

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

REGULAR MEETING

HELD AT THE COUNCIL COMMITTEE ROOM, 7TH FLOOR, KALANA O MAUI
BUILDING, 200 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII,
COMMENCING AT 9:00 A.M. ON THURSDAY, APRIL 27, 2006.

Reported By: JEANNETTE W. IWADO, RPR/CSR #135

ATTENDANCE:

CHAIRMAN: MICHAEL P. VICTORINO

VICE CHAIRMAN: KENNETH M. OKAMURA

BOARD MEMBERS: LEE ALDRIDGE

MICHAEL S. HOWDEN

KUILAUOKALANI F. LESTER

GINNY PARSONS

EXCUSED: CARL MARTIN HOLMBERG
RALPH JOHANSEN
DIRECTOR: GEORGE TENGAN
DEPUTY CORP COUNSEL: JAMES GIROUX
EDWARD KUSHI
BRIAN MOTO
JANE LOVELL
BOARD SECRETARY: MICHELE SAKUMA
STAFF: HOLLY PERDIDO
ELLEN KRAFTSOW
ALVA NAKAMURA
CARI SUMABAT
JOE MENDONCA

TRANSCRIPT OF PROCEEDINGS

BOARD OF WATER SUPPLY, REGULAR MEETING

April 27, 2006, 9:00 A.M.

CHAIRMAN VICTORINO: I WOULD LIKE TO CALL TO ORDER

THE BOARD OF WATER SUPPLY REGULAR MEETING FOR APRIL 26,

2006. MEMBERS PRESENT TODAY -- I'VE GOT SO MANY NEW MEMBERS

I HAVE GOT TO LOOK AT THE NAMES NOW. LET'S SEE. WE HAVE TO

MY FAR LEFT MICHAEL HOWDEN. WELCOME.

BOARD MEMBER HOWDEN: THANK YOU.

CHAIRMAN VICTORINO: AND WE HAVE LEE ALDRIDGE.

WELCOME.

BOARD MEMBER ALDRIDGE: THANK YOU.

CHAIRMAN VICTORINO: VICE-CHAIR KENNETH OKAMURA.

BOARD MEMBER OKAMURA: GOOD MORNING.

CHAIRMAN VICTORINO: MEMBER GINNY PARSONS.

WELCOME KUI LESTER. AND THE CHAIR, MYSELF, MICHAEL
VICTORINO.

AT THIS POINT I WOULD LIKE TO CALL FOR A FIVE
MINUTE RECESS BECAUSE I WOULD LIKE TO TAKE A QUICK MOMENT
AND PRESENT TO OUR NEW MEMBERS A LITTLE WELCOME FROM US.
(WHEREUPON A BRIEF RECESS WAS HAD).

CHAIRMAN VICTORINO: OKAY, I'LL RECONVENE THE MEETING. ANNOUNCEMENTS. I WILL OPEN UP FOR ANNOUNCEMENTS. YES, MISS GINNY.

BOARD MEMBER PARSONS: ON THIS SUNDAY, APRIL 30TH, FROM 9 TO 4 AT HANNIBAL TAVARES CENTER WE HAVE OUR FIRST UPCOUNTRY MAUI SAFE WATER FAIR. IT'S SPONSORED IN PART BY THE MEO, THE COUNTY OF MAUI, THE DEPARTMENT OF WATER SUPPLY, THE DEPARTMENT OF HEALTH, AND THE EPA. IT'S GOING TO BE MORE OF A FUN EVENT WITH WATER FACTS, BUT FOCUSED ON THE KEIKI, LOTS OF GAMES FOR THE CHILDREN. AND THERE WILL BE SOME VENDORS THERE WITH PRODUCTS THAT YOU MAY WELL BE INTERESTED IN TO HELP MAKE YOUR HOUSEHOLD WATER SYSTEMS BETTER.

AND ALSO WITH THE DEPARTMENT OF WATER THEY WILL BE THERE WITH THEIR GOODIES THAT THEY ALWAYS BRING, THE AERATORS AND THE SHOWER HEADS AND SOME GOODIES TO TAKE CARE OF, AND THEY'LL ANSWER ANY QUESTIONS YOU MIGHT HAVE ABOUT THE UPCOUNTRY WATER, BUT WATER IN GENERAL.

AND THIS ISN'T JUST FOR THE UPCOUNTRY AREA. BECAUSE WE'RE ADDING SURFACE WATERS INTO THE CENTRAL VALLEY, IT'S SOMETHING TO LOOK AT TOO, HOW TO KEEP YOUR HOMES CLEAN,

MAKE SURE YOU CHANGE AND OPEN UP YOUR AERATORS, AND THAT KIND OF THING. THEY'LL TALK ABOUT THINGS THAT ARE REALLY IMPORTANT IN YOUR OWN HOME TO KEEP THEM CLEAN.

AND WE'LL HAVE LIVE MUSIC. THE HULA HONEYS ARE GOING TO BE THERE FROM 1 TO 4. AND HOME DEPOT GAVE US A GRILL TO GIVE AWAY, SO WE'RE GOING TO HAVE A DRAWING AT 11:00 FOR THE EARLY BIRDS. WE HAVE A BEAUTIFUL GRILL AND ACCESSORIES THAT GO WITH IT, A GAS GRILL. AND WE'VE GOTTEN A LOT OF GIFTS FROM THE COMMUNITY TO BE ABLE TO DO A LOT OF GIVE-AWAYS, SO IT SHOULD BE A LOT OF FUN.

I HOPE YOU ALL CAN ATTEND. TAKE A LOOK, IT'S THE FIRST ONE. WE WOULD LIKE TO DO IT ANNUALLY, SO IF THIS IS SOMETHING THAT'S SUCCESSFUL AND WE GET A GOOD ATTENDANCE -- AND WE'VE DONE THIS ON A SHOE-STRING BUDGET, I MEAN ON A TOTAL SHOE-STRING BUDGET -- IF THIS WORKS WE WILL DO IT EVERY YEAR. AND IT'S JUST A REMINDER FOR FOLKS IN-HOME, HOW TO TAKE CARE OF THEIR HOME FROM THE METER INSIDE THE HOUSE, AND HELP WITH ANY WATER QUESTIONS THEY MAY HAVE.

CHAIRMAN VICTORINO: THANK YOU, MISS PARSONS. ANY QUESTIONS FOR GINNY AS FAR AS THE EVENT IS CONCERNED? ANY OTHER ANNOUNCEMENTS? I WILL AT THIS POINT, BEFORE I MOVE ON TO OTHER BUSINESS, I WILL OPEN THE FLOOR TO OUR THREE NEW MEMBERS. IF YOU WANT TO SAY A FEW WORDS, I WOULD WELCOME ANY COMMENTS. I KNOW YOU'RE VERY NEW AND YOU'RE LIKE, WOW, THIS IS OVERWHELMING. BUT SINCE I DID ALL THE TALKING, I'LL GIVE YOU A MINUTE OR TWO TO SAY A FEW THINGS ABOUT WHAT YOU ARE AND WHAT YOU EXPECT OUT OF THIS WHOLE THING. WHY DON'T WE START WITH YOU, KUI.

BOARD MEMBER LESTER: I'D RATHER WAIT.

CHAIRMAN VICTORINO: YOU'D RATHER WAIT. THAT'S FAIR. MICHAEL?

BOARD MEMBER HOWDEN: I'LL PASS FOR NOW.

CHAIRMAN VICTORINO: YOU'LL PASS FOR NOW. I LIKE

THIS GROUP. LEE?

BOARD MEMBER ALDRIDGE: WELL, I'LL SAY A VERY BRIEF MESSAGE. I'M PLEASED TO BE HERE, AND I WORKED FOR TEN YEARS FOR THE WATER DISTRICT ON THE OTHER SIDE OF THE TABLE, FOR THE STAFF, SO IT WILL BE INTERESTING BEING ON THIS SIDE OF THE TABLE FOR A CHANGE.

CHAIRMAN VICTORINO: WELL, THANK YOU, LEE. WE WELCOME YOU. OKAY, I WOULD LIKE TO NOW, INSTEAD OF -- WELL, FIRST OF ALL, LET'S APPROVE THE MINUTES FOR THE MARCH 23RD, 2006 MEETING. DO WE HAVE A MOTION TO APPROVE THE MINUTES FOR THE MARCH 23RD, 2006 REGULAR MEETING?

BOARD MEMBER PARSONS: I'LL MAKE A MOTION WITH THE NORMAL 30 DAYS TO REVIEW.

CHAIRMAN VICTORINO: IT HAS BEEN MOVED.

BOARD MEMBER OKAMURA: SECOND.

CHAIRMAN VICTORINO: AND SECONDED. ANY

DISCUSSION? I KNOW IT'S PRETTY DIFFICULT, I UNDERSTAND.

BUT THEN HEARING NONE, ALL THOSE IN FAVOR SAY "AYE."

(A CHORUS OF AYES)

OPPOSED?

(NONE)

OKAY. I KNOW IT'S AN EXTREME CHALLENGE FOR YOU
FOLKS, BECAUSE YOU'RE GETTING ALL THIS MATERIAL AND YOU
HAVEN'T REALLY BEEN A PART OF THESE MEETINGS. BUT AGAIN, AS
YOU GET INTO IT YOU'LL FIND SOME CONTINUITY AND YOU'LL
UNDERSTAND WHAT'S GOING ON.

WHEN I STARTED THE MEETING I SAID APRIL 26TH. I'D
LIKE TO CORRECT THAT AT THIS TIME AND SAY APRIL 27, 2006.
I'M TRYING TO HOLD BACK TIME.

MOVING RIGHT ALONG, BEFORE I GO INTO PUBLIC
TESTIMONY I WOULD LIKE, TO WITH THE BOARD'S CONSENT, MOVE TO
COMMUNICATION. AND I WOULD LIKE TO GO TO ITEM B, BECAUSE
I'M IN RECEIPT, AND I THINK YOU HAVE COPIES OF A LETTER FROM

MUSTARD MURAYAMA REQUESTING THAT WE DEFER ACTION ON THE LETTER DATED FEBRUARY 16, 2006. MR. MURAYAMA IN HIS LETTER SAYS THAT HE'S UNABLE TO BE HERE AND THAT HE WOULD LIKE TO ARRANGE TO BE HERE IN MAY AND BE PUT ON THE MAY AGENDA, THE MAY 25TH AGENDA.

I WOULD LIKE TO ASK FOR A MOTION OF DEFERENCE UNTIL THE MAY 25TH MEETING ON THIS MATTER REGARDING THE COMMUNICATION 06-06, PAGES 21 THROUGH 129. DO I HAVE A MOTION TO DEFER?

BOARD MEMBER OKAMURA: SO MOVED.

CHAIRMAN VICTORINO: IT'S BEEN MOVED.

BOARD MEMBER PARSONS: SECOND.

CHAIRMAN VICTORINO: MOVED AND SECONDED. ALL

THOSE IN FAVOR SAY "AYE."

(A CHORUS OF AYES).

SO THIS WILL BE PLACED ON OUR MAY 25TH MEETING AS FAR AS AN AGENDA ITEM.

OKAY, NOW PUBLIC TESTIMONY. I THINK I HAD A LIST HERE. WE HAVE THREE SPEAKERS HERE. I HAVE NANI SANTOS, JOHN DUEY AND ROSE MARIE DUEY THAT WOULD LIKE TO SPEAK ON VARIOUS MATTERS. WHY DON'T WE START WITH YOU, NANI. NANI, ARE YOU PRESENT? WHY DON'T YOU SIT RIGHT HERE, NANI.

MRS. SANTOS: GOOD MORNING MEMBERS OF THE BOARD.

THANK YOU FOR THE OPPORTUNITY TO BE HERE BEFORE YOU TODAY AND HAVE OUR VOICES HEARD. I'M HERE ALONG WITH MY HUSBAND, FRANK SANTOS, AND MY MOTHER AND FATHER, JOHN AND ROSE MARIE DUEY, AND MY BROTHER DAVID DUEY. WE ARE ALL OWNERS OF THE SUBJECT PROPERTY FOR THE BUILDING PERMIT IN QUESTION, AND WE'RE HERE TO HUMBLY ASK FOR YOUR SUPPORT AND GUIDANCE IN HELPING US TO OBTAIN OUR BUILDING PERMIT THAT'S BEING DESIGNED US BY THE COUNTY OF MAUI WATER DEPARTMENT.

WITH A LITTLE BIT OF BACKGROUND, WE MOVED TO IAO VALLEY IN 1969, AND OUR FAMILY HAS LIVED THERE EVER SINCE. IN DECEMBER OF 2001 WE PURCHASED LOT NUMBER 1. AND IF YOU

REFER TO YOUR MAP HERE, IT'S LOT NUMBER 1 OF THE IAO ZEN DOJO SUBDIVISION. IT'S THIS PARCEL HERE (INDICATING.) AT THAT TIME THIS PARCEL CONSISTED OF 18 ACRES.

REALIZING THE CLIMBING PRICES OF REAL ESTATE, WE SAW THIS AS A MEANS TO SECURE A FUTURE RESIDENCE FOR OUR CHILDREN HERE ON MAUI. WE SET UP OUR ESTATE WITH LLC CODES AND COVENANTS THAT STRICTLY PROHIBIT ANYONE IN THE FAMILY TO SELL THE LAND OUTSIDE THE MEMBERS OF THE FAMILY.

NOW, BACK ON JULY 19, 2005, MY HUSBAND AND I APPLIED FOR A BUILDING PERMIT. DURING THE MONTHS THAT FOLLOWED WE CHECKED THE STATUS OF OUR APPLICATION ON LINE ON NUMEROUS OCCASIONS, ONLY TO FIND THAT NO ACTIVITY WAS TAKING PLACE. THREE MONTHS LATER ON OCTOBER 7TH I CALLED THE WATER DEPARTMENT AND WAS TOLD THAT OUR APPLICATION HAD NOT YET BEEN REVIEWED. AND TO MAKE A VERY LONG STORY SHORTER, AFTER NUMEROUS PHONE CALLS, EMAILS, OFFICE VISITS, AND REQUESTS TO MEET WITH THE DEPARTMENT OF WATER STAFF TO RESOLVE THIS ISSUE, WE WERE TOLD THAT OUR BUILDING PERMIT WOULD NOT BE ISSUED TO US DUE TO A WATER SERVICE AGREEMENT THAT IS ATTACHED TO THIS PROPERTY.

ON NOVEMBER 10TH WE THEN PROVIDED THE DEPARTMENT WITH A COPY OF A LETTER, AND IT'S ONE OF THE HANDOUTS WE PROVIDED YOU. IT'S THE ISSUANCE OF A WATER METER FOR PREVIOUSLY APPROVED SUBDIVISIONS. I WAS TOLD THAT THIS LETTER WOULD BE FORWARDED TO CORPORATION COUNSEL. HOWEVER, BY FEBRUARY 2006 THIS LETTER HAD NEVER MADE IT TO CORPORATION COUNSEL. AND WE WERE TOLD THEN BY TWO WATER DEPARTMENT REPRESENTATIVES THAT THE LETTER HAD NO STANDING, AND WE WERE RECOMMENDED TO COME BEFORE THE BOARD OF WATER SUPPLY.

SO I THEN SENT A LETTER ON FEBRUARY 28TH REQUESTING TO BE PUT ON YOUR AGENDA FOR YOUR MARCH 23RD MEETING, AND ON MARCH 22ND I CALLED THE BOARD OF WATER SUPPLY SECRETARY TO SEE IF WE WERE ON THAT AGENDA, AND I WAS TOLD WE WERE PUT ON TO THE NEXT MEETING AGENDA. SO FINALLY YESTERDAY WE RECEIVED THE STAFF REPORT FROM THE WATER DEPARTMENT THAT'S DENYING OUR REQUEST TO WAIVE THE REQUIREMENTS.

SO HERE WE ARE IN FRONT OF YOU TODAY, NO LESS THAN NINE MONTHS LATER, WITH ARCHITECTURAL DRAWINGS DRAFTED AND

PAID FOR, UTILITY SERVICES CONNECTED, CONSTRUCTION LOAN RATES AND BUILDING FEES RISING, AND A GREAT DEAL OF FRUSTRATION IN HAND.

