

County of Maui Water
Supply

**BOARD OF WATER SUPPLY
COUNTY OF MAUI
REGULAR MEETING**

Taken at the HGEA Conference Room, David Trask Building, Wailuku, Maui, Hawaii, commencing at 9:00 a.m. on August 23, 2001.

Reported By: Rachelle Primeaux, CSR #370

ATTENDANCE:

Members Present:

Peter Rice, Chair
Jonathan Starr
Adolph Helm
Howard Nakamura
Orlando Tagorda
Kent Hiranaga
Mike Nobriga

Staff Present:

David Craddick, Director
Howard Fukushima, Corporation Counsel
Fran Nago, Secretary
Jacky Takakura
Mike Quinn
Herb Chang
Myles Fujinaka

IWADO COURT REPORTERS, INC.

BOARD OF WATER SUPPLY
REGULAR MEETING

CHAIR RICE: Meeting of the Board of Water Supply, County of Maui, Thursday, August 23rd. It's 9 a.m., HGEA conference room, David Trask Building, Wailuku, Hawai'i.

In attendance, Jonathan Starr, Mike Nobriga, Orlando Tagorda, Adolph Helm, Howard Nakamura, Kent Hiranaga, staff. Let the record show staff is present. Members of the public, if you will sign in, please. We have a quorum. There are no minutes submitted from the previous meeting. Is there any testimony from the public at this time?

Sir, if you state your name and come and sit at the table here.

MR. VITARELLI: Yes, my name is David Vitarelli. I just wanted to briefly address the Board in response to the last meeting where Michele Reed came forward and expressed concern about the shared water meter which she has. I'm one of the sharees along with two other property owners. Actually, the property owner is my 90-year-old father and mother and another friend and neighbor Elizabeth Johnson, who is also in her '90s, which is one of the reasons I recently took over.

It seemed they were unable to resolve this issue. The third property, owner excuse, me is an absentee land owner. About four years ago, I took over trying to resolve this issue and we're very close, have been working with the County Department of Water Supply, Mr. Abe. We have retained Wayne Arakaki as our engineer. He's working on it. We're very close to getting it approved. There's just an easement issue, which we're trying to get worked out.

I have been talking about it with the County surveyor. It involves a 1924 Peahi Hui Partition trying to figure out who owns a certain roadway. And I've been going through documents, old microfilm and trying to research that. And we are very close and I just wanted to let the Board know that the implication perhaps was we were not doing anything, but we are actively pursuing this. And that's about it. I don't want to take anymore of your time. It's a very small

issue in the whole picture of what you're concerned with here today.

CHAIR RICE: Does anyone have any questions of Mr. Vitarelli? Okay. Thank you, Mr. Vitarelli. Any other public testimony? Now, if you would rather testify at the time that the issue you're here for comes up, that's okay, or you can testify now if you have other things to do and you can't stay for the whole meeting.

No other testimony. Let's move on. The agenda, the section of the agenda is Director's Report 01-34, Request for approval of a resolution authorizing a loan program, et cetera. I'm not going to read that whole thing. David.

MR. CRADDICK: This matter here, if you want to refer it to the committee, we have no objection. And hopefully, by that time, corp counsel will have had a time to review the documents. And I believe Mr. Yuen would be available at the committee meeting at the time.

CHAIR RICE: Finance.

MR. NOBRIGA: Mr. Chairman.

CHAIR RICE: Yes, sir.

MR. NOBRIGA: Efforts have been going on for about maybe five or six years. How long has this project been in the works? It's been through numerous committees. At this point, I would like to make a motion to approve the resolution pursuant to corp counsel's review.

MR. CRADDICK: No problem with that.

CHAIR RICE: There is a motion on the table to approve the resolution subject to the review of corp counsel. Is there a second?

MR. NOBRIGA: Okay, fine. Moving on.

MR. TAGORDA: Refer it to finance.

CHAIR RICE: You guys happy with that? I'm going to refer it to finance. Thanks, Mike. 19-22, that's the pages. Director's Report 01-35.

MR. CRADDICK: This one here, this is a standard 216 deferral. It's part of our rules.

CHAIR RICE: What's your pleasure, gentlemen? Is there anybody here from --

MR. CRADDICK: Actually, I take that back. This isn't totally a standard deferral. We're asking that they enter into an agreement for storage. We have approved that subject to entering into agreement for storage.

CHAIR RICE: If you guys aren't comfortable acting, I will refer this to Finance also. Done. Referred. So ordered. Director's Report 01-36. Mr. Craddick.

MR. CRADDICK: Okay. This is a request from the State for \$5,000 for updating the rainfall information, rainfall frequency information from 1960 I guess to the current. And it's a joint project with the Health Department, and I believe -- and I think two agencies in the Health Department are helping to fund this. And I believe all the other counties are also taking in \$5,000 each.

CHAIR RICE: Mr. Starr.

MR. STARR: Mr. Chair, I move to approve.

MR. TAGORDA: I second.

CHAIR RICE: There's a motion on the floor to approve Director's Request 01-36.

MR. TAGORDA: I second, Mr. Chair.

CHAIR RICE: It's been seconded. Any discussion?

(No comment).

CHAIR RICE: All in favor, signify by saying aye.

VOICES: Aye.

CHAIR RICE: Opposed, say no.
(No comment.)

CHAIR RICE: Motion carried. Director's Report 01-37.

MR. CRADDICK: Okay. This one here is budgeted in our budget, and it's for your normal monitoring of water levels in our wells in Iao and North Waihee and the Opana Tunnel in Kailiili, which is the Awalau water source.

MR. NOBRIGA: Move to approve.

MR. HELM: Second.

CHAIR RICE: There's a move to approve the request for matching funds budgeted item. Motion was seconded. Any questions, comments, discussion? All in favor, signify by saying aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.

(No comment).

CHAIR RICE: Motion is carried. Director's report 01-38, Molokai Watershed Partnership.

MR. CRADDICK: Okay. This is for a request for \$20,000 for the East Molokai Watershed Partnership. It has been budgeted and the amounts here are for the completion of fencing and carrying out continued goat reduction and goat census monitoring and installation of three weather monitoring stations.

CHAIR RICE: And we have with us.

MR. LYONS: Aloha, my name is Anders Lyons. I'm the program director for the Maui programs of the Nature Conservancy. I'm here on behalf of the Molokai field office, who is making this proposal.

I would like to pass out a couple of shots of the progress that has been made on the previous monies that have been dispensed by the Board. On behalf of the Molokai office, I would like to thank the Board and the staff for their wholehearted support of this project. Without you, we couldn't have done it.

We're looking forward to continued support in the form of this \$20,000 in fiscal year 2002. Let me tell you about a couple of items that have been done with the monies already distributed to the Nature Conservancy Molokai office. A contour fence of 5.2 miles has been completed as of March 29th. That contour fence has been GPS'ed and the so-called browse line or the line at which the feral goats have been chewing away at the native forest has been GPS'ed so we can in the future reference that line and the progress that has been made in the restoration of the forest after removal of goats.

Vegetation monitoring plots have been established above and below the fence so that we can monitor progress in revegetation of areas above and below the fence and make a comparison of the success of the program. Erosion monitoring is also being done below and above the fence, again, so we can have an over-time comparison of progress by the fencing

project. And a goat survey has been done above the fence during which 959 goats were counted above the fence at the time of the survey. And we believe this to be a conservative estimate.

And finally, there's been significant progress on creating a community-based goat removal project which would utilize community hunters as well as some aerial shooting to remove feral goats from above the fence and maintain a very low population below the fence.

CHAIR RICE: Board Members, there's a report from the Nature Conservancy that was handed out in your information today. I want to thank them for the report. I love to see this kind of stuff. We hand out a lot of money and get very few reports back.

MR. HELM: Mr. Chair, I've got a question. What capacity have KSB had and some of the other land owners with regards to participating in your efforts to, you know, implement this program so far?

MR. LYONS: KSB has been very instrumental in participating in this. They have given us particularly geographic information system or GIS/GPS support. They've mapped, using these information systems, the fence line and the browse line, like I said, and they've created some maps which are going to be used over the long-term to monitor the progress of the fencing project. But in addition, they've been a very willing and helpful land owner and have participated in some road clearing projects as I understand and have wholeheartedly supported this project.

MR. HELM: Mr. Chair, I move to approve Director's Report 01-38.

MR. NOBRIGA: Second.

CHAIR RICE: Motion seconded on the floor to approve Director's Report 01-38, which is a request

for approval of East Molokai Watershed Partnership.
Is there any comments, questions?

MR. STARR: Mr. Chair, I just want to compliment the fine work they're doing. That's tough country, and I want to thank them for doing as good a job as they're doing.

CHAIR RICE: Any other comments? All in favor, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No comment.)

CHAIR RICE: Motion is carried. Director's Report 01-39, request approval of Hawai'i Land and Farming Company storage credits.

MR. CRADDICK: This was previously approved by committee, but it kind of fell by the wayside. So in talking with you, we put the agreement on here for action. And I don't know whether the Board -- this agreement has been reviewed by corp counsel yet, but at least you have the agreement now, whereas, before we didn't have the agreement in final.

CHAIR RICE: Gentlemen, I think it is something that passed out of committee the previous time. I think it does need to be reviewed by counsel though.

MR. NAKAMURA: Mr. Chairman, this matter was recommended out of the Capital Programs Committee sometime ago, and so I would have no problem moving it ahead. However, I do think that the agreement needs some work and advice from corp counsel, and with that caveat, I would move to approve.

MR. NOBRIGA: Second, Mr. Chairman.

CHAIR RICE: There's a motion and a second to approve subject to review and amendments by corp counsel and final review by the Chair. Any discussion?

MR. STARR: Mr. Chair, I have a little bit of a procedural problem with doing it this way. I really feel that these should come back to us, you know, either approved by corp counsel or going disapproved, and then we should have the final agreement to vote on it. And, you know, while I don't have a problem with this in particular, I do feel that we should be getting it after corp counsel has approved it and then we should be approving it rather than basically approving an unfinished document.

CHAIR RICE: That's a good point. Yes, David.

MR. CRADDICK: Well, the reason why I'm bringing it to you is there's some policy issues in here. Like, for instance, it's not only the storage itself, but they're giving an additional 5 percent, and if those things are not agreed to, you know, corp counsel or myself again have them on their own. So if the Board doesn't agree to that, it's basically they're giving more storage than what they need because of us giving the time allowance to defer.

CHAIR RICE: Then I think Mr. Starr's comments are appropriate. And if the maker of the motion and the second will withdraw, I would refer it to the committee.

MR. NAKAMURA: I have no objection to withdrawing, especially since the Director seems to indicate there are new issues which we're not aware of.

