

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
FINANCE/CAPITAL IMPROVEMENTS
COMMITTEE MEETING

Held at the HGEA Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 207, Wailuku, Maui, Hawaii, commencing at 3:00 p.m., on September 12, 2001.

REPORTED BY: JEANNETTE W. IWADO, RPR/CSR #135
IWADO COURT REPORTERS, INC.

A T T E N D A N C E

CHAIRPERSON:

PETER RICE

BOARD MEMBERS:

KENT HIRANAGA

HOWARD NAKAMURA

JONATHAN STARR

DIRECTOR

DAVID CRADDICK

DEPUTY DIRECTOR

GEORGE TENGAN

DEPUTY CORPORATION COUNSEL:

HOWARD FUKUSHIMA

BOARD SECRETARY:

FRAN NAGO

FISCAL OFFICER:

MICHAEL QUINN

STAFF:

MYLES FUJINAKA

HERBERT KOGASAKA

CLYDE MURASHIGE

IWADO COURT REPORTERS, INC.

TRANSCRIPT OF PROCEEDINGS
BOARD OF WATER SUPPLY
FINANCE/CAPITAL IMPROVEMENTS
COMMITTEE MEETING
SEPTEMBER 12, 2001, 3:00 P.M.

CHAIRMAN RICE: I am going to call to order the Board of Water Supply Finance and Capital Improvements Committee Meeting, September 12, 2001, 3:00, in the HGEA conference room, number 205, David Trask Building.

In attendance, and for the record, the committee has originally stipulated for Finance/Capital Improvements. There's a quorum present for that committee. Mr. Nakamura, we are joined by fellow Board Member Jonathan Starr -- and is Kent here? And Kent Hiranaga, whose name I always forget, and I apologize in public again. Let the record show all the staff that are here, and members of the public have signed in, and away we go.

Testimony from the public. Is there any testimony at this time? Yes, ma'am.

MS. POWELL: My name is Natalie Powell, I represent the Homeowners Association of the Ulumalu/Peahi Waterline Improvement Project, and mostly I'm here to answer any questions.

CHAIRMAN RICE: Natalie, I believe you are the first item on the agenda. And on the phone we have Bill Yuen. Hi, Bill, Peter Rice.

MR. YUEN: Hi, How are you?

CHAIRMAN RICE: Fine.

MR. YUEN: Sorry I couldn't make it in person, but unless I flew out of Mokuleia, or something like that, or swam over, I don't think anybody would accommodate me.

CHAIRMAN RICE: That's okay, Bill. You are the first item on the agenda. We have the request for approval of a resolution authorizing a loan program, providing for a loan to Maui Ranch Estate Owners' Association. Natalie is here representing that group, and this document has been circulated to the committee.

Bill, do you want to say anything at this time?

MR. YUEN: Yes. If I could, just briefly. This loan represents a little bit of a hybrid between a commercial loan and a government loan, as well as a revenue bond the state constitution, state law authorized the Board of Water Supply to borrow.

MR. CRADDICK: Bill, if I could interrupt for just one second. Is this covered in that letter that you sent to Ted Matsuo of RUS, the opinion letter?

MR. YUEN: Yes, basically yes.

MR. CRADDICK: That opinion letter is basically the last few pages of the packet that was sent out to you. It's dated August 27th. Okay, sorry for the interruption there.

MR. YUEN: Okay. Basically, any borrowing by the Board of Water Supply has to satisfy the constitutional and statutory tests for a revenue bond. The constitution and the state law authorized the Board of Water Supply to borrow, among other things, to establish a loan program.

So what I did was set this thing up as a loan program in which you are borrowing from the Department of Agriculture in order to establish a loan program, and in turn loan those proceeds to the Maui Ranch Owners Association.

I then prepared documents from the Maui Ranch Owners Association in which the association amends its declaration to impose a special assessment on each of its members, and have an

obligation to pay, the members' proportionate share be a lien on that owner's lot in the event the owner doesn't pay his share.

The association is also assigning to the Board of Water Supply the right to make the collections, but the Board of Water Supply is not obligated to file a lien on the owner's lot. I felt that if your collection efforts were not successful, and it became advisable to impose a lien, you might want to refer that back to the association to have the association impose a lien and collect that. But essentially that's how I documented this program to work.

CHAIRMAN RICE: Bill, a question for you. Is that lien right an option? It's just not our option, or is it?

MR. YUEN: It is your option. In the way I have prepared the documents, the association is assigning that right to you, but not the obligation to do it.

CHAIRMAN RICE: Okay. Questions, members of the committee?

MR. YUEN: I mean if you want the obligation to do it, you can. I can always prepare it that way.

CHAIRMAN RICE: No, I think just the option is fine, just as long as we had the option. If we had to rely on the association, and there was some problem there, I'd be a little concerned. But as long as we have the option.

MR. YUEN: Okay.

CHAIRMAN RICE: Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, just a couple of questions to the Director. Number one, the letter of transmittal on August 23rd breaks down the funding, and there is reference to 1.35 million from an unidentified source. I assume those are grant funds?

MR. CRADDICK: Yes.

MR. NAKAMURA: Secondly, we have discussed this project on many occasions. Have there been any significant changes in circumstances, funding, approach, any issues that are new since we have talked about this last?

MR. CRADDICK: Maybe I can just go over it a little bit, just to make sure. I don't think there are, but I don't know when, you know, what everybody knows. Basically, here -- Myles, can you flip that picture over there above your head? Flip it over on the other side, there's a map. Just the whole thing, flip it over. Okay, there we go.

