

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

COMMITTEE OF THE WHOLE MEETING

Held at the HGEA Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 207, Wailuku, Maui, Hawaii, commencing at 10:45 a.m., on December 19, 2001.

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

IWADO COURT REPORTERS, INC.

A T T E N D A N C E

CHAIRPERSON: HOWARD NAKAMURA

COMMITTEE MEMBERS: KENT HIRANAGA

MICHAEL NOBRIGA

PETER RICE

JONATHAN STARR

ORLANDO TAGORDA

DIRECTOR

DAVID CRADDICK

DEPUTY DIRECTOR

GEORGE TENGAN

DEPUTY CORPORATION COUNSEL:

EDWARD KUSHI, JUNIOR

BOARD SECRETARY:

FRAN NAGO

ENGINEERING:

HERBERT KOGASAKA

ALSO PRESENT:

ELLIOTT KRASH

WARREN SUZUKI

IWADO COURT REPORTERS, INC.

TRANSCRIPT OF PROCEEDINGS

BOARD OF WATER SUPPLY

COMMITTEE OF THE WHOLE MEETING

DECEMBER 19, 2001, 10:45 A.M.

CHAIRMAN NAKAMURA: Okay, I'd like to call the

Committee of the Whole to order. It's Wednesday, December 19,

2001. It is 10:45 in the morning. We are meeting in the HGEA

Conference Room, room 207, in the David K. Trask office

building in Wailuku.

In attendance this morning are committee members

Orlando Tagorda, Jonathan Starr, Peter Rice, Mike Nobriga, Kent

Hiranaga, and myself, Chairman Howard Nakamura. Director David Craddick, Deputy Corporation Counsel Ed Kushi, Junior. Members of the staff, and Elliot Krash and Warren Suzuki.

We have minutes that had been previously mailed out. What is the pleasure of the committee regarding the minutes?

MR. NOBRIGA: Move the minutes be received subject to 30 day review. If there's no corrections, the minutes be filed.

MR. RICE: Second.

CHAIRMAN NAKAMURA: Moved and seconded that the minutes be received. All those in favor signify by saying "aye."

(a chorus of ayes).

Opposed?

(None).

The motion is carried.

We have one item on the agenda today, which is the

issue of source adequacy Upcountry. At this time I would open the meeting for testimony from members of the public who wish to be heard. Elliot?

MS. KRASH: Good morning, Mr. Nakamura and members of the committee. My name is Elliot Krash and I'm speaking today for the Kula Community Association. I don't have testimony, I have questions. But I was just handed this document that you prepared, Mr. Chairman, with additional information, and it might answer some of those questions so it might not be appropriate for me ask my questions now.

CHAIRMAN NAKAMURA: You can do either, Elliot.

MS. KRASH: Then I will run through them quickly. I was basing my questions on the September 26th document from Director Craddick to the Chairperson and Members. That's dealing with the Upcountry water system.

In the second paragraph of that document there's a statement "existing sources exceed current demand." My question there, and throughout this letter, is can we deliver

that water where it needs to go? We have three different Upcountry systems, and can the water get where it needs to go?

The second question is in the paragraph that's at the bottom of that first page. There's a statement that we're "able to meet peak day demands during low rainfall." Do those estimates for peak day demands accommodate unusual or unforeseen needs or demands? For example, broken lines, fire pump failure, et cetera. In other words, do we have a factor built in?

My third question deals with the drought availability on H'Poko wells. The statement at the top of the page, "1.5 million gallons a day would be available then." My question there is, for how many more years do we anticipate that we will be able to use the water from those wells, how long will they be available for the Upcountry system, when do they need to be dedicated to the central system?

My fourth question is, further down page 2, item one, commitment to the Hawaiian Homelands. Is that commitment of half a million gallons a day based on what we need right now, what we will need this first year, or is it what we will need when there's full buildout.

My fifth question deals with the ag park, that's

item number four of those factors, and it's also in the last paragraph on that page. "We say that ag park demand is one million gallons a day." That I assume is the average day demand, but is there a peak day demand for the ag park in dry, windy, hot weather? Does the ag park need more water than one million gallons a day?

