

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

REGULAR MEETING

Held at the Kahului Shopping Center, Kaahumanu

Avenue, Kahului, Maui, Hawaii, commencing at

9:00 a.m. on September 26th, 2002.

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

IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

COMMITTEE MEMBERS:

Peter Rice, Chairman

Kent Hiranaga

Jonathan Starr

Michael Victorino

Ginnie Parsons

Howard Nakamura

Clark Hashimoto

Mike Nobriga

STAFF PRESENT:

David Craddick, Director

Ed Kushi, Corporation Counsel

Herb Kogasaka

Cathy Howard, Board Secretary

IWADO COURT REPORTERS, INC.

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CHAIRMAN RICE: Call to meeting the

regular meeting of the Board of Water Supply.

September 26, 9 a.m., Kahului Shopping Center.

On my right Clark Hashimoto, Mike Nobriga,

Howard Nakamura, Jonathan Starr, myself Peter

Rice, director David Craddick, Corp Counsel Ed

Kushi, Jr., staff, members of the public,

welcome this morning.

We normally at this point in the meeting

we have an opportunity for the public to give

testimony on any item that is on the agenda and

if anyone is here to say anything, it's your chance. Or if you would rather when the item comes up on the agenda, you can speak at that time. And if when it comes up it looks like I've forgotten you, just raise your hand and holler at me and we'll stop.

Seeing none, hearing none, is there any written testimony? None? Cathy? Okay.

Board member Kent Hiranaga is coming and we could delay a few things. If he gets here, fine; if he doesn't, we'll move on. So if there

is no objection from the board members, I would like to skip to Old Business. We've got B, C and D which involve the SEIS. And I'll remind the board members that we are noticing this issue as well as the last special meeting, for two regular meetings and so it will not be -- it would not be appropriate for any action to be taken on the SEIS at this meeting. It will come up again at the next meeting, which is October 8th. That's item B. Item C and D relate to legal matters as they relate to the SEIS.

So at this point, having had a chance,
board members, to review the SEIS, do you have
any questions for Mr. Kushi or Mr. Craddick with
regard to the SEIS or any legal issues? And is
there -- not forgetting the public, if anyone
wants to say anything on the SEIS. No?

Mr. Nobriga.

MR. NOBRIGA: Has the board officially
received documentation from Mink and Yuen on
this final supplemental SEIS?

CHAIRMAN RICE: I believe so. We have it

and it's been agenda'd, so I think that it's
been received.

MR. NOBRIGA: Has the board taken formal
action to receive the documents?

CHAIRMAN RICE: There has been no motion.

MR. NOBRIGA: At this time I would like
to move that the board receive from Mink and
Yuen the Supplemental EIS including the
amendments, the corrections included in today's
packet.

MR. VICTORINO: Second.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: Mr. Chair, I would just like to be clear. Is this document here, along with this amendment package, does this constitute the entire document? I know there is the booklets that are attached, the USGS booklets, and the copies of the previous plan. But with all that, does that comprise the entire document to us?

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: At this point, that is the

document unless changed by yourself.

CHAIRMAN RICE: Okay. Mr. Kushi, are you going to say something? I see you --

MR. KUSHI: Yes, Mr. Chair. For the record, Mr. Nobriga's motion is fine in terms of the board moving and making a motion to accept the documents. However, for the record, I would like to note that at the last board meeting, which was September -- last week Tuesday, the board did receive -- or it was distributed to the board at the last board meeting also.

Although there was no motion to accept -- I mean
to receive. I say this for the record so that
for the record again, this is the second meeting
that the board has looked at this document.

CHAIRMAN RICE: Okay. Motion to receive
the SEIS document. Any discussion? All in
favor, say aye.

[A chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay. Motion
is carried. And again, as I said, the
acceptance [inaudible] or whatever action will

take place at the next meeting because we were advised by counsel that we should adhere to our newly approved rule whereby action on items that relate to water volume greater than 500,000 are agenda'd for two regular meetings.

Let the record show the arrival of board members Parsons and Victorino.

Okay. We're talking about all three agendas items at this point, Ginnie and Mike, on the SEIS. We skipped to this section of the

agenda, the Old Business sections items B, C and

D. So I think again an opportunity for board

members to ask questions of either Mr. Kushi or

Mr. Craddick.

Mr. Starr?

MR. STARR: Yes. I would like to proceed

-- continue with the line of discussion that

began at the last meeting and it's something

that I feel very strongly about. We're about to

submit a very weighty document to the courts and

it's part of a lawsuit that's been going on for

10 years and it involves a project that will probably ultimately cost 30 to 40 million dollars. And the importance of this project can't be overstated because it's there to provide the life blood for the heart of the county of Maui.

Something of this size, it is definitely going to go to litigation, and this can be viewed and should be viewed as a court filing, should be filed by legal counsel who is familiar with all aspects of this type of law as well as

with this case and the history behind it. And
that counsel will be the one who's going to have
to go and defend it and fight it before the
courts.

I see us moving to file it, but without a
legal counsel who's able to spend the time to
research it and cannot guarantee the continuity
when we have to go in front of the courts
because this will drag on for months and most
likely years because to the best of my
knowledge, it will be challenged and our

adversaries are, you know, intelligent and well-versed and have had years and years to prepare their case. I don't think we've responded completely improperly, in fact, to their own documents which are included in this file.

Corp counsel is excellent. I have no -- I don't want this in any way to be construed as a criticism of Corp Counsel. But we have had five representatives -- five deputies work on

this case in the past and none of them are with the department anymore. And that's not the fault of anyone still there, it's just how things are.

This is a very serious matter and I think that before we file this, we should get outside counsel and outside counsel should examine it and should make sure that it's fit to their satisfaction as a document that they can defend. Once we file it, it's done, it's a case accomplished and the courts basically have an up or down on

it.

And I personally see some areas that I have concerns. I don't want to belabor them. Most of them are laid out in the opposing counsel's own documentation which are included in the EIS and I don't want to give them any more credence by repeating them, but I think that some of them are very strong. There are a few other things that I have concerns about and I would really like to have the benefit of counsel here.

In business, I would never go into a deal one tenth this important or this large without competent counsel. I really don't think any member of this board in their own personal lives or business would proceed in any other way either.

With that in mind, I would like to make a motion that we proceed to request funding for outside counsel through the proper mechanism which I know funding has to be approved by the Maui County Council.

CHAIRMAN RICE: That's a motion?

MR. STARR: That's a motion.

CHAIRMAN RICE: Motion on the table.

MR. NOBRIGA: I will second the motion.

CHAIRMAN RICE: Moved and seconded.

Discussion? Ms. Parsons?

MS. PARSONS: I would like to hear

Mr. Starr's issues that he has, please, on the

record with the SEIS.

