

County of Maui Water  
Supply

**BOARD OF WATER SUPPLY**

**COUNTY OF MAUI**

**REGULAR BOARD MEETING**

Held at the Kahului Shopping Center, Kahului, Maui,

Hawaii, commencing at 9:00 a.m. on June 26, 2003.

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

IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

CHAIRMAN:

MICHAEL NOBRIGA

VICE CHAIRMAN:

CLARK S. HASHIMOTO

BOARD MEMBERS:

STACY HELM CRIVELLO

KENNETH M. OKAMURA

DOROTHY R. PYLE

SALLY RAISBECK

MICHAEL P. VICTORINO

DEPUTY CORPORATION COUNSEL: EDWARD KUSHI, JR., ESQ.

DIRECTOR: GEORGE TENGAN

BOARD SECRETARY: CATHY HOWARD

IWADO COURT REPORTERS, INC.

CHAIRMAN NOBRIGA: Good morning. I would like to call the Board of Water Supply regular meeting to order. It's Thursday, June 26th, 9 a.m., at the Hawaii Kahului Shopping Center. In attendance we have Board Member Stacy Helm Crivello, Board Member Clark Hashimoto, Board Member Mike Victorino, Board Member Kenneth Okamura, Board Member Dorothy Pyle, Board Member Sally Raisbeck, ex-officio Board Member Brian Miskae, Board Chair Michael Nobriga. Excused for this meeting, Board Member Kenneth Hiranaga and Ginny Parsons.

Also in attendance we have the director,  
Mr. George Tengan. We have esteemed corporation  
counsel, Mr. Edward Kushi, Jr. We have the head grand  
poobah, the chief dude of the engineering department,  
Alva Nakamura. Board secretary, Kathy Howard. And  
members of the public.

I would like to indeed welcome Mr. Brian  
Miskae. Brian comes to us with a wealth of  
information. Brian has served in a civilian capacity  
on this board once before and Brian has always been  
able to bring some good matters before the body.

Also I would like to welcome with us this morning Mr. Garrett Hew, CEO I guess of EMI.

Announcements. I would like to thank George Tengan, Mr. Alan Arakawa, for allowing the board the opportunity to attend the annual American Waterworks Association convention conference in Anaheim, California, from June 14th to June 19th. The members attending being Kent Hiranaga, Clark Hashimoto, Mike Victorino and myself, along with selected members from the staff, was able to utilize every opportunity to explore an incredible wealth of information available

to us by the American Waterworks Association. I have  
new confidence and a new sense of pride in having the  
type of employees with the County and the Board of  
Water Supply after hearing some poignant discussion up  
in the Mainland from different water municipalities.

Any other announcements?

Now move to the approval of the minutes.

Members, for your consideration we have minutes of

April 24th, 2003, a new member orientation; April

24th, a regular meeting; and also a May 22nd regular

meeting agenda before you. A motion would be in order to receive the minutes subject to a 30-day review, at which time if there are no corrections, the minutes would be filed.

MR. VICTORINO: So moved.

MR. HASHIMOTO: Second.

CHAIRMAN NOBRIGA: It's been moved by

Mr. Victorino, seconded by Mr. Hashimoto. Is there any discussion? All those in favor, signify by saying aye.

[Chorus of ayes.]



CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: The motion is carried. The meeting now goes to Item V on our agenda, which is testimony from the public. If there is any person present that wishes to testify on matters where your specific item is not listed on the agenda? Seeing none, we'll move on from testimony. Is there any written testimony? I did receive a letter from Councilman Danny Mateo which would I guess appear in Communications on our next agenda. It talks about the

letter I wrote to them, asking for them to expedite the necessary rule changes. I do have some response that I will share with the committee.

MS. RAISBECK: Question, Mr. Chair.

CHAIRMAN NOBRIGA: Yes, Sally.

MS. RAISBECK: Did he say when his committee would be taking up the new rules?

CHAIRMAN NOBRIGA: Sorry, but I -- not specifically. Basically the letter says in summary that the corporation counsel is working on a formal presentation for them.

MS. RAISBECK: Could we ask Mr. Kushi when he expects they will be ready?

CHAIRMAN NOBRIGA: Mr. Kushi, would you be able to answer that question?

MR. KUSHI: Yes, Mr. Chair. From my understanding, Mr. Mateo's committee has been waiting for an opinion from our office which that letter is referencing to. There was a meeting scheduled for next week in Mr. Mateo's committee. From what I understand, that may be postponed.

In any event, when Mr. Mateo's committee meets or the entire council meets, they need to decide or act as to who can make, amend, repeal rules. Our office is of the opinion that that's still in the air. Once that happens and whoever -- whatever body is then entitled to do the rules, they will come back -- the department will start initiating and I would imagine the department would reference the board first, get the board's input, and then whoever needs to approve it would then go out to a public hearing process.

Again, it's our opinion that this board,

because of the charter amendment, cannot repeal,  
amend, make rules. That power was specifically  
deleted from them. Again, that's our opinion. So  
that's where it is right now.

CHAIRMAN NOBRIGA: Thank you, Mr. Kushi.

MS. RAISBECK: Regardless of this apparent  
uncertainty, I think the council feels they will have  
the ability to establish rules by ordinance. And in  
preparation for that, I would very much like to see  
this board establish perhaps a subcommittee that could  
meet more often than once a month to see whether

besides the technical changes that would be required by the charter change, whether there are any policy changes needed or things that have been established practice that should be established in the rules, or things that are in the rules that should be changed for substantive reasons.

And would it be possible to have this board have a subcommittee going over the rules concurrently with the council's office investigating the technical aspects of it?

CHAIRMAN NOBRIGA: Ms. Raisbeck, I will notice

that item on our agenda for the next available meeting.

MS. RAISBECK: Thank you.

CHAIRMAN NOBRIGA: You're welcome. Ms. Pyle?

MS. PYLE: I think that -- well, I would like to ask if the board chair or perhaps a representative from the board be invited to the meetings that are being held by the council committee with Mr. Mateo even if for no other reason information. I feel like in many ways we are left out of this circle right now

of decisions that are being made concerning the fate of what this board is going to be doing and it would behoove us to be a little bit more proactive perhaps in participation in these meetings and perhaps even to testify in favor of the fact that fixing these rules is essential now; not saying one way or the other who should be doing it, but just simply that the board needs to have this done sooner rather than later.

CHAIRMAN NOBRIGA: Thank you. Moving on, if

there is no objections, would we be able to take up

Unfinished Business before Director's Report? Hearing



no objection, so ordered.

We will now go to item VII, Unfinished

Business. Communication 03-09, letter from David and

Leonora Masters requesting a waiver. Mr. Masters,

could you please come forward to the chair immediately

next to the court reporter, use the big microphone on

the table. State your name for the record. Also you

may invite other assistants.

MR. MASTERS: Yes. Thank you, Mr. Nobriga. I

would like to let Mr. Geiger speak to the board since

he will be representing us.

MR. GEIGER: Good morning, my name is James Geiger. I am here representing David and Leonora Masters, who are the applicants here.

As a matter of procedure or practice, I guess, we are asking a waiver of one of the rules and under the new rules, it requires a two-thirds vote of the voting membership. I'm not sure we have enough people here to even raise this issue because I believe your voting membership is 12 even with three vacancies, so that would require eight.

A VOICE: No.

MR. GEIGER: Okay. Then we are ready to proceed forward. I just wasn't sure how you wanted to handle that.

In addition, we have a Power Point presentation we were going to give. Would you like to handle something else while we set up or do you want us to just go ahead and set up?

CHAIRMAN NOBRIGA: We are going to recess while you set up. Recess for 10 minutes.

(Brief recess.)

CHAIRMAN NOBRIGA: We'll give the meeting back

to Mr. Geiger.

MR. GEIGER: Thank you for allowing us to set up. Good morning, Mr. Chairman, Mr. Vice Chairman, members of the board. My name is Jim Geiger and I'm here on behalf of David and Leonora Masters -- Nora Masters -- who are residents in Haiku. We are here on item Communication 03-09. We're requesting a waiver of your water meter rule.

Our presentation this morning will involve some information on the background of the applicants

so you know who we are, why we're here. Basically David is the son-in-law and Nora is the daughter of the original owners of the property, Federico and Eusebia Fontanilla.

We'll give you a history of how water service came on the property. Basically there are three water meters in existence that serve three permanent structures on the property. For your information, this is a photograph, an aerial photograph that was taken in the early 1990s of the property which shows the three structures. We have a structure up here and

a structure here, a structure here, and of course, the farming operation.