WE ARE ASKING FROM THE BOARD OF WATER SUPPLY OR THE WATER DEPARTMENT FOR AN EXPLANATION AS TO WHY YOU FEEL THAT A BUILDING PERMIT FOR A THREE BEDROOM, TWO BATH HOME REQUIRES A 60,000 GALLON WATER TANK. IT SEEMS AS THOUGH THE WORD "SUBDIVISION," WHICH IN THIS CASE ENCOMPASSES THREE LARGE LOTS, IS THE DEFINING WORD AND THE REASON WE'RE BEING DENIED OUR PERMIT. SO WE ARE TRYING TO RATIONALIZE AND MAKE SENSE OF WHAT WE FEEL IS AN UNREASONABLE REQUEST.

WE ARE NOT DEVELOPERS LOOKING TO TURN A PROFIT ON AN INVESTMENT. WE ARE A FAMILY WITH ROOTS HERE IN THE ISLANDS WHO WISH TO BUILD A HOME FOR OURSELVES, AND PROVIDE A FUTURE FOR OUR CHILDREN HERE ON MAUI. AND IT'S HARD TO FATHOM WHY A BUILDING PERMIT FOR A SINGLE-FAMILY RESIDENCE IS SO DIFFICULT TO OBTAIN WHILE DEVELOPMENT CONTINUES TO GO ON ALL AROUND US.

WE ARE ONLY EIGHT HOMES AWAY FROM THE MAIN WATER

SOURCE IN THE IAO TUNNEL, AND THAT FEEDS ALL OF CENTRAL MAUI, PAIA, AND SOUTH MAUI. AND THE IAO RIVER IS LITERALLY IN OUR BACKYARD. SO ALL WE ASK IS THAT WHEN YOU ARE CALLED UPON TO MAKE DECISIONS ON BEHALF OF THIS COMMUNITY, THAT YOU TAKE THE NEEDS OF GOOD, HONEST, HARD WORKING, LOCAL FAMILIES IN MIND, AND DON'T LEAVE US WITH THE LEFTOVERS. DON'T ASK US TO FOOT THE BILL FOR LUXURY HOMES WITH SWIMMING POOLS, PART-TIME RESIDENTS, LARGE DEVELOPMENTS, GOLF COURSES AND RESORTS CLEAR DOWN IN SOUTH MAUI.

SO BASICALLY WE'RE LOOKING FOR CLARIFICATION ON SOME OF THESE REQUIREMENTS, ESPECIALLY ON THIS LARGE WATER TANK. AND IF YOU CAN DEFINE AND RATIONALIZE THE NEED FOR THIS LARGE CAPACITY WATER TANK FOR A BUILDING PERMIT. THANK YOU.

CHAIRMAN VICTORINO: BEFORE WE DO THAT, MR AND MRS. DUEY, ARE YOU GOING TO SPEAK BASICALLY ON THE SAME ISSUE? I MEAN NOT THAT I DON'T WANT YOU TO SPEAK, BUT IF WE ARE JUST GOING TO HEAR THE SAME THING, THEN CAN WE MOVE ON AND ASK QUESTIONS AND SHE CAN SPEAK FOR YOU, OR WOULD YOU RATHER COME UP?

MRS. DUEY: WE WANT TO SAY OUR PIECE. IT'S A
LITTLE DIFFERENT FROM WHAT SHE'S SAYING.

THE WITNESS: MY FATHER IS GOING TO SPEAK TO
STATISTICAL MATTERS.

CHAIRMAN VICTORINO: OKAY. I JUST WANTED TO MAKE
SURE. WELL, THEN WHY DON'T WE GO AHEAD AND ASK QUESTIONS,
AND THEN WE WILL ASK THE DUEYS TO SPEAK, AND THEN BRING IN
THE DEPARTMENT. ALL RIGHT, GINNY.

BOARD MEMBER PARSONS: I HAVE A COUPLE OF
QUESTIONS. THIS ENTIRE PIECE IS YOUR PIECE, IS THAT
CORRECT?

NANI SANTOS: YES, THE SHADED AREA.

BOARD MEMBER PARSONS: AND YOU HAVE ALREADY DONE A
SUBDIVISION IN IT?

NANI SANTOS: NO, THERE'S ONLY ONE LOT.

BOARD MEMBER PARSONS: AND THERE IS ONLY ONE
BUILDING ON IT?

NANI SANTOS: YES.

BOARD MEMBER PARSONS: AND YOU'RE ONLY ASKING TO
BUILD A COTTAGE?

THE WITNESS: THERE'S A COTTAGE, AN EXISTING TWO
BEDROOM COTTAGE, AND WE'RE ASKING TO BUILD A THREE BEDROOM,
TWO BATH HOME.

BOARD MEMBER PARSONS: BUT THERE'S ONLY ONE
DWELLING ON IT?

NANI SANTOS: YES.

BOARD MEMBER PARSONS: AND YOU'RE ONLY ASKING TO
BUILD THE MAIN HOUSE?

NANI SANTOS: RIGHT.

CHAIRMAN VICTORINO: I JUST WANTED CLARIFICATION.

THAT'S FINE. WE WILL ASK THE DEPARTMENT TO CLARIFY THAT
MATTER. ANY OTHER QUESTIONS TO OUR PRESENTER AT THIS TIME?
OKAY, MISS SANTOS, THEN WE WILL SPEAK TO MOM AND DAD, AND
THEN WE WILL MOVE FROM THERE.

NANI SANTOS: THANK YOU.

CHAIRMAN VICTORINO: MR. DUEY?

MR. DUEY: GOOD MORNING, CHAIR VICTORINO AND THE
REST OF THE BOARD, GEORGE, BRIAN, ALL YOU DISTINGUISHED
PEOPLE IN THE AUDIENCE. MY NAME IS JOHN V. DUEY. I AM A
RESIDENT OF IAO VALLEY FOR 37 YEARS, AND A TAXPAYER. MAHALO
TO THE BOARD FOR VOLUNTEERING YOUR TIME, ESPECIALLY THE NEW
MEMBERS THAT ARE COMING ON, TO SERVE ON THIS BOARD. I AM
FULLY AWARE THAT AFTER THE LAST ELECTION YOU NOW SERVE IN AN
ADVISORY CAPACITY ONLY TO THE MAYOR, THE COUNCIL, AND THE
DIRECTOR.

AFTER SPEAKING TO ONE OF THE ENGINEERS ABOUT THIS
MATTER, HE SUGGESTED -- THE ENGINEER IS THAT MAN. I CAN'T
REMEMBER YOUR NAME, IS IT ALVIN? ALVIN. HE SUGGESTED THAT

WE COME BEFORE THE BOARD TO EXPRESS OUR VIEWS AND TO GET ON THE AGENDA FOR ONE OF YOUR MEETINGS. NANI SENT A LETTER THAT WAS RECEIVED BY DWS ON MARCH 2ND ASKING TO BE PUT ON THE AGENDA FOR MARCH, BUT SHE WAS TOLD IT WAS TOO LATE. BUT IT DID GET TO DWS, AND THEY HAD 55 DAYS TO RESPOND TO OUR CONCERN. WE WERE NOTIFIED YESTERDAY ABOUT THE DWS REPORT AND GIVEN A COPY YESTERDAY, 24 HOURS. SO WE HAD LESS THAN 24 HOURS TO RESPOND. IT SEEMED LIKE SOMETHING HERE IS NOT FAIR. IN FACT, THE WHOLE THING IS NOT FAIR.

AS MY DAUGHTER HAS STATED, THE PROPERTY IS FOR OUR OHANA, NOT A SUBDIVISION TO SELL TO THE RICH. IT STATED IN FACT THAT OUR LLC COVENANTS STATE THAT THE PROPERTY IS NOT TO BE SOLD OUT OF OUR IMMEDIATE FAMILY. AND ALSO NANI FORGOT TO MENTION THAT OUR SON DAVID'S TWO SONS, THE SIX OF US OWN THE PROPERTY, THE LLC.

WE WEREN'T AWARE OF THE DWS REQUIREMENTS THAT WERE PLACED ON THE PROPERTY UNTIL NANI TRIED TO GET A BUILDING PERMIT. THEN WE WENT TO LAND USE AND GOT A COMPLETE COPY OF THE SUBDIVISION FILE AT A COST OF \$51.00.

A POINT OF INTEREST HERE: THE AUGUST 8, 1994

MODIFICATION OF THE SUBDIVISION REQUIREMENT AGREEMENT

STATING A 60,000 GALLON TANK WAS REQUIRED WAS NOT IN IT. I HAVE IT ALL RIGHT HERE. AND ANYWAY, IT SAYS A 48,000 GALLON TANK, BUT NOT 60,000. I DON'T KNOW WHERE THAT CAME FROM. ONLY AFTER GETTING DWS COPIES YESTERDAY DID WE SEE WHAT WAS HAPPENING. IT IS UNFATHOMABLE ME THAT SOME ENTITY, IN THIS CASE WAILUKU AG, CAN GET APPROVAL FROM THE COUNTY TO SUBDIVIDE A PROPERTY, THEN DEFER ANY IMPROVEMENTS TO THE BUYER. IT'S UNREAL.

TO ADDRESS THE 48,000 GALLON TANK ISSUE, IT WOULD COST OUR OHANA \$25,000 TO \$30,000 AND TAKE UP SPACE AND BE AN EYESORE. A 60,000 GALLON TANK AND PUMPS, AS STATED IN THE MEMORANDUM OF AUGUST 8, 1994, WOULD BE IN THE \$35,000 TO \$40,000 RANGE. THIS IS A LOCAL, MIDDLE INCOME FAMILY WE'RE TALKING ABOUT HERE. THIS PROPERTY IS APPROXIMATELY 2,550 FEET FROM THE IAO TUNNEL, WHICH DWS DRAWS APPROXIMATELY 1.8 MILLION GALLONS A DAY, OR 1,250 GALLONS A MINUTE.

ALSO, THE PROPERTY IS ROUGHLY 1,600 FEET FROM THE KEPANIWAI WELL, WHICH EVIDENTLY WAS PUT ON LINE AFTER 1993, BECAUSE NO MENTION OF IT WAS MADE AT THE TIME THE SUBDIVISION WAS MADE. THIS IAO ZEN DOJO SUBDIVISION, THE

REASON FOR IT -- LET ME REGRESS A LITTLE BIT. THE REASON FOR THE SUBDIVISION IS WAILUKU AG WANTED TO GIVE THE IAO DOJO A LITTLE LAND. THEY TOOK OUT ABOUT 22 ACRES OUT OF A 3,000 ACRE PARCEL, GAVE THE DOJO THREE-AND-A-HALF ACRES, AND LEFT 18.146 ACRES THAT WE PURCHASED, AND ABOUT A QUARTER ACRE ROAD WIDENING DOWN THE ROAD.

THE WELL SUPPLIES 835 MILLION GALLONS A DAY, OR 580 GALLONS PER MINUTE, FOR A TOTAL DELIVERY OF 1,830 GALLONS PER MINUTE. THESE FIGURES ARE FROM AUGUST 5TH, THE LATEST AVAILABLE FIGURES. BOTH SOURCES ARE ABOVE THE PROPERTY IN ELEVATION. THE PRESSURE AT THE WELL HEAD IS 23 POUNDS, AND THE STATIC PRESSURE AT THE PROPERTY IS 51 POUNDS. THE 12-INCH LINE THAT RUNS ALONG THAT IAO ROAD HAS A CAPACITY OF 1,550 GALLONS A MINUTE, WELL ABOVE THE 400 GALLONS PER MINUTE THAT IS STATED THAT IS NEEDED. THE STATEMENT WAS THAT THEY NEED I THINK IT'S 400 GALLONS A MINUTE FOR TWO HOURS, WHICH IS 48,000 GALLONS. AND THEY HAVE REVISED IT TO 60,000, WHICH IS I THINK 500 GALLONS. AND STILL WE'RE WAY ABOVE THAT IN THE WATER LINE.

IF EITHER THE TUNNEL WAS TO FAIL, WHICH IT NEVER HAS IN THE 37 YEARS THAT WE HAVE LIVED IN THE VALLEY, OR THE

PUMP WAS TO FAIL, WHICH IS MORE LIKELY, IT WOULD STILL BE WELL ABOVE THE 400 GALLONS PER MINUTE REQUIRED.

JUST FOR YOUR INFO, I ASKED THREE DIFFERENT PEOPLE AT DWS TO SUPPLY ME WITH SOME OF THESE FACTS LATE IN 2005, AND NO ANSWER AS OF THIS DATE. I HAD TO DIG IT OUT ON MY OWN. I JUST CAN'T UNDERSTAND WHY A TANK IS NEEDED WHEN THE WATER IS AVAILABLE IN THE 12-INCH LINE. IF WE NEED ONE, SHOULDN'T EVERYONE NEED ONE? AFTER ALL, HOW MANY OF YOU HAVE A 12-INCH WATER LINE RUNNING IN FRONT OF YOUR HOUSE?

THE ELEVATION AGREEMENT, WHICH IS IN THE SUBDIVISION, THE ELEVATION OF OUR PROPERTY DOES ASSURE US A DEPENDABLE SOURCE OF WATER FROM THE TUNNEL AND THE PUMP, JUST AS MUCH AS ANYONE ELSE ON IAO ROAD OR THE TANK NEAR IZUMI'S, OR AT THE JUNCTION OF IAO VALLEY ROAD AND UPPER MAIN STREET. JUST HOW MANY OTHER PEOPLE HAVE 48,000 GALLON TANKS IN THEIR YARD, DO YOU? I ALSO UNDERSTAND WHEN THE FIRE TRUCKS COME TO PUT OUT A FIRE, THEY PUMP WATER OUT OF THE LINE AND INCREASE THE PRESSURE WITH A PUMP ON THE TRUCK TO THROW WATER AT THE FIRE. ALSO, THEY HAVE A THING CALLED A PUMPER TRUCK. I WITNESSED THIS IN UKUMEHAME A WEEK AGO

WHEN THERE WAS A BRUSH FIRE, AND THEY BROUGHT A TANKER TRUCK UP AND A PUMPER TO THROW WATER AT THE FIRE. SO WHAT GIVES HERE?

WE OWN LOT NUMBER 1. IS LOT 2 EXPECTED TO DO THE SAME THING AS WHAT'S REQUIRED FROM US? AS TO THE DOCUMENT FROM CORP COUNCIL, I ONLY KNEW OF THIS BY ATTENDING THE COUNCIL WATER RESOURCES COMMITTEE MEETINGS. THE SAME ISSUES WE ARE HAVING CAME UP WITH A FAMILY ON MOLOKAI. THE OPINION FROM CORP COUNSEL SETTLED THEIR PROBLEM IN A POSITIVE WAY. NANI SUBMITTED THE OPINION TO DWS ON NOVEMBER 10TH, AND NO RESPONSE TO DATE ON THE LETTER.

WE ARE NOT THE SUBDIVIDER. THAT WAS WAILUKU AGRIBUSINESS. MY DAUGHTER AND HER HUSBAND FRANK JUST WANT TO BE ABLE TO BUILD A HOUSE. I WILL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE. THANK YOU.

CHAIRMAN VICTORINO: QUESTIONS? GO AHEAD, MISS PARSONS.

BOARD MEMBER PARSONS: DID YOU GET A COPY OF THIS BUREAU OF CONVEYANCE DATED AUGUST 4, 1994 BETWEEN THE

DEPARTMENT OF WATER AND --

MR. DUEY: THE AUGUST 4TH ONE IS IN HERE. THE
AUGUST 8TH IS NOT. WE REQUESTED THAT. THEIR REQUIRING THE
40,000 GALLON TANK, YES, THAT WAS IN THE AGREEMENT WHEN WE
BOUGHT THE PLACE. BUT WE WEREN'T REALLY AWARE OF IT AND WE
DIDN'T KNOW. AND THE ELEVATION AGREEMENT WAS IN THERE TOO.
BUT WHEN YOU SEE AN ELEVATION AGREEMENT YOU THINK OF HEIGHT,
NOT WATER.

BOARD MEMBER PARSONS: DO YOU HAVE ANY OTHER
AGREEMENTS THAT YOU MADE WITH WAILUKU AG WITH REGARD TO
WATER WHEN YOU BOUGHT THIS PROPERTY?

MR. DUEY: OH, YEAH, YOU CAN'T DRILL AND YOU CAN'T
TAKE WATER AND ALL KINDS OF THINGS.

BOARD MEMBER PARSONS: DID YOU SUPPLY THIS TO CORP
COUNSEL?

MR. DUEY: NO, WE HAVEN'T TALKED TO CORP COUNSEL
ABOUT THIS ISSUE.

BOARD MEMBER PARSONS: BECAUSE THIS IS ALL PART OF
IT. ALL RIGHT, WERE ALL THESE STIPULATIONS TOGETHER IN THAT
DOCUMENT, IN THE DOCUMENTS?