CHAIR RICE: Okay. So that will go to finance. So ordered. Director's 01-40, Requesting appropriation of funds to participate in the construction of a water line. If there's no

objection, I'll refer that to CIP.

And as the same thing for the next Director's Report 01-41 is the appropriation of funds to participate in the construction of an 8-inch water line, refer that to CIP also if there's no objections, gentlemen. So ordered. We're moving on. Communication 01-26. Mr. Craddick.

MR. CRADDICK: Okay. I don't know -- this is just one I guess to refer to the committee here. The guy wants a meter upcountry or wants to -- I'm not sure what it is here. I guess he just wants to get on the priority list is all.

CHAIR RICE: Okay. I'm going to refer that to the Rules Committee. Okay. Communication 01-27, letter from Linnel Nishioka, the petition on the Iao Aquifer system.

MR. CRADDICK: This item here, I've prepared a letter. The Commission didn't have it on their August agenda, so I presume they may have deferred action until September. And that's all.

CHAIR RICE: Members of the Board. Mr. Starr.

MR. NOBRIGA: Do we have some public testimony?

CHAIR RICE: Yes, ma'am.

MS. WILLIAMS: Good morning. I'm Dorothy Williams, and I'm President of the Maui Meadows Homeowners Association. I'm speaking on behalf of the Association related to designation of the Iao Aquifer system. Our water supply belongs to the public in trust. And the State of Hawai'i Commission on Water Resource Management is the trustee. This Commission oversees the management of all water departments in the State of Hawai'i. The Maui Meadows Homeowners Association has been concerned for many years that our main source of water, the Iao Aquifer is being overpumped. Our association has often expressed its

concerned to the Water Department and the Water Board on the integrity of the Iao Aquifer, the system that serves Central and South Maui.

We recommended a new independent source be developed to relieve the demands on the Iao Aquifer, but this has not occurred. On June 19th, 2001, our membership unanimously voted to submit a petition to designate the Iao Aquifer as a water management area under state control. The petition for water management action was filed on July the 11th, 2001. This action was taken to protect our present and our future water supply. Mayor Apana, Council Chairman Patrick Kawano and Water Department Director David Craddick were notified by letter August the 6th, 2001, from Linnel L. Nishioka, Deputy Director, State of Hawai'i Commission on Water Resource Management.

It's important to all of us on Maui that we are aware and are planning for our future. With water plans for the future, constant monitoring and accurate accounting, we hope we have water supply for all. Mr. Craddick has stamped many projects for development with a stamp that says water may not be available, but no one seems to notice. The Planning Department adds conditions for approval. The Planning Commission adds conditions, and these are passed on to the County.

When is the stamp that Mr. Craddick -- when is the stamp by Mr. Craddick enforced or even read? I don't think anybody notices it. We are deeply concerned that we have adequate water for our future. This is a wake-up call for a crisis. Thank you.

CHAIR RICE: Thank you, Dorothy. Any questions by Members of the Board? Mr. Starr.

MR. STARR: Yeah. Have you gotten any response so far from the Commission?

MS. WILLIAMS: No. Mr. Williamson talked to them and they said that we would have heard if there was any problems. There aren't.

MR. STARR: To my understanding, they had the

matter on the agenda at the meeting on the 15th.

MS. WILLIAMS: Yes.

MR. STARR: And that was simply to decide whether they were going to extend the time limit for comment beyond the normal 60 days. Do you know if they've done that?

MS. WILLIAMS: I don't think it was extended. No, it was not.

MR. STARR: So they're going to have to deal with it because of the automatic approval language I guess?

MS. WILLIAMS: I believe there's a notation on there that September the 10th, the Council, Mr. Craddick, Director of Water and the Mayor have until September the 10th to send their comments to the Water Resource Management.

MR. STARR: Okay. But you don't know if they've scheduled a meeting?

MS. WILLIAMS: We haven't been told.

MR. STARR: Okay. I do have some comments on that.

CHAIR RICE: Okay. Any other questions for Dorothy? Okay. Thank you, Dorothy. Is there any other testimony? Sir.

MR. WILLIAMSON: My name is Jim Williamson. I am Vice-president of the Maui Meadows Homeowners Association. My comments represent the Association's viewpoint on the subject of ground water management designation on the Iao Aquifer. President Williams has just explained the background of why our association decided to petition the Water Commission

for designation of the aquifer as a state water management area. I agree with the USGS that there is a serious overdrafting of the Iao Aquifer. All the observation wells show water levels increasing to 1990 and then decreasing at a relatively uniform rate. They continue to fall and the altitude of the transition zone midpoint continues to rise at an increasing rate. This aquifer is in trouble and the only solution is to reduce the demand on it by immediately developing an independent water source.

We have recommended that exploratory wells be drilled at a location close to Kahakuloa to, if possible, develop such a relatively remote source to remove, or at least considerably reduce its influence on the aquifer. I recognize that this development will not be inexpensive and that a bond issue will be necessary to undertake it.

The Water Department, on the other hand, states that there is no source problem. It believes that the overdrafting of the aquifer system can be cured by spreading out pumping in new wells in the so-called North Waihee aquifer. This is not working.

These wells are very close to the Iao Aquifer boundary and the "new" aquifer is simply an extension of the Iao Aquifer. So the supposed reduction in pumping in the Iao Aquifer is a myth; the total pumping including the additional wells is some 10 percent greater than the sustainable yield. It should be noted that the State Water Commission considered designation of the aquifer four years ago. It did not do so on condition that additional wells be drilled at some distance -- I emphasize some distance -- from the existing pumping center. The Water Department has not complied with this condition.

Concern that the amount of fresh water below sea level appears to be more than 40 times ahead is interesting, but of somewhat theoretical importance. The fact is that all the evidence points to overdrafting of the aquifer. The Water Department evidently recognizes this crisis, since in review of County Land Use Permit applications, it has standard language that "no guarantee of water is granted," even if the developer has a water meter in hand.

Okay, then it is the responsibility of this Water Department to develop a new water source so that it will be able to eliminate the exculpatory language and meet the demands placed upon it as a properly operating Water Department should. I do agree that the new water users should pay for the necessary source development.

And in answer to Mr. Starr's question on the Water Commission action, I'm not sure what happened at the August 15 meeting. The County is preparing comments to go forward to meet the September 10 deadline, and I presume that the Water Department and the Administration will do likewise. Thank you.

CHAIR RICE: Thank you. Any questions, Members of the Board? Mr. Starr.

MR. STARR: Yes, I just wondered if you had seen the latest USGS report on pumpage data?

MR. WILLIAMSON: I beg your pardon.

MR. STARR: I was wondering if you had seen the latest USGS report, the August 6th report, and the latest pumpage data. I know I just got it in this meeting package.

MR. WILLIAMSON: No, I requested it, but I never did get it. I requested it not from David Craddick, but I requested it from USGS.

MR. STARR: I would like to make sure that he gets supplied with that. Just a comment on it. It shows that --

CHAIR RICE: Any other questions of Jim? Thank you, Jim.

CHAIR RICE: Okay. Mr. Starr. Oh, yeah. Any other testimony? Mr. Craddick.

MR. CRADDICK: No, I was just asking him in a letter he sent to the Water Commission. It says July 1977, and there was no Water Commission in July 1977, so I'm presuming it's a misprint or something here.

CHAIR RICE: There is no other public testimony? Mr. Starr.

MR. STARR: First of all, I would actually like to thank Mr. Williamson and Dorothy and their group for the concern they're expressing and the energy that they're putting into it. I know that they have other things to do, and I respect the fact that they've taken the time to research this and to look into it. And I really don't think that they're very far from the mark here.

I think that we have a very serious problem, and we should be aware of this. And, you know, looking at the latest USGS figures, water levels are trending lower once again. You know, we see in the report over and over again the lowest levels, either the lowest levels ever seen or the lowest levels in several years and the highest levels of salt, and salt level.

And we are pumping over 18 million gallons a day, which means we are exceeding the 90 percent of the sustainable yield. I know we have had a discussion on the Board on this in the past, and at that time, the Director was asked to endeavor to try to keep the pumping even on a monthly basis below the 90 percent level. But that's not been happening where not only year to date, it's over the 90 percent level, but, you know, many months this year are considerably over. July is about 400,000 gallons over, over the previous July. It's at 18.6 million gallons. So we are certainly exceeding the 90 percent, which is the trigger for -- the trigger for designation. You know, although technically, we may be slightly below it on a moving average, we're right there.

We're also pumping five and a half -- actually, almost 6 million gallons a day for North Waihee. And I know that was thought to be its limit in the documentation that the Water Commission had come out with a few years ago. So as I see it, we're right up

against the stops. We're pumping just about everything we've got. And, you know, we're barely managing to keep up with demand. You know, we've not really asked for serious conservation measures.

And this disturbed me the other evening. This week I was at a meeting in Kihei, a public meeting of the County Council. I forget, was that Land Use or Planning? Land Use. Land Use Committee of the County Council. And it was relating to Makena Resort. And the Director gave testimony and seemed to -- left most of the people believing that what he said was that there's 7 million gallons a day of excess water in the Central and South Maui system that could be given to new developments. And this concerned me because I don't see any water. I don't see -- in fact, I think that we're pumping too much right now, and it concerns me when, you know, we basically make commitments for several million gallons a day of additional water when we're right at the edge. So I'm not sure if maybe some outside discipline, you know, may be needed if we can't find our way ourselves to keep it limited and to let the rest of our governmental process know how close to the edge we really are because we're right on the edge and we're possibly exceeding it. And we don't have much more to come on line.

We have one more well up in North Waihee to come on line realistically. And until and unless we get permission to take Hamakua Poko wells off the upcountry system and put them onto the central system, which we don't have court permission to do, there's no real new source in the foreseeable future.

So, you know, it is a matter of concern. And I don't think we should just hide behind, you know, self rule, you know, in this issue, but we should really look as strongly as possible into ways of proactively dealing -- dealing with this and finding solutions.

But, you know, just to add one more comment to -- directly related to Mr. Williamson and his organization's request. You know, my biggest concern is that what's being asked for is designation of Iao Aquifer, which would put Iao Aquifer under a magnifying glass. But I wish he had asked for a much larger area to be under that magnifying glass because

it's my belief and it's strengthened by some of the data we've received here in reports by Gordon Finkel and John Mink to show there's connectivity between the various aquifers in Central Maui and that I know for a fact and, you know, we've asked this question here in this room how much water is being pumped in Central Maui, how much water is being pumped in the Kamaole aquifer, how much water is being pumped by the hundreds and hundreds of wells throughout the valley here by various entities including different parts of the County pumping for parks and people pumping for golf courses and the power stations and industrial uses, irrigation wells down Wailea.

