Yeah, it's there.

18 MEMBER GERBIG: But I'm saying that...

19 CHAIR HOWDEN: Yeah.

20 MEMBER ROBINSON: That's the process.

21 MEMBER GERBIG: That's it alright, we  
22 agree. That whoever wants to pull out  
23 another one, can we do that?

24 CHAIR HOWDEN: Um.

1 MEMBER GERBIG: Do it now. Let's pull it  
2 out, let's see what we come up with.  
3 CHAIR HOWDEN: Yeah, I think it would be a  
4 little confused to do.  
5 MEMBER GERBIG: We're just gonna be brief.  
6 We're not gonna keep just defining it.  
7 CHAIR HOWDEN: No, but, but, see we do have  
8 written comments already from board members.  
9 And I'd like to just forward those to Ellen  
10 and have her respond with that plus looking  
11 at our, the comments that we made in board  
12 meetings and inculcate those into a plan and  
13 then come back to us with a framework and  
14 then we can go up, up or down.  
15 MEMBER HOXIE: Keep, keep it brief.  
16 MEMBER ROBINSON: Yeah, I think that's the  
17 best way.  
18 MEMBER HOXIE: Don't get too..  
19 MEMBER ROBINSON: The written comments  
20 unless there's some, somebody that hasn't  
21 commented, she has all of the written  
22 comments and I assume that you'll be taking  
23 into account the, the public testimony that  
24 we got.

1 MEMBER HOXIE: That's something else..

2 CHAIR HOWDEN: Oh yeah, that's part of the  
3 board minutes.

4 MEMBER HOXIE: That's something else.  
5 We're talking about our comments first right  
6 now.

7 MEMBER ROBINSON: Right.

8 CHAIR HOWDEN: Yeah. Within the board  
9 meetings.

10 MEMBER HOXIE: Right.

11 CHAIR HOWDEN: Rather than the public  
12 testimony.

13 MEMBER GERBIG: Yeah, but I mean our  
14 comments, back up, our comments should be  
15 based on or we should have a comment based  
16 on the public testimony that were received  
17 in there, that item, an item on public  
18 testimony that, that we're concerned and the  
19 public was concerned with, both, but call it  
20 Public Testimony Concerns. If it's a  
21 duplication, well, say that under something  
22 else, but anyway that's, yeah. But I mean  
23 put 'em all in 1, 2, 3, 4, 5, 6; public  
24 testimony being one of 'em.

1 CHAIR HOWDEN: Ok. Ellen, you ok with  
2 that?

3 MS. KRAFTSOW: Uh huh.

4 CHAIR HOWDEN: 'Cause you're the person  
5 whose gonna do it.

6 MEMBER GERBIG: Trying to simplify it for  
7 you.

8 CHAIR HOWDEN: Ed?

9 MR. KUSHI: Mr. Chair. Carl and Ellen,  
10 you're gonna be drafting this matrix. Sorry  
11 about that suggestion but, we, we, you were  
12 on notice already.

13 CHAIR HOWDEN: It's a very good suggestion.

14 MR. KUSHI: You've been here for all the  
15 hearings and the public testimony. I look  
16 at, if I can recall, maybe there's about 5  
17 no more than 10 areas that the people  
18 testified about specific to your plan. I  
19 mean, say your plan has 20 items, 20 areas.  
20 I would think there's no more than 5 or at  
21 most 10 areas that the public as well as the  
22 board members have commented on. Could you  
23 limit your matrix to those, those issues?

24 MEMBER ROBINSON: Yeah, I think that's

1 wise.

2 MR. KUSHI: Then if it's not in the matrix  
3 then the board has no comments or  
4 recommendations on the other items of your  
5 plan. And send it up to the council as is.  
6 I mean, am I thinking wrong?

7 MS. KRAFTSOW: No, I don't, I don't  
8 actually, you know this is, I'm always  
9 afraid to say things like this but it, it  
10 doesn't seem like a very difficult task to  
11 me to put together this matrix that would  
12 include board and you know major substantive  
13 public comments for your review. The main  
14 questions that I have is like where there  
15 are general comments and stuff, I'm  
16 obviously not going to take the entire plan  
17 and put it into the matrix and say the plan  
18 says this you know what I mean, so. Where  
19 you say we wanna see this, I might say this  
20 is gonna happen at this stage of the plan or  
21 you know.

