

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
OPERATIONAL REVIEW AND EVALUATION COMMITTEE

Meeting held at HGEA Conference Room, David K. Trask,
Jr. Office Building, 2145 Kaohu Street, Wailuku, Maui,
Hawaii, commencing at 9:00 a.m. on December 7, 2000.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354
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A P P E A R A N C E S

BOARD MEMBERS:

Jonathan Starr, Chairman
Orlando Tagorda
Howard Nakamura

STAFF PRESENT:

David Craddick, Director
Mike Quinn
Howard Fukushima, Corporation Counsel
Ellen Kraftsow
Fran Nago, Board Secretary

MR. STARR: I call to order the meeting of the
operational review and evaluation committee of the
Maui County Board of Water Supply.

Would you introduce everyone who's present
here?

MS. NAGO: Committee Chair Jonathan Starr,
committee member Orlando Tagorda, we have Director
David Craddick, Attorney Howard Fukushima, Mike Quinn
from our fiscal department, Ellen Kraftsow from
planning.

We have Debbie Anthony, Madelyn D'Enbeau, Elliott Krash, Gary Zakian, Pete Stolle, and Ron Richmond. And that's it.

MR. STARR: Okay. Thank you. We'll first call for public testimony and I'll allow testimony either before the meeting starts in toto or before each individual item, so you have your choice of whether you testify before the meeting or before the individual item.

I would like to call first for testimony before the meeting. Madelyn D'Enbeau, come on up.

MS. D'ENBEAU: Good morning. My name is Madelyn D'Enbeau and I'm speaking this morning as a member of a new organization which is -- upcountry community associations, we've banded together. And I'm the chair of the Makawao Main Street Association. And as such, I sit on this organization called MAUCA, which is the Maui Association of Upcountry Community Associations. And we've submitted written testimony. Dick Mayer, who chairs that -- coordinates that organization, has submitted written testimony which we as the Makawao Main Street Association very much support.

What we're addressing specifically -- and you can see this in our written testimony -- is the request that your items "meter issuance policies" and "priority list for meters at Upcountry Maui" not be decided today, but that there be an upcountry public meeting with some notification so people realize what's happening.

As you're probably aware, the situation with upcountry water and upcountry water meters is one of the most important issues to upcountry residents. And I think for that reason it's really important that you have an opportunity to hear from upcountry residents what their concerns are.

MR. STARR: Recognize Mike Nobriga.

MS. D'ENBEAU: Let me just reiterate; I just barely started. But anyway, I'm Madelyn D'Enbeau, I'm speaking as the chair of the Makawao Main Street Association and also as a member of this new upcountry association that's a group of the upcountry associations that we call it MAUCA, the Maui Association of Upcountry Community Associations. And you've got before you written testimony from Dick Mayer, who's the coordinator of that organization.

Basically what we're asking is that before any action be taken on meter issuance policies or the priority list for meters in upcountry Maui, that there be a meeting held, a public meeting upcountry to hear from the upcountry residents. Because I can -- I really can't think of any issue that's as important to upcountry residents as these water meters. And I'm sure you're aware of that, but from the public meetings that we have -- and this applies certainly to the Makawao Main Street Association -- this is an issue where people really, really want to have input. They're very concerned, there is a lot of questions, and I think it would really be appropriate.

Now, Dick mentions here in the written memo the fact that the community plans talk about having your meetings at places that are convenient for the upcountry residents somewhere in the upcountry region and at times that are convenient for the public as well. Without getting into whether or not this upcountry provision might apply to the Board of Water Supply, just bringing this forward to urge you as an accommodation to the public and to make a better decision, to hear from the members of the public. So you each have a copy of that written memo in front of you.

MR. STARR: Members, any questions for Ms. D'Enbeau?

I have one. If the committee was desirous of holding a meeting in those warmer upcountry climes in

an evening, would MAUCA help Fran and the board's staff to find a time and place suitable for the community?

MS. D'ENBEAU: Oh, certainly, certainly. We would be very happy to do that. And we do have some good facilities upcountry now, too.

MR. TAGORDA: Ms. D'Enbeau, in terms of meter issuance, in what subject matter you want the board and the department to really deal with? Are you going -- if the board and the department findings is that there is enough, in contrast to your statement here that the supply infrastructure was deficient, if the board and the department finds out that there is sufficient water that we can issue some meters, in what area of meter issuance policy you want the board to hear from the community?

MS. D'ENBEAU: Well, I think in the past there has been confusion and questions because of course there have been meters issued upcountry. We're all aware of that because we see the buildings going up and the homes going up. And no one I don't think is very clear on -- I mean, I personally am aware that in the past the director has had a policy that, for example, when they retrofitted the toilets at Seabury Hall, that that was considered new source and based on that he issued new meters. But I doubt that the public in general has any concept.

So I think if there is an upcountry meeting, I think a lot of it would be presenting information to the public about the policy and then asking for input so that the public could give their concerns as well.

And I can just briefly state I know that there have been a lot of concerns expressed about families who may own sufficient property to, say, put up a guest cottage for their children, their grown children's families, or whatever, but can't do so because they can't get the sufficient meters, let alone to subdivide for these family subdivisions. And

no one quite understands how come some people get to build and these subdivision goes up and others don't get to build. And I guess I would imagine that the Haiku well would have some impact on something in the Haiku area, I don't know. But again, I guess, you know, since you all are so knowledgeable about all these issues, it's hard to imagine how much darkness there is out there in the community. But people really don't understand what's going on and they feel kind of left out and they don't know how come this guy gets a meter and I don't get a meter and what's the rule here and so forth.

So I think it's really, really important for the good of the whole community that there be a lot of light shed on those issues. Thank you very much for the question.

MR. STARR: Just to comment on that, there has also been some confusion among board members about what exactly our issuance policy is and has been and that's part of why these meetings are being called to once and for all clearly define it and to make sure that we end up with a definition that suits the needs of the communities and is in accordance with community plans and the wishes of the board. So that is a direction and hopefully we'll be taking that with the community.

MS. D'ENBEAU: If I could just add one thing, if I might. You know, I read in I guess it was yesterday's paper, talking about -- it sounds totally unrelated, but in my mind it isn't -- big problems with creating the drainage situation in Lahaina. And they talk about they had the money, they had everything ready to go, and then the Puamana residents didn't like it and then everything went back to ground zero. But the lesson there -- and I think everybody is learning that county-wide -- is we've got to consult with the communities first and get that all aired and everybody up to speed before we go ahead with our policies, instead of having to deal afterwards with people coming in and saying no, no,

no, I don't want you to do it that way.

So I hope that this will be a part of that new trend to go to the communities and really get the input. And you hear things that you may not be aware of. I mean, the people that live upcountry might know, but people in other areas might not be aware.

MR. STARR: Thank you. Those comments were well taken.

Elliott Krash.

MS. KRASH: Good morning, Mr. Chairman and members of the board. I'm Elliot Krash. And I'm echoing everything that Bennie has just stated from MAUCA as a member of the MAUCA group, and also we would like to make a few comments on behalf of the Kula Community Association.

You have before you and I've given to you on previous occasions a copy of our policy and position statements. And I want to speak this morning to the items V(B) meter issuance policies, and V(C), the priority list for meters.

And as has just been reflected in the discussions, there is a lot of confusion and questions out there. Every community meeting, something comes up about water no matter what the subject is. Water is the issue and questions and concerns. And what I assumed from the agenda item -- these two agenda items today is that your intent is to begin a dialogue and to begin a discussion on these important issues. And my purpose is to request on behalf of the community association that you hold upcountry meetings, hearings, discussions on this for the purposes you've just reflected, to educate the public and to also hear from them as to their thoughts, to begin to understand what are the most important concerns in their mind.

I think some of those issues that will come out of those meetings and some of the issues that you

need to address, Mr. Tagorda, are reflected in our items. And some of those highlights are that any policy that's adopted, or guidelines, I'm not sure what we're working on here, whether we're headed towards rules or whether we're headed towards operational guidelines or what, but whatever it is that comes out of the discussion, that we must ensure that the priorities of the upcountry plan are addressed. Because right now this waiting list is simply a waiting list. It doesn't address the fact that Hawaii -- or at least I can't see how it addresses the fact that Hawaiian Homelands and agriculture are priorities. So we have to ensure that those priorities from the upcountry plan are addressed.