And my sixth question, well, it's that same question, and it's incorporated in the top paragraph on page three, the ag park demand, the ag park need. Because we are using that figure of 1 million gallons a day in several calculations here, and we come up with a bottom line "excess of 0.4 million gallons a day." Will it really be that excess if the ag park needs more in dry, hot weather? Thank you.

CHAIRMAN NAKAMURA: Okay, David, I trust you were paying attention. Would you like to respond?

MR. CRADDICK: Yes. Although I put the numbers in there for the ag park, it's totally separated from the domestic water system, and it is almost irrelevant what their demand is. And the million gallons actually is the peak number that

they use. Their average is around slightly over half a million gallons a day. So they're well covered in there.

And for the rest of the system, there is a built-to-deliver the water pretty much anywhere in the system. The transmission systems, storage tanks and things like that are in place. Some of them were probably approaching our limits on what we have for two-thirds of two-thirds, meaning we can't deliver everything at peak demand with the largest pump out of service, but we can certainly do it with the booster pumps that are there to supply peak day demand for everybody.

CHAIRMAN NAKAMURA: Okay. Elliot, do you have any further questions? Does that answer your questions?

MS. KRASH: Those were the questions I had.

CHAIRMAN NAKAMURA: I did have a similar question as it related to the ability of the Dowling well to supply water during times of drought, and that's something that David has to address because he did not include the full pumping capacity of the Kaupakalua well, recognizing that there were limitations on

ability to get that water into the system. Is that right, David?

MR. CRADDICK: Yes. And the limitation is that to get it into the system you would have to have a booster pump at Kokomo tank to put it into the Makawao system to push it further up the hill where it could be used. Now, the other factor is that if we went to the point of 16 million gallons in the ditch where we had to start cutting back what we could take out of the ditch, at that point we could add the water into the ditch. We'd again have to retreat it, but we could add it into the ditch, and that would allow us to go that much further below 16 million and still be able to meet full demands.

CHAIRMAN NAKAMURA: Okay. I think, as I mentioned, the item before the Board is to make a recommendation -- before the committee is to make a recommendation to the Board regarding David's findings regarding the adequacy of source Upcountry. Do any of the members have any other questions or comments?

MR. STARR: I have a question.

CHAIRMAN NAKAMURA: Please, Mr. Starr.

MR. STARR: Elliot, could you come back for a minute? I have a question for you, sorry. I know you have got a pretty good handle on the water Upcountry through your position with the association. Have you been -- we have gone through some pretty dry periods in the last year, year-and-a-half. Have you heard of any considerable problems regarding brown-outs and problems with our ability to distribute water Upcountry?

MS. KRASH: No. On the contrary, I've heard people pleased that we haven't had cutbacks, if that's what you mean by brown-outs. Water outage, no. I have heard concerns expressed about our ability to cope with the possibility of putting out fires, should there be a fire during these dry periods, but that's more related to just nervousness about the dryness rather than the water capacity.

MR. STARR: I have another question. Do you think the Hamakuapoko well should be dedicated to the Upcountry system or do you kind of have the expectation that they're going to go into the central system? I know you mentioned that in your comments.

MS. KRASH: I don't have an opinion on that, I don't know enough about it. My question was based on the fact that I have heard the question raised about where that water is supposed to go.

CHAIRMAN NAKAMURA: Okay. Anything else, Jonathan? Any other questions to Elliot? Okay, thank you, Elliot.

Mr. Suzuki is the other remaining public member. Do you have anything you want to say?

MR. SUZUKI: No, thank you.

CHAIRMAN NAKAMURA: So we have the --

MR. TAGORDA: Mr. Chair, a side comment.

CHAIRMAN NAKAMURA: Mr. Tagorda?

MR. TAGORDA: I heard something that Miss Elliot Krash brought out, that that one million gallons the ag park takes from the County, during peak demand they probably might be able to use that one million. David, isn't that included in our MOU with A&B intake to Wailua Ditch if the ditch goes down? The 8.2 million, it's stated in that Wailua Ditch for drought availability.

