

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

REGULAR MEETING

Held at the HGEA Conference Room, David K. Trask, Jr.,
Office Building, 2145 Kaohu Street, Room 207, Wailuku,
Maui, Hawaii, commencing at 9:00 a.m. on October 25,
2001.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354

IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

BOARD MEMBERS:

Peter Rice, Chairman

Jonathan Starr

Kent Hiranaga

Orlando Tagorda

Adolph Helm

Howard Nakamura

Mike Nobriga

STAFF PRESENT:

David Craddick, Director

George Tengan, Deputy Director

Howard Fukushima, Corporation Counsel

Fran Nago, Board Secretary

CHAIRMAN RICE: Good morning, everyone. I would like to call to order the Board of Water Supply regular meeting, Thursday, October 25th. It's 9 a.m., a little after, HGEA Conference Room 207. In attendance board members Adolph Helm, Orlando Tagorda, Jonathan Starr, Mike Nobriga, Clark Hashimoto, Chairman myself Peter Rice, corp counsel Howard Fukushima, director David Craddick, secretary Fran Nago, and staff. Let the record show those members of the public that are present.

First item on the agenda is the approval of minutes. There have been no minutes submitted for approval. Are there any? No. Okay.

We'll move on to testimony from the public.

At this point if there are members of the public present who would like to give testimony at this time in the meeting regarding issues that are on the agenda, you may do so. We will provide opportunity for public testimony also at the point where the item comes up in the meeting prior to discussion at the board level.

Is there any public testimony at this point?

Hearing and seeing none, we'll move on to the first item on the agenda, Director's Report 01-48, request approval to accept donation of \$3,000. We always like these items. Mr. Craddick?

MR. CRADDICK: What's happened is the attorney has basically used up all the available resources that we had and we asked for another amount of money that we felt would complete the project and they gave it to

us subject to the board's acceptance of it.

CHAIRMAN RICE: Any comments from the directors?

MR. NOBRIGA: I see no need for us to take this to committee, Mr. Chairman.

CHAIRMAN RICE: Is there a motion to accept?

MR. NOBRIGA: I will move to accept the donation.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved and seconded to accept the donation of \$3,000. Is there any comments or discussion by board members? All in favor, signify by saying aye. Opposed, say nay. The motion is carried.
Director's Report 01-49.

MR. CRADDICK: This one here probably we could

take care of that at the end of the day since it probably is going to require executive session.

CHAIRMAN RICE: If there is no objection from the board members, we'll move it to the end of the agenda.

MR. NOBRIGA: No objection, Mr. Chair.

CHAIRMAN RICE: Director's Report 01-50, request approval of waterline easement through Maui Memorial Park.

MR. CRADDICK: Cancellation of an easement, it should say.

CHAIRMAN RICE: Mr. Craddick.

MR. CRADDICK: This is an easement that goes between Sand Hill and Maui Memorial Park that was the old line that fed the Kahului tank. That tank has

been knocked down. We don't use that line anymore.

And the Maui Memorial Park has requested a cancellation of it. Since we don't need it, we brought it to the board for their approval to cancel it. The board gave me authority to accept easements, but not cancel them, so --

CHAIRMAN RICE: Any questions, comments from the board? Let the record show that as I listed the board members present, I missed Mr. Nakamura because of that space there. Now let the record show that Kent Hiranaga is present.

MR. NAKAMURA: Mr. Chairman, I move to approve the request.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved to approve the director's request to cancel the easement through Maui Memorial Park. Seconded. Any comments, questions? All in favor, say aye. Opposed, say nay. The motion

is carried.

Mr. Craddick, Old Business, Communication

01-13 from John and Maria Siele on the exchange of 1-1/2 inch meter for multiple meters. This was in committee and has been referred back to the entire board. Are the Sieles present? Would you like to make any statement, John?

MR. SIELE: No, I think basically everything has been covered. We covered the savings of water to the county, we covered the reliance issue, we covered the burden of proof issue, allocation issue, and the rules and regulation, not policy issue. I think basically this has been stated to the board and the department about four or five times. I hope everybody is aware of what has been going on. This is an issue that goes all the way back to 1992. Now it's in your hands to vote.

CHAIRMAN RICE: Any questions of Mr. Siele, board members?

MR. HASHIMOTO: Peter, is Mr. Siele -- are on the list, so-called list?

MR. CRADDICK: Yes.

MR. HASHIMOTO: He is. Okay.

MR. NOBRIGA: Mr. Chairman, using normal calculations, the Sieles' request to exchange a 1-1/2 inch meter to 5/8 inch meter under the average daily consumption of a 1-1/2 inch meter, the department could exchange the 1-1/2 inch meter for up to seven 5/8 inch meters with no additional water use on an average. The case before us this morning involves a 1-1/2 inch meter that has basically been left idle. It brings up a question on the department's ability to regulate the water use of a meter issuance.

If there is no procedure or practice of the department monitoring all water meters so that they fall within the total gallonage estimated for a meter

for the maximum, then there should not be a discrimination against a meter being used at a minimum.

The rules committee was split on this decision with a vote of 2 to 2 on allowing Mr. Siele his exchange of a 1-1/2 inch meter for multiple 5/8 inch meters.

Corporation counsel has advised us that we do not have on record any applicable rules which allow us to take up this matter on a normal basis although it is within the board's purview to grant such requests. If I am mistaken, I would like Mr. Fukushima to correct me.

MR. FUKUSHIMA: No correction.

CHAIRMAN RICE: Good memory, Mr. Nobriga.

Mr. Craddick?

MR. CRADDICK: Well, the only thing I can say is if all the meters were used to the maximum, as the

board member says, we would have to have capacity to deliver 58 million gallons a day of water right now today and quite obviously we don't have that ability to deliver that kind of water. So to allow one person to do it and jump up on the list because they're doing it is a policy decision that you have to grapple with.

CHAIRMAN RICE: So the issue isn't really the use of the water and the meters; it's the issue of moving up on the list. Well, if we were to grant the exchange, they wouldn't necessarily get the meters under the situation that exists today. They just have the option to get them at the time that we issued meters.

MR. CRADDICK: No. If the board says right now that he can have multiple meters, he can get them.

MR. FUKUSHIMA: Thank you, Mr. Chairman.

Again, we've got to caution the board -- we have done this on a number of occasions -- in dealing with requests or appeals from the director's decision,

where there is no procedure or rule in place to hear those appeals. Again, we caution the board that until a rule is adopted which sets forth standards which are to be applied when dealing with appeals from the director's decision, and this is one, that the appeals should not be heard by this board.

We do have a rule that or a proposed rule that has gone out for public hearing, it is to be submitted to the mayor, to handle this issue. We understand that this may lead to some hardship, the board not being able to make a decision, but we believe that a better view of the law is that a rule should be in place.

CHAIRMAN RICE: Mr. Siele?

MR. SIELE: Number one, this issue doesn't -- as far as relating to the new meter issuance, this issue goes all the way back to 1992 on original promises. And as far as new rules and regulations, you can't randomly change rules as request of me. I

mean, you can't go on -- you can't just make rules as you go along and change it as people ask questions.

If there is no rule and regulation in place, then I would ask for my decision to be made according to what it has been. I don't think it would even be held up in a court of law that if I asked for a ruling on something that has no ruling 10 years ago what it would have to do with you making a ruling next month.

CHAIRMAN RICE: I think the counselor is referring to the rule about appeals, not the rule about exchange of meters. That's what he's referencing. Am I not correct?

MR. FUKUSHIMA: That's correct. We've also indicated that applicants may not get relief from the board; their relief, their remedy is to the court system. Until this body adopts rules regarding appeals which would set up the administrative appeals, then again we would caution the board on hearing this type of appeal.

MR. SIELE: Have there been any other appeals approved by the board prior to this, not even relating to this by on any other issue?

CHAIRMAN RICE: I don't know.

MR. FUKUSHIMA: I don't particularly think that's relevant, Mr. Chairman.

MR. SIELE: Well, if it's about appeals, then any appeal would be relevant to this case.

MR. FUKUSHIMA: There are appeals that the rules provide for. Those are appeals from or requests for waivers from subdivision requirements. Those are the only waivers that this board can give. This particular request falls within that category -- I mean not within the subdivision category, but within category of an appeal or a waiver from the department's rules.

MR. SIELE: You'll have to excuse me, it goes beyond my thinking, the common sense issue doesn't enter my head when I hear that. But I will just have to leave the ruling up to you right now.

MR. TAGORDA: Mr. Chairman, if I may, I don't really recall very much all the informations that we have discussed in the past about your case, Mr. Siele, but I remember that there is a six-lot subdivision on this property that you are asking the board for exchange of a multiple 5/8 meters? And then you come down to three meters in exchange --

MR. SIELE: Originally we were asking for six meters and then we brought it down to three meters.

MR. TAGORDA: I believe it was the department's practice in the past to allow downsizing or multiple exchange or a bigger meter to smaller ones. And they base that past practice and I think might be a precedent based on your water usage for the past five years and that's how they exchanged these

water meters. Am I right, David? If you can find out the water usage of that property on that water meter that he should -- there is a reasonable exchange that you can commit the department.

MR. CRADDICK: Based on an opinion from corporation counsel that if the request did not change existing consumption in the system, that is what we have done. There are no rules which guide that. And that I think is the concern of corp counsel. We have done that and I think we've presented about four or five cases to you there in that analogy of all the meters that have been issued since 1993. So it has not happened in many case, but the consumption has been there. In this case the consumption is not there. So if you give the extra meter, consumption will likely rise, which is an effect on the system. So regardless of what his meter size is, his consumption would rise.

CHAIRMAN RICE: Mr. Nobriga?

MR. NOBRIGA: If we take into consideration Mr. Siele's presence on this priority list which was not part of our original discussion but the director so admirably noted to us, Mr. Siele has been denied requests for additional meters in the past. That is why Mr. Siele's name as well as many other fine people of this community's name is on our list, our priority list for meters.

Should we decide, hopefully within my lifetime, to finally get water to these residents who have been waiting for water meters and water, then Mr. Siele's 1-1/2 inch meter would remain a 1-1/2 inch meter. By taking action on his request for a 1-1/2 inch meter in exchange for three 5/8 inch meter, you take that 1-1/2 inch meter out of service. If we're going to decide to leave Mr. Siele on the list and proceed his application by his presence on that list, then you're going to still have that 1-1/2 inch meter outstanding and Mr. Siele in all possibility will get an additional two 5/8 inch meters.

BOARD MEMBER: But he requested for six.

CHAIRMAN RICE: He changed it to three, I understand. Mr. Siele?

MR. SIELE: As far as the consumption issue, why there was no consumption, number one, the county and Mr. Craddick year after year asked for if you did not need the consumption, then don't use it.

When we first had the property, we had over 87 head of cattle on the property which used a lot more water. If we were to also farm it like we had intentions of doing at times when we could not get our subdivision approvals, the consumption on that 1-1/2 meter will be eightfold of what we have now. I mean, don't just take it on past consumption. The only reason we're not using it now is because we had to sell a house to keep the property, so we don't have the ability to live on the property to use the meter right now. So that is the reason there is no large consumption. We've had many, many times where we

could have used --

CHAIRMAN RICE: Mr. Craddick.

MR. CRADDICK: The problem with that argument is that to have the board say that ag is not a viable use of water upcountry when it's part of the community plan, it's the preferred use upcountry, you know, again, we've got other meters out there that aren't been used. If you allow this one to go forward, I don't know how you're going to stop the other ones from doing exactly the same thing. And basically what you're doing is allowing the person to jump up on the priority list. That's basically it, what's going on.

CHAIRMAN RICE: Mr. Stars?

MR. STARR: For once in my life I agree with the director. I don't see it as -- I don't see it as an accomplishment to get rid of a large ag meter. We like to see people doing ag. So to me that's not the issue. The issue as I just see it as a way of jumping

the queue. And until we find a way of being able to distribute meters to people who have been on the waiting list, I don't really feel that we should allow any kind of mechanism to allow someone to jump up ahead of other people using a loophole, which is the way I see this. So I'm against this. But I hope that we'll be able to resolve the list issue soon enough so that in effect he will be able to get served but in the proper way.

MR. HIRANAGA: Mr. Chair, as a member of the Rules Committee, I attended the meeting and upon review of the minutes, page 19 and 20, for members who were not on the meeting, Mr. Siele accomplished a three-lot subdivision in 1993 where he obtained two additional 5/8 inch meters. And his current request is for subdivision of a remaining large lot, which according to the minutes he's not even submitted his subdivision application for because he's not unwilling to do so unless he is assured that he would receive additional meters.