They all are sucking out of the same pool of water ultimately, and over enough time, it's my belief that Iao Aquifer is failing because of the amount of water that's being pumped, not by us in the Iao Aquifer, but by other parts of the community throughout the central area of Maui.

So I really wish that if we were going to put it under a microscope, we would be putting a much larger area under a microscope and doing some modeling and getting some figures on how much pumping we can sustain. But putting that aside, I do have a motion I would like to make, and I'm going to make it in the form of a resolution if that's acceptable with the Chair.

CHAIR RICE: Go ahead, Jonathan.

MR. STARR: The resolution will read that the Chairman of the Maui County Board of Water Supply confer with the Department and other relevant persons and entities and he will report back to the Board on alternative sources and programs to address long range water source needs. The urgency of this is generated from the current status of the Iao Aquifer and also the East Maui Source Program. So what I'm asking is just for the Chair to look outside the box and help us to try to find some other ways of dealing with this problem and to report those back to the Board, and basically I know that he's up to the task.

CHAIR RICE: Thank you, Jonathan. We'll make that in the form of a motion?

MR. STARR: Yes.

CHAIR RICE: Is there a second?

MR. TAGORDA: Can you read that resolution again, Mr. Starr?

MR. STARR: Yes. Be it resolved that the Chairman of the Maui County Board of Water Supply confirm with the Department and other relevant persons and entities and to report back to the Board on alternative sources and programs to address the long range water source needs of Central Maui. The urgency of this program will be generated from the current status of the Iao Aquifer and the -- Iao Aquifer and the East Maui Source Program.

MR. NOBRIGA: Second the motion for discussion purposes, Mr. Chairman.

CHAIR RICE: Okay. Motion is made and seconded. Any discussion? Mr. Nobriga.

MR. NOBRIGA: Well, I would like to thank Member Starr for his very good editorial comment. I am marveled by his expertise in subject matters. I commend him as a master of hydrology, geometry and geography, administrative services and sciences. I'm kind of amazed at the wealth of information that flows from Mr. Starr at times. I think the matter before us is much more eminent, amend the resolution to include that the Director prepare a measurable criteria of benchmarking for drought emergency declaration for the Central Maui system.

CHAIR RICE: Why don't we make them separate.

MR. CRADDICK: The Iao Management Rule has that in it. It's already a rule of the Board.

CHAIR RICE: Okay. Let's do one thing at a time here.

MR. NOBRIGA: I withdraw my amendment.

CHAIR RICE: Any further discussion?
Mr. Nakamura.

MR. NAKAMURA: I guess a question, Mr. Chair. Again, I agree with this as to the validity of the statements made by Mr. Starr. I'm just curious as to whether or not the Chair is willing and able to undertake this task and what resources do we need to accomplish it either technically or financially. I know I recognize what a competent Chairman we have, but it does sound like a very formidable task.

CHAIR RICE: Well, it's formidable because it's very important and an urgent task for the Board, and I think it's something that has to be done. And I'm willing to do it. And if I understand the resolution and resources are needed and other members of the Board are available to participate, then so be it. It's not a lone ranger deal. But I think the act of going out and aggressively pursuing other sources is important for us. And it's obviously what Mr. Williamson and Mrs. Williams have just testified to. Probably one of the most important things that we have on our plate here. Does that answer your question?

MR. NAKAMURA: Thank you, Mr. Chairman.

CHAIR RICE: Any other questions or comments?

MR. TAGORDA: Mr. Chair, I would like to make some few comments. To Mr. Williamson and Dorothy Williams I admire your sincere effort and your

diligent work in addressing and petitioning the Commission of Water Resource Management for designation and answering all the criterias for designation.

However, you are fruitful enough to say there was also a reduction in pumpage in Iao Aquifer proper, and I commended you for doing that. And also, in your item by item answer to those criterias, it was also truthful enough to say that the chloride concentration in all the wells, mostly all the wells are below the recommended standard of 250 milligrams by EPA, which is very true.

To help me out here, David, way back in '96 the State Commission of Water Resource Management did again bring out this subject matter of designation, and they give us a lot of approved programs or milestones wherein the Department have a certain period of time to meet them. And most of these milestones I believe were met by the Department.

But when you kind of say or dispute the idea that the 20 MGD sustainable yield from the Iao Aquifer should be going down, I think that should be the -- you should be ready to convince the Commission of Water Resource Management. Because I think we've been pumping Iao by about 17.5 MGD, which is very low from the 20 million sustainable yield. And I think, like I said, a lot of these milestones are met, Mr. Williamson. And the only milestones I believe were not met at that time was the Iao stream, the filtration membrane that we installed that they required us to at least use surface water for at least 1.5 million MGD.

And now I think we entered into an agreement with HC&S and A&B, and the Director have forgotten that milestones were not met that we went into 300,000 MGD instead of 1.5. That's the reason why we put that filter membrane at Iao to utilize that in case of that Iao Aquifer, you pump over 20 or almost 20 million. Thank you.

CHAIR RICE: Mr. Starr.

MR. STARR: Yeah, I like what I just heard

Mr. Tagorda say. I'm not sure though if he's seen the latest report, which we just got it here in the package. But it states Waiehu Heights has reached 250, Waiehu Heights I. Is that the joint venture? That's not the terrace. Waiehu Heights well has reached 250 milligrams per liter, which means it's right on the level of being too salty to use.

And Mokuhaul I and III are at 210 and 160, so 210 is not very far away from the limit of 250. But anyway, that aside, I would like to proceed and after this, I will be happy to second another resolution by Mr. Nobriga because he's right on the mark as well with this.

MR. TAGORDA: I think I'll try to second your resolution, Mr. Starr. But I knew and I agree with Mr. Nakamura that this is a formidable task for our Chairman of trying to find out a long-range plan of other source unless that East Maui can come to Central. You know, that's my thing here. It's under court litigation. I don't know how we're going to expedite it.

CHAIR RICE: And I don't think there's any preconceived idea of the resolution. It's just that it's important that it has to be -- we have to make it a very strong, immediate effort and realization that we have to do that I think is the source of that.

MR. TAGORDA: I agree.

CHAIR RICE: So without any other discussions.
Mike.

MR. NOBRIGA: I'm sorry, but I think the planning for this stage has already been in place. I think we have documentation outlining future water resources that looked at East Maui, which is referred to in the resolution. I think what we may need to do is look to West Maui as opposed to East Maui.

MR. STARR: Yes, sir.

MR. NOBRIGA: For relief of our situation in the central aquifer plain. With the departure of Pioneer Mill, we have quite a nice situation of surface water available in West Maui. We just need to find a way to bring it over the mountain, when she comes, when she comes.

CHAIR RICE: Yes, Howard.

MR. NAKAMURA: I would just like to ask the maker of the motion whether or not it's his intent to give the Chair a wide latitude in terms of discussing these issues with users, property owners, water suppliers, what have you, in the context of some of these legal issues that have been raised in the past about Sunshine Law, et cetera.

I would like to ask the corp counsel if the wording is sufficiently broad. I have no problem with giving the Chairman wide latitude. But I would like to be sure that we don't end up with the same kind of issue that has been raised in the past.

MR. FUKUSHIMA: Well, this is the situation, if I may, Mr. Chairman. There's no official meetings required by law, which is one of the triggers for the agenda and the other provisions included in the Sunshine Law. If there's a time when other members are taking or wish to take part in the discussions, then perhaps something else has to be done such as an investigation to look into alternative sources. I think authorizing the Chair such as what is being proposed today is appropriate.

MR. NAKAMURA: Okay. Thank you.

MR. STARR: And just once again, the wording is that the Chair will come and report back to the Board. So, you know, I'm assuming that it will be done in a legal and proper fashion.

CHAIR RICE: Of course. All right. All in

favor of the motion, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No response.)

CHAIR RICE: Motion is carried. Mr. Nobriga.

MR. NOBRIGA: On review of the Iao rule, as referenced by our Director, there's a fail-safe and 95 percent of 12-month moving average, which does not quite cover the situations that we've been having to deal with to date. Because of the extended drought circumstance affecting the entire island of Maui and the State, it would behoove us and we should be made ready for some kind of a drought emergency declaration of the central system. Currently, the rule that's been under review by the Rules Committee does not include a provision to do that as far as I know unless corp counsel can find the place in the rule for an emergency declaration.

That would, in effect, by declaring a drought emergency, that would basically restrict any new meters from being issued to the central system. And that's the reason for my intent of the motion to create benchmarking criteria. If benchmarking criteria already exists within this document, then the motion would not be necessary. So I would prefer to study the document and come back to the next meeting with a recommendation, Mr. Chair.

CHAIR RICE: I think that's appropriate. I'm sure Mr. Starr would love to participate in your study efforts.

MR. NOBRIGA: Oh boy, I bet you.

CHAIR RICE: Mr. Starr.

MR. STARR: Yeah, I really feel that we're on

the right track here. I would like to put this in light of a current issue that is ongoing right now in front of the County Council, which is their request to the Director to know how much water is available in the Central and South Maui systems in the development. And, you know, as I said at the County Council meeting the other night that we're left with the belief there was another 7 million gallons available for new development. And I hate to see them led astray. And I'm not sure what the proper mechanism, if any, would be.

I was reluctant to make any comment on that myself at that meeting, but I feel that perhaps --

CHAIR RICE: Why don't we incorporate that investigation into this work that you and Mike will do before the next meeting. Because it's kind of relevant, right?

MR. NOBRIGA: Yes.

MR. STARR: Can we put notice to the Council that that's being done so that they can be aware of it? Because I know that their meetings are ongoing this week and next week regarding this.

CHAIR RICE: Go ahead.

MR. NOBRIGA: This matter before me can be referred to a committee?

CHAIR RICE: Yeah, I'm referring it to your committee.

MR. NOBRIGA: On rules?

CHAIR RICE: Yeah.

MR. NOBRIGA: Very good. Thank you, Mr. Chair.

MR. STARR: I know there are some Council staff

here, so I guess actually the word is out to the Council.

CHAIR RICE: Okay. We're moving on. Committee report, Oversight.

MR. SHEPHERD: Mr. Chairman, somehow you skipped by the calling additional witnesses. You went on to other business because the question was asked.

CHAIR RICE: You mean on this issue?

MR. SHEPHERD: Yeah.

CHAIR RICE: You have some testimony?

MR. SHEPHERD: Yes.

CHAIR RICE: Sir, please state your name.

MR. SHEPHERD: Yes, my name is Glenn Shepherd.