Why we're here is that we're requesting a waiver of your rules to allow one extra meter for a total of two meters on this property as opposed to the one 5/8-inch meter. And the reason for this request is that Nora and Dave would like to continue the operation of the property as they have in the past to allow the three structures as well as the farming operation.

To give you a little overview of where we are,

the property there -- and if I had steady hands, it would help -- is the Masters parcel which is about five acres. It is part of the Takitani Farms lot subdivision which has eight lots that go along right in that general area.

The Maui Ranch Estate subdivision is a subdivision of approximately 71 lots that goes in this area here, and then there are four additional lots right there that also are involved in the Ulumalu-Peahi water system improvement project that

I'm sure you're aware of. Essentially these 85 lots were all part of and received the water from the same source. Right now it's coming through the private water system of Maui Ranch Estates. Maui Ranch Estates obtains its water through the County of Maui through two two-inch meters and have been buying water from the County of Maui for a number of years. The water presently comes in here and ultimately ends up down at various properties, including the Masters property.

This is an aerial view. It's another photo.



You can see that Mamac Place, which is the roadway, is a right there. It is a dirt roadway right now. This picture, as I said, was taken in 1940 -- excuse me, in the early 1990s, 1994, we believe.

As far as the applicants, the property, as I said, was located in the Takitani Farm subdivision. Lot 13, this particular parcel, was purchased in 1980 by Federico and Eusebia and Nora, David's wife.

Federico was a farmer from the Philippines who immigrated to Maui in 1971. He started clearing the land in 1980 on the purchase, he started farming, he

started building the structures. And ultimately the three structures were built and the last one was completed sometime around 1987. He continued on farming until his health forced a retirement, so that ultimately Nora and David bought out the mom and dad sometime in 2001.

As far as the water service goes, in 1970 Maui Ranch Estates was formed. They had their own private water system. Sometime in the early to mid '80s, as near as we can tell, the Takitani Farm lot subdivision started receiving water service through the Maui Ranch

Estates system. In 1980 through 1984, Lot 13, the Masters lots, received their three water meters that they were using on the system. In the mid to late 1980s, the Maui Ranch Estate water system we believe started receiving water from the County of Maui through these two two-inch meters that we spoke of earlier.

Ultimately, beginning in about 1986, Natalie Powell, a resident of the Ranch Estates who later became a member of this board, started working to

improve the system and basically get it on to the county system. At the time that the [inaudible] first began, Natalie said that the Lot 13, the Masters lot, would receive the same three meters that they had when they started. This representation continued up until at least 2000 when we were told that we would still have the same three meters.

Well, in 1999, finally, after about 13 years, Natalie secured the federal participation necessary to do the improvement project. There was about a hundred thousand dollars in block grants from HUD and there

was \$1.4 million from the Rural Development Fund of the Department of Agriculture, \$70,000 from Tri-Isle, and then of course the County of Maui also participated in this project.

In 2002, finally, in the summer, a Notice to Proceed with Construction began, and in 2003 this year the project is expected to be completed. But unfortunately, upon completion, when they go on to the county system under the new system, the Masters, instead of having three meters like they have always had for 20-plus years, are only going to receive one

meter 5/8ths in size to operate three residences and a five-acre farm. You can understand why they're here asking for some help from the board.

The water meter issuance rule says that any lot is going to be limited to one 5/8-inch meter per planned subdivision lot. That's the rule we're running up against and that's why there is only going to be one meter initially or one meter allowed. What we're asking for is to get a waiver. We're not asking for us to get all three meters, but we would like to have a waiver so we can have one additional meter.

Now, we can do this and your rules allow it if the board, by a two-thirds vote of its entire voting membership, waives or modifies the requirements of the rule. To do so, you need to find three things.

First thing you need to find is that strict

application of the rule would cause an absurd, unfair,

or unreasonably harsh result. Second thing you need

to find is that the circumstances or conditions are

unique or exceptional and that you would grant the

request if someone else similarly situated would come

before you. The final thing you need to find is that the resulting action of the board will be without detriment to the existing users. And we believe that each of these three elements exists in this particular case.

First one is about strict application. Why would this be an absurd result? Well, presently, as you know, we have three meters that service the property. The property has been using county water, as near as we can tell, from the mid to late 1980s. The property has been used for farming for over 20



years. Strict application of this rule would be absurd because we would be going from three meters to one meter, but we're on the same system, we're using the same water. All that's happened is that the infrastructure improvements have been made better. But as far as our usage, it's the same.

The problem is that one meter wouldn't allow sufficient water for the Masters to operate the farm, to operate the three residences. In fact, it would reduce the water flow by two-thirds obviously from three meters to one meter, water flow goes down to

two-thirds.

Now, it is possible that the Masters could, with expending significant funds of their own, putting up tanks, doing engineering studies, trying to do the necessary pressure needed to operate it, that they could in fact operate with one meter. But it would require them, as I said, to put up tanks. Let me show you -- David, could you raise this? The property has -- right now this is where the meter would be proposed to be, at the top left. We would like a second meter down here by this structure here. The reason we want

the second meter is that there is a drainageway that runs through the property at approximately this location. In order for the Masters to continue to do the farming operation, they would have to erect some sort of storage tank up here at the top of the property, have a pressure system placed in place, and then they would have to run the piping down through the depression and back up over to this area here, not to mention all the way down over there. And Dave wants to add something.

MR. MASTERS: If I could just interject, this  
now has a concrete driveway here which we would also  
have to cut through.

The other thing you'd notice different is all  
these trees have been removed back here. We found the  
property line is much further back then they had  
originally thought. And this has all been cultivated,  
this has all been put into production.

MS. RAISBECK: What do you grow? Excuse me,  
Mr. Chair.

MR. GEIGER: The crops range from -- as I

indicated, there was at one time a piggery, there was some pigs there, but basically they have dryland taro, they have bananas, they have some coffee, they have some Chinese vegetables, they have peas --

MR. MASTERS: Mostly it's Filipino vegetables that we have in production right now, but I've also grown some great sweet corn and bush beans, which I rotate back and forth. One is nitrogen taking, the other is nitrogen complete.

MR. GEIGER: So we believe that the strict application of the rule in this case would be absurd

because the only thing that's changed is that the infrastructure has improved, but we've lost two meters. We've been using the same system, same amount of water, same everything, except we have different infrastructure.

The circumstances in this case are unique.

This is a -- we came from a private system. We are the only lot that we're aware of within the improvement area that does have three meters, very unique in that sense.

In addition, we think we're unique because, as

we indicated earlier, the moving force behind this had indicated to Dave and Nora and continued to indicate up until 2000 that we started out with three, we'd end up with three. We're not going to get three, we're not asking you for three, but we do think two is appropriate. So in our case, I believe you can find that the circumstances are unique.

Finally, the resulting action would not be detrimental to existing users. There are three meters that presently exist using county water. The usage

will not increase but it will in fact decrease because we're going to go from three to two, if the board grants the approval.

We thank you for your time this morning. In conclusion, I just want to go over a few points just to I guess reiterate them if we haven't nailed them home so far. This has been a family farm since 1980. They have been in farming, they would like to continue to be in farming, and we would hope that the board would support family farmers. There have been three meters in existence since the early 1980s. They have



used county water since the mid to late 1980s. It would be unfair to reduce these people from three meters to one meter. There are unique circumstances, given the fact that this was a private system that was buying water on the county system. And there would be no detriment because we're only asking for one additional meter and it would be a decrease from three to two, so that there would be a net profit to the system.

We want to thank you for your time. We would welcome any questions that you may have and would hope

that the board would grant our request for a waiver in  
  
this case.

CHAIRMAN NOBRIGA: Thank you. Members, any  
  
questions? Mr. Geiger and Mr. Masters, I have a  
  
couple questions. You say that you have -- you had  
  
three meters.

MR. GEIGER: We have three meters.

CHAIRMAN NOBRIGA: You still have three  
  
meters.

MR. GEIGER: We're still on the private  
  
system. It has not been converted over because

construction has not been completed yet.

CHAIRMAN NOBRIGA: And these three meters are  
assigned to which tax map key?

MR. GEIGER: The one tax map key.

CHAIRMAN NOBRIGA: And there is a removal of  
meters anticipated?

MR. GEIGER: What happened is that, yes, there  
would be a disconnect -- actually, no, that's not  
quite right because what's happened is they're hooking  
up to the new system so that there -- what would

happen is that there would be and there is a new meter here -- right now one meter. And we're asking that there would be a second meter allowed right here.

CHAIRMAN NOBRIGA: So the three meters that you have on the system currently, where are those three meters located?