Personally, I agree with Mr. Starr that I don't see any detrimental reliance or any compelling reason to allow him to have an exception for these additional meters and I agree with the director that any exchange of a large meter for a smaller meter should be based upon actual usage and not potential usage because there is cost for usage of that. It's not a free commodity. So people don't use water unless they feel they need to because there is fees to be paid for the usage of it.

CHAIRMAN RICE: Mr. Siele, it sounds like you might want to take corp counsel's advice and maybe defer the issue until there is an appeal process in place. But if you want -- or does a board member want to make a motion? Mr. Starr?

MR. STARR: I move to deny.

MR. HIRANAGA: Second.

CHAIRMAN RICE: Discussion? Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, I really feel conflicted on this request because -- but I will probably or I will somewhat reluctantly support the motion to deny based on corporation counsel's recommendation and also due to the fact that I don't think we have clear standards in place to deal with exchange of meters. However, I don't necessarily feel usage is the appropriate criteria, given the fact that our facilities charges are based on a relationship between 5/8 inch and 1-1/2 inch meters that is fixed. And I think that is one criteria that, you know, while may not be totally appropriate, does exist. But I take that to support the motion although somewhat reluctantly.

CHAIRMAN RICE: Mr. Nobriga?

MR. NOBRIGA: I would have to admit that due to past practice of the department, these exchanges did occur with a review of the actual usage of the

meter in which case I would have to support the motion on the floor.

CHAIRMAN RICE: Question. All in favor of the motion to deny, say aye. Opposed, say nay. Let the record show Clark voted nay. The motion carries.

MR. SIELE: I do have the right to appeal, though?

CHAIRMAN RICE: Sure.

MR. SIELE: I would like the right to appeal and I would like --

CHAIRMAN RICE: Mr. Siele, there is an appeal procedure, a rule that has been approved by this board and sent to the mayor and it will then have public hearing --

MS. NAGO: It went to public hearing.

CHAIRMAN RICE: So it went to the mayor.

MR. CRADDICK: It will finish with the mayor on the 1st of November and then go on to the council for their 45-day review.

CHAIRMAN RICE: And then we'll have a set of procedures for that.

MR. SIELE: I would like to ask for the right of appeal and I would also like to ask for written reasons why we were turned down from both the board and the department.

CHAIRMAN RICE: Thank you, Mr. Siele.

Moving on, Communication 01-29, Mr. Hall.

MR. CRADDICK: I would like to say something on this matter here. It's not totally related to this and the board may feel there is some other way to deal with it later on, but in this regard of where the

protocol for testing and things like that, we have to get the well down to where the water is and to do that we've had to drill the well about \$35,000 deeper than what was required. Obviously the \$35,000 is not something the staff can unilaterally approve. The standby charges are \$3,600 a day for the equipment. So if there is some way to get this on the agenda here today to resolve this matter, it would be very appropriate because if we have to shut the job down, it will probably occur sometime tomorrow or Monday.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I would like to know what the status is of the project.

MR. CRADDICK: They're opening the upper portion of the hole.

MR. STARR: Okay. So in other words, how far have they drilled down?

MR. CRADDICK: About 150 feet.

MR. STARR: Okay. And now they're opening it up and putting the casing in and grouting the casing?

MR. CRADDICK: Well, they have to open it up first, but the 150 feet was about 30 feet beyond what the bid called for.

MR. CHANG: Thirty or 40 feet.

MR. CRADDICK: Beyond what the bid called for.

So that means they're going to have to open up that extra 30 or 40 feet which hasn't occurred yet, but if we have to stop them -- because they will be down to the 120 probably within the next day or two, I believe.

MR. STARR: My understanding is that the job is stopped because the compressor is broke, that

ancient 1940's compressor broke down.

MR. CRADDICK: If they're stopped for their own reasons, then obviously we wouldn't have to pay for anything.

MR. STARR: I just want to be sure that we're not going to pay waiting fees while they wait for somebody to manufacture compressor parts.

My concern is that are we measuring the water in the bottom of the hole every day and keeping that in a log as requested by Mr. Hall?

MR. CHANG: We took some video camera shots Monday or Tuesday, I think it was Monday. That was the first 150 feet. There is no water at all coming in.

MR. STARR: But I just want to be clear that as requested that at the end of the day we clean out the hole and then at the morning we measure how much water is sitting in the hole and that goes into a

logbook. Is that being followed?

MR. CHANG: We weren't doing that because the amount of time it would take to do that, we probably end up drilling three hours a day.

MR. STARR: Excuse me, but that's the entire reason why we're drilling this well is to get the test results of how much water is sitting in the hole. If we're not doing that, then the court is going to reject us because you're not following the court's demanded protocol. That's the item on the agenda right now and I want to be assured that every morning we measure the amount of water sitting in the bottom of the hole. That is the whole purpose of why this well is being drilled.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: We've already responded really to this letter to Isaac and the protocol we've

established is if there is water in the hole, we will measure it. If there is no water in the hole, there is nothing to measure and we won't measure it.

MR. STARR: If there is no water in the hole, you write zero, correct?

MR. CRADDICK: No, we won't measure. If there is no water in the hole, we don't measure.

MR. STARR: You're double talking me, David.

MR. CRADDICK: No, I'm not.

MR. STARR: If there is no water, there is no water and you write zero water. If there is water, you measure it. Is that correct?

MR. CRADDICK: If there is no water, we're not measuring.

CHAIRMAN RICE: We're having a problem with

semantics here. The procedure whereby we measure is what?

MR. CRADDICK: Once we hit water in the hole, we will measure every day. If we don't get water --

CHAIRMAN RICE: So if today at the end of the day there is no water in the hole, tomorrow we won't measure.

MR. CRADDICK: Right.

CHAIRMAN RICE: That's what he said, there is nothing to measure. If we find water, then we measure it.

MR. STARR: And what will you write in the logbook?

MR. CRADDICK: If there is no water in the hole?

MR. STARR: Yeah.

MR. CRADDICK: I presume they would write "no water."

MR. STARR: Okay. I can accept that. You're not writing "no measurement," right? You're writing "no water"?

MR. CRADDICK: I'll leave that up to Herb there.

MR. CHANG: We could require that in the driller's log to record if they hit water or not.

CHAIRMAN RICE: I think what Mr. Starr is saying is that in terms of although it may seem to be a little bit picky, the protocol and the recognition of no water is important rather than some other entry.

MR. STARR: That's what the judge will be

looking for when he reviews this is either there is no water or there is so many feet of water. So I want to be sure that there is not just blanks.

CHAIRMAN RICE: Mr. Craddick, will you make sure that's taken care of?

MR. CRADDICK: Yes.

CHAIRMAN RICE: Okay. We're still on the issue of the hold time on the drilling. Mike? We need what, \$35,000 to complete the last 30 feet? Is that what I heard?

MR. CRADDICK: That's the worst case. We're going to have to talk about it with Mink because I have a hard time wondering why we're opening the hole down that far if there is no water in it. Because the purpose of this opening was to seal off any water that we may encounter, so that's the worst case. But there is still some things that we need to clear up ourself.

So in order to avoid stopping the job for this reason to decide whether we're going to approve this, I'm asking for the approval but it's also with the understanding that we may not spend it if we don't have to.

MR. STARR: Obviously if we need to increase the casing a little bit, we should do it. Can I -- is there a way to move that funds be made available at the chair's, you know, at the request of the chair for this, that it be put aside from somewhere? Mike, is there --

MR. CRADDICK: I think the first thing that's going to have to happen is there is going to have to be a request to amend the agenda to add this item to it.

CHAIRMAN RICE: We're still having a discussion here about protocol.

MR. STARR: We are discussing this well and

the drilling of the well.

MR. QUINN: We currently have an unencumbered balance in the source fund which is the source of funds for this project of almost \$846,000. My only question would be I guess to the engineers. I'm not sure -- there is two other items that are funded in this year's CIP budget from that fund and that's the Maluhia well and the Kupaa well. So I just want to make sure that doesn't impact those projects. If not, then we can go ahead and fund it out of the source. I'm not sure of the status --

MR. CRADDICK: But when you say the source, what are you talking about?

MR. QUINN: Source fund.

MR. CRADDICK: The water development fee fund?

MR. QUINN: No, the source fund.

MR. CRADDICK: The source fund is only for Central Maui, so you can't fund it out of that.

MR. QUINN: The Haiku well.

MR. CRADDICK: Okay, that's right, that is the Central Maui system, yeah, so you could.

MR. QUINN: That's where it's funded from. So the question is, is that going to impact those projects? If not, we can fund it out of there.

MR. CRADDICK: That we just wouldn't know at this time until we go to bid. So this job is going on.

MR. QUINN: What we could do is fund it out of the source fund and then come back to the board if there is a problem later on with those projects. But right now the money is available.

CHAIRMAN RICE: And I think the general sentiment here is to approve a system where the Director can come to the Chair if it's needed because he's not even saying it's needed yet, but he doesn't want to lose money on standby time if we're between board meetings. And that's reasonable, I think.

So I think the first item we ought to take up is amendment to Communication 01-29 to include the amendment to the agenda to include the issue of funding the standby time. Is that the way to --

MR. CRADDICK: Well, it's funding the change order, not the standby time.

CHAIRMAN RICE: Funding the change order for the test well. If we move to amend the agenda to do that, then we can make a motion to --

MR. STARR: Question first. Was there any contingency in the original scope and funding?

MR. CRADDICK: No.

MR. STARR: No? Okay. I move that we amend the agenda item VI(B) to include approval for a contingency funding.

CHAIRMAN RICE: Is there a second?

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Any discussion on amending the agenda? Mr. Nobriga?

MR. NOBRIGA: I don't think it's in our best interests to amend this agenda. The department has handled the change orders and I know the direction of this board is to change the way the department handles change orders. I think it's a breath of fresh air that we're finally notified of a change order before it happens instead of letting us know six months later that it happened.

CHAIRMAN RICE: Here here.

MR. NOBRIGA: And for myself, I feel that the communication with the director and the chairman is a positive step in the right direction as far as change orders. I don't feel comfortable at this point in amending the agenda to include that item.

CHAIRMAN RICE: Sounds contrary to me.

MR. STARR: Can we ask how -- another suggested way of handling this?

MR. NOBRIGA: I don't know if you're going to need to come up with the money like tomorrow. Got to come up with this money tomorrow? Cut the check?

MR. CRADDICK: No, no. I said it may not even have to be spent. But the problem is, okay, we have the broken compressor. If they're just shut down on their own accord, obviously there is not going to be

any worry about any standby charges, they're not even drilling right now.

When they get back to drilling, it's going to take about two days to get to that 120 feet. Once they get to that, they're on standby until the change order can be approved if we're going to approve it. And I feel during that time we can get it cleared up whether we're even going to drill that extra depth at all if there is no water in the hole.

CHAIRMAN RICE: Mr. Nobriga, I kind of feel like you started your comments and that we got to the notice in advance which is what we wanted on the change orders and I think we want to work to encourage that.

MR. NOBRIGA: Yeah.

CHAIRMAN RICE: That's why I would like to take some action on it. And the action we're going to take simply is to coordinate that through the Chair.

MR. NOBRIGA: The notice coming the day of the meeting is not to me --

MR. CRADDICK: Well, we I think found out about this the 24th at 5:00 p.m.

CHAIRMAN RICE: Anybody else have any comments on that? We have a motion and a second to amend the agenda. All in favor, say aye. Opposed, say nay.

MR. NOBRIGA: Nay.

MR. TAGORDA: I think there is a question of legality about this -- you need two-thirds vote, Mr. Chair, right?

CHAIRMAN RICE: We have two-thirds vote.

MR. TAGORDA: Roll call vote.

MR. NAKAMURA: Aye.

MR. HIRANAGA: Aye.

MR. HELM: Aye.

MR. TAGORDA: Aye.

MR. STARR: Aye.

MR. NOBRIGA: No.

CHAIRMAN RICE: Motion carries. Yes,

Mr. Starr.

MR. STARR: I move that we empower the Chair
with the ability to approve a change order regarding
the drilling of the monitoring well currently being
done at Hog Back Ridge.

MR. NOBRIGA: Second.

CHAIRMAN RICE: Okay. Discussion? All in

favor, say aye. Opposed, say nay. Motion is carried.

Communication 01-31 from Hugh Starr regarding
the definition of subdivision. Hugh?

HUGH STARR: I'll defer to any testimony of
the Rules Committee.

CHAIRMAN RICE: I'm going to defer that to the
Rules Committee if there is no objection from the
board members. Okay.

Request from Wayne Arakaki for three water
meters and deferral of water tank improvements and
completion of the waterline along Kekoanui Place.
Wayne is not here.

MS. NAGO: You folks were going to refer it to
committee.

CHAIRMAN RICE: Yeah, I just wanted to make
sure he wasn't here first.