CHAIR RICE: Hi, Glenn.

MR. SHEPHERD: I live above the Iao Aquifer. I'm concerned about the Iao Aquifer. I present my remarks based on watching the water situation on Maui since 1970 and having had some 30-odd years in the oil business and developing, producing for oil fields, which is not too much different than it is with water except that there's no trapping mechanism involved in water. It has loose limits.

And that's the part that particularly bothers me in that you try to set limits on production, and you don't know what the limits of the water is. And there are so few data points involved with the Iao Aquifer that whatever you do, you are guessing. And that's a danger when you guess with something like Iao Aquifer upon which we are very much dependent. Once you start to screw up an oil field by overpumping, it causes water coning. And I might refer to an oil field that

I had a part play in near Taft, California, in the mid-50's that was drilled and we overpumped. It caused water coning. And to this date, that oil field has not recovered from the water coning that occurred from overpumping of the aquifer, the reservoir.

So these are long-term things, and when you start to sit down here with little data, few data, and try to protect something, you're on pretty shaky grounds. So what do you have to do? You take the most prudent way of looking at your water situations. You don't go for the maximum. You go for the minimum. David has got a hell of a problem here with the Iao Aquifer. He doesn't know where the limits are. He's got wells that are supposedly outside the jurisdictional limits of the Iao Aquifer, but are affecting the Iao Aquifer. The County is pumping the hell out of water into Keopuo-Lingle Park by three wells at a rate which I'm not sure of, but it's significant, and that's water coming out of the Iao Aquifer, although somebody put down a line that says it is a jurisdictional line. But, in effect, it is also affecting the Iao Aquifer. It's depleting the Iao Aquifer.

And those wells, the best information I get, and that isn't very good information from the Parks Department, indicates that the salt water levels are increasing, therefore, it's getting after the Iao Aquifer in its entirety. When you're developing something like Iao Aquifer with so few data points, it's a big guess. You may have more water than you think, or you may have less water than you think. You don't know until you get the information. We used to drill wells just for information, geologic information. You don't do that here. That's apparently a little bit beyond the capacity of thinking of the powers that be to go drill a well for information. It should be done, and you can do this. You have to use different techniques than just drilling for a given type of water well.

But this is a very serious situation here. You're pumping water that's going down to Makena. Makena Resorts wants this water in the worst way, and they're panicking about it. Well, this Administration

is in office and they're trying to ram that thing through just as hard as they can possibly do it. That's a sin to provide them with that water based on the information that is available on the Iao Aquifer. I testified down there in front of the Land Use Commission in Kihei. I said if you approve of this project and the water is coming from the Iao Aquifer, you are indulging in reckless endangering. And it's exactly what they're doing. They're not only endangering the Iao Aquifer here and all of the people that depend upon it, but also down in Makawao. Because once it goes to salty stuff, you get the upconing, the water coning as we call it in the oil business, upconing in terms of fresh water/salt water. It takes a long time for it to heal.

We have very few good information based on the infiltration processes that are going on. And as David has said, if this dry period goes on for ten years, and I'll quote the newspaper -- I don't think he said it -- he said, "We're going to have to do something about it." Well, too late after ten years of dry period.

And it could happen. It could happen. I've contacted an ex-colleague of mine from the University of Hawai'i, a physical oceanographer who does the works and services for NOAA at the jet propulsion labs in Pasadena. He is monitoring all of the climatic and oceanographic conditions which bring about the kind of weather we have and the weather where he's at.

I've asked him, "What's the prognosis?" And that's all it is is a prognosis. You never know until it happens. But the prognosis is poor. It's going to be dry for some period of time, some number of years, which he cannot put a figure on. But I urge you to very carefully play with this Iao Aquifer because you're going to screw everybody in the process if you do something -- you do something that you shouldn't do or you haven't done something you should do.

Remember, you may have more water there than you think, or you may have less water than you think. But the indications are today that you have less water than you think because you're seeing the salinities increase. You're seeing the water levels go down.

All of the indications are you're taking out more water than is going back in. That's what you call mining. You mine it down to zero if you let it go forever. Thank you very much for the opportunity to speak to you.

CHAIR RICE: Thank you, Glenn.

MR. SHEPHERD: There's nothing specific, but it's a general overall viewpoint of an old toad that's probably older than anybody here.

CHAIR RICE: Thank you, toad. We need to take a quick break.

(Recess taken.)

CHAIR RICE: Mr. Craddick, we need to have -- I know we run some ads upcountry in the Haleakala Times or something like that. You know, I think we need to expand our water conservation publicity efforts to the entire island, or do we? Am I wrong?

MR. CRADDICK: I would ask why you're doing it. Are you doing it to give away more meters or --

CHAIR RICE: Well, we'll talk about meters later. We're going to have an awful lot of discussion about giving away meters in light of the discussion we just had.

MR. STARR: Mr. Chair, I agree with you. I think that we should be creating more public awareness of the value of water and the fact that it's, you know, it should not be wasted, that it cannot be wasted. And yes, we are in the business of giving out meters. That's what we do. Whenever we can, we want to be able to do that. But irregardless of that, it's in everyone's interest to learn how to use less water. So, you know, I don't see anything wrong with, you know, increasing the scope of our conservation

program and public awareness. It's in everyone's good, and I compliment you for that. I know I had seen Ellen had her hand up.

CHAIR RICE: I didn't see her hand up.

MS. KRAFTSOW: Sorry, it was just that we had the requisitions are written. I just haven't given them to Dave yet. I got all of the quotes. We ran out of newspaper space.

CHAIR RICE: Okay, we're at the committee reports. Oversight.

MR. NOBRIGA: Mr. Chairman, Oversight Committee met on Friday August 10th, took up two matters that were referred to the Oversight Committee prior to the Oversight Committee being cancelled. The first was from Mr. John Elder requesting a modification, waiver of modification of fire flow requirements. The committee recommends that this matter be referred to the Rules Committee. During testimony concerning the request, it was learned that there are other violations of the Department rules within the service area of the project area, and so I move at this time the matter be referred to Rules.

CHAIR RICE: Okay.

MR. STARR: Second.

CHAIR RICE: Moved and seconded. Discussion?
(No response.)

CHAIR RICE: All in favor, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No comment).

CHAIR RICE: Rules got it.

MR. NOBRIGA: Mr. Chairman, Communication 01-23 was a communication from Mr. and Mrs. Reed concerning the matter we received oral testimony on earlier in the meeting. This is a lot which was acquired after the fact, and there was numerous submetering going on to the meter assigned to the property.

We had felt that the Reeds had exhausted all efforts to remove the other meters and the Committee recommends the Director and Department enforce rule 3-25 in due diligence in cooperation with the corporation counsel's office as provided for by rule 3-26. I move at this time to accept this recommendation.

MR. TAGORDA: Second.

CHAIR RICE: Moved and seconded to accept the recommendation of the Oversight Committee on the issue of the Reeds. Comments?

(No comment.)

CHAIR RICE: All in favor, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.

(No comment.)

CHAIR RICE: So ordered again. Moving on to Rules Committee.

MR. NOBRIGA: Mr. Chairman, our Rules Committee met on August 10th and took up various matters. Concerning Communication 01-04, a request from M. Conway for a waiver of fire flow requirements for the Kula Lodge Marketplace.

There is a CIP project scheduled, and we are assured it will be completed within the current fiscal period that will assist the applicant in meeting fire

flow requirements. There is no action necessary at this time.

Communication 01-13, request from the Sieles to approve a water meter exchange. The Sieles had downgraded their request, and the Committee would like to hear more information from the Department. There is no action required at this time.

CHAIR RICE: Okay.

MR. NOBRIGA: Communication 01-18, request from a Mr. Timbal of Hana in conjunction with the Roman Catholic Church for waiver of subdivision requirements in order to separate a piece of property. The Committee recommends approval pursuant to the attachments within Director's recommendation. Shoot, I didn't have time to spell that out.

MR. STARR: Do we need a second? Is that where we're at?

CHAIR RICE: I think you need to make a motion.

MR. NOBRIGA: I need to find that list.

CHAIR RICE: You're recommending approval based on the recommendation from the staff, is that right?

MR. NOBRIGA: Yes, I move that we grant a waiver as provided for by the staff.

MR. TAGORDA: Second.

CHAIR RICE: Discussion?

MR. STARR: Yes. If I remember correctly, that includes the fact that no new -- any new development or any new permit would trigger having to comply. That was the gist of the report.

MR. NOBRIGA: Yeah.

CHAIR RICE: Any other discussion?
(No comment.)

CHAIR RICE: All in favor, signify by saying
aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No comment.)

CHAIR RICE: Motion is carried.

MR. NOBRIGA: Sorry.

CHAIR RICE: That's all right.

MR. NOBRIGA: Mr. Chairman, the Committee reviewed Chapter 8 on appeals to the Board. This matter has been to public hearing and the committee has included points made from testimony received from the public. The amended rule is ready for discussion and approval by the Board to be transmitted to the appropriate channels for ratification. The committee does wish to change our esteemed corporation counsel Mr. Howard Fukushima for his valuable assistance.

MR. STARR: Point of order.

CHAIR RICE: Mr. Starr.

MR. STARR: Although I'm in agreement with what we want to do, is it -- is it in the agenda somewhere?

MR. NOBRIGA: Yeah.

MR. TAGORDA: Next page.

MR. NOBRIGA: I went skipping one part though.

I have to go back to catch the other part. I skipped over Chapter 2 that we've been going back to.

MR. NOBRIGA: Page 261.

MS. NAGO: I'm sorry, it's not listed on the actual agenda.

MR. STARR: Just procedurally. I think it got left out by mistake.

MR. FUKUSHIMA: Is certainly appears that way, Mr. Chairman.

MR. STARR: Sorry to be the bearer of bad news.

MR. NOBRIGA: I withdraw my motion of appeals so we can duly notice both Chapter 8 and Chapter 2.

CHAIR RICE: On the next agenda. Mr. Craddick.

MR. CRADDICK: We need the acceptance of the committee report, and then we put it on the agenda the next time.

MR. NOBRIGA: I withdraw the motion at this time, Mr. Chairman. That concludes my committee report.

CHAIR RICE: I can put it on the agenda next time. So ordered.

MR. NOBRIGA: Okay-dokey.

CHAIR RICE: Okay. Finance and Capital Improvement.

MR. NAKAMURA: Mr. Chairman, the Finance and Capital Improvement Committee of the Board met on Monday August 13th. The four items reviewed by the committee, the first is Communication 01-21. This was

a communication from Mr. Hans Michael of Lahaina.

