

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
REGULAR BOARD MEETING
TUESDAY, SEPTEMBER 21, 2004

Held at the Kahului Shopping Center Conference Room,

65 West Kaahumanu Avenue, Unit 29, Kahului, Maui, Hawaii,

commencing at 9:00 a.m. on September 21, 2004.

REPORTED BY: Rachelle Primeaux CSR No. 370

A P P E A R A N C E S

CHAIRPERSON: MICHAEL VICTORINO

VICE CHAIRMAN: KENNETH OKAMURA

BOARD MEMBERS: DOROTHY R. PYLE

GINNY PARSONS

RALPH JOHANSEN

KENT M. HIRANAGA

MICHELE McLEAN

CORP COUNSEL: ED KUSHI, ESQ.

DIRECTOR: GEORGE TENGAN

DEPUTY DIRECTOR: JEFFREY T. PEARSON

BOARD SECRETARY:

CATHY HOWARD

STAFF:

HERB CHANG, ENGINEERING

ALVA NAKAMURA, ENGINEERING

ALAN MURATA, ENGINEERING

ELLEN KRAFTSOW, PLANNING

HOLLY PERDIDO, FISCAL OFFICER

JOSEPH MENDONCA, PLANT OPERATIONS

WALT HAGER, WATER TREATMENT PLANT

CARI SUMABAT, WATER QUALITY LAB

LEONORE AMANO, WATER QUALITY LAB

BOARD OF WATER SUPPLY

TRANSCRIPT OF PROCEEDINGS

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CHAIRMAN VICTORINO: I would like to call this meeting to order for the Board of Water Supply, September 21st, 2004. It is approximately 9:06. Present today is Board Member Michele, Ken, Ralph, Dorothy and Ginny and myself Mike who are present.

I understand that Ms. Raisbeck is in the mainland and Stacey wasn't able to come in from Molokai because of other commitments, yeah. And Mr. Hiranaga is supposed to join us about 10:00. He had something pressing. I thank you very much. I know this is a busy week, and as one Board Member mentioned earlier, we changed it to Tuesday because

of me and the Fair, but that's not really true. We really changed it because corp counsel has a special conference on the Big Island and this was the most convenient date to get the most members together. So anyhow, moving right along, I would like to ask for approval of the minutes from our last meeting.

BOARD MEMBER PARSONS: Mr. Chair.

CHAIRMAN VICTORINO: Yes.

BOARD MEMBER PARSONS: There are none available at this time.

CHAIRMAN VICTORINO: Oh, I apologize. Okay,

sorry. The minutes from the last meeting are not available.

My apologizes. Okay, moving along. Testimony from the public. Do we have any testifiers from the public today? Or if you would rather wait until we get to a certain discussion item and then come up.

Do we have any? Okay, none. Moving right along, going to Section 4, Item A, discussion regarding proper public notification on public health issues. George, would you like to start on that, please?

MR. TENGAN: Mr. Chair, within the packet is the procedures and identification of when Tier 1 violations

occur. If I may just read off to you, "Tier 1 violations occur for the following."

THE REPORTER: I'm sorry, I'm having a hard time.

CHAIRMAN VICTORINO: Yeah, George, can you speak up because she's having a hard time hearing?

MR. TENGAN: Okay, Tier 1 violations occur for the following: When total coliform MCL violations where fecal coliform are present or failure to test for E.coli when any repeat sample tests positive for coliform.

And MCL is maximum contaminant level. B, nitrate,

nitrite or total nitrate and nitrate MCL violations or failure to take a confirmation sample within 24 hours after learning that an initial sample exceeded the MCL.

Chlorine dioxide MRDL violations. D, turbidity MCL violations of 5 NTU or more, if elevated to Tier 1 by the primacy agency or if consultation does not occur within 24 hours of the violation. Treatment -- E, treatment technique violations resulting from a single exceedance of turbidity limits, if elevated to Tier 1 by the primacy agency -- in this case, the primacy agency is the State Department of Health -- or if consultation does not occur

within 24 hours of the violation.

F, the occurrence of a waterborne disease outbreak or other waterborne emergency such as treatment failure, chemical spill or overfeed sewage spill or natural disaster.

G, other violations or situations which could seriously -- could result in serious health effects as determined by the primacy agency.

Acute MCL violation for fecal coliform occurs when a sample or at least one related sample, both are total coliform positive, and one sample is fecal coliform positive. Nonacute MCL violations for total coliform is

calculated on a monthly basis. For a system that collects less than 40 routine samples during the month, a violation occurs if two or more of any type are total coliform positive.

For a system that collects 40 or more routine samples during the month, a violation occurs if more than 5 percent of any type are total coliform positive.

So what do we do if we have a violation? We contact the Department of Health as soon as possible to discuss public notification, followup requirements and steps

that we can take to resolve the problem. The methods of public notification: TV and radio, the deadline is deliver a press release within 24 hours of the violation. Newspaper publication, the deadline is to publish a public notice within 7 days. Mail or hand delivery, deadline is to mail notice within 30 days.

Basically, that's the requirements for public notifications for violations.

CHAIRMAN VICTORINO: Questions? Ralph.

BOARD MEMBER JOHANSEN: I just have one question.

What is an NTU as a measurement?

MR. TENGAN: I believe that's -- that refers to the turbidity of the water. What exactly does it stand for?

CHAIRMAN VICTORINO: Would the staff members come up and speak into the mic here if you don't mind, please? Whoever, yeah, and then please introduce yourself.

MS. SUMABAT: Hi, Cari Sumabat with the lab. NTU refers to the turbidity units that are measured, nephelometric turbidity units I guess you call them.

CHAIRMAN VICTORINO: Did that answer your question, Ralph?

BOARD MEMBER JOHANSEN: I didn't hear what it

stands for.

MS. SUMABAT: Nephelometric turbidity units.

BOARD MEMBER OKAMURA: Netrometric?

MS. SUMABAT: Nephlo, N E P H L O M E T R I C.

CHAIRMAN VICTORINO: I guess all of the Board

Members are kind of confused right now. Simplistic terms,

what does that mean?

MS. SUMABAT: How turbid, how dirty -- not dirty,

but how unclear your water is, how cloudy.

CHAIRMAN VICTORINO: Okay. Is that okay?

BOARD MEMBER JOHANSEN: Thank you.

CHAIRMAN VICTORINO: Just to get some clarification. Ginny had asked and after you.

BOARD MEMBER PARSONS: Thank you. And I'm the one that brought this up so we can get some facts out to the public. And a question on this. We did have some fecal coliform in Hana this month, correct?

MS. SUMABAT: Correct.

BOARD MEMBER PARSONS: And I realize that you're short staffed. I do. I mean I want to make this perfectly clear to everybody here, one of the areas I think we really

need to work on, and this is why we're having this in front of us, this is a very important issue and we're very short staffed in this area. We got two violations, actually one on top of the other for the same thing, for non-notification; is that correct?

MS. SUMABAT: Actually, there were three violations.

BOARD MEMBER PARSONS: What happens when you get it and it goes up to the director's office? Whose job is it from that point to get this out to the public?

MS. SUMABAT: Actually, what I do is report it to

the Department of Health, and they take the lead. They tell us what to do.

BOARD MEMBER PARSONS: Did you report it to the Department of Health here?

MS. SUMABAT: I reported it to the Department of Health on Oahu.

BOARD MEMBER PARSONS: You did?

MS. SUMABAT: Correct.

BOARD MEMBER PARSONS: But they didn't get it until the 17th?

MS. SUMABAT: I reported it to them on the 17th

because I didn't think it was a violation.

BOARD MEMBER PARSONS: Okay, so that's where we had a breakdown.

MS. SUMABAT: Right, it was a misinterpretation of the rules on my part.

BOARD MEMBER PARSONS: Just for clarification, I'm clearing my name out of the Maui News.

CHAIRMAN VICTORINO: Let's not -- let's not go there. I warned you about that.

BOARD MEMBER PARSONS: I'm a Board Member here,

and I got targeted by the Administration for telling the truth, so let's go here. The violation comes because we have -- we were supposed to have reported this within 24 hours. And the reason that we're supposed to report this within 24 hours is because the public needs to know. What we find out now is that there's a lot of filtration systems all through our County, and a lot of people aren't just taking our water in, they go through the filtration system, and they don't know to clean this out.

They don't know that this got coliform and E.coli,

and there's a whole lot of worse little particles in there

than that. And I don't know how -- that's another question

I have in a minute. I want to find out how far we test.

But if they don't know to clean it out, they can have stuff growing in filtration systems that make them sick way down the road and a lot longer down the road. And one of the things I would like to do is when we do have this kind of violation or when we do have this kind of reporting method that we find some way to stay on top of it and get it out immediately, and it needs to go to the television stations and the radio stations. And in a place like Hana, in a place like Hana, it's a lot harder for them to pick up

off of radio and TV even. I mean they're a little more remote, so we have to be more vigilant about this. And we have a lot of tourism going in. And it's not -- it's not Cari's fault, so to speak. We are inundated with a small department that needs -- needs more help.

How far, Cari, can you test for -- when you get coliform or fecal coliform, what are your time constraints and how far can you test to see if it's E.coli or if it's one or the other nasties that are in there?

MS. SUMABAT: From the time of collection, it's 48 hours before you can tell if it's a fecal coliform or not.

BOARD MEMBER PARSONS: So we have -- we're already two days late in letting anybody know if we don't immediately just get the coliform information out. Do you normally report to Honolulu or to the local department?

MS. SUMABAT: If I can't get a hold of the local, then I call Honolulu.

BOARD MEMBER PARSONS: So you weren't able to get a hold of the local?

MS. SUMABAT: I just immediately called Oahu. The history is he's usually out in the field.

BOARD MEMBER PARSONS: Right. So why don't we look at maybe figuring some way to call the -- make sure that the local knows, whether it's a fax, because that was one of the breakdowns in communication, too, where the local wasn't aware of this. We got a violation on the 17th or 18th, and they didn't know it was even happening. And then it sat on the director's desk for some period of time because the Board didn't get notification nor did Council until the 25th. And then the Mayor didn't know about it on the 26th.

And then there was another report that got issued

on the 7th, and I think it got faxed over to the Board on the 8th. And it was last Wednesday, again another week, and the Mayor didn't even have it. I mean I think that these violations and these reports need to have better communication. And it's -- it's important because it's public health and safety. And I don't know how much liability it leaves us, Mr. Kushi, but let's say that somebody does get sick from this and didn't know, do we have liability for the lack of notification?

MR. KUSHI: Mr. Chair, is that a question to me?

BOARD MEMBER PARSONS: Yes, it was.

MR. KUSHI: I don't know at this time.

BOARD MEMBER PARSONS: Can you look into that for
us?

MR. KUSHI: Possibly.

CHAIRMAN VICTORINO: Okay, thank you.

Mr. Okamura.

BOARD MEMBER OKAMURA: Thank you. So the
violation was -- what part was the violation actually?

MS. SUMABAT: Pardon me?

BOARD MEMBER OKAMURA: What was the violation for?

MS. SUMABAT: We had fecal coliform out in Hana.

BOARD MEMBER OKAMURA: It wasn't that there was coliform or it wasn't a notification there was a violation, or just the coliform in the water?

MS. SUMABAT: We had fecal coliform and the violation was also because we reported it late to the Department of Health.

BOARD MEMBER OKAMURA: And was it the reason was you didn't know what the requirements was for --

MS. SUMABAT: Well, my interpretation was different from what the rules said. I had thought that when

we collected the samples, that because we had read and collected at the same -- at one certain date, it had negated the fecal coliform, but it didn't. See, it's a little complicated.

BOARD MEMBER OKAMURA: Complicated, okay.

MS. SUMABAT: Yeah.

BOARD MEMBER OKAMURA: You guys have like a testing -- like a testing program that you guys do on a regular basis?

MS. SUMABAT: Correct.

BOARD MEMBER OKAMURA: That's within certain

requirements of the EPA that you test it on certain times?

MS. SUMABAT: Right.