Another concern of our association is that all of the guidelines, the rules, the policies, whatever they are, that they are compiled, that they are specific, that they are clear, that they are out there for everyone to understand, to refer to, to use, and to understand how the actions that flow from them are happening.

Another point would be -- that our group feels strongly about is that if there is a need for exceptions to these policies, that that also be stated clearly. What are the rules for making exceptions? What are the conditions under which we must make exceptions? I guess, for example, this summer we had a moratorium because of drought conditions, so we put a stop on issuing any meters.

Another point that's already come up several times is that these policies, rules, guidelines, the list, list of meters that are issued according to the list, that all that be published, all that be available to people to refer to. And I'm not sure what the mechanics of that would be. One of the suggestions that's come from our board is that things be available on the website, for example. And by the way, just a plug for your website, it's excellent and it's very helpful to have that information. Thank you.

MR. STARR: Okay. The Chair would like to recognize Howard Nakamura, board member.

Any questions, members? Okay. Thank you.

Any other testimony before we begin the agenda items?

We would like to begin with Director's report 00-39, which is request approval of East Maui Watershed Protection Agreement with the Nature Conservancy.

Looks like we have testimony from Debbie Anthony. Welcome.

MS. ANTHONY: Good morning. Once again, I'm Debbie Anthony, I'm with the Nature Conservancy. We are here today asking for the board's assistance with protecting the upcountry watershed, East Maui watershed, from the Upper Kula drainage area, Waikamoi Preserve, and the overall East Maui watershed today.

Some of our biggest threats to the watershed is our feral ungulates And that has been our primary target for protection at this point. Some of the other things that we are looking at doing is controlling invasive nonnative weeds in the area and resource monitoring to detect any changes in the area and so on.

One of the other things that we are doing is that we educate the community, those who come and visit us on our trips into the preserve, into what we are doing, how important it is to protect the watershed, and what we are doing to protect it. So we are also trying to educate everyone that we do come in contact with.

So pretty much that's what we are working with and what we're trying to continue doing and with the board's assistance, we would be able to secure the matching funds through the state which is \$2 for every

dollar that we are able to fund raise. Thank you.

MR. STARR: Okay. Members, any questions?

MR. NOBRIGA: I have a question. It refers to I guess Mr. Craddick's report, but I notice you had identified Kahili ginger as an invasive weed. I wanted to get some information as on how come that's listed.

MS. ANTHONY: Kahili ginger has been one of our invasive weeds. Basically just their root structure and how they are and how they take over the area. We have been trying to remove them from the preserve. And my last trip into the preserve doing weed work there, we could see the difference, I could see the difference of areas that had not been cleared versus seeing the other areas that were, how the vegetation has come back and it's not just exposed, you know. That's what I saw there.

MR. NOBRIGA: I always thought Kahili ginger helped to absorb the water, that's why, in the ground.

MR. CRADDICK: It does. That's the problem. Doesn't soak down.

MS. ANTHONY: But it also does leave the soil exposed because with the roots being right on the surface area, the other plants don't grow because they just can't grow. And that's what I saw when I had gone up there.

MR. STARR: How about viavi.

MS. ANTHONY: I apologize, I don't know much about that.

MR. STARR: I'm surprised it's not on the list, but it may not be in that area so much.

MS. KRAFTSOW: Viavi is strawberry guava.

MS. ANTHONY: Right. I think we have that at Kapuna Kai and I can check and get back with you on that. I'm not sure if we actually have it in the areas that we are working with directly right now. But if you would like to, I can by all means find --

MR. STARR: I know Kipahulu side, which is the area I'm most familiar with, it's the largest problem because it drops so much acidic fruit that nothing else can survive, it turns the Ph of the soil and soil becomes acidic. And no soft stuff underneath. I was curious why viavi was not listed.

MS. ANTHONY: By all means, I would be more than happy to get back with you if you like. We may not have it in the areas that we are protecting ourself.

MS. KRAFTSOW: Also, Jonathan, it just says "such as." Because if you were to list every single weed, the list would take up half a page.

MR. STARR: Mike.

MR. NOBRIGA: I do have a problem with use of snaring as the primary way of controlling pig population. I do know that there was a program some years ago where the hunting clubs had access to hunt pigs that they could use for feed their homes and there was -- they also had a program in place where they would report the types of pathogens that was inherent in the pigs that they were catching.

I know snaring has come under some very interesting public awareness programs and we would really like to see a program developed for watershed protection that does not have snaring as a primary source of eradication.

I also do have -- well, I have a little bit of a problem with item 4, although we should map -- rare bird species, if we are trying to protect the watershed, I don't know how the small mammals relate

to watershed protection.

MR. STARR: Comments?

MR. NOBRIGA: It wasn't a question, it was just a statement.

MS. ANTHONY: As far as the snaring part of it, I can touch on that. Ellen, I need a little help with the bird part. I'm not sure what item number 4 is and I apologize.

Snaring is one of the methods that we use to control the numbers of ungulates that we do have in the preserve. Our primary method of ungulate control has been fences. Basically if you keep out the ungulates from getting into the areas you're protecting, that is our primary goal. For the ones that are in the preserve, our next step is we try and use public hunters as well as we do contract hunting to remove those pigs that are already in those enclosed areas.

Snaring is only being done in areas that are not accessible by foot. So for us to go to those areas to protect them, we are required to fly in by helicopter, so it's areas that the hunters do not go into and those are the areas that we are snaring at this time.

MR. STARR: I know from what I've heard, the snares were only used very, very high up where they have to helicopter in to get to. And if that's the case, I don't have a problem with it. But I do agree with Mr. Nobriga where if it's possible for people to hunt, it's much better than to snare. And I think that that's -- is that consistent with your policy?

MS. ANTHONY: Correct, that is. We do have Unit 1-A which is right above in the Olinda area into the lower part of Waikamoi Preserve, that area there is open to public hunting. All the hunters need to do is let us know that they would like to go in and they

sign a waiver. As long as we don't have other management activities going on in the area, we allow them in and we provide them the keys and access to the area.

We also have portions of Waikamoi Preserve and the other areas which is towards Hosmer's Grove by the national park and that area we do have hunters going into that area also. And those are the areas pretty much that are accessible on foot. It's the other areas that are remote and not accessible that we are using snares in those areas as the third means of trying to control the animals.

MR. NOBRIGA: I would like to ask the chairman of the committee, if he could, since I'm not a hunter, if he could have maybe a meeting with some reputable representatives from that group to also study this plan that we can make sure that we're spending our money wisely in the best direction. Thank you.

MR. STARR: Well, if you want, we could -- that would mean to actually defer action and since we will most likely be having a meeting upcountry, perhaps it might make sense to have -- if it doesn't do any harm, to defer this until that meeting to allow comment upcountry which would probably be an easy place for the hunting community to comment and say their part. But if we did that, what I would suggest is if we could get an idea of the areas where snares are contemplated or have been used in the past, can clarify whether they're being used in places that are actually going to affect the hunters or not.

MR. NOBRIGA: It's like the testimony we had earlier from Ms. D'Enbeau, going back to the community and find out. But we need to also make sure that the project doesn't lag behind so many years that the community actually changes in midstream and that's what we're facing right now. The community agrees, but by the time the project gets on the books and gets going, I mean the community changes, so that's why we have such problems. Also, a better relief map so we

can make sure when we're looking at fencing, we're fencing the right places. And people from that area can give us way more knowledge and information. I so move to defer. Is that okay?

MS. KRAFTSOW: Did you want your answer about the birds and rats?

MR. NOBRIGA: No. It was just a statement.

MS. ANTHONY: Can I provide some additional information on the hunters? Our director -- who apologizes for not being here today, he had other commitments scheduled and is out of state -- he participates with the Koolau Volunteer Hunters Group and he goes to their meetings monthly when they do have them. So he is there to provide them the information that they want. We have had a president of the hunt club come out with us into our areas and we've also had additional members of the hunt club come out. And I'm not sure if that helps you, knowing that we have consulted with them. They have been aware for years of what we are doing and at this point we have kept them abreast of what our plans are.

MR. STARR: I think testimony from the hunters club would definitely go a long way towards assuaging any concerns or fears. I think we will defer, but I do have a couple of questions that I would like to ask before we put it aside. And I'll ask the director to comment.