What has changed is the Dowling well is now in place, if you will, the Kulamalu well. And that Kulamalu well has as much storage as the storage that we were putting in for this project. And we believe that the bids are going to come in substantially more than what is covered in this agreement. And because of that, we have made revisions to the plans and have bid alternatives, where we can actually fix some of our system up outside of there and supply the water from that tank through there without actually building another tank.

So we are going to have to actually wait until bid time to see what all happens in there to try and keep it within the dollars that we have appropriated. And I don't know whether the last time we talked, whether that matter came up or whether the Kulamalu well was completed at that time and on line.

MR. NAKAMURA: I'm sorry, what is the impact of the Kulamalu well that permits you to potentially reduce the cost of the project if the inflation affect is increasing it beyond budget?

MR. CRADDICK: The Kulamalu well, this is East Kuiaha -- no, West Kuiaha Road, and the well is right about just below this dotted blue line, which is the Kauhikoa Ditch -- no, Wailoa Ditch. And you can see the tank over here that was originally scoped out for the property is 1260 feet. The well is at about the same elevation.

So instead of doing this arrangement of lines, what we have done is we have put into the plans fixing up this section and using the existing line that crosses the gulch over

here, to use that storage tank to supply in there. That saves us doing this line and possibly a booster pumping station.

MR. NAKAMURA: And have the documents been reviewed by Corp Counsel, and Corp Counsel is satisfied?

MR. FUKUSHIMA: Well, if I may say that Mr. Yuen has been contracted as a special Deputy Corporation Counsel, so in effect, yes.

MR. NAKAMURA: Okay, thank you.

CHAIRMAN RICE: Any other questions? Natalie?

MS. POWELL: I'd like to make a comment that I haven't heard, that Maui Ranch Owners Association will have an escrow account at the Water Department's control which will, for the life of the loan, it will carry at least an annual payment, principle plus interest. It will be in that escrow account at all times.

MR. CRADDICK: It says so in the loan documents, Natalie. It's called the reserve account.

MR. YUEN: It said so in the loan agreement.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: If it's done the way Mr. Craddick suggests, where the existing tank makes up the storage and, you know, and all those new lines aren't put in, I assume that will give a large savings of money.

MR. CRADDICK: No, we expect it to go way over bid. The bid to come in way over the money allotted for the project.

CHAIRMAN RICE: But if it was under budget we wouldn't borrow as much money or we'd repay it.

MR. CRADDICK: No, we would probably stick with the original plan and have additional storage.

MR. STARR: Even though we are going to eliminate the storage tank and all that pipe, are you still not going to save any money?

MR. CRADDICK: It won't save any money beyond the budget that we have. What that is doing, what we expect that is going to do is run the project way over budget. And the Board has only appropriated \$500,000 for this, so if it goes way over that and somebody has to make up the difference, it's either going to be them or the Board, and I don't expect the Board is going to be too happy to do it. And there's no necessity to do it when we already have a tank there that can serve the system.

MR. STARR: Why did you figure it so -- who did the original cost engineering on this?

MR. CRADDICK: The original costing information probably was back in --

MS. POWELL: 1990, 1991.

MR. CRADDICK: Yes, it was a long time ago.

MS. POWELL: Now it's over four million dollars.

MR. STARR: I am not on the committee, but I appreciate you giving me a chance to participate. But when it comes to the full board I am going to want this put out for some kind of cost analysis.

MR. CRADDICK: We will get that when it goes to bid.

CHAIRMAN RICE: There is no intention to change the plan now, just to bid it and have a backup plan.

MR. CRADDICK: When you get the bid information in, you are going to have that cost information, and you can decide then what to do. If you want to go ahead and do it, let's say it's only \$50,000 more than the budget, you may want that extra

tank in there for \$50,000 more, and go that way. But those kinds of things you won't know until you bid it out and see how hungry everybody is.

CHAIRMAN RICE: That sounds fine to me.
Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, the item before the committee is the approval of the resolution authorizing the loan program.

CHAIRMAN RICE: Right.

MR. NAKAMURA: I think Board Member Starr raises some very good issues about analyzing the cost of the project, and I think that can be done at the appropriate time. But in terms of the matter before the committee, which is approval of the resolution, I would move to approve the resolution.

CHAIRMAN RICE: Okay. The only two members of the committee are you and I so --

MR. HIRANAGA: I second.

CHAIRMAN RICE: There we go. The motion has been moved and seconded to approve the loan program as presented.

MR. CRADDICK: It's not the loan program, it's the resolution. The loan basically has been approved some time ago by the Board.

CHAIRMAN RICE: The resolution.

MR. CRADDICK: This is the implementing document. And aside from this, we also have to go to the Council and get their approval. But this is one step in the process.

CHAIRMAN RICE: But this is the first time we have seen this package from Bill?

MR. CRADDICK: Yes, that's right. That's all the

documents that will have to be executed. And in sending this to RUS there may be some minor changes that they suggest from the federal point of view, but the resolution will be as stated in the packet here.

CHAIRMAN RICE: So motion to approve the resolution has been made and seconded. All in favor say "aye."
(A chorus of ayes).
Opposed say "nay."
(None).
Motion is carried. Moving on.

MR. YUEN: I am going to sign off, thank you very much.

CHAIRMAN RICE: Thanks, Bill.

MR. NAKAMURA: Mr. Chairman, before we get to the next item, which I am going to recuse myself on because I have a conflict, but I I move that the minutes be accepted and placed on file for 30 days, after which they will be approved.

MR. HIRANAGA: Second.

