

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
SPECIAL MEETING
DEPARTMENT OF HAWAIIAN HOMELANDS WAIHOLI

Taken at the David K. Trask, Jr., Office Building,
2145 Kaohu Street, Room 207, Wailuku, Maui, Hawaii,
commencing at 8:30 a.m. on December 6, 2001.

Reported By: Rachelle Primeaux, CSR #370
IWADO COURT REPORTERS, INC.

ATTENDANCE:

Members Present:

Peter Rice, Chair
Clark Hashimoto
Orlando Tagorda
Mike Nobriga
Howard Nakamura
Kent Hiranaga
Jonathan Starr

Staff Present:

Ed Kushi, Corporation Counsel
David Craddick, Director
Fran Nago, Secretary
Herb Kogasaka, Engineering
Myles Fujinaka, Engineering
George Tengan, Deputy Director
Mike Quinn, Finance
Maria Isotov, Planning

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CHAIR RICE: Good morning, everyone. I would

like to call to order the special meeting of the Board of Water Supply. The date is December the 6th, 8:30 a.m., HGEA Conference Room 207. In attendance, Members Clark Hashimoto, Kent Hiranaga, Orlando Tagorda, Mike Nobriga, Howard Nakamura, Corp Counsel Ed Kushi, Director David Craddick, staff, members of the public.

At this time, we have a quorum, and we were going to have public testimony. I know there are people here who want to give some testimony, and there's not a list, so let's do it like this. Start on my left, and we'll move around the room like this, okay. So whoever is here outside of Akaku, anyone want to speak here, public?

If you would come up and state your name, I know you'll try and keep it somewhat brief. Let the record show Mr. Starr is present. Nothing has happened other than the call to order.

MS. GOMES: Members of the Board of the Water Supply, good morning.

VOICES: Good morning.

MS. GOMES: My name is Napua Gomes, and I'm Secretary to the Waiohuli Association. Thank you for having this special meeting to resolve the outstanding issues regarding the subdivision Waiohuli. On October 5th, 2001, Members of the Board of Waiohuli Association spent the day on site with Mr. Herbert Chang of the Department of Water Supply, Mr. Kirt Tanaka of RT Tanaka Engineers, Mr. Clifford Jamile, RT Tanaka Engineers' Consultant and Mr. Gerald Lee, Mr. William Makanui of the Department of Hawaiian Homelands as well as many others that were connected to what we believed to be the final testing for the water system. Except for the Kula Kai Makai booster pump which had an oil leak, the tests for the entire water system was a success.

Shortly after the testing, the Department of Water Supply, as a condition for recommending approval of the subdivision, wanted the Department of Hawaiian

Homelands to install a new water line from the Kula Kai tank to the Phase VI pump in Kula Kai, the cost a quarter of a million dollars.

I had thought this was to be an issue sometime in the future when the Department of Hawaiian Homelands Kula Developments exceeds its average daily allocation of 500,000 gallons per average day.

Reference: The Water Credit Agreement between the Department of Hawaiian Homelands and the Department of Water Supply dated December 9th, 1997.

I now understand that this is the reason why the Department of Water Supply is not recommending approval of the Waiohuli subdivision. The County of Maui blames the Department of Hawaiian Homelands of holding up the final subdivision approval. The Department of Hawaiian Homelands say that it is the County of Maui Department of Water Supply.

In these last five months, I have learned the meaning of patience. I thought it came with being a responsible parent and now a grandparent. I have found that it comes from dealing with people of empowerment. Last month, the subdivision of Waiohuli was filled with Hawaiian people. For the first time in almost 16 years, they were able to see their leased land. People of all ages held hands, prayed and enjoyed the simple things of life and each other. Some lessees have passed on. They will never share that same experience. Please do not deny them.

If there is pain in my testimony, it is because of the emotions of our people spoken through these carefully chosen words. It is my hope and the hope of all the lessees of Waiohuli that the Board of Water Supply will resolve the outstanding issues today and that the Department of Water Supply will recommend subdivision approval for the Waiohuli Development promptly after this special meeting.

Thank you for the opportunity to testify before you. In closing, I would sincerely like to wish you and everyone here and their loved ones a blessed holiday.

CHAIR RICE: One second. Any questions, Board Members? Okay. Moving from my left to right.

MR. ARTATES: Good morning, Mr. Chairman Rice and Board Members. My name is Perry Artates, Chairman of the Board of Waiohuli Homesteaders Association. This one development called Waiohuli Residential Lots started back in 1989 when the lessees were awarded these 291 one-acre lots. In early 1998, a contract was awarded to Kiewit Pacific Company for the value of approximately 22 million and completed in early 1999.