BOARD MEMBER OKAMURA: But you sort of follow

those?

MS. SUMABAT: Right.

BOARD MEMBER OKAMURA: I see. Okay, thank you.

CHAIRMAN VICTORINO: Any other questions?

Let's see if anybody else has any other questions

first.

BOARD MEMBER OKAMURA: Thank you.

CHAIRMAN VICTORINO: Okay.

BOARD MEMBER PARSONS: Just in defense, the rules have changed in the most recent past, so just in Cari's defense that they have. So I mean that's just another example of we need to be up on top of all this, and then the director and the deputy director, especially in these areas, send out memos to the department heads so that they know when the rules do change. But, you know, just in respect of that, it used to be probably the way she interpreted it, and it has since changed.

CHAIRMAN VICTORINO: Thank you. Any other questions? Ralph.

BOARD MEMBER JOHANSEN: I have a question. When the violation or not the violation, the contamination was covered, your first step was to call the Department of Health, right?

MS. SUMABAT: When the violation was --

BOARD MEMBER JOHANSEN: Contamination.

MS. SUMABAT: When it was -- no, you are allowed so many positive coliform samples per month. And so we normally report at the end of the month.

BOARD MEMBER JOHANSEN: I'm not familiar with this

procedure. How often do you test?

MS. SUMABAT: For?

BOARD MEMBER JOHANSEN: For contamination.

MS. SUMABAT: We test weekly.

BOARD MEMBER JOHANSEN: So when you discovered the contamination and you were satisfied yourself that there was contamination, you notified the Department of Health immediately?

MS. SUMABAT: I was talking to them for a different reason, and then we had accidentally talked about the number of -- the samples in Hana, and that was when I

realized that it was a violation.

BOARD MEMBER JOHANSEN: And at that point after you notified the Department of Health, which of these other steps were taken?

MS. SUMABAT: Then they took the lead and said we had to issue a press release within 7 days and then deliver, hand deliver -- not hand deliver, but mail letters within a month.

BOARD MEMBER JOHANSEN: The TV and radio notification deadline is within 24 hours?

MS. SUMABAT: Correct.

BOARD MEMBER JOHANSEN: Was that done?

MS. SUMABAT: Initially, the letter had said that they had waived that because it was already late, but then another letter came on the 7th I think it was that said that they were issuing a violation for that.

BOARD MEMBER JOHANSEN: So when was the TV and radio press release sent?

MS. SUMABAT: It was -- the TV and radio was not done.

BOARD MEMBER JOHANSEN: Not done at all. What notification to the residents of Hana was made at what time?

CHAIRMAN VICTORINO: Ralph, and I don't mean to belabor the point, and I don't mean to cut you off, but I think we've covered this. Let me, if I can, capitalize on what has been said. When she discovered or was notified or knew that it was a violation at that point, we had passed the 24 hours. In fact, it was days later. Okay. So the TV and radio wasn't done.

When the Department of Health issued the letter, the first letter, it said that we within 7 days have to put in the newspaper the problem that we had out there. I know

what you're reading. Unfortunately, Ralph, the problem was we discovered it thereafter, and that's when the violation was issued.

In her interpretation in the beginning, it wasn't a violation, and like Ginny mentioned just a moment ago, that we had thought that, you know, it was okay.

Unfortunately, rules have changed and that's part of the governmental system, things change all the time. And I'll be very honest, even in my business sometimes, I can't even keep up with all the changes. But in defense of Cari, once it was discovered, then the Department of Health, they are

the ones that took the lead. They were the ones issuing the letter telling us what we need to do, the next steps that need to be followed, so TV and radio was never done.

BOARD MEMBER PARSONS: State Department of Health.

CHAIRMAN VICTORINO: State Department of Health,
excuse me, State Department of Health.

BOARD MEMBER JOHANSEN: Let me just say this is the first time I've had a review of what the dictate was, and I'm just asking for my own clarification, not to criticize.

CHAIRMAN VICTORINO: No, no, I realize that,

Ralph. I'm just saying that's the step we're taking, okay.

BOARD MEMBER OKAMURA: Last question.

CHAIRMAN VICTORINO: Mr. Okamura, go ahead.

BOARD MEMBER OKAMURA: I wanted to ask a general question. So the treatment, when the water goes through treatment, it doesn't take out the coliform? Is that how it got into the system, or like the chlorines in the water were not clear of coliform? What about those two things, like the chlorination in the water and the filtering, why didn't -- does that -- would that -- does that help or it doesn't help with this particular -- or how did the

contamination occur, which you might not know specifically,

but can you just give me a general idea how this kind of

thing happened?

MR. SUMABAT: There's no filtering in Hana. It's

just chlorination.

BOARD MEMBER OKAMURA: I see.

MS. SUMABAT: The sample was picked up. The

repeat sample was picked up that day that we had heavy

rains, and the sample point is on the roadside. It's a

standpipe that we go to, so my feeling is that -- we did

have adequate chlorine. I think the residual readings were .6, .7, so that was adequate. It's just my suspicion that it got contaminated from all of the heavy rain. The samples, you hold the bottle underneath the flow of water, and anything could have gotten in there during the heavy rains. So it seems more like a sample point error than a contamination of the whole system.

BOARD MEMBER OKAMURA: So as a whole, the Hana system, it doesn't occur too often in the Hana system?

MS. SUMABAT: No, but we try -- I mean shouldn't be sampling in the heavy rains like we were, but then if you

don't sample within the required time limit, then that's another violation.

BOARD MEMBER OKAMURA: I see. Okay, thank you very much.

BOARD MEMBER PARSONS: Would you -- would you like to give us the rundown on how you do your sampling, and when you find coliform, how you go about below and above the standpipe, above and below, you take the three readings?

MS. SUMABAT: We have a routine site and the Department of Health requires that there's an up and down to -- I guess to make sure that there isn't like a source or a

source contamination. So when you do have a positive, you have to go and repeat within five service connections up and down of the site that you had gone to.

BOARD MEMBER PARSONS: And what did you find there?

MS. SUMABAT: Hold on a second. Sorry. What we found --

BOARD MEMBER PARSONS: On August the 2nd, what did you find there?

MS. SUMABAT: The coliform positive on the routine site on August the 3rd.

BOARD MEMBER PARSONS: Wait a minute. Did you go up -- when you found coliform positive on the routine site, did you go up and down on that?

MS. SUMABAT: On the 3rd we did. We did only one site on the 2nd. That was the routine site. That turned out positive, so we are required on the next day within 48 hours to go and sample the up and down and the routine site.

BOARD MEMBER PARSONS: And then what did you find on the 3rd?

MS. SUMABAT: So on the 3rd, the up site was coli

positive.

BOARD MEMBER PARSONS: It was E.coli positive?

MS. SUMABAT: Pardon me?

BOARD MEMBER PARSONS: It was E.coli positive?

MS. SUMABAT: Right.

BOARD MEMBER PARSONS: It was E.coli positive?

MS. SUMABAT: No, it was coliform positive, E.coli

negative.

BOARD MEMBER PARSONS: Okay.

MS. SUMABAT: And the routine site was coliform

positive and fecal coliform positive. The down site was not

found, was negative. That was on the 3rd. On the 4th, everything had cleared up, we found nothing. On the 4th, it wasn't raining either.

CHAIRMAN VICTORINO: Okay. I think -- anybody have any other questions? We've got a pretty good idea how this testing goes about, and unfortunately, like everything else, sometimes things do fall through the cracks, but these are very important items. You know, I agree with Ms. Parsons that I wish we could -- not wish -- but we need to look at how we can staff better and work more diligently. But I know it's easier said than done. But I know we've got

to keep diligent on that, we've got be diligent on that.

Dorothy.

BOARD MEMBER PYLE: I just wanted to add that from what Ginny has said, but I'm not sure from my own knowledge, it seems that there were some slowdowns or perhaps not clear followups on notifications, whether it was to the Mayor's office or faxes that were sent or whatever. And I'm just offering as a comment that perhaps there should be a very clear step-by-step procedure that needs to be followed by one person in the department whose responsibility it is to carry out all of the notifications in a very orderly

check-off pattern so that there's a clear pattern and evidence if someone were to come back and say, you didn't notify me, here is the evidence that the notifications went out.

You know, I know we have run into lots of issues even at the college about having to keep much clearer definite traceable records for things because people come back and say you didn't do this, and we say, yes, we did. That's just a comment. Thank you.

CHAIRMAN VICTORINO: Thank you, Dorothy. And I

think that's a well received comment. I think George and the department will look more closely at seeing some methodology of making sure the communication goes out in the proper and direct manner to whomever it needs to go to.

Thank you, Cari. We appreciate it. Okay. Item B, discussion of the Upcountry water quality issue including Dr. Edwards' final report.

Jeff, you're going to handle that one?

MR. TENGAN: Mr. Chair, I'll turn this over to Jeff.

MR. PEARSON: Good morning, Chairman and Board

Members, my name is Jeff Pearson, Deputy Director. I submitted or the Department of Water Supply submitted a memorandum dated September 9th at the beginning of the -- our items here. I won't read this thing word for word. I assume you've had a chance to look at this. It talks about a couple of different issues concerning the Upcountry system, evaluation of lead corrosion control strategies in Maui water. That's the Marc Edwards report. I'll get to that after I discuss the other two items on this memo.

pH Adjustment at Upcountry treatment plants.

Well, based on the Marc Edwards report and with discussions

with the EPA and the Department of Health, State Department of Health, we were allowed by the Department of Health to remove the phosphoric acid added to the water and raise the pH by increasing the -- or adding soda ash to the water at the treatment plants.

Raising the pH would reduce the corrosivity of the water, and hopefully that would resolve some of the complaints that were assumed due to the phosphoric acid and also still meet the requirements of -- by reducing the corrosivity of the water, reducing the lead leaching into the water and meeting the requirements of the EPA for the

Lead and Copper Rule. I've discussed here preliminary results. I'll read this, "Of a total of 31 homes tested in the three systems, only one home was above the action level."

That's up 15 parts per billion. These are preliminary tests, and these homes were directed to us by Department of Health. In the past, they've had levels that were higher than the action level, and they gave us about, I don't know, about 20 homes per system and we tested 10 or 11 of those homes for each system I think it was. Again,

repeating this out of all of those homes, there was only one that was before the action level. So it's very encouraging. It's not the official results that are required by EPA or DOH, but it's encouraging results.

Chlorine disinfection on the next page, Page 8 of your pamphlet. Chlorine disinfection in the Upper Kula system. A month ago today actually, we stopped the chloramination, which is chlorine and ammonia, and put chlorine only in the Upper Kula system and increased the dosage from the normal dosage of about I think it's 1.1 or 1.2 parts per million. The dosage was increased to 3

mg/l's, which is the same thing as parts per million, 3 parts per million.

The idea was increase the residual for the Upper Kula system to hopefully remove more of the possible bacteria in the Upper Kula system. The HPC counts that we did in earlier testing, HPC is an indicator of bacteria in the system. Some of the HPC counts in the system were higher than the MCL actually, so by increasing the chlorine disinfection in that system, hopefully we could reduce the HPC, which would likely reduce the bacteria in the system.

The one-month chlorine flush, if you want to call

it flush, we're -- actually, a press release, we're working on the press release now stating that we're going to stop that chlorine flush as we state after the first month. The last item, Upper Kula system future disinfection. The two other systems, the Makawao and Lower Kula system are both on chlorine right now, and we're hoping that with some testing that we've done at the Olinda treatment plant and some other testing that's actually not complete now, with the disinfection byproduct issues, by doing this chlorine flushing that there's a possibility that we can change this disinfection in Upper Kula system from chloramines to

chlorine. That would make it a continuous type of disinfection throughout the three systems.