CHAIRMAN RICE: Any discussion? All in favor say "aye."
(A chorus of ayes).
Opposed say "nay."
(None).
Motion is carried.
Thank you, Natalie. We are making progress, Natalie.

MS. POWELL: 1987 until now is a long time.

CHAIRMAN RICE: Yes, it is.

MS. POWELL: Thank you.

CHAIRMAN RICE: All right. Request approval to defer water system improvements for Land Court Application 1804, Subdivision, et cetera.

MR. NAKAMURA: I am recusing myself.

CHAIRMAN RICE: Let the record show that Mr. Nakamura is recusing himself and is leaving the room. David?

MR. CRADDICK: On this item here, basically we're saying that we have no objection to the Board approving it, subject to entering into an agreement for Wailea's high level storage. And I understand that there actually is already some agreement that I wasn't aware of. And it doesn't talk about it in here, does it, Myles? Where there's already an agreement to use 500,000 gallons capacity of the Maui Meadows tank, which has been exceeded, Myles, is that correct?

MR. FUJINAKA: That's an old agreement.

CHAIRMAN RICE: Between who and who, Myles.

MR. MURASHIGE: Between Wailea and the Department.

MR. FUJINAKA: And that serves both the lower area of Maui Meadows and the upper area of Wailea.

CHAIRMAN RICE: And that tank was put in by Wailea?

MR. CRADDICK: No, Maui Meadows.

MR. MURASHIGE: I don't believe so. Wailea paid for a portion.

MR. CRADDICK: Okay, sorry. Anyway, Clyde and I just talked outside the door there, but that is a kind of a confounding factor in here. I think they have some objection to doing a tank. We are not asking for them to do a tank, we are just saying to enter into an agreement for the tank so we know what it will be when the time comes. And whether we have to get other parties to enter into some agreement, because other parties would be able to use that tank besides just them. That's something we need to know earlier rather than later.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: Mr. Chair, once again, I thank you for letting me put my comments in here. But when this comes to the Board, this is something I am going to have a very large problem with. And I have a feeling you may find quite a number of members of the community coming into the meeting with comments about this also, because it seems that the problem that we're having right now in Maui Meadows is in large part due to the fact that Wailea has not gone and built the upper level tank that they were supposed to. And so the upper portion of Wailea is Grand Champions and Diamond Resort, and I think some other stuff as well, is all feeding off of that Maui Meadows tank. So there's a lot more draw on that tank and the pumping system.

And when we had a pump go bad, all of a sudden instead of the back-up being able to provide enough, it's only providing maybe half as much, and that's the reason why we're experiencing a lot of the difficulty we are. So to further create any further deferral is just going to say that, you know, well, Wailea does not need to meet its obligation, and that the people in Maui Meadows can continue to suffer.

So my suggestion is perhaps this should be looked at, and my feeling is Wailea should meet its obligation and not defer.

MR. MURASHIGE: Mr. Chairman, if I may.

CHAIRMAN RICE: Clyde?

MR. MURASHIGE: Mr. Chairman, a couple of points. First of all, the 500,000 gallon agreement was very specific in that it served, it identified properties that would be accounted for in Wailea. I don't believe we have exceeded that. The statement that we've used over the 500,000 is a new one to us which we just found out about outside.

This subdivision is basically a paper subdivision. We are not planning any improvements in terms of building as part of this subdivision. Basically, we have got a 22 acre site, six and a half acres of which are landscaped facilities. We wanted to split that off between our golf company and our resort company. We are not asking for any type of building

approval, no new construction, no new subdivision. That's the reason we asked for the deferral.

We do realize, and we have had discussions with the department about a new tank, and we had actually proposed a system which, rather than a tank, would be a redundant pump system, which our engineers felt would be more dependable than a secondary tank. We had talked to the department about drafting an agreement. Unfortunately, the agreement is not as easy as one would think, especially in light of we don't own the land that the tank needs to be on.

But we do realize that if anything is going to be built on the upper level system we do need either the tank or an agreement to address these issues, whether it's a tank or the redundancy pumps. But in this case what we're talking about is just splitting two pieces of property, and nothing more.

CHAIRMAN RICE: Sounds to me like there may be some more work that needs to be done between Wailea and the staff.

MR. CRADDICK: Well, I don't know. It kind of sounds to me like they're saying that because those properties -- the water use has not gone beyond those properties, that they don't need additional storage. And not actually having looked at the agreement to see if it says that, in any case, they've got to provide the storage that's needed. And if they've exceeded the storage that they've allotted for in those properties, then I would expect that additional storage would have to be provided in whatever new tank was put up.

CHAIRMAN RICE: I guess that's what I mean. In fact, you intimated in the beginning that we had an agreement that we weren't familiar with, and Clyde intimated that he was brought up to speed on some information about the tank that he hadn't known prior. So I think maybe we might be well served to defer this until the next Finance Committee meeting, and give you guys some time to get up to speed on those things. Clyde is shaking his head.

MR. CRADDICK: What if we worked over those things between now and the next board meeting, and you just make your decision one way or the other, whether you want the agreement

or don't want the agreement for whatever storage, and it is what it is.

CHAIRMAN RICE: Well, why don't we just defer it and we will see if you feel -- if Clyde feels like he's prepared and wants to bring it before the Board, that's fine.

MR. MURASHIGE: That will be fine.

CHAIRMAN RICE: Is that fine, Clyde? Okay.

MR. HIRANAGA: Motion to defer.

CHAIRMAN RICE: Second. There being only two of us, I think there's no second necessary.