On August 16th, 2001, we the Board of Waiohuli Homesteaders Association as well as DHHL, MECO, LUCA, Board of Water Supply, Austin Tsutsumi & Associates, Tanaka Engineering and the County Department Administration Directors were called to a special meeting at the Mayor's lounge. Issues were discussed regarding the procrastinating delay of Waiohuli Development. It has come to this day as we still wait patiently to ask for your support, Mr. Chair and Board Members, to move and approve the cost sharing of this 1,000 linear feet of water line.

Kula community will benefit also, not just Waiohuli Development. We assumed that this 1,000 linear feet of water line may be built out in the future, for not all lessees will be occupying their land all at once. This item has only come up this year in July and was not proposed in the general plan. Our Mayor quoted, "I don't want to hear that the people are not on their land in two months." It's been four months already and going on three years since completion. We should be treated the same as any major developer who goes through the process of occupying and developing land, not making last-minute changes when we are so close.

Let the lessees move on their land after 12 heartbroken years. We have lost lessees meaning Hawaiians of old that who probably even waited 30 years or more to build a home in Waiohuli or even those who relocated somewhere in the mainland because of their wait.

We've been monitoring day by the day the issues that were holding this project up from installation of the flow limiter, booster pump testing, final walk-through by County water officials, DHHL and

engineers. The list goes on and on, and lessees passed on and on as well.

On November 17 and 18, 2001, DHHL staff, Austin Tsutsumi and approximately 284 lessees certified and located their property pins with their final plat number. It was a glorious day for everyone for these lessees for the first time saw, felt and smelled the environment of their aina. These lessees' faces glowed as expression of true aloha spirit were felt amongst everyone whom were there.

So in conclusion, Mr. Chair and Board Members, we humbly ask for your support in moving forward with this long awaited project so that our lessees can fulfill their dream and lay their heads to rest in Waiohuli.

Mahalo nui loa for allowing me to testify on behalf of the 284 lessees and their family.

CHAIR RICE: Thank you, Perry. Any questions for Perry? Thank you.

MR. ARTATES: Thank you.

CHAIR RICE: Good morning, Mr. Mayor.

MAYOR APANA: Good morning, Board Chairman, Members and Water Director. I'm here this morning just to give a little insight of what I know of what has transpired. Some months ago, the homesteaders came to my office and said, you know, things are getting kind of bogged down. They wanted to know what is going on. They wanted some straight talk. So we brought everyone in the room, my department, Hawaiian Homelands, the Water Department and this was somewhere in about August I believe. And we discussed some other issues that were outstanding. And at that meeting, we all had the understanding, and I still believe we have it today, that we'll do everything possible to get these people on their lands.

I mean the roads are there. We did upgrades to the County to the water system. We did everything possible to get us to this point. And with just a

little finagling or a little more effort I think we could have done it. And somewhere along the way because of information we gave the engineers or the way the engineers wrote the report and some of the understandings, we're here today because of a measly quarter-million dollars.

And so my office through Lance Taguchi, one of my executives, his job is to stay on top of this and figure out what's going on and through discussion with him and with the Department of Hawaiian Homelands, you know, for a quarter-million dollars, we're going to put infrastructure into the ground that the County of Maui will own anyway. We have three choices. We can somehow work out a compromise to figure out who pays for what and somewhere near 50/50 I think is the proper stance.

We can go to court and point fingers to see who is wrong, spend a whole lot of money on lawyer fees and other things, for a quarter-million dollars, probably won't pencil out to be a smart decision. Or the third thing is we can do nothing and just pretty much lie to our people. That's the three options.

I just want to say as the County of Maui, as we look at building infrastructure, let's take, for instance, the fire station. Why does one town have a fire station over another? Because it's needed. But why do we spend so much money on fire stations? Because we want to make sure that our residents have protection. They can reduce their fire insurance. It's very similar in Hawaiian Homelands. We're going to allow people to move from wherever they are onto Hawaiian Homelands. And as you all know, when you do finally get your piece of property, you finally move on, your cost of living goes down because their housing becomes very, very inexpensive. And it really gives them purchasing power. So every time we delay, what are we doing? We're just asking these people to pay more for something they shouldn't have to. We should get them on the lands, reduce their cost of living, give them purchasing power, let them use their money for education for their children, for whatever they want, whatever they decide.

And I think spending, I think we're squabbling

over about a quarter-million dollars total. It's not worth the agony to put them through that because in the end, when you look at the financial figures, we actually lose money the longer we wait. So I hope that some type of decision could be done today. I just want to say in closing this past year has been a good year for the Water Department and the County. And I think next year is going to be more exciting as we work towards securing more of the water sources under the County or Board of Water Supply jurisdiction, and we can really control our future of this County. And that's pretty much it.

CHAIR RICE: Thank you, Mr. Mayor. Any questions from the Board?