Mr. Michael had entered into an agreement with Board in 1994, whereby he conveyed some land and easements to the County, and the agreement provided for some 20 items which the Board was required to implement. And Mr. Michael is questioning whether or not those items have been satisfactorily completed. The committee is recommending that it seems to be a very complex matter that has been going on for a long time.

The committee recommended that the matter be deferred until such time that the staff can do a more complete analysis on all of the obligations contained in the agreement and report back to the committee, so I don't believe any action is required on this item.

CHAIR RICE: Okay.

MR. NOBRIGA: I would like to recommend, if Mr. Nakamura will indulge me, that a time limit of 30 days be placed on this request.

MR. NAKAMURA: The request would be for the next meeting of the committee, which I assume will be held between now and the next Board meeting since there are other items referred at this meeting.

MR. NOBRIGA: Thank you.

MR. NAKAMURA: So if Mr. Craddick will take note of that, we'll take this up at the next meeting, which I assume will be in perhaps a couple of weeks.

Item Number 2 is a request from Adam Patel of Upcountry Flowers by Patel for agriculture rates. The issue that Mr. Patel is facing is that agricultural rates are not available for property which is not located within either the State or County agricultural district. Mr. Patel's property is located within a rural district. Although the Committee was very sympathetic to Mr. Patel's situation, I believe that the rule was very specific and clear and that it was not appropriate to recommend approval.

However, the Committee is suggesting that this matter be also referred to the Rules Committee for consideration of reviewing the language which might consider the agricultural exemption being available within other zoning districts. So I would move, Mr. Chairman, that the request be denied and further that the matter be referred to the Rules Committee.

MR. NOBRIGA: Second.

CHAIR RICE: Moved and seconded. Discussion?

MR. HELM: Yeah, just curiosity. Mr. Nakamura, Mr. Patel actually has an agricultural venture going at this time?

MR. NAKAMURA: I believe there is an existing agriculture venture. It's a nursery; is that correct, Mike?

MR. QUINN: Yes.

MR. HELM: And to what capacity, is it a large operation? Just curious.

MR. NAKAMURA: We have not actually seen it. I understand it is a fairly large operation.

MR. HELM: Well, I would just like to make a comment with regard to that. I think our Mayor, Mr. Apana, in his vision statements that he did the last time is really supporting agriculture and supporting the farmers. And we need to really take a good look at these kind of issues and see how we can help these entrepreneurs in the future.

CHAIR RICE: Yeah, I think that was one of the issues I raised when he was here about rules. That needs to be straightened out, so I think the motion is in order in that regard. Yes, Mr. Starr.

MR. STARR: Yeah, I agree that under our current rules, it's very difficult to do anything. But I have to say, I'm very sympathetic with Mr. Patel. I've seen his operation. There was a change of ownership, and at the change of ownership, they lost the agricultural rates.

The land was agriculturally zoned at one time, and then it was changed to rural some years back while the agricultural use was occurring, and then they still had the ag rates and he took it over a few years ago. And then the ag rates were taken away from him, so I really sympathize with him, but I'm sure that our rules, our new rules we write will find -- take into account of that and that, you know, in the next few months, he'll be able to come back and reapply under the new rules.

CHAIR RICE: All in favor of the motion, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No comment.)

CHAIR RICE: Motion is carried.

MR. NAKAMURA: Mr. Chairman, Director's Report 01-32, there is a -- was a request to amend an agreement which was to provide for the Department to participate with a private developer in the construction of a storage tank. The Director at the meeting requested that communication be withdrawn since the bids have recently been opened and the low bid exceeded available funding even if this request were to be denied or to be approved, I'm sorry.

And so the Director requested withdrawal and in order to permit discussion with the private party as to how the project may best be implemented, so no action is required on this item, Mr. Chairman. Unless do we need a motion to withdraw?

CHAIR RICE: Motion to file?

MR. NAKAMURA: I would move that it be filed.

MR. NOBRIGA: Second.

CHAIR RICE: All in favor, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.

(No comment).

MR. NAKAMURA: The last item is Communication 01-25. This was a request from Sandra Takahashi for an adjustment of the water bill. It was acknowledged that there was a leak inside of the meter, which the Board and the Department have always taken the position that that is the responsibility of the person having custody of the meter.

The applicant's reason for requesting relief was the Department's alleged failure to inform customers of problems associated with just the plastic piping. And the Committee did not feel that that was an appropriate justification and recommends that the request for relief be denied. And I would so move.

MR. NOBRIGA: Second, Mr. Chairman.

CHAIR RICE: Moved and seconded. Adolph.

MR. HELM: David, a question with regards to departmental personnel. When they're on site and they're actually monitoring a meter like that and they recognize a leak inside of an individual's property, whose kuleana is that? Does the Department inform the owner that they have a leak? I understood it as part of your personnel work is that they try to inform the customer that they do have a leak.

MR. CRADDICK: Before when we manually read the

meter and we noticed something, we would hang something on the door right away. Right now with the radio read meters where we don't stop, but when we see high consumption like that, a notice is sent to them that there's high consumption. And it may be, you know, obviously, if this leak occurs the day after your meter is read and we don't see it, 60 or more days can go by before you'll get notice of it. So we get some, you know, thousand to \$3,000 bills fairly commonly of people in this type of situation where a line breaks and it usually occurs where there's renters involved, rental properties.

MR. NAKAMURA: Mr. Chairman, also I would like to note that the Committee recommended the fiscal officer work with Sandra Takahashi to establish some sort of reasonable payment schedule.

CHAIR RICE: All in favor of the motion, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.

(No comment.)

CHAIR RICE: Motion carried. Thank you, Mr. Nakamura. Kent.

MR. HIRANAGA: Mr. Chairman, the Planning Committee met on Monday August 13, 2001, to review the Water System Development Fee Schedule. Based upon Mr. Allan Mullins' report, the water system development fee study dated January 10th, 2000, the Committee recommended that we move forward to review and approve of the proposed fee schedule. At that time, we also requested that the financial basis be updated. We recently received the updated report yesterday dated August 23rd, 2001.

I'm not sure if the Board has had an opportunity to review this report. But based upon June 30th,

2000, financial data, the study proposes that development fee schedule be increased for the five-eighths inch meter to \$6,030. We also recommended that an annual percentage adjustment be implemented to reflect an increase in cost of living that would be applied to this fee schedule and the fee schedule be reviewed within the next ten years -- within ten years of adoption by the Board of the schedule. And prior to the public hearings, that the formal effort be made by the Department to educate the general public regarding the basis for the proposed increases to the fee schedule and the need for the fee service schedule. It was also agreed that the contents of the Water System Development Fee Rule be deferred to a later date for review.

So at this time, I guess I would like to open it up to the Department first if they had wished to comment on Mr. Mullins' revised study.

MR. CRADDICK: We -- I think it raised it above \$500, Mike, from what it was a couple of years ago, the \$6,000.

MR. QUINN: The 1999 study?

MR. CRADDICK: Yes. And that would be in keeping if you take the fee \$3,300 in '93, which was based on 1990 information and you look over the years, that's about what it goes up every couple of years so it's not out of line with the past increase. It's just that we haven't looked at the development fee since that time, 1993, and the idea of having automatic cost of living increases in there is a good one because then we don't get so far behind until the next time we review it. There's not such a large increase.

And we did also have a comparison with incremental costs, which was I believe only about \$300 higher basing it on projects and assumptions about water demand increases, so it's in that ballpark there.

CHAIR RICE: Mike.

MR. QUINN: Mr. Chairman, we continued to use the system methodology. It's consistent what we did in 1993 when that rule was in effect. And with the study conducted by the consultant in 1999, and so we basically continued that methodology for consistency purposes. And this study is based -- the current document that the Board has in front of them is based on fiscal year 2000 data, which is audited and we feel that those audited numbers lend more credence to the results. As of now we don't have fiscal year 2001 audited results and we won't have them until about October.

CHAIR RICE: But you're providing for that really in the determination of the cost of the living increase provision, right?

MR. HIRANAGA: Well, we believe the cost of living adjustment would mitigate any future large increases in the fee schedule when it is again formally reviewed. The actual basis for the percentage adjustment we discussed later as we looked into the context of the rule.

CHAIR RICE: So is it appropriate at this point that the proposed new fee schedule go to public hearings in the correct procedure? Mr. Starr.

MR. STARR: Yeah, Mr. Chair, I want to compliment the work on the Committee and the Department staff, you know, in preparing this, first of all, and starting to work with Mr. Mullins several years ago in developing this data. And I think that we have something that we can stand on it, and it's defensible.

I think that our requests, if anything, they're conservative. My own belief is that the next water we develop, it's going to be a lot more expensive than the last water we did develop. We'll be spending 20 million dollars plus Maliko Gulch to be involved with

West Maui systems or whatever we need to do, I think it's going to cost more than this. But, you know, I think that at least this will be -- this will get us in the ballpark and keep us solvent, so I, for one, would like to proceed without any hesitation and bring it to the public and begin the process of educating the public about our real costs as Mr. Hiranaga has elaborated. So I would like to leave it to the Committee Chair to make a motion, but I would be happy to make the second.

MR. TAGORDA: Mr. Chair.

CHAIR RICE: Yes.

MR. TAGORDA: A few comments. This is for David. I would like to know, David, if in the past any other study have been made regarding this fee schedule aside from Allan Mullins' recommendation that you know of that we can make some comparison?

MR. CRADDICK: There is one in that package that was faxed to you there using the incremental cost method, and again, that price was about \$300 higher.

MR. TAGORDA: I'm not talking about the same person. It's another consulting firm.

MR. CRADDICK: Not to my knowledge.

MR. TAGORDA: Because I really don't want to put this task to the Administration and Council because of this tremendous increase in rates or fee without realistic, you know, comparison.

CHAIR RICE: Mike.

MR. QUINN: Mr. Tagorda, you keep in mind it is a large increase, but it's based on the current fee, which is in effect, went into effect in 1993, I believe in April of 1993. It's based on financial

data as of June 30, 1990.

So we're now 11 years away. So you can see that the current -- and our assets have fallen over 100 percent, yet our customer base has only grown a little bit more than 20 percent. So the current customers have a much larger -- by definition, have a much larger equity in the system. That's some of the reasoning why the increase is so great.

And that's I think part of the thrust behind the yearly incremental thoughts of CPI adjustment, if you will, is to reduce that rate shock kind of thing where we're not every ten years coming up with a new rate. Just by matter of inflation and the cost of putting in a new system, and as Mr. Starr says, new sources are going to be a lot more expensive. It is an increase. It is a substantial increase. That's why.