MR. STARR: First of all, I've not had

the time to do a full analysis of them. My own time is limited. I have read it and there are a few things that came to mind quite clearly.

One has to do with the monitor well and the protocols for measuring the water level at the beginning of each day in a monitor well.

And I don't believe that the word as stated in the EIS conforms with the court order or the agreements that were made, including the verbal statements made in the board meetings of November 20th, 2001 and October 25th of 2001.

So that's one issue.

Another issue is I don't think that the process for including and responding to the community comments and opening up the process to input from the community was followed with the degree of I'd say involvement that we were asked to provide by the courts. And I think that's one area where we could very easily be harmed and it can be very easily corrected.

As far as other areas, I think that there are some items regarding the mechanics of

streams gaining and losing that come from the

USGS reports that I think might not have been

answered to the greatest degree of satisfaction.

I believe in this document and I think

it's a very good document and I think it's based

on good science. I am concerned more with the

technical side of the way certain things were

expressed in it that might cause us to lose,

where with a little bit of proper preparation

and legal work we can correct those and go

through with a winning document rather than one

that will get stuck.

CHAIRMAN RICE: Thank you, Mr. Starr.

Anybody else? Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, just for the record, although I did vote to receive the document since I felt it was purely procedural, for the record I do intend to recuse myself from any substantive issues dealing with this matter and so I would like to make you and the other board members aware of that.

CHAIRMAN RICE: Okay. I think that

Mr. Kushi, given that statement by Mr. Nakamura,

he can recuse himself at the time of the vote.

He can discuss the document with the board or

no? And he can point out things that he feels

are important or of a proper nature, or should

he not?

MR. KUSHI: One moment, Mr. Chair.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: Can I get some

clarification? Is the motion on the table to

hire an attorney to assist with any court action
or is the motion on the table to hire an
attorney to somehow give you some report prior
to you accepting this document?

CHAIRMAN RICE: I believe the motion is
for outside legal counsel to be hired to review
the document before the board accepts it with
the technical and I think the technical term is
accepted.

Mr. Nobriga?

MR. NOBRIGA: Based on my second, that is

not exactly what I heard the maker state, but I
would kind of prefer to ask Mr. Starr to
summarize his motion.

MR. STARR: Can I get the motion as made?

Do we have it noted? Perhaps I should better
clarify.

(Previous motion read back by the court
reporter.)

MR. STARR: My intent is for us to hire
legal counsel to examine the document and report
back to us with any additions or corrections

that would make it as -- make it fully
defensible and then that counsel might be
available for us later at the time of litigation
and that will be a separate matter what happens
in the future. But right now it's to --

CHAIRMAN RICE: Okay.

MR. STARR: Should I restate it?

CHAIRMAN RICE: Procedurally maybe we
should withdraw the original motion and then
start the second.

MR. NOBRIGA: No.

CHAIRMAN RICE: What would my vice
chairman recommend?

MR. NOBRIGA: Let's go back to Mr. Kushi
first to get the answer to your query and then
take it from there.

MR. KUSHI: Mr. Chair, I'm addressing
your question about Board Member Nakamura. Your
rules under 16-102-19 entitled Disclosure of
Conflict basically states that when a member has
a conflict of interest -- which I'm assuming

this is the reason for your recusal.

MR. NAKAMURA: That's right.

MR. KUSHI: Then it goes on to say when a

member is deemed by the board or the Board of

Ethics to have a conflict, that member shall be

disqualified from voting in all actions relating

to such matters. It doesn't mention about

participation. And your rules don't go on to

state that he's precluded from even discussing

this matter.

However, I can relate to the board that

the decisions that I've seen from the Board of Ethics in a situation, planning commissions, Lanai, Molokai, Maui planning commissions, when members are deemed to have recused themselves for conflict of interest, those decisions also go on further to say but that doesn't preclude them from discussing or participating in discussions. Main thing, you don't vote on this. So that being the case, I would advise that he would not be precluded from discussing or being involved in participation.

CHAIRMAN RICE: Thank you, Mr. Kushi.

Okay. Mr. Nobriga?

MR. NOBRIGA: Thank you, Mr. Chairman.

The motion as originally stated by Mr. Starr
said that this body was going to request from
the Maui County Council funding for outside
counsel. I seconded that motion because I feel
it would be in the best interests of the board
and the department and the integrity of the SEIS
to pursue along that line. The way I interpret

the entire process, the whole future -- entire
future of Maui County is being held up by one
person. And to paraphrase Mike Tyson, this is
ludicrous.

Therefore I would like the motion to
stand on its merits as stated.

CHAIRMAN RICE: Okay. I don't have a
problem with that.

Mr. Nakamura?

MR. NAKAMURA: One question to David. I
believe that when we authorized Mink and Yuen to

proceed with their role a couple of years ago,

that the scope was also amended to include their

retaining legal counsel to advise them as to the

procedures and to try to keep the process clean.

Do you know if that in fact was done and whether

or not that attorney has advised either Mink and

Yuen, the department, or any other parties as to

the process?

MR. CRADDICK: It was done, Mink and Yuen

did retain an attorney and the advice was given

on the draft EIS. They wanted additional funds

to review -- specifically Mr. Hall's letter,

they wanted an additional \$30,000 and they

wanted an additional \$10,000 to review the Final

Supplemental EIS. And that was brought up to

the board. It was my recommendation and Mink

and Yuen's recommendation, because there are no

real substantial changes between the draft and

the final, to not go through that exercise.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: My concern with proceeding

further on that basis was that that counsel

having been hired by Mink and Yuen is required
to solely defend Mink and Yuen's interests and
we can't talk to them and it's not their job or
obligation to get the thing passed or to protect
the board. It's their obligation to make sure
that Mink and Yuen are made whole.

So, you know, I want to see us have
someone who's on our side in getting this thing
approved.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: Board Member Starr is

correct in that and that's why you don't have a report in front of you from Mr. Matsubara on this matter. We were trying to get a letter out of Mink and Yuen, but Mr. Matsubara did not want to give a letter to this board because Mink and Yuen is currently his client and --. But we had Mr. Mink's testimony on the record there last time saying that in their discussions with their attorney, they felt everything had been done properly.

CHAIRMAN RICE: Okay. Board members, let me make a statement, The Chair's statement. We have -- I think my feeling is we have an agreement on the board to hire outside counsel. The issue is whether we should be hiring outside counsel to review the document before the board officially accepts it, and in doing so we would delay the acceptance of the SEIS.

There is concern voiced by the director that that isn't a good thing. Be that as it may.

However, let me give you a little story here and maybe help people decide which way they want to vote on this thing. The motion is for outside counsel. There needs to be further clarification of how that's going to work.