One of the problems with that is a lot of times, we bring water up into the upper system, and if we mix the disinfection of chlorine in let's say the Lower Kula system with the chloramines in the Upper Kula system, the two kind of negate each other. So there might be disinfection happening, but it's showing as no residual, so that's not the best. And then if we index further down the system, in other words, we add -- right now we're adding chlorine in

certain points further down the system at the end of the system and the Upper Kula system. If we do that and we have chloramines in the system, we're kind of beating ourselves up, so that's the hope there. We haven't come to a conclusion yet. We don't need Department of Health's approval. Of course, we will inform them of what we're doing.

But according to the Department of Health on Oahu, they state that it's our system, we can disinfect how we need to, how we want to. Of course, we need to meet the federal and state requirements for the MCL disinfection

byproducts or whatever else is being monitored.

Okay, back to the Marc Edwards study. That's the next Page 9 in your packet. The title of the Edwards study, Evaluation of Lead Corrosion Control Strategies in Maui Water. Again, I hope you had a chance to read the report. It's called a tabletop study, so it's really not the real world. It's a laboratory type study. Originally, we looked at -- were looking at the water. And I think it was just the Olinda system first, but based on discussions with Marc Edwards and with our staff, we decided to duplicate the study both at the Olinda treatment plant and at the Piiholo

treatment plant, so that they more or less doubled the study because the waters are so -- the source water is so different.

Again, the main direction of the study was to look at corrosion, and again, they looked at having -- removing phosphoric acid and adding soda ash to raise the pH. And they did this, and it discusses the amount of different samples they added. They used both chloramines and chlorine when they did the evaluation. As a secondary portion of the study, because there are this bacteria called acid producing bacteria, of course, acid again will raise the acidity of

the water, which might allow lead to leach out of the pipes.

So they looked at bacterial growth, specifically

acid-producing bacteria, but generally bacterial growth to

see if that might be a contributor to the leaching of the

lead. A byproduct of that is that there were some areas

that they found testing in people's homes that again that

the residual chlorine in some of these homes were low or

actually nonexistent. And then so what that means is you

have a chance for bacterial growth, which means you have a

chance for acid bacterial growth, which means you have a

chance for the leaching of the lead in the system.

On Page 13 of your notes, it describes the copper pipe and the type of testing equipment that was used. We looked at PVC pipes also. On Page 14, the results in the discussion, the first few sentences, "The results from the laboratory experiments after five weeks of testing strongly support the hypothesis that soda ash can decrease lead leaching with the upper water system. In both Olinda and Piiholo water, that leaching was minimized between the pH 8.3 and 8.9 when chloramine was used as a disinfectant. It is worthwhile to compare the condition of phosphate plus

chloramine."

They discussed phosphate as maybe a reason to --

it might be considered a food for this bacteria, so if you

have phosphate in the water, it -- well, even when there is

a residual, it will increase the possibility of bacteria.

And, of course, bacteria will grow. And, of course, without

residual chlorine, the bacteria has a chance to grow better.

Of course, with the phosphoric acid in the water, there's

just more food for the bad guys. So you just have to take a

few minutes. If you look at these graphs, they're pretty

self-explanatory. There's not a lot of information on

there. It's fairly clear.

The pH increase, I'm looking at Page 16 of your notes. The pH increase work both with chloramines and with chlorine, so that's not a huge argument as far as disinfection. But if you turn to Page 17, over time the chlorine disinfection, let's see, that would be the blue and the green line on that Page 17, over time the lead concentration with the chlorine is actually reduced over time as opposed to the dark blue. And the pink with chloramines, the concentrations didn't decrease over time, so that might be a short advertisement for chlorine versus

chloramine.

I can try to answer any questions. I'm not the report writer and I'm not the expert, but maybe -- there's a preliminary conclusion on Page 24 of your packet. The preliminary conclusion, again, the first sentence, "This work strongly supports the pH target of 8.3 to 8.9 for control of both lead and microbes in Olinda and Piiholo. Raising the pH to 8.3 with the addition of soda ash will also increase dissolved inorganic carbon, which can help control leaching of lead above and beyond that achievable

with pH adjustment alone. Maintenance of a significant total chlorine residual throughout the system will be important in controlling microbial growth. Moreover, maintaining a chlorine residual will also be important to controlling lead leaching to water, since acid producing microbes could reduce pH of water in consumers' homes at the surface of lead materials."

So maybe that's a place to stop. If you have more questions, like I said, I don't claim to be the expert, so I'll try to answer them. I didn't write the report, but I'll do my best.

CHAIRMAN VICTORINO: Okay, Ms. Parsons.

BOARD MEMBER PARSONS: On the bacteria, do we know what kind of bacteria we're looking at? Have we done any study on that internally?

MR. PEARSON: Not internally. They did some preliminary studies on some of the types of bacteria. Again, their goal was to look at the acid producing. On Page 21, there's on the table showing a few types of the bacteria that they looked at. There's discussions on Page 22 of the types of bacteria. Actually, it started on Page 20 of your packet, there's discussion. But in answer to

your question, Member Parsons, we have not done studies ourselves on the various types of bacteria, no.

BOARD MEMBER PARSONS: So, I know Dr. Edwards had suggested that maybe we should look into -- since the plate levels were so high, and I know he's coming back. He's sending somebody back this week to look at, to review. Why didn't the department pick up on having him come back? Why did he have to do this out of his own funding?

MR. PEARSON: Mr. Chair, I don't know what you mean by pick up, but we had no objection to him returning. I think our purpose of this report was satisfied, and he

wants to come back to do followup and not at our direction,
but if he chooses to, we -- our response to him was go
ahead, you're free to come back. Make sure you make the
public aware. Make sure you make these people aware. But
also besides this small report, we're doing, as you are well
aware of that report, by Boyle Engineering as part of the
work plan as part of this federal funding.

So I didn't -- I and George didn't feel that the
cost of bringing him back was worth spending on our --
spending our ratepayer's money to bring him back.

BOARD MEMBER PARSONS: But aren't you concerned

with what type of bacteria we might be dealing with with all the illness we're finding Upcountry?

MR. PEARSON: Mr. Chair, of course, we're

concerned, but I think that it's -- most of the public utilities and from what I'm aware of, and I haven't been out in the real world for a long time as far as water goes, but generally, utilities don't try to break down bacterias because there's zillions of them out there. That's why that HPC count is the one that's commonly used to determine the indication of bacteria. So we look at the HPC counts. We

do the chlorine or chloramine disinfection as required to meet the HPC requirements, but I think to break down bacteria and look at detailed bacterias is pretty far out of the spectrum. And it's expensive, and it's difficult. And again, I don't think it's worth our ratepayer's money to go to that extent.

BOARD MEMBER PARSONS: Have you done any readings on the plate counts since you started the chlorine, the HPC's?

MR. PEARSON: Yes, I don't have all those with me, but the -- well, we've done a few things. Because we've

switched to soda ash, Department of Health gave us a letter that said we have to do -- we can switch right away, but we have to do a few things as we're switching. One of those was nitrification testing. Nitrification testing was done because with the chloramines, there's ammonia. Ammonia could be food for bacteria. Bacteria eats the ammonia, and then the nitrates or nitrites form. Pardon me, I'm not a chemist, but I know -- so anyway, if that happens, then, of course, there would be nitrogen in the water and we can test that.

When they required us to test for nitrification,

we also tested for other items and the HPC counts for residuals were also tested. That's when we realized there were some lower residual numbers in the far reaches of the system. Since that time, we've increased -- we've actually placed chlorine at the Kamole tank to add chlorine in the further end of the system to bring the residuals up. Tests for various -- again, I don't have the actual standpipes. I might have some here, but generally, tests for the standpipes that are in the far reaches of the system that had lower residuals, the residuals are now higher.

There's two reasons. That's because we did this higher elevation this last month, and plus we've been indexing within the system.

BOARD MEMBER PARSONS: So do you have the HPC's though?

MR. PEARSON: Let's see, yeah, the HPC's have also been lower, but again, I don't have every number in front of me here.

BOARD MEMBER PARSONS: Are they substantially lower? I mean can you give us some percentage? Can you provide us with that data next week?

MR. PEARSON: Yeah, I can -- I have a couple of data that I just asked for and Joe provide me yesterday. And they were substantially lower. There was three standpipes past the Kamole tank, and they were thousands of percent lower, but we can provide those for you very quickly because the results are already in the lab.

BOARD MEMBER PARSONS: If that's what they are.

MR. PEARSON: That's clearly what they are.

BOARD MEMBER PARSONS: You've taken those out of the standpipe area, and are you taking them on a regular basis?

MR. PEARSON: Yeah, yes, we are. It might be even at a more increased basis. Once a week, the laboratory, Cari mentioned it's at least once a week.

BOARD MEMBER PARSONS: And then are we testing for the THM's for the byproducts?

MR. PEARSON: Yes, excuse me, Mr. Chair. That's the results that we had to send out for -- send out to have tested. It's the THM's and the HAA-5's, which are the two disinfection byproducts that the EPA looks at for those MCL's for those. Those are sent out. That's one reason, as I said in that memo, we're waiting for those results and

other results before we can determine if we're going to stick with chlorine, so this will be forthcoming in a week or two, approximately a week or two.

BOARD MEMBER PARSONS: And we can get copies of that as well?

MR. PEARSON: Sure.

BOARD MEMBER PARSONS: I mean let's just see. I'm not finished.

CHAIRMAN VICTORINO: One moment, before you proceed, does anyone else have any questions? Because I do

not want one meeting dominated by anyone, so does anyone
have any questions? I'll open the floor.

Yeah, Mr. Okamura would like to say something. I
just don't want one person running the meeting if you don't
mind, Ms. Parsons. Do you have anything else? Thank you.

Mr. Okamura.

BOARD MEMBER OKAMURA: I just have a couple of
questions. Why was there no residual in some houses? What
happens?

MR. PEARSON: Could you repeat the question,
please?

BOARD MEMBER OKAMURA: You said in some homes

there was no residual. There was lower residual or hardly any residual. In some of the homes, there wasn't any residual. Why would that happen, you would have residual in some homes and not in others?

MR. PEARSON: Actually, Board Member Parsons could

help answer that. There's a few reasons. If the home, if someone is not using their water or, you know, for an extended period of time, there's going to be no residual because of water sitting there. It's stagnant. It could be their home filter system might be such that it has bacteria

because it's not maintained, that the bacteria is -- the residual is used up by the bacteria that's in the home filter system. By the time they do the test, there might not be residual. The third reason, which could be or may be partially the department's concern is if it's far enough out and the residual in our system happens to be reduced by the time it gets to the home.

BOARD MEMBER OKAMURA: Thank you. One more question. Why were they using chloramines in the upper system and chlorine in the lower system?

MR. PEARSON: Well, I'll try to answer this, Walt,

and if I totally botch it, then you can reply. The materials or type of water in the upper system is difficult water. There's high tannins, I think it is, which is color, so it's kind of a browner type water. And because of the type of water it is, there's a lot of TOC, which is the total organic carbons. Total organic carbons are what is the beginning point to get this disinfection byproducts. When you mix -- when you have your high carbon and you disinfect with just chlorine, then you'll have a chance for higher disinfection byproducts, which are monitored by EPA

and State.

So with chloramines, you're having chlorine plus ammonia, and I don't know the actual chemical action there, but it reduces the propensity for the disinfection byproducts. It somehow works against the TOC's.

BOARD MEMBER OKAMURA: And I guess the disinfection byproducts are harmful or not good to have in the water?

MR. PEARSON: Mr. Chair, yes, they're carcinogenic. From what I've been told, it's like sunlight. If you get increased, not increased, but long-term exposure

to these after a long period of time, you may -- there's
a -- it can cause cancer, yes, it's cancer causing.

CHAIRMAN VICTORINO: Thank you. Anybody else have
any questions or comments for the director or the deputy
director on the report itself? Okay. Thank you, Jeff.
That was well informed.

And let me stop at this moment and to say -- and I
think I may have offended someone in the room today -- but I
try my best to make sure that our meetings, that every one
of you have an opportunity to say or ask questions and not
be dominated by one person. And I do not -- I do not take

any deference as far as the Chair, that is my privilege, to
make sure that everyone has a chance to participate, okay.
I will always let you have followup questions, but I'll
always make sure that everybody at least has a chance to
comment or ask questions.