MAYOR APANA: Okay. Thank you very much.

CHAIR RICE: Mr. Peters.

MR. PETERS: Good morning, everybody. My name is Angus Peters. I'm just here to show concern about the Hawaiian Homelands up in Kula. I'm one of the lessees there, and I walked through all the testing that Napua and Perry and everybody did in the past. But I'm here to ask if there's any way you folks can help us or come to some kind of agreement real quick so we can get on the land. We always had talks about upcountry don't have enough water, upcountry don't have enough water. We always have those kind of talks for a number of years, for the last 20 years, and they kept on building buildings up there. They kept on making subdivisions, you know.

And somehow water was still provided. And today the Hawaiians want to get on their land to malama the aina. There's a stop. There's a holdback because of water. But the good thing about all these droughts in the past, nobody died of thirst, nobody died of thirst, yeah. So today if you folks can help us in any way to get on the land, please help us. Thank you.

CHAIR RICE: All right, Mr. Peters. Any questions of Mr. Peters? Question of Mr. Peters?

MR. STARR: Yeah, Mr. Peters, it sounds like you have a concern that it's lack of water that's holding the issue up. And I just want to assure you that there is water for Hawaiian Homes, and that is not an issue. There is water for Hawaiian Homes, and it will be made available. So there's not -- it's not a factor of shortage of water upcountry at all for Hawaiian Homes.

MR. PETERS: I thank you, Mr. Starr. But I'm just asking any way we can get on the land regardless of water, if anybody can sign one paper. We're trying anything. That's why I'm here asking, maybe begging, I don't know, but I thank you for that, sir.

MR. STARR: That's why we're here today.

MS. ENGLISH: Aloha, my name is Leni Hokoana English. I also am a Waiohuli Hawaiian Homestead lessee, and I probably represent one of the younger, if not youngest, leaseholders at this point. I put in my application with the Department when I was first eligible, so although I look young, I would like to say I am getting very old. And I know that there are many kupuna, and I'm speaking old kupuna, who have waited many, many years to finally get to this point where they are able to fulfill a dream of a lifetime.

I know that the Department of Hawaiian Homes, the County of Maui have already provided many -- I don't even know how many millions of dollars to put the infrastructure in to get this close to the point where the 300-plus lessees are able to finally build their homes. And like many of the prior folks have testified, we are confronted with barrier after barrier after barrier.

And I would like to say that I'm hopeful that this is the last barrier that we have before us, and it is my understanding that to me after all the millions of dollars have been put out, a

quarter-million dollars or whatever that cost is, seems to be very minute to be holding up final subdivision approval. Christmas is upon us. The new year is upon us. What a wonderful way to gift those who have waited so long.

And I'm not going to try to pretend to know what the minute issues are between the Department of Hawaiian Homes and the Department of Water Supply and how the Board of Water interfaces or has whatever authority to make to do whatever needs to be done to get the final approval for the subdivision. However, I would like to appeal to the Board to request your support in whatever way you can to make this possible, approve whatever funding needs to be provided.

I was very happy to hear that our Mayor is in support of doing what needs to be done. He has stated it. His appearance here shows his support, so again, I appeal to the Board of Water to make the decisions to support the final approval for our subdivision. Mahalo.

CHAIR RICE: Thank you, Leni. Any questions? Thank you. Any other public testimony at this time? Yes, ma'am.

MS. DAVIDSON: Aloha kakahiaka. I'm Kealoha K. Davidson also known as Jo K. Davidson. I'm here as treasurer of the treasurer of the Waiohuli Homesteaders Association, and I would like for the Board to consider the Mayor's suggestion. I think it would be hopefully feasible for DHHL to consider and that is all I want to say. Have a good day and Merry Christmas.

CHAIR RICE: Questions? Okay, thank you.

MR. NAONE: Aloha, my name is Jeremiah Naone. And I know I don't look mad, but I am. I am pissed. But I'm grateful for you guys for being here. Every Hawaiian that you see that has lost faith smiles because that's Hawaiian. Every Hawaiian that you hear are smiling again, but in my heart, I feel. You guys

know how long this has been dragging on. You guys know what's right.

Do what's right if you have a Hawaiian spirit in you. You all come here wanting to be Hawaiian, and that's true. Then let's do it. Be Hawaiian. Don't go back. You guys have the energy. You guys have the power. And if you guys don't, go get it. Don't slack off. We need your help. We cannot do it on our own. We're crying.

I might look like a criminal. Some say I do. But I'm going to tell you this. I'm still Hawaiian. I still feel. I like to cry sometime. I can feel the spirits coming to me and telling me, "Do it, tell them." You guys going to be punished for this, not here, but you guys all know where. Every one of you will be there, and I will stand there and tell them what you have done. Thank you very much.