But let's say as an employer I have a bad employee and I know it's a bad employee and I know it's a litigious employee, but I've built my case and I'm getting ready to terminate that employee. But before I terminate that employee, why don't I consult with my legal expert so that

I'm sure that when I do the termination that I followed all the procedures and it's defensible because this gentleman is going to defend me when that litigious employee files a suit with EEOC or whatever. So why wouldn't I do that, instead of going ahead and terminating the employee, then getting a lawsuit, then going to the attorney and saying defend me, when you had a chance to do something proper beforehand.

That's my story. That's my question. So I

think that's the issue whether we delay it or
not and whether we get counsel to advise us
beforehand.

Ms. Parsons?

MS. PARSONS: So are we asking for this
attorney, who is not an engineer, but we're
asking for this attorney who gives us advice and
legal opinion to tell us whether the EIS is
correct, which is an engineering issue? Or are
we asking him if we have followed procedure?

CHAIRMAN RICE: Well, we didn't get to

that point in the discussion and that's not the motion, actually. But in my mind, to answer your question, I think there is a process question, there is a substance question, and there are legality issues. There are more than one. And I think if you were to look at page 19 of Mr. Hall's letter in the EIS, it's towards the back, under Other Legal Issues, the question being raised the impact of the Waiahole decision and the concept of moving water out of an area, I think that's a pretty important legal issue

that we ought to feel comfortable with that
would affect the SEIS. It would affect our
going forward on this. If you want an example
of one thing.

So to answer your question, I think there
is a lot of things that I think we need to be
sure of as we go forward.

Mr. Craddick.

MR. CRADDICK: The issue of moving
groundwater from an undesignated area to an
undesignated area is probably something that we

could get a letter from the Water Commission on
without having to wait for a legal opinion on
that.

CHAIRMAN RICE: That's just -- but that's
a question of strategy at this point.

Mr. Nakamura?

MR. NAKAMURA: Just one comment to Board
Member Parsons' inquiry. Based on my experience
with EIS, the vast majority of challenges and
successful challenges have been really

procedural rather than substantive, although

there have been some substantive issues. But I

think the vast majority of successful challenges

are procedural.

MS. PARSONS: And procedurally,

Mr. Kushi I believe in the last meeting on the

19th said procedurally Corp Counsel feels we

have proceeded correctly?

MR. KUSHI: Board Member Parsons, yes, as

I said before, I reviewed it in terms of

procedure. Procedurally, and it is our office's

opinion that it is ready for submittal to the board.

Mr. Chairman, if I may, one clarification to Board Member Starr's discussion. He referenced that this document, the final SEIS, will be submitted to the court. That is not correct. The court order does not say that this document, if and when approved by this board, goes to the court. The court is not to review this document. In the event of a challenge, it may. But it doesn't review the document until

there is a challenge. So I want to make that

clear.

CHAIRMAN RICE: Okay. Mr. Starr.

MR. STARR: That's correct. But I

believe that there is such a large chance or

expectation that this will be challenged that it

virtually is certain to go to the courts and the

battle will be waged in the courts and it will

be waged against a very smart attorney who's

already fired his first shots at the document.

You don't want to have an engineer

defending something in court against an attorney. You want the best attorney possible to be doing their job. And my point is just to find the quickest and easiest way to get this thing approved. That's my one goal and I think that it may take us an extra month to do it this way, but in the end we'll be successful.

CHAIRMAN RICE: Yes, Mr. Nobriga.

MR. NOBRIGA: As far as the document which we contracted Mink and Yuen to finalize

the supplemental EIS to our original EIS of East Maui Water Development Plan, I am very confident here and now that the document is acceptable.

The motion on the floor is to request outside counsel from the county council. An amendment would be in order to specify if it's prior to acceptance or post acceptance.

Currently the motion on the floor is ready for a vote.

CHAIRMAN RICE: Any other discussion?

MS. PARSONS: Can I get a clarification

simply?

CHAIRMAN RICE: Yes, ma'am.

MS. PARSONS: I am in favor of hiring
counsel also. I also feel that this document is
ready for acceptance. However, I'm not ready to
hire counsel prior to. So I'm getting
clarification. We are not hiring the counsel
and going to counsel prior to the acceptance; is
that correct?

CHAIRMAN RICE: We haven't made that
decision either way. The motion is simply to

hire outside counsel. That will depend on a
future motion and a future decision.

Does everyone understand that? Any
questions on that clarification? Okay. All in
favor of the motion, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: The motion is carried.

Unanimous. Okay. Mr. Craddick?

MR. CRADDICK: Can we get some funding

for that?

MR. NOBRIGA: Asking the county council.

The motion specifically said request from the
county council.

MR. CRADDICK: There's going to, I
suspect, have to be funding with it. If there
is no funding with it, they will --

MR. NOBRIGA: There is no scope of work,
so how are you going to get costs?

MR. CRADDICK: Good point.

CHAIRMAN RICE: We have a further

discussion here. Mr. Starr?

MR. STARR: Well, Attorney Miyabara, who

is working for Mink and Yuen, had requested

\$40,000 to basically do this review work.

Perhaps our deputy corp counsel can suggest a

number with that in mind that would be -- that

would get the thing on the road. He knows what

this kind of work is worth a lot better than I

do.

MR. KUSHI: Mr. Chair, Board Member

Starr, it's been a while since I was in private practice, but I'm not sure -- take a wild guess, I mean one could spend 10 hours or 10 days looking at this. The hourly rate I guess is close to about \$200 an hour. Maui County Council is reluctant to authorize anything over one-fifty. However, Director makes a point in that if they know the funding, they won't pay for it, that the board will pay for it. They may not care. But you need to set parameters in terms of how much per hour; terms, how long, not

forever; and a max. I think all those need to
be proposed to the council in its deliberations.
Also the scope of work. And I would imagine
your scope of work is to review, analyze, and
recommend to the board whether this document is
proper for acceptance, or in such terms as that.

I advise and I like to remind the board
that -- not remind the board but, you know, when
this thing does go to County Council, the
question is is it a real necessity? Is there
real necessity to hire outside counsel? And

they will ask our office, basically, why are you not doing your job. Our reply is that we have, but the board is not -- feels uncomfortable. So that is what's going to happen and I'd just like to let you know that's going to happen. And it's up to them. Okay?

CHAIRMAN RICE: Thank you, Mr. Kushi.

Mr. Craddick?

MR. CRADDICK: My past dealings with Corp

Counsel is that they usually set a limit of

\$15,000 initially for any contract. That's why

I put \$15,000 in here. I don't expect that that

will be the final amount. But that is the

amount that has been done basically with all the

contracts except the DBCP one where a cap was

set at \$300,000. And I believe the board hired

that attorney without benefit of going through

the council at that time. That was prior to the

[inaudible] Lingle decision. But everyone since

then has had either \$10,000 to \$15,000 as a cap.