MR. FUKUSHIMA: At least you should put on the record that you, as well as Board Member Hiranaga, are approving this.

CHAIRMAN RICE: Let the record show that Board Member Hiranaga and myself are in favor of the deferral, that being unanimous. Thanks, Clyde.

Myles, would you yell to Howard to come back?
(Brief pause in proceedings).

CHAIRMAN RICE: The next item on the agenda is request number C, request approval of Hawaii Land and Farming Company storage credits, Director's report 01-39. This was brought to the Board at the last meeting, and an agreement was presented that had not been reviewed by Corp Counsel, so we referred it to committee. And so I believe that there is on the table a draft of a new agreement. Mr. Craddick?

MR. CRADDICK: There are some revisions between and clarifications that Corp Counsel had suggested and Hawaii Land and Farming wanted. And also they wanted to attend today, saying they were in support of it, and I have the fax copy of the executed agreement with them, with these revisions.

CHAIRMAN RICE: Signifying that they agree with it?

MR. CRADDICK: That they agree with it, right.

CHAIRMAN RICE: All right. Take a minute and look over that, please. It's new information here.

Howard, do you have anything to say, having reviewed it already?

MR. FUKUSHIMA: I have no comment.

MR. NAKAMURA: I don't have pages 7 or 8, Mr. Chairman. Are they substantive or are they just signature pages?

MR. CRADDICK: Signature sheets, that's all.

CHAIRMAN RICE: You have a full copy there, don't you? I just want to make sure. Page 7 is, "In Witness Thereof, the parties hereto have executed," et cetera. Mr. Starr?

MR. STARR: Where is the tank going to go?

MR. CRADDICK: Right behind the one that we have there now at Iao, where the old tank was and where the filter plant currently is.

MR. STARR: In the location where the filter is or on the other side of it?

MR. CRADDICK: Exactly what the footprint of it all is going to be, I don't know as I could say. But I know that the filter plant will have to be relocated.

MR. STARR: How large is that plot?

MR. CRADDICK: It had a two million gallon tank there before, and we're expecting that we would like it to be near 3 million gallons, and we believe there's enough area there for 3 million gallons. This is one, we expect Maui Lani is going to be putting one, and we will probably be

participating in one.

MR. STARR: Do we own that?

MR. CRADDICK: Yes.

MR. STARR: You don't know how big that parcel is though, do you?

MR. CRADDICK: Myles, do you know?

MR. FUJINAKA: No, I don't know the area. I don't have any idea.

MR. CRADDICK: The place where the current tank is on was given basically to put the other tank up in lieu of this agreement. And we had an agreement before, but the reason why it's being amended is one, they wanted to add in Wailuku Parkside, which is not even on this system, and put additional storage in there for that, which we would serve from other storage capacities that we have on the system, and then get credits for that.

And back when the original agreement was entered into there were no storage credits, so the agreement didn't come to the Board. This time it's coming to the Board because of the credit matter, basically.

CHAIRMAN RICE: Any other comments, Board members?
Mr. Hiranaga? Kent? Howard?

MR. NAKAMURA: Just one question, Mr. Chairman.
David, this matter came before the Capital Programs Committee some time ago, and at that time I believe the basic issue was whether or not transfer of storage credits or the storage credits could be expanded beyond Project District III to encompass this particular subdivision of 119 units, I believe, which is being developed by the same property owner.

MR. CRADDICK: That's correct.

MR. NAKAMURA: And my impression was that it was,

the storage was being basically provided through the same system. But are you saying it's a different system?

MR. CRADDICK: Yes. This is a higher pressure, it's 500 foot. It's the base elevation of the tank. And I believe Mokuahau is about 400, 380, or something like that. So there's about a 100-plus feet difference in elevation that Wailuku Parkside services.

But basically what this would serve to do is they would have to put in the tank capacity, so it would just end up reducing down what capacity the Board had to put in. If we said we needed a half million, and we wanted a half million gallon tank, well, I guess a couple hundred thousand gallons of it would be provided by them for the 119 units or 119,000 gallons, plus this five percent would be basically our share of whatever the tank was going to be that was put up there. We would reduce our requirements because they're putting that in, we wouldn't need as much as we would otherwise need.

MR. NAKAMURA: But storage is available at Mokuahau?

MR. CRADDICK: Yes.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I don't quite know how to get there, but I have a real concern, because I think we're going to need at least that 300,000 gallons from the filter unit. And all of the land around that tank site, you know, I know that's being subdivided by Stanford Carr under his project district. And in a perfect world we'd find a way to increase the size of that lot so that we don't have to take apart the treatment plant to build the tank. But as I said, I really don't have any recommendations on how to get to that place, it seems like this would be the time to do it.

MR. CRADDICK: Actually, there are two different issues. I believe there's probably better places that we could put the treatment plant system, where we could use a lot more flow than what we get. That ditch is not a very big ditch, and we could actually put the plant in a place where we could get a lot more flow on the other side of Iao stream.

If you just wanted to get 300,000 gallons in there, we certainly don't need 2 million gallon a day filters. So the filters could be much smaller and still fit within that area there, if that's the capacity that you are looking at for a longer term.

And keep in mind they've already given land for this tank. They've already given, added onto the land that we had. We used to have a two million gallon tank there, and a half million gallon cistern down in the ground, and they gave enough land to expand that to where we could put a 3 million gallon tank in. And so they've already given a substantial amount of land for this project.

CHAIRMAN RICE: Committee members?