MS. NAGO: No. He left.

CHAIRMAN RICE: Okay. I'm going to refer that to the Rules Committee if there is no objection. Communication 01-33 again from Wayne Arakaki for subdivision approval in the shortage area.

MR. HIRANAGA: Question, Mr. Chair. On these two requests from Mr. Arakaki, is additional information going to be provided to the Rules Committee beyond these two letters?

CHAIRMAN RICE: You can request anything you want from Mr. Arakaki.

MR. HIRANAGA: Although I'm not sure if this is procedurally correct since you've already referred it to the Rules Committee, but I can't quite understand his first sentence on his Peahi Hui Subdivision. Is he requesting to defer water tank improvements and offsite waterline improvements?

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: They are, and I believe they bonded them. I'm not positive about that. Oh, they haven't bonded them yet?

MR. CHANG: Chris Mamiya is here.

MR. CRADDICK: Yeah, I know, that's why I was looking to him to see whether that was the case, whether they were bonded or not. I think what happened on this one if you remember a few months back, the bid came from the board and it was about a hundred thousand dollars over the estimate. And I believe we felt that it was because contractors were all pretty busy, the bids were coming in pretty high and they wanted to wait a little while and go out to bid later on. I don't -- I think all he's asking for is delay of that tank more than the line. I think the line would have to go in in any case; otherwise there would be no way to serve them.

MR. HIRANAGA: If we could just have clarification. And then when he says the costs are higher, I'd like to know how much higher. And also what time frame that deferral request is for because I believe the agreement is open ended.

CHAIRMAN RICE: Okay. Can we make sure we ask Mr. Arakaki to provide more information for the Rules Committee when it comes up. So 01-33 is referred to Rules.

Communication from Sumner Erdman on Ulapalakua Ranch regarding water service. Pardee? I assume you're going to speak on behalf of Sumner?

PARDEE ERDMAN: I'm going to speak on behalf of Sumner. Sumner is on the Board of Ag and he had to go to an ag meeting on Kauai today.

Basically we're not here to ask for any more water meters. We only would like our water meters to work. We get eight percent of the water meters. When you talk about unused water meters, yes, we've got

unused water meters because there is no damn water coming through the pipe.

Now, 30 years ago we had a problem up there, we got together with the Board of Water Supply and we replaced -- helped to replace a 6-inch line coming in.

Ten years ago we started to have water problems up there and since then we've got nothing but bullshit.

Now, a couple years ago you had a study done and you came up with a study, which I imagine all of you have seen that it, that the waterline is inadequate. And since then, nothing.

Now, my friend here tells me oh, well, he's got somebody working on the line now. If your finance committee wants something to do, they ought to go up there and figure out how much it's costing him to have employees on the Ulapalakua section of that line every day, overtime, the rest of it. I mean, it is just a shambles.

Now, we need something done. We need some action. What we're asking is that you'll give Mr. Craddick the permission to go ahead and replace

the line. And we know when somebody said well, we're doing studies; well, any study you do, all you need to come up with is a figure above six and that's the size of the line you should put in.

CHAIRMAN RICE: I believe that we do have that project in the CPI budget for this year. Do we not?

MR. CRADDICK: Yeah, to study it.

CHAIRMAN RICE: To study it.

PARDEE ERDMAN: Study? What are you studying?

MR. TAGORDA: Mr. Chairman, I believe it was what two years ago that we had budgeted around \$50,000 to design that project from Ulapalakua to Kanaio, Mr. Craddick, and what happened to that CPI?

MR. CRADDICK: I believe it was somewhere around \$300,000, and to buy the material we were about two hundred or so thousand short to buy the material.

They offered to dig the line and assist in reburying it on their property. There was a segment -- I'm not sure how long -- on Haleakala Ranch property. They didn't offer to dig on that because of liability concerns, I presume, I don't know what it was. But anyways, they were willing to do out of I forget how many feet it was, 12,000 feet, Herb? Somewhere in that order of magnitude, of either 8-inch line or 12-inch line. Eight inches is not really a transmission line, so then you'd come to funding issues, how you're going to fund it, and whether you're going to provide any kind of basic service or not. And that's what we're trying to get the board to decide, what level of service was going to be provided. If that can be said, what level of service we're going to provide, we can dispense with the study and move ahead into the design.

And the decision is just if you're going to provide just basic level of service, that means 40 pounds pressure and adequate fire flow for an ag area, which is 250 gallons a minute. If you do that, you

need an 8-inch line. If you want to supply it with 1,000 gallons a minute fire fly, you need a 12-inch line. And that's what we came up with.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: Yeah, I remember we had had this discussion some months ago and I think that the recommendation that had come up was to go with the 12-inch line.

MR. CRADDICK: No, there was no recommendation. I think the recommendation was just to get a study to get something to the board on what was required and I don't believe they'd even done a scope of work --

MR. STARR: David, I had the floor. I believe there was a recommendation from some members of the board to go with a 12-inch line since we were going to -- if we're going to have a hole dug and lay a new pipe, we might as well do it right was the thinking.

There was a former member who was very adamant that he didn't want to see anything more than a 6-inch line out there and I believe that that was where it was decided to do a study rather than to implement the project.

I know I would like to see it done and if we're going to open the, you know, open the ground to put the larger pipe in. But what I would like to know is what's the status of the study so that, you know, if that's where it is, how can we get it back to what's fast and do it. Because it is needed and it's no good for those folks to suffer out there.

PARDEE ERDMAN: We're waiting to plant grapes and this isn't new planting, this is just replanting. We don't have the water to do it. Roy here is losing strawberries, he doesn't have the water. We need something done.

CHAIRMAN RICE: Howard, we had that project in CIP. I thought we had an estimate.

MR. NAKAMURA: The project is in CIP. My recollection is that the recommendation was that because there was not consensus on the scope of the project, that a preliminary engineering would be done which would define what the options were so that we could move ahead with the project and I'm not sure what the status of that is.

CHAIRMAN RICE: But that's more than a study, though. When we're talking about a study of doing it or not, I thought we were doing it, we were just trying to get an engineer --

MR. NAKAMURA: I think it was intended to be a preliminary design.

CHAIRMAN RICE: That's what I thought.

MR. NAKAMURA: With some options. But I'm not sure what the status of that is.

MR. CRADDICK: There was no preliminary design. That's why I was trying to get the board to say what they wanted done and I'm not even certain the staff has gone ahead yet because we don't know what to write to have the engineer do.

MR. STARR: Mr. Chair, can I suggest that this be put on a committee, I'll accept any committee, mine or anyone else's, so we can discuss it and try to get some direction?

CHAIRMAN RICE: Let's do that. It's in CIP already and it is budgeted this year, so let's refer this to CIP and see if we can get some quick action on it.

MR. HELM: I guess my question is what are we going to do to remedy a short-term fix for the problem that he has right now? Is there any alternative, a short-term fix that we can identify that could at least alleviate some of the problems that he has now?

Is that --

MR. CRADDICK: The problem they have now is mainly ahead of where the -- I'll call it -- how many board members went on the field trip when we went out there?

MR. TAGORDA: Everybody.

MR. CRADDICK: You remember where the strawberry farm was? I know Kent doesn't, he's a little bit short, but there is an 1-1/2 meter there. From there on, basically the last two months we've had people without water. We've been hauling water up there to get water to them. So I believe what George has done is worked with the staff to get after that meter change from 2-inch to 4-inch. It's not going to change the portion of the line that Pardee is talking about. It's the 2-inch portion after that meter to try and get the water out to Kanaio. Because Kanaio has basically been without water for sometime there or very sporadic, let's put it that way. So if he's got

8 percent water, these other people have no water.

And that's the problem we're trying to deal with right now. And we're doing that by changing I believe, what, 600 feet of 4-inch line? 500 feet?

CHAIRMAN RICE: Pardee, is this going on all the time?

PARDEE ERDMAN: Yes.

CHAIRMAN RICE: Or is this seasonal?

MR. HAMAMURA: May I comment? Hi, my name is Roy Hamamura. I'm the guy, the bad guy, the strawberry grower out there on a 1-1/2 inch meter. They're updating that line and the guys at Kanaio, the line goes from a 4-inch to a 2-inch right where we are. And you've got a reducer right there. And I'm sure that thing is crammed full of rock. That's why they're not getting any water in Kanaio. They're going to alleviate that problem real shortly with the

new pipe.

But that's not the problem. The problem is most of the day in the middle of the day, we have a vacuum in the line. There is no water coming out. That's what's wrong. And Kanaio is going to be the end result of no vacuum beyond us. And that's really the problem. When the three laterals running Ulapalakua, the vineyard, and over by Kamole there is another lateral, when those are flowing heavy there is no water in the pipe. It's zero.

Now, about four weeks ago, there was no water in the pipe, we had just planted the strawberries. We've lost the whole thing, 80,000 plants. I had to replant. That's another thirty grand to me and I'm just a small farmer. And the end result won't be known until next June when I total up how much strawberry we've actually picked. But I can tell you exactly how many damages I'm going to have. It's not very funny. And these guys can't plant grapes, they can't grow them.

PARDEE ERDMAN: We have to move cattle every

day practically.

MR. HAMAMURA: There is no water out there.

The pipe has got a vacuum in it. See, Mr. Tengan put an accumulator, 24-hour meter to accumulate the usage. The thing shows what we're drawing at the 1-1/2 meter, but it doesn't show when the line goes into a negative vacuum. It just shows no flow. But really what it is is a vacuum in the pipe. It's not very funny, but that's what's happening. And I don't think everybody is aware of it.

When George's people are there, I go hey, there is a vacuum in the pipe. There is no water coming out of there. You don't have much choice.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: Well, if it's referred to committee to get some clarification on that study --

CHAIRMAN RICE: Refer it to committee to deal

with the replacement line, but they have an immediate problem and I guess that's what Adolph brought up and I think that's now the discussion. It's referred to committee.

MR. CRADDICK: I mean, if you want an immediate solution, the pipe costs a little over half a million dollars to buy the pipe. And if we have to put it in ourselves so it doesn't run the cost up, I mean, our crews do have other things to do, but if we have to put it in ourself with their assistance, I mean, that's -- we don't have the money, we don't have the money, that's what we would do. And that's what we were proposing to do before.

MR. STARR: How long would it take if, you know, it has -- if the committee were able to find finance for it?

MR. CRADDICK: Take about 45 days for the pipe to arrive here, probably another 60 days to get it put in.

CHAIRMAN RICE: Well, we've got it referred to committee, so we can talk about it there. Anything more, gentlemen? Pardee?

PARDEE ERDMAN: That's it. We'll hope to hear from you that something is going to happen.

MR. HASHIMOTO: So what's maybe a time line for them? Because agriculture, you know, you don't get water, you're going to wilt. Talking about cattle or grapes or -- even his existing grapes, a lot of them are many years old and if they go down --

PARDEE ERDMAN: We've taken the old ones out. What it is, we have new ones we need to plant. We'll just hold them until we've got enough water to plant.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: One other concern is that we

have already the project to upgrade the transmission line between Alae tank and Waiohuli tank, that 8-inch to 12-inch in there. That will become the choke on the system. You'll have the ability to drain Kamole tank at that point and not be able to supply it. So what will happen is the inadequate point will move further up the line to around where the 12-inch line ends on the other segment. So that project will also have to be pushed equally as fast. But that one is in design already, right, Herb?

CHAIRMAN RICE: So you need to have that information for us when we have the committee meeting so we don't make a decision on this end and get in trouble on that end.

MR. CRADDICK: Yeah, I think it can work out.

If we get the line in, I believe we can have some kind of regulator in there ahead so that we're not starving that other end of the system and just get the line in and that will solve the immediate problems without maybe draining the line.

I'm just making the board aware that there is other problems with that transmission line besides this segment.

MR. HIRANAGA: Mr. Chair, since I was not involved in this project from the beginning, I'm wondering if the director can provide a brief recap in writing regarding where it started and where we're at for the committee's review. And also these consequences that he's mentioned, if he could put that in writing also for the finance -- for the committee's review. If we could have that prior to the meeting.

CHAIRMAN RICE: Okay. Thank you, Mr. Craddick.

MR. HAMAMURA: I saw a report somewhere that the Kamole 6-inch line feeds 157,000, 160,000 gallons a day in a 24-hour period. I read it somewhere. That 1-1/2 meter at the strawberry farm holds about 24,000 gallons on a good day, 24 hours. So where is the

other 130,000?

The ranch has 30-some-odd meters on it and I think Sumner stated that he's only getting 8 percent of the water out of those meters. So I sort of think you guys have leaking and I don't know where all this water is going. But I suspect there is some leaks in this line also. Big ones.

CHAIRMAN RICE: Thank you. It's referred to committee. Any other discussion? Okay.