So I think we all know it's going to be

more, but -- and you have budgeted more, so
there is always the ability to raise this cap in
here. But right now that's the cap.

And what I have asked the board to get
the attorney for is the purpose of assisting
Corp Counsel with any legal challenges to the
Final Supplemental EIS.

CHAIRMAN RICE: Mr. Kushi.

MR. KUSHI: Mr. Chair, excuse me, but I
would not [inaudible] because you're
anticipating a legal challenge which will get

the council excited. I think you should hire this outside third party attorney to assist the board and our office in reviewing the document for acceptance. If you hire him for litigation, that opens the whole -- another scope. Keep it away from the lawsuit. We're doing your Chapter 343 review. If and when litigation comes again, then you need to hire or expand or amend that contract if you feel comfortable.

CHAIRMAN RICE: Thank you, Mr. Kushi.

Mr. Starr?

MR. STARR: Mr. Chair, at least for discussion purposes before we go to a motion, I would like to suggest that we put in an amount of \$20,000 and a rate not to exceed \$200 an hour and rephrase it as Counsel Kushi recommends.

CHAIRMAN RICE: Discussion purposes?

Anybody want to make a comment? How does that sound?

MR. NOBRIGA: I have no idea what attorney rates would be with this type of thing.

Before we can speak rates, I think we need to decide as a body on scope of work.

The scope of work being proposed by our esteemed counsel seems to be the most prudent direction for us to get going, so I would make a motion to that effect, but I forgot what he said.

MS. PARSONS: Could we have some more discussion before we do this, please? If we hire counsel prior to -- this is my understanding -- prior to acceptance of this

SEIS, it will take 60 days before County Council will make a decision on the request that we are giving them and they will have delayed the SEIS. If that is the intention of the board, then we should go forward with the council. If it is not the intention of the board to delay, then we should reconsider. It will take 60 days for the council to come up with this answer.

CHAIRMAN RICE: But that's -- so that is the question and we might as well put it on the table. If you are going to ask for assistance

to review this, yes, you're going to delay it.

And if you don't want to delay it, why? That's

my question. Why -- and I haven't heard a good

reason.

MS. PARSONS: Well, I've heard from

Mr. Mink and I've heard from Mr. Kushi that

procedurally, as Mr. Nakamura has stated, we are

correct.

And as far as Mr. Starr's comments, I

would like for Mr. Craddick to maybe to answer.

The monitoring well, if you go look at the

video, had no water in it to be monitored.

Community comments were something they went back

and put more community comments in, I believe.

And streams -- losing stream and gaining stream

flow by the USGS, that was also answered in here

to my satisfaction anyway.

So I don't have a problem with the SEIS.

I think that if the public comes back after the

60 days and we hear some substance and comments,

that's something that we review at that time.

But at this point, the issues that

Mr. Starr had with this can be answered by the
director. And to delay for another 60, 90 --
six months -- we have a problem with the Iao
Aquifer. And I think you all realize that. And
we've hired the USGS to look into this. And I
think we need to move forward with what we're
going to do with Haiku.

CHAIRMAN RICE: But that's not --

approval of this SEIS is not going to put a pump
in East Maui tomorrow or next year.

MS. PARSONS: No, but it will get it

rolling.

MR. CRADDICK: The pump is already there.

MS. PARSON: The pump is there.

CHAIRMAN RICE: Wait a second. I don't

really care about Mr. Starr's comments about the

SEIS. He may be right; he may be wrong. That's

not the issue. But as a board member, you all,

in public and individually, have said that you

expect a lawsuit. And I'm just asking you if

that's the case and you have an opportunity to

make sure that your case is as strong as it is,

why don't you take it? And the answer is we

can't delay this. Okay. Then why?

MS. PARSONS: It's not the answer that we

can't delay this; it's the answer that

Mr. Craddick has said that it's appropriate, the

consultants we spent the taxpayers' money for

say that it's appropriate, and Mr. Kushi our

legal counsel says appropriate.

CHAIRMAN RICE: Mr. Kushi said he

reviewed the process --

MS. PARSONS: The process. And like I said, it's got a 60-day review by the public. If there are significant issues that need to be addressed after that point, I think we can go back to the table and do it. But I think we need to move forward with this. More delay and spending more taxpayer money, then why did we hire the consultants in the first place? If you're not going to take their word for it, if they're not good enough to provide you with this

document, why would you have spent the

taxpayers' money? That's, you know, why --

CHAIRMAN RICE: So that's the example,

well, I've been to five human resource classes

so I'm going to go ahead and fire this guy and

then I'm going to call my attorney later. I

don't understand the logic of that.

MS. PARSONS: It's not me making this

decision, Peter. It is Mr. Mink and the

director making the decision on this SEIS. It's

not me.

CHAIRMAN RICE: Neither which have

"esquire" after their name.

MS. PARSONS: No, but they have attorneys

that advise them. They both have attorneys that

advise them if this is correct.

Now, Mink and Yuen have a liability if

this is not a quality document.

CHAIRMAN RICE: Really?

MS. PARSONS: Yes, they do. Don't they,

Mr. Kushi?

MR. KUSHI: I'm sorry, what is the

question?

MS. PARSONS: If Mr. Mink and Yuen have not provided us with a quality document pursuant to the court order for which they were required hired to do, then they have a liability.

MR. KUSHI: Liability to who?

MS. PARSONS: To the board and to the department.

MR. KUSHI: That's a question if they were grossly negligent in their work. I'm not going to say that they are --

MS. PARSONS: That's right.

CHAIRMAN RICE: That's not the issue.

The issue -- go ahead, Mr. Kushi.

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

a motion and you seconded it and you passed it.

We're in discussion of I'm not sure what.

CHAIRMAN RICE: We have to qualify the

parameters of the hiring.

MR. KUSHI: If I may clarify the

situation, some members are correct in that if

you go to the council for special counsel, it may take a while. I think the earliest is 60 to 45 days. You need to go to the council to refer to the committee of the whole and then the full council for a resolution at this time.

You may want to consider or reconsider the request of Mink and Yuen to have Mr. Matsubara, who is their attorney, review the final SEIS on behalf of Mink and Yuen. There was a request to you before, I believe. And that went from 10 to 30,000 or whatever.

CHAIRMAN RICE: 10 and 30.

MR. KUSHI: But he would be an attorney

first in this area advising your consultant.

And be specific in this addendum to the contract

that he will be responding to the board. Maybe

that can do it. Then you don't need special

counsel; you're amending Mink and Yuen's

contract.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I don't really like that

route and I feel we're going to spend I believe

\$15,000 making sure that Mink and Yuen are protected. What I want to do is make sure that we come out of this in a successful way.