MR. CRADDICK: And believe me, in working with Stanford, Wailuku shaft, I mean if the Board needs more and that's the place to put it, I don't believe he's going to be adverse to selling another piece of land to us.

CHAIRMAN RICE: I think that's probably correct.

MR. NAKAMURA: Well, Mr. Chairman, the committee had previously recommended approval relative to the storage credit issue, and in that light I would move that the agreement be approved.

CHAIRMAN RICE: Recommended for approval to the Board.

MR. HIRANAGA: Second.

CHAIRMAN RICE: It's moved and seconded that the Finance Committee recommend approval of this agreement at the full Board meeting. Is there any other discussion? All in favor say "aye."

(A chorus of ayes).

Opposed say "nay."

(None).

Motion is carried.

Director's Report 01-40, request an appropriation of funds to participate in the construction of a waterline along Homelani Place.

MR. CRADDICK: Myles, do you want to explain that one a little bit?

MR. FUJINAKA: Down this small road in Paia we have a small pipeline. There's an existing two-inch pipeline with a number of meters on it, and somebody is subdividing a lot within that roadway. They're being required to install a new, bigger pipeline. So we wanted to participate in their construction so we can get rid of this old small pipeline and connect the existing services to the new pipeline.

CHAIRMAN RICE: How long?

MR. FUJINAKA: The length of the pipe? About 300 feet.

MR. CRADDICK: Myles, we are not paying for the pipeline, we're just paying to transfer all the laterals to it. There's no 50 percent reimbursement or anything?

MR. FUJINAKA: There is, but that's not what we're asking for approval for.

CHAIRMAN RICE: Sounds like it makes sense to me. Right time to do it. Get rid of the two inch line. It's going to be how big of a line?

MR. FUJINAKA: Eight inch.

MR. HIRANAGA: Motion to recommend approval.

MR. NAKAMURA: Second.

CHAIRMAN RICE: Moved and seconded to recommend approval of the appropriation of funds. Any discussion? All in favor say "aye."

(Ayes).

All Opposed say "nay."

(None).

Motion is carried.

MR. NAKAMURA: Back to this, it's not so much an appropriation it's just approval to utilize an existing appropriation, right, Mike, from the small pipeline?

MR. QUINN: Right.

CHAIRMAN RICE: Let's make sure we note that when we ask for the Board's approval.

Item E, request an appropriation of funds to participate in the construction of an 8-inch waterline along Makena Road.

Myles, are you going to handle that?

MR. FUJINAKA: Yes. They're subdividing this lot on Makena Road into two lots. They're being required to install a 4-inch pipeline to serve the subdivision. It's going to be about 1600 feet long. We want to participate with them to increase that to 8-inches and also transfer all the existing services along that line to the new line.

MR. CRADDICK: Myles, this will get rid of that old 2-inch Driscoll that we put in how many years ago? That thing blows out on us every third month.

MR. FUJINAKA: Right.

CHAIRMAN RICE: Another logical project. Does anybody have a problem with this one? Sounds like it makes sense to me. This is another appropriation from the small pipeline?

MR. QUINN: Increase in the size of main lines.

CHAIRMAN RICE: You know where it's coming from, Mike?

MR. QUINN: Right. And the current appropriation is \$200,000, so this is well within that.

MR. STARR: Just for curiosity, I know the old 2-inch kind of runs on the surface. Is this going to go in the

road properly?

MR. CRADDICK: Right.

MR. HIRANAGA: Motion to recommend approval.

MR. NAKAMURA: Second.

CHAIRMAN RICE: It's been moved and seconded to recommend approval. Any discussion? All in favor say "aye."
(A chorus of ayes).

Opposed say "nay."

(None).

Motion is carried.

Hans, you're on, F. We have an agreement, and I believe the Board members have a copy of that agreement, that dates back to 1994. Hans, do you want to go ahead and start off?

MR. MICHEL: Okay. I was hoping the Water Department will go and let me know when they will go and do the job which was agreed in my contract. There's a lot of missing things. And today I have another contract which is almost the same, with a few more different wordings, and I can prove it to you. Anyway, more better you read what you are going to fix from the beginning, and then we start through the middle, or what you plan on that?

CHAIRMAN RICE: Well, we have a report, Board members, from the Director on the status of that agreement. Has everyone had a chance to read that? Do you want to go one by one? We know where it is, no question about that. An agreement was entered into in 1994.

MR. MICHEL: Tax map key is 4-6-17-12, not 4-6-14-12.

CHAIRMAN RICE: Okay, 4-6-07-12?

MR. MICHEL: 4-6-17-12.

MR. NAKAMURA: Mr. Chairman, in reviewing Mr. Michel's letter, which he sent to the Board previously, he raises six issues that he feels need to be addressed. And in reviewing the staff report, it seems as though at least four of the six items the staff acknowledges that in fact the provisions of the agreement have not been met.

There's one in which they acknowledge it hasn't been met, but questions whether or not there is a need to do it. And there's one relative to the parking area, where there seems to be a difference of opinion as to whether it's been completed or not completed.

So I guess the question in my mind is, there's an acknowledgment that there are things that need to be done, and how are we going to proceed to get them done in accordance with the agreement, or resolve them in some way? I don't think there's any question that there are issues that haven't been accomplished, acknowledged issues that have not been accomplished.

MR. MICHEL: Mr. Craddick, there is one over here, item A, it says, "Repair eroded area within the property and along the pedestrian trail." And then at the bottom over here it says, "Discussion with the State and Pioneer Mill have not occurred. " But here I have a letter which you guys sent to Pioneer Mill to Gordon Matsuoka in Honolulu, and one to the Department of General Services.