CHAIR RICE: And I don't think the fact that we have Mullins versus having multiple experts do the study has anything to do with numbers. Every time you have to come up with a new development fee, you need to hire three consultants to see if they come up with the same number. I don't think that's necessary. Unfortunately, it is high because it's been ten years.

MR. TAGORDA: And my other question, Mr. Chairman, is on that column on the -- now, I think this is a new one here, source and treatment charges. Okay. Under the old one in the committee meeting, Mr. Craddick, it's only treatment charges. Now you're putting source and treatment charges. My question is --

MR. CRADDICK: If you look in the rule, Orlando, under treatment, under source, treated water is part of that definition of source water. And we did have Mullins try and break out treatment before, but he broke it out system-wide. We don't use that treatment system-wide. It is for specific systems, and if the Board wants to break that out, then you have to actually break that out separately for I guess the

system that uses the treatment, and, you know, if you want to do that.

MR. TAGORDA: Like I said, again, Mr. Chairman, these questions I'm asking now is going to be encountered by the Department, by the Board. Why is it that these treatment charges are added on people or consumers who are using the Central and South when they are not having a treatment plant?

MR. CRADDICK: I don't think it's the same argument why you have a universal rate for the entire system. Each system does not cost us the same amount to operate, but we have one charge system-wide.

CHAIR RICE: And the sources of water by different regions in the County are going to be by necessity to be some wells, some surface, some combination. So it would be, in my way of thinking, it would be crazy for us. Then we would have a certain water rate for every little region of the County. That's the logic that you're referring to.

And while people may be unhappy with the rate, it's not unrealistic. And while the people that the members of the community may be unhappy about where we go with our water rates, that doesn't mean we shouldn't do it. Financially, we have to do it to be responsible, whether it be a large increase or small increase.

As Mr. Starr says, it is a conservative number, not an aggressive number. I think that's -- it's bad news. I'm sorry, it's bad news, but it's the real news. Mr. Starr.

MR. STARR: I just want to point out that in the last 10, 12 years, we've gone from having \$50 million in the bank to having over \$50 million in debt. And we've developed a lot of water in that time, and it's cost us a lot of money. And we haven't been recouping that. I don't think this will go all the way, but if we don't start now, we're not going to be able to develop anymore water.

MR. HELM: I just want to say, and I represent my constituents over in Molokai, and it's a hard sell. Economically, we're not as, you know, not as far ahead as Maui is. And it's a hardship for a person who is building a new home to pay a \$6,000 meter. My concern is that we assure ourselves that we also support the island of Molokai in regards to looking at that and also look at assuring that we can provide for other sources in the future so we -- it's not like we're not going to support plant treatment facilities here, but we'll assure ourselves that we can guarantee the people in Molokai some new sources also.

CHAIR RICE: That's absolutely correct. I think that's a good point. That should be the way it is anyway.

MR. CRADDICK: I don't know if Kent was going to bring this up in his motion, but because the Committee has referred to just the schedule and there's no rule issues involved in it, and we know timing is short. If we have 30 days to go up to the public hearing, that will mean it will be somewhere near the very end of September, early October. And then it goes to the Mayor and Council. They've got 60 days to work on it, which puts them right between Christmas and New Years.

So you may want to, with that public hearing, notice a Board meeting at the public hearing and then it moves that schedule up so that the Mayor and Council are done with it sometime either in the last week of November, first week of December rather than between Christmas and New Years.

CHAIR RICE: Mr. Nakamura.

MR. NAKAMURA: I don't necessarily agree that we should schedule a Board meeting for action the day of the public hearing. I think the purpose of the public hearing is to receive and consider the testimony, so I

don't think that's a good idea. But I do think that it's long overdue that we consider an increase, and especially in light of all the concerns that have been raised today and in the past, I think it is necessary that we move ahead. I don't think we should be creating any artificial time constraints on ourselves.

MR. CRADDICK: One last issue is there will be a mad rush for meters here once this is announced. And conservatively, we will collide between one and one and a half million dollars in the next couple of months in meter reservations, which will go on for two years, which will be considerably past when the new rules come into effect.

CHAIR RICE: I'm not sure that's going to happen. Mr. Nobriga is about to make a motion for a moratorium on meters County-wide. That's a joke. That's a joke.

MR. STARR: They're going to cost more, but you can't have them.

MR. FUKUSHIMA: If I may, Mr. Chairman.

CHAIR RICE: Yes.

MR. FUKUSHIMA: And Mr. Craddick's prediction may be correct. The rule could be drafted so it takes effect or has some retroactive effect from the date that it's actually adopted to cut off any rush to get a meter.

CHAIR RICE: Well, my question is if you're going to go to public hearing, are you intending to then have committee meetings on the rule part and be ready for that at the public hearing, or is that -- you don't want to have two segments of hearings?

MR. CRADDICK: I would expect the rule process

is going to take many months. And if we can get the money issue out of the way, I don't think you're going to have as much problem dealing with the items and whether to reserve for one year, two years or three years, add another year onto the reservation, minor things like that. But the money issue is one that I think it's a good idea to get that out of the way as quickly as possible as you can up or down or one way or the other.

MR. FUKUSHIMA: Again, if I can, Mr. Chairman, is the Department concerned with some of the provisions other than the money provisions? Is the Department concerned with provisions contained in the present rules that believe have to be amended?

MR. CRADDICK: Only the one I just brought up. But again, you know, if you say that can be handled somehow, I just don't want people to get a reservation two days before the rule is in force. It goes on for two years, and then they get the fee from here two years after the rule is in force.

MR. FUKUSHIMA: I think language could be developed to take care of that, Mr. Chairman.

MR. HIRANAGA: I think it was the intent of the Committee to isolate the fee schedule independent from reviewing any update to the rule in order to expedite the process regarding the proposed new fee schedule.

CHAIR RICE: So go ahead. Are you going to make a motion?

MR. HIRANAGA: I would like to make a motion that the Board agree to proceed to public hearing process with regards to the updated water system development fee study draft report dated August 23rd, 2001.

MR. NOBRIGA: Second.

CHAIR RICE: It's been moved and seconded. You know what the motion is. Mr. Starr.

MR. STARR: Yeah, it's my understanding that the new fee schedule will be as per Schedule A Page 11 of the document dated 8/22/01.

MR. HIRANAGA: That's correct. Question regarding the schedule for public hearing. Who determines the date?

CHAIR RICE: The date, me. Any requests? I'll work with you on the date. We'll schedule what works for everybody here.

MR. CRADDICK: We need a minimum of 30 days. Plus we have to have time to notice it in the newspaper, and we have to find a place.

MR. STARR: Mr. Chair, I want to be sure that this is not handled the way some public hearings that the Department has done in the past have been. I feel that this should be some place that's very readily accessible and well noticed and that, you know, we do everything we can to get people out and that a presentation be made that really explains the basis for and the different, you know, the different thinking involved in the Mullins study and also the fees that other jurisdictions charge.

I think that we need to do it in a new way, and I would be happy to help participate in any way in setting up that presentation. But I want to be sure that the public does not think that they're getting any kind of flimflam or people say that they didn't hear about the hearing. In fact, Council Chambers would probably be the ideal place to do it if we could use that.

CHAIR RICE: Well, I think we have to pick a date and see what's available.

MR. STARR: Evening.

CHAIR RICE: An evening, sure.

MR. NOBRIGA: If past practices serve me correctly, both the Director Mr. Craddick and our member Mr. Starr are very familiar with the viewpoint section of the Maui News, so I don't see any problem in attaining those.

CHAIR RICE: Editorials.

MR. NOBRIGA: Yeah.

CHAIR RICE: All in favor of the motion, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say nay.
(No comment).

CHAIR RICE: Motion is carried. Move on to the next section.

Okay. We're onto other business, upcountry meters, and there's people still in the room. I believe they're probably here for this section of the agenda. This is on the agenda because we have heard in prior meetings that meters were being given out upcountry, and there was some testimony I believe from someone about are we giving out meters, and are we giving out meters.

And I think there's definitely a need to clarify what is happening from the Department's perspective, and it's not on the agenda necessarily because there needs to be a decision today about meters. But I think I felt the need to be educated. I think the other Board members need to be educated about where we're at, and then the Board can decide if they should make a decision on that issue one way or the other.

So Mr. Craddick. I'm sorry, Mr. Craddick, one second.

MR. CRADDICK: Basically, on Page 65, 66 and 67 are all the what I call factors involved in issuing meters upcountry. And if we read through that list, you'll notice there's a number of reasons I feel why we're giving out meters. And basically, it's the people have done something in reliance on being able to get a meter. That's what it really boils down to. Subdivisions have been completed. Fees have been paid and taken and/or we've made agreements with them on these family subdivisions that they will get meters if they make certain improvements. People are making those improvements, and we give them meters.

CHAIR RICE: I guess in that explanation --

MR. CRADDICK: These are all prior to 1993.

CHAIR RICE: I'm still confused. And I'm confused because if there was an agreement prior to 1993, some kind of contract or agreement that the Department signed, that's one thing. But then you made a comment about people are doing something to get meters like making improvements. Are those then based on agreements? In all cases, was there an agreement there prior to 1993 and that they subsequently or just recently made the improvements according to that agreement and then got a meter? I don't know, and I'm not sure anybody knows. If I got a meter last year upcountry, does that mean that there was an agreement in effect dated prior to 1993?

MR. CRADDICK: I would have to ask you where probably, but we've had the issue of the "empty lot," a lot that exists with no meter.

CHAIR RICE: I don't have a specific where. I'm just talking about I know that we are denying meters to people upcountry, and we know we're giving meters out. And so if you're a member of the public and you

say, well, how does the rule that you don't get a meter upcountry mean you don't get a meter when somebody gets a meter. And if you say okay they were under contract and it was dated prior to 1993 and it's an obligation and encumbrance on the Department, okay. That's one thing. And if it's not, you didn't answer that question in the affirmative, so I assume there are other factors involved in how you get a meter upcountry. We need to know what those are.

MR. CRADDICK: Basically, if you've done something in reliance on being able to get a meter, and you have to understand the Kula Rule allowed a five-eighths inch meter for any empty lot upcountry basically. And our rule also says you also have to have an adequate road in the line next to the property.

So under the Jim Smith court case, basically they said if we're going to change that, we need to make rules. We tried to deny those people meters by a statute of limitations theory, which the judge didn't buy, meaning that the State statute of limitations is if there is some implied contract out there and you did nothing in reliance on that for whatever the statute of limitation period is, then we could summarily deny you and it wouldn't affect anybody.

The judge, if you go through the minutes of the case, the conversation during court, basically the judge says, well, that's fine and dandy. I don't buy it. You're affecting people's rights. You need to pass a rule. And, you know, whether that's right or wrong, it's the court's decision.