MR. CRADDICK: I just wanted to say that the group that she's talking about, the partnership by all means with that group, I attend those meetings also and it was out of the partnership that opened up a lot of EMI areas to hunters that previously were not open to hunting. And that's the purpose of the meeting is to manage those other areas that got opened up because of the partnership. So we work very closely with the groups and I think we could get them there at that meeting.

MR. STARR: What's the time line on this?
Would we be doing any harm if we put it off for, say,
a one-month period?

MS. ANTHONY: Potentially it could. The
Nature Conservancy basically is in need of raising our
first one dollar before the state will match us on our
other two dollars for our funding. And if we're not
able to raise enough funds during the fiscal year, we
may not be able to secure the state funding at this
point to receive their match.

MR. STARR: Well, certainly I mean the fiscal
year is not at issue.

MS. ANTHONY: No, not necessarily the fiscal
year, but overall to secure the funding that they have
pledged for our projects.

MR. STARR: But I mean a few more weeks won't
-- shouldn't harm the project.

MS. ANTHONY: Not in the next few weeks, I
don't think so.

MR. STARR: We'll try to deal with it as
rapidly as possible. My question is, is this
consistent with what the past years, what we were
asked for and what we've contributed or how has it
changed?

MS. ANTHONY: Correct. In the past years, our
primary objective has always been ungulate control.
We're focusing also on miconia control. We also have
the Maui Invasive Species Committee who we are working
with directly and because of that, it allows us to
shift some of our resources into looking at not only
miconia, but some of the other invasive weeds that we
are targeting at this point.

Our axis deer program, which we have had the
board assist us with and to help with, has ended as
far as the research portion and the control portion of

the axis deer now is now included in ungulate control.

One of the things we would like to expand on is we have been doing public outreach and educating the community and we are looking at expanding on that part and more so about monitoring what our resources are to know the changes that are coming about in the area to see where are we succeeding or not. And if there are changes, we will see them based on our monitoring.

MR. STARR: How much did we fund last year?

MR. QUINN: \$60,000.

MR. STARR: Mike?

MR. QUINN: Just a question on the funding. This agreement calls for three equal installments, first installment on the signing of the control contract and the second installment in December of this year. So I assume you'll revise that language to whatever -- otherwise I guess this -- the way this reads now, we would have to give you two-thirds of the funding immediately. Is that what you would need or

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MS. ANTHONY: No, not at this point. I would be more than happy to amend that line. Depending on when this goes through, we can revise the dates. At the time we had written this, it was several months back and we were not sure how soon we would be able to present this. And I would be more than happy to adjust that. If it's easier to do two equal payments, we can do that, or three works fine. We could ask for the initial payment of a half and the other half at the end of the contract once the goals have been fulfilled.

MR. QUINN: I just ask because I'm not sure what your requirements are either.

MR. STARR: Is this in the budget?

MR. QUINN: Yeah, we've appropriated \$60,000 for it.

MR. STARR: What are the other groups that are involved in the -- you're not the only one doing the miconia program.

MS. ANTHONY: No, the Maui Invasive Species Committee was put together and is part of -- they work with us directly and it's part of the East Maui Watershed Partnership that came together and realized what they wanted to work on. And they are their own group, they're a University of Hawaii research corporation of the University of Hawaii group, and the Nature Conservancy has provided funding for them through the UH, as well as we provide logistical staff time, vehicle use, and so on to help with their project when they're in need also.

MR. STARR: And you have a miconia project, though, that's separate from theirs.

MS. ANTHONY: We do in our areas. We do our own work.

MR. STARR: You're just from Nahiku in, and theirs is kind of from Nahiku out?

MS. ANTHONY: No, they are taking care of the majority of the areas. There are some that our Pat [inaudible], our invasive plant specialist, is working on. But as a whole he is working with them more so to build their capacity to take over the bigger areas.

MR. STARR: Okay. Well, we're going to defer this and hopefully take it up and finish with it at our next meeting. So I ask you to bear with us and thank you for your patience and input.

MS. ANTHONY: By all means. Can I make another statement? If you would all be interested,

you know, we would be able to take you into an area that's accessible to see what the areas that we are working with are and to give you a tour of the area. So if that's something to consider, I would be more than happy to offer that and see when it's a good time to schedule it if you would be interested.

MR. STARR: I know I would be happy to go on a tour up there sometime, but I know my own sympathy lies in helping this program and I know that most of the other board members also feel very strongly about the program. So I don't want you to waste your resources in taking us around rather than in getting the job done. But if there is an opportunity to go up there when it's convenient sometime, I would be happy to take it up. Maybe some of the other members might as well.

MS. ANTHONY: Once again, let me know and we would be more than happy to take you up. We do have regularly scheduled visits to the preserves and the areas and if we can accommodate you on that; if not, we can always have our other staff who are working in the area take you in during their regular work in that area.

MR. STARR: Thank you.

MS. ANTHONY: Thank you.

MR. STARR: We will be deferring that. I did miss one item here. We have meeting minutes from our previous meeting, so if we have a desire to accept them, a motion to that would be in order.

MR. NOBRIGA: Move that we receive the minutes and if there is no corrections or additions in 30 days, minutes will be filed.

MR. TAGORDA: Second.

MR. STARR: Okay. Minutes will be held and filed. All those in favor? Okay. It will be

accepted.

Now we're going to move on to item B, which is meter issuance policies. And it is the desire of the chair to try to understand what the policies have been, what they currently are, to try to understand what the community would like them to be, and then to try to create a policy that most people would be happy with and to make sure that that is followed. So that's going to be our process and I'm not sure if that's something we can accomplish today, but maybe we can start. Do we have any further testimony on this item? Okay. Members, do you want to start it off with any questions? How would you like to proceed?

MR. TAGORDA: Let me ask some questions, Mr. Chair. On this page, item B, meter issuance policies, and it says page 17. If you go back to page 17, it seems to me there are at least upcountry that meter was installed, so I don't know what are we trying to get here, is it the policy of meter issuance or the meter installation? That's the only facts I have with me is page 17, there is a letter from Mr. Craddick that says the following is a list of upcountry meter installations since September 28, 2000.

I knew there is a big difference between meter installation and meter issuance. So my question is, Mr. Chair, was these meters installed since September 28, 2000 were issued before the shortage declaration of March 1993?

MR. STARR: Well, that's what I'm trying to get at in part because I'm confused, too, frankly. I'm confused why there are some people who cannot get meters and there is some people who get meters and I've never really been clear on what the staff is using to decide. And especially I know at one point this year it had been stated that meters were not going to be issued until at least the first of the year and I see a lot of meters have been issued. So I for one am trying to understand that myself and I

think that's why we're here.

And I would like to ask an explanation from the director on which meters these meters that he has installed, these 64 meters, what was the basis of installing those meters, were those meters and when were those meters basically applied for and why didn't they go into the list.

MR. CRADDICK: I'm not quite sure what you mean, Orlando, "issued before."

MR. TAGORDA: There are things I really misunderstood here. If you look at your agenda item, B, meter issuance policies, and then you give us a letter listing a lot of meters that have been installed. So I really don't know if this is in relation to --

MR. CRADDICK: That's something the chair of the committee asked for.

MR. STARR: I had asked for a list of what meters had been issued.

MR. TAGORDA: And my question is are these meters that have been installed, were meters issued before the shortage of March '93, or they were issued --

MR. CRADDICK: I'll give you a list here of since 1965 all the meters that have been issued upcountry individually year by year and cumulatively.

MR. TAGORDA: That's just my concern. I'm really confused about -- because it doesn't -- you didn't discuss anything about the policy, the issuance of meters, but you gave us a list of installed meters.

MR. CRADDICK: Okay. My understanding of the rules that cover meter issuance, I have to go back and start in 1977 when the Kula Rule was first passed. Because prior to then, meters were handled on I guess

a day-to-day basis and issued on a first come, first served basis. There were no restrictions on -- in 1977, the Kula Rule passed which basically restricted meter issuances for the Upper Kula line and the Lower Kula line, did not affect Haiku, Pukalani, and Makawao area, and it further restricted I guess meters on the upper line, 5/8-inch meters.

During that period of time, private arrangements were made with private groups, namely Maui Land & Pine, that they could get larger meters provided they took them out during drought times. And how they justified those things, I don't know, but it was done. I don't know if the board approved it or the mayor approved it, but it was done.