So you know what I mean? But Pioneer Mill told you, "Stick it," yeah? I mean excuse the language, but I should tell you what they told me, you know. And the other guy in Honolulu, which I know him well, he told him they can screw it because they don't make the paperwork in the tank site since 1975.

It's not your fault, Mr. Craddick, because you was not here at that time. But previous people before you screwed up even bigger than the one we have today, and that's why nothing gets completed. And that's the the reason why General Services got nothing to do with paying waterworks the damage they have done by dumping the water over the hill.

Last week I brought my picture book, the darn thing was so heavy I left 'em at home, but you guys are free to see it at any time. Everybody knows, you've all seen it before. But it's not something new, it is something has been damaged in the past which needs to be repaired, but I always got put on

the back burner. And I don't blame Craddick, because Craddick came only in 1990, I think, David, yeah? And you took over the whole burden which was left behind from the previous people. And so we end up with a contract in 1994.

So you guys can scratch around a little bit and you pay the bill, yeah, the money, but you have not completed the job. So I was waiting. I always tell them, "When you have got time come and get it done." But I'm getting old, I'm 62 years old. And I told you last time that I was hospitalized in January, and if I had maki, my wife don't know what to do with all the things in my suitcase, you know. And then she would have to hire a lawyer and he wouldn't know nothing. If you don't tell the attorney what to do, he don't know nothing.

I spend attorney fee 7 and a half thousand dollars, Water Work I paid \$900. The attorney come from the side with what was it, Rapacz, and demanded the attorney present.

CHAIRMAN RICE: So I guess --

MR. MICHEL: It's in the contract and there are so many items left out, and I am kind of wondering when it will take place.

CHAIRMAN RICE: That was going to be my question, Hans. David, we need to have some estimate of when we are going to complete these items, and then I can get together with Hans because I live over there, and we can make sure he signs off on it and put it to bed.

MR. MICHEL: You see, it's not only his fault. The guys come over there, they scratch something, they bring a truckload of gravel, but then there's an emergency in Kihei and the whole shebang goes to Kihei, and you don't see nobody no more for two weeks if you get lucky, you know what I mean.

The chart is made for Lahaina. The road never got completed yet. You can see where they left off, where never nothing got done. In here I want you to pass this around just so you know. And this one here. The poor guy had to go make a scaffold with wood. It took him four and a half hours to go look for lumber, because the road never elevate high enough for he can climb over the pipe.

David, you were there, yeah, with the bulldozer.

MR. CRADDICK: Hans, these two pictures, what's your point with these two pictures, because neither one of these are the road. What's your point with these pictures? This isn't the road we're fixing up.

MR. MICHEL: No, no. I give you the other ones because this is a slam bang idea over here. Every time you guys go into the river mauka my place, we put boulders inside so when big water come it will not erode and pile up the garbage behind my place. But the one the Caterpillar climb up, this is your road.

MR. CRADDICK: Yes, our road.

MR. MICHEL: My road, which you guys use every day. You come look. I have a whole bag of pictures at home, it does not lie. You know from before, I have kept all the records on you guys because I know how waterworks operates, so I have no problem on that. Nobody could lie in that. But that's part of the road which is supposed to elevate two feet for your equipment can climb over without any trouble. You guys come look, I don't lie. You know me, how many years you know me, David?

MR. CRADDICK: Hans, we would prepare the road for our need, if we needed to repair it for our need. This is more than ample for your vehicle to go up and down that road.

MR. MICHEL: Excuse me, this is a bum job. This is so bad Maui Electric cannot even go and read the meter. I could put 'em on the video. When the guy go up he has to go for broke because he no more 4-wheel drive, you know what I mean. That road is, in plain English, a pile of shit, you know. Please come and look. You haven't been there for over a year.

MR. CRADDICK: Actually, we got pictures last week, so Herb has those pictures. I know exactly what it's like.

MR. MICHEL: But you understand, you didn't want to move the pipeline because it's difficult, yeah. You mentioned

in this paper over here.

MR. CRADDICK: It's not that it's difficult, Hans, the cost to move the line is more expensive than condemning the land.

MR. MICHEL: But you had the pipe before in 1994 when we got the contract, you had the pipe. You agreed you will do it, so I didn't bother you. Then you said you are going to use the Driscoll pipe. And then you always change your mind. One thing I always say, you can lie with anybody, but don't lie with me because that's hard luck for you. Believe me, David, you have a contract. It's as simple as that.

MR. NAKAMURA: Can I ask a question, Mr. Chairman?

CHAIRMAN RICE: Yes.

MR. NAKAMURA: David, when was this pump station installed or constructed?

MR. CRADDICK: 1970's.

MR. NAKAMURA: Prior to 1994, anyway?

MR. CRADDICK: Oh, yes.

MR. NAKAMURA: Secondly, question for Mr. Michel. David has talked about the possibility of having the pipe remain in its present location. Do you have an objection to that, if other areas of your concerns are resolved?

MR. MICHEL: If you have a 20-foot road easement and you have a 20-foot pipe easement, I have 15 feet left. Do you follow me? I no more land. There is nothing there anymore, that's the problem. Because waterworks screwed up, you know. In other words, you will have a 40 feet easement because waterworks screwed up before David came. And they agreed they will fix it, but it never did happen.

Now he says the cost. The problem is you have a

contract, simple as that. And for you it's cheaper. You know, David, you had enough hard luck in that valley already, and I said I don't have to do nothing because I said before and I say it again, you know.