And if it becomes just one person with the
director or the deputy and making it total domination, I'll
stop them to give other people a chance. And I do apologize
publicly right now that if I offended Ms. Parsons, it was
not my intent. My intent was to make it fair to all. Thank
you.

BOARD MEMBER PYLE: Can I just?

CHAIRMAN VICTORINO: Yeah, Dorothy, go ahead.

BOARD MEMBER PYLE: I just wanted to say a couple of things that are connected to this, but not necessarily directly on this particular report. But they're associated to it.

CHAIRMAN VICTORINO: That's fine, go ahead.

BOARD MEMBER PYLE: I think the report itself was very informative and helpful and understanding. And the whole discussion that went around helped me understand it a

lot. But I think the report itself was a narrow part of a much larger issue, which is all of -- not all of -- the various people that live in the Upcountry area that indicate that they have health issues.

And I think that there's been a much broader discussion that's gone on via E-mail and here and there and everywhere with Dr. Edwards and other people as well about why some of these health issues may exist. And one seems to center on the concept that there is just bacteria in -- it's everywhere. Bacteria is in your hair. It's on your skin. It's on the table. It's absolutely everywhere. And that

it's going to be in the water, and that sometimes it appears, and I've discussed this with my husband, who is actually a hydrologist also, that there are some things that people themselves do that cause these issues to be developed.

We tend to put filters in our own houses, and the filters have the effect of filtering out what the Department's trying to put in the water to prevent the growth of bacteria. So by putting some of the filters in, and I actually have an E-mail from Dr. Edwards here who actually says the more expensive the filter, the worse your

problem, because you are taking out the very things that are being put in to help you stay healthy. And the other part also centers on the water heaters that we have in our homes. Because in an attempt, and certainly these days to try and save our electrical bills, many people lower the temperature on their water heaters. And a lot of times people who have small children do that to prevent their children from being scalded when they turn on the faucet, but in the process of lowering the water heater, we are just inviting the bacteria to grow like crazy in our water heaters.

And so every time you turn on your hot water

faucet, if it has not been, I'll use the word purged, I'm sure that's the wrong word, but you need to elevate the temperature of the water heater excessively once in a while in order to end that problem. If you leave it at a 105 degrees or 120 degrees, you're going to have bacteria like crazy. You turn on the water, and the cold water mixes with the warm water and you're putting it all over yourself worse than ever before.

And these are issues I think that really need to be discussed more openly than they have been discussed. A

report like this one that was done is very technical. It explains certain things, but it's not an approach to what I would call the common sense approach to people who live Upcountry that can solve a lot of the problems they're having in a common sense way. That's all I have to say.

Thank you.

CHAIRMAN VICTORINO: Thank you, Ms. Pyle. Any other comments? If not, we'll move along to our next agenda item. Section C, discussion/possible action regarding the formation of a budget subcommittee. I guess this was put on the agenda from our last meeting. Dorothy.

BOARD MEMBER PYLE: Well, I think -- is this still
on?

CHAIRMAN VICTORINO: Yeah.

BOARD MEMBER PYLE: I think the reason this was
placed on the agenda, because I think Sally brought this up,
is that the budget process is essentially an ongoing
process. But every year, it seems to come upon us more
quick. And this was I think an idea to have the Board to
have a subcommittee that could work with the Department so
that we would not be surprised or confused by budget issues

when the whole budget is presented at the end. And it does seem like a reasonable concept for us to be better informed.

CHAIRMAN VICTORINO: Any other comments?

BOARD MEMBER PYLE: Actually, what does the Department think about that?

CHAIRMAN VICTORINO: Any comments from the director with regards to having a subcommittee that would work more closely with you as far as understanding the budget process and being a part of the budget process with you folks? Would you have any objections to that, George?

MR. TENGAN: No, I think that because we are

working with a timetable, it might take longer than for the Board to review the budget as a body. If the Board would review the budget as a body, then we wouldn't have to spend time with a subcommittee, and the subcommittee wouldn't have to report back to the Board and then the Board take action.

You know, the problem is we need to get a budget up to the Mayor's office by January. And, you know, at this point in time, I don't think we're even completed with the audit for the previous fiscal year, correct?

MS. PERDIDO: Correct.

MR. TENGAN: So all our fiscal employees are still

working on last year's audit. And in the meantime, already we need to start working on the budget, so, you know, we're working with very tight time constraints, so the less time that the Board takes in dealing with these matters will require less staff time. So if we can deal with the budget with the Board as a whole body, that would probably be our preference.

CHAIRMAN VICTORINO: My question then is when would we have the first preliminary budget for the next fiscal year, you know, that we can make sure that every one of us have an opportunity to, A, look it over, and B, to

have a real meeting dedicated to the budget and that only?

MR. TENGAN: Mr. Chair, as you know, it's only a couple of years since we've been reorganized and made a part of the County, and therefore, we need to submit our budget based on the same timetable as the rest of the County departments.

CHAIRMAN VICTORINO: That's correct.

MR. TENGAN: In the past, we would get the budget ready by March of each year, so already that accounts for two months. We use more time -- they gave us more time to

prepare a budget. They gave us more time to prepare a better budget because we have more data to work with. But with this new organization, we just, you know, as I stated earlier, we're still working on closing the books and working with the auditors to come up with the final report for the year. And yet, you know, we need to start, also start working on the budget, on the operations budget and the CIP. And that takes up a lot of staff time, too.

CHAIRMAN VICTORINO: Knowing that, George, and I understand and I don't want to be belaboring the point, but I guess what some of the people here would like to hear,

myself included, is when would the preliminary budget be ready for us to review? Because I know you're going to send it up in January to the Mayor, December, November?

MR. TENGAN: Hopefully we can get this done by the next board meeting, October board meeting.

CHAIRMAN VICTORINO: October board meeting, okay.

MR. TENGAN: I said hopefully.

CHAIRMAN VICTORINO: If not in October, then I would be willing to call -- and I would be willing with the Board's permission to call a special meeting just for the budget itself, you know, call a special meeting to go over

the budget. So if you can't have it ready by the regular October meeting, a week or two after that, we wouldn't mind having a special meeting just for that, George.

MR. TENGAN: Okay, I'll work with you on that.

CHAIRMAN VICTORINO: Okay. Thank you, George.

Next, Dorothy.

BOARD MEMBER PYLE: I just want to say that sounds fine. I just -- what we were trying to do, I think what Sally was trying to do was make the whole process easier, and we don't want to make it more difficult. So I think that if there's a way to have a special meeting that we can

just focus on that particular issue, that will solve the situation.

CHAIRMAN VICTORINO: Okay. Thank you, Ms. Pyle.

Okay, next item on the agenda, D, private well applications.

Discussion regarding the relationship of water pumped out of the private wells and the impact on the amount of water available for Maui County. Ellen.

MS. KRAFTSOW: I apologize, I just want to make a few corrections to what you received. It should have said wells using less than 50,000 gallons per month are exempt

from reporting requirements.

CHAIRMAN VICTORINO: Ellen, introduce yourself and then what pages you want us to go over specifically,

MS. KRAFTSOW: I'm sorry, I'm Ellen Kraftsow. I'm the Water Resources and Planning Division, head of the department. The item in question is Pages 27 to 31 of your packets. And there were a couple of typos in the letter, or not typos, actually corrections. One is that I had said if I have 50,000 gallons, wells using less than 50,000 gallons per day are exempt, but it's actually 50,000 gallons per month. So that would be about 1,700 gallons per day. Those

are wells using less than that are exempt, so my apologies for that. And the other is that subsequent to this meeting, I did receive additional information and I think we managed to get a table in there for you, but I would have edited the letter, too. There are additional wells pulling from the cap rock. There are actually eight wells listed in the -- there's an additional table. I prepared a table, which has some -- it's immediately after the letter, and it lists the wells from the findings of fact. And the wells that are not listed in the findings of fact are listed in red with their status.

And then subsequent to that, I did receive a table from the State Water Commission of wells in Iao which have submitted existing use permit applications, so I provided information as well with no text. And in that information, there are -- I had just given you an example of two, but there are actually eight wells which are considered to be cap rock wells, so their use is not counted in sustainable yield.

BOARD MEMBER PYLE: They're all in Iao?

MS. KRAFTSOW: In Iao. These are wells that are submitted in Iao. One thing, too, among these five wells,

I'm sorry, I don't remember exactly which one, but there were one or maybe even two where our GPS put them in one aquifer, but the commission had them listed in another between Iao and Waihee, so they were pretty close to the border.

BOARD MEMBER PYLE: Mr. Chair.

CHAIRMAN VICTORINO: Yes, Ms. Pyle.

BOARD MEMBER PYLE: I guess what actually compelled me to ask about this in the first place is what about the well in Launiupoko, where is that on here?

MS. KRAFTSOW: I'm sorry, we -- I wasn't sure what the Board wanted. And as I understood, it was mainly about Iao and Waihee aquifer.

BOARD MEMBER PYLE: I guess I was just looking for the whole island, because I understand Iao was probably the area that was most intensely scrutinized and where we seem to be closest to the edge of falling off the cliff. But I do think that the whole issue of private -- and, you know, I'm just asking -- I just think the issue of private wells throughout the whole County probably is an issue that we should be looking at. Where perhaps a lot of the water

source in West Maui may be surface water, eventually if there are many wells in West Maui, that's going to have an impact also.

MS. KRAFTSOW: In point of fact, there are many wells in West Maui.

BOARD MEMBER PYLE: I know.

MS. KRAFTSOW: And one of the aquifers has historically, but not at present, exceeded its sustainable yield, not DWS, through private properties.

BOARD MEMBER PYLE: And I think this is a broader issue than just Iao, and I would like to go there if we can

at the next meeting if necessary.

MS. KRAFTSOW: We have talked about trying to get a contract to investigate private wells, but the State Water Commission was also working on that, and of course, they have primacy. And it's great if they can budget. We've asked for help. We have difficulty even getting up-to-date pumpage reporting from them. It's ridiculous. We'll ask regularly, and I think it took two to three years to get something for Lahaina, and it wasn't complete.

BOARD MEMBER PYLE: They probably don't get it.

MS. KRAFTSOW: Well, they don't get it, and they

consider the reporting unreliable. Some of the people report, and some don't. And they don't have funds to enforce that. One of the things we were going to possibly propose during the water use and development plans process, which was not necessarily, it is not necessarily a department policy at this time, but one that we were just going to investigate, is the possibility of creating on the County level a well permitting system so that you have to have a County level permit. And if you're not reporting, your permits get pulled. But that should be happening

during the water use development plan process.

CHAIRMAN VICTORINO: Ralph.

BOARD MEMBER JOHANSEN: I just have one question,

Mr. Chair. My understanding is that --

CHAIRMAN VICTORINO: I think your mic is off.

BOARD MEMBER JOHANSEN: My understanding is

Lucienne de Naie has done an extensive study of the wells in

the County or on this island, and I don't know anything

about what the upshot is, whether this is going in the

department's hopper as part of the information they're

considering, and I would like to ask that question.

CHAIRMAN VICTORINO: I'm sorry, you started,

Dorothy. And I missed his train of thought. I apologize.

Go ahead.

BOARD MEMBER JOHANSEN: I wanted to ask, first of

all, DWS if her information has been made available to the

department, and if so, if it's taken into account in their

reporting on wells?

CHAIRMAN VICTORINO: Mr. Director, do you have any

idea if that report has gotten into the Department or Ellen

or whoever may be able to answer?

MR. TENGAN: I'm not aware that we have that.

CHAIRMAN VICTORINO: Ellen.

MS. KRAFTSOW: I've seen her summary reports and I've spoken to her, and, of course, we can get her information. There were two issues with that. One is speaking with commission staff, they were concerned that no County or State personnel were able to oversee, so they were not able to quality check the methods. We would still use her data as a basis, but we wouldn't -- I think they were not able to get to every well anyway, for one, so we would need to do additional studies.