MR. MASTERS: There is two meters located here and one down right here in front of the house. This is where I had the second lateral installed when the contractors were digging down the road. This is going to be paved. This is going to become an all-weather

road for the first time in its existence. And I didn't want to go right back and dig it up right after they paved it. So while the contractors were going down the road, I got permission to have the second lateral put in.

CHAIRMAN NOBRIGA: Mr. Hashimoto?

MR. HASHIMOTO: You realized that this was on a private water system and you signed an agreement not to hold the Board of Water Supply -- it says right here, [inaudible] they will not demand or request the department to approve and install a water meter by

[inaudible], et cetera, et cetera, because it's a private water system. And because you were on a private water system and not on a county system, you signed that waiver of agreement.

MR. MASTERS: That was before my day, sir.

But I think it's probably a moot point now that the improvement has already been made.

MR. HASHIMOTO: Because you also said that you will take all the responsibility of, you know, if the system goes bad, then it's going to be --

MR. MASTERS: I spent many, many hours out

working on it, sir, yes.

MR. HASHIMOTO: So then again I guess we go back to all these other people that don't even have a meter, they have been waiting for 50 years and they still don't have a meter, so I don't see it right that we're going to put you up into that category where you will get a meter before them. And because even in the newsletter that the mayor alluded to that only one 5/8ths water meter would be allowed.

MR. MASTERS: That was our first notice, sir,

December of 2001 was the first time we found that.

MR. HASHIMOTO: And then you would be put on the list like everybody else.

MR. MASTERS: Right, sir. That notice was that was sent out in December 2001 was our first indication that we would only be getting one meter. I went into the water department the next day to find out where we were fallen through the cracks and why we weren't going to be getting the three meters we were promised. And I spoke with Alan, who is the engineer on the project, and he said that that's -- that was



the board's decision to only allow one meter in that subdivision and that we would have to get on the list. But he said if the well at Pookela came in as it was expected to -- this was in December 2001 -- that all those meters should go out within a year. So hopefully within a year, we will have the --

CHAIRMAN NOBRIGA: Ms. Pyle?

MS. PYLE: It seems to me that in reading through these things and in listening to you, the person that we really need in this room is Natalie Powell. I don't know who Natalie Powell is.

Apparently she is someone who has made decisions and made comments to people about what was available from the County of Maui. Is any of that in writing? Did she get anything from the county with signatures attached to it that said that you would be entitled to three water meters?

MR. MASTERS: Not that I know, ma'am. This was all long before the county even got involved in it. This was many years ago.

MS. PYLE: I can tell you you can have three water meters; are you going to believe me?

MR. MASTERS: If you're on the water board and

--

MS. PYLE: Natalie Powell wasn't.

MR. MASTERS: Yes, she was, she was on the  
water boar.

CHAIRMAN NOBRIGA: Ms. Raisbeck?

MS. RAISBECK: Just for Dorothy's information,  
I did know Natalie Powell. She is no longer alive,  
unfortunately. She worked extremely hard to get the  
water system for this entire subdivision where she

lived, to get that, and she was on the water board and  
a very important member of the water board and I don't  
blame the Masters for relying on her opinion, but  
unfortunately it looks like in 2001 that was not -- no  
longer taken by the board and the department as  
necessarily effective. But she was an extremely  
active and extremely reliable person.

MS. PYLE: But it was still her opinion.

MR. MASTERS: Yes, ma'am, she was the one who  
put together all of the funding.

CHAIRMAN NOBRIGA: Any other questions,

members? Mr. Victorino.

MR. VICTORINO: As I read through this also, and I'm familiar with this because you have come before us before, I think the bottom line -- as Ms. Pyle has stated, that even though opinions or you were led to believe certain things by certain people, that the rules that are in place now which are what you are dealing with, unfortunately says one. We have a long waiting list. And to move someone like yourself up and leave those who have been waiting as many years or maybe longer than you have for meters,

wouldn't be fair. Also, the director as well as the mayor have both turned your request down and I don't see any other possibilities. I cannot with a clear conscious make a decision to go against their wishes because that's the policies and ordinances that are in state right now and that's what we have to go by.

I'm sorry, it may not be a fair decision in the sense of what you've gone through and what you started, but it's also the rule we've got to live by because if we start changing yours, then next meeting we've have ten other people in here wanting variance

or waive their problem, and it's a catch-22.

The other part of it is we still haven't figured out exactly where we are in this whole process with the new board itself. So even if we did recommend anything, it would still be only a recommendation. We cannot, as you stated, two-thirds majority make a decision to waive these rules because we're in a quandary making changes within our own organization and our bylaws. That's all I have to say, Mr. Chair.

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: I think you have a very excellent case and I too feel that I cannot -- being as new as I am, I cannot overrule the director who has the most intimate involvement here, on the basis of making an exception if he does not feel that it's justified and being familiar with the previous history. So even though my -- you know, I would love to be able to make the exception, I agree that when you have rules, you have to abide by them until either you change the rules -- which I would love to see the



rules gone over to be more fair. Until you change the rules, otherwise we have to have very stringent considerations to make exceptions to those rules and unfortunately I'm afraid I agree with the older members of the board that it wouldn't be right to -- well, the more long-term members of the board, pardon me, then I cannot see making an exception even though certainly you have a really persuasive case. Thank you.

CHAIRMAN NOBRIGA: Ms. Crivello?

MS. CRIVELLO: I do would like to ditto I

guess what the other board members said. Mainly I think, number one, we will be setting precedent if our recommendation is to your liking. And at this time I would like to just make my vote in support of our director and the mayor and I'm sure they have done their homework to accommodate their reply. So I think, too, that you're in a unique situation and it's awkward, but, you know, there is a list that needs to be accommodated also and at this time I think you should follow the rest of the residents of upcountry.

MR. MASTERS: You are right, we are unique in

our situation that there are no other properties out there with three legal, fully permitted. And I have all the permits, that was one of the questions that came up last month. And a farm. And we just can't -- we can't run the farm. We won't be able to grow anything without additional water source. And until they finally order a pump for the Pookela well, it won't happen, I know. But as of last Friday, they still had not ordered a pump for that well.

CHAIRMAN NOBRIGA: So my question is it would

require two-thirds with a board of nine, that means you would need six votes affirmative. We have seven members present. Based on discussion that you hear currently, do you wish to withdraw your request?

MR. MASTERS: No, I would like to get something definitive, sir, one way or the other. If I have to spend an extra ten to fifteen thousand dollars for over a year, that's what I have to do.

CHAIRMAN NOBRIGA: Okay. We'll proceed. A motion is in order. Members?

MR. VICTORINO: I move that we approve the

Masters -- I can make it in a positive and you can turn it down. Motion to accept the recommendation of the mayor, Mayor Arakawa, the letter of 4/29/03 and the director's letter, that we follow that as our recommendation.

MR. HASHIMOTO: Second.

CHAIRMAN NOBRIGA: Moved and seconded. Moved by Mr. Victorino, seconded by Mr. Hashimoto. Do the members understand the motion?

MS. RAISBECK: Clarification.

CHAIRMAN NOBRIGA: Ms. Raisbeck?

MS. RAISBECK: The intent of the motion is to deny the request for a waiver, correct?

CHAIRMAN NOBRIGA: Yes, ma'am.

MS. RAISBECK: Thank you.

CHAIRMAN NOBRIGA: Any discussion on the motion? All those in favor, signify by saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: The motion carries. The waiver has been denied. Thank you.

MR. MASTERS: Thank you, folks.

CHAIRMAN NOBRIGA: Okay. Moving back now, ladies and gentlemen, to Director's report 03-13, update of the Ulupalakua upgrade project. Mr. Tengan, thank you very much for putting this together for us.

MR. TENGAN: Mr. Chair, we have a short status report on the project I would like to go over. The firm of Belt Collins Hawaii has been contracted to perform the engineering services for the pipeline from Kamaole Tank to the Kanaio Lateral, consisting of

approximately 5,000 feet of 12-inch pipe, 9,000 feet of 8-inch pipe and appurtenances between Kamaole Tank and the Ulupalakua Lateral. It also includes 9,000 feet of 8-inch pipe between the Ulupalakua Lateral and the Kanaio Lateral and also 12,000 feet of pipe for the Ulupalakua Lateral for contract amount of \$409,800. The Notice to Proceed was given on June 16th, 2003. The consultant plans to start with the field survey along the pipeline route shortly.

Improvements along the Paeahu Lateral and the Kuhulu Lateral and storage improvements are not part of the



project at this time. The term of the contract is 320 days.