MR. CRADDICK: It's covered in there, yes.

MR. TAGORDA: It's covered in there. So you minus that one million or you exclude that one million?

MR. CRADDICK: I put it in there because it's a factor we have to deal with, but it's not a factor we have to deal with with the domestic water system. It's totally separate and doesn't depend on any treatment capacity or anything like that. It's got its own pumps and its own

reservoirs.

MR. TAGORDA: If they take their one million, will that not reduce your intake to Wailua Ditch?

MR. CRADDICK: What we can take from Wailua Ditch?

MR. TAGORDA: Yes. Do we exclude that one million?

MR. CRADDICK: Under the MOU we are allowed to take 12.

MR. TAGORDA: Another question I'd like to ask, it's a good point that she asked you, what happens if that H'Poko well would be decided by the court that that goes to the Central Maui system?

MR. CRADDICK: That's what I wanted to ask about before. We have already done the EA to use this well any time from now until kingdom come, to use this for drought in the Upcountry water system. If we complete the EIS it allows us to send that water to Central Maui.

Now, the EA that allows us to use water for

Upcountry says you can issue meters off of it for Upcountry, and I think that was the concern that you are addressing in your note here. But even if it's going to Central Maui, if there's a drought, the Board has the MOU with HC&S to use the water for Upcountry, and I would have every expectation that that's exactly what would happen.

We don't pump Iao to the maximum now, nor would I expect we would pump Iao to the maximum in the future. If we have a drought and that water goes Upcountry, and you pump a little bit more in Iao or North Waihee to go up to the limit of what the aquifer can yield, that's not going to be a problem operationally.

So the water, the wells can provide a dual purpose.

It can go to Central Maui, you can issue meters off of it. And if you have a drought you can let that water go Upcountry and just increase your pumping in the rest of the wells. I mean this is a very small capacity for the Central Maui water system. So it is not going to be any problem at all using them for both purposes. And the final EIS that comes out, hopefully that will allow it to be used for Central Maui, and I would fully expect it would be used for Central Maui and meters would

be issued off of it. But it is not going to nullify the EA that has already been done for Upcountry to allow it to be used during a drought.

CHAIRMAN NAKAMURA: When you say the EA has been done, the EA has been processed?

MR. CRADDICK: Yes, it's all completed. We couldn't run them unless it was all completed.

MR. RICE: It's existing.

MR. CRADDICK: We had to do that before we could use it. Because when the Governor waived the procurement laws, the first time he waived the EA requirements and the procurement law. The second time he only waived the procurement laws to get everything going. He said we still had to complete the environmental process, and we did.

CHAIRMAN NAKAMURA: Okay, any other questions by members of the committee? I did send out to members of the

committee some information which I had, some additional information which I asked for and received from David, and I tried to format it in a little different way that made it clearer to me, at least.

It would appear as though during what I would consider normal conditions, taking David's analysis and the additional information he provided, which I think was more conservative, that if you look at so-called normal conditions that the source does seem to be adequate to meet demand. However, that is one person's opinion at this point.

So what is the pleasure of the committee in this matter, or do you have any other questions or issues that you would like to have clarified by the Director or by others? Mr. Starr?

MR. STARR: Yes, I have several concerns, and they all relate around the Hamakuapoko wells and the drought emergency. First of all, I cannot see in my heart being able to say that the system is adequate or more than adequate when we are in a drought emergency and it's raining. That's something that has been disturbing me for some months. And I

know this isn't the venue for it, but I will want to see us go out of a drought emergency, otherwise it's the wrong use of that term of that state.

I have no problem if we need to go in it when there's an emergency, but I hate to be in a drought emergency when it's wet and then say but we have excess capacity. It means that we lose all credibility.