CHAIR RICE: Right. So I don't want to deal with that. I want to deal with how we're dealing now. And let me put some words in your mouth then, and you tell me if they're right. Prior to Jim Smith's case and prior to any decision by the Director to limit meters, if you had an empty lot and that lot had a line in the road next to it; i.e., adequacy, then you got a meter?

MR. CRADDICK: That's right.

CHAIR RICE: And then in 1993, the Department said, there's not enough water and you can't have a meter anymore. Jim Smith went to --

MR. CRADDICK: No, we've have never said that. We have said the source is inadequate. The person has to provide source if they want to get a meter. Anybody providing source gets a meter.

CHAIR RICE: But Jim Smith went to court and said that's not appropriate, and the court upheld his position, right?

MR. CRADDICK: Try that again.

CHAIR RICE: Jim Smith opposed that decision by the Board, and he went to court saying that if you had a -- if you had an empty lot, you could get a five-eighths meter if you had a line in the road next to the lot?

MR. CRADDICK: I don't believe so. The Jim Smith case was won to keep the Kula Rule in force and effect and that the "finding" of inadequate source was invalid, those two issues. The court found that the Kula Rule did validly lapse.

They found that the process of the finding was rule making and said if the Board wanted to do all of these things that were tacked onto the notice to the Board that the source was inadequate, if they wanted to do those things, the rule had to be passed. And it's remained that way.

CHAIR RICE: No rule was passed?

MR. CRADDICK: No rule was passed.

CHAIR RICE: So people are getting meters if they have an empty lot and they have a line that's

next to their lot upcountry?

MR. CRADDICK: That's right basically, yes.

CHAIR RICE: So those people who were on the list who can't get a meter are, quote, unquote, empty lots, but they don't have a line next to their lot, hence the argument why do they have to be on the list versus somebody who is not on the list?

MR. CRADDICK: The people who are on the list are people who want another meter, a larger meter or they're subdividing.

CHAIR RICE: That's it?

MR. CRADDICK: That's it.

CHAIR RICE: Nobody with an empty lot who wants to build a home?

MR. CRADDICK: No. That was the Siele problem. That's why he wasn't on the list, and he fought to get on the list. And then when he saw us passing the rule to bounce those people off the list, he got that rule killed. The Board passed the rule and went to the Mayor. The Mayor approved it and went to the Council. The Council didn't approve it because it took care of all those people that were off the list. And by me saying taking care of, it allowed them to come in and get their meter in 60 days or get to the end of the list and put their name on the list.

CHAIR RICE: Mr. Starr.

MR. STARR: I believe that I've talked to people who are on the list who have no meters who have been waiting. And I believe that what we have is Kafka-like, whereas if you get on the list, you don't get it. And if you don't, you get it. And I, for one, have a great deal of trouble in my own soul being

associated with the way this is going right here, and it's been going for sometime.

CHAIR RICE: Yeah, I guess I'm having a similar heartburn about this thing because I'm still not convinced that if a member of the public got me in a dark alley and said, "Are you convinced that what you're doing is fair," that I would get away without a beating.

And I'm not saying that it's not based on some legal principal, but I'm just -- I'm not convinced that there's not a better way to do it. And I mean I guess that's why I brought it up, and I want to explore it. Mr. Nakamura.

MR. NAKAMURA: I would like to try to get this clear in my own mind, too. So David, absent any special rule that deals with upcountry, what you're saying there is no special rule that deals with upcountry, right?

MR. CRADDICK: That's correct.

MR. NAKAMURA: And an applicant for a meter in upcountry is no different than an applicant for a meter in Central Maui or anywhere else; is that true or not true?

MR. CRADDICK: No, that's not correct.

MR. NAKAMURA: Why is it not?

MR. CRADDICK: Anybody who is asking for another meter, a larger meter or asking to subdivide, we are saying no to them.

MR. NAKAMURA: Okay. I understand that based on --

MR. CRADDICK: Inadequate source.

MR. NAKAMURA: Inadequate source, which you stated earlier the court had said was not an appropriate limitation without enactment of a rule?

MR. CRADDICK: I don't believe the court found the system was adequate.

MR. NAKAMURA: Sorry?

MR. CRADDICK: I don't believe the court found the system was adequate.

MR. NAKAMURA: No, but I thought you said the court said that you could not use inadequacy of source as a reason for not issuing a meter without a rule making that finding?

MR. CRADDICK: I don't believe that's the case. What happened was when I informed the Board that we were inadequate, we had inadequate source, tacked onto that were a number of things that we were going to do. We were going to stop issuing meters to empty lots, a whole bunch of things.

It was those things that had no basis, or the court found there was no basis, the statute of limitations wasn't a basis for it, that that was rule making is my understanding of what went on. The issue of adequacy at the upcountry system was not an issue before the court, and the court never found one way or the other on that.

MR. NAKAMURA: So at the present time, if you have a vacant lot without a meter and you can meet the test of adequacy of the system, you can get a meter?

MR. CRADDICK: That's correct.

MR. NAKAMURA: And on that basis, there are cases that are being issued meters upcountry?

MR. CRADDICK: Yes, to the tune of I think the

average is about since 1993, 127 a year. And there's been a low of I think about 30 the year after the water development fee passed because everybody rushed in to get their free meters before the fee passed.

MR. NAKAMURA: So when you're talking about adequacy, you're talking about adequacy of transmission and storage?

MR. CRADDICK: And distribution.

MR. NAKAMURA: And distribution?

MR. CRADDICK: Right.

CHAIR RICE: So, if we were to create adequacy in terms of not just source but storage and transmission so that the people on the meter -- I mean on the list could get meters, what would that require?

MR. CRADDICK: It requires you just saying you'll declare drought when it's necessary to use all available sources.

CHAIR RICE: We already do that.

MR. CRADDICK: No, you've never made any decision to that effect. You've declared a drought and by absence of any discussion, I guess de facto, you have decided that. But there's never been any decision by the Board that when a drought is declared or you will declare a drought anytime it's required to use all available sources. And that was --

CHAIR RICE: That declaration by us makes their systems adequate so they can get a meter.

MR. CRADDICK: It makes it so we have source that we can give out comfortably I feel without having to have drought restrictions in order to meet demand.

CHAIR RICE: I'm having a hard time with that one.

MR. TAGORDA: Me too, Mr. Chair.

MR. NOBRIGA: I feel like I'm being held hostage by the Director.

MR. STARR: This is a total inequity that we have people who have been on a list waiting to get services whether it's a second service or whether it's a first service or whatever, and they are not allowed to get because they've -- because we declared the system inadequate for them, but for anyone with an empty lot we don't declare it inadequate, so we give them a meter.

To my mind, this is one of the things -- worst things I've experienced on this Board, and I think the fact that this is being perpetuated even after all the discussion we've had is a --

MR. NOBRIGA: Travesty of justice.

MR. STARR: Thank you for the correct words, a travesty of justice. What do we do? I mean either don't give any meters or give meters to everyone, but right now all we're doing is creating a travesty of justice and we are aware of it as Board members and we're at fault for allowing it to happen.

CHAIR RICE: Don't be skewering us too deeply. Just a second. We're trying to find out. I can have -- I'm trying to figure out if there are physical limitations that cause inadequacy. And based on your response, David, it's not a -- it's not a distribution line issue or storage issue that puts those people in that designation. It's a declaration by the Board.

MR. NOBRIGA: Which the Board never took.

CHAIR RICE: Right. So of all those people's

lots that we don't have issues with pressure, line pressure, any of that kind of stuff?

MR. CRADDICK: I'll go back to the system of adequacy. If you've got some lot up there that is empty and you can make the system otherwise adequate, I believe even though that costs money, it costs a lot less money than providing source, and people do it, are willing to do it.

And I'll leave it up to corp counsel. The Board can unilaterally say no meters. I say fine, have at it. I mean I know the Board tried that year or two ago.

CHAIR RICE: We're not saying anything. We're fact finding here. We haven't said no meters. We haven't said meters yet. We've got a situation right now where there's no meters, and we've got a situation where there's meters. And we're trying to find out if there's a real good reason for that. And I guess we're not hearing one, or at least I'm not. And if I'm missing something, somebody tell me.

MR. CRADDICK: Okay. If you want to limit the meters where people have done something in reliance on getting it, my understanding is the court said you've got to pass a rule. Now, if that's wrong, I'll leave it up to Howard. You know, that's my understanding.

CHAIR RICE: Don't put words in our mouth. I never said I want to limit meters. I want to know how we solve the problem and why we can do what we're doing. We are limiting meters right now, right?

MR. CRADDICK: Right, we are, yeah.

CHAIR RICE: And our ability to limit meters is reliance on the adequacy/inadequacy deal, right?

MR. CRADDICK: Right.

CHAIR RICE: And so understanding that, I want to know what creates adequacy and inadequacy. Because the logic says to me, all right, if there's a bunch of customers over here who can't get meters because there's some inadequacy, then what's the cost of the Department to make it adequate.

In my layman's mind, I say, okay, there's capital improvements that need to be done. And we weigh that against the rest of the capital improvements that need to be done in the County, and we decide what we do. And we have an answer for those people, whether we like it or not. But I didn't hear that. And I don't know what I would tell somebody on that list at this point.

MR. STARR: I feel we're doing it backwards, whereas any new subdivision guys get the meters and the old time customers who have been waiting don't get them. And, you know, either there is out of corruption, which is what the public seems to assume when I talk to people, or it's out of confusion and chaos, which seems to be the case. Now, what rule is there that says we don't give them to the list people?

CHAIR RICE: The thing about giving to the new people versus the old people relates to my comment about infrastructure and adequacy. If the developer comes in and puts in all the lines in the world so he's adequate, all right, there's another issue there. But if we have customers that don't have that infrastructure, then do we need to put something in to create the infrastructure to give them water? I didn't hear that.

MR. STARR: We have people on the list who are sitting right next to an inadequate line. You know, what denies them?

CHAIR RICE: That's a good question.

MR. CRADDICK: Because of the inadequacy of the

source which the Board does not seem to want to do anything about. Like in January of year 2000, my understanding of the adequacy of the system, I've updated that. And if the Board wants that, I can pass that out here right now.

My feeling is the system is adequate to give out meters subject to the Board saying when a drought occurs and that they will use all available ground water sources when that occurs, and that's all it's subject to. And we will start going through the list. I would ask the Board that we do something about the people off the list because they're going to continually be a problem once we start through the list.

CHAIR RICE: Adolph.

MR. HELM: My understanding is you're saying during a drought, we declare drought emergency. We effectuate other sources to help contribute to the bigger source to provide adequacy.

MR. CRADDICK: That's right.