Finance committee reports.

MR. NAKAMURA: Mr. Chairman, the finance committee met on October 9th on three items. The first item, Communication 01-21, which is the request from Mr. Hans Michel regarding the agreement between Mr. Michel and the Board of Water Supply. The board chairman had met with Mr. Michel and his feelings are that issues can be resolved. We need to have somebody work with Mr. Rice and Mr. Michel from the staff to follow up and to ensure that the unresolved issues are dealt with. The director was to identify such a

person and although no action is required at this time, the request is whether or not the director has identified the appropriate person to work with Mr. Rice to bring this to resolution.

MR. CHANG: I was chosen as the staff member.

MR. NAKAMURA: This matter would remain in committee until such time that Mr. Chang and Mr. Rice can follow up with Mr. Michel.

Communication 01-28 from Everett Dowling regarding the acquisition of some of the capacity from the Kaupakalua Well. The committee discussed the pros and cons of the offer by Mr. Dowling, including how best to value it. There was some concern over the proposed acquisition cost or the proposed cost.

However, one important consideration to the committee was that although the board at the present time has the ability to increase the size of the pump at the Kaupakalua Well, it can do so only by compensating Mr. Dowling a pro rata percentage of the

cost of the initial development. And one of the items of discussion which Mr. Dowling's representative agreed to was that if the board were to acquire the 100,000 gallons from Mr. Dowling, that the provision for pro rata reimbursement if the pump were to be enlarged would be waived. And on that basis, the committee recommended that we proceed with the proposal. And so I would move that we accept Mr. Dowling's proposal.

CHAIRMAN RICE: Subject to that --

MR. NAKAMURA: Subject to that amendment to the agreement.

MR. STARR: Second that.

CHAIRMAN RICE: It's been moved and seconded.

Is there a discussion? Mr. Starr?

MR. STARR: It's expensive water, we know that, but I think that we really need it and it will

allow us to serve our customers and our people who have been wanting to be our customers. So I feel we should do it and the fact that they're willing to give up the language about them getting a share if the pump size is increased makes it an equitable deal. So I hope that we will support it.

MR. NAKAMURA: One other thing, Mr. Chairman.

The fiscal officer was to identify the appropriate force of funding, so perhaps we could ask Mike to do that before we go.

MR. QUINN: Mr. Chairman, we recommended that this particular item be funded from the water system development fund. Currently we have unencumbered balances of about \$5.7 million. And luckily we've been -- our receipts in this particular fund have far exceeded our projections. We've already to date received about \$1.3 million in this fund and we have projected \$1.4 million. So based on that, I feel comfortable funding this from the water system

development fund.

CHAIRMAN RICE: Okay. Any other issues,
discussion? Mr. Starr?

MR. STARR: Just whether the motion would
require that -- I guess if the Chair enter into, draft
the language necessary because there is actually no
agreement ready to sign.

CHAIRMAN RICE: That's correct. We would have
to do that. And it would be subject to corp counsel's
review.

MR. NAKAMURA: And if the motion could reflect
the source of funding.

MR. QUINN: Mr. Chair, furthermore, we would
amend the CPI portion of the fiscal year 2002 budget
to reflect this item for \$800,000.

MR. HIRANAGA: Mr. Chair, I guess I have been

reviewing Mr. Craddick's letter to the board regarding this recommendation to purchase the additional well capacity. I guess my question is are we setting a precedent in purchasing additional capacity from private developers? And if so, should we be -- what if the price was \$10 per gallon? It seems like -- I guess we have to weigh the need versus the cost and the funds being expended by the board to purchase this additional capacity. I know there is a strong need for water Upcountry, but it just seems like the basis for justification, I just don't understand it. So what if the offer had been \$10 per gallon, would we still proceed? Or if it was \$15 per gallon?

CHAIRMAN RICE: Well, I don't know if that's -- in theory those are just questions because if we're already at an agreement point, I think it's more that there is definitely need, I think there is no -- there is a risk issue here. There is no risk in obtaining this water versus us drilling even though we intend to drill for more source. And I think the concession

that we've received from the Dowling people on the cost reimbursement in the event that we put in a bigger pump I think is significant also. I don't know that -- really your question is is it precedent setting.

MR. HIRANAGA: That, and is it a defensible action.

CHAIRMAN RICE: I think in light of need, it is. That's my personal feeling. I've got three hands here.

MR. TAGORDA: I have plenty questions, Mr. Chair, to David's letter recommending that we should buy that water. However, on page 16, Attachment 1, Mr. Craddick, I hope you can just write it down on the blackboard because I want to understand how did you arrive to all these numbers. It's going to be a very lengthy explanation for me -- for you to explain to me. You just have to walk me through this for me to understand.

Right here that right now you have an installed pump capacity on the Dowling well, at present it's 1.64 mgd, which only will support Dowling's project or can get only 738,000 gpd.

MR. CRADDICK: The 738,000 is on an average day basis what you can get from the well. And what you're buying is you're buying 100,000 gallons of that average day capacity.

MR. TAGORDA: I understand. And then with that price, the buy-out price, if our cost will be \$8 per gallon, right, \$400,000. Now, there is another option that you folks mentioned that we -- if we deal with this, we are -- we can put a bigger pump that can pump up to 2 mgd.

CHAIRMAN RICE: There was a provision for that originally. And if that happened, the way the original agreement was written, we would reimburse more to Mr. Dowling. So one of the concessions that

they made was they waived that part of the agreement.

So there is no reimbursement -- further reimbursements to them in the event that we decide to put in a large pump. Not that we are. But if we do.

MR. TAGORDA: Before we go on to that, the option of trying to put a 2 mgd, which will give us at least 268,000 gpd, yeah, Mr. Craddick, our costs will be \$6.34 per gallon which is less than the buyout cost of that 100,000 gallons per day. And I think that would be a prudent action for the board to take that instead of just buying the 100,000 and then if you change the Memorandum of Understanding, you take the 2 million --

MR. CRADDICK: You are getting that option.

CHAIRMAN RICE: That's the option we're getting. We don't have to make the decision to change the pump today. We can make that decision now whenever we feel it's appropriate. That's what we're doing in this agreement.

MR. TAGORDA: Okay. Outside of that, all of this water from that Dowling well, to what extent this water will service Upcountry? What area in Upcountry it will service?

MR. CRADDICK: It services the Haiku area.

MR. TAGORDA: Only?

MR. CRADDICK: Yes. Right now. Now, if the board wants to go up to the full capacity of the well during a drought and you don't mind dumping it in a ditch and retreating it again or even if you -- if the ditch is low, obviously it's low for both -- whether you process for domestic consumption as well as the ag part. You may not even have to treat this; you may just be dumping it in the ditch to go to the ag park. I had made an estimate of around \$6,000 to do that. That's a worst case scenario, you know, if we put a permanent structure in there to do this all the

time. My recommendation would probably be or we'll probably have to do this in the future; anyways, get some booster station in there so that we can actually use it in the Upcountry system. And when I say Upcountry, I'm talking about Makawao, Pukalani, Haiku area. And you would have to have some kind of a booster in there and that price of that booster is way down at the bottom of the page below that box where it says 500,000 booster included.

Now, if you exercise that option, I would expect it would be like Peter said, you're not going to change the pump while it's brand new, you're going to wait until it wears out when you would have to change it anyways and then you would make the decision whether you're going to upsize or not. And at that point you would have to be spending that \$400,000 in any case to replace the pump. So that might not be included. So actually, your price might go way below \$6 per thousand gallons.

But again, I caution you on trying to base your full decision on that. It's certainly a sweetener in the deal, but not the whole -- I think

the primary things of it's water there now with no risk are very important considerations.

CHAIRMAN RICE: Okay. Are we ready to vote on this or do we have more questions? Wait. We have to recess.

(Brief recess.)

CHAIRMAN RICE: Okay. We were discussing Finance Committee report on Everett Dowling water. Mr. Tagorda?

MR. TAGORDA: Okay. Thank you, Mr. Chairman. Can David, Mr. Chair, explain to us what -- under attachment 1, page 16, maybe on the bulletin board.

MR. CRADDICK: What do you want to explain?

MR. TAGORDA: I want you to explain to me how did you arrive to -- at Kaupakalua Well, how did you

arrive to cost per gallon at \$4.70? And same thing with Pookela, \$4.32. And down the line, like the proposed buyout from Dowling at \$8 and our cost per gallon if we buy -- we exercise the option of putting in a larger pump, at \$6.34.

MR. CRADDICK: And what don't you understand that you want written on the blackboard?

MR. TAGORDA: Just walk me through here so I can understand.

MR. CRADDICK: What we have done is we made a best guess estimate of what it cost to put it in. And I've put in a number, \$300,000, for financing. I talked to Don, he said it's way higher than that. Even if you triple that amount, triple it, you're not going to get much above \$5.

Now, I don't think the other numbers are way, way off, but I'll leave that for you to discuss with Kaupakalua. But the Pookela well, again that's our best estimate of what it's going to cost us to do that

project. And I've been conservative in there, I've put just 1,000 gallons a minute. Obviously if that's higher, we might get more, but it's -- and then the unit price would go down. But that's -- those are just best guess estimates and the total for the Kaupakalua well is about \$3.5 million. Ours is about \$2.8 million. They're getting slightly over a million and a half gallons a day or, using our standard of 45 percent, 738,000, or in our case 648,000 gallons of water. Just divide that into the dollar amount and then you get the unit cost there, or the cost per gallon.

MR. TAGORDA: Okay. I still didn't understand, Mr. Craddick, but anyhow, let me ask you again. This Dowling water, will it service most people in the priority list? And if so, how many -- how many names you think you can cover with this 100,000 GPD that we're acquiring? Only on the priority list. Because my intention really is to use this water only for those people on the priority list.

MR. CRADDICK: Again, exactly how many -- our standard is 600 gallons per meter. We know obviously if somebody gets a meter bigger than 5/8 or if they're in the Omaopio area or Haiku area, it could range anywhere from 300 to maybe 1,200 or 1,300 gallons per meter. So.

MR. TAGORDA: Okay. I understand. Those people that went -- attended the public hearing last night, do you -- can the water from Dowling service their premises Upcountry?

MR. CRADDICK: The way we felt this could work is Haiku's consumption at the time we entered into this agreement was around three-quarters of a million gallons a day, average day. That's what the capacity of this well is. So essentially between that and the Haiku well, we served 100 percent of the demand for Haiku.

Now, Haiku had been taking all of its water from the Kamole treatment plant. So what's happened

is the Kamole treatment plant has gone from about 2.7 million dollars a day average output to about 1.5 to 1.7, somewhere in there. That's the drought listing that you get all the time, if you look on Kamole weir, that's what it is when we're not pumping any water to the upper line or the lower line. That's what Makawao and Pukalani demand is.

So with that reduction in demand off of the treatment plant, obviously the treatment plant can be ramped back up to that 2.7 million gallons a day and it not hurt anything. And that water can be delivered anywhere in the water system.

MR. TAGORDA: Going back to that, the word you used about no financial risk, Mr. Craddick, what happen now if that well, the water quality comes low, meaning it's not acceptable for drinking. Have you had measures or steps taken?

MR. CRADDICK: We have that risk with any well we have, Orlando.

MR. TAGORDA: So there is financial risk.

What happen then if that single well by Haiku collapse? Do you have a backup well?

MR. CRADDICK: When you say collapse, I'm not sure --

MR. TAGORDA: Well, it doesn't work. It doesn't produce anymore. Do you have a backup well?

MR. CRADDICK: At this point we don't have backup for it. The treatment plant itself would be backup for it and we would hope that the pump didn't fail right in the middle of a very bad drought. That's all I can say for right now.

MR. TAGORDA: If you have a pump failure, Mr. Craddick, what's your next step?

MR. CRADDICK: Got to pull it out and change it.

MR. TAGORDA: And how long it takes that for the department to do?

MR. CRADDICK: It could take two or three months to do that.

MR. TAGORDA: The whole development is going to be bone dry, Mr. Chair.

CHAIRMAN RICE: Orlando, that has nothing to do with this decision. That could happen to any well. That doesn't relate to this decision. That's a liability we have everywhere.

MR. TAGORDA: Yeah, but like I said, I don't want to hear things that there is no financial risk here involved.

CHAIRMAN RICE: No, no. I think that means that when you decide to drill a well, you take a risk

as to the well being dry. And this well is producing water. That's I think what is meant by no financial risk, not that there isn't risk of operating a well. We have that -- whatever risk there is of operating a well exists in every well we have.

MR. TAGORDA: Okay, Mr. Chairman, let's go back to the priority list, Mr. Craddick. How many names on that priority list will be off that priority list when we get the Dowling water?