CHAIRMAN NOBRIGA: So to summarize, we have design work proceeding with the project. After design work has been approved, then we go to the construction phrase maybe? Thank you. Any questions, members?

Yes, Mr. Hashimoto.

MR. HASHIMOTO: So this 320 calendar days is just for the study or for the project?

MR. TENGAN: For the design.

MR. HASHIMOTO: Just for the design. So the

projected completion or -- what is --

MR. TENGAN: Design portion?

MR. HASHIMOTO: Installation and everything, a couple of years?

MR. TENGAN: I guess our normal time period on projects is usually about a year, but depending on the scope of this project here and the location of this project, it might take longer than that. And I would expect that it will take longer than that. So if you want a rough estimate, I would say maybe about a year and a half following the water bid.

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: So can -- I don't know, is it possible to estimate at this time what the total construction costs will be or does that have to wait until the design is finished? I mean, just a ballpark figure?

MR. TENGAN: All we know, it's going to cost a lot of money right now.

MS. RAISBECK: Is that a technical term, "a lot of money"?

CHAIRMAN NOBRIGA: Maybe Mr. Miskae can shed

some light.

MR. MISKAE: I just have a question,

Mr. Chairman. Is the environmental assessment

included in that contract fee?

CHAIRMAN NOBRIGA: Good question. Mr. Tengan?

MR. TENGAN: I believe it is. According to

the information we have here, the time period is

exclusive of governmental review periods, construction

plans, permits and environmental assessment. But I'm

sure it's included in the contract.

CHAIRMAN NOBRIGA: Affirmative was shown by

the head engineer Alva by the nod on his head.

Mr. Miskae.

MR. MISKAE: Just a follow up, Mr. Chairman,

is there an anticipation to have a finding of no  
significant impact?

MR. TENGAN: We're not prepared to answer that  
question right now.

MS. PYLE: This is a heavy Hawaiian area.

MR. MISKAE: Because you're probably going to  
run into a lot of culturally significant sites here

which could trigger a full EIS which could balloon  
that price dramatically.

CHAIRMAN NOBRIGA: Good point, Mr. Miskae.

MR. TENGAN: I'll make sure that our  
engineering division consults with Mr. Miskae on those  
issues.

CHAIRMAN NOBRIGA: Thank you. Back to

Ms. Raisbeck.

MS. RAISBECK: Yeah, that brings up something  
that I remember from last year that the upcountry  
community plan does not allow water to be exported

from the upcountry community plan area. And is any of  
this water going to be exported from the community --  
from the upcountry community plan area to the Hana  
area, if it's Kanaio? I mean, I think there are  
community plan considerations involved here and legal  
questions. So maybe Mr. Kushi could update us on  
that.

CHAIRMAN NOBRIGA: Would you be prepared at  
this time to comment on that, Mr. Kushi?

MR. KUSHI: Of course I'm not, Mr. Chair, but

I understand the situation and I recall what the upcountry community plan states. If this area is -- I'm assuming this area is within the community plan region, Ulupalakua, maybe halfway or whatever.

MS. RAISBECK: Kanaio sounds like Hana area.

MR. KUSHI: That's a fact.

CHAIRMAN NOBRIGA: Anyway, good point to be researched by the department, I'm sure. Any other questions?

MR. VICTORINO: Mr. Chair, since some of these subjects have been brought up, I would like to request



at our next meeting answers to these questions, you know, because there is some definite uncertainties by different board members, including myself, that I would like definitive answers, both from corp counsel and from the director.

CHAIRMAN NOBRIGA: These would be specifically

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MR. VICTORINO: The upcountry -- the impact, where is the line drawn as far as Kanaio and is it considered part of the upcountry or is it part of the Hana district, with the premise about water being

taken out of the upcountry area.

Secondly, Mr. Miskae's questions about the impact if we are coming along and we find burial sites or other cultural -- significant cultural sites, that that may cause problems. I mean, they are possibilities and if they are, what kind of plan of action other than the department coming -- so those kind of questions.

CHAIRMAN NOBRIGA: Mr. Hashimoto?

MR. HASHIMOTO: Are you going to be following the same -- I mean the same route as the existing

pipeline?

MR. TENGAN: I think we're pretty much thinking about going along the same area. A lot of the area is currently being used as grazing land by Ulupalakua Ranch and other ranches. Anyway, these issues will be considered and I'm glad Board Member Raisbeck brought up that point because I do recall that Kanaio is part of the Hana area and that that statement in the upcountry community plan could have an impact on the project.

CHAIRMAN NOBRIGA: Thank you. Any further

questions, comments? Okay.

Moving on to item VII, Other Business,

discussion regarding drought situation. I asked for

this item to be placed on the agenda. Basically the

catalyst is from the June 14th front page Maui News

article about drought and HC&S. And we have asked

Mr. Garrett Hew to join us. Garrett, could you join us up

front at the front table? Maybe ask Mr. Hew to give

us a short summary of the systems that he is entrusted

under his care. I know Ms. Raisbeck will have plenty

questions for you.

MR. HEW: Director Tengan had asked me to come here today to answer any of your questions regarding the drought that we've been having for the last 11 months. From last August until now, we've had 10 out of the last 11 months with below average deliveries. And I believe it was the first week of June that the flows in our ditch system was at about eight or nine percent of capacity. And luckily we had some sporadic rains since that time. However, it has -- it was very welcome to have these rains, but I think the watershed

is not really recharged now because, for example,  
  
yesterday we had a shower in East Maui. The main  
  
ditch was up at about 180 million gallons. This  
  
morning it's right down back to 70. So in a matter of  
  
less than 24 hours, we dropped a hundred million  
  
gallons.

But if there is any specific questions that I  
  
can answer from the board, I'll be happy to answer  
  
them now.

CHAIRMAN NOBRIGA: Kenneth? I'm sorry.

George.

MR. TENGAN: I just wanted to clarify

Mr. Hew's statement in that when he makes reference to flows in the ditch, it's a rate of flow and it's an instantaneous measurement and it's not the total volume of water that's going through the ditch at that time.

CHAIRMAN NOBRIGA: Thank you. Mr. Okamura.

MR. OKAMURA: Ten months was below the average flow, or something like that. What is the average flow, you know, what is that average?

MR. HEW: Every month is different and we've

kept records, so depends on the time of the year.

Historically, you know, we have good flows in May,

June. The last two months May and June have been less

than 50 percent of what we normally deliver to the

plantation and to the upcountry water system.

CHAIRMAN NOBRIGA: Ms. Pyle?

MS. PYLE: I'm just trying to put this all in

perspective. The article stated that there are

impacts because of the drought that HC&S is feeling

and is having I'm assuming temporary or at least



cyclical lay-offs as a result of that.

MR. HEW: That's correct.

MS. PYLE: I guess one of the questions that we could focus on or one of the issues we could focus on is a constant up and down, back and forth relationship between the increasing demands on the upcountry water system for residential and domestic use which requires that more water be taken out of the constant flow of the ditch system. And so I guess -- maybe this is where we're going with this, is should there be a stronger emphasis made on water usage --

water usage restrictions for the upcountry domestic users in relationship to the fact that the plantation is now having to lay off people? So while we are telling the people upcountry that they should be careful about their water use, we aren't currently, or at least the administration isn't -- we can't do this -- the administration is not saying there is an absolute water restriction. But if there was an absolute water restriction, would that give more water to the plantation so that people could continue to have jobs? That's kind of where I'm -- where I see

this whole issue is and what the advice of this board should perhaps be.

MR. HEW: I think due to the variability of the surface water source, you know, it can vary by several hundred million gallons --

MS. PYLE: In five minutes.

MR. HEW: In five minutes or whatever. I think as farmers, not only large plantations but any kind of farmers like Mr. Okamura or Mr. Hashimoto, we all depend on water and surface water is very variable

and I think it's one of those things that has been around for many, many years. And, you know, several farmers have called me and said hey, what's the weather going to be like in the next several months.

And I says I really don't know, I can't tell you. And they said do I plant this month or don't? And I says I can't tell you that. But, you know, there is so much variability, it's very difficult.

But to answer your question, I think for the domestic use, if there was a more reliable source like groundwater that could alleviate the problem in such

times as this, I think that would be very good.

As far as large scale agriculture such as HC&S, the plantation has limited amount of wells. These wells are all brackish wells, they were not suitable for domestic consumption, they cost a lot of money to operate, and they do not serve the entire plantation. So if surface water is short, these wells can supplement certain areas for a short period of time. But we cannot solely continue on just brackish water to run the farm.

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: I don't really have a good understanding of the, you know, the relative use of water by the plantation. What is the minimum say gallons per day that would allow full production on the plantation? How much minimum do you need?