22 MR. KUSHI: I look at the, just thinking of  
23 a, I thought of this before but just for  
24 now, 4 areas in the matrix. The disputed or

1 controversial items of your plan; listed,  
2 list what it says; two, public testimony  
3 about that item or area; three, this board's  
4 recommendation based on a majority vote, you  
5 need to decide. And if you don't have a  
6 majority, then at least minority, minority  
7 report. I mean, that's up to you, ok.  
8 That's my recommendation. And lastly, after  
9 that, the department's comments based on the  
10 department with the consultant. Then I  
11 think the council would have the full view..  
12 MEMBER ROBINSON: Full picture.  
13 MR. KUSHI: Of what has happened.  
14 MS. KRAFTSOW: Right. I don't think the  
15 vote hasn't happened so the matrix that you  
16 would have for your next meeting we'd just  
17 have a compilation of the issues, the vote  
18 will be tallied in..  
19 MR. KUSHI: Right. And then they can  
20 decide.  
21 MS. KRAFTSOW: Later, yeah.  
22 CHAIR HOWDEN: Yeah, that'll be great.  
23 MS. KRAFTSOW: Yeah.  
24 MEMBER HOXIE: If we could get that, you



1 know a week before our meeting, if that's  
2 possible then we'd have a chance to..

3 MEMBER ROBINSON: Digest it.

4 MS. KRAFTSOW: I would aim for March 15<sup>th</sup>?

5 MS. HAYASHIDA: Yeah, the absolute drop  
6 dead deadline would be March 15<sup>th</sup> to get it  
7 to me so I can disseminate to the board.

8 MEMBER HOXIE: Great.

9 CHAIR HOWDEN: Don.

10 MEMBER GERBIG: Should we make a motion to  
11 that affect?

12 CHAIR HOWDEN: Oh no, I just ah..

13 MEMBER GERBIG: I don't know how to say it  
14 but. Not really?

15 CHAIR HOWDEN: I think we're ok.

16 MEMBER ROBINSON: I think we're all in  
17 agreement.

18 CHAIR HOWDEN: Just...

19 MEMBER GERBIG: Go, yeah, go with what we  
20 have.

21 CHAIR HOWDEN: Do it.

22 MR. KUSHI: She's under oath, she'll do it.

23 CHAIR HOWDEN: Ok. Ok, so that's that.

24 Don has asked that we defer 7B to our next

1 meeting. Ah, 8B, are there agenda requests  
2 by members of the board? Oh, yeah, John,  
3 we, we have, we received a letter from John  
4 Blumer-Buell, Hana, a representative of the  
5 Hana Community Association. And I will, I'd  
6 like to bring that up and then the  
7 Department can comment on that. Your  
8 favorite.

9 DIRECTOR ENG: Nothing new.

10 CHAIR HOWDEN: Oh boy, ok. And John, did  
11 you have...

12 MEMBER HOXIE: Yeah, I had a couple items.  
13 I'd like to get an update on Waikamoi. You  
14 know what's happening for next week, for  
15 next month. And then another major thing is  
16 how are we going to increase our water  
17 supply for Upcountry Maui. And that's part  
18 of the Water Use and Development Plan but we  
19 need to start, you know we got H'poko wells,  
20 we got I don't know what else, so, just in  
21 general. Because you know that's a real  
22 sore thumb, and ah, those 2 items.

23 MS. HAYASHIDA: Did you want that under  
24 Director's Report or as an open discussion?

1 MEMBER HOXIE: I don't, whatever, I don't  
2 care.

3 MS. HAYASHIDA: Yeah, Director's Report.

4 MEMBER HOXIE: Probably Director's Report.

5 CHAIR HOWDEN: Ok, any, any other items?

6 Ok. Communications? None. Director's  
7 Report.

8 DIRECTOR ENG: I'd just like to report I  
9 think we finally got our latest version of  
10 the budget submitted to the Budget Office  
11 last night. In the course of the day we  
12 were revising it constantly based on other  
13 information or demands from the 9<sup>th</sup> floor but  
14 right now nothing changes. We've been kinda  
15 pretty happy. We have pretty much of a  
16 nominal rate increase that I've kinda made  
17 reference to publicly. Yes, pretty stark  
18 budget. Where we were doing a number,  
19 during the various iterations of this budget  
20 we cut back a lot of expenses. CIP is not  
21 what I would've liked it to be but we're  
22 limited much by the amount of bond funding  
23 that the county can go out for. I think  
24 they have a ceiling of \$45 million per year.