CHAIR RICE: Sir, any questions, Members of the Board? Thank you.

MR. NAONE: You're welcome. Aloha.

CHAIR RICE: Any other public testimony? Okay. Mr. Craddick, Mr. Soon and Lee, would you enlighten the Board as to the minute details that were referred to and the issues before us, please.

MR. CRADDICK: In the package that the Board got, there's a letter from Hawaiian Homes to me. And the item that we're dealing with is Item Number 2 in that letter. And I'll just read it here. It says, "DHHL and DWS will equally share the cost of the development of a new water line from Kula Kai reservoir to the Phase VI pumping facilities, exclusive of, but not limited to, design, construction, securing easements to the private property. DHHL will design, construct and secure the easement for the project. DWS will grant to DHHL a dollar-for-dollar credit for the DWS share of the cost to be applied to offset any water system development fee for this project. This item is contingent upon

the approval of both the Board of Water Supply and Hawaiian Homes Commission. We both agreed to work diligently and immediately in acquiring these approvals."

These letters were November 21st. Today is the 6th of December, so that was as diligently as I could get it to you. I'll go over my letter also. Okay. Again, reiterating, "DHHL has offered to construct a separate water line from the Kula Kai tank to the Phase VI Kula Kai booster pump station subject to the Board giving the DHHL half the cost of the line in dollar water system development fee credits to be used as DHHL requires.

Resolution of this matter is needed by the DHHL before it can allow its lessees on the land. The cost to the Board would be in the form of water system development fee credits in a dollar amount to use as they see fit. Additionally, the DHHL will need to be able to use the excess transmission dollar credits for source credits."

And just let me go over that one. I handed out to you, it wasn't mailed to you, but I handed out the actual water system development fee agreement from 1977. If you go to the item Page 4, Item 2, DHHL water credits, and I'll skip that first paragraph there, but the second paragraph says, "Source credits, no source credit is given. DHHL or the appropriate applicant will pay the source component of the water development fee for DHHL homesites in Maui when DHHL or applicants request the installation of each water meter. No source development credit payments shall be required by DWS in advance of applying for a water meter."

Then Item B goes on talking about the source and storage credits, and then on Item C on Page 5, it talks about these additional credits. "DHHL shall receive from DWS an additional 1.5 million credit as set forth in Exhibit 4. And if you see, Exhibit 4, it's the booster station that we're talking about right now. And what they want to do is be able to -- well, it says here for increasing storage, transmission and storage capacity beyond current and planned DWS and future DWS and DHHL needs. The 1.5

million credit may be used to offset the water system development fee on a dollar-for-dollar basis and then it says for other subdivision projects, meaning not Waiohuli/Keokea. And I believe they want to be able to use these for Waiohuli/Keokea, because even if the Board agrees to this project today, the project is not going to be built today.

So the credits would not be available until it's built, so they're wanting to amend this part of the agreement to use that 1.5 million for Waiohuli/Keokea and include it. I'll go on with the rest of this.

"This matter rose out of an operational problem with the booster pump improvements provided by the DHHL at the Kula Kai tank." And I'll go into those issues there. Number 1, "DWS staff provided information that has been found to be inaccurate. In addition, the DHHL made decisions that have turned out to be problematic in the operation of the booster station." And the basic issues that I see are when someone builds onto the system, they can only be allowed when done without detriment to existing customers.

"DHHL chose to locate the pump station on Board of Water Supply land to save costs rather than locate the pump station downstream of our pump station." That's Phase VI pump station.

"DHHL chose to locate the storage tank that the booster station feeds to below the hydraulic grade line of the transmission line. This serves to put a vacuum on the transmission line that the pump station must overcome as well as providing positive pressure so the line does not go below 40 pounds pressure. The transmission line friction factor provided by the DWS was not verified and turned out to be inaccurate. The combined effect of the wrong friction factor and location choices for the improvements constructed by the DHHL resulted in a pump station that will not work when the DHHL project is fully built out."

We were requiring the DHHL to put in a separate line to the booster pump station; thereby, eliminating this demand from the DHHL's pump station with pro-rata cost sharing according to future demands. Now, it's difficult to determine what those pro-rata costs will

be out in the future, and that's why in a compromise between Ray and myself, we each decided to go to our respective boards and present this 50/50 cost sharing. And then further, they came back and said the Water Board will not have to pay out-of-pocket to build this line, but they'll take credits for it.

So basically, these credits I would expect would spread over the probably 15 or so years before everybody moves into this project. So should the Board be willing to accept this offer, because we don't have an agreement sitting right in front of you with these amendments to the existing water credit agreement, we would ask that you give authority to the Chairperson to sign an amendment with these features covered.