MR. HEW: On the 37,000 acres of cane during the hot summer months requires I believe in excess of would 200 million gallons per day, 250, somewhere around there.

MS. RAISBECK: And if you get less than that, you have to cut back.

MR. HEW: If we have less than that required amount, what needs to be done is to operate these brackish water wells to supplement that surface flow that is not there.

MS. RAISBECK: How much per thousand gallons does it cost you to run those wells?

MR. HEW: I can't answer that question. I don't have a good grasp on that number, I'm sorry.

CHAIRMAN NOBRIGA: Mr. Hashimoto.

MR. HASHIMOTO: Up in the convention I was

interested in droughts, so I went to a couple of the drought sessions. And both in Seattle and in Orange County areas, the domestic -- when the domestic rate use -- I think Seattle was 56 percent, you know, for the lawns, 58 percent in Orange County, so, you know, over half of the water, domestic water is being put on the lawns. And so, you know, they're doing a lot of things, trying to curb that or trying to improve, you know, water conservation.

But again, the farmer, if they are going to cut back, like you said, you know, I think it's going



to be devastating, it's like a layoff for them. But most of the water is being used -- over half the water is being used on lawns.

MS. PYLE: I think that was the direction that I was going in and the question that I asked was if we are in truth going to be an advisory board for the department and hopefully gather information and offering well-thought-out advice to the department, to the administration, there needs to be these balances of what is the real impact for the upcountry water users and the economy of the plantation. And these

are really serious issues. And perhaps we do need to look at this in light of an advisory capacity since we are not making the decisions any longer. At what point do we advise even on short notice that there needs to be more restrictions made?

CHAIRMAN NOBRIGA: Mr. Victorino.

MR. VICTORINO: In listening to the variables, agricultural versus domestic use, and in particular the upcountry area always seems to be the thorn of the island, yet I've always -- when I lived upcountry and now I live in town in Wailuku, I always felt it was

one county and that we are now facing a critical shortage throughout the state. As some of you are aware, there is a drought alert throughout the state of Hawaii, just not on Maui. Oahu is grappling with this at this time.

I think if I was recommending any kind of ideas or possible solutions or possible recommendations I should say to the department, is to start looking at not only declaring mandatory water restrictions upcountry, but voluntary restrictions

throughout the County of Maui wherever possible.

Because I think we're one county and Iao and all these other ones are going to be adversely affected as this drought continues. The drought is not only on one side of the island. If you watch the West Maui mountains, we haven't had cloud cover on the mountains for quite a while. And that's got to start taking effect in the very near future.

We also should be cognizant of the fact that our farmers, they need the water to grow products that we consume. And if our back lawns or our yards are a

little brown, not as green as it can be, maybe that's  
the sacrifice we have to make as domestic users.

Also, and tacking on to what Mr. Hashimoto  
said, I went to an all-day class about brown water and  
brown water issues, which is very prevalent to the  
upcountry area. We're not only talking surface water  
but groundwater issues. And we all face this together  
as a county. So that would be my thought in this  
area, you know, I think that's what everybody is kind  
of coming around to, is how can we help the upcountry  
area, keep our businesses, our farmers in production

the best we can, and how as domestic users we can sacrifice a little to help ensure that our farming community can proceed and not have to cut back and lay off I think 90 people I think was it in this paper, 90, yeah, some 90 field hands were suspended are laid off for temporarily. And that's a lot of people. That has a tremendous economic impact on our county.

So I think we've got to have a better balance and the recommendation, like you say, Ms. Pyle, must be well thought out. But we need to recommend some definite immediate conservation efforts throughout the

county.

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: I remember during this past month Mr. Hashimoto sent around an e-mail pointing out that the voluntary restrictions on upcountry usage did not apply -- had never traditionally been applied to agriculture use. And I wanted to find out whether this is part of the rules or is this just a custom. I mean, is it an interpretation or a custom? And whether if it's -- whether it should be in the rules,

basically, first of all. Whether it should be in the rules or a more formalized policy that even though domestic users are being asked to cut back say 10 percent, the farmers are not being asked to or should not be asked to. And I would like to see, again, a discussion of the rules so that we're clear about this fact.

The second thing where I think the rules impact us here is there was a letter to the editor I think subsequent to this that brought up a point I have felt for a long time as true that asking



upcountry users to cut back 10 percent is not the fair way to do this. There is a minimum level required for household use and that runs 400 usually -- I think the average is around 400 gallons a day. When we previously had data on usage in different parts of the country -- of the county, I think Wailuku, Kahului, the average usage per household was in that area, four or five hundred maybe, and the average usage in Kihei was 1,500. And you know that that's a thousand gallons, you know, a thousand gallons a day going for landscaping.

So that it seems to me it would be fair if  
  
you're going to cut back, you don't cut back the  
  
people who are only using 400, 500 gallons a day and  
  
you do cut back the households that are using high  
  
amounts for --

MS. PYLE: Charge them more.

MS. RAISBECK: Or you increase the cost per  
  
gallon for people who are using -- well, even that's  
  
not fair because just because somebody can pay to put  
  
thousands and thousands of gallons on their  
  
landscaping doesn't mean they should be getting the

water for it.

MS. PYLE: But it gives you money for water development.

MS. RAISBECK: I would like to see rules again looked at to take up some of these issues.

CHAIRMAN NOBRIGA: Thank you. Mr. Okamura?

MR. OKAMURA: One question. At what point does the HC&S determine that you have to lay off the workers? Is there like a level in the ditch or is it a combination of factors, when it gets down below 30 million gallons a day or --

MR. HEW: I don't think there is any set number, but any time when you -- like say in June, early June, when you have 20 million gallons total in the ditch and the county is accessing about eight or nine so that leaves us with a balance of 12 or whatever. And we're also supplying the ag park some water from our system, so another one and a half, but we have to send down a few more million in order for those pumps not to cavitate down there or suck air.

So we're basically, you know, at that point total flow, 50 percent is going to the county and

we're left with a very, very short amount of water.

And it all depends on rainfall. Of course no rainfall  
this time of the year.

And what we do is we continue to plant until  
we know that there is no more rain in sight and then  
somebody has to make the determination and, you know,  
have people stay home.

CHAIRMAN NOBRIGA: I like to ask George what's  
going on with the second H-Poko well pumps, if he  
knows.

MR. TENGAN: They're scheduled for repair.

The first one has been repaired and it's been running a couple weeks, so we're going to be working on the second one shortly. I believe the contractor went up to the Lower Kula booster pumps to work on that and then they were scheduled to go down to Hamakua Poko pump number one.

CHAIRMAN NOBRIGA: Another question I have is we used to pump from Kamole up the line. I don't even know if we still capable of pumping up to Kahakapao now. Do we have the capacity to pump up to

Kahakapao yet?

MR. TENGAN: The line is still there, but I believe that it's nonfunctional right now and probably the pump station needs to be replaced if we needed to do that.

CHAIRMAN NOBRIGA: Mr. Hashimoto, you had something?

MR. HASHIMOTO: No.

CHAIRMAN NOBRIGA: Any other discussion?

Mr. Miskae.

MR. MISKAE: Without beating this up,

Mr. Chairman, there has always been thoughts of trying to construct storage when this ditch is flowing at 177 million gallons a day. Is there any thought of any public/private partnership to develop some kind of surface storage to stabilize this particular flow?

That subject comes up all the time, but then it kinds of just goes over here all the time, too, and we don't seem to really start talking about that.

CHAIRMAN NOBRIGA: Mr. Tengan.

MR. TENGAN: Mr. Chairman, if I may address

Mr. Miskae's concern. The department is working on a



reservoir of the Lower Kula system. We're looking at putting our reservoir in the size of two to three hundred million gallons per day. We had originally planned for a reservoir down at the Kamole treatment plant area. However, in meeting with the upcountry advisory committee, it was decided that a reservoir in the Lower Kula line would be better because with the storage there, with the gravity flow the water down to the Makawao-Pukalani area should the need arise rather than pump water from Kamole up to the Lower Kula

system, which would be expensive.

CHAIRMAN NOBRIGA: Mr. Miskae.

MR. MISKAE: Just one other point,

Mr. Chairman. Maybe some of the new members -- I don't know what kind of package of information that they have, but a few years back we did work on an EL rule that actually did establish penalties and that sort of thing for big users, benefits for small users, that sort of thing. I don't know if you folks are familiar with that rule. Okay.