Anyway, that went along and I think the previous mayor recognized that this was a problem and board members that were selected recognized that was a problem because it restricted farming upcountry because obviously you can't farm with a 5/8-inch meter. So the board said we're not -- and furthermore, the upper and lower line was not the source of water during a drought; it was the Wailoa ditch. So what the board said was, well, probably not going to extend the Kula Rule any longer and the latter part of 1992 we were informed by the health department that we had to cut the capacity of our Kamole Weir treatment plant from I believe it's 7 down to 5.8 or something like that. And with that, we did not have an adequate supply of water to supply everybody. I so informed the board, they discussed it for a few months and basically said, well, if we're short of water, we're not going to issue meters. So that started March 16, 1993. The Kula Rule expired March 21 or something like that, or 23, 1993. But under the Kula Rule, even though it said you can't get meters, they had something called a family subdivision thing in there where people could subdivide and if they made the improvements, they could do a family subdivision and get two additional meters. There are many, many agreements like that in the water department file.

Plus, there were subdivisions that were approved by the water department, like say Pukalani, for instance, that not all the lots had meters in them. And there were lots approved for subdivision prior to the county having any rules for subdivisions.

And after we informed the board that we were short of water, we met with corp counsel and went over a number of issues and one of them was all these people sitting up there with these, oh, how would I describe it, some kind of reliance on being able to get a meter. And what we said was that if people had not done anything in reliance on being able to get a meter, we weren't going to honor those agreements. And we tacked on a bunch of guidelines on to a shortage thing that we informed a board of.

Somebody challenged that in court. Two years later, that was knocked down and we had to continue giving meters to people in those situations where a line was otherwise adequate. And we did that.

Now, just about the end of the ruling in that Jim Smith court case, I believe we already knew from previous meetings with the court that we were going to lose in that respect, that we couldn't restrict those meters. And corp counsel told us we need to have a better process whereby the people who aren't able to get meters are dealt with later on.

So we put an ad in the newspaper and said whoever has had meters refused or whatever upcountry, send the information in to us, we're going to compile a list and when the shortage is over, we'll go through that list in an orderly manner.

And when we started the list, we put people on there who wanted larger meters, wanted new subdivisions, some empty lots that didn't have meters. All those people were kind of put in on the list. Ones who weren't put on the list is ones that we were clearly still giving meters to, which were basically

places like Pukalani and the existing lots that were subdivided that were near -- or people who go to the point of adequacy to get a meter.

And to this day, that's basically still what we're following. On the priority list that you have in a package there, there are a number of people on that list that are the empty lots. And in particular, I know number 2 and 3 on that list, one of those lots is in Kula 200 and one is in Pukalani Terrace. And the list was started the couple of months before the Jim Smith court case, so there is probably some on there that shouldn't have been on there.

And some people, even though they could get the meter, wanted to be put on the list even though they could get the meter, which is the concern in number one. And then during -- sometime during the shortage, the board got an agreement with Alexander & Baldwin to get some additional water after the treatment plant was in place, and we did -- some of those people on that list got water through that agreement.

Hawaiian Homes was on this list at one time but when the board made an agreement with them, I believe they were removed off of the list because they're getting the water now. And I know at one time Sport Shinko was on this list, they may still be on there, but as you know, the board made an agreement with the Kulamalu Associates where they were going to go develop some water for that project of theirs and they have subsequently done that. So those two groups, Hawaiian Homes and Sport Shinko, would be able to get water in any case and that is the priority for issuing meters that I know of, it's just people with some kind of substantial reliance on being able to get a meter is who we have been giving them to. And we've taken money, you know, basically money as some criteria that there was some substantial reliance.

MR. TAGORDA: So David, you mentioned about the list upcountry, so this current -- this is not an

updated list then.

MR. CRADDICK: There are the number of people on this list that you have that have gotten meters because of the reasons that I stated. If we took all the people off of this list -- let me look here, what the date of this list is. October 24. It should be 800. Yes, 803. There is 323 that could be removed off of the list. Three hundred and twenty-three that could be removed off of the list.

MR. STARR: Why could they be removed off of the list?

MR. CRADDICK: For those reasons that I stated.

MR. STARR: You mean they have already gotten meters?

MR. CRADDICK: Well, some of them, like under the A&B one, they were offered the meter and didn't want it, but they're sitting there basically logjamming the top of the list for other people to get meters.

Some of them were like those empty lots like I was telling you that at first we were restricting and when the Jim Smith court case, when we lost that, we start going through issuing meters to those people. Again, provided they were at the point of adequacy or adjacent to an adequate lot.

MR. TAGORDA: Mr. Chair, can I request the department to update this list and segregate meters that should go to Lower Kula, Upper Kula, and Kamaole Weir in this list so at least we know. Because I think, if I ask you a question, to the best of your knowledge this is not true and correct, this list that you are presenting to us now. There are so many changes. Like you said 323 might be off this list.

MR. CRADDICK: Well, Orlando, to me to -- the reason we left them on there is so people -- just so there is no confusion. You know, if somebody wants to

go look at that and why they got a meter, it's there, they can do that. If we take it off and it's not there, then, you know, it makes it look like somebody's trying to hide something.

MR. TAGORDA: Because what I really want to see, too, is whether based on this upcountry list application we have enough water to allocate from these requests.

MR. CRADDICK: What requests are you talking about?

MR. TAGORDA: Water service, water meter.

MR. CRADDICK: You mean to go through this list?

MR. TAGORDA: Yeah, to go through all this list.

MR. CRADDICK: I'm not sure I follow your question there. You're trying to determine if there is adequate water to go through this list?

MR. TAGORDA: I'm trying to determine how many gallons we need to satisfy all these applicants.

MR. CRADDICK: Everybody including all the ones who have already got meters, it's 480,000 gallons a day, average day.

MR. STARR: I have some questions, but I want to defer to Mike.

MR. NOBRIGA: I was running a little late this morning and I really forgot all my substantiating data, so I need -- I'd like to ask corporation counsel to give us the summary or overview of current rules in place that currently govern meter issuance. I hate to put you on the spot.

MR. FUKUSHIMA: The primary rule governing issuance of water meters is 2-1 which states if you're adjacent to a main line and the premises to be served

is in the service area and the new service will not be detrimental to users, to other users in the vicinity, then you get a meter. And essentially that's the rule which governs the issuance of water meters.

MR. NOBRIGA: You're referring now to policy. What are we actually referring to when we say policy? It goes back to that rule or are we talking about the department's --

MR. FUKUSHIMA: Well, if I may, one of the things this board may wish to do, and this is a suggestion and, you know, take it for what it's worth. What this committee may wish to do is to get a -- quite frankly, I don't think this list is that valuable, although we know what's going out there or we know what meters have been installed. But I think it's more important to know under the circumstances in which these meters were granted. Were they part of a family subdivision, were they granted a meter because of this reliance, if there has been some reliance on the part of the subdivider or the applicant, you know, so we know under what circumstances these meters are being granted.

When you have that information, then the board -- this committee can recommend to the board whether it believes the department is acting in a fashion that it wishes it to act. If it believes that there are other items to consider when issuing meters, you can formulate rules to implement whatever policy you wish to adopt.

MR. STARR: I know I for one have a very difficult time understanding on what basis meters are being issued and on with what basis they're being not issued. And I'm trying to gain -- before I comment on whether I like the basis that it's being done or whether I think it's fair, I'm trying to understand what that is. And so far I haven't had much enlightenment on that and I would like to go back to the director and ask him, you know, let's just start -- let's just start with this list here, okay, this

list which apparently has -- we're not sure of the merit of this list, but why aren't meters being issued to these people on this list who apparently have made requests and not been issued meters. What's the basis that these people have not been served?

MR. CRADDICK: Because the board tabled discussion on my information to the board that the shortage was not necessary any more back in February.

That's the only reason.

MR. STARR: Well, how come before February the meters -- they weren't issued?

MR. CRADDICK: Before February we -- well, actually arguably when the Hamakuapoko wells were on line September of 1999, we probably could have done it right then. But between September and December, I believe, we were in a drought situation so whether I informed the board that we had water at that point or not, we were in a drought situation.

MR. STARR: You mean you wanted to issue the meters against the Hamakuapoko wells.

MR. CRADDICK: No, we cannot. By court we're restricted to do that.

MR. STARR: That's what you just said.