Number one, that they get 50 percent of the credits for this project, and as the Mayor said, we expect it to cost somewhere between a quarter-million and maybe a half-million dollars, and change Item C of the existing agreement to allow the existing additional credits that they have to be used for the Waiohuli/Keokea project. And that's basically it.

CHAIR RICE: Members of the Board, we had another meeting at 9:00, so I'm going to recess this meeting if there's no objection.

(Recess taken.)

CHAIR RICE: Call back to order the meeting on the Hawaiian Homelands. Okay, Mr. Soon.

MR. SOON: Chair Starr and Members of the Board of Water Supply, thank you very much for holding this special meeting. I didn't come prepared to argue the detailed differences between what we did, they did, who said what, who said this. I think the bottom line is we feel that we can move on if we get people on the land. David and I have worked out an agreement that I think works. We did discuss it with the Mayor.

I'm really here to answer any questions. I'm

not here to dispute anything. I will say that everything we did along the way was in partnership with the Board of Water Supply. We appreciate your support.

CHAIR RICE: Mr. Starr.

MR. STARR: You know, apart from the issue of dollars, credits and all of that, what is needed to be done on the part of the Board or Department to expedite people being able to get onto the land? You know, let's put aside the issues of, you know, money and credits and just say what can we do at this point to get the people as expeditiously onto their property as possible?

MR. SOON: If you agree to the proposal made by Mr. Craddick, as I understand, he will sign off on the subdivision agreement. That goes immediately to DLNR, and we have already worked that side of the table. That's really all you need to do is to vote to agree to this compromise that we've come to.

MR. STARR: To just clarify what we need is for the Director to sign off on the subdivision approval; is that correct?

MR. SOON: That's correct.

CHAIR RICE: Mike.

MR. NOBRIGA: I need assistance with this because I have identified six matters that are before this body, not in any particular order, but let me go through this list, and you guys correct me if I'm wrong.

First is we need to agree to the amendment of 1997 agreement. Second is something to do with the booster pump that, I don't know, that doesn't work properly or something. Three is a request of an extension of a transmission line. Four is agreements to use first transmission credits for the construction

of the transmission line. Five is approval of the subdivision of Waiohuli, and six is the other applicants on the Director's waiting list for meters upcountry.

CHAIR RICE: Mr. Starr.

MR. STARR: Mr. Chair, I want to comment that I'm very upset about this whole issue being before us. And there are two occasions in the last six months, one was on a site inspection by Operations Committee that went through part of the system, and then a couple of months later where I had asked the Director whether there was anything relating to the Board or Department that was holding up the project. And both times I had been told no, you know, we've done everything, that it was simply a matter of DHHL and their contractor and some technical matters with the booster pump and that it wasn't involving us. And I'm, you know, it saddens me to find out that that was wrong information and that we are at this point and have been holding up the Waiohuli project and the ability of people to get on the land.

You know, I want to be sure that whatever happens today we, you know, we don't hold the project up anymore. You know, it sounds like, you know, it sounds like this is a good compromise, but, you know, it may be complicated. It may have to be written out and dealt by the attorneys. The Hawaiian Homes Commission is not a fly-by-night organization that's going to disappear.

I feel we can, you know, work on that matter, you know, and get the I's dotted and T's crossed, but I just want to be sure when we leave here today, the first act that the Director does is to sign off on the approval of the subdivision, because we do not need to hold Hawaiian Homes hostage. We do not need to hold these people hostage. Fate has done that for much too long as it is.

So whatever happens today, let's separate out the issue of their subdivision approval, because, you know, these corrections in the system are not needed today. They'll be needed in a couple of years. And,

you know, we can work on the documentation while these people can get into their lands.

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

MR. TAGORDA: Mr. Chair.

CHAIR RICE: Yes.

MR. TAGORDA: Can I ask a question. Why is it that DHHL doesn't want the lessees to the land get into the land for what reason? Because you want the problem to be solved first, is that what it is, the new transmission line should be in place?

MR. SOON: Like any developer, private or public, at the end of the day, the infrastructure, roads, water lines, et cetera, they get passed onto the County property. And in our case, it's a little bit more complicated, and the bottom line is the same thing that occurs, that doesn't occur. We don't take responsibility for it. And that's what the subdivision signed off on.

And so if we were to get onto the land and something were to happen, the responsibility for anything that occurs would come back to us, would go back to the trust. Again, we're just asking in the fiduciary manner that any developer does, and that is get all of our approvals, get it all settled, get it all finalized before we allow lessees onto the land.

We already have some compromises in allowing access before the subdivision was approved. We are as anxious as they are to get final subdivision approval so we can permanently move on. I don't think any of us, none of you on the Board, certainly none us at DHHL wants to hold this up any farther. If you go up there, the infrastructure is done. We're talking about a line off-site that we can deal with separately.