MR. DUEY: IN THE TITLE SEARCH THING, YES.

BOARD MEMBER PARSONS: WHEN WE GO INTO DISCUSSION
WE WILL TALK ABOUT THAT.

CHAIRMAN VICTORINO: YES, WHEN WE GO INTO
DISCUSSION. WE WILL STICK WITH THE SUBJECT MATTER AT HAND.

BOARD MEMBER PARSONS: YOU DEFINITELY WANT TO GET
THAT IN FRONT OF CORP COUNSEL.

CHAIRMAN VICTORINO: ANY OTHER QUESTIONS? YES,
MICHAEL.

BOARD MEMBER HOWDEN: I UNDERSTAND YOUR
FRUSTRATION. I ALSO NOTE THAT YOU ARE AN EXPERT IN
IRRIGATION SYSTEMS.

MR. DUEY: WELL, MY SON IS THE EXPERT NOW, NOT ME.

BOARD MEMBER HOWDEN: NOW. BUT FOR YEARS YOU WERE.

MR. DUEY: YES.

BOARD MEMBER HOWDEN: WHAT WOULD YOU FEEL WOULD BE REASONABLE IN TERMS OF WATER STORAGE AND FIRE PROTECTION FOR YOUR LOT?

MR. DUEY: WELL, WE HAVE AGREED BETWEEN OUR FAMILY THAT IN THE ORIGINAL AGREEMENTS IT SAYS THAT THERE SHOULD BE A FIRE LINE PUT IN BETWEEN LOT 1 AND 2. LOT 1 ON YOUR MAP IS THE DOJO LOT, THE THREE AND A HALF ACRES ON THE CORNER, AND LOT 2 IS OUR LOT. AND IT SAID IN THE ORIGINAL AGREEMENT, WHICH WAS DEFERRED, THAT A FIRE HYDRANT SHOULD BE PUT IN THERE, BETWEEN LOT 1 AND 2.

WE'RE IN AGREEMENT, OUR OHANA, TO PUT A FIRE HYDRANT OR HYDRANTS IN, WHATEVER IS REQUIRED. THERE IS A FIRE HYDRANT 540 FEET FROM THIS PROPERTY. WE LIVE RIGHT

ACROSS THE STREET FROM THE PROPERTY PRESENTLY. WE HAVE SINCE '72. THERE'S A FIRE HYDRANT ON THE CORNER OF OUR PROPERTY. THIS PROPERTY IN QUESTION IS RIGHT ACROSS THE STREET AND MAUKA. WE ARE IN AGREEMENT TO PUT A FIRE HYDRANT OR FIRE HYDRANTS IN TO SUPPLY WATER AND FIRE SERVICE. THE TANK TO ME IS JUST TOTALLY UNREASONABLE, WHEN THERE'S WATER THERE IN THE WATER LINE. THAT IS TOTALLY UNREASONABLE.

THERE WAS FIGURES THAT I GAVE YOU IN THE BACK OF THE HANDOUT. THERE IS A TECH THING FROM THIS PAGE HERE, THIS SHEET HERE. THAT'S FROM THE RAIN BIRD TECH MANUAL WHERE IT SHOWS A 12-INCH LINE CAN SUPPLY THE 1550 GALLONS WITH NO LOSS OF VELOCITY. YOU'RE NOT SUPPOSED TO MOVE WATER THROUGH A PIPE AT MORE THAN FIVE FEET PER SECOND. AND UNDER FIVE FEET PER SECOND YOU CAN STILL GET -- AT 4.88 YOU CAN STILL GET 1550 GALLONS A MINUTE THROUGH THAT LINE.

THEY'RE REQUIRING WITH THE NEW REGULATIONS 500 GALLONS A MINUTE. YOU'RE STILL THREE TIMES MORE WATER THROUGH THAT PIPE THAN IS REQUIRED TO FIGHT THE FIRES. IT'S BEYOND ME, IT'S TOTALLY BEYOND ME. DID I ANSWER YOUR QUESTION? WELL, LET ME SAY WE ARE NOT IN AGREEMENT WITH PUTTING A BLOODY STORAGE TANK IN THERE, THAT'S RIDICULOUS.

BUT WE WOULD BE IN AGREEMENT TO PUT ONE OR TWO FIRE HYDRANT.
WHATEVER WOULD BE NECESSARY FOR THE WHOLE PROPERTY.

BOARD MEMBER HOWDEN: HOW ABOUT A SMALLER TANK?

MR. DUEY: IT DOESN'T MAKE SENSE, THE WATER IS
THERE. THE AVAILABILITY OF THE WATER IS THERE, SO WHY GO TO
ALL THIS \$40,000? WE DIDN'T HAVE MUCH TIME TO GET A GOOD
ESTIMATE, BECAUSE WE WERE JUST NOTIFIED ABOUT THREE OR FOUR
DAYS AGO THAT WE WOULD BE ON THE AGENDA, AND JUST NOTIFIED
YESTERDAY ABOUT THE RESPONSE FROM THE DWS. SO HAVING ANY
WATER TANK THERE, IT'S UNSIGHTLY AND IT DOESN'T MAKE SENSE
WHEN THE WATER IS THERE ON THE BORDERLINE.

BOARD MEMBER HOWDEN: WHEN YOU RECEIVED TITLE FROM
WAILUKU AGRIBUSINESS, OR ITS FORMER INCARNATION, DID YOU
GIVE UP YOUR KULEANA WATER RIGHTS TO IAO STREAM?

MR. DUEY: I THINK WE GAVE UP THE PERTINENT RIGHTS
AND WE'RE RETAINING THE RIPARIAN RIGHTS, I THINK THAT'S THE
RIGHT TERMINOLOGY. BUT WE CANNOT DRILL ON THE PROPERTY.

BOARD MEMBER HOWDEN: BUT COULD YOU PULL FROM THE
STREAM?

MR. DUEY: YES, WITH THE PERMISSION OF THE CWRM,
THE COMMISSION ON WATER RESOURCE MANAGEMENT.

CHAIRMAN VICTORINO: KENNETH?

BOARD MEMBER OKAMURA: I WAS WONDERING, WE'RE IN
THE TESTIMONY PART NOW?

CHAIRMAN VICTORINO: QUESTIONS HERE.

BOARD MEMBER OKAMURA: SO ARE WE READY TO DISCUSS
THIS ISSUE?

CHAIRMAN VICTORINO: WE'RE JUST ASKING QUESTIONS
NOW, AND THEN WE WILL HAVE THE DEPARTMENT COME UP AND GIVE
THEIRS. I DON'T WANT THE TWO MIXED UP AT THIS POINT. I
WANT THE DUEYS AND THE SANTOS' TO GIVE THE FACTS THAT THEY
HAVE, AND THEN WE WILL CALL THE DEPARTMENT UP AT THAT POINT.

BOARD MEMBER OKAMURA: I'LL JUST WAIT UNTIL THAT

POINT.

BOARD MEMBER ALDRIDGE: I HAVE A POINT. I'VE
DRIVEN BY THIS ROAD GOING UP TO THE IAO VALLEY PARK, BUT I
AM NOT EXACTLY FAMILIAR WITH THE AREA. YOU INDICATED --

MR. DUEY: EXCUSE ME. YOU'VE SEEN A WOODEN FENCE
ON THE RIGHT SIDE, AND YOU'VE SEEN A SIGN THAT SAYS
"HO'OULULAHUI."

BOARD MEMBER ALDRIDGE: I MAY HAVE, BUT I DON'T
RECALL.

MR. DUEY: WELL, THAT'S OUR PROPERTY.

BOARD MEMBER ALDRIDGE: THAT'S YOUR PROPERTY. I'M
VAGUELY FAMILIAR WITH WHERE THIS IS. BUT I WANTED TO FOLLOW
UP ON A STATEMENT YOU MADE ABOUT THE SUPPLY IN THE PIPELINE.
I THINK YOU INDICATED THAT THERE WAS A 1,500 GALLON PER
MINUTE SUPPLY WITH RESIDUAL PRESSURE AND 40 PSI.

MR. DUEY: THERE'S 23 POUNDS AT THE WELL HEAD,

WHICH IS -- I THINK THE WELL IS I WANT TO SAY AT 702
ELEVATION, BUT I'M NOT TOO SURE.

BOARD MEMBER ALDRIDGE: IS THAT A HIGHER ELEVATION
THAN YOUR PROPERTY?

MR. DUEY: THE TUNNEL AND AT THE PROPERTY THERE'S
51 POUNDS OF PRESSURE, THE WELL HEAD IS 23, SO YOU CAN
FIGURE IT OUT, WHAT IS THAT, 24.6.

BOARD MEMBER ALDRIDGE: THE WELL IS OBVIOUSLY A
MOTOR DRIVEN WELL, SO IF THAT WENT OUT YOU WOULD NOT HAVE
ANY SUPPLY, IS THAT RIGHT?

MR. DUEY: NO. IT FEEDS INTO THE SAME LINE.

BOARD MEMBER ALDRIDGE: IT FEEDS INTO THE SAME
LINE. THE TUNNEL IS A GRAVITY SOURCE, AND THAT'S ALSO ABOVE
YOUR PROPERTY?

MR. DUEY: CORRECT.

BOARD MEMBER ALDRIDGE: AND THE TUNNEL SUPPLY IS

WHAT CAPACITY?

MR. DUEY: THE TUNNEL SUPPLIES 1.8 MILLION, WHICH
AT 1440 MINUTES A DAY IS 1250 GALLONS A MINUTE. WELL ABOVE.
I CAN'T TELL YOU OFFHAND, I'D HAVE TO LOOK AT THE TOPO TO
SEE THE ACTUAL ELEVATION OF THE TUNNEL, BUT I SUPPOSE YOU
COULD FIGURE OUT FROM THE 23 POUNDS OF PRESSURE AT THE WELL
HEAD TO PUT WATER IN THE LINE THERE HOW MUCH HIGHER. THE
TUNNEL IS HIGHER THAN THE PUMP. I'VE BEEN TO THE TUNNEL, I
KNOW WHERE THE PUMP IS.

BOARD MEMBER ALDRIDGE: YOU SEE WHAT I'M DRIVING
AT? THE QUESTION THAT I HAVE IS THAT YOU WOULD HAVE A TWO
HOUR RELIABLE SUPPLY TO THE PROPERTY AT MINIMUM PRESSURES
REQUIRED TO DELIVER THE 400 GALLONS OF PRESSURE.

MR. DUEY: THE PUMP COULD FAIL, IT'S MOTOR DRIVEN.
THE TUNNEL IS NOT GOING TO FAIL.

BOARD MEMBER ALDRIDGE: THAT'S THE WHOLE POINT FOR
PRESCRIBING THE TANK, TO OVERCOME FAILURE OF PUMPS.

MR. DUEY: RIGHT. BUT THE TUNNEL IS THERE, AND
IT'S BEEN THERE FOREVER. WE HAVE BEEN THERE 37 YEARS, AND I
DON'T KNOW THE DATE THE TUNNEL WAS DUG. I WANT TO SAY I
KNOW A GUY THAT WORKED IN THE TUNNEL, HE'S PASSED ON NOW,
AND I DON'T KNOW THE DATE THE TUNNEL WAS DUG. I'D BETTER
NOT GO THERE.

BOARD MEMBER ALDRIDGE: OKAY, THANK YOU.

MR. DUEY: WELL, THERE IS MORE CAPACITY IN THE
TUNNEL. THEY'RE ONLY TAKING 1.8, WAILUKU WATER COMPANY NOW.
WAILUKU AGRIBUSINESS IS NO MORE, THEY'VE BEEN DISSOLVED, AND
WAILUKU SUGAR HAS BEEN DISSOLVED. SO WAILUKU WATER COMPANY
NOW TAKES THE REMAINING WATER OUT OF THAT TUNNEL.

CHAIRMAN VICTORINO: ANY MORE QUESTIONS FOR

MR. DUEY? OKAY, IF NONE, MRS. DUEY, DO YOU WANT TO SAY
ANYTHING?

MRS. DUEY: YES.

CHAIRMAN VICTORINO: THANK YOU, MR. DUEY.

MR. DUEY: THANK YOU VERY MUCH FOR HEARING ME OUT
AND ASKING QUESTIONS.

CHAIRMAN VICTORINO: MRS. DUEY, I WILL CALL YOU UP
NOW, PLEASE.

MRS. DUEY: THANK YOU. ALOHA CHAIRMAN VICTORINO,
AND GOOD MORNING MEMBERS OF THE BOARD AND WATER DEPARTMENT,
MR. TENGAN. MY DAUGHTER ALREADY INTRODUCED OUR FAMILY, AND
I WAS GOING TO DO THAT, BUT THAT'S OKAY. I AM NANI SANTOS'
MOTHER. FRANK SANTOS IS MY SON-IN-LAW, AND JOHN DUEY IS MY
WIFE -- I AM HIS WIFE. BUT YOU ALSO SAID WE'RE LOT 2.
WE'RE LOT 2. SO YOU GET ONE ERROR, I GET ONE.

MY HUSBAND AND I RAISED OUR CHILDREN DAVID, LIA
(PHONETIC) AND NANI IN IAO VALLEY. DAVID LIVES THERE, HIS
TWO SONS LIVE THERE, AND OUR DAUGHTER LIVES ON OAHU. OUR
CHILDREN AND THEIR CHILDREN LOVE THE VALLEY, AND HAVE OFTEN
EXPRESSED DESIRE TO LIVE IN THE VALLEY IF LAND WAS
AVAILABLE. SO YOU CAN IMAGINE OUR EMOTIONS WHEN WAILUKU
AGRIBUSINESS DECIDED TO SELL THE PARCEL OF LAND ACROSS FROM

OUR HOUSE AT A PRICE WE AS A FAMILY COULD AFFORD.

WE THEN PROCEEDED TO CREATE OUR FAMILY HUI,
HO'OULULAHUI LLC, AND TO SET FORTH COVENANTS TO PROTECT AND
PRESERVE THE BEAUTY OF THE VALLEY. OUR DREAM HAD COME TRUE,
SO WE THOUGHT. NANI AND FRANK APPLIED FOR A PERMIT TO BUILD
A HOME IN IAO VALLEY. YOUR DEPARTMENT RECEIVED THEIR
BUILDING PERMIT, AND AFTER MANY ATTEMPTS ON HER PART -- YOU
HAVE HEARD THAT FROM HER -- YOUR DEPARTMENT, WITHOUT
REASONABLE RESPONSE, WE HAVE COME TO THIS DAY.

UNFORTUNATELY, THEY HAVE BEEN DENIED A WATER METER
UNTIL WE INSTALL AN INTRUSIVE 60,000 GALLON WATER TANK FOR
FIRE PROTECTION. THIS WAS A REQUIREMENT IMPOSED ON WAILUKU
AGRIBUSINESS AT THE TIME THEY REQUESTED AND RECEIVED
APPROVAL FOR A SUBDIVISION, BUT IT WAS DEFERRED. WE ARE NOT
WAILUKU AGRIBUSINESS. WE COULD HAVE DEVELOPED THE PROPERTY
INTO A MAJOR SUBDIVISION OF AT LEAST 36 HOMES. AND WE ARE
NOT A PRIVATE DEVELOPER WITH THAT INTENT. INSTEAD, OUR
DAUGHTER AND SON-IN-LAW WANT TO BUILD A HOME FOR THEIR
FAMILY.

YOU HAVE HEARD WE ARE ASKING TO BE RELIEVED FROM

THIS COSTLY, INTRUSIVE, UNREASONABLE REQUIREMENT, AND YOU HAVE ALREADY BEEN GIVEN THE RECOMMENDATION OF DENIAL FROM THE WATER DEPARTMENT STAFF. WE ARE APPRECIATIVE OF YOUR TIME AND YOUR PROCESS TO HEAR ARGUMENTS, AND HOPE THAT YOU ARE NOT ALREADY COMPROMISED BY THE RECOMMENDATION, BECAUSE WE ARE ASKING YOU TO FIND A REASONABLE ANSWER FOR REQUIRING THIS COSTLY AND INTRUSIVE TANK FOR A FAMILY HOME.

OUR FAMILY HAS READ THE DWS DOCUMENT GIVEN TO US YESTERDAY, WHICH HAS THE REQUIREMENT OF THE TANK BASED ON PROPERTY ELEVATION IN CASE OF FIRE. PLEASE REVIEW MY HUSBAND'S DATA ON ELEVATION AND AVAILABILITY OF WATER, AND DEFINITELY QUESTION WHY YOUR HOME OR ANYONE ELSE'S IN A SIMILAR POSITION DOES NOT HAVE THIS REQUIREMENT, AND THIS FAMILY WOULD.