MR. CRADDICK: No, I did not. I said when that well came on line, we can use that during the drought situation. So for peak demand, obviously that well is available for us to use. We're not issuing meters on it because of its ability to supply peak water.

MR. STARR: Well, in other words, the only reason you're not issuing these meters is because you said the board didn't -- the board tabled your what, your findings?

MR. CRADDICK: My information to the board that we had an adequate supply of water. Which was given to the board in February of this year, I believe.

MR. STARR: And how about before that?

MR. CRADDICK: Like I said, before that, the immediate months before that prior to the Hamakuapoko well, we were in a drought situation. I believe that got cancelled -- I don't know if it was January or December, but I may have actually given it to the board in January, but what happened was the day before I gave it to the board, I had a meeting with the Farmers Association and they had said that even though they were not required to cut back that drought there at the end of the year last year, they said they still cut back. So I had to go back and look at the numbers again and see if we added something in extra for their consumption that would have occurred had they continued on using water, whether we could still have an adequate water supply. And did that and it appeared that it would still be adequate. But at that time the board had already tabled the issue, I just told them my findings and they said well, this matter is still tabled. So I said okay.

MR. STARR: So you think there is plenty of water to issue all --

MR. CRADDICK: I'm not saying plenty. I've said in there that it was reasonable to be able to give out a couple of hundred thousand gallons.

MR. STARR: But you haven't been issuing meters because you didn't -- the board didn't -- are you not issuing meters because of the board's decision or because of your own belief or because of something that happened years ago? I'm trying to understand.

MR. CRADDICK: Only because of the board's decision to table that. That's the only reason why. I don't think it's appropriate to do that, but you're the board, so.

MR. STARR: So how come you're issuing these other meters?

MR. CRADDICK: Those are ones that were never affected by the shortage in the first place. They're all substantial reliance issues where money was spent, we had agreements with them, and if they did what was in the agreement -- all the family subdivisions -- subdivisions that were approved prior to 1993 are not on this list.

Now, do we still need to issue a meter to an empty lot in Pukalani if they don't have a meter? I ask you to direct that to corp counsel, not to me.

MR. STARR: Are you issuing meters to empty lots?

MR. CRADDICK: Yes.

MR. STARR: I have no idea why.

MR. CRADDICK: Well --

MR. STARR: So in other words, if someone has an empty lot and comes to you today, they will get a meter?

MR. CRADDICK: If they're adjacent to an adequate line, yes.

MR. STARR: And at what --

MR. CRADDICK: I take that back, Jonathan. Since October 4th last year, Howard, in I believe it was a meeting, Mike Nobriga's meeting when he was head of the rules committee that was going back then, this issue was being discussed. And the matter came up, Howard said that it was probably appropriate not to issue meters to these lots. But that opinion has yet to be written and given to us. We have honored it up until the board said that issue with Daniels because Daniels is another case of the empty lot without the

meter. And the board said to move the meter for them. So since that time, Daniels does have a meter and we are going through the list of others that had been restricted since October 4th and trying to take care of those ones.

MR. STARR: If someone came to you having an empty lot in Pukalani, would you issue them a meter today?

MR. CRADDICK: If it's an already approved subdivision. Pukalani is a pretty big area, but I'm assuming you're talking about in the Pukalani subdivision area that was approved by the board, that didn't have a meter, yes. If they wanted to upsize their meter or get a second meter, no.

MR. NOBRIGA: Correct me if I'm wrong, Howard, but I don't believe there is anything in Rule 3-1 that discriminates a lot that's empty versus a lot that there is structures upon.

MR. FUKUSHIMA: And I agree. And I don't think the fact that someone doesn't wish to build at the present time would prevent them to get a meter. I'm a little surprised that Dave attributes a statement to me that says that an empty lot shouldn't get a meter. What I had indicated at that time was there was statements from the department that if you had a lot which preexisted 1993, you would get the water meter. I thought -- and you automatically get a water meter. I thought that was improper, it was not according to the rules. You have to apply 3-1 in determining whether someone should get a meter or not. That's the first thing you've got to do. And that's where I informed -- that's what I informed the department and that was what I believe my statement was to the committee when we were meeting down at your offices.

Again, I find it, you know -- and I agree with the member that the fact that you don't have any present intention shouldn't prevent you from getting

the meter if you pay your fees and you meet all the other requirements, you should get a meter. Unless the board develops a rule --

MR. STARR: Could you read 3-1 for us, please?

MR. FUKUSHIMA: 3-1(a), which would probably be the most operative language in the rule: Any prospective consumer whose premises are within service limits established by the department and adjacent to a distributing main, where pressure conditions permit, may obtain water service provided that the department has sufficient water supply developed for domestic use and for fire protection to take on new or additional service without detriment to those already served and the consumer agrees to abide by the provisions of these rules and regulations.

MR. NOBRIGA: So in other words, the system has to be adequate.

MR. STARR: Certainly.

MR. STARR: And it has to be able to be without detriment to those already served. So there are those minor items as part of --

MR. FUKUSHIMA: Well, you may think they're minor, but.

MR. STARR: No, I don't think they're minor at all. In fact, I'm trying to understand why we issue 64 meters or any meters at all when this system itself is considered inadequate and I believe that the system being inadequate is the reason that we haven't been issuing meters and --

MR. FUKUSHIMA: Well, Mr. Chairman, that statement may not be entirely correct in that there are subdivisions where developers are putting in improvements, going to the source of matters, going -- and where the system is adequate and those are the ones that are --

MR. STARR: But we're also being told that empty lots are getting meters. That's what I don't understand.

MR. FUKUSHIMA: But that does not speak to the system itself.

MR. STARR: Huh?

MR. FUKUSHIMA: It just says they're getting meters. And presumably they're complying with 3-1.

MR. STARR: I would like to, before our next meeting, get the list of these meters that have been installed and, you know, under what agreement they have been issued.

MR. CRADDICK: We can do that.

MR. STARR: And I would also like to know what empty lot meters have been issued.

MR. CRADDICK: We can do that.

MR. STARR: I still do not understand this empty lot business at all and I really thought that the board had put a stop to that.

MR. CRADDICK: Well, again, Jonathan, we tried to do that back in 1993. The court said you can't do it without rule making. So I leave it at that. If you want to do it.

MR. STARR: If the system is inadequate, that's in our rule.

MR. CRADDICK: Jonathan, if the board has made previous agreements with people that they can get a meter and they do what the board told them to do and they didn't put in there that you've got to provide your own source, whose fault is that? Certainly not the people that made the agreement with us. Should

have been the board telling us, hey, if you take too long to implement this, we're not going to guarantee you any longer than one year that you're going to be able to do this. That should have been in the agreement for all those family subdivisions.

And perhaps, you know, maybe under the Kula Rule, I don't know why they said that the empty lots could get a 5/8ths-inches meter. My understanding is that the corp counsel at the time had done some analysis of substantial reliance and they determined that these empty lots in the county, I guess because people are paying taxes or whatever, have some kind of reliance.

All I can say is that the water department has been doing that since it was formed and I don't -- and I don't like the idea of doing it, Jonathan, I believe it should be able to be stopped, but --

MR. STARR: Let me get a clarification. You're telling me that the court said that any empty lot can get a 5/8ths meter whether the system is adequate or not.

MR. CRADDICK: No. No. What they said was that if we were going do it, you had to do rule making. We tried to use the statute of limitations as the reason --

MR. STARR: If we're going to do what?

MR. CRADDICK: Restrict meters just generally. Restricting meters. We had to have something more than guidelines that I made up and published in the newspaper that was not rule making, that the community did not have a chance to participate in or anything like that.

MR. STARR: Howard, what did the court say in relation to issuing meters if there is no adequate supply?

MR. FUKUSHIMA: I'm sorry, Mr. Chairman, it's been a long time since I've reviewed that file and offhand I cannot remember if the court addressed this -- specifically this empty lot.

MR. STARR: I would ask you to look that up because I think that this will be relevant as to whether we're forced to issue meters if there is no adequacy. And I don't believe that --

MR. FUKUSHIMA: I don't think that's what he said.

MR. CRADDICK: Jonathan, no, Jonathan, I'll read you exactly what the court said. And this is the transcript of the proceedings, Honorable Judge McConnell presiding, Jim Smith, Pro se; James Rapacz, attorney for the county.