MR. CRADDICK: I cannot tell you that, Orlando, because of the range in consumption and what the people are going to use the water for. Obviously if the guy is going to do ag, he's probably going to use a lot more water and our standards allow for that. We say 5,000 gallons per acre is what we figure is needed. So depending on what the requirement is for the meter that's applied for, you could probably go 100, 150 names, or maybe as low as 50 names on the list. But you are going through the list.

MR. STARR: I would just like to make one comment which is that what we're buying here does not directly relate to that well. What we're buying are allocation units for water. In other words, even if that well were to fail today and never deliver another drop of water, we would still be obligated to provide the credits that we've given against that well.

So in other words, you know, the issue is not directly that well, but it's the source credits that were issued to Kulamalu. And what we're doing is instead of those source credits, you know, to be used by Kulamalu, those same source credits will be able to sell them or give them, as you may, to our own consumer base or to people that are on the waiting list.

So it's really a transfer of, you know, the allocation. It's not directly connected to the well. Because we're already committed to supply the water, whether the well works or it doesn't work.

MR. HIRANAGA: Mr. Chair, a couple of

questions. David, did you give the Dowling company an opportunity to review your estimates on your costs for the Kaupakalua well?

MR. CRADDICK: No.

MR. HIRANAGA: I guess looking at this one, this is what I understand you're trying to say is that -- and of course, the Dowling company may not agree with your \$4.70 cost per gallon, but what you're saying is under the proposed new meter fee of \$6,030 that we're charging approximately \$10.05 per gallon for even 5/8 inch meter, but the Dowling company is offering to sell us at \$8 per gallon. But you're estimating their cost to produce this was \$4.70.

MR. CRADDICK: Yes, essentially, yes.

MR. HIRANAGA: So if we were to accept this proposal and the proposed meter fee increase is approved, we would basically recover the \$8 per gallon? That's a question I'm asking the director.

MR. CRADDICK: You're talking about under the proposed fee?

MR. HIRANAGA: Right.

CHAIRMAN RICE: There is only a certain portion --

MR. HIRANAGA: Are we comparing apples to apples here?

CHAIRMAN RICE: There is only a certain portion.

MR. CRADDICK: I have both because Board Member Nakamura had asked look at the source portion, so I've done both, I've looked at the source portion, taken the source portion and dividing it by 600, you can see what it is for the current and proposed, it's \$1.25 and \$3.40. If you look at the total fee, and

you divide it by 600, you get \$5.58 and the new fee you get \$10.05. Now at \$10.05, you're at least covering your out-of-pocket expense of the \$8 per gallon. You're not covering money for transmission line or storage tanks there. But like I said in my very first line there, Upcountry has never been a positive or even neutral cash flow situation for providing source. So this is nothing new for Upcountry. It's subsidized.

MR. HIRANAGA: Eight dollars is for source only.

MR. CRADDICK: That's what we would be buying if we exercise this.

MR. QUINN: Versus a recoverable on the meters would be \$3.40.

MR. CRADDICK: On the proposed fee, yes, that's correct.

MR. HIRANAGA: Another question is if this was approved, would this additional capacity be dedicated to the people on the list or it would just be thrown into our general capacity and if 167 other requests come in prior to the resolution of the list, that these people could possibly use up this additional capacity?

MR. CRADDICK: I think that would be a board decision. If they are going to say with this additional water the system is adequate, we would start through the list.

Now, there is still the issue of the off list people there and I think that's why corp counsel has told the board hey, let's get a rule in place and for that reason I think we need to deal with that. But whether you deal with it right now today, I mean, if we start through the list, overnight we're not going to issue a hundred meters. It's going to take probably a month or two to process this amount of applications. So I would expect the rule would be

passed in that amount of time and there might be some people off the list that would get some of this water.

MR. HIRANAGA: But you are issuing meters to people whose lots existed before 1993 who are not requesting for an upsized meter and have --

MR. CRADDICK: Just the first meter, right, that's correct.

MR. HIRANAGA: And have adequate transmission-distribution fronting the property.

MR. CRADDICK: That's correct.

MR. HIRANAGA: So theoretically this could be used to fulfill those requests.

MR. CRADDICK: Could be if the board didn't want to start through the list.

CHAIRMAN RICE: Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, just in followup to Mr. Hiranaga and Mr. Tagorda's questions, I think the clear intent of the committee was to acquire these credits as a means of working through the list. I think the feeling is that there are many people who have been on the list for a long time, as we heard at the hearing last night, and that that was the priority.

However, corporation counsel does make the recommendation that we have a rule in place before we start working our way through the list and I think the appropriate process would be that assuming we acquire these credits, that we don't issue meters against them until we have a rule that would permit us to treat the people on the list in an equitable fashion.

And also, David, assuming we use the list and work our way through it, are you saying that each time you issue a meter, you're going to make a computation as to how much you think that meter should be -- the consumption of that meter should be charged against

the amount of water we're acquiring? Or aren't you going to use a standard?

MR. CRADDICK: Herb, do you want to explain how you --

MR. CHANG: We're thinking of -- we have like basically three categories. You have new subdivisions, you have people wanting meters just to like a lot or something, just a meter, one meter, or you want people to upsize. You've got developers, you've got farmers who want bigger meters for more agriculture purposes. So we have a variety of possible consumption.

So what we did was we're looking at using zoning for as far as requests for meters for like residential ag lots, we have a number like maybe six hundred for residential, maybe a thousand for agriculture, something like that. And then for the people who want bigger meter for ag, we actually work with -- they give us an estimate. And then we're just starting to think about specifics and so far that's

what we've come up with.

MR. NAKAMURA: It would seem that based on that response that it's even more reason why we need to incorporate it in a rule.

MR. CRADDICK: I'm not certain you could incorporate what he's talking about in the rule because you have to look at it on a case by case situation.

MR. NAKAMURA: Well, the rule could say that or at least set some criteria.

CHAIRMAN RICE: The simple question was is there a way of allocating some of the water by a type of meter use and the answer is they're working on it. Okay. Any other questions?

MR. HIRANAGA: Just a comment, I guess. Based upon the requested expenditure and the large

differences in costs that have been presented to us, I guess I'm not prepared to -- I'm not saying I'm prepared to vote against it, but I'm not prepared to vote for it.

CHAIRMAN RICE: We're about to vote. If there are no other comments, I'm going to ask Mr. Tagorda, are you looking for something to ask there? I see you flipping through the papers.

MR. TAGORDA: My thing, I would favor this to buy that Dowling water, Mr. Chair, if we go through that option of putting in a larger pump. And with a condition that this water is only going to be used for those people on the priority list and if those people on the priority list are taken care of, then it can be applied generally Upcountry.

CHAIRMAN RICE: Okay. I don't think anyone on this board has a problem with using water for people on the list. I think that's an easy one and if someone disagrees with me, I'm sure they will speak

up.

But it's my understanding that the life of the well is too early to decide to put in a bigger pump. I think what we've done is set ourselves up for the option to do it at our sole discretion, which I think is the best thing at this point. So we can do that. We don't have to pay any more money to do that. But we don't have enough data about the well to just throw a bigger pump in now. So that would be my response.

MR. TAGORDA: That's fine.

CHAIRMAN RICE: Okay. All in favor of the motion? The motion was to -- recommendation for the finance committee to approve the purchase of the water credits. Duly seconded. All in favor, say aye. Opposed, say nay.

MR. HIRANAGA: For the record, I would like it to be noted that I'm abstaining.

CHAIRMAN RICE: I don't think you can, up or down.

MR. CRADDICK: No, no. If he just says no -- or I mean he's not voting, then it's assumed a yes vote.

MR. FUKUSHIMA: That's correct. If he makes no vote, it's counted as a yes. He's obligated to vote unless he's disqualified. He's stated no reasons for disqualification.

MR. HIRANAGA: Okay, I'll vote nay.

CHAIRMAN RICE: Okay. The motion is carried. One more item.

MR. NAKAMURA: Mr. Chairman, Director's Report 01-46. I notice that there is a follow-up report on the issue of the old Wailuku Post Office as a potential office space. No action is required by the board. Hence, the matter will remain in committee

while the staff obtains additional information. I don't know if David wants to very briefly add anything to that, but I don't know that it's necessary.

MR. CRADDICK: Nothing to add.

MR. HIRANAGA: One comment.

CHAIRMAN RICE: Yes, Kent.

MR. HIRANAGA: If the department could also find out if lead-based paint is an issue in that building.

MR. CRADDICK: Okay.

MR. NAKAMURA: That's all, Mr. Chairman.

CHAIRMAN RICE: Thank you for that report.

Operations Review Committee.

MR. STARR: Yes. Mr. Chair, first item which is the contract for consultant services to augment the Water Use & Development Plan process; resource strategies and screening; cost-benefit and financial analysis sections of the Water Use & Development Plan and portions of the demand analysis.

The committee recommends that the board approve the contract as provided after review by corporation counsel for language and recommendation from finance regarding availability of funds. The contract is here if anyone is interested in seeing it in more detail, but basically this will allow us to proceed with the Water Use & Development Plan. The consultant is here also if we want to get any presentation from him. And I would like to make a motion that the committee report be accepted and that the contract be signed by the Chair after approval by corp counsel and the earmarking of funds be accomplished as well.

CHAIRMAN RICE: Is there a second?

MR. TAGORDA: Second.

CHAIRMAN RICE: Okay. Discussion? No discussion? All in favor, signify by saying aye. Opposed, say nay. Motion is carried. Mr. Starr?

MR. STARR: Next item is Director's Report 01-47, the request for condemnation by the subdivider was withdrawn due to a pending agreement with the neighbors, good news. No action is required at this time. So that can be dispensed with.

Now, moving right along here, we'll go on to the evaluation of the director. And --

MR. NOBRIGA: It hasn't been noticed that way.

MS. NAGO: I'm sorry, I put the evaluation under Other Business. The director's job description and the evaluation form are placed under Other Business on the agenda.

CHAIRMAN RICE: If there is no objection, we move that to the Operations Committee where it was handled. Seeing and hearing none, go ahead, Jonathan.

MR. STARR: After a lot of hard work by the committee and especially Committee Member Rice, we've come up with a job description and there were some amendments made at the committee meeting. I just want to be sure that they were included in this copy. Fran? Okay. The copy that was distributed today includes the amendments from me.

The committee recommends that the board approve the attached job description for the director with the inclusion of several changes, additions, as were provided with the package. And that being the case, I move that the board approve the attached job description for the director of the Department of Water Supply.

MR. TAGORDA: Second.

CHAIRMAN RICE: Motion and second. Yes,

Kent.

MR. HIRANAGA: Just for the record, did somebody say they proofed the new document to assure that all the changes were incorporated?

CHAIRMAN RICE: I did it from my notes from the meeting. So you guys, if I missed something --

MR. HIRANAGA: Defer to your --

CHAIRMAN RICE: My secretarial skills. We can fix it if I made any type of error. Okay. Moved and seconded. No other discussion, comments? All in favor, signify by saying aye. Opposed, say nay. Motion is carried. Great day when the director has a job description.

MR. STARR: Okay. The committee spent a lot of time going over the evaluation sheet which relates to the job description and is intended to be used by

the board members for evaluating the water director on a regular basis and the evaluation form as amended is in our packet. So the committee recommends that the evaluation form be amended to include the 5 point rating system attached herewith entitled Orlando's rating system, along with some other unsubstantive changes.

The committee further recommends that the evaluation form be approved as amended and that the board members proceed with the evaluation of the director using this form. As such, I would like to move that the evaluation be approved as amended and that board members proceed with the evaluation of the director using this form.

MR. TAGORDA: Second.

CHAIRMAN RICE: Okay. You saw the form.

Everybody got the form? Okay, good. Any comments?

All in favor, signify by saying aye. Opposed, say

nay. Okay. Then I will schedule an evaluation and

notify everybody.

MR. STARR: Okay. And the last item is a discussion/possible action regarding computer security and other security measures. The committee deferred this item and intends to schedule a committee meeting that will concentrate solely on this important item in the near future. We all know how critical these issues are. We will be attempting to schedule a meeting for next week or the week after to deal with these issues and hopefully gain some knowledge to the board members. Some and possibly all of that discussion may have to occur in executive session, however, so we'll have to make sure that it gets noticed that way.

CHAIRMAN RICE: Thank you, Jonathan and Operations Committee. Excellent work. Thank you.
Rules?

MR. NOBRIGA: Mr. Chairman, Communication 01-22, Mr. Thomas Welch has requested that we defer

this item until his consultant can come back from overseas.

On the non-rate portion of the Water System Development Fee Rule, we have nothing to report at this time and that matter is still in committee.

The Water Meter Issuance Rule for Upcountry water system is scheduled to reconvene today at 11 a.m.