NOW, MR. HOWDEN, YOU ASKED MY HUSBAND A QUESTION ABOUT WHAT HE WOULD RECOMMEND IN CASE OF A FIRE. I THINK WE HAVE THE SAME SAFETY VALVE ALL OF YOU HAVE, AND IT DOES NOT MATTER WHETHER THE TUNNEL FAILS OR THE SYSTEM FAILS. YOUR SYSTEM COULD FAIL TOO, BUT YOU ARE NOT BEING REQUIRED TO PUT A 60,000 GALLON TANK TO BACK THAT SYSTEM UP. THEN WHY

SHOULD WE?

IT APPEARS TO LACK INTELLIGENCE AND COMMON SENSE TO REQUIRE THIS FOR OUR CHILDREN'S HOME. IT MAKES MORE SENSE TO REQUIRE IT OF A MAJOR SUBDIVISION, GIVEN THE ENTITY THAT WE'RE SUBDIVIDING. OUR CHILDREN WOULD LIKE TO MOVE AHEAD WITH BUILDING THEIR HOME. PLEASE CONSIDER THEIR REQUEST, AND GIVE THEM YOUR APPROVAL FOR A WATER METER WITHOUT THIS REQUIREMENT.

FINALLY, IF ALL ELSE FAILS, WE ARE WILLING TO SIGN A DOCUMENT OF HOLD HARMLESS OF THE DWS, ITS BOARD, AND THE COUNTY OF MAUI, IF THAT IS WHAT IT WOULD TAKE. THANK YOU FOR HEARING AND CONSIDERING OUR QUESTION. DO YOU HAVE ANY QUESTIONS?

CHAIRMAN VICTORINO: ONE QUICK CORRECTION. YOU STATED, "YOUR DWS." LET ME CORRECT THAT. IT IS ALL OURS, IT'S THE PEOPLE OF MAUI. THEY SERVE THE PEOPLE OF MAUI. NOT TO MAKE A BIG POINT OF IT, BUT I OFTEN THINK LIKE YOU STARTED TO PUT ON AN ADVERSARIAL POSITION. WE'RE NOT HERE TO BE ADVERSARIAL, WE ARE HERE TO HELP YOU, LIKE THEY ARE. WE ARE GOING TO FIND THE FACTS AND GET IT ALL DONE, BUT WE

WANT TO MAKE SURE YOU KNOW THAT WE'RE HERE TO SERVE YOU.

NOW, COMMON SENSE AND ALL THAT, I'M NOT GOING TO TOUCH THAT SUBJECT MATTER. BUT WE WILL DO WHAT WE CAN TO HELP YOU.

MRS. DUEY: SO I SHOULD SAY OUR DEPARTMENT OF WATER SUPPLY.

CHAIRMAN VICTORINO: THERE YOU GO, THANK YOU.

MRS. DUEY: THANK YOU. THEN I APPRECIATE THAT CORRECTION, BECAUSE I WILL SAY THAT IN THE FUTURE.

CHAIRMAN VICTORINO: THANK YOU, MRS. DUEY, WE APPRECIATE IT. WAIT, I DIDN'T SAY YOU CAN GO. MAYBE THEY HAVE QUESTIONS FOR YOU. ANY QUESTIONS FOR MRS. DUEY?

MRS. DUEY: NOT THE HARD STUFF.

BOARD MEMBER HOWDEN: JUST ONE THING. THE POINT I WAS MAKING, I MEAN WHERE I LIVE I HAVE A 75,000 GALLON

RESERVOIR, AND I HAVE TWO CEMENT TANKS OF 12,000, 14,000
LIKE THAT, BECAUSE I DON'T WANT TO DEPEND ON THE DEPARTMENT
OF WATER SUPPLY, ESPECIALLY IN ULUPALAKUA WHERE YOU NEVER
KNOW WHAT'S GOING TO HAPPEN.

WHAT I WAS SUGGESTING TO YOUR HUSBAND WAS MAYBE
THERE'S A MIDDLE GROUND, YOU KNOW, THAT WOULD HELP MAKE IT
MORE PALATABLE TO THE DEPARTMENT, WHICH SEEMS TO TAKE --
SOMETIMES TAKES TOO LITERALLY ITS RULES AND REGS. I MEAN
YOUR CIRCUMSTANCE WOULD SEEM THAT A LOT OF THESE
REQUIREMENTS WOULD BE SUPERFLUOUS. BUT TO MAKE AN
EXCEPTION, YOU NEED TO MAKE AN INTELLIGENT EXCEPTION. AND
TO MEET THEM PARTWAY, I THINK, WOULD BE HELPFUL. THAT'S
ALL.

MRS. DUEY: MY STATEMENT TO THAT WOULD BE, AS A
TAXPAYER FOR THIS COUNTY OF MAUI FOR MANY YEARS I SHOULD
HAVE THE SAME SERVICES THEY PROVIDE TO OTHERS. THAT'S IT.
OKAY, THANK YOU.

CHAIRMAN VICTORINO: THANK YOU, MRS. DUEY. OKAY,
AT THIS TIME I'D LIKE TO CALL MR. TENGAN. WHO WILL RESPOND
FROM YOUR DEPARTMENT?

DIRECTOR TENGAN: I GUESS WE HAVE ALVA HERE.

CHAIRMAN VICTORINO: MR. NAKAMURA.

DIRECTOR TENGAN: MAY I JUST MAKE A STATEMENT?

CHAIRMAN VICTORINO: SURELY, MR. TENGAN, GO AHEAD.

DIRECTOR TENGAN: I JUST WANT TO SAY THAT, YOU
KNOW, WE ALL SHOULD UNDERSTAND THAT WE AS STAFF HAVE THE
RESPONSIBILITY OF PROTECTING THE INTEREST OF THE COUNTY.
AND SO WHEN WE SEEM TO BE SOMEWHAT HARSH IN THE APPLICATION
OF THE RULES, THE RULES ARE THE RULES, AND THE AGREEMENTS
THAT COME BEFORE US ARE THE AGREEMENTS THAT WE HAVE GOT TO
DEAL WITH. AND SO THAT'S WHAT WE'RE WORKING WITH RIGHT NOW.

CHAIRMAN VICTORINO: AND I THINK WE APPRECIATE
THAT. I DON'T THINK ANYONE IS QUESTIONING THAT MOTIVE. BUT
SOMETIMES I THINK WE NEED TO LOOK AT THE OVERALL PICTURE,
NOT JUST THAT ONE INDIVIDUAL.

DIRECTOR TENGAN: SOMETIMES THE CRITICISM SEEMS TO FOCUS ON INDIVIDUAL EMPLOYEES AND HOW THEY PROCEED WITH THEIR WORK, BUT THAT IS NOT THE CASE. STAFF IS PAID TO ADMINISTER THE RULES, AND THAT'S WHAT THEY'RE DOING. SO IF THE RULES SEEM SOMEWHAT HARSH OR UNREASONABLE, THEN THE RULES NEED TO BE CHANGED.

CHAIRMAN VICTORINO: OKAY, I THINK THAT'S A FAIR STATEMENT, AND I APPRECIATE THAT. MR. HOWDEN?

BOARD MEMBER HOWDEN: CAN I ASK MR. TENGAN, I UNDERSTAND THE RULES, AND I THINK IN AN IDEAL WORLD THAT IT'S HELPFUL TO HAVE THAT AS A FRAMEWORK. BUT I DON'T UNDERSTAND WHY THERE WAS NEVER A RESPONSE TO THE DUEYS.

CHAIRMAN VICTORINO: MR. HOWDEN, BEFORE WE PROCEED INTO THAT, LET US GO WITH THE DISCUSSION AND THEN CAN YOU DEFER THAT MATTER TO A LITTLE BIT LATER?

BOARD MEMBER HOWDEN: OF COURSE.

CHAIRMAN VICTORINO: MR. NAKAMURA, YOUR RESPONSE, PLEASE.

MR. NAKAMURA: MR. CHAIR AND MEMBERS OF THE BOARD,

LET ME GO THROUGH THIS VERY BRIEF SUMMARY OF THE ISSUES.

BOARD MEMBER PARSONS: IS THAT THE ONE YOU HAVE?

MR. NAKAMURA: I'M JUST READING FROM SOMETHING THAT I WROTE. THIS BUILDING PERMIT APPLICATION WAS BEING REQUESTED BY FRANK AND NANI SANTOS, WHO IS REQUESTING A WAIVER OF REQUIREMENTS TO CONSTRUCT THE WATER SYSTEM IMPROVEMENTS. THIS APPLICATION IS FOR A BUILDING PERMIT TO CONSTRUCT A SECOND DWELLING ON THE PROPERTY, WITH A LIVING SPACE OF 1,648 SQUARE FEET, 337 SQUARE FEET OF CARPORT, AND A 369 SQUARE FOOT LANAI.

THE PROPERTY WAS CREATED BY THE IAO DOJO LARGE LOT SUBDIVISION, AND THE FOLLOWING IMPROVEMENTS WERE REQUIRED FOR FINAL APPROVAL OF THE SUBDIVISION:

1. CONSTRUCT WATER SYSTEM IMPROVEMENTS IN ACCORDANCE WITH STANDARDS.

2. CONSTRUCT A PRIVATE FIRE PROTECTION SYSTEM IN ACCORDANCE WITH STANDARDS WITH A STORAGE CAPACITY OF 48,000

GALLONS TO PROVIDE A FIRE FLOW OF 400 GPM FOR TWO HOURS.

3. TO PROVIDE WATER SERVICE TO EACH LOT. AN ELEVATION AGREEMENT WOULD ALSO BE REQUIRED.

THE SUBDIVIDER, WAILUKU AGRIBUSINESS, MADE A REQUEST TO THE BOARD OF WATER SUPPLY ON AUGUST 8, 1994 FOR A MODIFICATION AND DEFERRAL OF THE REQUIREMENTS. THE BOARD MODIFIED THE REQUIREMENTS TO THE FOLLOWING:

1. PROVIDE WATER SERVICE OFF THE 12-INCH WATER LINE ALONG IAO ROAD. INSTALL A BACK FLOW PREVENTER AFTER THE WATER METER.

2. CONSTRUCT A PRIVATE FIRE PROTECTION WATER SYSTEM CONSISTING OF A 60,000 GALLON RESERVOIR, A FIRE PUMP, AND A FIRE HYDRANT. A FLOAT VALVE SHALL BE INSTALLED TO CONTROL THE WATER LEVEL IN THE RESERVOIR AND KEEP IT FILLED AT ALL TIMES.

3. EXECUTE A PRIVATE WATER SYSTEM AGREEMENT FOR LOT 2.

4. EXECUTE AN ELEVATION AGREEMENT.

REQUIREMENTS: THE FIRST THREE REQUIREMENTS WERE DEFERRED UNTIL A BUILDING PERMIT WAS APPLIED FOR. STAFF RECOMMENDS DENIAL OF THE REQUEST AND REQUIRING THE APPLICANTS TO COMPLY WITH REQUIREMENTS ONE AND TWO STATED PREVIOUSLY WITHIN THE MODIFICATION OF THE SUBDIVISION

REQUIREMENTS AGREEMENT.

SO IN ESSENCE, WHAT WE ARE RECOMMENDING IS THAT
BASED UPON OUR RULES THE WAY THEY CURRENTLY ARE, THAT UNLESS
THEY PROVIDE SOME SORT OF A STORAGE FACILITY TO ACCOMMODATE
THE FIRE PROTECTION OR FIRE FLOW REQUIREMENTS, WE ARE
RECOMMENDING DENIAL AT THIS TIME.

CHAIRMAN VICTORINO: OKAY. QUESTIONS FROM THE
BOARD MEMBERS. MISS PARSONS?

BOARD MEMBER PARSONS: IS THIS AN AG PIECE OF
PROPERTY?

MR. NAKAMURA: INITIALLY WHEN I CHECKED BACK IN
THE RECORDS IT WAS ZONED RURAL. BUT JUST CHECKING IT THIS
MORNING, IT'S ZONED AGRICULTURAL RIGHT NOW.

BOARD MEMBER PARSONS: BUT WE ARE NOT POSITIVE, SO
WE NEED TO CHECK THAT. THIS IS PROBABLY A QUESTION FOR CORP
COUNSEL, BUT CAN PRIVATE AGREEMENTS SUPERSEDE WATER BOARD

RULES?

MR. GIROUX: I DON'T THINK I CAN ANSWER THAT RIGHT NOW, AS FAR AS NOT LOOKING AT THE TYPES OF AGREEMENTS AND WHERE THE RULES WERE AT THE TIME THAT THOSE AGREEMENTS WERE MADE. I DON'T THINK I CAN ANSWER THAT QUESTION RIGHT NOW.

BOARD MEMBER ALDRIDGE: MICHAEL, I HAVE A QUESTION.

CHAIRMAN VICTORINO: YES, MR. ALDRIDGE.

BOARD MEMBER ALDRIDGE: THE AGREEMENT BETWEEN WAILUKU AGRIBUSINESS AND THE WATER DEPARTMENT, THAT WAS ENTERED INTO IN 1994. WHAT IS THE RELATIONSHIP -- AND MAYBE I'M JUST CONFUSED IN LOOKING THROUGH ALL THIS MATERIAL -- BUT WHAT IS THE CURRENT RELATIONSHIP, IF ANY, BETWEEN WAILUKU AGRIBUSINESS AND THE SANTOS FAMILY, DID THEY BUY THIS LOT FROM WAILUKU AGRIBUSINESS?

CHAIRMAN VICTORINO: I THINK NANI OR MR. DUEY?

MR. DUEY: WE BOUGHT THE PROPERTY FROM WAILUKU

AGRIBUSINESS.

BOARD MEMBER ALDRIDGE: DID THIS AGREEMENT RUN
WITH THE TITLE? AND YOU MAY HAVE ALREADY STATED THAT.

CHAIRMAN VICTORINO: WOULD YOU COME UP,
MR. SANTOS, AND NANI OR ONE OR BOTH AND BE UP HERE? BECAUSE
WHEN QUESTIONS ARE ASKED AND YOU NEED TO ANSWER, I'D RATHER
YOU DON'T TALK ACROSS THE ROOM. IF YOU WOULD GRAB A CHAIR
AND PUT IT UP OVER HERE, PLEASE.

THANK YOU, MR. DUEY. NOW, LEE, IF YOU WANT TO
SPECIFICALLY ASK THE QUESTION AGAIN.

BOARD MEMBER ALDRIDGE: I GUESS MY QUESTION WAS,
WAS THIS AGREEMENT PART AND PARCEL OF THE TITLE?

MR. DUEY: YES. THE 48,000 GALLON TANK AND THE
ELEVATION AGREEMENT IS PART OF THE TITLE.

BOARD MEMBER ALDRIDGE: OF THE PRESENT TITLE. SO
YOU WERE AWARE OF THAT, THE FAMILY?

MR. DUEY: NOT WHEN WE BOUGHT IT.

BOARD MEMBER ALDRIDGE: NOT WHEN YOU BOUGHT IT?

MR. DUEY: YOU READ THAT STUFF, BUT WE WERE SO
HAPPY TO BE ABLE TO GET THE PROPERTY. AND YOU READ THE
STUFF, THE ELEVATION AGREEMENT. WHEN I SEEN ELEVATION, YOU
THINK OF ELEVATION, NOTHING TO DO WITH WATER. I DON'T KNOW
WHY THEY DIDN'T SAY A WATER AGREEMENT INSTEAD OF AN
ELEVATION AGREEMENT. IT'S THERE, BUT I WASN'T REALLY AWARE
OF IT.

BOARD MEMBER ALDRIDGE: AT THE TIME YOU BOUGHT IT?

MR. DUEY: AT THE TIME I BOUGHT IT, IT WAS THERE,
YES. IT'S IN THE TITLE SEARCH.

BOARD MEMBER PARSONS: ON THE SAME SUBJECT, I WANT
TO JUST FOLLOW UP WITH MIKE. WAS THIS ELEVATION AGREEMENT
ATTACHED TO YOUR WATER AGREEMENT?

MR. DUEY: IT'S IN THE TITLE SEARCH.

BOARD MEMBER PARSONS: BUT YOU SIGNED A SEPARATE
AGREEMENT WITH WAILUKU AG?