"THE COURT: There is no question about the authenticity of this finding and what it says. There is no genuine issue of fact about that. There is no issue of fact about the fact that it's simply adopted by the director and there were no formal rule making procedures. These are the only facts the Court finds relevant at this time."

Now, his actual ruling just said that he found that the guidelines that were attached to the shortage were rule making. And all those guidelines were doing just exactly what you want to do: Restrict meters to all those lots and we were using the statute of limitations and I can go to the part in here where they discussed statute of limitations. The judge said he didn't think that was an adequate enough area to restrict it without the board going to rule making. And I know John Rapacz tried to get us to make rules, but he was always focusing on the priority list. And I think it was only when we had the discussion in Mike's committee that, hey, you know, what about these empty lots, you know. And so I actually made a proposal to the group how we could make rules for those empty lots. And no, we're not going to do that.

So, okay, fine, the board didn't want to deal with it, didn't have to deal with it.

But again, you know, I'll leave it up to you guys. If you want to say that you can somehow restrict meters to those people who have historically been able to get them without any public hearing or rule making or whatever, you know, have at it. I'm sure that's what a lot of these people are sitting here for, waiting for you to make that decision.

MR. STARR: First of all, this committee is advisory, so we're not going to make a decision here. But I really think that this empty lot business is a smoke screen.

MR. CRADDICK: Jonathan, I don't like it myself. But what we tried, using the statute of limitations where nobody had ever done anything in reliance on that, you know, if you've had a lot out there since 1980 or '30-something and you've never done anything in reliance on getting the meter, should you be able to get one. Well, if there was any implied contract with them, certainly I think the state statute of limitations is six years. Certainly up to six years, if they never did anything in reliance, I think it's reasonable that we could say sorry, folks, your time is up, you know, the system doesn't stay adequate forever. And since we made a finding that we're short of water, you're not going to get any water. But like I say, the judge said that stuff was rule making and had to go through the rule making process.

MR. STARR: Frankly, my own desire is to make the system adequate and be able to issue the meters, but do it in such a way that it doesn't create a deeper type of drought in future years. So that's the direction we want to head. But I want to understand really where we're at now and what the community wants before we go in that or any other direction.

Anyway, members, any other --

MR. CRADDICK: Jonathan, could I get some clarification? You want a person by person list of this person, you know, like say, for instance, Glenn Jackson who got his meter -- I think the board knows when he got a meter. But he's one of the people of that 64 there.

MR. STARR: Yeah.

MR. CRADDICK: Like that. This person got this meter.

MR. STARR: Yeah, someone got it because of Kulamalu or someone got it for some other source development agreement or whatever reason there is.

MR. CRADDICK: Okay.

MR. STARR: I do want a clarification, though, if any other person comes to you tomorrow with a meter application, what happens to them. What do you do with their application and what are the boundaries of the area that -- if someone comes to you anywhere upcountry and applies for a water meter, what will you do with their application?

MR. CRADDICK: Yeah, we can do that.

MR. STARR: No, I'm asking the question.

MS. NAGO: He wants to know what you're going to do if somebody comes with an application.

MR. CRADDICK: We're going to see if it's a subdivision that existed prior to the finding of the shortage, subdivided lot that existed before then, or they had done something in reliance on being able to get a meter and prior to March 16, 1993. And that they're next to an adequate line.

MR. STARR: And say they're part of the subdivision that existed before 1993.

MR. CRADDICK: Then we would issue a meter, lacking any rules on how to deal with those. And further, you know, if -- I, myself, I feel really uncomfortable having my information to the board being tabled and no discussion on it for almost a year now when we know very well we should be going through this list of names. I mean, it's very, very uncomfortable to me. But again, you know, I told you before when we went into that shortage situation, the board supported me, so I'm not going to go out and take some action and just leave the board off on the side. I want no --

MR. STARR: Frankly, subsequent to your feeling that we should be issuing -- that we were adequate and should be issuing meters, we went into a very severe drought and it was only through declaration of an emergency and borrowing water from another system that basically does not belong to the upcountry system were we able to keep the system adequate. So I don't really think that the drought problems are over.

MR. CRADDICK: Yeah, if the board wants to say that the Hamakuapoko wells, even though we can use them during a drought situation, are not usable, that's certainly your prerogative and that's kind of what I'm waiting for.

MR. STARR: The Hamakuapoko wells are not part of any EIS for upcountry.

MR. CRADDICK: They are. That was the exact reason for the EA that was done was for the sole purpose of addressing the drought situation upcountry. That's the sole purpose that EA was done.

MR. STARR: They're not part of any EIS that has been approved.

MR. CRADDICK: Oh, yes. Oh, yes.

MR. STARR: Only in emergency, David.

MR. CRADDICK: Well, yeah, the board does have to declare a drought.

MR. STARR: Minor details. Okay. What's the pleasure of the committee? To defer this item and hopefully defer it to a public meeting upcountry?

MR. NOBRIGA: I was hoping that the Chair was going to suggest something, some conclusion to this matter. There is so much issues concerning this matter that I have to apologize that I, for one, am not fully prepared to act on this right now, although I am very well aware of the historical information provided.

MR. STARR: I know I would like to take it to the community and I think that's best done by deferring and calling another meeting with --

MR. NOBRIGA: The full board needs to be involved in this process. That's my last comment.

MR. STARR: Well, ultimately the full board will have to be, since we are not a decision-making body here; we're in a position only to recommend. But by having been given the matter, I think that it's in our purview to try to find the community's wishes and then come back with a recommendation to the board which then can act. So you know, I do feel that at this point deferral is our best option.

MR. CRADDICK: I have no objection.

MR. TAGORDA: So moved.

MR. STARR: This item will be deferred and we're going to take a very short recess and be back at 10:30 sharp.

(Brief recess.)

MR. STARR: We're back to order. Item V(c) regarding that priority list, I know we've somewhat covered this, but I'm wondering if there is any testimony regarding. Okay.

MS. D'ENBEAU: Madelyn D'Enbeau and I'm speaking as an individual property home owner in Haiku. You'll be hearing, I'm sure, a lot more of this when you go upcountry, but let me just briefly let you know what it's like to live in Haiku and be hooked up to the county water system.

As you know, I think out of the last six years probably five of them have been drought restrictions, drought being more water use than there is supply, not really particularly related to rainfall. Of course, it does rain less in the summer, we all know that.

During that time, Haiku Makai has been developed, Haiku Mauka has been developed, these are large A&B subdivisions. And then there has also been a number of houses in my immediate neighborhood that have gotten meters, which is fine except that what happens in Haiku -- like we use 385 gallons a day. And the reason we use so little even though it's a big family is we don't irrigate in the winter because it rains so all of our fruit trees and our plants and everything are fine. And then comes the drought and they say okay, you've got to cut back 10 percent, which means no showers, take a bath, take the buckets and take the bath water out and try to keep your fruit trees alive. And meanwhile other houses are going up who are going to be drawing on this same supply. So that's why the people -- I mean, it's really, really difficult to live there during these restriction times. It's really difficult. You can't flush your toilets, you can't -- because we don't have any leeway. Because people -- maybe in Kula they have to let their plants die and that's terrible, but at least they might enough use for the house because the way the water department does it is they just say it's 10 percent, or whatever the percentage is. We don't care

how much you used in the past. But you can come and ask David and he might give you a dispensation and not take your water meter away. But it's a very difficult situation.

So it's hard for us to see new houses coming in. Not that we mind the new houses being there, but just wondering how is the water supply going to take care of it. And then they opened the Haiku well, which is I believe supplying my property because I get those notices that it's polluted with pesticides, so I think it must be in my property. And so we're not quite sure why we still get the restrictions if we have this well water because I guess maybe there isn't enough of the well water or maybe these new meters are being issued because of the well water or maybe they're not. We just don't know. And that's why we really need some clarity and I really support the idea of having Mr. Craddick explain how each meter was issued.