Although it was probably good work, we would

probably need to do independent. So we would use that data, yes, and it would be very helpful, but it wouldn't solve our problem completely.

BOARD MEMBER JOHANSEN: In other words, the statement is that they are using that data in order to supplement the ones that they've done and to verify the information contained in her report?

CHAIRMAN VICTORINO: Ellen, can you answer that?

MS. KRAFTSOW: I think the statement is more that if and when we're able to divert staff and funding to such a

study, we would use that data, not that we are currently using it.

BOARD MEMBER JOHANSEN: Thank you.

MS. KRAFTSOW: My understanding is the State Water Commission cannot currently use it.

CHAIRMAN VICTORINO: They cannot currently use it either?

MS. KRAFTSOW: Because there was no government agency that was overseeing the methodology.

CHAIRMAN VICTORINO: Ken. Let the record show that Kent Hiranaga, Board Member, is also present at this

time. Sorry, Ken.

BOARD MEMBER OKAMURA: Thank you, Mr. Chair. Just a quick question. On Page 28, the column that says Initial Head, the units are in what on Page 28?

MS. KRAFTSOW: Probably that looks to me like it's feet above or below mean sea level.

BOARD MEMBER OKAMURA: What does that mean, Initial Head?

MS. KRAFTSOW: It's the initial level of the water, the depth of the water, you know, the Ghuyben-Herzberg relationship that says for every foot of

water above sea level, there's probably another 40 feet
below in fresh water lens, so this is probably the initial
elevation of the water above sea level.

BOARD MEMBER OKAMURA: And then on Page 30, the
column that says Amount Request, what is that, gallons?
That's the second to the last column.

MS. KRAFTSOW: It looks to me probably like
thousands of gallons.

BOARD MEMBER OKAMURA: Thousands of gallons per
day or per --

MS. KRAFTSOW: Or actually maybe even millions of

gallons. Millions of gallons I would say.

BOARD MEMBER OKAMURA: MGD?

MS. KRAFTSOW: Yeah.

BOARD MEMBER OKAMURA: Thank you.

MS. KRAFTSOW: That -- this table came from the State Water Commission after I had submitted my draft, so that's why. Thank you.

CHAIRMAN VICTORINO: Thank you, Ellen. Any other questions or comments?

BOARD MEMBER PYLE: I guess my only comment would

be is if we could follow up, if possible, on including other wells, not just the Iao area, because I think that perhaps one of the directions that I would like to have our board go is a further discussion whether we would support some kind of County ordinance requiring that there be permits for private wells. Because there will be -- there has to be, and you've already stated, there is an impact that is already being felt, and I think this really does need some more attention.

MS. KRAFTSOW: We could provide you in the near term anyway just with a list.

BOARD MEMBER PYLE: Okay.

MS. KRAFTSOW: Thanks.

CHAIRMAN VICTORINO: Any other questions for

Ellen? Ralph.

BOARD MEMBER JOHANSEN: Just to stick with my

question. I wonder if we could consider inviting Lucienne de Naie to talk to the Board, because I know that the work she did was done over a period of several -- two years, and that information may be of value to the Board to see what validity or what value it may have to the Department.

CHAIRMAN VICTORINO: I agree with you, Ralph. I

think that might be a good idea. However, I would have to preface that by saying that if the information she shared, because, again, as it was stated earlier, both the State Water Commission and ourselves, we cannot take it carte blanche because there was no monitoring, okay, that we take it as --

BOARD MEMBER PYLE: Information.

CHAIRMAN VICTORINO: -- information and not being held to it, you know what I mean, okay. I would have no problem if the rest of the Board would like to invite her, and with that premise, that it would be information only and

that it's not substantiated at this point. And until it is,
we cannot take it as fact.

Is that all right, Dorothy?

BOARD MEMBER PYLE: I make a motion.

CHAIRMAN VICTORINO: No, we can put that request
for agenda items for our next meeting.

BOARD MEMBER PYLE: But we need to make sure she
comes. I will make a motion to ask her to come to be
present at the next meeting.

CHAIRMAN VICTORINO: I'll do it. I don't think a

motion is necessary really, seriously.

MS. KRAFTSOW: Can I just clarify that?

CHAIRMAN VICTORINO: Sure. Ellen.

MS. KRAFTSOW: Just because it's not official
doesn't mean that we're criticizing the work.

CHAIRMAN VICTORINO: Oh, no, no, no.

MS. KRAFTSOW: Because I'm sure it was good work.
Just in scope, it was limited just in terms of the time they
had, and even with the years that they took, and as far as
the oversight, yeah.

CHAIRMAN VICTORINO: I think that's the only

reason I'm commenting is that the oversight part, because we cannot take it as official. But as far as informational, we will accept it.

MS. KRAFTSOW: It's just standard practice you go out and double-check all sources of information.

BOARD MEMBER PYLE: I think what the report that Lucienne has done to offer to us is it can fill in areas where more work needs to be done and that it can be cross-referenced or double-checked with information that is already established at the State Water Commission or not, and then it will point out areas where we need to be more

observant in order to do official studies. And I think that would be very useful for all of us.

CHAIRMAN VICTORINO: Thank you. At this point, I would like to ask for a slight recess, a ten-minute recess, because our young lady gets tired and we need to let the stenographer take a break. Let's call for a ten-minute recess.

(Recess taken.)

CHAIRMAN VICTORINO: Reconvene the meeting. Okay, E, receipt of board member requests for agenda items to be placed on future agendas.

BOARD MEMBER PYLE: Okay, the return of the well,
that's fine with me.

CHAIRMAN VICTORINO: Return of the wells that
Ms. Pyle has requested. I would also put on the -- one of
the agenda items would be update on the Rules Committee. I
think Michele is going to hopefully give us something, but
if not, then for sure at our next meeting, Sally will be
back, and we can update that. Any other requests?

And if you do, just give me a call or E-mail me or
let Cathy know, and she'll call me.

BOARD MEMBER PYLE: And Lucienne is going to be

invited?

CHAIRMAN VICTORINO: Yes.

BOARD MEMBER JOHANSEN: When is the joint meeting

with the Planning Commission?

CHAIRMAN VICTORINO: It's down under unfinished

business.

BOARD MEMBER JOHANSEN: What I'm saying is should

the upshot of that be on the agenda, or does it occur before

the next meeting?

CHAIRMAN VICTORINO: It occurs before the next

meeting. If you look on your minutes just below that,
Ralph, it's scheduled right now for Tuesday October 12th,
2004.

BOARD MEMBER JOHANSEN: So we would want that on
the agenda so we could follow up on it.

CHAIRMAN VICTORINO: We can put it on the
discussion for discussion purposes, okay. Going down to
unfinished business, which we have under A, discussion of
the agenda for the joint meeting of the Planning Commission,
Water Board and as well as the Fire Department that is
scheduled for Tuesday October 12th at 1 p.m. at the Planning

Department conference room.

Okay. I think we've -- I've sat down with the Fire Department and in the processing now with the Planning Department to put agenda items together, and if you have any suggestions, please get them to me before the end of the week and so I can forward it on.

BOARD MEMBER PYLE: Can you send us what you have already so we won't be duplicating things?

CHAIRMAN VICTORINO: Yeah, but I've got to be honest, I haven't finalized everything. So what I'm saying if you have anything you would like to put on -- I don't

care if it's a duplication, that's fine. That way I know what you're thinking. If you have any agenda item that you want to put on, any matter you wanted to cover, then give it to me, and I'll incorporate it. If I already put it on the agenda, that's fine. It's there, okay. But I don't want to -- you know, I don't want to start saying I did this, this, this. What you guys want, okay, this is your meeting. I'm hoping to really springboard with the Planning Department as well as the Fire Department and the Water working together from now on in a more cohesive manner. This is the first

step. I don't know if this is the end-all, but this is the first step.

Mr. Kushi, you have something?

MR. KUSHI: Mr. Chair, for me, for clarification purposes, this is a joint meeting workshop?

CHAIRMAN VICTORINO: Uh-huh.

MR. KUSHI: Between the Board of Water Supply and Planning Commission?

CHAIRMAN VICTORINO: Uh-huh.

MR. KUSHI: Maui Planning Commission?

CHAIRMAN VICTORINO: Yeah.

MR. KUSHI: Is this the Fire Commission or Fire
Department?

CHAIRMAN VICTORINO: It's the Fire Department.

MR. KUSHI: Because if it's the Fire Department, I
don't care because they cannot hold meetings. But the Fire
Department has a Fire Commission.

CHAIRMAN VICTORINO: Right, the safety commission.

MR. KUSHI: Right. From our staff's -- my
office's point of view for logistical purposes, we need to
sort of coordinate the agenda, public notices.

CHAIRMAN VICTORINO: Okay.

MR. KUSHI: The Board -- I would recommend the Board issue its own agenda, okay, and the Planning Commission issues its own agenda. Hopefully, it's the same agenda. But I think each of you boards, because you're separate entities, must issue separate agendas, post separate agendas.

CHAIRMAN VICTORINO: Okay. But I could make the -- we could make the agendas concurrent, in other words, but it would be one for the Board of Water Supply and one for the Planning Commission even if it may be the same thing.

MR. KUSHI: Correct, so if you could, you know, work it out. I don't know who you're talking to from the Planning Commission or Department and then call our office and let us know so we can at least advise the staff from the Board of Water Supply's side and the other attorney in my office for the Planning Commission's side to have the same type of agenda.

CHAIRMAN VICTORINO: Okay. I think that can work out. Yes, Cathy.

MS. HOWARD: Mr. Chair, I'll need the information

that's going to be on the agenda by the 5th in order to mail it out and file it. I'll have to be ready on the 5th to get that done.

CHAIRMAN VICTORINO: Okay.

MR. KUSHI: Okay.

CHAIRMAN VICTORINO: All right. Yes, George.

MR. TENGAN: Yes, Mr. Chair. Are we going to need any staff support on this, as an example, staff reports or data?

CHAIRMAN VICTORINO: You know, I'm going to say without really finalizing everything, I'm going to say yes,

but I can't tell you what until I get everything finalized and get it to you. And hopefully, that will be done by no later than early next week Monday or Tuesday because, you know, I've got to give you time establish the reports if it's needed. But anything we would ask for would probably be current things that have been given to us in the past, but more information for Planning. But I'll try my best to limit that. Mr. Kushi.

MR. KUSHI: Mr. Chair, for staff's purposes, will this meeting on October 12th substitute for your regular monthly meeting?

CHAIRMAN VICTORINO: No, this is a special --

MR. KUSHI: Separate?

CHAIRMAN VICTORINO: Yes. Okay, Dorothy.

BOARD MEMBER PYLE: Actually, I guess maybe this is just my perception of what this meeting is about and that it's more issue-oriented than necessarily detail-oriented, and so my answer to George's question would be I think you wouldn't need detailed reports and actually very many staff present either. I just jotted down a few things I think would be important. One of them would be what's the process for long-range planning, you know, how are the discussions

held between the Planning Department and the Water Department that are long-range planning oriented? Is there a process that can be developed that will make that more efficient and more transparent and publically, you know, knowledgeable? What are the issues that surround the private water protection systems in subdivisions?

You know, we don't need to know how many private subdivisions there are going to be, but what is the process for determining whether this is possible or not? What's the relationship between the current water supply and the number

of building permits that seem to be -- or the number of subdivisions that are coming forward? Is this a problem?

How are we going to resolve these problems?

It's more talking points I think than actually details. Those are just some of the ideas that I had.

CHAIRMAN VICTORINO: And Dorothy, you're correct, and like I said, at this point, I'm going to say yes until I have everything worked out. And I don't want to say no, and then I ask for them. So let's leave it at that, and at that point when we get the final agenda done, then we can review it, George, and see if we need any staff help or maybe none

at all. And so your request, if I could have them in my hand via E-mail or get them to Cathy via E-mail or whatever by no later than Friday, because I would like to formulate the agenda, finalize the agenda by next week because, as you can see, these will go to various departments. And I want them, also the Planning Commission side to give their feedback as far as what they want on the agenda too, yeah. And I hope most of you, if not all of you, will attend the meeting on October 12.