MR. DUEY: NO, NO.

BOARD MEMBER PARSONS: THERE WERE NO OTHER
AGREEMENTS?

MR. DUEY: NO.

BOARD MEMBER PARSONS: BECAUSE YOU SAID BEFORE, I
ASKED YOU WAS THERE ANY OTHER WATER AGREEMENTS THAT YOU
DISCUSSED ABOUT NOT BEING ABLE TO DRILL WELLS.

MR. DUEY: IT'S ALL PART OF THE TITLE, THAT YOU
CANNOT DRILL WATER ON THE LAND YOU BUY IN WAILUKU AG.
ANYBODY WHO WAS BUYING LAND.

BOARD MEMBER PARSONS: SO THIS WAS ENCOMPASSED
WITH THAT?

MR. DUEY: YES.

BOARD MEMBER PARSONS: AND YOU SIGNED AN AGREEMENT
ENCOMPASSED WITH THAT?

MR. DUEY: YES.

BOARD MEMBER PARSONS: THAT'S DISCUSSION THAT WE
NEED TO HAVE WITH CORP COUNSEL, AS TO THE LEGALITY.

CHAIRMAN VICTORINO: ALL RIGHT.

BOARD MEMBER ALDRIDGE: LET ME FOLLOW UP. I THINK
MISS PARSONS ASKED ONE QUESTION EARLIER, WHICH YOU ANSWERED,
OR MAYBE IT WAS MR. HOWDEN. YOU DID NOT GIVE UP YOUR
RIPARIAN RIGHTS, THOUGH?

MR. DUEY: I BELIEVE I'M CORRECT. NO.

BOARD MEMBER ALDRIDGE: AND YOU ARE RIPARIAN TO
THE STREAM?

MR. DUEY: WE OWN THE STREAM, TWO FIFTHS OF THE

STREAM CROSSES OUR PROPERTY. ALL OF OUR PINS ARE ON THE WAIHEE SIDE OF THE PROPERTY, ALL THE WAY FROM THE BRIDGE. IF YOU LOOK AT THE PLAN, THE UPPER PART OF THE PROPERTY STARTS AT KEPANIWAI BRIDGE. IF YOU CROSS THE BRIDGE LOOKING MAKAI, THE STREAM RUNS ACROSS OUR PROPERTY.

BOARD MEMBER ALDRIDGE: SO AS AN ALTERNATIVE TO A STORAGE TANK, YOU COULD ACTUALLY BUILD A CATCHMENT AND PUMP WATER FROM THE STREAM FOR FIRE PURPOSES?

MRS. DUEY: ONLY IF YOU GET APPROVAL FROM THE CWRM.

MR. DUEY: THE PROBLEM IS GETTING APPROVAL FROM THE CWRM, AND THAT'S NOT AN EASY ISSUE. WE'RE FIGHTING ANOTHER ISSUE RIGHT NOW WITH THE STREAM. I DON'T KNOW IF YOU ARE FAMILIAR WITH THAT. WE'RE FIGHTING A TOTALLY DIFFERENT ISSUE ON THE STREAM.

CHAIRMAN VICTORINO: LET'S JUST KEEP ON THE SUBJECT MATTER. TOO MANY OTHER TERMS GET OUT THERE AND THEN WE GET ALL CONFUSED. KENNETH, YOU HAD A QUESTION.

BOARD MEMBER OKAMURA: THANK YOU, MR. CHAIR. SO
ACTUALLY, YOU'RE SAYING THAT YOU DENIED THE REQUEST BASED ON
THE FACT THAT THERE WAS AN AGREEMENT BY THE SUBDIVIDER WITH
THE WATER DEPARTMENT THAT THEY WOULD HAVE -- THAT THE PERSON
WHO PURCHASES THE PROPERTY HAS TO FOLLOW THESE COVENANTS?

MR. NAKAMURA: TO FOLLOW OUR STANDARDS. I MIGHT
JUST ADD ONE MORE COMMENT. A COUPLE OF DAYS AGO IN
ANTICIPATION OF THIS MEETING I HAD OUR GUYS GO AND DO A TEST
ON THE HYDRANTS ABOVE AND BELOW THIS PROPERTY. THE HYDRANT
BELOW THE PROPERTY, AS FAR AS THE FLOW RATES, I THINK IT WAS
ABOUT 900-SOMETHING GPM, SO IT WAS OKAY. BUT ON THE UPPER
END OF THE PROPERTY IT WAS VERY MARGINAL AND WOULDN'T MEET
THE FIRE FLOW REQUIREMENTS. SO, YOU KNOW, THAT'S ONE THING
THAT WE TESTED A COUPLE OF DAYS AGO.

BOARD MEMBER OKAMURA: THESE HYDRANTS ARE LIKE
WITHIN DISTANCE?

MR. NAKAMURA: WELL, I DON'T EXACTLY REMEMBER WHAT
THE DISTANCE IS FROM THE PROPERTY, BUT I KNOW IT'S ON BOTH
EXTREME ENDS OF THE PROPERTY.

CHAIRMAN VICTORINO: MR. DUEY, I JUST WAS GOING TO
ASK YOU, ON THE MAP COULD YOU KIND OF PINPOINT WHERE WE'RE
REFERRING TO NOW AS FAR AS THE HYDRANTS ARE CONCERNED?

MR. DUEY: THE FIRE HYDRANT IS RIGHT HERE.

CHAIRMAN VICTORINO: YOU'RE PUTTING IT RIGHT HERE?

MR. DUEY: YES.

CHAIRMAN VICTORINO: NOW, WHEN WE'RE LOOKING AT
THIS MAP, ALVA, WHICH IS UP AND WHICH IS BELOW?

MR. NAKAMURA: WHICH ONE IS TOWARD THE TOWN NOW?
THIS WAY, RIGHT?

CHAIRMAN VICTORINO: THIS IS THE BRIDGE HERE,
RIGHT, THE NARROW PART. I KIND OF KNEW THAT. THIS IS GOING
TOWARDS TOWN.

MR. NAKAMURA: THE UPPER SIDE, WHICH IS CLOSER TO

THE SOURCE, BUT VERY MARGINAL. BUT AS YOU GO FARTHER TOWARD TOWN THE ELEVATION DROPS, SO THE PRESSURE IS GREATER AND THE FLOW IS GREATER.

CHAIRMAN VICTORINO: OKAY. THERE IS NO FIRE HYDRANT FROM THIS POINT TO KEPANIWAI AND ABOVE?

MR. DUEY: NO.

CHAIRMAN VICTORINO: HANG ON, WE'VE GOT TOO MANY QUESTIONS. LET KENNETH FINISH. GO AHEAD, KENNETH.

BOARD MEMBER OKAMURA: SO LET'S SAY ON ONE END OF THE PROPERTY THE FIRE HYDRANT HAS ENOUGH PRESSURE.

MR. NAKAMURA: THAT WAS THE LOWER END, TOWARD TOWN, WHERE THEY TESTED IT.

BOARD MEMBER OKAMURA: DO BOTH HYDRANTS HAVE TO HAVE LIKE SUFFICIENT PRESSURE, OR CAN THEY BUILD CLOSE TO ONE OF THE HYDRANTS THAT HAS SUFFICIENT PRESSURE?

MR. NAKAMURA: THE ONE ON THE SOURCE END OF IT WAS

INSUFFICIENT, WAS VERY MARGINAL IN TERMS OF FLOW RATES.

BOARD MEMBER OKAMURA: BUT YOU'RE SAYING THAT
THERE'S ONLY ONE HYDRANT?

MR. DUEY: CORRECT. THERE'S NOTHING ABOVE.

BOARD MEMBER OKAMURA: YOU'RE SAYING THERE'S TWO
HYDRANTS?

MR. NAKAMURA: WELL, THIS WAS TOWARD TOWN. NOW, I
AM NOT SURE HOW FAR DOWN IT WAS, BUT THAT'S WHAT OTHER
PEOPLE TOLD US. IT TOOK TWO READINGS.

CHAIRMAN VICTORINO: ONE QUESTION I HAVE FOR YOU,

MR. DUEY. YOU GUYS TALKED ABOUT A 12-INCH PIPE, RIGHT, THAT
RUNS ALONG THE PROPERTY. WHERE DOES THAT 12-INCH PIPE START
AND END?

MR. DUEY: IT STARTS AT THE TUNNEL.

CHAIRMAN VICTORINO: SO IT STARTS ABOVE THAT. SO

SHOW ME EXACTLY.

MR. DUEY: THE PIPE STARTS WAY UP HERE BY THE TUNNEL. THE KEPANIWAI WELL IS RIGHT HERE. THAT'S THE COUNTY LOT. THE WELL IS RIGHT HERE. THE PIPE RUNS ALONG THE ROAD ALONG THE WAIKAPU SIDE OF THE ROAD. SO WE LIVE ON THIS LOT RIGHT HERE. SO THE FIRE LINE IS RIGHT HERE.

BOARD MEMBER OKAMURA: THE HYDRANT IS I THINK DIRECTLY TO THE 12-INCH PIPE.

MR. DUEY: AS FAR AS I KNOW. I HAVE TO ASSUME, WHICH YOU SHOULD NEVER DO, BUT THAT'S THE ONLY WATER LINE COMING DOWN THE ROAD.

CHAIRMAN VICTORINO: AND THAT'S THE ONE THAT YOU WERE SAYING WAS MARGINAL? IF THIS IS THE ONLY ONE, THE LAST ONE, THAT'S GOT TO BE THE UPPER ONE, RIGHT?

NANI SANTOS: EXCUSE ME. IF I COULD CLARIFY,

MR. CHAIR. I THINK HE'S TALKING ABOUT THE FIRE HYDRANT UP AT KEPANIWAI PARK. THERE'S A FIRE HYDRANT UP AT KEPANIWAI PARK, AND THEN THERE'S A FIRE HYDRANT RIGHT IN FRONT OF OUR

PROPERTY IN THIS LOWER CORNER.

CHAIRMAN VICTORINO: THAT'S THE QUESTION I HAVE
RIGHT NOW, WHERE ARE THE FIRE HYDRANTS THAT WE'RE REFERRING
TO?

MRS. SANTOS: I THINK HE'S TALKING ABOUT KEPANIWAI
AND THE ONE JUST BELOW OUR PROPERTY.

CHAIRMAN VICTORINO: SO THERE'S ONE UP AT
KEPANIWAI. BECAUSE I ASKED, AND YOU SAID THIS IS THE LAST
ONE. SO THIS WOULD BE UPPER IN MY MIND. SO THERE'S ONE AT
KEPANIWAI AND THEN THIS IS THE LOWER ONE THAT YOU MADE
REFERENCE TO.

GO AHEAD, MISS PARSONS. OKAY, DO YOU WANT TO
FINISH UP? LET HIM FINISH AND THEN I'LL RECOGNIZE YOU.

BOARD MEMBER OKAMURA: OKAY, THIS MORNING WE
RECEIVED THIS MARCH 29, 2005 MEMO FROM ED KUSHI REGARDING
ISSUANCE OF WATER METER FOR PROPERTY LOCATED IN PREVIOUSLY
APPROVED SUBDIVISION. WAS THIS PASSED OUT IN RELATION TO

THIS PARTICULAR ITEM ON THE AGENDA, OR WAS THIS PASSED OUT
FOR --

MR. DUEY: I HANDED THIS OUT.

BOARD MEMBER OKAMURA: OH, YOU PASSED IT OUT.

OKAY, THANK YOU.

CHAIRMAN VICTORINO: MISS PARSONS?

MR. DUEY: AND YES, IT WAS.

BOARD MEMBER OKAMURA: BECAUSE ONE PAGE IS MISSING
ON THIS.

MR. DUEY: MAY I RESPOND?

CHAIRMAN VICTORINO: SURE, GO AHEAD, MR. DUEY.

MR. DUEY: THE REASON I PASSED THIS OUT -- IN
FACT, THE WRITER IS RIGHT HERE. THE REASON I PASSED THIS
OUT IS BECAUSE IT WOULD BE ON PAGE 5 -- I'M SORRY IF A PAGE

IS MISSING.

THE CONCLUSION IS, DWS MAY NOT REQUIRE AN OWNER OF A VACANT LOT WHICH WAS CREATED BY A PREVIOUS DWS APPROVED AND ACCEPTED SUBDIVISION TO UPGRADE AND IMPROVE THE SUBDIVISION'S WATER SYSTEM TO CURRENT, EXISTING STANDARDS AND REQUIREMENTS, AS A CONDITION TO THE ISSUANCE OF A WATER METER FOR THE SUBJECT LOT. THEN IT GOES AHEAD WITH A BUNCH OF PROVISIONS.

IN IMPLEMENTING THE ABOVE-STATED INTERPRETATION, WE ADVISE THAT DWS INVESTIGATE AND CONFIRM THE FOLLOWING FACTS, UPON WHICH OUR CONCLUSIONS ARE PREMISED.

A. THE DATE OF FINAL APPROVAL OF THE SUBJECT SUBDIVISION. AND IN THIS CASE IT WAS 1996.

B. THE APPLICABLE DWS STANDARDS AND REQUIREMENTS AT THE TIME OF FINAL SUBDIVISION APPROVAL. I DON'T KNOW WHAT THEY ARE.

C. WHETHER, PRIOR TO FINAL SUBDIVISION APPROVAL,

DWS APPROVED THE SUBDIVISION'S WATER SYSTEM IMPROVEMENTS ,
AND WHETHER THE SUBDIVIDER OF THE PROPERTY DEDICATED SAID
IMPROVEMENTS TOGETHER WITH FEE SIMPLE TITLE OR PERPETUAL
EASEMENTS TO DWS .

D. THE DIFFERENCES BETWEEN DWS STANDARDS AND
REQUIREMENTS AT THE TIME OF FINAL SUBDIVISION APPROVAL AND
CURRENT DWS STANDARDS AND REQUIREMENTS , AND THE DWS RULE
AMENDMENTS THAT EFFECTUATED SAID DIFFERENCES .

LASTLY , WE ADVISE THAT IF MAINTAINING ADEQUATE
WATER PRESSURE IN THE NON-CONFORMING SUBDIVISION'S WATER
MAINS IS OF CONCERN TO DWS , AND IF THE SUBJECT LOT
REQUESTING A WATER METER IS SITUATED AT SUCH AN ELEVATION
THAT IT CANNOT BE ASSURED A DEPENDABLE SUPPLY FROM THE
DEPARTMENT OF DISTRIBUTION SYSTEM , REQUIRE THE LOT OWNER TO
ENTER INTO AN ELEVATION AGREEMENT , WHICH WE DID .

CHAIRMAN VICTORINO : BEFORE YOU GO ON . FOR THE
RECORD , LET US SHOW THAT CORP COUNSEL ED KUSHI IS PRESENT TO
ASSIST IN THIS MATTER . NOW , GO AHEAD , MR . OKAMURA .

BOARD MEMBER OKAMURA : YOU HAVE ANOTHER CASE

WHERE, YOU KNOW, THIS WAS NECESSARY, BUT I WAS WONDERING WHERE THIS CAME FROM. BUT I THINK THEY'RE SAYING IF A SUBDIVISION IS APPROVED, LET'S SAY IN 1955, WE CANNOT GO BACK AND ASK THEM TO UPGRADE THE WHOLE SUBDIVISION. SO I DON'T KNOW HOW IT'S RELATED TO YOUR CASE.

MR. DUEY: I AGREE.

CHAIRMAN VICTORINO: MISS PARSONS?

BOARD MEMBER PARSONS: AND NOW THAT MR. KUSHI IS HERE, I HAD ASKED A QUESTION PREVIOUSLY, THIS IS AN AG PARCEL. CAN A PRIVATE AGREEMENT SUPERSEDE THE RULES? AND THE RULES THAT WE WERE DISCUSSING PREVIOUSLY, AND THE TWO DWELLINGS, TWO STRUCTURE VERSUS THE THIRD STRUCTURE, WHAT DO YOU WANT TO CALL THAT? THERE'S NO RULE, IT'S JUST KIND OF A THIRD STRUCTURE POLICY THAT THEY'VE LOOKED AT.

SO WE'VE GOT TWO STRUCTURES. THIS IS THE SECOND STRUCTURE ON A PIECE OF AG PROPERTY. AND THE RULE STATES, MR. KUSHI, DO YOU REMEMBER HOW THE RULE GOES OR CAN WE LOOK IT UP REAL QUICK?