The second point is that in the paperwork where we define the availability of water Upcountry, in light of feeling that there is a surplus and we can issue meters, I don't feel that Hamakuapoko should be mentioned at all. I feel that there is several hundred thousand gallons per day of excess capacity right now, but I just want to be sure that in the paperwork we're using to justify it that no mention is made of Hamakuapoko, because it is only usable in a drought emergency. If we're issuing meters but we are doing it with any mention of something that can only be used as a drought emergency, I think we are leaving ourselves open to lawsuits and legal action, and I also just don't feel that that's right or fair.

So I'd like to request that the paperwork that we base it on not have any mention of the Hamakuapoko well. And I believe that even without that there's enough capacity for us

to earmark some additional water for issuance of meters.

CHAIRMAN NAKAMURA: Okay, I think with regard to the first issue on the drought declaration, I agree that that's an issue, a related issue that we need to address. And in the memo I sent out to the members of the committee, that's one of the related items that needs to be looked at in the context of whatever decision we make on the adequacy of source, the others being updating of the waiting list, the appropriate rule dealing with issuance of meters for the waiting list. And at some point we need to get an update on the status of additional source development.

MR. STARR: Could we get that right now?

CHAIRMAN NAKAMURA: Mr. Craddick?

MR. CRADDICK: It's in design. We are doing an EA for the Pookela well. The state has offered to pay for it, so it's moving along.

CHAIRMAN NAKAMURA: Do we have a timetable?

MR. CRADDICK: We would expect that it would probably go to bid sometime probably in April.

CHAIRMAN NAKAMURA: Mr. Starr?

MR. STARR: I thought we were fast-tracking and moving a lot faster than that. I get the feeling that this is kind of on a lazy back burner somewhere. How can we speed this up?

MR. CRADDICK: No. What happened was we thought we were going to be able to avoid the environmental process because it's an exploratory well, and we found out that back in the 1970's when the environmental rules first came out all the counties submitted lists for exemptions from the Chapter 343. Maui County did not, so we are submitting that list now, but it's going to take three months to get that process complete. It will only take us three months to do the EA.

So we felt that we shouldn't go that way and then

find out that they deny us having the exploratory well on the exempt list, and then have to do the EA anyway, because then we'd be done in June. So I think we are moving quickly on it.

MR. STARR: Can we move quicker?

MR. CRADDICK: If you want to put in the bid that the completion time has to be 90 days I suppose we could move quicker, but that will jump the price of the well way up.

MR. STARR: Can we get it bid both ways and then let the Board decide?

MR. CRADDICK: We could, yes.

CHAIRMAN NAKAMURA: Okay, any other questions? Mr. Rice?

MR. RICE: Mr. Chair, a couple of things. As it relates, and I guess I'm referring to the Chairman's memo on the suggestions about how to find adequacy. And in relation to Mr. Starr's comments, I want to make sure I understand. In

this analysis, normal available source does not include Hamakuapoko wells.

MR. STARR: I'd just like to have it stricken. In that paper I would just like to have it stricken.

MR. RICE: You want the actual line to disappear. But in a drought condition it's listed.

MR. STARR: I'd like it to disappear there, too.

MR. RICE: But that's not accurate then.

MR. STARR: Well, I feel that if we are in the context of issuing meters we are better off doing it that way, and then if we need it and have to go to it, it's there, but we are not creating a culpability for ourselves.

MR. RICE: But it's real, it's not a creation. If nothing changed today they would be used for drought only. If nothing else changed. So why wouldn't you include them? It

clearly says drought.

MR. STARR: Well, I feel that we have abused the drought emergency so badly that those who might not like to see us move ahead with this will probably be able to go and show our abuse and say that they're actually intending to issue meters against it. And probably they can hold us up for five years in the courts and maybe cause us a lot of pain and suffering.

If we just remove that line from the paperwork so it is not there, we still have the well to use but we are not -- no one can accuse us of issuing meters with any regard to that well that the court only allows us to use in a true emergency. So I think it's sort of a semantic thing at this point, but I really would like to see it be gone from the papers we're using to justify the adequacy, and I think the numbers still prove that.