And remember, this has been 10 years in the works and it's most likely to be several more years in the works as well. And I think that if we can be a little bit patient, we can do it right and we can be successful. And I think that that's important to do the thing right and the right way to file a document like this is after review by specialist counsel.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: In light of Corp Counsel's discussion there, I would certainly recommend to the board going that route for a timeliness fashion and not recommend to the board not to do that because I understand the Chair's concerns there. And if you're looking at \$40,000 and you base it against the issues of Iao Aquifer, \$40,000 is not that big an issue to get some comfort level to the board members on this EIS

because that -- whatever the board does with
this EIS will make I think a big -- give us a
big hammer in answering the Water Commission's
report here on the findings of fact because
that's obviously a fact that they don't have in
their report yet that we're going ahead with
that.

So it would be my recommendation to go
ahead and amend that contract.

CHAIRMAN RICE: I want to make something
clear. There is not a motion, there is not a

feeling of this board to not go ahead with this
SEIS. That has never been the suggestion. The
suggestion is prior to accepting it, do we want
to know if we're dotted every I and crossed
every T? That's the question.

Now, the other question is already having
made a motion to hire outside counsel is whether
we want to go a different route. So we are half
pregnant right now because we've got the motion
to hire outside counsel without any scope of
work. We need to do something here.

Mr. Craddick?

MR. CRADDICK: The letter that came with this report comments on the CWRM's staff report required no later than Monday, November 4th, 2002.

CHAIRMAN RICE: That's not the issue.

Mr. Starr?

MR. STARR: Mr. Chair, I would like to make a motion that the scope of work for outside counsel to review this SEIS document and report back to the board, after working with

corporation counsel, any amendments or changes that would help improve it and that an amount of \$20,000 maximum be attached to it with an hourly rate not to exceed \$200.

CHAIRMAN RICE: Motion.

MR. NOBRIGA: Second.

CHAIRMAN RICE: Motion has been seconded.

Okay. Discussion? All in favor, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Mr. Victorino?

MR. VICTORINO: Opposed.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: Aye.

CHAIRMAN RICE: Mr. Nobriga?

MR. NOBRIGA: Opposed.

CHAIRMAN RICE: Clark?

MR. CLARK: Nay.

CHAIRMAN RICE: Ginnie?

MS. PARSON: Nay.

CHAIRMAN RICE: Motion fails. Okay. Now

we're nowhere again.

MR. VICTORINO: Mr. Chair, I've got to
excuse myself. I'm not in a very good physical
nature at this point and I'm not helping in any
way by sitting here, so if you would let me be
excused, I would appreciate that.

CHAIRMAN RICE: You're excused. We
appreciate your standing in this long.

MR. NOBRIGA: May I have a five-minute
recess, Mr. Chair.

(Brief recess.)

CHAIRMAN RICE: Okay. Meeting is back to

order. We're still on the issue of the SEIS.

Let the record show Kent Hiranaga is present.

Mike Victorino was excused due to illness.

MR. NOBRIGA: Mr. Chairman.

CHAIRMAN RICE: Mr. Nobriga?

MR. NOBRIGA: Thank you. Mr. Kushi, is

it okay for us to make a motion on the change

order request to Mink and Yuen's proposal at

this time even though don't have anything on the

agenda about that, but because we're talking

about 30 days and everything and the change

order to Mink and Yuen was about one attorney.

MR. KUSHI: Mr. Chair, Board Member

nobody, very good question. There is no request

-- specific request before you to amend the Mink

and Yuen contract. I believe it may have been a

couple board meetings ago, I'm not sure.

However, under Old Business your agenda

item D, there is an item called

Discussion/Possible action regarding encumbering

funds to hire an attorney to respond to legal

challenges regarding the final SEIS for the East
Maui Water Development Plan.

Technically -- I mean, possibly this
discussion could fit in there. To be
conservative, I would notice it again on a
different agenda so that there can be no
question that what you're doing and what you're
doing. But again, my response and my advice to
you is that you can discuss it under this issue,
but I would advise you don't take any action
until you specifically notice it on another

agenda.

MR. NOBRIGA: Thank you, Mr. Kushi.

Mr. Chairman, can I continue?

CHAIRMAN RICE: Yes, please.

MR. NOBRIGA: Because of the -- I would like to see this SEIS proceed on an expedient and timely basis. I do not believe that our requests that we acted upon to have outside counsel from the county council if we can do that, needs to be answered right here and now. The more important issue is accepting the work

of Mink and Yuen on this final report. Because

I do not want to receive the final report until

a careful review of its integrity -- not really

integrity, review that all the I's are dotted

and the T's are crossed and the commas are in

the right place, I would feel much more

comfortable if an attorney does review the SEIS.

And I feel the most expedient manner is to act

upon the request from Mink and Yuen for the

additional \$10,000 or -- \$10,000?

CHAIRMAN RICE: Ten and thirty.

MR. CRADDICK: It was \$10,000 to review
the supplemental EIS and \$30,000 to review
specifically Isaac Hall's response to the draft
supplemental EIS.

MR. NOBRIGA: So \$40,000.

MR. CRADDICK: Yes.

MR. NOBRIGA: And I would -- I would
aggressively support something along that line
as fast as we can do it. So being it's not
noticed, we should try and notice it and do it

that way.

CHAIRMAN RICE: Anyone else?

Mr. Craddick?

MR. CRADDICK: It may be if there is a general consensus on the board to go in that direction, we can talk to Mink and Yuen and see if they would proceed on their own risk, knowing that there is a general consensus on the board to go in that direction. And I just don't know if you would notice a special meeting for that so that the report could be available to you on

the 8th. But that's hopefully what we would be trying for.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I have a reluctance on this because I know that if counsel is working for Mink and Yuen, they're protecting their interests and not the board's. I'm wondering how that works, if it's possible for the board to be hiring them and make sure that they're actually there representing the interests of the board, which is to get this document finalized,

or whether their primary representation is for

Mink and Yuen who have, you know, have a

different legal interest. I would like to hear

from counsel regarding this matter, whether this

attorney can have two masters.

CHAIRMAN RICE: Mr. Kushi, please.

MR. KUSHI: Board Member Starr, that is a

situation. Mr. Matsubara is a licensed attorney

and knowledgeable in this field, is contracted

by Mink and Yuen. Mink and Yuen is his client.

Neither the department nor the board is not his

client. However, Mink and Yuen is a consultant to the department who is the agency who prepared this document. And any legal questions or questions of a legal nature regarding this document should be first addressed by the board to the department, the agency. If the agency can't answer that, they will consult their consultants who then have their own legal attorney who would respond up the line.

But Matsubara's first allegiance, I

believe, is to his client, which is Mink and

Yuen.