That completes my report.

CHAIRMAN RICE: Thank you. Okay. We're moving on to the Committee of the Whole. The committee met on the certification of Central Maui source availability this week. We received presentations by USGS, John Mink, Bill Meyer, and members of the Commission on Water Resource Management. It was a process that was intended to educate the board on the Iao and adjacent aquifers and the theory of aligning aquifers in general. And I think the board members received a lot of good information and will continue to study that information as we move forward and are planning for

the Maui water supply. If any of the members has any other comments --

MR. STARR: Mr. Chair, I just want to compliment the committee and its chair for a really good presentation and any members of the public that are here that were not able to attend, I know that that was taped for Akaku by Daniel Grantham and they should take the opportunity to see that presentation because it was really a very good and clear presentation. I think it was the first time all of these matters were discussed in public and all these people were in one room and everyone who had done any work on the Iao aquifer for the last 30 years presented that day and it was a really good program. So thanks for putting that together.

CHAIRMAN RICE: We'll keep moving in that area.

MR. NAKAMURA: Mr. Chairman, on the next item

on the Upcountry source adequacy, Committee of the Whole met to discuss the letter from the director regarding the adequacy of source. There were a number of issues raised. Subsequently, I asked the director to provide a little additional information. Although there were a number of approaches discussed, it seemed as though the direction that was evolving was that the director's findings in terms of adequacy of source, especially during normal or non-drought periods, was certainly appropriate.

I believe that there is no recommendation at this time from the committee and I would suggest that the matter remain in committee and that it would be taken up at the next meeting in November at which time I think that it will be possible to make a recommendation to the full board regarding the director's findings as to adequacy of source. So that would be my thought.

CHAIRMAN RICE: For some of the people that are here today, we have been working on the source adequacy for the Upcountry water system and I think in

light of the decision to purchase the credits from the Dowling well, it materially affects our analysis. And I think for the public's benefit we're working in the right way towards certifying the available water source Upcountry. The committee felt they needed to talk about some of the finer points of the recommendation, so I expect we'll have a Committee of the Whole meeting and we'll be able to make a recommendation at the next meeting.

Mr. Craddick?

MR. CRADDICK: Can I just say something on this item? Back a couple of board meetings ago, there was some discussion about the Jim Smith court case and whether it was finished and I have since -- corp counsel has furnished me some documents and clearly the Jim Smith court case has been resolved in court and I would like to apologize for questioning corp counsel's knowledge in the matter.

CHAIRMAN RICE: Thank you, Mr. Craddick, for

that humility. Anything else on that issue?

We're in Other Business. Attorney for the North Waihee land purchase -- you know that I reported at the last meeting that I was making progress in discussions with Wailuku Ag about the purchase of the land and water system and rights that they have and there was a need for outside counsel to assist the board and there is a need for outside counsel with experience in the water field and it was in no way intended to be a slight on corp counsel. This is a very complicated issue and it requires someone with some very precise background and knowledge in water areas.

As a result of that recommendation, we have notified County Council that we would like approval to hire outside counsel and we've also sent out the notice of solicitation for proposals and the results of that solicitation is on this paper that was just handed out to you. I believe it's in our best interests to come to the Council with a recommendation and that's why we've proceeded to this point.

And the comment that I would make at this time

for my fellow board members is that there has been experience with one of these firms, Mr. MacDougal assisted us in a not identical but similar transaction in an area that was similar to this. Part of it was in this watershed, I believe, wasn't it, David?

MR. CRADDICK: Yes.

CHAIRMAN RICE: And I believe that working with Mr. MacDougal was a good experience and my comment and feeling would be to continue to work with him. Mr. Starr?

MR. STARR: Mr. Chair, I worked with Mr. MacDougal, he was very good. There was some -- there was a problem, though, in that he is -- his firm and his own residence is in Washington State.

MR. CRADDICK: Actually Oregon.

MR. STARR: I'm sorry, Oregon. So it means

that when he comes over to work, it has to be scheduled well in advance and then we end up paying all his expenses for flying over and staying. We were doing that last time.

MR. CRADDICK: We did last time, but I believe, Mike, he has offered to cover his own travel expenses so that doesn't become an issue.

MR. STARR: Anyway, he is good, I have no problem with that. But there is another name on here that I would like us to consider. And other organizations that I've been involved with have worked with that firm. Bill Tam of Alston Hunt Floyd & Ing, he was the author of the State Water Code. He was for a very long time the attorney general on staff for the State Commission on Water Resource Management. And he was in that position at a time when the Water Code was drafted and as such he actually drafted a lot of that code. And a lot of people are familiar from when he was the AG for the water commission and I certainly feel he was very, very good at that.

He's still very much involved with water issues. He just hosted the seminar on public trust and water issues that was held by the University of Hawaii School of Law two weeks ago and he's here in the state and his firm is quite successful. They have some notoriety because they're the ones who filed the Felix consent decree against the State and we all know, whether we like it or not, how successful they were with that issue.

So I would like us to consider Bill Tam.

Perhaps there is a way they could present before us or something. But I feel that he being in the state and working in the state every day and that being a commercial firm with operations in the state, we'd probably get a higher level of service where he could fly in and out on a moment's notice rather than having to schedule in advance and block of times.

But as I said, Doug MacDougal is a good lawyer, too, but I think Bill Tam is the best there is for this. Bill Tam or Jim Paul are the two -- their involvement in the Waiahole case and other matters

recently have shown that they're really the best water lawyers in the state right now.

CHAIRMAN RICE: Did you have your hand up, Mr. Craddick?

MR. CRADDICK: Yeah. I would just say this is on the council's agenda, Committee of the Whole agenda for next week and I think you, Peter, are the one who knows what the time requirements are in here. And if they are, as you said they were at a previous meeting, that you're trying to get this wrapped up in a couple of months, it's going to require somebody that has a lot of knowledge already to deal with the matter.

CHAIRMAN RICE: Well, I don't know about one side's requirements for time and the other side's are always different. I think we have to try and select the best counsel that we can to represent us. Any other comments?

MR. TAGORDA: Can we get some resumes from

these people?

MR. CRADDICK: We have them all right here.

MR. TAGORDA: Can we have that distributed next meeting? I would like a copy of those resumes.

MR. CRADDICK: I think if you --

CHAIRMAN RICE: Who has the resumes, Mike?

MR. QUINN: Right here.

CHAIRMAN RICE: Would you get copies of the members of the board who would like them?

MR. QUINN: Right now?

MR. TAGORDA: No, not right now.

MR. QUINN: It's quite extensive.

CHAIRMAN RICE: For the board, we need to go to the County Council meeting with a recommendation, I think. So I would urge you to get those and review them, okay. But we need to make a decision.

MR. STARR: Mr. Chair, if we're going to decide this today, could we have a five-minute recess and perhaps we could look at them.

(Brief recess.)

CHAIRMAN RICE: Meeting of the Board of Water Supply is back in order. We're having a discussion about counsel representing us in the negotiations of Wailuku Ag and there has been a recommendation for Mr. MacDougal by myself, and Mr. Tam. I think that there is a good argument for using Hawaii counsel and the availability of that counsel here in Hawaii and the experience of Mr. Tam is without question so certainly the Chair would go along with that if there is a motion.

MR. STARR: Mr. Chair, I move that Bill Tam of the firm Alston Hunt Floyd & Ing be recommended to the County Council for employment as special counsel in this project.

MR. TAGORDA: Second.

CHAIRMAN RICE: Discussion? Kent.

MR. NAKAMURA: I just had a quick question.

Is Mr. MacDougal still in any way officially representing the Board in the Central Maui Source Joint Venture issue? Is he still on the payroll, so to speak?

MR. CRADDICK: I don't know if the contract has been closed, but essentially there is not any more work that he's doing for us.

MR. NAKAMURA: Mr. Fukushima, would you

suggest that I recuse myself on that basis?

MR. FUKUSHIMA: Well, generally our office doesn't make decisions as to whether a conflict exists or not. That is a matter for the Board of Ethics to deal with. But it would be my opinion that you would not be in conflict.

MR. NAKAMURA: Thank you. And just as an aside, I should make it known that one of these firms -- my son-in-law is a principal in one of these firms although he's not with the recommended entity and so I should make that known. I don't think I have a conflict on that either except maybe within my own family.

CHAIRMAN RICE: Yes, Kent.

MR. HIRANAGA: The director recommended MacDougal; is that correct?

MR. CRADDICK: I'm actually, to tell you the

truth, I'm not recommending anybody and I think the arguments to have somebody within the state is probably a good one. Whether the travel is free or not with MacDougal, I can imagine some kind of a problem coming up. So I could certainly support the recommendation of the firm that Mr. Tam is in.

MR. HIRANAGA: I guess personally I would have preferred for the record that Dave had made an official recommendation since his department was the only people who had any privy to the resumes. And it's very difficult for me to make a decision when a list is presented to me five minutes before the voting and there has been no resumes provided, no presentations by the soliciting counsel.

And the estimated fees that we will be incurring for this, has anyone estimated -- are we talking about a hundred thousand, half a million, a million?

MR. CRADDICK: We've appropriated \$30,000.

CHAIRMAN RICE: We appropriated at the last meeting \$30,000.

MR. CRADDICK: And I would expect somebody coming in fresh in it, it's going to be well over double that, possibly triple. I wouldn't expect it to go much over triple that.

MR. HIRANAGA: So we're assuming it's going to be about 600 hours, based upon \$200 per hour.

MR. CRADDICK: Probably, yeah. I'm not sure how much the other people get involved in it.

MR. HIRANAGA: I guess that includes paper, telephone calls.

MR. CRADDICK: Yes.

CHAIRMAN RICE: I wouldn't want to underestimate it. There is a lot of due diligence

that would need to be done in this issue. There is a lot of old, old documents that will need to be reviewed. So I don't know what the estimate is. I think because of it, the complexity of the due diligence, my comment would be not to underestimate the cost. And I think our intention was to appropriate an amount to get the process started at the last meeting.

MR. TAGORDA: I guess I'm just really uncomfortable that we were not provided copies of the resumes prior to being -- it's very difficult to make an educated decision.

MR. CRADDICK: Again, I'll take the responsibility for that. The bid closed yesterday on the submittal of these proposals and we probably should have had copies of all the submittals with it. But this was basically the process that we used when the North Waihee Land Purchase went through. I know all the attorneys that submitted proposals then, you

know, individual board members probably had some knowledge of the firms already and if you don't -- I can say Frank Mukai is very knowledgeable on these types of things, Bill Tam is, Doug MacDougal is. I have no knowledge on the other two.

CHAIRMAN RICE: Actually, you know, there is an element if we want to get somebody to make a specific recommendation to the Council for and I've been doing a little research and MacDougal and Tam are the two names that have been recommended to me by other people in the community. And I think that the -- those are the two premier names, quite honestly. And I'm happy with either one of them, actually. But I think there is an argument for somebody who's nearby.

MR. HIRANAGA: Mr. Chair, has each of these counsel also declared that they have no conflicts of interest concerns? Because I notice here it says MacDougal familiar with Brewer. So they all have claimed that there is no conflict of interest issues?

I hate to go down the road with someone and all of a sudden that be a concern.

MR. CRADDICK: I know there isn't with MacDougal and I presume if there was, they would have said that because we had actually solicited some others, Martin Luna specifically, and he said there were conflicts and he couldn't submit a proposal. So I'm assuming that these people would not have submitted --

CHAIRMAN RICE: Bill Tam does not have.

Mike?

MR. QUINN: Mr. MacDougal has stated in his letter that he nor any member of his firm has any conflict of interest.

CHAIRMAN RICE: Okay. Anything else? Okay.

All in favor of the motion, say say. Opposed, say nay. One nay (Kent Hiranaga). Motion is carried.

Evaluation of the director we've talked about.

Item C, approval to transmit to the Mayor the Water System Development Fee rate increase. There is a feeling that we want to go through that document now and get that process moved along. We've had some public hearing. There has been some comments that I think we need to incorporate into the document.

Mr. Craddick, are you prepared to go through that document today?

MR. CRADDICK: I am if we could have a little recess then we could shoot the document up on the wall. We could move this desk back here so all the board members and the audience could see it and have at it to complete it.

(Brief recess.)

CHAIRMAN RICE: Call the meeting back to order. We're going to go into executive session on the personnel issue. Moved and seconded to go into executive session.

[Executive session held.]

CHAIRMAN RICE: We're out of executive session. Back in order. Mr. Starr?

MR. STARR: Mr. Chair, I move to approve the settlement as discussed.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved and seconded to approve the settlement as discussed. Any discussion? All in favor, say aye. Opposed, say nay. Very good. Moving on.