MR. TAGORDA: And I kind of listened to the

Mayor's comment, and he mentioned about the 50/50 cost sharing of this water line. And I kind of tend to agree with that, but my problem is for DHHL to get some transmission credit and dollar -- or half of what you guys are going to spend for the transmission line; is that right?

MR. SOON: Uh-huh.

MR. TAGORDA: But if the Board will probably just compromise that we share the cost of that water line, you folks don't --

MR. SOON: No, we agree.

MR. TAGORDA: You agree without the water credits, that's what I'm talking about?

MR. SOON: Without the water credits?

MR. TAGORDA: Yeah. Because if I -- I don't want both parties to be pointing fingers. I know mistakes have been done in the past about this project. You need to correct the problem before the Department will have to give you the final subdivision approval. And they cannot accept a flawed project. That's why these thing came out. So now because of the water credits that you folks are asking, I have a little bit of problem with that though.

CHAIR RICE: Okay. Mr. Craddick and Clark and Howard.

MR. CRADDICK: In this situation here, this is a compromise that I'm recommending to the Board. Now, they agreed that they would do a pro-rata share later on. The problem is determining a pro-rata share later on, when a pump line is needed, it's argumentative because you're, number one, you're trying to shoot for a moving target; number two, you're doing this design for speculative demand that you're trying to guess what the system will require to determine that

pro-rata share.

That speculation we're moving aside, and we're saying let's just share it 50/50. And they just came back and said, hey, Water Department, you're not going to have to take anything out of pocket. We'll do it all. We just want some credits for half of it, which is that pro-rata share. To me, Orlando, we would have to pay a share anyways because some of that improvement is going to be part of our demand also.

MR. TAGORDA: Okay. To expedite the matter, Mr. Chair, excuse me, to expedite the matter, David, these people here, can they go in tomorrow and build what they need to build without doing anything right now because you won't feel the effect of that flawed construction that's not been done?

MR. CRADDICK: That's correct.

MR. TAGORDA: Okay. So --

MR. CRADDICK: I don't want to say tomorrow.

MR. TAGORDA: What I mean is expedite the matter.

CHAIR RICE: I want that question answered clearer. That was my question. So if we were to give subdivision approval, the lessees could move into their land. And I'm assuming that whatever other approvals you need to get, you can. And I'm talking about, yes, the answer to that question is question yes?

You say yes.

You say nothing.

MR. CRADDICK: Well, are you saying without agreeing to something here?

CHAIR RICE: No, no, I'm saying without doing any other physical improvements.

MR. CRADDICK: We don't have to do anything physically today, that's correct.

CHAIR RICE: That was your question?

MR. TAGORDA: Yes, thank you.

CHAIR RICE: Okay, Clark.

MR. HASHIMOTO: My question is along the same lines. Can we ask corp counsel to see what needs to be done so we can expedite because Mr. Nobriga, we have all these issues that need to be settled. And we can't -- you know, we all agree that we want Hawaiian Homes to move in. I've been asking for the last six months when they're going to move in. And this is just as frustrating for us as it is for them.

But how can we legally do it that will expedite the process as fast as we can so they can move in and get approval? We can make a motion, but will that suffice?

CHAIR RICE: Go ahead, David.

MR. CRADDICK: Again, the adjustments that were made to the booster pumping station are such that the pump station will now operate without cavitating. We know 400 families are not going to move in; if I sign the agreement today, they're not going to move in tomorrow. So we know that demand is not going to suddenly jump up in the next one or two years. So there's no problem with them moving in and this thing being constructed.

But before the total build-out of this, it will have to be constructed so as to not affect the existing customers. So this is an outstanding issue that needs to be resolved where the rules require when we approve a subdivision, it's without detriment to existing customers. That's what you're trying to resolve here now is without detriment to the existing customers.

If you say we're going to do this agreement,

then there's no problem. We don't have to have a signed agreement right now today. As Board Members said, Hawaiian Homes is not going away. But as long as there's a meeting of the minds, I can certainly sign off on that subdivision agreement.

CHAIR RICE: You said without detriment to existing customers. You mean without detriment to existing customers years down the road?

MR. CRADDICK: No, existing customers now when they're fully built out.

CHAIR RICE: But they're not going to be fully built out, that's what my point is. Howard had a question.

MR. NAKAMURA: I'm just trying to understand the sequence of events here. If we approve this agreement, that would then permit the Department to grant final subdivision approval, which would then permit Hawaiian Homes to get building permits for the project?

MR. SOON: There's a step in between, the Bureau of Conveyances.

MR. NAKAMURA: The lots have been conveyed to the lessees already, and they're waiting to move onto the property and start building?

MR. SOON: The building permits come from the County.

MR. NAKAMURA: Right.