MR. STARR: Because of that chain of

command, does that mean that Matsubara can work

seamlessly with corporation counsel on this?

MR. KUSHI: Pardon me, I didn't

understand the question.

MR. STARR: I would want to see that any

counsel that we hire or we pay for someone else

to hire is able to work with corporation counsel

on this seamlessly. Does this arrangement

preclude sort of a partnership between corp

counsel and Mr. Miyabara?

MR. KUSHI: Well, Mr. Chair, Board Member

Starr, I mean, we're all working for the same

thing, to produce an adequate SEIS. If the

agency, the agency being the department, had

serious concerns of a legal nature, we would

address it to the consultant and the consultant

should respond.

Now, what I understand is that the

consultant has his own legal advisor who ran out

of funds to review this final document. So, I mean, that's the situation here.

In terms of working seamlessly or not seamlessly, I mean, we're all doing -- trying to do the same thing.

CHAIRMAN RICE: Mr. Kushi, in the event that the scenario that is being painted here that this gets -- that the board authorizes this attorney to do this extra work and in some way assures the board that the SEIS is acceptable and we get sued, then that legal work -- can you

use that legal work in the defense? That's I think what Mr. Starr is saying is if you know we're going to spend \$40,000 for legal, we may end up doing that, but can we use it when we need to use it? Because we're doing it to assure ourselves that we've got a case as we go forward in the event of a lawsuit.

MR. KUSHI: Mr. Chair, if I understand your question correctly is this. If this document -- assume the board accepts this and

this document is challenged, it goes back into court on the challenge being that the SEIS is still inadequate.

CHAIRMAN RICE: Or whatever.

MR. KUSHI: The attorney -- our office or the attorney that you may hire to defend the board's action on this SEIS will then defend the document. In its defense, it will call on the consultant to justify his responses or his document. The consultant may then refer to his legal department or his legal advice in

preparing that document.

So the roundabout is yes. Whatever the consultant does is based on scientific fact and legal background which he has hired an attorney to do.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I still have a concern because I feel that what is going to happen is we'll be paying for someone to kind of justify or defend to us this document on behalf of Mink and Yuen, whereas my desire is to find someone

who can help us improve it if it needs

improvement to the point where it becomes

successful.

I certainly feel that we're just kind of

setting ourselves up for a very, very long legal

battle where we would be much better off

improving this thing with another fresh mind who

is a specialist in this field.

I know nothing about Mr. Miyabara. Could

we just -- does corp counsel know anything about

that firm, what their background is and what

their experience in these type of cases is?

MR. KUSHI: Mr. Chair, just by

reputation, I've known him for a while. I mean

personally I've known him for a while. I've

never worked with him. But by reputation in the

community, he is one of the knowledgeable people

in this field. Craddick knows more about it.

CHAIRMAN RICE: Mr. Craddick?

MR. CRADDICK: Ben handled the EIS

requirements for the state's geothermal project

over on the Big Island and extremely well-versed

in this area. So no question he can review the

document.

CHAIRMAN RICE: Thank you, Mr. Kushi.

MR. KUSHI: Mr. Chair, last comment.

With all deference to Board Member Starr, I

understand his questions and concerns. However,

my understanding of these meetings is that

you've had the document for over a week. You're

going to have it for another three meetings. If

you can pinpoint questions, concerns about the

document itself, and the department through our office or with our office or with the consultant can answer your concerns and then you're still not satisfied, then I can see you going ahead and getting somebody else. But to this point I've heard two issues: The monitoring well and the community concepts. So, you know, if the board would at least advise the agency and the department what areas are you concerned about.

I've also heard the Waiahole decision case and I'm looking at the response from the

department and that's in my mind is

satisfactory. We don't need a thesis on the

Waiahole ditch case for this document.

CHAIRMAN RICE: Mr. Starr?

MR. STARR: I would like to see from corp

counsel a written response to every point

brought up in Attorney Isaac Hall's two letters.

MR. KUSHI: Mr. Chair, the department has

responded. It's in the document.

MR. STARR: I would like to see that corp

counsel supports the response by Director

Craddick in each of those points. If that can

be done in one sentence, that's fine.

CHAIRMAN RICE: Mr. Kushi?

MR. KUSHI: The office of corporation

counsel is not the agency. If you want me to

review it and come back to you at the next

meeting and go point by point and say yes, yes,

yes, yes, maybe, maybe, maybe, I'll do it for

you. But I reviewed it before.

MR. STARR: I stand by my request to have

all of those points answered by counsel.

CHAIRMAN RICE: Mr. Hiranaga?

MR. HIRANAGA: What is the scope of the work that was assigned to Mink and Yuen under that contract?

MR. CRADDICK: The short answer to that is to prepare a supplemental EIS to deal with the issues raised in the court order.

MR. HIRANAGA: In the department's opinion, Mink and Yuen is a qualified consultant to accomplish that requirement?

MR. CRADDICK: Yes, especially in the

area where groundwater is an issue and its

interaction with stream flow. I believe there

is no better hydrologist in the state than John

Mink.

MR. HIRANAGA: So I guess I'm wondering

why would it not be under the scope of work that

he has his own -- if he feels the need --

professional legal counsel to review his work

product in order to assure himself that he has

fulfilled the scope of work that was contracted

to him?

MR. CRADDICK: I don't know that I would
be able to answer that question.

MR. HIRANAGA: Let me rephrase this. He
must be satisfied that he has done his best on
this particular agreement before he submitted
the SEIS to us for review.

MR. CRADDICK: Yes. As I said,
Mr. Matsubara did review the draft supplemental
EIS and there are not very many -- well, there
are no substantial changes from the draft to the

final. So as I said to the board before it's,
you know, not really necessary to do that, I
didn't think. But on the same token, I
understand the Chair's request. I mean, it's a
logical one, you know, you don't want to deal
with a personnel issue that you know you're
probably going to go to court on without getting
some level of comfort with the somebody that may
represent you in court.

Now in this particular case, I'm not so

certain that just the fact that Mr. Matsubara represents Mink and Yuen right now, that he wouldn't be submitting a proposal should the board decide to go out to hire outside counsel in the event there is a legal challenge to the supplemental EIS. I would expect he probably would submit a proposal to do that. So --

MR. HIRANAGA: What is the purpose of the additional \$40,000 that is being requested by Mink?

MR. CRADDICK: The letter that we got was

specifically to review the final supplemental
EIS document and the \$30,000 was specifically to
review Isaac Hall's letter and our responses to
Isaac Hall's letter. And I've, you know, just
personally, I don't know if this is listed for
executive session, probably should be listed in
the executive session, my belief is he gave the
\$30,000 simply because he didn't want to do it,
not because that's what it's going to cost him.
I believe it will actually cost much less than
that. So if the board approves that, there is a

possibility it's not going to cost that much.