MR. NAKAMURA: Can I ask another question? Your last item where you talk about the property tax that you have been paying for this land that the pump station is on, do you have any idea about how much is that property tax?

MR. MICHEL: No idea. I have no idea for the square footage for that. You guys take a check with the Real Properties. When he wanted to check out how much my land is on the intake, it didn't took him too long to send me a letter. I got 'em over here. When it's for his benefit he do quick action. When it's not for his benefit he ain't going to find something. Simple as that, you know what I mean?

CHAIRMAN RICE: Howard?

MR. FUKUSHIMA: Regarding the last item, Mr. Michel, have you talked to the real property tax people to let them know the situation, that a portion of your property may be being taxed at this time and is presently being used by the Department?

MR. MICHEL: No. At that time it's taxed for the whole thing for 4.3 acres.

MR. FUKUSHIMA: What I'm saying is, you can talk to the Real Property Tax department, you can make appeals to the Real Property Tax Division if a portion of your land that is being taxed is being used by the department. And then they will carve that portion out and only tax you on the rest.

MR. MICHEL: Yes, they done this on the road, but not on the well side, because waterworks supposed to make the deed or the paperwork for the ownership, but they never come up with a paper yet. And I ain't going to make them a deed because I did not sell, I went donate the whole thing.

MR. FUKUSHIMA: With respect to the easement for road purposes and the pipeline, do you understand that you are only giving us an easement? You maintain the fee and you can use the roadway, or even where the pipeline easement is, you can use it so long as you don't interfere with our use. Do you understand that? It's not like you are giving us the land, it's still your land.

MR. MICHEL: But I still have sand in my eye, you know. Every day the guys come over there and raise hell. Come in the field and look surprised, you know what I mean? Waterworks, they just bought a new \$50,000 truck. Lucky the bugger is heavy, he can climb up. When the small guys come, come look, with your ballet shoes you no can walk up there. If you not going to have a 4-wheel drive you can't drive up. It's a shame, because it never got fixed.

And when the movie actor come -- what is his name, Vida? Let's be honest. Those guys are not coming there for get dirty. He's the guy could fix the place, you understand. He has everything, he has the equipment, the manpower, he has this. But Lahaina is --

MR. CRADDICK: Hans, the problem is he has to do it legally. You can't just go in and start doing things on the stream.

MR. MICHEL: Excuse me, you have a contract.

MR. CRADDICK: Hans, the work in the stream is controlled by the Water Commission and the Army Corps of Engineers, not our guys. If they went in and did that we could get huge fines worth more than your whole property.

MR. MICHEL: Excuse me. I talked to the Army Corp of Engineers. There's a silver something, she will give a permit for Board of Water Supply for cement. Because if you don't fix this up over here, if these boulders goes out, there is 200 feet of rubble all comes out. And then the next time you go in you cut my land again for go inside the intake, because you have a 12 feet drop. The Caterpillar no can jump in there. You know the problem.

You always escape. You don't want to spend the

money. You know, David, I know your deal on the whole thing, you don't want to spend the money. But nobody told me if you guys want to go up the intake again, soil conservation can make a stink. But I always told you I was helping you, and I shut my mouth, yeah. But sooner or later you guys have to do it.

MR. CRADDICK: By the way, Peter, to resolve this thing, we have money in the budget to do work there, and let us try and do the best we can a little more diligently than we have been since 1994 to get the items done.

CHAIRMAN RICE: Let's try to do it within the next 30 days.

MR. MICHEL: It's a bigger job than that, 30 days. Let's say if you do it until sometime --

CHAIRMAN RICE: All right --

MR. MICHEL: Excuse me. Again, I always give you a chance. When time is available. When they bring something up the sucker comes halfway up the hill and they call the mechanic.

CHAIRMAN RICE: That's not your problem, Hans, I believe you. Okay, wait. You are not the Chairman of this committee, I am.

Mr. Craddick, let me tell you, it is my personal belief that if we have an agreement -- whether it was signed in 1970 or 1994 -- we have an obligation to follow the terms of that agreement. So Mr. Craddick will start immediately to make efforts to get this corrected. In 30 days we will report back to the Board and we will come and inspect your property and see how much progress has been made, okay? And then we will decide where to go from there. How about that?

MR. MICHEL: Fair enough. Main thing, like I say, don't forget me.

CHAIRMAN RICE: It's now in front of the Board. It won't be forgotten.

MR. NAKAMURA: I think, Mr. Chairman, too, that perhaps someone -- I don't know if Mr. Fukushima wants to volunteer -- but someone can go to the tax office and at least ask them to review the area. I don't know how much of an area is involved and how much the property tax might change, but you know I think it's a very legitimate concern that's being raised. He's paying property tax on land that is being used for basically pumping purposes.

MR. FUKUSHIMA: If Mr. Craddick could give me the description of where the tank site is.

MR. MICHEL: There's not tanks, that's state land.

MR. FUKUSHIMA: The pump site.

MR. CRADDICK: And the easement to it.

MR. FUKUSHIMA: And the easement. If you can give me a description, you can talk to the Real Property Tax people.

CHAIRMAN RICE: Thank you, Mr. Fukushima. So the committee will agree that we will proceed along those lines, and will report back to the Board as such at the next meeting. Are there any other agenda items or business to be brought?

MR. MICHEL: Herb, this is the map, you see the green over here, down here, the green? That is the property waterworks will get for the pump site. But they have not -- they put a fence for one-half, and the other half I donate more for their parking lot, so they can park their equipment and turn around. But they have not cut the garbage away yet, they cannot turn around. But this is your area. Now, if Herb can give -- excuse me, Herb, come, you the tax man over here.