MR. SOON: The building permits come from the County. And so after your approval and LUCA's approval is the final sign-off. Their approval comes to us, goes to Bureau of Conveyances, and again, that's a couple of days at the most, comes back to issue permits.

MR. NAKAMURA: And so when will this line actually be built?

MR. SOON: Probably over the next six months.

MR. LEE: It has had to be designed first. We have to get the easement through Haleakala Ranch, and I expect design to be under construction within a year.

MR. NAKAMURA: So if there are users, if there are occupants on the property, people residing on the property and the line has not yet been completed, is there a any kind of negative to that, David?

MR. CRADDICK: We don't -- with the design that's there right now, we don't -- realistically, we don't see -- even if 100 people moved in each of these two years, there wouldn't be a problem.

MR. NAKAMURA: Okay, thank you.

CHAIR RICE: Mike.

MR. NOBRIGA: So the -- let me ask Mr. Craddick the points of Mr. Soon's letter to you of November 21st, are you saying that that is acceptable?

MR. CRADDICK: Yes.

MR. NOBRIGA: With no additions, the additions to this letter, to Mr. Soon's letter?

MR. CRADDICK: I don't believe there's anything additional. They talked about the easements, if they're going to get the easements and things like that. I think the easement for the transmission line going to Naalae Road over to Hawaiian Homes is something, but again, I don't see that as being an issue that would hold this up.

MR. NOBRIGA: Mr. Chairman, I'm prepared to make a motion to accept provisions of this letter.

CHAIR RICE: Subject to final review by corp counsel.

MR. NOBRIGA: Yeah, all that stuff.

MR. HASHIMOTO: Second.

CHAIR RICE: Okay. Now, we have a motion to accept the proposal as submitted, and we're talking about Mr. Craddick's proposal?

MR. NOBRIGA: No, Mr. Soon's proposal.

MR. CRADDICK: That's not going to cover it, Mike, because they want to be able to use the transmission credits additional I think for source credits, so that has to be part of it.

CHAIR RICE: Okay. We have a motion and a second to accept this, Mr. Soon's letter.

MR. NOBRIGA: Yeah.

CHAIR RICE: Okay, discussion.

MR. STARR: Yes, Mr. Chair. I want to be clear that if the motion passes, that the Director will forward his approval of subdivision on this very date. I would like to hear that from the Director. Is that a yes?

MR. CRADDICK: Yes.

CHAIR RICE: Okay. So your question was would the Director upon approval of the motion sign off on the subdivision approval, and he said yes?

MR. STARR: Today.

CHAIR RICE: Today, okay. Mr. Soon, has the -- I guess one of the comments in the letter was it needed approval by this Board and the Hawaiian Homes Commission. Has that been approved?

MR. SOON: The -- in my discussions with the Attorney General, I have the authority to approve this. The reason for the requirement that it go to the Commission is that this is the largest project we've ever done, 22 going on \$23 million. I have, therefore, kept my commission informed of every decision when it's made; however, I have told them by phone this is a decision I have the authority and I will make. And if you approve this, we're approving it. It will be reconfirmed December 18th, but I can almost assure you that it won't be returned.

CHAIR RICE: Okay. Well, that's a weight to rest on your shoulders I guess. Okay. Now, the Board understands we're voting on approving Mr. Soon's letter, the terms of Mr. Soon's letter. The Board understands that we have not addressed the source credit issue yet, okay, that's not part of the motion. Okay. I see some hands still. Go ahead, Kent.

MR. HIRANAGA: I just wanted to comment at a subsequent meeting I would like to get a better understanding as to the chain of events that led to this situation if the Department can provide that to us.

CHAIR RICE: Mr. Craddick.

MR. CRADDICK: Okay.

CHAIR RICE: Mr. Starr.

MR. STARR: Yeah, it's my understanding that as soon as possible in a committee, we can do what

Mr. Hiranaga requested, and also we can deal with whatever other issues are required regarding credits or any other housekeeping matters related to this.

MR. CRADDICK: No, no, that's not correct. If we're going to sign off on this subdivision and these people are going to move in tomorrow, the existing agreement says they have to pay the source portion of the development fee. I believe Hawaiian Homes wants to credit them for that. They cannot credit them for that if they have no money to credit them with. So I believe they want to be able to amend. That's why I have that sentence in my letter, "Additionally, DHHL will need to be able to use the excess transmission dollar credits for source credits."

That issue has to be dealt with I think right now, otherwise, all of these guys are going to be paying the source portion of the fee out, and I think that's something that they want to resolve, I think. I don't know.

MR. STARR: Mr. Chair, I believe I had the floor, Mr. Craddick, so let me continue. It's my understanding that we are approving that in principal with the motion.