Mr. Craddick. The document we're going to discuss the development fee rate increase we're sending to the mayor.

We heard a few comments at the public hearing. Do we want to address those in the document or do we want to go line by line? What do you guys want to do?

MR. STARR: I wanted to make some comments on comments that we received at the Molokai hearing.

CHAIRMAN RICE: Okay. One second. Mike, did you want to say something?

MR. NOBRIGA: I defer to Member Starr for now. I do want a chance.

CHAIRMAN RICE: Go ahead.

MR. STARR: There were three testifiers on Molokai. Initially they were -- they said this is a very large increase and they felt that it was going to be very difficult for people on Molokai.

After our presentations, they had a better understanding of it and their request was that I guess a payment plan be implemented that would be more flexible and give people more leeway if we did have to keep at a high rate. And I don't know if this is going to be the place to implement it or possibly in

the rule providing the rules regarding the verbiage might be a better place for the payment plan. But I did want to put that forward. Adolph?

MR. HELM: Really just to add to Member

Jonathan Starr's comment on the Molokai public hearing. All of them were being basically initially against the fee and we had sort of like a round table discussion about just to get some clarification on the fee and the proposal. But getting back to some of ideas for economically Molokai is a little different in terms of the ability with respect -- not so much [inaudible] Maui and the jobs that Maui has to offer. There were some concerns about that.

Second, there is the idea that there is again reiterate what Mr. Starr said about coming up with a plan, a payment plan over a certain period of time would be more suitable instead of a one-shot deal. Also, the consumer index increase over a period of time is also to them a concern also because within five, ten years you also have a giant increase if you

at up a 2 or 3 percent increase over a period of four or five or six years. So that also was a concern.

And another comment was made with respect to being a little bit more innovative in our ways of trying to get other entities, private developers, other state agencies, members of government to try to look at cost factors with regards to source development. Some place like Molokai which can fall in an economic criteria and meet those considerations with the rule development corporation might have an opportunity to get grants to help support increases in sources and stuff like that. But there needs to be other alternatives and the concern was we need to be a little bit more innovative in ways of not having an increase in the fee like that. I think that take a heavy toll.

CHAIRMAN RICE: Okay. Mike?

MR. NOBRIGA: Amongst the testimony that was presented, there were three major points that we should address, first point being to amend the October

31, 2001 effective date, to move that to perhaps suggested language "upon approval by the council" or somehow have another sunset provision of maybe January 1st, 2002 or something similar to that. I propose that at this time for discussion.

CHAIRMAN RICE: Mr. Craddick is typing "the rules shall become effective 10 days after posting in the County Clerk's office after filing." Does that sound good to everybody? Okay.

MR. NOBRIGA: Second, if I may continue, Mr. Chairman, second point was to identify what Consumer Price Index would be followed. And I believe it was a suggestion that we identify Hawaii State Consumer Price Index.

MR. FUKUSHIMA: If I may, Mr. Chairman, I believe we have one for Hawaii. I'm not sure.

MR. NOBRIGA: Is it state or Hawaii?

MR. FUKUSHIMA: The State of Hawaii. I'm not sure if they have one for Honolulu. I'm quite sure they don't have one for Maui. So I would suggest that we use the Consumer Price Index for the State of Hawaii.

CHAIRMAN RICE: Okay. Do you have some information? I don't want to get into --

MR. MEYER: I teach economics at MCC. They have the Honolulu -- there is an index in Honolulu, Consumer Price Index, by the federal government for the City of Honolulu. It's not a statewide index.

CHAIRMAN RICE: How's that? It's published by the federal government, though. Thank you.

MR. QUINN: There is also a water and sewer CPI portion, national index. I don't know -- this is for the board's information.

CHAIRMAN RICE: I thought the testimony was kind of the Consumer Price Index should be relevant to the state.

MR. HIRANAGA: Is there any historical data which shows whether the Honolulu urban CPI is usually greater than or less than the all urban CPI?

CHAIRMAN RICE: I don't know.

MR. MEYER: It goes up and down and probably below it sometimes. Over the long term, it stays very consistent to federal. Sometimes it's below and sometimes it's above.

MR. FUKUSHIMA: It's the Bureau of Labor statistics, if I'm not mistaken.

MR. MEYER: That's correct.

MR. NOBRIGA: The last point being that we

should include language -- maybe not so much within the rule itself, but as a proviso indicating if it is the board's intent to recognize applicant's denied service in the Upcountry area that have been listed on a priority list from 1989 to say the end of this year, and present the board's intent to somehow assist these applicants through credits or some sort so that they would not be unjustly discriminated with the new fees. It may have to be dealt with in another rule separate from this document.

CHAIRMAN RICE: I'm glad you're here then.

MR. NOBRIGA: But that is my main three --

MR. FUKUSHIMA: I think it would be appropriate to incorporate in the rule, if I may, Mr. Chairman, there was another provision that I wanted to include in this. I do not believe it's a substantive change and it would not necessitate an additional public hearing, but I believe it would be appropriate if we put language in here as required by

state statute relating to the refund of these fees if they're not used within a five-year period. And I believe it's appropriate to have that included in the rule for consistency with state statute -- I think it's 4615.

MR. CRADDICK: And the entrance if we're going to do that.

MR. FUKUSHIMA: Yes.

CHAIRMAN RICE: So we don't have actually have to draft that language here. If the concept everybody agrees with that, we can go ahead and get counsel to do that. Okay. Kent?

MR. HIRANAGA: Clarification. If someone reserves a meter and fails to actually have it installed in five years, we're going to refund the reservation fee?

MR. FUKUSHIMA: No. That's only -- this would relate to people that have paid the fee and the County does not -- if the department does not use that money for source development projects, that money would be returned. My understanding, from speaking to the fiscal officer, is generally we do not have that problem. That money comes in, it is expended within the requisite five-year period. But I believe that the impact fee statute requires that refund provisions be included in any impact fee legislation.

MR. HIRANAGA: The application of the development fee is for the island of Maui or for the specific geographical location where that meter was taken? So if you paid for a meter in Haiku, that that fee would have to be used in Haiku or --

CHAIRMAN RICE: I don't think so. The application of the fees are for us to determine for Maui County.

MR. FUKUSHIMA: They are county-wide fees and

everybody pays the same thing, so I believe that's how our consultants have determined payment should be applied.

CHAIRMAN RICE: I think over time it evens out. Jonathan?

MR. STARR: I was wondering if counsel could come up with some wording that would allow the people who have been waiting for meters and not been able to get them for reasons not under their own control to be given one chance at getting a meter at the old rate -- at the current existing rate. And then if they were not able to take the meter at that time, they would lose that special ability and that their opportunity to get it would come when the water is being made available. Say we went down the meter rule, you know, the meter list and we came to a certain person, if they were ready to take their meter then they could get it at the existing rate. If they couldn't, then when their turn came around again, they would be

paying the new rate.

CHAIRMAN RICE: Right. But we're talking about people on the list, not anybody in Maui County.

MR. STARR: No. People who have been prevented from getting a meter for reasons beyond their own.

CHAIRMAN RICE: Right.

MR. TAGORDA: Well, if that is the policy that this board wishes to adopt, we could certainly come up with the language that would cover that policy.

CHAIRMAN RICE: It would seem to me that it would fit in the rule under Exception 1688. And I think it's important and Board Member Starr is suggesting that it be for a definitive time, after which time somebody would come -- right --

MR. STARR: Well, they would get that one

chance. If the chance came tomorrow or if the chance came a year from now.

CHAIRMAN RICE: Once they passed it by --

MR. STARR: Yeah. In other words, it would come go to the person and say okay, we finally have source adequacy; are you ready to take your meter?

MR. FUKUSHIMA: Does the member have any idea how long --

MR. STARR: You've been using 60 days, so maybe they would have 60 days.

MR. CRADDICK: To do what?

MR. STARR: To accept their meter at the old price.

MR. NOBRIGA: You want to add that into this

rule now?

CHAIRMAN RICE: We're talking about the concept and then he can write the verbiage. But that's what you brought up. Isn't that what you brought up?

MR. NOBRIGA: It's what I brought up, but I was assuming we were going to try and deal with it another day. But if you want to incorporate -- I would be very in favor of incorporating it at one time within this rule. It's just I think there is quite a bit of discussion that needs to take place, though.

MR. STARR: Is there a way that the chair of our rules committee could work with corp counsel to come up with the final verbiage and -- I don't know how we can get it back so we don't have to come back to the board, but I would be happy to see it done as part of this rule.

MR. FUKUSHIMA: If I may, and I can appreciate

the member's desire to fast track this, but we would suggest that rather than do anything in a hasty fashion that I can work with the chair of the Rules Committee to develop language, but I want to make sure that that language is satisfactory to the rest of the board and just working with one member doesn't allow me to determine whether it is what the rest of the board wants. And I think it would be better to come back to the board if that's the language that this board wants to do, or a provision like that inserted in this proposed rule.

CHAIRMAN RICE: Go ahead, David.

MR. CRADDICK: I would not recommend something like that because tomorrow the list is going to jump from 800 to 3,000 if you do something like that, trying to key in to this waiver of the fee. And what I would say is you just make the effective date six months after the board starts going through the list and then there is not going to be any rush to try and

get on the end of the list to avoid paying it because those people aren't on the list right now and you're mainly trying to deal with people who have been sitting there a long time and in that six months' time, you're certainly going to take care of those people. And ones that come on later, they get the new fee. So you can deal with it right here under the effective date and you just say that the effective date for people on the Upcountry system will be six months after the board starts going through the priority list. Or some other time, whatever time you pick. Pick a time. But don't make it open-ended because then everybody is going to jump on so they can tie in to the waiver of the fee.

MR. STARR: I have a comment. I wouldn't like to see that because there are some people who have been on the list a long time who have multiple meters who we're probably not going to be able to serve in this first round. And out of fairness to them, I feel that, you know, I would rather see the mechanism where they're locked in assuming they can accept the meters

when it's available to them. And it may not be six months, you know, there are people who have waited for numerous large meters.

CHAIRMAN RICE: Then we phrase the list as of

--

MR. STARR: Yeah, we would have to have a cut-off date, which I think even that date could be --

CHAIRMAN RICE: But I think the director's point is well taken because tomorrow there will be 3,000 names on the list and that won't be right.

MR. STARR: But I think that's an item that could be retroactive.

MR. TAGORDA: Well, that's precisely why we made the effective date October 31st which in effect, considering the time it's going to take the council and the mayor to consider and hopefully approve this,

that it wouldn't affect the retroactive by two or three months. The idea was to avoid a rush to the department applying for meters in the Upcountry area. That was the reason for it. It was a very good reason.

CHAIRMAN RICE: Yeah, but it didn't sound like that might fly even if it was a good reason. Yes, Howard.

MR. NAKAMURA: I think there is a couple of different issues here. I agree with the director and others that we want to avoid a rush of people signing up and getting on the list just to protect the old rate. At the same time, I think that there seems to be a feeling that the board wants to try to at least acknowledge those people who have been waiting patiently and I think the suggestion that the list could be frozen as of a certain date is one way to deal with that.

As a policy matter, the board would have to understand that the revenue that is being foregone is

fairly substantial. But if we agree that that's fair, I think we do need to at least take steps to either freeze the list or somehow use a mechanism that would stop an onrush of people just signing up for the sake of protecting the old rate.

CHAIRMAN RICE: Jonathan?

MR. STARR: Yeah, I feel that the list should be frozen for this purpose as of today.

CHAIRMAN RICE: And I can buy that because I think that there has been an inequity that's existed because of that list and this is -- the lost revenue notwithstanding, this is a fair quid pro quo for that. So I'm not worried about the revenue. And if we're all willing to say the list is frozen as of today, then we can write in the language that provides those people on the list a meter at the old fee and with the provisions that Board Member Starr provided. Kent, go ahead.

MR. HIRANAGA: My understanding is there was one legal notice published in the Maui News on November 2nd, 1994, if you wish to be placed upon the list; is that correct?

MR. CRADDICK: Yes.

MR. TAGORDA: Was there any criteria to determine if you get on the list or can anyone say I want to be on the list as long as you own property in the Upcountry area?

MR. CRADDICK: I'm not certain we've made any determination whether they own any property at the time they ask to get on the list. You're nodding your head yes, you know that they do own some property?

MR. CHANG: We have to accept their request by letter. There was a formal request made to the department, so with that in hand we just put them on the list.

CHAIRMAN RICE: Yeah, but that didn't necessarily indicate they owned property.

MR. CRADDICK: We have tax map keys --

CHAIRMAN RICE: Well, they may have provided it, but it wasn't a requirement.

MR. CHANG: By making a request, they would have to put a TMK.

MR. CRADDICK: So it may be the land is keyed into it.