I do know that the A&B subdivisions, I've read the water agreements with A&B and as I understand it, A&B promises to put more water into the system in exchange for the meters for all of these big ag subdivisions. But of course, none of that applies during times of drought because there isn't more water to put into the system. So I don't know where those people are actually physically getting their actual water. It's all kind of the -- it's like a parallel reality or something, you know, where there is something going on but we can't figure out what it is. So before the meeting, I hope there will be some kind of presentation that will help people to understand those questions. And I'm sure the board and the people that have -- everybody probably has family living up in that area or whatever, realizes how extremely difficult it is during these drought restrictions and how scary because you've got to cut back and they're threatening to take your meter away and you can't -- it's really, really hard and that's why we're so concerned to understand what this process is and how -- and I just heard Mr. Craddick say that

there isn't any inadequacy upcountry. I mean, I guess he's thinking because during declared droughts you can then use the Hamakuapoko wells, but then you get back to does that mean that every summer we're going to have this declared drought because we don't have -- there is only so much rainfall and there's only so much storage. So if we're going to have a declared emergency drought every summer because we don't have enough storage for all these new meters, then what's that going to mean in terms of can we plant gardens, can we not plant gardens, I mean, what exactly is going on? Thank you very much.

MR. STARR: Before you go, I wanted to -- what's the status of the Haiku well, David?

MR. CRADDICK: We're getting it repaired.

MR. STARR: The pump hasn't coming back yet, though.

MR. CRADDICK: What do you mean?

MR. STARR: The pump has not come back? In other words, it's still out of service.

MR. CRADDICK: Yeah. Right.

MR. STARR: So where is the water coming from?

MR. CRADDICK: It comes from -- to tell you the truth, it may be coming from Kulamalu well right now. It may be. But, you know, I -- I'm not exactly positive how much of that water is actually used because it's been since Wednesday last week, I guess that it's been on 24 hours a day.

MR. STARR: Yeah. But we were up there and it was running about one-third duty cycle.

MR. CRADDICK: Yeah. But that was all the demand that there was at that time.

MR. STARR: Yeah, it was raining. It was

quite wet.

MR. CRADDICK: Yeah.

MR. STARR: So it's coming from Kulamalu well, which is running at about one third of its pump capacity.

Any questions for Madelyn?

MS. D'ENBEAU: I guess if I could just make one more system. Whatever happens, I would implore the committee and the board to say that all of this isn't going to be dependent on these kind of drought declarations that aren't really -- it's not really a drought because it's raining really hard, but we want to keep the Hamakuapoko wells in effect and the state won't let us do it unless we declare a drought, and so therefore there is going to be this sense of restrictions and we're not quite sure as homeowners what we're supposed to do. That seems to be what happened because I know the drought went on way past the summer this year. It was almost all year, wasn't it?

MR. STARR: It's my belief that long term the Hamakuapoko wells are being dedicated to the central system, that they're part of the EIS that's being created for that and that once they're added on to the central system, I don't know at that point whether even with the declaration of emergency we can take them from the central system and put them into the upcountry system, which is, you know, to my mind what we've been doing is borrowing. We're borrowing water from Hamakuapoko -- and I'm glad we were able to do that. And frankly, we're borrowing water from the Dowling well because all of that water is all dedicated to his projects. So we're fat now because we're borrowing and ultimately I'm not sure if that's helpful because there may -- we may end up with a more inadequate or the less adequate system when we're not be able to borrow any longer.

MS. D'ENBEAU: So you mean the new meters that are being issued are being issued against borrowed water somehow?

MR. STARR: Well, I don't know why the new meters -- if they're being issued, say, Kulamalu, then they're being issued against the Dowling well, there is no problem there. If they're just being issued because they're an empty lot or something, then they're not being issued against a source, no.

MS. D'ENBEAU: Thank you.

MS. KRASH: Elliott Krash, Kula Community Association. And I just want to say thank you, Mr. Chairman, and members, for having this meeting and the ones that you're planning. This, as painful and difficult as this discussion is, you can tell the interest in it and I'm sure you'll see that when you come upcountry.

And we really need to hammer this out and make progress on these issues. So please, if there is anything that our association and the MAUCA association can do to help, we're here.

MR. STARR: Thank you. Questions?

Bennie had mentioned possibly some presentation might be in order or explanation of where -- as I understand it, that would be how this basic system works, where the water comes from for different parts of upcountry, was that what you were getting at?

MS. D'ENBEAU: And also why meters are being issued and not being issued so that people -- before they start to testify, have some understanding of what --

MS. KRASH: What these various rules are that we're operating under and maybe the historical perspective. The problem in doing that is it's a confusing, complex issue with a lot of political and

technical ramifications that are difficult to zero in on the key aspects. But I'm sure that you all can do that.

MR. STARR: We'll try to do it, although there does seem to be some difference of opinion especially regarding issuing meters if it's an existing subdivision or whatever.

MS. KRASH: But I think that the conditions under which those have been issued have been laid out by Mr. Craddick and you all today. And if there are graphics or handouts or a combination of that, it would be helpful.

MR. STARR: I'm sure staff will do what they can to make the good presentation.

MS. KRASH: You've got a good communicator with --

MR. CRADDICK: Jonathan, I'm a little bit confused. You say meter issuance policies and some discussion, but are we talking about meter issuance policies for the priority list or what are we talking about?

MR. STARR: Well, right now the item under discussion is regarding the priority list.

MR. CRADDICK: Yeah, I know. But if you have a meeting upcountry -- I mean, I don't know if you're not going to discuss the meter issuance policies. But it seems like they're asking more what are these policies there and I'm saying are these the policies for how we go through the priority list. That's my question.

MR. STARR: Well, I believe that where there are several matters, and I believe we'll be taking both agenda items upcountry and, you know, it will be, if we do go through the priority list, what our policies will be then. I think the community wants to

understand what our policies have been in the past and what they are at present. So I guess we have three things: What the past policies were, what the current policy is, and what the future policy may be.

MS. KRASH: I think you had laid that out earlier. My response to that would be I think upcountry citizens understand there is a list and we follow that, but they also are aware that meters are being issued for people who may not be on the list or may be further down the list for other reasons that Mr. Craddick has explained. So what are those other reasons by which people -- other conditions under which people can get the meter that we need to understand that have been explained here today. So everything, not just the priority list, but the other rules that are in effect or the other guidelines or the other practices.

MR. STARR: That is information we've already asked for today which has been basically to understand who has gotten meters and why. And, you know, I'm sure that most of them are in accordance with policy, but we'll take a look at it.

MS. KRASH: Anyway, my main message is thank you.

MR. STARR: Any additional testimony on this matter? No additional testimony. Members?

MR. NOBRIGA: I would like to defer this to the meeting upcountry and work on some kind of a plan, or hot tip.

MR. STARR: I agree. But let David say his peace here.

MR. CRADDICK: The MOU is another factor in this equation. And I would have to say all of the things that are in that MOU are -- I mean the board voted on it and approved it and I know that there is some expectations of how those things would work, but I believe there should be possibly some kind of presentation on that and I'm not certain that I would

be the best one to give that presentation because I think we ourself are not quite certain what some people have in mind for some of the provisions in that MOU. I know the one in there where we are not limited anymore when we hit the 55 million gallons in the Wailoa ditch that we actually can go down to very low numbers. All we have to do now when we hit the 55 million is make sure all available groundwater that can be used is being used. And that one's very understandable, very good policy. But the policy of keeping reservoirs full all the time I think needs to be explained to the people because we spent a lot of money this year keeping those reservoirs full and in my mind the purpose of the reservoir is to supply water during drought times and we're going to the state to ask for \$2 million to put another reservoir in and if we can go through these droughts and keep our reservoirs full all the time, I mean, there is not a whole lot of argument that you need more reservoirs.

So I think those kind of things need to be explained in greater detail to the community also. And I'm not certain we're the ones that can do that explanation if there is anybody that can do those explanations.

MR. STARR: I understand you have a difference of opinion with the board where the board feels that whatever we need to do to keep the existing customer base supplied without forcing them to cut back, we'll do. And that may disagree with your own belief that maybe it's better to save a few pennies and let the people suffer. But anyway, that's -- this isn't the venue for that discussion.

MR. CRADDICK: Jonathan, it's statements like that that are not only confusing to the staff, they're confusing to the public. Because when the public sees the full reservoir up there, are we really in a drought situation if the reservoir is full? I have to question that myself. Are we in a drought situation when the reservoirs are full? And I think that is part of the confusion up there.

MR. STARR: Well, it may be confusing for you. I don't think it's been confusing because we've been following the policy as far as staff goes and we may be adrift at sea, but at least we have a life jacket on if we have a full reservoir. That's how I see it. If it's not raining and if it's really, really dry and if we're maxed out pumping to try to keep the system in operation, then having 80 percent of the reservoir means that we have an emergency buffer and we're not -- our consumers are not about to suffer. But this is not the venue for that.