MR. RICE: Well, I don't. And I think that's the point, because that's my third point, is that if we were to take this analysis, and let's take normal available source at

12.25 MGD, right. And then we are going to take our maximum day demand, 1.6, okay. We have available water of 650,000 gallons, okay. Which is fine, I am not questioning the numbers. I'm just saying, okay, how many additional meters does that buy us?

Then if we take, if we were to take drought conditions and we take out the one-and-a-half, we're down to 10.25 during a drought condition, which is well under our maximum day demand, and it's slightly under our 30 day highest day demand. So then our analysis looks goofy, to me. I mean the normal situation looks fine, but then the analysis for drought looks goofy if we don't include that.

MR. STARR: I understand that argument, but I also understand that our average day demand is 8.2. And also we're looking at the Kaupakalua well producing .7 MGD, whereas in a drought we could theoretically raise that to 1.5. And I am going to ask that we look at putting that booster pump in place so that it is in place next time for next summer, so that we have that extra head room from the Kaupakalua well. I'm just requesting that we --

MR. RICE: I am just trying to make it look sensible. The other thing is, if we agree to these numbers, David, how many meters does 650,000 gallons a day of excess capacity buy us? Now all right, if you use 8.2 it's a grossly different number, okay. What I'm getting to here is, in the end do we say okay, we've got source availability Upcountry and we start giving out meters, and then we run out of water. And a thousand meters will go like that. We start with the list and everybody Upcountry who wants to develop a lot, a thousand meters is nothing. Would you agree?

MR. CRADDICK: Well, the list as revised, I think it's about 530, and that's just items on the list. Still the number of lots will be more than that, there may be up to about a thousand, say actual lots or meters being needed to satisfy the entire list as it is right now.

MR. RICE: There's a thousand meters right there, gone. So I just want to be careful as we go forward with this finding of source adequacy that, you know, it's going to look funny. "Water Department finds source adequacy Upcountry."

Next year in February, "Water Department finds no longer source adequacy Upcountry." Is that realistic or am I dreaming?

MR. CRADDICK: I don't know if that's what you're saying. Is that what you're saying here, that you want to give out the full 600,000 gallons?

MR. RICE: I'm saying that once we declare source adequacy that that equals meters are given out. It doesn't equal reduced meters or a selective release of meters unless we write a rule. Source adequacy means we give out meters. Anybody who comes in the door who wants a meter pays a fee, and whatever other requirements there are normally, and gets a meter, right?

MR. NOBRIGA: I beg to differ, but I hope that's not the way we proceed.

MR. RICE: No, I'm just asking the question.

CHAIRMAN NAKAMURA: Mr. Nobriga?

MR. NOBRIGA: I'm sorry.

CHAIRMAN NAKAMURA: Go ahead, please.

MR. NOBRIGA: I follow Mr. Rice's understanding, but to me, the people waiting on the list should be taken care of first, regardless of who comes in the door. The guy that comes in the door should not be automatically given a meter.

MR. RICE: I am not differing with you on that opinion. I'm just looking at the total number of meters and how much water is there. And if we say we have got so much water, and just taking your example. Everybody on the list gets a meter first and it's a thousand meters, and we are out of water. Are we out of water, that's my question.

MR. NOBRIGA: I think, excuse me, but I believe we should go back to Howard's thoughts, because I think he provides us the answers that we need to decide and pass onto the Board. Specifically the second half of his page one that

identifies that during normal conditions it seems clear that existing sources are more than adequate, et cetera, and continuing on to the bottom.

The other part of our duties today should include verifying the four tables, which of the four tables do we identify as the statement of fact that we want to operate under. I compliment Mr. Nakamura, he has done some extensive work in helping all of us understand what's going on, without kind of jumping the gun, and starting to talk about things that have been addressed in Mr. Nakamura's four key points at the bottom of his report.

CHAIRMAN NAKAMURA: Thank you, Mr. Nobriga. I think, if I may, again, I would like to -- I believe that what's before us today is to make a determination on the Director's recommendation that we have adequate source Upcountry. That basically source exceeds demand, which is a change from the finding that he developed in 1993, which was that demand exceeded source. I think that is the issue before the committee.