MR. HIRANAGA: The people on the list are primarily people who want to upsize the meter?

MR. CRADDICK: Correct.

MR. TAGORDA: Who the lot was created after

1993? Subdivided after 1993.

MR. CRADDICK: Yes.

MR. TAGORDA: Or there is inadequate distribution or transmission through their property.

MR. CRADDICK: That has never been a criteria for denying because they can fix that up if they want to. They can get a meter --

MR. RICE: There could be people on that list who the reason they haven't gotten their meter is because of inadequate transmission to the distribution system.

MR. CRADDICK: No, not necessarily. If they can get a meter now and the line were inadequate, they wouldn't be on the list. If the line were inadequate and they could get a meter right now, subject to having a line adequate, and they have chosen not to make the line adequate, then of course they don't have

the meter and they're sitting out there off the list.

MR. HIRANAGA: There is only two categories of people on the list: People who want to upsize their meter or people who have created lots after 1992.

MR. CRADDICK: No, I believe there is ones on there that may want the first meter, too.

MR. HIRANAGA: But if they have an adequate distribution in front of their property, all they have to do is go to the window there and pay \$33.50 and they will get their meter.

MR. CRADDICK: That's true.

MR. HIRANAGA: Nobody has informed them that they can do that?

MR. CRADDICK: No, no, I'm pretty sure those ones have come in. If they can, they have.

MR. HIRANAGA: So there should be only two categories of people.

MR. NOBRIGA: Only one category. Only locals stay on the list.

MR. HIRANAGA: People who want to upsize their meters or who created lots after 1993.

MR. CRADDICK: That's correct.

MR. NAKAMURA: One other comment. On that last line, my thought is that the rule should be effective upon approval rather than 10 days after filing, if that's acceptable language to corp counsel. Again, just to minimize any rushing in to try to get a meter within that 10-day period.

The second question is to Howard, if we, for instance, grandfather in the people on the list, is that a substantive enough change that we need to go back to public hearing?

MR. FUKUSHIMA: I don't believe so. The test is there is a change and turn the proposal into an entirely new proposal. I don't believe it does in light of -- it's my opinion it does not require going back to public hearing, it is not a substantive change.

MR. NAKAMURA: Thank you. But I would like to request that the rule become effective upon approval.

CHAIRMAN RICE: Okay. Everybody good with that? Okay. Kent?

MR. HIRANAGA: If this language is agreed to, what's the next step?

CHAIRMAN RICE: We see a final copy and it goes to the mayor.

MR. HIRANAGA: I guess my concern is this list

has never been qualified or reviewed to determine if these people should be on the list or not. And you grandfathered them in for how long a period, 60 days after adoption?

CHAIRMAN RICE: What was your language on that?

MR. STARR: That they would -- when their name comes up, they would have 60 days to obtain their meter. I see a hand back there. A technical hand.

MR. CHANG: I just wanted to have an opportunity to speak after you did. I needed to make something clear. I just wanted to have Dave ask me because I was planning to update the list this month because it's updated every six months and October is the date to update, so there will be more names on the list.

CHAIRMAN RICE: I think the issue of list problems comes up -- I think that's a separate issue.

But we want to get the fact -- I know what you're saying, if they're not supposed to be on the list, is that what you're saying?

MR. HIRANAGA: They have no basis to be on the list.

CHAIRMAN RICE: We could write that in to the verbiage.

MR. HIRANAGA: I guess I'm more comfortable if this is handled in the committee that is scheduled for [inaudible] in a way we're going to be discussing it. I think I would prefer to just look at rates.

CHAIRMAN RICE: This has to go together with rates.

MR. CRADDICK: Well, if you're going to make some deferral for some people, then yeah, it has to be handled right here. But another issue I was going to

bring up is let's say when you offer the meter, you're saying they got 60 days to be able to put the meter in, is that what you're saying, Jonathan?

MR. STARR: Yeah.

MR. CRADDICK: Okay. So all the people with inadequate lines, even though they have been on the list for a long time period of time, don't have a chance to put the line in and get the meter.

CHAIRMAN RICE: I don't think that's what he meant.

MR. CRADDICK: Well, that's the effect of it. I'm telling you that so you're aware of that.

MR. NAKAMURA: It sounds like the present procedure is that you go in, you pay your meter fee, and then you have one year and the possibility of two six-month extensions. And I would assume that that same process would be the process in place. You go

in, you're offered your spot on the -- your name comes up on the list, you're offered the opportunity, you still have the ability to go in, pay the fee, and then you have the year or two years to actually install the meter. I think that's what we're talking about. I don't want to put words in Jonathan's mouth.

MR. STARR: Mr. Chair, may I recommend that if the Chair is willing to schedule a special meeting of the board on this matter and maybe the director's evaluation, you know, just two items possibly in two weeks after having time for us to get suggested wording on this.

CHAIRMAN RICE: Whatever you guys pleasure is.

What do you guys want to do? Do you want to see language and take it up again before it goes to the mayor? That's fine. Whatever you guys want to do.

MR. STARR: It's got to come back to us, so.

MR. HASHIMOTO: Isn't this going to be taken up by the council?

MR. CRADDICK: Not until you send it to them. But every day you delay will go into the next year.

CHAIRMAN RICE: Mike.

MR. NOBRIGA: I prefer for us to just issue an intent that we want to do something to financially assist the people that were on the list if I can get the majority of the board to agree on that. I'm just one person.

CHAIRMAN RICE: I think we all agree on that. I haven't heard any objection to putting it in there; it's just what we're putting in there.

MR. NOBRIGA: What we're putting in is too much of a scope to have to go all the way through this process and get an up or down vote. I think it would be better for us to ask the County Council to put in

the monies to issue the credits for these guys. Let's think outside the box.

CHAIRMAN RICE: Okay.

MR. CRADDICK: Got one and a half million in credits. They can do it.

CHAIRMAN RICE: So what would you like to see?

I think there is a general acknowledgment amongst the board members that we want to provide the meters to the people on the list at the old price -- at the current price. Okay. So the question then becomes as to how much detail we want to write into this document in that regard. And there is now a suggestion that it be less than more. And then you would have to handle the details in your rule?

MR. NOBRIGA: Yeah, that's fine.

CHAIRMAN RICE: That's what Kent wants. Kent,

you would prefer that?

MR. HIRANAGA: So you're going to make a general statement to assist people on the list financially?

CHAIRMAN RICE: That's Mike's suggestion.

MR. HIRANAGA: What are corp counsel's thoughts on that?

MR. FUKUSHIMA: Well, when he indicates a general statement, I'm not sure what he means by general statement. I would think that you would need specifics as to who, for how long, how much, da, da, da, that you're going to be waiving. I think there has to be a little more particularity than a general statement that we're going to help out financially people who are already on the list.

CHAIRMAN RICE: Mike?

MR. NOBRIGA: All I know is when you write one formal business letter, on the end you can put "P.S." The "P.S." don't have nothing to do with the body of the letter. There must be a vehicle or way that we get the rule and you going to "P.S." on the bottom. Oh, County Council, how about this? That's what I want to see. It's one. It's not in the thing, but it's one P.S.

MR. FUKUSHIMA: If it's not in the rule, it ain't in the rule. And it's not going to be effective. It's not going to be enforceable. And there is no point.

MR. NOBRIGA: Then get the next rule.

CHAIRMAN RICE: Okay. But, Mike, here's one of the problems that I heard last night was if the rule as proposed is not acceptable, i.e. it doesn't include any language that provides relief for the people on the list, then it might not pass and then

what happens is all the rate recommendations we're making doesn't pass. That's the risk you run by not having anything in there.

Now, we only heard from one council member, but we certainly heard from enough -- almost everybody else that was there had the same opinion about that issue. And you know, it just has to be defeated by a simple majority in the council and then it's gone and we've wasted our time. So I think we need to address it at some level.

MR. STARR: I also feel that probably the board is the one that should be kind of subsidizing them because we're the ones who are responsible for not making it adequate. So it would be hard to justify going to the council and expecting them to come up with funds for that when the council wasn't really involved in the system not being adequate; we were.

MR. HELM: Chairman Rice, I guess that's driving this is what's the drop dead date that we need

to get this to the council to meet the time limit?

MR. CRADDICK: There is no time. It's just that next year is an election year and you know not much is going to happen.

MR. HELM: Because I guess what I'm hearing here is we're spinning wheels on this matter and whether we need to focus on initially working with this on the rules committee or a special meeting so there is two opinions here that either it goes back to the Rules Committee to get work or we have a special meeting. Because I think we're going to end up going around and around with this. I don't know.

MR. MEYER: Is the person on the list or is the property on the list? If the property gets sold, is the property still on the list?

MR. CRADDICK: Yes. Yes, the property is still on the list. It doesn't run with the name, it

runs with the property.

CHAIRMAN RICE: Actually, I think Jonathan made the good suggestion. I think we've got to -- we ought to see a draft as we just discussed and then we'll meet again and look at it and finalize it and go from there. How about that?

MR. CRADDICK: How many are still going to be around for Jonathan's meeting -- or I mean Mike's meeting?

MR. HIRANAGA: It would appear to me that maybe after the Rules Committee meets, we could provide the council [inaudible].

CHAIRMAN RICE: He said perhaps after the Rules Committee meets following this, they can provide corp counsel with more guidance on language.

MR. NAKAMURA: Mr. Chairman, just so the procedures are appropriate, I wonder if we should

refer this proposed rule to the Rules Committee since they're meeting immediately hereafter and have them deal both with the specific wording for this and the special rule.

CHAIRMAN RICE: Well, we have it in this body right now.

MR. TAGORDA: Mr. Chair, may I comment? It's very simple, the way I see it. There is no substantial changes on the verbiage of this rule, it's only the rate increases that are really probably would concern the council and mayor. I think we should submit this as is and by that time the director or you probably can sit in their meeting, if you guys have the time, and see the changes that they want and we can come back right away to the board.

MR. CRADDICK: No, no.

CHAIRMAN RICE: I think we heard pretty

clearly we have to make some changes in the public hearing and I think we've just addressed those items. And I don't think it's a lot to get those documents -- the document changed to include those things. It's not.

So I would recommend that we ask corp counsel to get the language changed, circulate it again, and we call a meeting and get together, give our final stamp of approval and send it to the mayor.

I do think procedurally it makes sense not to show up at the council and say oh, here, we're on the agenda, here's this rule. I think we should get it in their hands in advance and talk to them and determine if there is a need to massage it because the process is one where yes, no, and then you've got to come back again. And there is a chance -- I mean, there is a -- procedurally, if you want to deal with procedurally, we could recess this meeting, keep it open until we come back to review the rule. But we only need six days to notice another meeting, so. How does that sound? Acceptable? Okay. That's what we'll do.

MR. STARR: Move to adjourn.

CHAIRMAN RICE: Let's finish up the meeting.

There is one other item on the agenda, the update on water issues discussed at public meetings.

This wasn't public meeting, but I did attend the partnership signing of the watershed partnership on Lanai recently and those people were very happy to have our money and work on protecting the watershed in Lanai. And the food was really good, so sorry you guys missed out.

Is there any other business to be brought before the board? Yes, Kent.

MR. HIRANAGA: There is another agenda item, Division Reports.

CHAIRMAN RICE: Sorry I missed that. Yes, go ahead.

MR. HIRANAGA: Can I make a comment? Is it

possible for us to receive this prior to the meeting so that if we do have comments, we could make it at the meeting that it's for versus a month later?

CHAIRMAN RICE: Good suggestion.

MR. CRADDICK: It's up to you.

MR. HIRANAGA: It's for the month of September and this is October 25th. So if you gave us information by October 15th.

MR. CRADDICK: We're collecting these -- last change in this was made yesterday.

MR. TAGORDA: Why would you make a change for something that happened in September?

MR. CRADDICK: The pumpage reports and stuff are as of September; not everything else. The other stuff is pretty much effective the date of what's on the letter.

CHAIRMAN RICE: Once we decide to make the change, thereafter everything becomes effective from that date forward. So I think it is probably helpful to the board to have it in advance and close the reporting as of a certain date, October 15th. Next month it's November 15th and so on and so forth so we get caught up.

MR. HIRANAGA: In time to review it prior to the meetings.

CHAIRMAN RICE: Good suggestion. Orlando?

MR. TAGORDA: Mr. Chair, can we ask the director for the next board meeting to give us some facts about Upcountry water, whether it's time for us to pull out the drought emergency declaration or not?

CHAIRMAN RICE: Good suggestion. So ordered.

MR. TAGORDA: Thank you.

CHAIRMAN RICE: Any other business?

MR. STARR: Move to adjourn.

MR. NOBRIGA: Second.

(WHEREUPON, the meeting was adjourned at 11:40 a.m.)

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