1 We're fighting to get about 10 million of  
2 that. Earlier it looked even worse. But,  
3 so it is what it is. It won't surprise me  
4 between now and the next few days that they  
5 ask for other revisions but I know they have  
6 to get the budget to the printers real soon.  
7 By the end of the month I think to get it to  
8 council by March 15<sup>th</sup>.

9 MEMBER HOXIE: Is there anything that we  
10 could help you with?

11 DIRECTOR ENG: You know a lot of this is  
12 dictated by what's coming out from the 9<sup>th</sup>  
13 floor and what they're finding. You know  
14 things that as recently as, what was it,  
15 the, the investment they had were that kinda  
16 frozen. That, yesterday afternoon came out  
17 saying now it's even impacting us. So we  
18 had to cut back 1.4 million because the  
19 Department of Finance invests our funds. So  
20 that was some shocking news in the afternoon  
21 that we had to make some last minute  
22 adjustments. So hopefully there's no  
23 further bad news. I'm pretty comfortable  
24 with what we submitted last evening. I gave

1 Holly the day off. But I'm prepared to step  
2 in. I've been her Assistant Fiscal Officer  
3 this past week. So who knows but it's, you  
4 know we don't know exactly about furloughs  
5 either. That hasn't been really any  
6 definitive call, I guess we can assume we're  
7 looking at that too. But, yeah, we have a  
8 pretty stark budget overall. So, that's all  
9 I can say at this time.

10 MEMBER YAMAMURA: I have a question, Jeff.  
11 Is, is there a, sorry for my ignorance but,  
12 is there a mechanism that will permit, let's  
13 say special assessments for water source  
14 development or water storage?

15 DIRECTOR ENG: I think not as long as the  
16 department is, comes under the  
17 administration. I think if it is autonomous  
18 certainly so. We could look at maybe  
19 floating revenue bonds. I think that is  
20 something that is worth looking at. I  
21 personally like to look into that as we  
22 approach the next charter amendment I think  
23 that would be in year 2012. Sometimes I  
24 think that it would be favorable for the

1 Water Department not, not because it's wrong  
2 being under the mayor but just for financial  
3 reasons where we may have a lot more  
4 flexibility. I think it really hit me this  
5 past fall when I realized we do have a, a  
6 limit on bond funding. And that is where we  
7 gonna get a lot our funding for CIP  
8 projects. I mean we take advantage of the  
9 state revolving fund as much as we can but  
10 they overall have a limit statewide. We  
11 don't have much in water system development  
12 funds, basically because we're not issuing a  
13 lot of meters and that's how we get those  
14 funds. So really I realize over the past  
15 few years, more and more it is gonna be bond  
16 funding. And if we're just one of many  
17 departments tapping into that \$40 to \$45  
18 million and what hit me recently was the  
19 police want to go forward with South Maui  
20 Police Department. And that's a \$40 million  
21 price tag for which I think they, they're  
22 seeking 20 million. Then the Fire  
23 Department wants to proceed with their Haiku  
24 Fire Department, ah station. I believe

1 that's 15 million and then Wastewater having  
2 a number EPA consent decree projects and  
3 then Parks having certain ADA issues and  
4 projects. I realize we're like 5<sup>th</sup> priority.  
5 And so it just, therefore I realize maybe  
6 there is advantage to look into maybe  
7 becoming autonomous. Just for financing  
8 purposes if we're gonna address all the  
9 needs of the community and the water system.  
10 Otherwise we're always gonna be held down.  
11 I mean it's something I personally want to  
12 further look at. Especially when it comes  
13 to funding sources, you know floating  
14 revenue bonds and those opportunities as  
15 being more autonomous. I'm not saying to go  
16 for that at this time but it might be...it's a  
17 utility. And, and I think that being a  
18 water utility we have to be viewed at  
19 differently by the community.