CHAIRMAN NOBRIGA: We actually do have

scheduled some workshops early next month to help the membership go through all of our different memorandums of understanding and contracts and agreements that we have within the upcountry area. So that's going to be a very eye-opening experience, I think. It's going to help us understand especially the upcountry system a lot more.

The other area that we need to focus on as we're going through a drought situation. A drought is basically an act of God, it's not a man-made thing. So if we're having a drought situation in upcountry

and agricultural areas of HC&S and the farmers like  
Kenneth's farm and stuff, we'll also be experiencing a  
similar drought and recharge situation in our central  
system. From reviewing the report this morning of the  
water pumped in thousand gallons from the county, I  
noticed that if you add up all our water being used in  
central for the last four weeks, we have like 24  
million gallons that we're using; in the end of May,  
25 million; in the beginning of June, 23.5 million  
gallons during the week of the article and then 25  
million gallons being used last week. That's a lot of

millions of gallons that we're using just in the  
  
central system.

So I think when we talk about drought, we need  
  
to look not specifically in the upcountry area, but we  
  
need to consider actually recommendations for the  
  
entire system. That's all. That's all I have.

MS. PYLE: I think that there is an additional  
  
-- well, it goes along with this. You're looking at  
  
this brown water use thing, you know, for the Iao  
  
aquifer. April 30th it says the percentage of

sustainable yield was 87.82 percent. For May 31st, it's 89.45 percent of the sustainable yield. And at what point do we cross over to nonsustainable? So I think that in many ways the central system and the Iao aquifer are as serious or more serious even than the upcountry water supply and certainly needs to have perhaps the same kind of workshops attached to it as we are going to have for the upcountry one.

CHAIRMAN NOBRIGA: Fortunate for us, the Iao rule has specifics spelled out when -- what triggers what. That's the nice part. But we're getting really

close.

MS. PYLE: The state is stating right there,  
telling us they are getting ready to take over.

CHAIRMAN NOBRIGA: Mr. Tengan.

MR. TENGAN: Mr. Chair, in response to the  
board's concern about Central Maui, maybe you guys  
were already on your way to the conference, but we did  
issue an advisory a couple weeks ago for the Central  
Maui area also. As you know, we do have weekly  
pumping reports, we look at those closely and we try  
to manage the wells and where we pump from based upon

the pumping reports. And we monitor what's going on upcountry every day so we're on top of the situation and we try to manage the resources as best as we can.

CHAIRMAN NOBRIGA: Thank you. Mr. Okamura.

MR. OKAMURA: I think I want to throw in one thing. I was thinking that, you know, sometimes there is no way of telling, you know, what the trend is going to be, whether we're going to have rains or it's going to get drier. And a few weeks ago I was thinking that when like the flows were down to the 20 million gallons, that we should have maybe called or,



you know -- it's not hard for a domestic user to cut back 10 percent or to cut back somehow by some system.

So I was thinking we should have called maybe mandatory or made restrictions sooner at that point in time. I thought about that. Earlier I didn't because we had water. But based on the fact that it's not hard, you know, for a domestic user to cut back, maybe we should have called mandatory or whatever the word for it is, restrictions earlier.

And the other thing I wanted to bring up is if

we have like voluntary restrictions for a long period  
of time, people might not think anything about it, you  
know, like it's been going on for six months and my  
lawn is getting dry, but I've got to water my lawn, so  
they're going to do it. I just -- I'm not saying that  
-- trying to point a finger, but maybe think about it  
a little bit more and like was said earlier, try to  
come up with a little bit more definite ways or a  
little bit more ways to try to maybe make -- if --  
prevent the situation from getting worse. Or if the  
situation gets worse, we have like at least tried a

little bit harder.

CHAIRMAN NOBRIGA: Yes, Ms. Crivello.

MS. CRIVELLO: Excuse me if I'm behind, but is there an official declaration of drought for the upcountry area, any kind of declaration of that sort?

CHAIRMAN NOBRIGA: Mr. Tengan.

MR. TENGAN: Yes, I believe that the board has made the declaration and that gives us the authority to pump the Hamakua Poko wells.

MS. CRIVELLO: It's drought watch, but not -- can you define what is drought watch and what is the

actual declaration that -- because if we declared it as drought, isn't it automatic that we the users have to -- no?

CHAIRMAN NOBRIGA: Mr. Tengan.

MR. TENGAN: Mr. Chair, I wanted to mention that several years ago we developed drought guidelines upon which the department would respond to the situation. However, about three years ago, the board instructed the director not to follow those guidelines anymore. If the board would like to, I can make copies for next board meeting if the board wishes to

revisit that.

MS. PYLE: That would be really helpful. I think perhaps for Stacy, I think having a drought watch indicates that the department and perhaps the administration have some flexibility to declare that we need to have a restriction, but it does not establish a restriction from that point forward. It just says that we are now on notice that this could happen.

CHAIRMAN NOBRIGA: Thank you. Mr. Hashimoto.

MR. HASHIMOTO: I think in the -- when Jacky put out -- Takakura put out the article, I think she had the guide or the guidelines, she had it down in her press release. Or it was in the e-mail anyway.

MR. TENGAN: I don't believe it was in the press release.

MR. HASHIMOTO: It wasn't. It was in her e-mail, then, I think, to the board, the triggers.

MS. PYLE: I haven't been getting those. I got one press release a long time ago and I haven't gotten any more from her. So I don't know whether

I've gotten somehow kicked off the list or something  
because I haven't been getting them.

MR. HASHIMOTO: Usually Cathy sends it.

MS. HOWARD: We haven't had a press release.

CHAIRMAN NOBRIGA: Okay. Let's get a little  
bit more back to order. Any other last words on  
drought? Anything anyone wants to add? Can we move  
off of this topic? No recommended action.

Ms. Raisbeck.

MS. RAISBECK: Yeah, I would join Mr. Okamura  
and Ms. Pyle in requesting that we look at what --

whether or not the board needs to make any  
recommendations regarding shortage of water in the  
Central Maui system. And I would like us to look at  
that because I'm familiar with the Iao water rule and  
it was made less useful when they put very high levels  
-- 95 percent of sustainable yield, 99 percent of --  
or 98 percent of sustainable yield before they do  
anything, and that really reduced the usefulness of  
those guidelines in the Iao rule. Thank you.

CHAIRMAN NOBRIGA: Thank you. Okay. We're  
going to be moving on to Item B of Other Business.



Being that with the Charter Amendment this body has moved closer into the fiscal calendar of the County of Maui, I felt June was a good time to have elections of board Chair and vice Chair as our calendar actually will start in July. Being that we assist in the budgetary processes of the department, those budgetary processes start much earlier now that we're under the county than it had in the past, although we always had followed the fiscal year. That's why we're recommending we call for elections at today's meeting.

Yes, Ms. Pyle.

MS. PYLE: I just wanted to ask or to comment.

That's fine. You know, I have no -- but I think that -- I think Sally passed out a request to consider that part of the rules put the elections in April. And I know that this seems like some people don't agree with this. But since the decisions or the changes in the tenure of the board members are always changed from March to April, in many instances and I know from other boards' experiences, it's entirely possible that the Chair no longer be on the board as of April. And

so if we -- in this case, it's fine because you're  
here. But if you were not, if your tenure had ended  
in March and you had been the Chair, if we had not had  
an election, that does leave the board with a little  
bit of limbo to be in until there is an election held  
at a later time.

So I think that the reasoning for requesting  
that these be done earlier in connection with that is  
probably a valid reason. But we can't do that for  
now. So here we are.

MR. VICTORINO: No offense, Mr. Chair, I think

Sally was --

CHAIRMAN NOBRIGA: Proceed, Mr. Victorino.

MR. VICTORINO: I think Sally's rationale was really to maybe even change this from April to a later date. Because if I read this correctly, give the new members time to participate and take part and understand what's going on?

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: The original -- when I first came on the board in April, the original plan had been to elect the Chair in March with old members

participating and none of the new members would have been able to participate in the election.

I think many boards do elect their Chair the first meeting of their tenure. It's considered a new board and they elect a Chair at that meeting. I think most people appointed to this board will probably have had some experience with the members of the previous board, therefore I don't think -- and I know that the plan to have the election next month ran into the problem that both Mr. Nobriga and Ms. Pyle were

intending to be absent. So it just seems to me that the logical time to have the election of the Chair would be in April. And I think there should be a definite time for the election in the rules, which there is not at the present time, there is no time specified for the election. It simply says that board members elect their Chair.

So my suggestion was that this board recommend to the council, which will be considering new rules, that this addition be made to the section about election of the Chair. And, you know --

MS. PYLE: Doesn't apply to us today.