The material that has been developed by David and has been modified through my questions of David for further

information seem to indicate that under normal conditions the sources do exceed demand. My feeling is that during times of drought, which the Board has the authority to declare, we would then have to determine the conditions and the method in which the Board responds to the drought. So I think that's something that everybody has to kind of make their own conclusions on.

But I think the first step, if it is the desire of the committee to support the Director's recommendation, would be to take that action. And then, as Mr. Starr has indicated, we need to perhaps in the Board meeting deal with the issue of the drought declaration, the update of the list, the rule that would deal with, first, opportunity being given to those on the list, and then subsequently the limit on how many additional meters can be justified. I think that's the sequence of activity that we need to proceed on.

MR. NOBRIGA: Mr. Chairman, if I may, I'd like to move that this committee recommend to the Board that we accept as a statement of fact your table number two.

MR. STARR: Which one is two?

MR. NOBRIGA: Upcountry water system demand,
including prior commitments, which is your page three.

CHAIRMAN NAKAMURA: The table that says "Demand
Including Prior Commitments."

MR. NOBRIGA: That's right. And we also accept
table three as the normal available source statement of fact.

CHAIRMAN NAKAMURA: It has been moved by Mr. Nobriga
that we accept as a position of the committee and recommend to
the Board it is the position of the committee the demand as
defined in the table entitled "Demand Including Prior
Commitments," and that we accept table three, which is the
table entitled "Normally Available Source," which totals 12.25
MGD.

MR. STARR: I second that.

CHAIRMAN NAKAMURA: It has been moved and seconded.

Any further discussion? Mr. Hiranaga.

MR. HIRANAGA: Just to clarify my understanding, on the first table the average daily demand of 8.2 million gallons per day and maximum daily of 11.6, those numbers were provided to you by the Director?

CHAIRMAN NAKAMURA: Those were the numbers that were the Director's communication of September 26th. And the 30 highest day demand, which is approximately 92 percent demand, is the additional information that I had requested of the Director.

MR. HIRANAGA: So then I'd like the Director's comments regarding the hundred percent reliability on the Waikamoi Intakes, and the 95 percent reliability on the Piiholo Intakes on the chart labeled "Normally Available Source."

MR. CRADDICK: Well, if you look in the packet that you have there on page 10 and 11, those discharge duration curve and the required storage annual demand curve for the

Lower Kula system is what that reliability figure comes off of, and that comes out of the report prepared by the Federal Department of Ag to do the Upcountry dual waterline project.

And I believe these were originally developed by the Austen report in the 1960's, that's where those numbers come from, and I believe they're correct. I don't think anything has changed enough in the watershed to change those numbers from the time they were originally done.

There's different ways of calculating reliability now. You can actually do each packet of rain that comes down and calculate it a different way, but these are conservative enough numbers that I believe they're correct.

MR. HIRANAGA; I guess the question is, are you satisfied or is it your position that the assumption of 95 percent reliability for Piiholo and 100 percent reliability for Waikamoi, is that a reasonable or acceptable assumption factor, in your professional opinion?

MR. CRADDICK: He's being a lot more conservative than I was in my estimate. I was using 85 percent; he's upped that to 95 percent. So it's a lot more conservative than my

original estimate of water availability.

MR. HIRANAGA: So you are willing to stand behind that assumption?

MR. CRADDICK: Yes.

MR. HIRANAGA: And digressing a little bit, this average daily demand and maximum daily demand, it's not really stated in this letter. You compiled his various factors to come up with that. So I just wanted David's confirmation that these totals are correct and that we have not left anything out or included unnecessary assumptions.

MR. CRADDICK: There's no odd assumptions that I can see. And it does, I believe, cover the issues of Hawaiian Homes, whatever commitment we have to Kulamalu, and then the existing unused meters.

MR. HIRANAGA: So this is the criteria that we will be using in our decision making. Average daily demand is 8.2

MGD and average daily demand is 11.6 MGD.

MR. CRADDICK: That will change as more customers come on. That's just currently what it was for the last fiscal year.