Okay, Rules Committee. Sally is not here, so I

will assume, Kent, you're going to --

BOARD MEMBER HIRANAGA: Ken.

CHAIRMAN VICTORINO: Pardon?

BOARD MEMBER HIRANAGA: Ken.

CHAIRMAN VICTORINO: I'm sorry, Ken.

MS. HOWARD: Do you have copies for staff?

BOARD MEMBER McLEAN: Copies for staff and corp

counsel.

CHAIRMAN VICTORINO: You want to do it or --

BOARD MEMBER OKAMURA: I think we're all going to

do it. I can start.

CHAIRMAN VICTORINO: Okay, go ahead.

BOARD MEMBER OKAMURA: The sheet that we've passed out, it's an easier version to read our proposed changes that was in the packet. It's the same thing, a condensed version here. It's not as confusing. Sally put this together before she left. The proposed changes are Section 16-106-02. The purpose, to simplify the purpose to include -- or just to say the purpose of this rule is to provide uniform handling of applications for water service for the Upcountry water system. Okay. Any questions?

There were some definitions that were clarified,

and it's the same definitions that were in the packet. One is onsite improvements means that portion of the subdivision water system constructed within a subdivision or development to include all fire hydrant assemblies and service laterals. It includes improvements located outside the subdivision that are required to service the subdivision as required by the Department. All these definitions are trying to make it a little more clear.

Potable water, the definition for potable water,

it's the same that's in the packet. How should we do it?

You want me to read the proposed changes or read the

definitions? Okay, so just some improvements to some of the definitions for clarity. Section 161-06-04. Maybe a good way would be -- does everybody have their notes?

CHAIRMAN VICTORINO: No.

BOARD MEMBER OKAMURA: Okay. 16-106-04, okay, water service requests, Subsection B and C should be deleted. Subsection D and E should be reentered accordingly. Okay. The original 106(b) reads as follows:

"Premises that are not on the priority list and have expended funds in reliance upon official assurances dated

before November 2nd, 1994, or have any preexisting rights associated with the premises to water service shall be allowed 60 days from the effective date of this rule to pay for or reserve an allocation of service capacity pursuant to the Subsection 16-108-9 of Chapter 108 of the Board's rules. Thereafter, such rights shall terminate."

So this section makes reference to the priority list in regards to November 2nd, 1994, to people waiting before November 2nd, 1994. And generally -- not generally -- but so Sections B and C of that section are sort of outdated. There were valid for only 60 days after the

previous days were passed. This was when the rule was passed, and it was in reference to the previous 60-day period.

Section D reads as follows, the old one reads as follows: "Premises on the priority list that are unable to fulfill requirements for water service or who refuse water service shall be removed from the list. A new application must be submitted in order to be placed back on the priority list."

The new, what we recommend, would be that the premises that are on the priority list that are unable to

fulfill requirements for water service or refuse water service shall be removed from the list. A new application must be submitted in order to be placed back on the priority list.

We felt that this section should be moved to Section 106-06, procedure for processing applications for water service that are on the priority list, just, you know, moving this section further down. 106-05, we felt should be -- one should come before the other. Maybe Michele, you want to explain this point?

BOARD MEMBER McLEAN: Thank you, Mr. Chair. The

Subsection 05, the procedure for processing applications for water service and Section 06 is issuance of meters that describes -- that simply states additional source may become available during the period of the rule, so that's sort of the preface to the section that right now, see, we're switching them around in order.

CHAIRMAN VICTORINO: Okay. Ralph.

BOARD MEMBER JOHANSEN: I just have one amendment to this section that was discussed and didn't get on this proposed amendment, and that is that instead of reading

"premises on the priority list that are unable to fulfill requirements" and so forth, say "premises on the priority list whose owner may be able to fulfill requirements or refuses water service." I think it's just clearer.

Premises don't do things.

BOARD MEMBER PYLE: People do.

BOARD MEMBER JOHANSEN: People do, yeah.

CHAIRMAN VICTORINO: So you want to amend that to say owner?

BOARD MEMBER JOHANSEN: "Whose owner."

Strike "that are" and substitute "whose owner is"

and then strike "refuse" and substitute "refuses" so it's
consistent in text.

CHAIRMAN VICTORINO: Again, Ralph, would you
repeat it to --

BOARD MEMBER JOHANSEN: Instead of saying
"premises on the priority list that are unable to fulfill
requirements," you say "premises on the priority list whose
owner is unable to fulfill requirements."

BOARD MEMBER PYLE: "Or refuses water service."

BOARD MEMBER JOHANSEN: "Or refuses water
service."

CHAIRMAN VICTORINO: Any questions on the --

again, this is not finalized, but I mean this is a good job.

I missed the last couple of meetings because I was off

island. I think the committee has worked real hard, and

I've got to thank Sally for all the work. This will come up

again with Sally on the next meeting.

BOARD MEMBER HIRANAGA: I have a comment,

Mr. Chair.

CHAIRMAN VICTORINO: Sorry, Kent.

BOARD MEMBER HIRANAGA: In Section 16-106-06, Item

B, the applicant shall be given 30 days from the date

certified mail was received. When we were doing this rule revision previously, I had a concern that 30 days was not a sufficient period. Some people have been waiting for 10, 15 years for the chance to obtain a water meter. If they happen to be off island during those 30 days, they would have missed out on their opportunity to obtain a water meter.

CHAIRMAN VICTORINO: So what do you propose,

Mr. Hiranaga?

BOARD MEMBER HIRANAGA: I would say at least 60

days. Since the Department has been trying for the past 15 years to provide additional source, why are we only giving the public 30 days to respond? And on certified return receipt, I'm not sure exactly what the procedure is, but if the person is not there to sign for it, they typically will leave a notice saying there is certified mail for you waiting at the Post Office. I'm not sure how long --

CHAIRMAN VICTORINO: Thirty days, and then they will return them because I recently had an experience. Some certified mail did come. We did not pick it up at the Post Office. After 30 days, they return it.

BOARD MEMBER HIRANAGA: So the applicant would have no knowledge the mail was even sent.

CHAIRMAN VICTORINO: Yeah, that is correct, that is correct.

BOARD MEMBER HIRANAGA: If he was off island for 30 days, he would have no knowledge that his name had come up on the list.

CHAIRMAN VICTORINO: That is correct, Mr. Hiranaga. I don't know how else to change the system, because that is a United States Postal rule, and it's not something the Department has any control of. But if you

send it to them, they don't pick it up in 30 days, it goes back.

BOARD MEMBER HIRANAGA: Send it again. Make two attempts. Take 60 days. I personally went on a trip for 28 days.

BOARD MEMBER PYLE: I was gone for two months.

CHAIRMAN VICTORINO: And I'm not disagreeing. If it's agreeable with the committee to change that to 60 days, I mean it's not a big hassle.

Mr. Kushi, would that pose a problem talking 60 days? Would you see any legal problem with that, 60 days?

MR. KUSHI: Are you talking about 106-05?

BOARD MEMBER HIRANAGA: 06.

BOARD MEMBER McLEAN: It's presently -- as the rules are presently drafted, it's 05, but we're proposing to switch those two, so in the draft we're looking at now, it was switched to 06. But in the existing rules, it's 05.

MR. KUSHI: 05(b) as in boy?

BOARD MEMBER McLEAN: Yes.

MR. KUSHI: The only concern I have is if you change the number of days now, you need to make an effective

date. When the rule change is effective this date, all notices will be given 60 days. Anybody who or before the effective date of the rule change, they're still bound by the 30 days. The Department has had problems with sending certified mail, like you said, and they don't pick it up. And we can only go on the application, the address that these people put down on the application.

I know sometimes they appeal to the director, and we say look, it's not our problem to find out where you are. There are some provisions in our rules that say, you know, upon attempts. I'm not sure if the department has a budget

for this, but maybe a public notice. Then we've exhausted our attempts to try to get people, but aside from that, you know, we cannot know the whereabouts of everybody.

CHAIRMAN VICTORINO: And I don't think that's the question at this time. We're just trying to say that we want to make it as fair as possible to the public in that respect and give them the ample time. It's like Mr. Hiranaga said, they've been waiting 10, 15 years, and 30 days, and they were off, like you just said, 28 days and you missed it. I would hate to have that happen. And I think once before, we had an incident like that where they came in

and that happened. My memory may not serve me all that well, but I remember something like that.

Yes. Okay, Ralph, go ahead. I'm sorry, hang on.

BOARD MEMBER JOHANSEN: This brought up in my mind something else, which is from my personal experience, recordation, records are lagging behind as much as four months. And I'm just wondering when the person changes address or ownership is changed on a property, what kinds of problems has the Department had with notifying the wrong person or failure to respond because recordation has not been up to date? Maybe I could address that question

through the Chair to Herb.

CHAIRMAN VICTORINO: Herb, would you like to answer that question, or would you have some kind of answer to that question? Kind of catching you offguard, I realize that.

MR. CHANG: The Department doesn't have, like you said, the updated information, so the best thing we can do is go with what the available information is, which is the real property tax office. And we do advise in a letter, a certified letter that we do send to the owner that we think

is on record that if they're not the owners, that they should notify us immediately, and so hopefully, that will catch the change in ownerships.

BOARD MEMBER JOHANSEN: That really doesn't protect the rights of the person who is primarily responsible. I'm just wondering if -- how in the world are you going to cope with a problem like that? Of course, if a person finds out later and has a perfectly valid excuse for the failing to respond because he didn't receive proper notification, what is the Department's practice in that case, or what is their responsibility?

CHAIRMAN VICTORINO: Mr. Kushi.

MR. KUSHI: Yeah, this is just by way of suggestion. In the private world, private attorneys, I'm just giving examples how we serve people, first you look at the address that's on record and the thing the Department has. And they could check with the real property tax by TMK to see if they match, send it out by certified mail. You can also send it out in addition by regular mail because a lot of people don't pick up certified mails. They figure it's from the Government, it's just bad news.

But if you send out regular mail, you can't return

that unless nobody picks it up. The other way is to go on the property itself, if the department has the time and resources, and post on a tree or whatever it is, or post it, physically post a notice on the property. Then the other way, of course, is to get -- if you want to go the Cadillac method, have them served, go try to chase these people like process servers.

Then the last resort is a notice by publication.

Now, these are the ways the notices are accepted in the legal manner in terms of summons, et cetera, et cetera. But they're not -- they're not legal rights in any means by

being defaulted if you don't get them. Just by way of example.

Mr. Chair, if I may, I know you may not take action on these things, but for the report, if the drafters could make the changes in the Ramseyer format, I believe it will be easier to understand, cite the current section and then underline the additions, bracket the deletions, so anybody can see what the amendments are. Otherwise, you have to read through all the current and compare it.

CHAIRMAN VICTORINO: Okay. Good suggestion.

BOARD MEMBER OKAMURA: That's a good point. I

guess also that, you know, these things that we're

recommending are only our proposed changes to the Council or

whoever is going to be making the new rules. I guess a

determination would be coming down in October from the

Special Council. So these are not -- they're not changing

the rules, but actually making suggestions for improvements

to this particular rule. And I can see where the format is

sort of hard to understand the changes right now, hard for

me to explain it. But we have to try because we're trying

to make a deadline, which is like January 1st, this whole

ordinance will be no longer in effect.

So I guess we could, you know, still address it in the October meeting and hopefully come up with something by then. But we're trying to do that, give the Council something so they can start to work on it and have time to, you know, come up with some, you know, either a draft of their own or whatever. Thank you.

CHAIRMAN VICTORINO: Okay. Any other comments?

BOARD MEMBER OKAMURA: Should we continue?

BOARD MEMBER McLEAN: Thank you, Mr. Chair. If we do have time to take this up again at the October meeting,

if that would still give us time to get it to the Council for them to consider it in committee and then full Council by the end of the year, then I would volunteer to go through whatever changes we agree to today and put it into the Ramseyer format by the next meeting. But as Ken was saying, I don't know timingwise if that's going to -- if that's going to be enough.