MS. RAISBECK: No, it doesn't apply to us today. But as an addendum to this item, I would like to move that this board consider -- that this board recommend to the county council the addition to Section 16-102-7 that would say the election shall be held annually in April of each year or when a vacancy occurs. So does anybody --

CHAIRMAN NOBRIGA: I rule you out of order because the notice that we have of the meeting does not include the discussion on rule making. And being

that we have no jurisdiction on rule making, that is  
my -- that's my call. But yeah. You may ask for a  
point of order.

MS. RAISBECK: I think Mr. Kushi might agree  
that a suggestion about the election of the Chair  
would be covered by the day's agenda item. And the  
fact that we don't have rule-making authority is not  
-- we do have authority to recommend to the council  
and that's our function in fact is to make  
recommendations to the council. So I would appreciate  
it if you would not rule the motion out of order,



Mr. Chair.

CHAIRMAN NOBRIGA: There has been a motion.

Is there a second?

MS. PYLE: Second.

CHAIRMAN NOBRIGA: Moved and seconded. Any

discussion? Ms. Raisbeck.

MS. RAISBECK: Thank you. I think, as I have said several times in regard to matters that have come up today, I think it's important that this board make sure that the substantive matter of our rules is

appropriate and is looked at. And I think we have a duty to make recommendations to the council, especially Mr. Mateo's committee, the water resources committee, to make recommendations to them as to where we see improvements needed in our rules.

So I don't feel it's premature since I fully expect that the water resources committee will be receiving from the corp counsel's office the technical changes required and at that time I think they would be very amenable to considering substantive changes which possibly they would very much appreciate

recommendations from us.

So I think this is a reasonable and timely  
addition -- a suggestion about addition to our rules.

It simply all it does -- the only change this makes is  
to specify that there will be an election at a given  
time. And if people feel May is a better month than  
April, that would be fine, but obviously it should be  
in conjunction with new members coming on the board.

Thank you.

CHAIRMAN NOBRIGA: Any further discussion?

Yes, Mr. Okamura.

MR. OKAMURA: Thank you. You know, when I came on the board, I think it would have been hard for me to make a decision as to who should Chair our committee because I wasn't familiar with many of the people. I think at this time maybe in June it seems better for me because I've gotten to see people, know them a little bit more so I could make a better decision. I think April would have been really just guessing in the dark for me or I wouldn't have -- maybe wouldn't have voted at that time because I wouldn't know who the people are.

CHAIRMAN NOBRIGA: Ms. Pyle.

MS. PYLE: My continuous comment about that is that if in March or in March of this year both the Chair and the vice Chair's terms had come to an end and the April meeting had begun, we would not have had a Chair or a vice Chair and at that point an election would have been absolutely essential. And it just seems that that is -- perhaps that has not been true on water board, I don't know, but I have participated in several other boards that that has been the case

and the elections just seemed to have to be at that point in time because the Chair from the previous year is no longer on the board and neither is the vice Chair, frequently.

CHAIRMAN NOBRIGA: Any further discussion?

All those the favor, signify by saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: Hearing none, the ayes have it. Motion carries.

MS. PYLE: So now with that done, we can shut  
up and --

CHAIRMAN NOBRIGA: I don't know where we  
stand, but yeah. We would prefer to have the entire  
board present during the discussion and deliberation  
on our new board Chair and vice Chair. So if there is  
no objections, we're going to defer this matter to the  
next meeting.

MR. VICTORINO: Mr. Chair?

CHAIRMAN NOBRIGA: Yeah. The next meeting  
when we have everybody there.

MR. VICTORINO: That may take -- that's a challenge in its own respect. I think I understand where you're coming from, but if we wait to have everybody, this could be a long process, no offense to anyone.

I think -- and the idea was in some people's mind today that we kind of set for 2003-2004, which is what we're talking this term would be, the Chair, and again, two people are not here. Next meeting, I don't know, hopefully everybody, but what if Dorothy can't be --



MS. PYLE: I won't be here next meeting.

MR. VICTORINO: So we always will have  
somebody probably having to stay out.

MS. PYLE: But I just won't be here, I know  
it.

MR. VICTORINO: But I think something has to  
be kind of set and if it's this meeting or next  
meeting or something definitive because we cannot keep  
waiting and maybe by next April we can do that, but  
then we would have that quandary because our Chair and

vice Chair will both be gone in March, so exactly what we're saying. Very possible.

CHAIRMAN NOBRIGA: There are provisions within Robert's Rules of Order to handle those things, so it's not a big issue.

MR. VICTORINO: That's up to you folks, but --

MS. PYLE: You mean when there is no Chair.

CHAIRMAN NOBRIGA: Yeah.

MS. PYLE: There are things within Robert's Rules of Order to handle that, but the setting of agendas and the actual business of the board doesn't

continue very well unless there is a Chair. You can run the meeting with Robert's Rules of Order, but you really can't carry on the business of the board very well.

CHAIRMAN NOBRIGA: Under the current situation of things, the meeting can carry on as long as you have a director and the board secretary.

MS. PYLE: I understand, but I don't think that's the way it should be done.

CHAIRMAN NOBRIGA: Yes, Mr. Hashimoto.

MR. HASHIMOTO: I would think since the Chair

is going to be gone and Ms. Pyle and I don't know who else, why don't we proceed with the elections? I would like to see the elections proceed today.

MS. RAISBECK: If that's a motion, I would second it.

CHAIRMAN NOBRIGA: We'll open the floor to nominations for the office of board Chair. Mr. Hashimoto.

MR. HASHIMOTO: I would like to nominate Mr. Kent Hiranaga. He's been on the board for at least three years. Fourth? Is this his third or

fourth? Third year at least. And he's had some board  
experience previously.

MR. VICTORINO: Second.

CHAIRMAN NOBRIGA: It's been moved and  
seconded. Is there any further nominations?

MS. PYLE: My only question is has anyone  
contacted him about this? And if you're saying  
affirmative, then I'm fine. I just hate to sand bag  
people because they're not here.

CHAIRMAN NOBRIGA: Hearing no further

nominations, then I can assume that nominations are  
  
closed?

MR. HASHIMOTO: I move that the nominations be  
  
closed.

MS. PYLE: Second. For Chair.

CHAIRMAN NOBRIGA: All those in favor of  
  
closing the nominations for the chairman of the Board  
  
of Water Supply, signify by saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay?

[No response.]

CHAIRMAN NOBRIGA: Nominations are closed. On

the main motion at hand, to elect as board Chair

Mr. Kent Hiranaga. All those in favor -- is there any

discussion? Okay. All those in favor, signify by

saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: Congratulations, Kent.

I would like to open nominations from the

floor for the position of vice Chair. Yes,

Mr. Hashimoto.

MR. HASHIMOTO: I would like to nominate

Mr. Victorino.

CHAIRMAN NOBRIGA: Is there a second?

MR. OKAMURA: Second.

CHAIRMAN NOBRIGA: Seconded by Mr. Okamura.

Is there any further nominations for vice Chair?

Hearing none, I sense you are ready to close

nominations.

MR. HASHIMOTO: So moved.

MS. PYLE: Second.



CHAIRMAN NOBRIGA: Motion to close nominations

seconded by Ms. Pyle. All those in favor of closing  
nominations, signify by saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: Motion carries. All those  
in favor of Mike Victorino as vice Chair, signify by  
saying aye.

[Chorus of ayes.]

CHAIRMAN NOBRIGA: Opposed, nay.

[No response.]

CHAIRMAN NOBRIGA: Motion is carried in  
totality. Congratulations, Mr. Victorino.

Division reports.

MS. RAISBECK: Mr. Chair?

CHAIRMAN NOBRIGA: Yes, Ms. Raisbeck.

MS. RAISBECK: Is it possible in this time --  
we received in our packet of information, we received  
a financial status report, third quarter status  
report. I have a couple of questions about that. And

when would be the appropriate time to ask those questions?

CHAIRMAN NOBRIGA: During the division reports. Fiscal is a division. So turn it over to George and then George can get us through and then as soon as George is done, we can go to specific questions.

MR. TENGAN: Mr. Chair, we do have division reports included in the packet. We have a report from the Engineering Division showing the processing of building permits and subdivisions. As you notice, the

volume of permits that were handled is quite high and

I believe it goes on -- goes on a regularly basis.

We also have pumping report from the plant division and we have a report from treatment plant showing the cost of treating water at each of the treatment plants. And we also have the summary of the pumping of wells throughout the county and it shows a percentage of our sustainable yield on the right-hand column of this report.

I'll be glad to entertain any questions and answer them if I could.

CHAIRMAN NOBRIGA: Thank you. Ms. Raisbeck,

this is the time.