CHAIR RICE: That's why I clarified the motion. The motion does not state that. The motion states that we are approving the terms of the letter provided by Mr. Soon to Mr. Craddick that is dated November the 21st, and unless I missed something, I don't believe that's in there, is it?

MR. CRADDICK: No.

CHAIR RICE: Okay. So I wanted to make sure that the Board understood what they were voting on, what the motion is, so it can be dealt with in a second motion. And it can be dealt with now, but that's up to you. Mr. Nakamura had a question.

MR. NAKAMURA: I just wanted to ask Mr. Soon to

clarify this, the line will be built in the forthwith, within a year or so, it will be started, could you confirm that?

MR. SOON: I hate dates. I mean it keeps pushing us back. We fully intend, we know it's the need of the Department and the Board of Water Supply. We've already discussed amendments to our engineering contracts. Are we going to break ground in a year? I sure as heck hope so. I don't know that anymore than assuring you that we will put every effort into it.

MR. NAKAMURA: That's it for me. One comment, Mr. Rice, in addition to that.

CHAIR RICE: Go ahead.

MR. NAKAMURA: I really strongly support this motion, and I guess one of the reasons is that one of the gentlemen testified, said we needed to look into our hearts. But because if we look into our minds, it's very difficult to support this because I think we don't have enough information as usual. We don't have any maps. We don't have any background, and I think this is clearly a case where we look at the participants, the Department of Hawaiian Homelands and I think we're proceeding on faith.

But I really think that we need when we're asked to do something like this on such short notice, you know, we need to have more information and we need to have a better analysis and we need to have maps and it's real difficult, but nevertheless, I'm prepared to support this project.

CHAIR RICE: Any other questions? Just for point of clarification. I did hear Mr. Soon say when asked a question earlier that he didn't anticipate construction of this line to start for a year, until a year, so we heard six months, but that's not what he said. Again, the Board realizes the voting on this letter, what's contained in this letter, it does not deal with the source credit issue. Ready for the

question. All in favor, say aye.

VOICES: Aye.

CHAIR RICE: Opposed, say no.

(No response.)

CHAIR RICE: Motion is carried. Mr. Nobriga.

MR. NOBRIGA: The issue of amending the water credit agreement, I did not include that in my first motion because I didn't feel that was needed for the Director to sign off on approval of subdivision. I understand that Hawaiian Homelands would like to amend the water agreement, water credits agreement, and I would have no problem supporting such amendment, but I would prefer if I saw the amendment in writing before making a motion to approve an amendment. I mean it's kind of hard to approve an amendment when you don't know what the amendment says.

MR. CRADDICK: I can handle that right now. All it will do is delete the words "For its other subdivision projects." It will say, "On a dollar-per-dollar basis for projects in the County of Maui where the DWS system is adequate and water is available," so that wording "For it's other subdivision" would be deleted. That's all.

MR. NOBRIGA: What page were you on?

CHAIR RICE: Mr. Soon.

MR. CRADDICK: Page 5.

CHAIR RICE: I have to agree with Mr. Nobriga. It's awfully hard for us to vote on an amendment to an agreement, existing agreement that's not been presented and has not been reviewed by the corp counsel. And I think that we have put in motion what

is necessary for the lessees to get subdivision approval, and it appears that there are other issues that we have to work on with regard to this.

MR. STARR: Mr. Chair, I don't even have a copy of the original agreement, so I have no idea what we're even amending. My brain doesn't work that fast, I'm sorry. You know, I think -- in principal, I think, you know, I would certainly be supportive of it but I do want to be sure we do it in a legal and proper way, and we can handle that in a committee. That's a matter that another week or two won't affect, won't affect anyone in any way assuming that the Director does keep his word and issues a subdivision approval today, which I just want one final confirmation that he's going to do, David.

MR. CRADDICK: Yes.

MR. STARR: Say it loud.

MR. CRADDICK: Yes.

CHAIR RICE: Let the record show Mr. Craddick answered in the affirmative.

MR. SOON: Mr. Chair, I agree with Mr. Starr, we can take it up at a later date. I would request that the Board Member asked for a detailed discussion of the events that led to the point we're at. We would like to participate. We have spent somewhere on the order of \$65 million in Maui County in the last five years. We expect to spend at least 20 more in the next two years, so there's an ongoing relationship that we would like to grow and foster based on your understanding what we're doing right, what we're doing wrong and our relationship with the Board, with the Department of Water Supply as well as the Board, so if we may have not participated in parts of the discussion, we intend to.

CHAIR RICE: Mr. Soon, I think speaking for the

Board, we would be happy to have you participate in that discussion, so we will notify you at that point, and so the motion is passed. We're going to work on the source credits, and the committee will come back to you. Any other issues with regard to this?
Meeting is adjourned.

(The meeting concluded at 9:30 a.m.)

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[\[Back\]](#)