Do you know if this is already an item in committee then, the Council Water Resources Committee?

MR. KUSHI: There is an agenda item in the master agenda on Danny Mateo's committee about water rules, nothing

this specific.

BOARD MEMBER McLEAN: Because if it could just be a draft referral, then that would be enough time. If it's okay, I can check with Council staff, and then we can formally vote on our changes at the next meeting and transmit it to Council. If that would be still be enough time, I could do that.

MR. KUSHI: Yeah, the process would be, the way I look at it, would be this. The Council needs to figure out who has the authority to amend and adopt the rules.

Assuming they do that in a timely manner, then the rule making procedures would have to be followed by a notice and a public hearing, et cetera. That process alone takes anywhere from 30 to 45 calendar days because they need to publish it pursuant to Chapter 91 or 92, but that's the way I look at it.

They would have to first decide what agency can change the rules or amend the rules, and we've told them before, our office, it's not them because they're not an agency. They're the Council. The other way they could do is adopt by ordinance and codify this rule as the Maui

County Code would, an ordinance, and amend it. But that takes two meetings, so that's another process.

BOARD MEMBER OKAMURA: Thank you, Mr. Chair. So even if they were even to accept the whole -- let's say there were no changes to the ordinance or to the rules, to this particular rule, they would still have to go through the process of that 30 to 45-day process?

MR. KUSHI: To amend a rule?

BOARD MEMBER OKAMURA: Or just to extend the deadline or to make it, you know, have something at least after January 1st to have something in place.

MR. KUSHI: Right, because this rule sunsets

January 30th or whatever it is.

BOARD MEMBER OKAMURA: First or 5th, so they need

to still go through that procedure, 30 to 45-day public

notification procedure if they are going to extend?

MR. KUSHI: If they're going through rule making.

If they take the other route and codify this as a Maui

County Code Ordinance, they would have to adopt it. And

that takes two meetings, and according to their schedule or

whatever, the least amount.

Mr. Chair, for the record, they know about this

problem. I believe either you or the Department have notified them.

CHAIRMAN VICTORINO: I've met with Danny Mateo and gone over this. And we've told them that we're working on some clarification on the rules to get it to them so that they can use it as whatever form they want to use it. What I'm appalled at is the fact that they haven't decided if the agency or they're going to codify and make it into ordinances or whatever, because if it's going to take two meetings, and that's a month, maybe a month and a half,

especially with elections, I just see a lot of things being put to the wayside unless it's politically expedient, and that's not great either at this juncture.

But I guess that's my only comment. Michele, I don't know how to answer that question. I agree, I would like to get this done and out to them, and at least they have something to work with. And I hope that maybe they would come back to us and say, hey, we would like you guys to help us do these rule changes. But, you know, I've talked to Councilman Mateo and some of the other Councilmembers, and they seem willing to do it. But I don't

see any action from their side. It's like the willingness privately is there, but publicly I have not seen anything. So I do apologize. I don't know how else to approach this matter.

At this juncture, I would say what you want to do, I would go ahead and do it and put it on October's meeting, and hopefully this will be the one that we can pass on, will be the final one we can pass on. Ralph.

BOARD MEMBER JOHANSEN: Are we saying that we can't move the approval of these proposed changes at this meeting?

CHAIRMAN VICTORINO: No, we can.

BOARD MEMBER JOHANSEN: There's no problem with
that?

CHAIRMAN VICTORINO: There is, because we've got
some clarification that has to be done.

BOARD MEMBER McLEAN: I think we could still vote
on the changes. We wouldn't have a final document in front
of us, but we could vote on the language. And then our
action would stand as that. We would have to do the
followup.

BOARD MEMBER JOHANSEN: We discussed the proposed

changes and we have, each of us, an understanding as to what those changes are. Is there any reason why we couldn't on a motion approve them at this point and make our recommendation so that we're at least moving as fast as we can?

CHAIRMAN HIRANAGA: Mr. Hiranaga.

BOARD MEMBER HIRANAGA: Mr. Chair, I guess

personally I would prefer to see the change in writing before it's voted upon so people have an understanding of what they're voting upon.

BOARD MEMBER JOHANSEN: That was really my

question, whether we understood enough to move it forward.

If not, then we have to wait.

CHAIRMAN VICTORINO: Just hearing what I just

heard, I think we're probably best served to wait because I

think the motion would not pass if one of us did not vote in

the positive because we only have five members at this

point. So Michele, if you and Sally would continue to get

that taken care of, I know Sally will be back at the end of

the month, but in the meantime, we need to get that taken

care of if we can, please, Michele.

BOARD MEMBER McLEAN: Okay. Does the Board want to continue discussion so we can talk about some of the substance in some of these proposed changes so that we're not just taking what we have in front of us and putting it into a format for next time, but like Kent's question about the 30 days, we can talk about that some more and see if we want to extend that to 60 days or modify that procedure. There are just a couple of things that are in there that are I guess more substantive proposals that maybe we can talk about some more today just to expedite things for next time. If we have time, I would like to.

CHAIRMAN VICTORINO: That's fine, go ahead.

Didn't you have to leave at 11, too?

BOARD MEMBER McLEAN: No.

CHAIRMAN VICTORINO: Go ahead. Yes, Mr. Hiranaga.

BOARD MEMBER HIRANAGA: Mr. Chair, were you going to ask Herb for his experience?

CHAIRMAN VICTORINO: Oh, yeah, Herb. Especially on the certified mailings and the 30 days, and let's hear from the Department's side.

MR. CHANG: Well, the Department has so far roughly gone down to 150 projects on the list, so we do have

some kind of track record of the response time and that kind of stuff. As far as certified letters, if it does come back returned, we either have to look for more resources for owners. And if we do find it, we send more letters out. And if we can't, then we send the letter out again. And there's really like very few, maybe a half a dozen or less, where you couldn't actually get somebody to sign the letter. And the 30 days start ticking when they sign, so it doesn't start until they're actually notified. So they do have 30 days as a minimum to respond.

CHAIRMAN VICTORINO: Upon the signed receipt of
the certified letter?

MR. CHANG: Yes, when the thing is received back
at the post office, they have a date it was actually signed
by the recipient, so we start the 30 days on that date.
That's my input on this.

CHAIRMAN VICTORINO: That's a little clearer.

Okay.

BOARD MEMBER HIRANAGA: I guess my comment is the
department is not adhering hearing to the -- well, I guess
this Item C, "failure to respond or the return of an

unsigned return receipt was treated as a refusal of water services," is that a proposed change, or is that in the rule? So the Department is not applying the rule to the letter. It's taking some liberties. I guess as long as they don't change their policy, they could apply the rule to the letter. And if it's not signed or it's not responded to, it's of no interest. So they're giving a lot more leeway than what's being stated in the rules.

CHAIRMAN VICTORINO: Right. Ralph.

BOARD MEMBER JOHANSEN: Just to respond that the rules should conform to best practice. If that's what

they're doing now, that's fine. But if it isn't, I think we should consider revising the rule.

BOARD MEMBER McLEAN: I agree. I think that the rules should go as far as they can to reflect existing practice, which maybe just at the end of that subsection that says "failure to respond or the return of an unsigned return receipt will be treated as a refusal of water service." Add something like "provided that the Department makes additional attempts to contact the owner." That's not great language, but just something to that effect, that gives the Department the opportunity to try it other ways,

which seems to be what they do.

CHAIRMAN VICTORINO: Yeah. Ralph.

BOARD MEMBER JOHANSEN: When the applicant is confronted with the difference between rule and practice, you get into all kind of problems in contested case hearings and that sort of thing, so you want to keep the two as constant as possible.

BOARD MEMBER HIRANAGA: Mr. Chair, what about in Item C, change the word "will be treated" to "may be treated"?

CHAIRMAN VICTORINO: "Will be treated," change it

to "may be treated"? Ralph.

BOARD MEMBER JOHANSEN: I don't know if that

answers the problem because what are the exceptions and how

do you determine that there's not an abuse of the process in

loosely interpreting what is stated on the printed page?

CHAIRMAN VICTORINO: So what would you suggest?

You know, we're trying to come to some consensus where best

practice and rules are fairly similar, but still giving them

some leeway. What would you suggest now in a legal term?

BOARD MEMBER JOHANSEN: As a practical matter, I

would have to know what the range of problems are that call for interpretation beyond the letter of the law, and I don't know enough about that to make any recommendation.

BOARD MEMBER HIRANAGA: I believe that if someone felt that they were not properly processed under these rules, they could ask for a -- request relief from the director. The director could make an exception. Under the old charter, I believe if they were unsatisfied with the director's decision, they could then appeal to the Board of Water Supply, so they could possibly go down that route. Of course, an appeal to the Board would be only a

recommendation and not a determination.

BOARD MEMBER OKAMURA: Mr. Chair.

CHAIRMAN VICTORINO: Yeah.

BOARD MEMBER OKAMURA: The exceptions are on the next page. Would that suffice, the waiver or modification?

People do come to us now for technical reasons and so forth.

CHAIRMAN VICTORINO: Okay.

BOARD MEMBER OKAMURA: You know, right now the way the Board is, you know, under the new Charter, the Board can only recommend to the director about waivers or modifications, but we sort of rewrote this part saying the

director would come to us and ask for our recommendation prior to making a decision. Would that suffice?

BOARD MEMBER JOHANSEN: Could we ask Herb Chang if he can give us enough information about the range of problems which constitute reasons to make exceptions to the rule as it's stated here? Then maybe we've got a better idea of what we want to put in its place.

CHAIRMAN VICTORINO: Herb.

MR. CHANG: George, I hope you don't mind this, but I think you've been involved with all the problems

because they've been talking to you mostly on making decisions on people who feel like they weren't either notified or felt the infrastructure was too much to install to get the meter, those kind of things we've been deferring to you. And I don't know if I'm really qualified to really answer the question.

I can explain what we've been put up against, but as far as deciding what they'll do, I will defer to the administration.

CHAIRMAN VICTORINO: Give us some examples, Herb, about some of the challenges you guys face with some of

these applications or lack of notification, but I think that's what we want to hear. I think that's what Ralph wants to hear, Michele, some of these people want to hear.

MR. CHANG: Sometimes -- there was one case where we thought we had notified everybody, and then this person comes up and says, I'm an owner, too, so in that particular case, the Department decided -- the 30 days had already passed, so the Department decided this guy is supposedly an owner, so we gave him another 30 days to accept the meters offered, and in this case, they did take up the meter.

CHAIRMAN VICTORINO: So this is multiple owners?

MR. CHANG: Yeah, multiple owners, like sometimes as much as half a dozen sometimes. Others or I guess the majority is that people ask us why do they need to do all these improvements just to get a meter, so we then usually call them to check their finances, and so sometimes they ask for extensions to this 30 days, which we normally give. Because we feel it's a justifiable reason for extensions. I can't really think of any others.

CHAIRMAN VICTORINO: I guess one question I have is of these notifications, I guess that's maybe what everybody wants to know, when we've sent them out and

they've come back, you send me a notification, I wasn't there, it came back. For whatever reason, it came back to you. Then what steps do you normally follow before we shut the file down, before we say we've done everything, sorry?

MR. CHANG: We -- the files, we just have like an expiration date for 30 days.

CHAIRMAN VICTORINO: Right.

MR. CHANG: If we don't hear from them, we usually follow up with a letter to the person at the same address that received the letter and signed, certified that they

didn't respond within the 30 days, therefore, you lost the opportunity. Unfortunately, the timing of when we send out the letter sometimes can be a couple of months after the 30 days, but that's due to staffing, but we try to eventually follow up with a letter after 30 days has expired. And those who we have contact, we also say per discussion with -- per meeting or whatever, you refused meters offered because a letter was written.

CHAIRMAN VICTORINO: Okay. Now, that's -- that's one scenario. You sent it out. It came back to you. Not no response, it came back to you. You send a certified

letter. It came back to you. What is the next step?