Anyway, we had the motion and a second to defer this matter to an upcountry meeting and I think by consensus that will be our action today.

MR. CRADDICK: So Jonathan, let me get this straight again. You're saying at this explanation there is not going to be any discussion about the MOU. At this explanation -- explanation to the community upcountry, if it's approved, there is not going to be any discussion of the MOU.

MR. STARR: Anyone can discuss anything they want to discuss. If you want to discuss it, you're certainly welcome to.

MR. CRADDICK: Okay.

MR. STARR: Moving right along. We are moving to V(D) which is evaluation of director and staff.

MR. TAGORDA: Don't we need to vote?

MR. STARR: By consensus we voted. There is three of us and everyone seems happy with it, so it's by consensus.

Evaluation of director and staff. And I believe that's one of the duties of the waterboard to periodically evaluate the director. Howard, do you happen to have the charter? Has anyone got a copy of

the --

Among the powers of the board or the Board of Water Supply shall appoint, evaluate, and remove the director of the Department of Water Supply.

So actually, our relationship with staff is through the director, who we do have to appoint and from time to time evaluate. So we're going to begin the process today. And I don't really have expectations of going through a full evaluation today, but I did think that the best place to start any journey is at the beginning and we can speak -- I would like to gather from the committee members some of the data on which we want to base the evaluation process that we can bring forward and then ultimately take to the board. Mike?

MR. NOBRIGA: One really useful document would be a job description. And I don't know if there is such a thing, but before you actually have a job description, it's kind of difficult to evaluate how effective someone is in the performance of those duties.

The other key information that we would like to see has to do with the other charge of the department and even ourselves as one of the directors in administering water supply to meet community development plans. So it's going to be a lot of reading on our part because I haven't even touched upon the current community development plans and I know next year that we're going to go through another round of updating. But it would be interesting to see how the department and the board -- the department has fared in meeting the objectives set forth in the current approved community development plans

MR. STARR: I don't think it's just the community plans, Mike, because it's also the water use and development plan and the state water use plan and all of those as well. But I think you're right, that should be part of the process is where do we stand in

relation to, you know, those plans that we're basically chartered to follow. As far as the job description --

MR. CRADDICK: It's in the charter there.

MR. NOBRIGA: Job description?

MR. CRADDICK: Yeah.

MR. FUKUSHIMA: Duties are set forth in the charter.

MR. STARR: Director of Water Supply.
Director of the department shall be appointed and evaluated by the board and may be removed by the board. The director shall have a minimum three years experience.

Administrative capacity. The director or deputy shall be an engineer.

Powers, duties, and functions. The director shall recommend rules and regulations for adoption by the board, administer the affairs of the department including the rules and regulations adopted by the board and be responsible for day-to-day management and control of all water systems of the county. Prepare and implement long-range capital improvement plans which have been adopted by the board. Appoint the deputy director. Prepare an annual operating capital budget for the board's review and adoption. Coordinate the affairs of the department with the mayor and County Council and submit an annual report concerning the department to the mayor and council. And perform such other duties and functions as shall be prescribed by law.

The annual report concerning the department that's submitted to the mayor and the council, what --

MR. CRADDICK: I believe this was passed out in September to the board. I'm not positive. But we were waiting for a few things. Usually we -- it's not

complete because we didn't have the financial audit in there. And that was just completed here about a week or so ago and the board will have it at this month's meeting.

MR. STARR: Okay. We will have it coming up.

MR. CRADDICK: Yes. But that was what was submitted to the mayor for last year.

MR. STARR: Okay. This was -- I don't understand. This was last year's? Or is this the current year?

MR. CRADDICK: The fiscal year that ended June 2000. This year is not finished yet.

MR. STARR: Yeah. We're halfway through.

MR. CRADDICK: Yeah.

MR. STARR: Okay.

MR. CRADDICK: So there is no report to the mayor for this year at this time.

MR. STARR: Okay. So I guess this document will be part of the process.

I would like to go back and look at QualServe. I know I have a copy of it somewhere, but I would like to get committee members issued new copies of that. Were there several of those or was that just one -- was there just one QualServe? I think there were two, weren't there?

MR. CRADDICK: You're talking about operational audits?

MR. STARR: Yeah.

MR. CRADDICK: There was the Peat Marwick one back in 1991.

MR. STARR: Wasn't there one -- wasn't a QualServe done around '97 or something?

MR. CRADDICK: No. Just latter part of 1999.

MR. STARR: What?

MR. CRADDICK: Latter part of -- well, not '99. '98.

MR. STARR: Yeah, '98. Okay. So yeah, copies of the QualServe. And I would also like to get copies of the last three years of evaluation -- director's evaluation as was done.

MR. CRADDICK: Didn't do any last year.

MR. STARR: Yeah, I know. None was done last year. But the previous three.

And I would also like to dig out the minutes from the meetings where the evaluations were held the last three years. Could you try to do that, Fran?

MS. NAGO: Uh-huh.

MR. CRADDICK: So you're talking about '96, '97, and '98.

MR. STARR: Yeah. Can members suggest some other items that we can utilize?

MR. TAGORDA: I think I can head out something, Mr. Chair. For projects completed on our transmission lines, whether they have been replaced and things like that.

MS. NAGO: Orlando, I'm sorry, I can't hear so you need to speak up.

MR. TAGORDA: Transmission lines. And I want to see some of the conservation program that we

supposedly implemented, if those were really implemented. And I would like to also know about your storage plan upcountry, whether that's been changed or not, whether you are -- whether the plan at Kamole has been changed or altered to go to other places. I would like to see to it that some of those agreements that we have all over the place are being reviewed and followed, MOU -- I've never been involved with those agreements, but like I said -- and what else I want to see. Your customer service. Some of those calls, how do you implement them, how do you want to approach and better your image to the community by changing customer service. I think that's all for now.

MR. CRADDICK: I don't know when it was done -- here it is, 6/15/99 adopted by the board. The board had goals and objectives for 1999-2000 which would correspond with that annual report there. And there are six items in there. And in '96 -- I don't know about '96, but I know '97 and '98 the board did set goals and objectives and that's basically what they used to evaluate and -- I don't know if the board plans to do anything with these goals and objectives that they outlined for this year, but that may be something you want to consider.

MR. STARR: We can make a copy of that part of the packet. The strategic plan is really taking us in that direction very competently. Mike? What kind of other stuff?

MR. NOBRIGA: That's all the stuff really.

MR. STARR: I would like to see the director write a short maybe like a one-page essay on what his intended directions for the next couple of years are, keep it somewhat general, but I would like to see something that states what his goals for himself and the department are.

Howard, you've probably been through this process more than the rest of us. Can you suggest anything?

MR. NAKAMURA: No, I'm not, not as it relates to this board. I'm doing my best to try to sit here and be quiet, Mr. Chairman. I don't have any other suggestions.

MR. STARR: Okay. Let's start putting that package together and before the next meeting we can think of what else we can include.

MR. NOBRIGA: When you say the next meeting, does that refer to the one in upcountry or will you be setting a meeting other than that to review this item?

MR. STARR: My feeling was I did not really want to deal with this subject in depth upcountry. And in fact, we have to offer, I believe, some -- I believe some parts of the discussion are we have to offer the director executive session if he wants it. But I didn't intend to really go into any real discussion in depth up there, though.

What I was thinking was we might -- if we're going to be up there, we might allow public testimony on the item up there that we could take back with us when we meet in the more regularized meeting down here to discuss it.

So I would think it would be an item -- an agenda item for public testimony and leave it -- and kind of leave it at that. What is your feeling?

MR. NOBRIGA: Don't really have any feeling. It's just -- may want to reserve one meeting time period solely to that item.

MR. STARR: Okay. A point well taken. Can either of you think of any framework for going about this that would make it a -- you know, help save time and energy in doing it? Just take it as it comes, yeah?

MR. NOBRIGA: Yeah.

MR. STARR: Okay. I guess we should -- the Chair would be happy to defer this item also and we'll schedule a committee meeting specifically for this item down here in Wailuku, but we'll take testimony on it upcountry.

MR. NOBRIGA: Move to adjourn.

MR. STARR: We have consensus on adjournment.

(WHEREUPON, the meeting was concluded.)

"By Water All Things Find Life"

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