MR. KUSHI: WELL, MR. CHAIR, MEMBER PARSONS, WHAT I THINK YOU ARE TALKING ABOUT IS THE TWO STRUCTURE EXEMPTION FOR FIRE.

BOARD MEMBER PARSONS: YES, RIGHT.

MR. KUSHI: THAT'S PART OF SECTION 3 OF THE RULES, WATER SERVICE. SECTION 2 OF THE RULES DEALS WITH SUBDIVISIONS. I THINK YOU NEED TO CLARIFY FIRST. IF A LOT WAS CREATED BY A SUBDIVISION, OKAY, THAT SUBDIVISION SHOULD HAVE COMPLIED WITH ALL THE RULES AT THAT TIME. THEN YOU GO TO SECTION 3 IF THEY WANT TO APPLY FOR WATER SERVICE. THAT'S WHERE THE TWO DWELLING EXEMPTIONS COME ABOUT.

I'M SORRY I'M LATE, I WAS AT ANOTHER MEETING. BUT HERE, I MEAN MR. DUEY CORRECTLY SITES THE OPINION I WROTE TO ALVA, WHICH I THINK DEALT WITH THE MOLOKAI PROBLEM.

MR. NAKAMURA: RIGHT.

MR. KUSHI: AND THAT WOULD APPLY COUNTYWIDE. BUT AS I UNDERSTAND IT HERE, THE SUBDIVISION WAS CREATED WAY

BACK WHEN AVERY CHUMBLEY OWNED THIS PROPERTY. AND AS PART OF THAT APPROVAL, YOUR BOARD SAID OKAY WITH A MODIFICATION AGREEMENT, AND IT STATED VARIOUS CONDITIONS. SO THAT AGREEMENT IS OUTSIDE OF THIS OPINION, OKAY.

BOARD MEMBER PARSONS: OKAY, BUT --

CHAIRMAN VICTORINO: ONE CORRECTION, JUST BECAUSE I LIKE TO KEEP THINGS CORRECTED. WAILUKU AG WAS THE ENTITY, NOT AVERY CHUMBLEY. JUST BECAUSE I WANT TO TRY TO KEEP THINGS IN PERSPECTIVE.

BOARD MEMBER PARSONS: BUT HE WAS THE CREATOR OF THE DOCUMENT.

CHAIRMAN VICTORINO: WAILUKU AG WAS THE ENTITY.
GO AHEAD, MOVE ON.

MR. KUSHI: SO THAT MODIFICATION AGREEMENT RAN WITH THE SUBDIVISION. NOW THE BUILDING PERMIT TRIGGERS THOSE IMPROVEMENTS.

CHAIRMAN VICTORINO: OKAY. MISS PARSONS?

BOARD MEMBER PARSONS: SO WHAT YOU ARE SAYING THEN
IS THAT THIS ELEVATION AGREEMENT, WE'RE GOING TO MAKE
REQUIREMENTS ON THIS ELEVATION AGREEMENT AS IF IT WERE 1994
WHEN IT WAS --

MR. KUSHI: AS FAR AS I KNOW, THE ELEVATION
AGREEMENT HAS NOTHING TO DO WITH THIS.

BOARD MEMBER PARSONS: THAT'S WHAT IT'S CALLED.

MR. KUSHI: THE ELEVATION AGREEMENT JUST BASICALLY
SAYS THAT THE DEPARTMENT AT THAT TIME DID NOT HAVE
SUFFICIENT PRESSURE TO PROVIDE DOMESTIC FIRE FLOW, DOMESTIC
WATER PRESSURE. IT DIDN'T ADDRESS FIRE FLOW.

BOARD MEMBER PARSONS: IT DIDN'T ADDRESS FIRE
FLOW. SO THEY DO HAVE SUFFICIENT WATER NOW, CORRECT,
BECAUSE WE HAVE --

BOARD MEMBER ALDRIDGE: NO, THERE'S A SEPARATE
AGREEMENT. THERE'S THE MODIFICATION OF THE SUBDIVISION

AGREEMENT THAT ADDRESSES THE FIRE FLOW IN THE TANK, AND THAT'S SEPARATE FROM THE OTHER AGREEMENT, WHICH IS THE ELEVATION AGREEMENT. THERE WERE TWO SEPARATE AGREEMENTS.

BOARD MEMBER PARSONS: ARE WE STILL LOOKING AT THESE? I MEAN WE'RE LEARNING NOW, I MEAN THIS IS ALL NEW TECHNOLOGY AND SCIENCE, BUT WE'RE LEARNING NOW THAT THESE TANKS HARBOR BACTERIA. GEORGE, DON'T TIP YOUR HEAD AT US, THIS IS THE DEPARTMENT OF HEALTH. AND ARE WE STILL GOING TO REQUIRE TANKS WHEN THE EPA AND THE DEPARTMENT OF HEALTH ARE SAYING IT'S NOT PROBABLY A GOOD IDEA IN TROPICAL AREAS TO HAVE STORAGE TANKS, EVEN IF IT'S NOT FOR POTABLE USE?

MR. KUSHI: WELL, THE TANK WAS SUPPOSED TO BE FOR FIRE FLOW.

BOARD MEMBER PARSONS: I KNOW. BUT EVEN IF IT'S NOT FOR POTABLE, THEY STILL HARBOR BACTERIA.

MR. KUSHI: MR. CHAIR, I THINK THAT'S A SEPARATE ISSUE.

CHAIRMAN VICTORINO: GO AHEAD, MR. OKAMURA.

BOARD MEMBER OKAMURA: IF THERE ARE NO FURTHER QUESTIONS, I WAS WONDERING IF WE COULD HAVE THE DEPARTMENT GO OUT AND CHECK THE WATER PRESSURE AT THE LOCATION, AND SORT OF GET THE FACTS ON THIS ISSUE. AND MAYBE IN THE MEANTIME SOME KIND OF POSSIBILITY WILL COME UP. I DON'T KNOW, THAT'S MY SUGGESTION RIGHT NOW.

CHAIRMAN VICTORINO: OKAY, THANK YOU. MR. HOWDEN.

BOARD MEMBER HOWDEN: THANK YOU. MR. KUSHI, WITH ELEVATION AGREEMENTS, ARE THEY INVARIABLY ENFORCED OR ARE THERE EXCEPTIONS TO THEM?

MR. KUSHI: THEY'RE BASICALLY ENFORCED WHEN SOMETHING HAPPENS, MEANING THAT IF YOU CAN ENTER -- AN ELEVATION AGREEMENT IS A CONSIDERATION OF THE DEPARTMENT APPROVING YOUR SUBDIVISION, KNOWING THAT THE WATER PRESSURE IS LOW. THEN TEN YEARS FROM NOW MAYBE YOU SOLD IT TO KEN. KEN COMPLAINS ABOUT THE WATER PRESSURE, OKAY. AND MAYBE SOMEBODY GOT INJURED OR IT'S DETRIMENTAL TO HIS PROPERTY. WE'RE GOING TO SAY, HEY, HERE IS THIS WATER ELEVATION AGREEMENT. YOUR PREDECESSOR AGREED TO THE CONDITIONS OF

THIS SUBDIVISION. THAT'S WHAT THE ELEVATION AGREEMENT IS.
ESSENTIALLY AN INDEMNIFICATION HOLD HARMLESS AGREEMENT.

CHAIRMAN VICTORINO: BUT THE DUEYS ARE PREPARED TO
SIGN A HOLD HARMLESS AGREEMENT WITH THE COUNTY.

MR. KUSHI: THEY'VE SIGNED IT ALREADY. THEIR
PREDECESSOR SIGNED IT ALREADY, WAILUKU AG. NOW, IF YOU ARE
TALKING ABOUT HOLD HARMLESS FOR FIRE PROTECTION, THAT'S
SOMETHING TOTALLY DIFFERENT. THE DEPARTMENT USED TO DRAFT
FIRE PROTECTION AGREEMENTS, AND THAT PRACTICE WAS CUT OFF A
LONG TIME AGO.

CHAIRMAN VICTORINO: SO WE DO NOT DO THAT ANY
MORE?

MR. KUSHI: NO.

CHAIRMAN VICTORINO: I HAVE A COUPLE OF QUICK
QUESTIONS. WHEN IT COMES TO THIS MAP, AND I'M GETTING TO
THIS WHERE THIS IS THE FIRE HYDRANT AND, MR. DUEY, THIS IS
YOUR LOT RIGHT HERE.

MR. DUEY: CORRECT.

CHAIRMAN VICTORINO: SO FOR CONVERSATION PURPOSES,
LOT 3011, OKAY. WHERE, NANI, ON THIS MAP, WHERE IS THE
HOUSE, YOUR HOUSE THAT YOU INTEND TO BUILD, ON THIS MAP?

NANI SANTOS: DAD, DO YOU WANT TO POINT THAT OUT
FOR ME?

MR. DUEY: IT WOULD BE APPROXIMATELY THERE.

CHAIRMAN VICTORINO: ABOUT THERE. HOW FAR IS THAT
FROM THE FIRE HYDRANT?

MR. DUEY: 540 FEET.

CHAIRMAN VICTORINO: 540 FEET. FROM THE HOUSE TO
WHERE THAT FIRE HYDRANT IS, IS 540 FEET. OKAY. MISS
PARSONS?

BOARD MEMBER PARSONS: WHERE IN THIS ELEVATION
AGREEMENT DOES IT ADDRESS FIRE FLOW?

MR. KUSHI: IT DOESN'T.

BOARD MEMBER PARSONS: SO HOW CAN WE REQUEST A
60,000 GALLON TANK FOR FIRE FLOW AND FIRE PROTECTION BASED
ON THIS ELEVATION AGREEMENT?

MR. KUSHI: MR. CHAIR, IT'S IN THE MODIFICATION TO
THE SUBDIVISION AGREEMENT.

BOARD MEMBER PARSONS: WHERE IS THAT ONE? I'M
MISSING THAT ONE.

BOARD MEMBER OKAMURA: PAGE 8, EXHIBIT B.

MR. DUEY: THE MODIFICATION WASN'T IN THE
SUBDIVISION FILE.

BOARD MEMBER PARSONS: THIS WASN'T IN YOURS, YOU
DIDN'T GET THIS?

MR. DUEY: NO. I HAVE A COPY OF THE SUBDIVISION

FILE RIGHT HERE.

BOARD MEMBER PARSONS: AND YOU NEVER GOT THIS AGREEMENT.

MR. DUEY: NOT THE MODIFICATION. THE ORIGINAL AGREEMENT FOR THE 48,000 GALLON TANK WAS IN HERE, BUT NOT THE MODIFICATION AGREEMENT. I WENT THROUGH THIS FOUR TIMES LAST NIGHT TRYING TO FIND IT.

BOARD MEMBER PARSONS: WHO WAS YOUR ATTORNEY?

MR. DUEY: WE DIDN'T HAVE AN ATTORNEY.

MR. KUSHI: MR. CHAIR, FOR THE RECORD, IT WAS DATED AUGUST 8, 1994. IT WAS RECORDED.

MR. DUEY: I'M NOT ARGUING THAT, ED, I'M JUST SAYING WE DIDN'T HAVE A COPY OF IT.

BOARD MEMBER PARSONS: AND YOUR TITLE COMPANY DIDN'T PROVIDE IT EITHER?

MR. DUEY: NO. WE HAVE THE AUGUST 4TH ONE, NOT
THE AUGUST 8TH.

BOARD MEMBER PARSONS: WELL, THEN YOU MAY HAVE A
TITLE COMPANY ISSUE.

CHAIRMAN VICTORINO: GO AHEAD, MR. DUEY.

MR. DUEY: I WANT TO READ SOMETHING FROM THE
ELEVATION AGREEMENT. IT SAYS, I'M NOT GOING TO READ IT ALL,
BUT "WHEREAS, THE PROPERTY IS SITUATED AT SUCH AN ELEVATION
THAT IT CANNOT BE ASSURED OF DEPENDABLE WATER SERVICE FROM
THE DEPARTMENT'S WATER SYSTEM." THIS IS NOT TRUE. I
ALREADY TOLD YOU MY GAUGE IS AS GOOD AS THE WATER
DEPARTMENT'S GAUGE. THERE'S 51 POUNDS OF PRESSURE THERE.
I'M READING FROM THE AGREEMENT.

CHAIRMAN VICTORINO: PAGE 2 OF THE AGREEMENT.

MR. DUEY: YES, PAGE 2 OF THE AGREEMENT.

CHAIRMAN VICTORINO: WHAT PART OF THAT NOW, AGAIN?

MR. DUEY: ABOUT THE THIRD "WHEREAS." "THE
PROPERTY IS SITUATED AT SUCH AN ELEVATION THAT IT CANNOT BE
ASSURED OF DEPENDABLE WATER SERVICE FROM THE DEPARTMENT'S
WATER SYSTEM." THAT IS NOT TRUE. AND EVIDENTLY THE PUMP AT
KEPANIWAI WAS PUT ON LINE AFTER THIS. I ASKED THE
DEPARTMENT TO LET ME KNOW WHEN, AND NOBODY HAS TOLD ME WHEN.
BUT IN THE AGREEMENT, IN THE SUBDIVISION INFORMATION IT SAID
THE WATER IS COMING FROM IAO TUNNEL. SO I'M ASSUMING,
WHICH YOU SHOULD NEVER DO, THAT THE WELL WASN'T ON LINE
THEN. SO THE WELL WAS PUT ON LINE AFTER THAT.

I'M READING ON DOWN. "IN CONSIDERATION," NUMBER

1. AND WE ARE NOT THE SUBDIVIDER, WAILUKU AG WAS THE
SUBDIVIDER. MY DAUGHTER JUST WANTS TO BUILD A HOUSE THERE.

"IT CANNOT BE ASSURED OF A DEPENDABLE SUPPLY OF WATER FROM
THE DEPARTMENT'S WATER SYSTEM." AND SO FORTH.

AND THEN IT GOES OVER AND WE'RE SUPPOSED TO DO ALL
THESE THINGS. AND THEN IN NUMBER 4 IT SAYS, "THE SUBDIVIDER
AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COUNTY OF
MAUI." SO IT DOESN'T MAKE SENSE. IF YOU DO ALL THESE
THINGS YOU STILL CAN'T HOLD THE COUNTY HARMLESS. IT LOOKS

LIKE IT SHOULD BE ONE OR THE OTHER. IF YOU DO ALL THESE THINGS THEN YOU CAN'T HOLD THE COUNTY HARMLESS. AND THIS IS SAYING IF YOU DO THESE THINGS YOU STILL CAN'T HOLD THE COUNTY HARMLESS.

BOARD MEMBER OKAMURA: I THINK THE REASON WAS THAT WHENEVER THEY GO OUTSIDE OF THE RULES OR MAKE AN EXCEPTION OR MAKE A DIFFERENT AGREEMENT THEY HAVE TO PUT THESE THINGS IN.

MR. DUEY: I'M A SIMPLE PERSON, I'M NOT A LAWYER, AND IT DOESN'T MAKE SENSE TO ME. I SEE THINGS IN BLACK AND WHITE. GEORGE KNOWS, I'VE TALKED ABOUT THE WATER ISSUES BEFORE. THINGS TO ME AREN'T GREY, THEY'RE BLACK AND WHITE, AND THIS IS A BLACK AND WHITE ISSUE. WE SIGNED THIS ELEVATION AGREEMENT, I'M NOT ARGUING THAT AT ALL. BUT WE ARE NOT THE SUBDIVIDER. WE'RE NOT GOING TO BUILD 36 HOMES ON THIS PROPERTY.

BOARD MEMBER OKAMURA: I THINK THE SUBDIVIDER IN THIS CASE IS WAILUKU AGRIBUSINESS. I THINK IT'S WAILUKU AGRIBUSINESS. AND IN ORDER TO GET IT SUBDIVIDED THEY

PROBABLY COULDN'T GET IT DONE UNLESS THEY MADE THIS AGREEMENT, BECAUSE THEY DIDN'T HAVE EVERYTHING IN PLACE OR SOMETHING LIKE THAT, SO NOW EVERYBODY IS STUCK WITH THIS AGREEMENT. AND I THINK THAT'S WHY THE BOARD MEMBERS SAID TRY NOT TO MAKE EXCEPTIONS AND MAKE SPECIAL AGREEMENTS, BECAUSE WE END UP WITH PROBLEMS LIKE THIS. BUT I THINK THAT'S THE CASE.

MAYBE WE SHOULD, MR. CHAIR, MAYBE WE SHOULD HAVE THE STAFF GO OUT AND CHECK THE SITUATION, THE CURRENT SITUATION OVER THERE, AND SEE IF THERE'S SUFFICIENT PRESSURE NOW.