MR. NAKAMURA: Where is your property, can you kind of outline where your property is?

MR. FUKUSHIMA: And Mr. Michel, is the yellow the easement?

MR. MICHEL: The yellow is the road easement, and the tax people went give me an allowance for the road, the pump site. But the tax department has --

CHAIRMAN RICE: You were speaking. Go ahead.

MR. MICHEL: The tax department does not have a clue where this stuff is, because they never transferred the paper to the Bureau of Conveyance yet.

CHAIRMAN RICE: Mr. Fukushima is going to help with that.

MR. FUKUSHIMA: We may need a document or something from the department saying that they in fact are using this, and an agreement that an easement or whatever is forthcoming, and perhaps we can work with that.

CHAIRMAN RICE: Okay, good, that's fine.

MR. MICHEL: But you have the map, Herb. You still have the map. I got that from you guys, you know.

MR. KOGASAKA: Yes, we have the map. I was looking for something more legal.

MR. FUKUSHIMA: At least I'd like the area so that we could talk to the tax department to see exactly what they need in order to adjust Mr. Michel's tax in the future.

MR. MICHEL: In other words, Herb, how big is the land area, did you ever figure that out?

MR. KOGASAKA: I think it's written in there.

MR. MICHEL: I had one guy look and he told me.

MR. KOGASAKA: 4 thousand.

MR. MICHEL: No, that's bull.

CHAIRMAN RICE: Okay, wait, Hans.

MR. MICHEL: Mistake. We're here, let's look on it. Excuse me, Mr. Chairman, please come look. I have to show you.

CHAIRMAN RICE: I am not disagreeing with you. They're going to figure out the correct thing and do something about it. I'm not going to be able to do anything right this second. I believe you. Herb is there. They're all going to start immediately and getting the correct numbers and helping you.

MR. MICHEL: And the 4,800 feet is bull, because over here it says 5 easement. 13 is for excess purpose in favor of Hans F. Michael and Pioneer Mill Company. I'm the owner of the land, why do I need an easement from you guys when you guys have only what's in here and not the whole thing over here. You see, I no need an easement. You have given me a map, this is what was in the contract. Now he puts down 4,800 square feet, when that thing is only from here to there. You guys have to come look.

You know what the paper say and what you guys have in reality is two different things. I raise donkeys, but I can tell the difference between a cow and a horse.

CHAIRMAN RICE: David, would you get these guys squared away?

MR. CRADDICK: I will get them squared away.

CHAIRMAN RICE: And Howard, you are going to help out?

MR. FUKUSHIMA: As soon as I get the information from Mr. Craddick.

CHAIRMAN RICE: Thank you, Howard.

MR. MICHEL: Excuse me. The language, if I get rude

you know what I'm talking about. It's not something only happen yesterday.

CHAIRMAN RICE: No, I understand.

MR. MICHEL: They been jiggling me around since they came.

CHAIRMAN RICE: We are going to stop jiggling you, okay?

MR. MICHEL: David, for the intake -- Mr. Craddick can go to the intake and I shut my mouth all these years. And the day when the state people was on his back he came over there, rushed the men out of the intake. And I think there's one guy even go Las Vegas, I forget the guy's name. Remember he came down and he knocked the hole in your pipeline where you get the stainless steel strap?

MR. CRADDICK: That was our own guy.

MR. MICHEL: One strong guy, that's what I'm talking about. If you listened to me and fix the road before, that would have never happened. Let's give Mr. Craddick a hand, because when him and I talk together he comes honest, you know, because he knows me.

CHAIRMAN RICE: He's going to have to come up to your place and do everything that he says right now, because we're all aware of it now.

MR. MICHEL: Now here, you see the item, look I told you. You said you have not discussed it.

MR. CRADDICK: Let's put it this way, we haven't resolved it. It says discuss in there, but we haven't resolved it.

MR. MICHEL: Because I know. I keep records, you know.

MR. CRADDICK: Hans, the erosion, is that your property?

MR. MICHEL: Yes, that's the problem. You know waterworks, when they screw up they go quick, and for fix they're slow. Anyway, I appreciate you take a big stone off my heart, because I tell you, it's a problem. And you mentioned about -- what you call this, side view or something. If you ever want to come, please be my guest. I even can give you a tour. But if I am at work and my boss make tell me, "Make sure you get your problem solved because we cannot let you run away from the job all the time."

CHAIRMAN RICE: Where do you work, Hans?

MR. MICHEL: I work Pioneer Mill 32 years over there.

CHAIRMAN RICE: Who is your boss over there, Kimo?

MR. MICHEL: Kimo is the politician. He is -- what you call this? He is like Craddick. When you get something he comes to you. When you tell him come, you know what he ask you? "What's your problem?" You know what I mean? If you have a problem we can get the thing going. "What's your problem?" You know what I mean? And then he's gone again, you don't see him anymore. But he's a nice guy. But I laugh, "What's your problem?" You know what I mean.

But our boss is okay; the superintendent is okay, but the boss over the superintendent, he is the -- what you call it? The politician. He's the one do all the talking and do nothing all day. I told him, "Do the work for eight hour and do the work and get home." He wonders why we don't make any money. Now I have to go back for one more season. I'm 62 already.

CHAIRMAN RICE: Don't you get to retire next year?

MR. MICHEL: I am, but they told me for come back and teach a few more guys the job.

CHAIRMAN RICE: The meeting is adjourned.

(The proceedings were concluded at 4:00 p.m.)

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