MR. HIRANAGA: Ending when?

MR. CRADDICK: June.

MR. HIRANAGA: 2001?

MR. CRADDICK: Yes. And in my letter of September 26th I think I made some adjustments to what I had given the Board in 2000 to bring it up to current numbers.

MR. HIRANAGA: Thank you.

CHAIRMAN NAKAMURA: I might note that the prior commitments, both the Kulamalu and the Department of Hawaiian Homelands, that demand will come out over a period of time.

And I would certainly hope that by the time those demands come on that we will have our Upcountry well in operation, as well as some of the other things, the ability to fully utilize the Kulamalu well. Any other questions or comments?

MR. TAGORDA: Mr. Chairman, just a comment. So for my clarification, which number here are we trying to vote on now, is it the 12.25 available source or David's old 14.4?

MR. RICE: 12.25.

MR. TAGORDA: I heard something about 650,000 available.

MR. RICE: It was just a babbling of the Chair, forget that.

MR. TAGORDA: So it is not really available on this number. So how much available water is from 12.25?

MR. RICE: I was going somewhere. I wasn't very good at explaining it.

MR. CRADDICK: Well, it depends on what you are going to look at. Are you going to look at the demand during normally available times?

MR. TAGORDA: And during drought, if we are going to take the new numbers in front of us from Mr. Nakamura.

MR. NOBRIGA: Excuse me, Mr. Chair. Currently we are not discussing drought conditions.

CHAIRMAN NAKAMURA: The motion, Mr. Tagorda, was to accept the demand including prior commitments, and the normally available source. Those are the two tables that the committee is recommending that we accept. The Director's representation is that the 12.25 is an accurate and reliable number.

MR. CRADDICK: Conservative number, too.

CHAIRMAN NAKAMURA: Conservative number. Okay, any further questions? Ready for the question. All those in favor

say "aye."

(A chorus of ayes).

Opposed?

(None).

Motion is carried.

MR. NOBRIGA: Mr. Chairman?

CHAIRMAN NAKAMURA: Yes, Mr. Nobriga.

MR. NOBRIGA: In light of the situation of drought, I am kind of sensitive to the inclusion of Hamakuapoko, but then there are so much "what if's," I am not opposed to listing Hamakuapoko, because those are actual usable water sources that we would access currently under normal drought conditions for the Upcountry area.

If we could reach a compromise whereby we could change Hamakuapoko, the wording to other sources or something, that would seem to meet the objections of Mr. Starr, and so be it. But if it's not -- but I would not be able to authorize statement of fact any position of drought available source

without that 1.5 million gallons.

So I would move that we accept and recommend to the full Board the acceptance of a statement of fact of table four, which is the available source drought conditions which currently does include the notice of H'Poko wells 1 and 2.

MR. RICE: But you want to change the wording to "other sources"?

MR. NOBRIGA: That would be an amendment.

MR. STARR: Could I make a suggestion before we go there? My suggestion is that we remove Hamakuapoko wells 1 and 2 and we take Kaupakalua, since it's capable of supplying 1.5, and change it from .7 to 1.5. I believe that by doing that, that gives us some headroom. And I understand that even if we need to set a booster pump in there on a temporary basis within a week or two, we could do it.

So that we take out Hamakuapoko, and Kaupakalua goes from .7 to 1.5. And the bottom line figure would be 10.8.

MR. NOBRIGA: I have no objection to that amendment.

CHAIRMAN NAKAMURA: Let's take this in order. Mr.

Nobriga has made a motion that we accept table four, which is the "Available Source - Drought Conditions," as circulated.

That was the original motion, is that correct?

MR. NOBRIGA: Yes.

CHAIRMAN NAKAMURA: Do I have a second to that motion?

MR. STARR: For discussion, I will second it.

CHAIRMAN NAKAMURA: Okay, the motion has been seconded by Mr. Starr. Discussion?

MR. STARR: I'd like to offer an amendment.

CHAIRMAN NAKAMURA: Okay, Mr. Starr.