20 MEMBER GERBIG: Ah, the Water Commission  
21 rulings, do you think there are, you gonna  
22 lose this, the Department of Water Supply  
23 gonna lose some stream water sources in  
24 that, is a possibility or there's not that

1 many stream water sources?

2 DIRECTOR ENG: Is this for East Maui...

3 MEMBER GERBIG: Yeah, in, in...

4 DIRECTOR ENG: Mostly referencing it? We  
5 just got a, well, when the commission was  
6 out in mid-December, they did ask that we  
7 respond to short-term, mid-term and long-  
8 term plans we have and so I just got a  
9 letter on Friday from them and giving us a  
10 deadline of March 19 to respond. So I'm  
11 working with Ellen and her staff. A lot of  
12 it are things we're doing already. By long-  
13 term is looking at groundwater development  
14 Upcountry which we already are doing. We  
15 can talk more about it at our next board  
16 meeting. Waikamoi Flume and currently I  
17 believe we have selected a consultant,  
18 design consultant. I've talked to the mayor  
19 and we already have it in our fiscal year  
20 2012 and 2013 budgets for construction  
21 funding. But I talked to the mayor about it  
22 as she is going out trying to seek federal  
23 funds. That's gonna be a very high  
24 priority. And we are gonna be working the



1 commission staff to see how we can even  
2 gauge or monitor losses on the flume for  
3 instance. Right now we have no means to do  
4 so. But maybe working with the Water  
5 Commission, their staff can help us set up  
6 some gauges, some meters whatever but. So a  
7 lot of the things that they're asking we're,  
8 it already in place. But as far as any  
9 decision I don't know. I think they're  
10 gonna take our responses as well as they're  
11 asking HC&S to respond and then come up with  
12 the recommendations on those remaining 19  
13 streams. I don't know what their timetable  
14 is on that.

15 CHAIR HOWDEN: Oh, thank you.

16 MR. KUSHI: Ah, Mr. Chair, this is like a,  
17 just came up. Can either put it under item  
18 8B, Receipt of board members request for  
19 agenda items to be placed on future agendas  
20 or if I can take item 10A, part of  
21 Director's Report to just really advise the  
22 board of, of a litigation filed against us.

23 CHAIR HOWDEN: Of what?

24 MEMBER ROBINSON: Litigation.

1 MEMBER HOXIE: Litigation.

2 MR. KUSHI: As you recall, you may recall  
3 the Maui News had an article about James  
4 Davis appeal. That was a federal lawsuit.  
5 We received a copy on Friday. So we  
6 couldn't put it on the agenda. We're just  
7 digesting a copy of the complaint that was  
8 filed in the federal district court. It's  
9 quite lengthy. But it asks for basically  
10 injunctive relief, declaratory relief,  
11 damages, etcetera. It all has to do with  
12 the Upcountry Water Meter List Rule. So,  
13 maybe for once and for all a court will rule  
14 on our rule and how we implement it. This  
15 board is a defendant. You guys are named as  
16 part of the defendants. The Department of  
17 Water Supply, the County of Maui overall,  
18 Jeff Eng and Charmaine Tavares were sued in  
19 their individual capacities.  
20 (several people speaking at the same time)

21 CHAIR HOWDEN: Congratulations.

22 MEMBER ROBINSON: Oh man.

23 DIRECTOR ENG: It was gonna happen sooner  
24 or later.

1 MR. KUSHI: They may have to get special  
2 but again, like I said, we just received the  
3 complaint on Friday. The attorneys led by  
4 Jane Lovell will be defending all of us.  
5 And maybe I will check with her if she's  
6 prepared to meet with you guys maybe next  
7 month in executive session to discuss the  
8 details of the lawsuit.

9 MEMBER GERBIG: I would like that.

10 MEMBER HOXIE: That would be a good idea.

11 MEMBER ROBINSON: That's a good idea.

12 MR. KUSHI: I think we have 'til next week  
13 to file an answer to the complaint. So you  
14 know as all federal court lawsuit go this,  
15 this thing may drag on and on now so. So,  
16 if, if, I would ask her on your behalf if  
17 she's prepared to discuss this with you on  
18 March, when?