MR. HIRANAGA: My personal feeling is I would be in favor of authorizing the additional \$10,000 to have Mink's counsel review the final EIS or SEIS. I fear no matter what SEIS is submitted to the court, that there will be people that will legally challenge the submittal no matter who reviews it. So I would be in favor of authorizing the additional \$10,000, have Mink's counsel review it, submit the SEIS, and we can start in an independent process of

reviewing and procuring legal counsel in

anticipation of a legal challenge.

I see no merit in having outside counsel

review this report before it's submitted to the

court.

CHAIRMAN RICE: Okay. Are we going to go

somewhere with this? Because I'm going to move

on if we're not. Ginnie?

MS. PARSONS: Could we put that in a

motion form that we will address this and see

the consensus of the board? Could you put what you said into a motion form? I move for the motion for what Kent expressed.

MR. HIRANAGA: I'll second.

CHAIRMAN RICE: And the Chair needs clarification. The motion is for -- that at a subsequent meeting, we authorize the approval of \$10,000 for review of the SEIS?

MR. HIRANAGA: Final SEIS.

CHAIRMAN RICE: Is that the motion?

MR. HIRANAGA: I believe.

CHAIRMAN RICE: That it be agenda'd for
the next meeting?

MS. PARSONS: Or do we need a special
meeting for it?

MR. CRADDICK: I'll leave that up to you.
If you want it done a little more properly,
namely having the funds approved prior to
getting the report, it would be nice.

MS. PARSONS: Okay. At a special meeting
-- at a special meeting.

CHAIRMAN RICE: Is that the motion?

Moved and seconded. Mr. Starr? Discussion?

MR. STARR: Although I really feel that we're, you know, we're heading down a path to a failure again, unfortunately, I do feel that we should have Attorney Miyabara at the next meeting.

CHAIRMAN RICE: That's a different issue.

You want Mr. Miyabara present at the meeting?

MR. STARR: Well, if the decision is going to be to go ahead, have him -- and let's see what we're buying.

CHAIRMAN RICE: We have a motion to
proceed with the \$10,000 review by Miyabara.
Matsubara. To be agenda'd for a special
meeting. All in favor, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

MR. STARR: Nay.

CHAIRMAN RICE: Let the record show one
nay. Okay. Moving on. Let's go back to the
agenda at the beginning.

Director's Report 02-37. Mr. Craddick?

Request for electrical easement for Maui

Electric at the Alaeloa Tank.

MR. CRADDICK: There has been a request from Maui Electric to run a power line over our tank site area there and we have no objection to it, subject to it being a nonexclusive easement since we still have continuing activity going on down below with whatever line they would be running overhead.

CHAIRMAN RICE: I note that there are

some members of Maui Electric here. Any desire
to say anything?

MECO REPRESENTATIVE: We're here to
answer any questions.

CHAIRMAN RICE: Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, I would move
we accept the request and the easement with the
addition of the word "nonexclusive" at the top
of page five in our agendas where it says "a
perpetual right and easement," we can add "a
perpetual nonexclusive right and easement."

Mr. Attorney, is that-

CHAIRMAN RICE: Subject to final review

by corp counsel.

MR. STARR: Second that.

MR. KUSHI: We will make request.

CHAIRMAN RICE: And the motion is subject

to final review by corp counsel? Oh, it is,

you've already signed it. Okay.

MR. KUSHI: Mr. Chair, I'll do the

amendment and then sign it.

CHAIRMAN RICE: Okay. Any discussion?

All in favor, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: Motion is carried.

Director's Report 02-38. Mr. Craddick?

Additional funds for Pookela exploratory well.

And there is a handout also received.

MR. CRADDICK: Okay. On this item here,

we have drilled down to the contract depth with

the pilot hole. The water level is between 5 and 11 feet. We were trying to bail the well down. We could not bail it down past 11 feet. But the formation is very hard down at the bottom and right at the end of the drilling, like the last 20 feet, was relatively soft. And this was a similar situation that happened with the Dowling well. And we believe by chasing that soft issue area down further, that we may be able to go from maybe a million gallons a day of water to a million and a half gallons a day.

And for an additional forty some thousand

dollars, that's -- well, small amount of money

to get the extra water.

And there is one other additional issue.

There is a separate letter there. I think we've

been asking for \$35,000. There is separate

letter asking for another \$8,000. And what has

happened is we have found out that the

centralizers were left off of the main contract

and these are required to keep the casing in

center of the hole when it's cemented and should

not be left out of the contract.

CHAIRMAN RICE: Okay. What is your
pleasure?

MR. NOBRIGA: Move to accept,
Mr. Chairman.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved and seconded to
request. Yes, question, Kent.

MR. HIRANAGA: Just looking at your
breakdown on costs, what is miscellaneous
expense, a third of the expenses?

MR. CRADDICK: Because these cost items are -- I don't think they're directly identified, are they, Herb, in the thing? It's just test the well. And now they have got to put more pump in, put it in deeper. That's my understanding what that is.

Again, we're asking for 40 feet. They may not be drilling this total 40 feet. So it's possible that we wouldn't use the whole amount. But we can't be coming in here the day

that they're starting to drill and, you know,

going in 10-foot increments. But we will be

watching very, very closely when they start to

drill.

CHAIRMAN RICE: Anything else? All in

favor, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: Motion is carried.

Director's Report 02-39. Request for

approval to use \$10,000 for professional services for a special project of providing customer service training.

MR. CRADDICK: This is an item based on the discussion at the last board meeting, so we've put it on this agenda to get the money appropriated for that so we can move forward. Or not appropriated, but set aside for that.

MS. PARSONS: I make a motion to approve director's request.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved and seconded to
approve the request for \$10,000 for training.

Discussion? All in favor, say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: Motion is carried. It's
unanimous.

Director's Report 02-40. Mr. Craddick?

MR. CRADDICK: This item is the USGS work
that they do for us monitoring Iao Aquifer and

the Opana tunnel at Kailiili and the amount is

\$23,600.

MR. STARR: Move to approve.

MR. NOBRIGA: Second.

CHAIRMAN RICE: Moved and seconded to

approve the request, noting that this is a

shared amount between us and the USGS, right,

David?

MR. CRADDICK: That's correct.

CHAIRMAN RICE: Questions? All in favor,

say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: Motion is carried. Old

Business. We're into the request for

encumbering of funds for the Hana Mill Road

waterline replacement. Mr. Craddick.

MR. CRADDICK: I believe we submitted

another letter and we're saying we do not

recommend utilizing ductile iron for the

replacement of a section of waterline from the Hana water tank to Hana Highway. The estimate to do all of that would be about two hundred some thousand dollars. So in looking at it very closely, we don't feel our crews would be able to put it in and with the temporary nature of the other line that's being put in, it helps revolve an immediate problem that we have.