MR. CHANG: They pretty much understand what they need to do to get the meter, so they either --

CHAIRMAN VICTORINO: Herb, you send me the letter, and I never received it. It went back. It was returned to you, I'm sorry,

MR. CHANG: If you received something back to the Post Office saying no response?

CHAIRMAN VICTORINO: No response.

MR. CHANG: Then either -- if we look again into our available records, we try to find another owner. If we

can't, then we resend the letter out one more time.

CHAIRMAN VICTORINO: And if it comes back one more
time?

MR. CHANG: We consider it's closed, because we
can't contact anybody. No sense sending out another letter
because it's going to come back.

CHAIRMAN VICTORINO: How often does that happen?

MR. CHANG: Half a dozen maybe of the first 150.
Usually we get a hold of somebody.

CHAIRMAN VICTORINO: Michele.

BOARD MEMBER McLEAN: Thanks, Mr. Chair. To

address both of these, I propose amending Subsection B so it simply says the applicant shall be given at least 30 days, and that gives the Department flexibility to give them more time when they feel it's need instead of just 30 days and the time expires. And then for Subsection C, maybe revising it to say something to the effect of if the applicant fails to respond or if the unsigned return receipt is returned, the Department shall attempt other reasonable means of contacting the applicant. Thereafter, failure to respond or the return of an unsigned return receipt will be treated as

a refusal of water service.

So it says -- if they send a letter, it gets returned to the Department, they've got to try something else. And if that attempt fails, then they can proceed as if they refused.

CHAIRMAN VICTORINO: What do you think, Ralph?

BOARD MEMBER JOHANSEN: Since this is a problem of trying to, among other things, not only accord fairness to the applicants, but also protect the County from subsequent controversy, possibly liability, maybe we can ask that the office of counsel consider this problem as a liability

problem and come up with some recommendations for us at the next meeting.

CHAIRMAN VICTORINO: Yeah, what do you think,

Mr. Kushi?

MR. KUSHI: Well, Mr. Chair, based on what Herb has told you, the Department has tried by at least two certified mailings, and when they get something back from the Post Office not received, they do their independent searches, so I think they're using their best efforts. I'm not sure to what other extent you can -- we, you know, we have the duty search them out.

Responding to Michele's suggestion that the applicant be given at least 30 days, then that brings up a whole bunch of other discretionary maneuvers, potential maneuvers, what is at least 30, to 60, 90, 120? I would rather see something firmer like 60 instead of at least 30. If the intent is to give more time, I would like to see something in writing stating that the Department would attempt at least two certified mailings.

Then I think we're doing our duty in terms of attempting to notify. Aside from liability, I mean, you know, I'm not sure to what extent the Department is exposed

as long as we use our best efforts. In terms of the attempts in mailing out, I think you need to check with the Department in terms of can they do it, do they have the budget to send out two mailings, et cetera, can Mr. Chang do it? If you see his office, you probably have the answer.

CHAIRMAN VICTORINO: Thank you, Mr. Kushi.

Mr. Hiranaga.

BOARD MEMBER HIRANAGA: Mr. Chair, the other source to locate or identify the current owner is to examine the last recorded deed, which you can obtain from a title

company. Typically they can obtain that within a 24-hour request, I'm not sure, probably for a nominal fee, so if you set up some type of an arrangement with a specific title company to provide that service. It's called the last recorded deed.

MR. KUSHI: But, Mr. Chair, we need a mailing address, not so much the address of the property, right?

BOARD MEMBER HIRANAGA: I'm not sure, but typically the deed, the grantees, there usually is an address on the deed.

CHAIRMAN VICTORINO: I don't think so, because

when I do research for new properties for insurance purposes, a lot of time, it has the property address and whatever grantees or former owners of the property. They never put like another address. I have not seen it, but maybe you're right, you know, if you go to the title company. But that's my experience in that area.

Okay, I think some of this, you know, we've kind of gone out there now, and Michele, I think we need to go back to the Rules Committee. And we're going to have to kind of work out some of this language now. I'm glad we're not trying to approve this because I think, Ralph, we've

gone beyond approval now, and we've had some differences.

I think that's what we need to do, get this ready in the

format as requested.

Michele, is there any other areas you want to

discuss?

BOARD MEMBER McLEAN: There's just one more

general area, and that relates to waiver modification.

Basically, if someone who is not on the list that does not

have source credits, there are extenuating circumstances,

whether they didn't receive their notification or some other

compelling reason where they get to basically jump in line,

the proposal here is that the Board recommends to the director by a two-thirds vote of its membership that that person be able to jump ahead in line and get their service.

Is that -- that's one I personally don't agree with that, and we can leave that for discussion next time.

I think that -- for example, what if we don't recommend by a two-thirds vote, then what happens? The director can still go ahead and do it, and so I don't -- I just wanted to see what the deal was for the others, so when this is redrafted, it reflects what the majority here today wants to see

because that's my individual opinion. But I would like to hear from the others, so that the next version can be the best.

CHAIRMAN VICTORINO: Okay, Ken.

BOARD MEMBER OKAMURA: Mr. Chair, you're talking about two different things. The source credits is one section, and the waiver or modification is another section with regards to waiver of the rules of people coming, you know, one not satisfied with the Department's decision.

BOARD MEMBER McLEAN: Right.

BOARD MEMBER OKAMURA: But now the way the Charter

is written, the Department has the final say anyway.

BOARD MEMBER McLEAN: Right.

BOARD MEMBER OKAMURA: But then we were thinking that, you know, before the department makes a decision, they would come before the Board and at least get a -- if they can get a two-thirds, you know, of the members of the Board agree, you know, or support the waiver of application, I guess all we can say is that it would weigh heavily on the director making the decision. But we cannot make the final decision as a board. So what do you propose? Did I miss your point completely or what?

BOARD MEMBER McLEAN: Well, it's by -- the way this is proposed, the Board may recommend to the director by a two-thirds vote of its membership that he may waive or modify requirements. What if the board doesn't have a two-thirds vote? I mean it's putting a threshold on something where we don't have the authority anyway, so I just --

CHAIRMAN VICTORINO: So what would you propose then? I mean just so we can move on, what would you propose, Michele?

BOARD MEMBER McLEAN: I think that the director

may waive or modify requirements in these instances, but that those cases are presented to the Board purely for information because we don't have the authority to tell them yes or no. But it gets presented to the Board so there's public disclosure and so forth but that we don't vote.

CHAIRMAN VICTORINO: Ralph.

BOARD MEMBER McLEAN: But I wasn't at the meeting where this came up, so I'm trying to get how that came about.

BOARD MEMBER JOHANSEN: I would just say I think

we're still trying to clarify what our role is, but clearly it's a function which has to do with representing the community in looking into the affairs of the Department of Water Supply and the Mayor's office. And in order to make it clear for the community to benefit that there has been some oversight on the part of citizens of the community, and I think you may be right that it's unnecessary to say two-thirds majority at this point. We can just say that if we approve it, we make our recommendation.

But I think our recommendation has some effect and some force, and we should be entitled to consider it and not

just act as an information body, but act as a body
functioning in the capacity of recommending.

BOARD MEMBER HIRANAGA: Mr. Chair.

CHAIRMAN VICTORINO: Kent.

BOARD MEMBER HIRANAGA: I think the intent when
this rule was created was to make it a super majority of
two-thirds versus just the majority of the applied votes,
and that was because it would be -- this would be a non --
an uncounting of words, and so the recommendation would have
to have a stronger support by the Board than just five
votes. We had the intent of making it six votes required,

and if you don't acquire the six votes, then there is no recommendation against the director's decision. I believe the director will make the decision regarding this, and if the applicant is unhappy with the director's decision, then he will request review before the Board. But I still think it serves a purpose. It also allows the public's input to public hearing, so I think if you look at all the other rules, when a member of the board in the past has recommended to change or recommend against the director's decision, all the requirements are passed by majority.

CHAIRMAN VICTORINO: Thank you, Mr. Hiranaga.

Michele.

BOARD MEMBER McLEAN: So in the redraft, I'll keep
it as it is.

CHAIRMAN VICTORINO: Okay, thank you. Anything
else to discuss? Sensing none, I will -- hopefully our next
meeting I'll try to be there, Ralph. I'm not sure when the
next meeting is because I know Sally is out of town. I
think our next meeting is October something, yeah.

MS. HOWARD: Mr. Chair, the next Rules Committee
meeting is scheduled for September 30th.

CHAIRMAN VICTORINO: Forget me, sorry. That's the

Fair day. So sorry, Ralph, I cannot be there. Okay.

Alrighty, moving on to division reports.

MR. TENGAN: Mr. Chair. We do have some division

reports included in the packet I believe, and if there's any

questions on them, give us a call and we'll address them

unless you want something -- want to discuss something

specific at this time.

CHAIRMAN VICTORINO: Anything? Yes.

BOARD MEMBER OKAMURA: Would the question about

Pookela be appropriate at this time?

CHAIRMAN VICTORINO: In regards to?

BOARD MEMBER OKAMURA: Pookela well.

CHAIRMAN VICTORINO: In regards to?

BOARD MEMBER OKAMURA: Is it on schedule?

CHAIRMAN VICTORINO: Mr. Director.

MR. TENGAN: That would depend on whose schedule

you're looking at. I believe we should be opening bids

sometime next month, and after review of the bids, we would

be making the award.

BOARD MEMBER OKAMURA: So May 31st still looks

like a good day, feasible?

MR. TENGAN: I would hesitate to say yes at this point. I think realistically we're looking at August at least.

BOARD MEMBER OKAMURA: I beg your pardon?

MR. TENGAN: At least August next year.

BOARD MEMBER OKAMURA: Oh, I see, so not May then?

MR. TENGAN: No.

BOARD MEMBER OKAMURA: I guess I was concerned because there is El Nino coming up this winter, but they don't know how strong the effects will be. And they're saying, well, it could be worse or it could be mild. But it

looks like a -- are you guys sort of planning for that if it is a dry year for the spring, would we have enough water?

MR. TENGAN: Well, let me say this first. We would still retain the capability of pumping the Hamakua Poko wells Upcountry. We still have the connection for emergency purposes, although we plan to use those wells for the Central Maui area. We have brought the Kaupakalua well back on line. That provides -- currently provides about 700,000 gallons a day to Haiku. That well has been out for about eight months now and finally getting it back

on.

In order to manage and provide more flexibility in the way we use water Upcountry, during this last emergency, I might report on that later, talk about it a little later, the Piiholo reservoirs, reservoir went down to 4 million gallons per day, and that's a very critically low level of water for Piiholo. However, we had almost -- almost 100 percent of water up at Kahakapao, so what we did was we put in a temporary pipeline from the Kahakapao reservoir down to Piiholo. It's a 6-inch line, and we were able to transfer water from Kahakapao down to Piiholo at a rate of about 1.2

million gallons per day.

Anyway, we used that line for a couple of days, so we got another 2 million gallons, so nearly 2 and a half million gallons from Kahakupao down to Piiholo. And in the meantime, the rains came back a little, so now I believe Piiholo is up to about 13 or 14 million gallons, you know, of water. That represents about 28 percent.

So in preparing for any dry weather, that's the best we can do at this point in time to make our systems more flexible so that we can transfer water wherever it's needed and to supplement our existing supplies with wells

such as the Hamakua Poko well. I've already instructed the engineering division to look at how we can use the Kapakalua well in case we do run into some dry weather Upcountry because that well can produce more than the 700,000 gallons that we are using today, so if we can get the pump system to get it back into the Makawao system, then from there, we can pump it Upcountry if needed.

CHAIRMAN VICTORINO: Okay. Any other questions for the director? Anything else on the division reports? Okay. I guess I'll call this meeting adjourned.

(The meeting ended at 11:45 a.m.)

"By Water All Things Find Life"

Department of Water Supply
County of Maui
200 South High Street
Wailuku, HI 96793-2155
Telephone (808) 270-7816
Fax (808) 270-7951

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