MS. RAISBECK: All right. Yeah, I do have a

question actually about pumping as well as the

financial questions I had. The pumping on a daily

average was up to almost 6 million gallons a day in

North Waihee and I know that Jonathan Starr always

used to make the point very strongly that that section

of the Waihee Aquifer is really -- has a sustainable

yield really of 4 million gallons a day. So we're

pretty heavily at almost 150 percent pumping

sustainable yield in North Waihee. Is there a

likelihood that we're going to have to increase that

as the summer goes on? Or could we -- could it be

increased as the summer goes on?

MR. TENGAN: As far as the sustainable yield

and the pumping out of that aquifer, we are at a

little over 4 million gallons per day. The department

of the state water commission has taken the position

that the sustainable yield for that portion of the

aquifer is 4 million gallons per day. It is set at 8

million gallons per day for the entire Waihee Aquifer.

We are making efforts to spread the pumping in the aquifer as we are doing in the Iao aquifer. We're going to be getting the Waikapu well on line soon to help spreading the pumping in the Iao. We're currently negotiating with a landowner to pump or to drill a well north of the Makamakaole gulch, so this should help spread the pumping also.

MS. RAISBECK: That will be a couple years.

What about this summer? This summer -- where is the water going to come from this summer if there is

increased demand in central?

MR. TENGAN: Well, we would utilize the existing sources as best as we could. And if need be, then we intend to call for conservation measures.

MS. RAISBECK: Thank you. My questions about finance -- when we got this financial summary, the third quarter report, I tried to locate -- there were some CIP transfers last December. At the beginning of the month in December, the board voted to transfer \$8.5 million to buy the Kaanapali water system, \$3 million to buy water office space, and



\$3.14 million to buy watershed from the Wailuku

Agribusiness, and I couldn't find those this under

CIP. Am I missing something there or where did those

transfers go to?

MR. TENGAN: What you see in the records are

actual financial transactions that have taken place.

None of the items that you've mentioned -- none of the

items you mentioned, action has been taken on those.

MS. RAISBECK: But do those figures still

exist in the budget somewhere? I mean, where can I

locate those figures in the budget?

MR. TENGAN: I don't believe we set aside any funds for those right now.

MS. RAISBECK: Well, they did it last -- they voted last December to transfer those funds.

MR. TENGAN: That's to just give the department authority to proceed with those transactions.

MS. RAISBECK: I'm sorry, could you repeat that?

MR. TENGAN: They was to give the department

the permission of the authority to proceed on those projects.

MS. RAISBECK: So is the department still going to proceed? Like with the Kaanapali water system and the watershed.

CHAIRMAN NOBRIGA: No.

MR. TENGAN: No.

MS. RAISBECK: No? And when was that decision made, I guess is what I'm asking.

MR. TENGAN: I believe the last -- one of the last things that David did was he did make contact

with the previous owners of the water system, voicing some objection to the sale to the current owners.

However, nothing was resolved from that.

MS. RAISBECK: But that -- okay, I'm sorry if I am being very dense about this, but they took, what is it, \$14 million that was in the budget for these items and have those -- has that \$14 million been transferred to other uses or where is it? Yeah, I guess.

MR. TENGAN: If it hasn't been transferred and shown as a separate item on the -- or in the CIP, then

it's sitting in the funds that the board authorized  
the transfers from.

MS. RAISBECK: Say again.

MR. TENGAN: As an example, if the transfers  
were authorized from the general fund of the  
department, those funds authorized for -- let's take  
an example, the purchase of the Kaanapali water  
system. And if \$7 million was authorized by the board  
to purchase the Kaanapali water system, if that  
transfer hasn't been made, it's still sitting in the

general fund of the water department.

MS. RAISBECK: So the board voting to make the transfer did not accomplish the transfer; is that what you're saying?

MR. TENGAN: Right. Because we haven't pursued the purchase of the system, so there wasn't any need to transfer the funds.

MS. RAISBECK: Okay. Thank you.

CHAIRMAN NOBRIGA: Mr. Okamura.

MR. OKAMURA: Question again, the budget. You gave us a copy of the budget and what role do we play

in the budget making process? What are we supposed to do with this right now?

MS. PYLE: This one that we just got today.

MR. OKAMURA: Yeah. What is our role? We don't know yet actually -- I mean, outside of we probably get feedback on it. But, you know, we don't know when the process goes and what role we're supposed to play in it.

MS. PYLE: This one is done.

CHAIRMAN NOBRIGA: We have specific requirements in light of the department's budget

spelled out by the charter amendment and I'm sure

Mr. Tengan and Mr. Kushi can --

MR. TENGAN: Mr. Chair, I believe -- well,

Board Member Okamura probably is wondering what's

going on with the budget because this year has been

somewhat unusual. As you know, we changed our

organizational status from a semiautonomous board and

department, we went to an advisory board and

department of the county under the control of the

mayor.

So for this coming year, we've had to change



our budgetary process. And that change required speeding up of our budget process within the department. Normally we would get to the board a proposed budget by March and the board would review the budget with staff members and approve the budget for public hearing by April or the May meeting. And by the June meeting, the public hearing process would be all completed and amendments to the budget, if necessary, would have been made and approved by the board in June.

However, this year we had to get an initial budget to the administration in January, so we had very little time in working with the board in getting the budget approved and to send them to the mayor's office for approval.

As you know, the council's budgetary review started in March and that's when we normally would have given it to the board. So because of the change in the process, the board frankly has, you know, didn't have much time to participate in the setting of the budget. However, this year we do plan to start

earlier and get the board involved and hopefully get good input from the board on setting of the budget.

CHAIRMAN NOBRIGA: Okay. So again, normally we would get the budget in March, like George was explaining, but now because of the new system, we're happy to look at the budget from September or October already to be ready by the end of December to transmit to the mayor.

MR. OKAMURA: This is it -- you started --

MS. PYLE: This is a done deal. The council approved this. It starts July 1st.

CHAIRMAN NOBRIGA: That's our current fiscal.

MR. OKAMURA: I see.

CHAIRMAN NOBRIGA: This is last year. But not

-- only until March. We still got three months.

Okay. Anything else? Okay.

MS. RAISBECK: Question.

CHAIRMAN NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: Just to get it on the record

about the workshops, could we have a brief -- I know

two workshops? Are they separate workshops or

continuation of the same -- could we have a little

description of the workshops that are planned before  
our next meeting.

CHAIRMAN NOBRIGA: A notice should be going  
out already.

MS. HOWARD: I have not gotten approval of the  
draft from corp counsel and I won't be able to answer  
that question.

MS. RAISBECK: I'm sorry?

CHAIRMAN NOBRIGA: We don't know yet.

MS. HOWARD: I can't answer your question

until I get an answer back from corp counsel.

MS. RAISBECK: Mr. Kushi, is there some  
problem?

MR. KUSHI: I've received the drafts of a  
couple meetings two weeks from now. We're reviewing  
it with my office staff and another colleague to go  
over the agreements to see if all the agreements are  
in place and proper to be disclosed and discussed.

Until then, we will not release the agenda.

MS. RAISBECK: I'm sorry, I didn't hear that  
last sentence. Could you repeat that?

MR. KUSHI: Until we've reviewed the agenda and the agreements to be contained and produced at your workshop meeting, we will not release the agenda. So if we -- if the meeting is scheduled for July 8, then she needs to post by July --

MS. HOWARD: Thursday, because of the holiday.

MR. KUSHI: A decision will be made on the agenda hopefully by tomorrow.

MS. RAISBECK: And one more question. Could we, in these workshops, besides considering agreements -- which I'm very interested, especially that one

agreement about the East Maui water system, the water agreement -- I very much like to have a list, merely a list of any outstanding suits by anybody against the board relating to water.

MS. PYLE: The board or the department.

MS. RAISBECK: The board or the department, any outstanding lawsuits. Can we just get a list of those?

MR. KUSHI: I'm sure we can in terms of current litigation, we can give you the case name, but we won't discuss it because it is litigation.



MS. RAISBECK: No, I'm not asking for a discussion, merely a list. And also, we are a party to the request of A&B for a 30-year lease on the ditch water and I would like to know the status of whether there has been any movement since last November on that. If we could just have an update on that of litigation.

MR. KUSHI: Mr. Chair, yeah, if the attorney who's handling it is available at the next meeting.

It's not me.

CHAIRMAN NOBRIGA: Okay. We will stand

adjourned. Thank you.

(WHEREUPON, the meeting was adjourned at 11:00

a.m.)

IWADO COURT REPORTERS, INC.

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