CHAIRMAN RICE: Ginnie.

MS. PARSONS: I know one of the questions that we had about using the different types of

pipeline and why we wanted the ductile iron was because of the pressure seems to blow out the other. We don't have a pressure system problem with this area?

MR. CRADDICK: No, it's less than I believe what was it here, a hundred pounds, 125 pounds.

MS. PARSONS: What would be the high -- what would be considered high?

MR. CRADDICK: That's right on the borderline of what would be considered high.

But then again, we're not looking at this line
being in there permanently forever.

MS. PARSONS: Two years?

MR. CRADDICK: That would probably be --
when will that other project be finished, Herb?
When will that other project be finished, that
other pipeline?

MR. KOGASAKA: The plans are being
prepared for that Hamoa to Hana Mill Road. That
section is in design at this time.

MR. CRADDICK: How long? A year?

MR. KOGASAKA: Less than a year.

MR. CRADDICK: The estimate is that it

will be no more than two years and we expect the

design of the line -- nights design now, that

would take less than a year but I'm saying a

year and then construction would probably be

less than a year but I'm also allowing a year

for that, so two years at the outside. That the

it would take to complete that.

MR. KOGASAKA: We're planning to put it

on the budget for next year 2004.

CHAIRMAN RICE: Okay. Any other

questions? What's your pleasure?

MR. NOBRIGA: Move to approve.

MR. HASHIMOTO: Second.

CHAIRMAN RICE: Moved and seconded to

approve the request for \$20,000. Is that

correct? If I read the letter correctly.

MR. CRADDICK: Yes.

CHAIRMAN RICE: All right. All in favor,

say aye.

[Chorus of ayes.]

CHAIRMAN RICE: Opposed, say nay.

[No response.]

CHAIRMAN RICE: The motion is carried.

Okay. We talked about that. All right. We're
on Old Business, E, discussion/possible action
regarding proposals for additional office space.

The RFP went out and the bids are in and we've
got a small summary page there. I think if
there is no objection from the board, we have a
committee to review the bids and come back to

the board with a recommendation say in 30 days.

Mr. Hiranaga has had some involvement in this

before. Mr. Starr has expressed a desire to

participate. Anyone else? Ginnie. Okay.

Would you guys be the committee and in 30 days

come back with a recommendation for us? Hearing

and seeing no objection, so ordered.

MS. PARSONS: One clarification from

Mr. Craddick while we're looking at this.

Mr. Craddick, when we're talking about space

that we need and in the next 10 years, what do you think the square footage space for the offices alone should be? Approximately? In the neighborhood of?

MR. CRADDICK: A space study was done and my understanding was that was in the neighborhood of twenty-plus-thousand square feet. But right off the top of my head, I don't have that number in my head, but a study was done and that also would be made available to the committee.

CHAIRMAN RICE: Mr. Craddick, would you
make that available to the committee members and
any other board members that request it?

MR. CRADDICK: Is there a chair of that
committee?

CHAIRMAN RICE: Mr. Hiranaga has been --
I believe him to be in prior actions. Okay.

The chairman would like to notify all the
members of the board that our upcountry meter
rule passed the county. I do want to try and --
the department has got a draft of a first

newsletter that they want to start issuing. I just haven't really looked at it and I thought, at the suggestion of the director, that it might be a good idea to have a chairman's corner to write about things, so I'm going to work on that unless somebody thinks that's wrong.

MR. STARR: That's good.

MR. NOBRIGA: Awesome.

CHAIRMAN RICE: That's about it. If there is no other business -- Mr. Starr, please.

MR. STARR: I would just like to comment

on item VI, Division Reports, page 40. Once

again, the figures don't add up.

CHAIRMAN RICE: You know, that's kind of

-- I am embarrassed.

MR. CRADDICK: What are you talking

about?

CHAIRMAN RICE: Howard noticed it, too.

If you just look at the report, you can tell the

number doesn't work.

MR. STARR: Year-to-date and total last

month averages. Say for looking at North

Waihee, we have a moving average of 2,796,000

gallons, but you see that every single monthly

figure is higher than that.

MR. CRADDICK: I'm not sure what you're

looking at.

MR. STARR: It really comes out to about

five million gallons a day, not -- where we show

about half of that.

MR. NAKAMURA: Same thing with Iao

tunnel. Iao tunnel shows about a million a

month but your moving average is about six
million.

CHAIRMAN RICE: I don't know who prepares
that report.

MR. CRADDICK: It's our plant operations
group.

CHAIRMAN RICE: I'm having an
increasingly -- I'm becoming increasingly more
confident with the work that Cathy Howard does.
Maybe she needs to -- you can just look at the
numbers and know it's wrong.

MR. CRADDICK: Could I direct your attention to the total? The total is correct. That intermediate amount is maybe wrong, but the total is correct.

CHAIRMAN RICE: That doesn't matter. We're doing a report, let's do it right. It's just being a little detailed and a little careful about what we're issuing.

MR. CRADDICK: I know. I'll watch it more carefully.

MR. STARR: Move to adjourn.

CHAIRMAN RICE: Mr. Craddick.

MR. CRADDICK: Was there going to be a
special meeting on that attorney matter we're
amending Mink and Yuen's contract?

CHAIRMAN RICE: Yeah.

MR. CRADDICK: What date?

CHAIRMAN RICE: I don't know.

MS. PARSONS: The soonest we can do it
correctly.

MS. HOWARD: If I have to agenda it and

you want it before the next meeting, there are

only three days, the 3rd, the 4th, and the 7th.

Because I would have to agenda -- I have to file

the agenda tonight, today, before 4:00.

MR. CRADDICK: The 3rd would be the best,

it would give the guy a little more time to --

CHAIRMAN RICE: Go ahead, do it for the

3rd. I don't know what my schedule is without

looking, but -- no, I can't -- I won't be here

on the 3rd. You'll have to do it without me if

you do it on the 3rd. Kent?

MR. HIRANAGA: The regularly scheduled meeting is the 8th?

CHAIRMAN RICE: The 8th.

MR. HIRANAGA: Why don't we have it on the next regularly scheduled meeting?

MR. CRADDICK: Well, it's just embarrassing to -- I mean, the board has brought this up on many occasions before, you know, don't have any work done until you've approved it. So now you're approving it the day you get the report, so it's not very kosher, but I can

go along with that if that's what you want to
do.

MR. HIRANAGA: I didn't understand that
comment.

CHAIRMAN RICE: We'll agenda it for the
8th.

MR. STARR: Move to adjourn.

CHAIRMAN RICE: Moved and seconded to
adjourn. All in favor? Adjourned.

(Whereupon, the meeting was adjourned at
10:45 a.m.)

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