MR. DUEY: MAY I SAY ONE MORE THING?

CHAIRMAN VICTORINO: SURE.

MR. DUEY: THE OTHER THING IS, I CAN'T SEE WHY THE PRESSURE IS ALSO AN ISSUE. I CAN'T SEE WHY THE PRESSURE CAN BE AN ISSUE, BECAUSE I MAY BE WRONG, BUT I UNDERSTAND THAT WHEN THE TIRE TRUCK HOOKS UP TO A FIRE HYDRANT THEY HAVE THE PUMP ON THE TRUCK.

BOARD MEMBER ALDRIDGE: I MIGHT COMMENT ON THAT.

CHAIRMAN VICTORINO: GO AHEAD, MR. ALDRIDGE.

BOARD MEMBER ALDRIDGE: WELL, MAY I COMMENT ON THIS ENTIRE THING?

CHAIRMAN VICTORINO: YOU MAY.

BOARD MEMBER ALDRIDGE: I THINK THAT IT WAS AT THE TIME NOT UNREASONABLE FOR THE WATER DEPARTMENT TO ENTER INTO AN AGREEMENT WITH A SUBDIVIDER AND REQUIRE CONDITIONS SUCH AS THE ONES THAT WERE IN THIS MODIFICATION OF SUBDIVISION AGREEMENT. BECAUSE AFTER ALL, WAILUKU AGRIBUSINESS COULD HAVE DIVIDED THIS INTO A LARGE NUMBER OF LOTS, AND IT WOULD HAVE REQUIRED A FIRE PROTECTION SERVICE.

SO I DON'T THINK THE AGREEMENT IS UNREASONABLE, NOR IS THE ELEVATION AGREEMENT. EVEN THOUGH THERE MAY BE ADEQUATE PRESSURE AT YOUR LOT, WAILUKU AGRIBUSINESS COULD HAVE DIVIDED IT IN SUCH A WAY THAT SOME OF THE UPPER LOTS WOULD HAVE HAD MINIMAL PRESSURE, IF AT ALL. SO WHAT YOU'RE STRADDLED WITH IS AN AGREEMENT THAT RUNS WITH THE LAND THAT IS ONEROUS TO YOU. I THINK TO STRIVE FOR -- AND I DON'T

THINK IT'S APPROPRIATE FOR STAFF TO TRY TO WAIVE
REQUIREMENTS LIKE THIS.

CHAIRMAN VICTORINO: EXACTLY.

BOARD MEMBER ALDRIDGE: SO I THINK WHAT'S
NECESSARY IS FOR THE OWNERS TO DEMONSTRATE THAT THEY HAVE AN
ALTERNATIVE SOURCE OF SUPPLY THAT'S RELIABLE, PERHAPS TO
HOLD THE COUNTY HARMLESS IN TERMS OF FIRE FLOW, AND TO
ACTUALLY PERHAPS PREPARE A NEW AGREEMENT THAT WOULD OVERRIDE
THIS ONE.

BOARD MEMBER PARSONS: ALSO WITH SPRINKLERS THE
AMOUNT OF FLOW THAT YOU NEED DRASTICALLY DROPS. SPRINKLERS
AREN'T THAT EXPENSIVE TO PUT IN ANYMORE. AND YOU MIGHT BE
ABLE TO WORK WITH THE FIRE DEPARTMENT TO FIGURE OUT THAT
FORMULA, BECAUSE IT DOES DROP SIGNIFICANTLY. YOU KNOW HOW I
FEEL ABOUT FIRE FLOW, AND I'VE FOUGHT THIS FOR FIVE YEARS
NOW. I DON'T THINK IT SHOULD BE ON THE BACKS OF THE
RESIDENTS.

CHAIRMAN VICTORINO: MR. DUEY, GO AHEAD.

MR. DUEY: COULD YOU ADDRESS THE FIRE TRUCK
SITUATION?

BOARD MEMBER ALDRIDGE: WELL, I UNDERSTAND THAT
FIRE TRUCKS HAVE PUMPERS THAT THEY BOOST THE PRESSURE OFF
THE HYDRANT. HOWEVER, WHAT THEY ALSO DO, WHICH IS NEGATIVE
AND CAN IMPACT THE ENTIRE AREA SERVED BY A FIRE HYDRANT, IS
THEY CAN TAKE SO MUCH WATER OUT OF THE FIRE HYDRANT THAT
THEY ACTUALLY LOWER THE PRESSURE IN THE PIPELINE TO A
NEGATIVE. THEY ACTUALLY SUCK WATER OUT OF THE PIPE. AND
THAT CAN BE A VERY DANGEROUS SITUATION, BECAUSE YOU CAN
CONTAMINATE THE WATER SERVICES IN AREAS SURROUNDING THE MAIN
THAT'S CONNECTED TO THE HYDRANT.

MR. DUEY: WELL, I DON'T KNOW HOW MUCH THEY CAN
PUMP OUT OF ONE FIRE HYDRANT, BUT THE CAPACITY OF THE
12-INCH PIPE IS 1550 GALLONS A MINUTE. SO I DON'T KNOW HOW
MUCH THEY CAN PUMP.

BOARD MEMBER ALDRIDGE: WELL, PUMPERS CAN PUMP
OVER 2000 GALLONS A MINUTE.

MR. DUEY: WELL, OKAY, I'LL END WITH THIS THING.

NUMBER ONE IS THERE'S MORE CAPACITY THAN NEEDED FOR THE 400 GALLONS A MINUTE IN THE WATER LINE. THAT'S A GIVEN. THE WATER IS THERE FROM THE TUNNEL AND/OR THE WELL. THE WATER IS THERE. NUMBER TWO, IF THE PRESSURE -- IF SOMEBODY FEELS THE PRESSURE IS NOT SUFFICIENT, THE FIRE TRUCK BOOST THE PRESSURE IT THROWS AT THE FIRE. SO TO ME, THE TWO THINGS IN THIS ELEVATION AGREEMENT, LIKE I SAY, I'M BLACK AND WHITE. THEY DON'T MAKE A BIT OF SENSE BEYOND THE MONEY THING.

CHAIRMAN VICTORINO: ONE MORE THING, MR. DUEY. I HEARD YOU SAY EARLIER, AND CORRECT ME IF I AM WRONG, BUT I THINK IT'S ALSO A REQUIREMENT THAT IF THEY WERE TO BUILD A HOUSE THERE, NANI, THAT A FIRE HYDRANT WOULD HAVE TO BE APPURTENANT TO THE NEW STRUCTURE, BECAUSE IT IS A NEW STRUCTURE. I THINK THAT WAS A COUNTY FIRE CODE MANY YEARS AGO. IT HAS TO BE DONE.

MR. DUEY: OUR FAMILY HAS TALKED. I DON'T KNOW WHAT THE LAW IS AS FAR AS THE FIRE HYDRANT. SOMEBODY SAID 250. I DON'T KNOW WHAT THE DISTANCE IS. IF THE FIRE HYDRANT IS REQUIRED, WE WILL PUT A FIRE HYDRANT IN. THAT'S MONEY, BUT IT'S NOT A PROBLEM. IT'S NOT INTRUSIVE. OR TWO

FIRE HYDRANTS, IF IT'S REQUIRED FOR THE PROPERTY. WE ARE NOT A SUBDIVIDER, AND I THINK THAT'S THE WHOLE THING.

BOARD MEMBER OKAMURA: I THINK THIS WORDING IS RELATED TO WAILUKU AGRIBUSINESS, WHO WAS THE SUBDIVIDER AT THAT TIME.

MR. DUEY: YES. AND THE OTHER THING AND I'LL FINALLY SHUT UP. BUT THE OTHER THING IS THAT BEING ABLE, I KNOW IT'S NOTHING WE CAN DO HERE, BUT FOR A SUBDIVIDER, ANY SUBDIVIDER TO BE ABLE TO DEFER COST TO SOMEBODY ELSE IS UNREASONABLE. IN THIS CASE THE WATER, THE ELEVATION AGREEMENT, OR ANYTHING ELSE, TO BE ABLE TO DEFER THAT COST TO THE NEXT PERSON IS JUST RIDICULOUS, BLACK AND WHITE.

BOARD MEMBER PARSONS: THAT REQUIRES A NEW RULE THAT I THINK WE REALLY SHOULD CONSIDER WRITING, BECAUSE I DON'T THINK ANY OF THESE AGREEMENTS SHOULD BE ACCEPTED AND BE ABLE TO BE PASSED ON. I THINK IF A SUBDIVIDER WANTS TO SUBDIVIDE HIS PROPERTY -- I WAS JUST WRITING THIS -- IF HE WANTS TO SELL OR DISPOSE OF THE PROPERTY PRIOR TO COMPLETING THE REQUIREMENTS, THAT SHOULD BE JUST TOTALLY DISALLOWED.

IF YOU HAVE GOT REQUIREMENTS, YOU HAVE TO DO IT, THEN YOU
SELL IT.

CHAIRMAN VICTORINO: YES, MRS. DUEY.

MRS. DUEY: I WANT JUST ONE MINUTE, BECAUSE I WANT
TO CLEAR UP A PERCEPTION YOU MAY HAVE IN REGARDS TO THE
48,000 GALLON TANK. AT THE TIME WE PURCHASED THE PROPERTY,
WHEN WE GOT THE TITLE AND WE SAW IT IN THERE, WE WERE REALLY
EXCITED ABOUT THE PURCHASE OF THE PROPERTY FOR OUR FAMILY.
WE DID NOTICE THAT THE 48,000 GALLONS WAS IN THERE. AND OUR
CONSENSUS WHEN WE TALKED ABOUT IT WAS WE WERE NOT THE DOJO.
THE DOJO WAS GOING TO BE BUILDING, THEY HAD CLEARED THE
LAND. AND WE FELT THAT THE DOJO, BEING THE FIRST PERMITTED
PERSON WHO WAS CLEARING THE LAND WAS THE ONE THAT WAS GOING
TO BE DOING IT. BECAUSE THAT'S WHAT THE WHOLE SUBDIVISION
WAS BUILT ON, GETTING THE LAND DIVIDED SO THE DOJO WOULD BE
ABLE TO DO SOMETHING UP THERE.

SO OUR FAMILY REALLY, TRULY BELIEVED THE DOJO WAS
GOING TO BUILD, AND THEY WERE GOING TO BE PUTTING IN THE
48,000 GALLON TANK. WE DID NOT THINK IT WOULD FALL ON AN
INDIVIDUAL FAMILY, LIKE OUR DAUGHTER AND HER HUSBAND, OR OUR

SON, TO BE DOING SOMETHING LIKE THAT. AND BECAUSE THEY WERE YEARS AWAY FROM PLANNING THIS, YOU KNOW.

BOARD MEMBER OKAMURA: I THINK THEY MIGHT HAVE GIVEN THE LAND TO THE DOJO.

MR. DUEY: THEY DID, THEY GAVE THE LAND TO THE DOJO.

BOARD MEMBER OKAMURA: SO THE PERSON WHO BOUGHT THE SECOND PROPERTY WOULD HAVE BEEN THE BUILDER, AS STATED IN THE AGREEMENT.

CHAIRMAN VICTORINO: MR. KUSHI, MY QUESTION TO YOU IS THIS. HAVING ALL OF THIS IN FRONT OF US, IS THERE SOMETHING THESE PEOPLE CAN DO OR WE CAN DO TO HELP THESE PEOPLE IN THESE CIRCUMSTANCES? I THINK ALL OF US HAVE REVIEWED IT. NOBODY IS DISPUTING ANY OF THE AGREEMENTS THAT WERE MADE. BUT I THINK IS THERE SOME METHOD WE CAN -- AND AGAIN, I HATE TO USE THE WORD WAIVER. BECAUSE ONCE YOU START WAIVING THINGS YOU ARE GOING TO OPEN PANDORA'S BOX, AND I'VE ALWAYS BEEN ONE OF THOSE THAT DON'T LIKE TO OPEN

PANDORA'S BOX. AND ALSO I WANT TO USE COMMON SENSE. WHAT RECOMMENDATIONS COULD WE MAKE TO MR. DUEY, MR AND MRS. SANTOS IN THIS KIND OF SITUATION?

MR. KUSHI: MR. CHAIR, NOT SPEAKING FOR THE DEPARTMENT, BUT I JUST HEARD MR. DUEY VOLUNTEER TO PUT ANOTHER HYDRANT FURTHER TOWARDS THIS NEW HOUSE. I'M NOT SURE IF THE PRESSURE WILL BE ADEQUATE. THAT'S AN ENGINEERING ISSUE. BUT IN LIEU OF THIS 60,000 GALLON RESERVOIR TANK. OR MOVE THE HOUSE CLOSER TO THE EXISTING HYDRANT. BUT THAT WOULD THEN TAKE ANOTHER AGREEMENT TO MAKE SURE. BUT AGAIN, IT IS WHAT IT IS. HIS PREDECESSOR SIGNED THIS AGREEMENT.

AND I UNDERSTAND WHAT MRS. DUEY WAS SAYING, BECAUSE I WAS INVOLVED IN THAT DOJO TOO, AND THEY NEVER BUILT ANYTHING YET.

CHAIRMAN VICTORINO: MR. TENGAN?

DIRECTOR TENGAN: YES, MR. CHAIR. I'D LIKE TO OFFER ONE COMMENT TOO. YOU HEARD MR. DUEY TALK ABOUT WATER IS ALWAYS IN THE PIPE. AND YOU HEARD MR. ALDRIDGE TALK

ABOUT -- WELL, MR. DUEY STATED THAT THE FIRE TRUCKS CAN PUMP THE WATER OUT OF THE LINE. AND YOU HEARD MR. ALDRIDGE ALSO SAY THAT THE PUMPER TRUCKS CAN PUMP AT A RATE OF 2000 GALLONS PER MINUTE.

NOW, WE TAKE ABOUT 1.8 MILLION GALLONS PER DAY MAX OUT OF THE IAO TUNNEL, SO THIS IS A CONSTANT FLOW THROUGH THE PIPE, AND IT RARELY FLUCTUATES IN THE CAPACITY. SO IF YOU ARE TAKING OUT 2000 GALLONS PER MINUTE, WHAT YOU ARE REALLY DOING IS IF YOU PROJECTED THAT OUT YOU WOULD BE TAKING OUT 2.8 MILLION GALLONS PER DAY, WHICH INDICATES THAT THE PUMPER TRUCKS WOULD BE PULLING MUCH MORE WATER THAN WHAT'S AVAILABLE IN THE LINE. SO THAT'S ONE OF THE CONCERNS THAT THE BOARD SHOULD CONSIDER WHEN IT'S COMING UP WITH ITS RECOMMENDATIONS.

CHAIRMAN VICTORINO: THANK YOU. AND AGAIN, I HOPE THAT --

DIRECTOR TENGAN: I WOULDN'T REFUTE THE FACT OF WHAT MR. DUEY IS SAYING, THAT YES, WATER IS IN THE LINE. THE TUNNEL HAS, TO MY KNOWLEDGE, NEVER FAILED, YOU KNOW.

BUT WE HAVE GOT TO LOOK AT HOW MUCH WATER CAN REALLY BE PUMPED OUT OF THAT LINE IN CASE THERE'S A FIRE.

CHAIRMAN VICTORINO: AND AGAIN, BEFORE YOU ANSWER, MR. DUEY, I WOULD SAY I AGREE WITH WHAT YOU'RE SAYING, MR. TENGAN. HOWEVER, HOPEFULLY AND WE PRAY THAT NO FIRE EVER OCCURS. AND IF A FIRE DOES OCCUR, HOW LONG WOULD THEY TAKE TO FIGHT THAT FIRE. IF IT'S A STRUCTURAL FIRE, I'M NOT AN EXPERT IN STRUCTURAL FIRES AND HOW LONG THEY LAST, BUT IN INSURANCE TERMS WE FIGURE BETWEEN 5 TO 12 MINUTES, AND THE FIRE HAS TO BE PUT OUT OR PUT INTO A POINT WHERE IT IS CONTROLLABLE OR IT'S TOTALLY GONE ALREADY AT THAT POINT.