19 MS. HAYASHIDA: March 25<sup>th</sup>.

20 MR. KUSHI: Twenty-fifth, yeah. As your  
21 attorney, it will have to happen in  
22 executive session. The board was sued as a  
23 whole; none of you individually.

24 CHAIR HOWDEN: That's refreshing.

1 (laughter)

2 MEMBER ROBINSON: We're protected as a  
3 volunteer board like other volunteer boards?  
4 Like we can't be sued individually?

5 MR. KUSHI: They can try.

6 MEMBER YAMAMURA: They did.

7 CHAIR HOWDEN: Oh yeah. They can always  
8 try.

9 MEMBER YAMAMURA: They've done.

10 MR. KUSHI: They've done it before.

11 CHAIR HOWDEN: Yeah. So can we get an  
12 update on the Franks' well, too.

13 DIRECTOR ENG: Sure.

14 CHAIR HOWDEN: And if, if, the memorandum  
15 of understanding in terms of withdrawal from  
16 Kamole Weir, would that just be a simple  
17 agenda item or executive session type thing?  
18 But I'd like to...

19 DIRECTOR ENG: Just read the terms related  
20 to the draw?

21 CHAIR HOWDEN: Yeah.

22 MEMBER HOXIE: Maybe we can cover that on  
23 the Upcountry getting more water, how do we  
24 get more water.

1 CHAIR HOWDEN: Oh that, yeah that's, ok.  
2 But anyway we'd like to put that on  
3 somewhere as appropriate. Ok. John.  
4 MEMBER HOXIE: Appeal status? I mean we  
5 have a, there's nothing really pending that  
6 I can see here. Is that right?  
7 CHAIR HOWDEN: Gaye, Gaye, do we have an  
8 appeal next month or?  
9 MS. HAYASHIDA: Month? No. I'm trying to  
10 consolidate...  
11 DIRECTOR ENG: Well, I'll get you guys one  
12 then, ok?  
13 (laughter)  
14 MEMBER ROBINSON: Oh, thanks Jeff.  
15 Appreciate it.  
16 MS. HAYASHIDA: Kalama Hills is scheduled  
17 for April but I think I'm not sure what they  
18 want. I contacted the attorney to see if  
19 they are ready for April and he said he was  
20 going to get back to me. He hasn't.  
21 Because if they weren't ready I was going to  
22 put another appeal in the April meeting but  
23 I'm just gonna assume that Kalama Hills will  
24 be scheduled for April 23<sup>rd</sup> and if they

1 decide not to then we have no appeals for  
2 April. The next meeting, appeal will be  
3 Michael Perry. That's appeal number 09-02.  
4 And I just spoke to Mr. Hall to see if his  
5 client will be available May 27<sup>th</sup>. And so  
6 Mr. Hall said he will get back to me.

7 CHAIR HOWDEN: Ok, great.

8 MS. HAYASHIDA: And I do need to, like a  
9 60-day leeway to get corporation counsel  
10 assigned to the case so that's why I need to  
11 get all this done. That's where we stand  
12 and then I'm gonna give you guys a break  
13 until July. July would be the Keahou O  
14 Honuaula. And that's it and then hopefully  
15 some of things can be resolved before it  
16 comes to the board. I know Mr. William  
17 Blietz, that may be resolved and also  
18 Pauwela Farms may be resolved. There's a  
19 good chance that they will be resolved...

20 CHAIR HOWDEN: Uh huh. Great.

21 MS. HAYASHIDA: And may not come to the  
22 board.

23 CHAIR HOWDEN: Great.

24 MS. HAYASHIDA: So, it's not that much.

1 CHAIR HOWDEN: I'd like to adjourn the  
2 meeting then. Thank you all.

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5 (The meeting adjourned at 11:13 a.m.)

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Board of Water Supply Regular Meeting  
February 25, 2010

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Prepared and submitted by

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Gaye Hayashida  
Commission Support Clerk

Approved on: \_\_\_\_\_