MR. HELM: But is it clear that we don't issue meters during that drought emergency?

MR. CRADDICK: That's up to you guys.

MR. HELM: But isn't that the way currently how it works?

MR. CRADDICK: Not unless you say so.

MR. HELM: Okay.

MR. STARR: We're in drought emergency, and we're issuing meters.

MR. TAGORDA: Mr. Chairman, I'm not still clear with a lot of this, okay. David, let's go back to

your findings of source inadequacy of March 16, 1993. Okay. On that findings, was that a rule making on the Department's part?

MR. CRADDICK: No.

MR. TAGORDA: No.

MR. CRADDICK: Not that I know of.

MR. TAGORDA: Why is it then that you were using that finding a way to limit or not to issue meters based on source?

MR. CRADDICK: Well, I didn't think it was fair to be telling some people that you can't have a meter and then other people are coming in getting meters. I figure if the system is inadequate, it's inadequate for everybody.

MR. TAGORDA: In relation to that source of inadequacy, that's your finding now. That's a source inadequacy. You didn't say there was a transmission inadequacy or storage inadequacy, but only source. However, when you go back to your Rule 2.1 and 3.1, you issue meters maintaining those transmission lines for those people who apply for meters to go to a point of adequacy. But you don't have source adequacy.

MR. CRADDICK: Orlando, all I can do is refer you to the Jim Smith court case. We tried it. We failed. The court said pass a rule.

MR. TAGORDA: That's the reason why I believe, Mr. Chairman, the Department is issuing meters because of that determination by the Director if you can say, yeah, I'm going to the point of adequacy, I get a meter. But actually, there should not be an issuance of meters since the 1993 findings, the way I understand it, because the Director believed firmly during that period of time upcountry, the source is

inadequate.

MR. CRADDICK: And all I can say is, Orlando, we tried to pull that off. Somebody took us to court, and the court says you can't do it without passing a rule. We gave a rule to the Board. The Board passed it. It went to Mayor and Council. Council didn't pass it.

It's the exact same language that's in the Iao Management Rule, the exact same language that had been passed a few months before. Why they didn't pass it then was simply because of somebody up there four miles past our water system. No other reason. No one else came to testify about it. So how do you get the list people off the list, I think you give them 60 days. You pass the rule. You give them 60 days to come in. They don't come in in that time, then you start through the list.

Because then at that point, you can legally tell them they've been given notice that, you know, get your meter while you can. And if not, if you're not on the list, we're not going to deal with it. And that way you distinguish whatever rights there are out there by the rule making process, not by some edict that the court found invalid.

CHAIR RICE: One second. Let me take a five-minute break, a one-second break.

(Recess taken.)

MR. NAKAMURA: Okay. I would like to call the meeting back to order. I would like the record to reflect that Chairman Rice had to leave. I will conduct the meeting for the remainder of the session. The suggestion of the Chair before he left was that this issue be referred to the Committee of the Whole for further discussion and information. Any objections to that course of action?

MR. TAGORDA: So move, Mr. Chair.

MR. NAKAMURA: Is there a second?

MR. HELM: Second.

MR. NAKAMURA: Moved and seconded this issue be referred to the Committee of the Whole for further discussion. Any further discussion?

(No comment.)

MR. NAKAMURA: All those in favor, say aye.

VOICES: Aye.

MR. NAKAMURA: Opposed?

(No comment).

MR. NAKAMURA: The matter is referred to the Committee of the Whole. So Fran will get together with you to set a meeting date and have the appropriate notices issued.

MR. NAKAMURA: Okay. The next item update, upcountry water system. David.

MR. CRADDICK: The reservoirs are all pretty full, ditches flowing, fairly full.

MR. NAKAMURA: Jonathan.

MR. STARR: Are we operating the Hamakua Poko wells?

MR. CRADDICK: No.

MR. STARR: We are still in a state of drought emergency, though I see that we've pumped Hamakuapoko wells most months including a lot in July.

MR. CRADDICK: In July, the ditch level went down to 32 million gallons a day.

MR. STARR: I would just like to once again state that I -- it causes me difficulty to stay in a drought emergency when everything is full, but I don't really see another way. I do have a question on another item, which is progress on the program to drill an upcountry well. We're talking about the upcountry water system.

MR. CRADDICK: We've awarded the design of that to Fukunaga & Associates. Herb.

MR. KOGASAKA: We've asked for a formal cost proposal from Fukunaga & Associates. That's where we are right now.

MR. STARR: Good. I compliment the staff on moving fast, and I hope that they do everything in their powers to move ahead.

MR. NAKAMURA: Any other discussion on upcountry? Orlando.

MR. TAGORDA: May I request that the Department staff provide us some information and facts about the water situation upcountry. That will probably relate to -- for this Board to lift the drought emergency as quick as we can. Can we get all the facts on the next meeting?

MR. NAKAMURA: Okay. We will ask this matter be placed on the agenda for the next meeting for discussion. Any other questions, comments on upcountry water? Okay. Next item, update on water issues discussed at public meetings. Anything to report on that, David?

MR. CRADDICK: Well, I was asked some questions by the Land Use Committee of the Council regarding the Makena development, and I answered those questions the best I could. I don't think it said 7 million gallons

was available, but it did say that water availability is subject to their ability to use the ocean, meaning to desalinate.

And so in that respect, it's unlimited I guess, not limited to 7 million gallons. But the system that we have developed, I took what the total was of the aquifer, Iao and North Waihee, which is 28 million gallons where it's currently around 25. And two of that is from Iao tunnel, which doesn't count as part of Iao Aquifer, so we're actually about 23. And I did some deductions for unused meters and keeping the aquifer at 90 percent and told them what the balance was left over that is usable.

MR. NAKAMURA: Okay. Any questions or comments?

MR. TAGORDA: Mr. Chair. David, have you used the Iao filter system there since we got the document signed?

MR. CRADDICK: First of all, I don't believe the agreement is signed just yet. And the reason why is because when we went to try and start it up, the Health Department had a whole bunch of issues that they raised, and I believe we are right now test running it. We're running it to dump. We've doing that I think the last three or four days. And if that all goes off okay, we have our operation and emergency plan for the filter plan that had about three more issues that needed resolution. And if that all goes off in the 1st of September, we would date it, sign it and return it to them so that we don't start paying the \$2,000 because we use it in the middle of the month.

MR. NAKAMURA: Okay. Any other questions, comments? Jonathan.

MR. STARR: Yeah. I, for one, did not really like the way that was answered. It was very confusing and misleading by saying there's plenty of water and

what the water is, whether it's rain water or whether it's ocean water were part of the answers in explaining why there's plenty of water available. But beyond that, there was -- I got a notice during the month from the Director informing me that there was a Hawai`i Water Works Association conference to be held on Maui at the Maui Beach the next day, and I was quite upset.

It went on to state that the luncheon speaker was Grant Chun, the managing director, but the Board members were not invited to the luncheon and that it would be standing room only in the back of the room. I did go, and indeed there was standing room only in the back of the room. The room was about half this size. People were uncomfortable. There was no air conditioning. All I could hear was people complaining about how terribly set up and run it was.

And it was very interesting, and I wish I could have stood it to hear more because it was all about emergency planning and water. And there were people from all the water departments of the State, plus a lot of the top civil defense people. Harry Kim gave a good talk, and there was a lot of good presentations, but it was just terribly set up. And I sent a nasty letter and I asked that copies be sent to all Board members.

And I was told by Fran it would be in the meeting packet. It's not, but I did send a very angry letter to the Director that 24-hour notice is not sufficient, and I did not like the tone or the way that the thing was planned at all. And just one other thing about public meetings. There's a meeting tonight, Kula Community Association, but also it's the Mauka, which is the Association of Upcountry Community Associations is having a meeting about the future of upcountry. And most of the upcountry developers will be giving presentations including Hawaiian Homes. Mr. Erdman will be talking about the plans for developing water on Ulupalakua Ranch for the Wailea 670 project. It's going to be interesting. Just to let other Board members and the public to know about that. That's 6:00 at the Kula Community Center tonight.

MR. NAKAMURA: Okay. Thank you, Mr. Starr.
Okay. The next item, Item 9, division reports, the USGS quarterly Iao Aquifer report, which has been circulated. David, any comments on that?

MR. CRADDICK: I'll just leave it up to the Board if they have any questions on it. The chloride levels are on Page 95 there down to 400 feet, which is about the 1 to 40 ratio currently showing around zero parts per million chlorides, somewhere between zero and 20 anyways. Six-hundred feet, which is way over the 1 to 40 ratio, which is above 120 parts per million. And then further down at 650 is near a thousand, 675. It's a little over 2,500 parts per million. And 750 feet, it gets seawater.

And we did an aquifer test here. The results we should have from that in about 30 days to see why we have so much more fresh water available than what the Gyben Hertzberg lens would indicate. If you take that 7 times 40 is 280 feet to the interface level, and it's much, much deeper than that, almost double that.

So the reasoning behind our aquifer test, it was to see how much the water level would come up when we shut all the pumps down. And like I say, we'll get that information. We were able to shut down much longer than we originally planned. We planned it for 12 hours. We went to 15. We probably could have gone to 20, but we really hadn't set up for it, so we didn't continue the test on it longer than 15 hours. But I believe we did get some good information. I hope we did anyways.

MR. NAKAMURA: Okay. Any questions on the USGS report? Jonathan.

MR. STARR: Yeah, I think we've covered that, but I wanted to ask David how, you know, how much levels came up? You were there I believe.

MR. CRADDICK: Yeah, but we don't have access to

the State's monitor well or the information that USGS collects. They have to download it.

MR. STARR: How about Mokuhau?

MR. CRADDICK: Not Mokuhau. The only one we had a level indicator in was Waikapu well, and that one showed no change when we shut off and it shows no dropping as we pump.

MR. STARR: Waikapu?

MR. CRADDICK: Yeah.

MR. STARR: But we're not pumping there.

MR. CRADDICK: No, but if it's in Iao aquifer, it should respond to Iao Aquifer, so the indications are it's probably not part of the Iao Aquifer and maybe it's a source we could use and not count against Iao Aquifer.

MR. STARR: I don't advise that.

MR. NAKAMURA: Okay. Anything else? Any other business? If not, I'll entertain a motion for adjournment.

MR. TAGORDA: Motion to adjourn, Mr. Chair.

MR. STARR: Second.

MR. NAKAMURA: Moved and seconded we adjourn.
All those in favor?

VOICES: Aye.

MR. NAKAMURA: Opposed?
(No comment.)

MR. NAKAMURA: Meeting is adjourned.
(The deposition concluded at 11:25 a.m.)

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