MR. STARR: That the Hamakuapoko wells 1 and 2 be

removed, and that Kaupakalua well be changed to 1.5 million gallons a day.

MR. NOBRIGA: I would second that amendment.

CHAIRMAN NAKAMURA: Okay, it has been moved and seconded that the motion be amended to change Kaupakalua well to 1.5, which will require certain modifications to the system, and that the H'Poko wells 1 and 2 be deleted. Any discussion to the amendment?

MR. KUSHI: Mr. Chair, if I may.

CHAIRMAN NAKAMURA: Mr. Attorney?

MR. KUSHI: I feel very uncomfortable with what the motion is about. As I read your agenda for this meeting, it's regarding the communication from the Director. Your motion seems to be saying what you are going to adopt as a basis for future decisions drought conditions, and I must caution you that that is not noticed on your agenda. If you accept

anything, as Commissioner Nobriga says, you may have a problem. That's my concern.

CHAIRMAN NAKAMURA: Okay. In light of that concern, we have dealt with the item on the agenda, which is to find that there is adequacy of source, which is the issue. The question of drought I suppose, as recommended by the attorney, could be left until you have an actual situation.

Perhaps in light of the Corporation Counsel's suggestion or recommendation or concerns, perhaps that's what we should do. I think we have moved ahead with what we are tasked with doing today.

MR. NOBRIGA: In that case, I would very much withdraw my second to the amendment.

CHAIRMAN NAKAMURA: Okay. Mr. Tagorda?

MR. TAGORDA: Can I interject, Mr. Chairman. I would just like to ask the Corporation Counsel about the culpability that Mr. Starr had mentioned about if we put

Hamakuapoko wells in our discussion in this finding by the Director, is there really a culpability if you are honest enough to say that during drought declaration by the Board we are going to utilize H'Poko wells to go Upcountry?

MR. KUSHI: Mr. Chair, I am not sure what Mr. Starr is talking about. But being a lawyer, I suspect that you can sue anybody for anything. And he's right, that some people can keep things in court. But again, what Board Member Rice is saying is that if it's in the EA and it's been a matter of public record, then you have a basis to say that. But again, I won't make a blanket statement that you are or you won't be subject to it.

CHAIRMAN NAKAMURA: Mr. Rice?

MR. RICE: I think we have just had a good solution here. I don't know why we have to make a motion on what we would do during a drought. We would use resources as necessary. And our statement ought to say that we find that the demand exceeds -- I mean that the source exceeds demand

during normal conditions, period. Right?

CHAIRMAN NAKAMURA: And that's where we are as of now.

MR. RICE: That sounds to me like a good solution.

CHAIRMAN NAKAMURA: One thing I would like to add, Mr. Craddick, is that I think you have a sense of the committee, which I think also represents the sense of the Board, that although there is a finding, we support the finding of adequacy, that the issue, the matter of issuing meters should be held until such time that the Rules Committee deals with the use of the list. Because I think there's a strong sense that people on the list in all fairness should be given the appropriate attention.

MR. RICE: And I guess just as a side comment, Mr. Chairman, I was trying to figure out a way where we could find for source adequacy and then not have to go through the process of a special rule for those on the list. But as I'm thinking today, we may be safer and smarter in the long term to go ahead

and do a rule, deal with that, put it to bed, and not have to come back and be afraid that someone is going to challenge us from the other side.

CHAIRMAN NAKAMURA: Okay. Mr. Starr?

MR. STARR: I'm very much in favor also of going through the rule, primarily so that we get rid of the issues of the empty lot and the expectation, because that deals with those. I think the list is a no brainer, but those other things, let's get rid of them.

CHAIRMAN NAKAMURA: Any other comments? Thank you, Members, for your patience. It's been a long day. Meeting is adjourned.

(The proceedings were concluded at 11:45 a.m.)

IWADO COURT REPORTERS, INC.

"By Water All Things Find Life"

Department of Water Supply
County of Maui
P.O. Box 1109

Wailuku, HI 96793-6109
Telephone (808) 270-7816
Fax (808) 270-7951

[\[Back\]](#)