NOW, HOW MANY MINUTES OF 2000 GALLONS OF WATER WOULD FLOW AT THAT POINT TO PUT OUT THE FIRE, I AM NOT AN EXPERT IN THAT AREA, BUT JUST WHAT I CAN COME UP WITH, I DON'T THINK -- IT MY HAVE A SPIKE FOR THAT DAY OR --

DIRECTOR TENGAN: WHAT I'M DRIVING AT, MR. CHAIR, IS WITH THE TANK YOU WILL HAVE THAT TWO HOUR DURATION THAT'S REQUIRED BY OUR STANDARDS. WITHOUT THE TANK WE HAVE TO DEPEND ON THE FLOW THROUGH THE PIPELINE AND WHETHER THAT WATER IS AVAILABLE.

BOARD MEMBER PARSONS: AGAIN, LOOK AT THE
SPRINKLER SYSTEM. IT DOES TAKE IT DOWN SIGNIFICANTLY, THE
NEED, AND YOU CAN WORK RIGHT WITH THE FIRE DEPARTMENT ON
GETTING THOSE FIGURES.

CHAIRMAN VICTORINO: MR. DUEY?

MR. DUEY: TO ANSWER GEORGE'S QUESTION, THE LATEST
FIGURES WE HAVE FROM THE PUMP IS AUGUST. I DON'T KNOW WHAT
THE CURRENT FIGURES ARE. IT WAS 835,000 GALLONS. AT THAT
FLOW WITH THE 1.8 FROM THE TUNNEL THAT GEORGE JUST
CONFIRMED, THAT'S 1830 GALLONS A MINUTE. THAT'S 170 GALLONS
A MINUTE SHORT OF THE 2000 GALLONS THAT MR. ALDRIDGE SAID
THE PUMPER HAS.

I AGREE WITH YOU, THEY'RE TALKING ABOUT A MAXIMUM
OF TWO HOURS FIGHTING THE FIRE. BUT AFTER TEN MINUTES YOU
WANT THE HOUSE TO BURN DOWN ANYWAY. YOU DON'T WANT TO SAVE
THE HOUSE, BECAUSE YOU HAVE JUST GOT TO CLEAN IT UP. SO
AFTER TEN MINUTES IF YOU CAN'T SAVE THE HOUSE, LET THE THING
BURN.

CHAIRMAN VICTORINO: THE ONLY THING IS THAT TRY TO
CONTROL THE REGION SO NO ONE ELSE CATCHES FIRE.

MR. DUEY: I APPRECIATE GEORGE'S THOUGHTS AND
ALVA'S THOUGHTS, BUT THIS IDEA OF A 60,000 GALLON TANK IS
STILL -- THERE'S WORD I DON'T LIKE TO USE, BUT IT'S
RIDICULOUS. THERE'S A WORD THAT STARTS WITH AN S, BUT I
WON'T USE THAT.

BOARD MEMBER PARSONS: IT'S JUST ONE OF THE ISSUES
RIGHT NOW THAT THEY'RE LOOKING AT. EVEN THE EPA AND THE
DEPARTMENT OF HEALTH ARE NOT HAPPY WITH TANKS. AND WHETHER
OR NOT YOU ARE USING IT FOR FIRE FLOW OR WHATEVER, WHEN YOU
HAVE PATHOGENS GROWING IN IT AND YOU START SPRAYING YOUR
HOUSE WITH IT, YOU ARE GOING TO BREATHE IN PATHOGENS. SO
IT'S NOT JUST POTABLE WATER ISSUES.

CHAIRMAN VICTORINO: KUI?

BOARD MEMBER LESTER: I HEARD FOR THE FIRE
PREVENTION OR WHATEVER THAT THEY RECOMMENDED ALSO YOU COULD
DO A SWIMMING POOL.

CHAIRMAN VICTORINO: THAT'S ANOTHER ALTERNATIVE,
YEAH.

MR. DUEY: PUMP WATER OUT OF THE POOL.

CHAIRMAN VICTORINO: THAT HAS BEEN AN ALTERNATIVE
IN SOME AREAS.

MR. DUEY: WE DON'T NEED A POOL, WE HAVE THE RIVER
THERE.

CHAIRMAN VICTORINO: THERE YOU GO. ANY OTHER
DISCUSSION? MR. KUSHI? ALVA?

MR. NAKAMURA: NO, NOTHING MORE.

CHAIRMAN VICTORINO: I OPEN THE FLOOR NOW TO SOME
KIND OF MOTION IN WHAT WE WOULD LIKE TO HELP RESOLVE THIS
MATTER. I MEAN WE'VE ALL SEEN THE FACTS. AND AGAIN, I
REPEAT, NO ONE IS DISPUTING ANY OF THE AGREEMENTS THAT ARE
IN FRONT OF US, INCLUDING THE DUEYS AND THE SANTOS'. I

THINK A LOT OF THIS WAS DONE, AND TODAY WE ARE IN A
DIFFERENT ENVIRONMENT. AND I AM NOT WANTING TO WAIVE
THINGS, BUT I WANT TO SEE A JUSTIFIABLE CHANGE TO MAKE THIS
SOMEHOW WORK FOR EVERYBODY. KENNETH?

BOARD MEMBER OKAMURA: I JUST HAD A QUESTION. WE
STILL DON'T KNOW THE CAPACITY OF THE WATER LINE IN FRONT,
LET'S SAY, TO PUT FIRE HYDRANTS. WOULD THAT BE INSUFFICIENT
RIGHT OFF THE BAT, OR IS IT WORTHWHILE TO TAKE A LOOK AT
THAT ALTERNATIVE?

CHAIRMAN VICTORINO: IT'S A 12-INCH LINE. WHAT
YOU'RE SAYING KENNETH IS --

BOARD MEMBER OKAMURA: IN OTHER WORDS, DO WE NEED
MORE INFORMATION ABOUT THAT?

CHAIRMAN VICTORINO: I DON'T THINK SO, BECAUSE
HE'S SAYING THIS LOWER ONE, WHICH IS WHAT I'M READING FROM
YOU, IS SUFFICIENT AND THIS UPPER ONE, WHICH IS ABOVE
KEPANIWAI IS MINIMAL, THEN IF THIS ONE IS COMING SOMEWHERE
IN BETWEEN I WOULD NOT SEE IT BEING A PROBLEM AS FAR AS
PRESSURE IS CONCERNED AND WATER FLOW. BUT THAT'S WHAT I

SEE, YOU KNOW. I DON'T THINK THAT'S A MAJOR ISSUE. AND I
THINK THEY'VE DONE THAT RESEARCH AS FAR AS THEY'RE
CONCERNED, SENT THE GUYS UP TO CHECK.

BOARD MEMBER OKAMURA: SO IF HE PUT UP A HYDRANT
IT WOULD HAVE SUFFICIENT PRESSURE. AND LIKE MR. ALDRIDGE
SAID, IF THAT WOULD MEET THE REQUIREMENTS WE COULD HAVE
MAYBE THE AGREEMENT, ANOTHER AGREEMENT DRAWN UP BASED ON THE
HYDRANT, AND THEN DELETE THE FIRST AGREEMENT.

DIRECTOR TENGAN: MR. CHAIR?

CHAIRMAN VICTORINO: YES, MR. TENGAN.

DIRECTOR TENGAN: MAY I ASK THAT YOU CALL A
RECESS SO I CAN TALK TO CORP COUNSEL?

CHAIRMAN VICTORINO: I'LL CALL FOR A 10-MINUTE
RECESS.

(WHEREUPON A BRIEF RECESS WAS HAD)

CHAIRMAN VICTORINO: I WILL RECONVENE THE MEETING.

MR. TENGAN?

DIRECTOR TENGAN: YES, MR. CHAIR. I JUST HAD A DISCUSSION WITH MR. DUEY, AND IT SEEMS LIKE WE HAVE SOMETHING THAT WE CAN WORK OUT. SO IF THE BOARD WOULD GIVE US THE OPPORTUNITY TO MEET WITH MR. DUEY AND HIS FAMILY, AND TRY TO WORK OUT A RESOLUTION TO THIS SITUATION HERE AND REPORT BACK TO THE BOARD AT THE NEXT MEETING OF OUR FINDINGS. AND IF WE CAN COME UP WITH SOME KIND OF AN AGREEMENT OR LETTER OF UNDERSTANDING, MAYBE WE CAN WORK SOMETHING OUT. SO I WOULD SUGGEST THAT THE BOARD DEFER THIS MATTER.

CHAIRMAN VICTORINO: OKAY. MR. DUEY, ARE YOU OKAY WITH THAT?

MR. DUEY: YES, SIR.

CHAIRMAN VICTORINO: OKAY. IS THE BOARD OKAY WITH THE DIFFERENCE?

BOARD MEMBER OKAMURA: I MOVE THAT WE DEFER UNTIL

THE NEXT MEETING.

CHAIRMAN VICTORINO: IT'S BEEN MOVED.

BOARD MEMBER PARSONS: SECOND.

CHAIRMAN VICTORINO: IT HAS BEEN MOVED AND
SECONDED. OKAY, WE WILL DEFER ANY ACTION TO THE NEXT
MEETING SUBJECT TO WHATEVER THEY COME UP WITH. ALL THOSE IN
FAVOR SAY "AYE."

(A CHORUS OF AYES)

OPPOSED?

(NONE)

THANK YOU, MR. DUEY, THE SANTOS'. THANK YOU VERY
MUCH. TAKE CARE NOW. AND THANK YOU, GEORGE, FOR YOUR
ASSISTANCE IN THIS MATTER, AND ED. I'M ALWAYS PLEASED WHEN
WE CAN ALL SIT DOWN AND WORK OUT A SOLUTION AND NOT HAVE TO
GO ANY FURTHER THAN THAT.

OKAY, MOVING ON. SO WE DEFER COMMUNICATION 06-06.

MOVING ON TO, YOU KNOW, AGAIN, IF THE BOARD WILL INDULGE ME, I HAVE A COUPLE OF IMPORTANT PEOPLE THAT I KNOW THEIR TIME IS VERY VALUABLE, AND THEY WANT TO DISCUSS CERTAIN MATTERS WITH US. AND I'M REFERRING TO UNDER OTHER BUSINESS, A DISCUSSION WITH CORP COUNSEL'S OFFICE REGARDING PENDING MATTERS, ISSUES AND CASES BEFORE THE STATE COMMISSION ON WATER RESOURCE MANAGEMENT, AND PROPOSAL TO HIRE SPECIAL COUNSEL TO REPRESENT THE INTERESTS OF THE COUNTY OF MAUI.

FOR THIS MATTER, THE BOARD MAY CONVENE IN EXECUTIVE SESSION PURSUANT TO HRS 92-5(A) SECTION 4 IN ORDER TO CONSULT WITH THE BOARD'S ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES.

SO IF IT'S ALL RIGHT WITH THE BOARD, I'D LIKE TO MOVE INTO THAT AREA. AND IN PURSUANCE WITH THAT, I WILL ASK MR. KUSHI, DO YOU THINK WE NEED EXECUTIVE SESSION TO DISCUSS THIS MATTER?

MR. KUSHI: MR. CHAIR, I WILL REFER TO MY BOSS,

BRIAN MOTO AND MY COLLEAGUE JANE LOVELL, WHO WILL DO THE PRESENTATION.

CHAIRMAN VICTORINO: MR. BRIAN, DO YOU THINK WE NEED TO GO INTO EXECUTIVE SESSION FOR THIS MATTER?

MR. MOTO: GOOD MORNING MR. CHAIRMAN AND MEMBERS.

MY NAME IS BRIAN MOTO. I'M THE CORPORATION COUNSEL FOR THE COUNTY OF MAUI. I'M HERE TODAY WITH MY CHIEF OF LITIGATION, MISS JANE LOVELL, WHO IS A DEPUTY CORPORATION COUNSEL, AND SHE WILL ADDRESS THE BOARD ON MOST OF THE POINTS ON TODAY'S AGENDA ITEM.

I WILL, FIRST OF ALL, PREFACE BY THANKING THE BOARD FOR THIS OPPORTUNITY. WE WANTED TO COME TO YOU TO GIVE YOU AN UPDATE ON THE MATTERS THAT WE THINK ARE VERY IMPORTANT AND THAT RELATE TO ISSUES PENDING BEFORE THE STATE COMMISSION ON WATER RESOURCE MANAGEMENT. I SEE THAT THERE IS A NOTICE ON THE AGENDA THAT PROVIDES FOR AN EXECUTIVE SESSION, HOWEVER I DON'T ANTICIPATE THAT BEING NECESSARY. WE TRY TO DISCUSS AS MUCH AS WE CAN IN OPEN SESSION. HOWEVER, IF SOME OF YOUR QUESTIONS GET INTO PARTICULAR

LITIGATION STRATEGIES OR TACTICS, THEN AT THAT POINT WE MIGHT HAVE TO GO INTO EXECUTIVE SESSION. HOWEVER, MOST OF OR ALL OF MISS LOVELL'S REMARKS ARE FINE IN OPEN SESSION.

CHAIRMAN VICTORINO: OKAY. SO JUST BEFORE I GET STARTED, IT WILL BE WHERE YOU WILL SAY, MR. CHAIR, I THINK THIS MATTER SHOULD GO INTO EXECUTIVE SESSION. EITHER WE CAN DEFER IT AT THAT POINT AND GO INTO EXECUTIVE SESSION FOR THAT MATTER OR MATTERS, OR IF NOT, THEN WE WILL JUST CONTINUE ON.

MR. MOTO: YES.

CHAIRMAN VICTORINO: IS THAT FAIR ENOUGH FOR THE ENTIRE BOARD? YES, MR. OKAMURA.

BOARD MEMBER OKAMURA: I WAS WONDERING WHETHER THE PRESENTATION WOULD INCLUDE A BRIEF BACKGROUND AT THE BEGINNING SO WE KNOW WHAT THE SUBJECT MATTER IS ABOUT. THANK YOU.

CHAIRMAN VICTORINO: SO WITH NO FURTHER ADO, MISS LOVELL, I WELCOME YOU. FIRST OF ALL, I'D LIKE TO THANK YOU

ON BEHALF OF THE BOARD FOR COMING HERE TODAY. I THINK WE'VE BEEN LONG, LONG WAITING FOR THIS. AND THE THREE NEW MEMBERS, YOU GUYS ARE REALLY BLESSED, BECAUSE WE HAVE BEEN WAITING A FEW YEARS FOR THIS. SO YOU GUYS ARE LUCKY THE FIRST MEETING YOU COME TO AND YOU GET THEM ALL. THEY'RE VERY NICE PEOPLE AND I THANK YOU.

MISS LOVELL: THANK YOU CHAIR AND MEMBERS. THANK YOU FOR INVITING ME HERE TODAY. I WOULD LIKE TO GIVE YOU SOME BACKGROUND ON WHAT IS HAPPENING WITH THE DESIGNATION OF THE IAO AQUIFER AS A GROUNDWATER MANAGEMENT AREA UNDER THE STATE WATER CODE. IS MY VOICE COMING THROUGH OKAY?

CHAIRMAN VICTORINO: IT'S BEING RECORDED IN THE BACK, SO NO PROBLEM.

MISS LOVELL: AS YOU PROBABLY KNOW, ON JULY 21ST, 2003 THE STATE WATER COMMISSION DESIGNATED THE IAO AQUIFER AS A GROUNDWATER MANAGEMENT AREA. WHAT THIS MEANS UNDER THE STATE WATER CODE IS THAT THE STATE COMMISSION ON WATER RESOURCE MANAGEMENT TAKES OVER THE MANAGEMENT OF THE AQUIFER. IN OTHER WORDS, IT BECOMES A STATE RESPONSIBILITY

TO SAY WHO CAN PUMP HOW MUCH GROUNDWATER FROM THE AQUIFER.
UNDER THE STATE WATER CODE, EVERYONE WHO IS PUMPING
GROUNDWATER, EXCEPT FOR PRIVATE INDIVIDUALS WITH A SINGLE
WELL FOR A SINGLE-FAMILY RESIDENCE, MUST APPLY FOR A WATER
USE PERMIT.

SO THE DEPARTMENT OF WATER SUPPLY, ON BEHALF OF
THE COUNTY, APPLIED FOR WATER USE PERMITS FOR ALL OF ITS
WELLS IN THE IAO AQUIFER. THOSE APPLICATIONS HAD TO BE IN
WITHIN ONE YEAR OF DESIGNATION OR JULY 21, 2004. ALL OF THE
APPLICATIONS WERE SUBMITTED BY THAT TIME, ALTHOUGH THERE WAS
A TECHNICAL GLITCH WITH ONE OF THEM, NAMELY THE APPLICATION
FOR THE WAILUKU SHAFT 33. THAT'S THE ONE THAT'S JUST RIGHT
OUT HERE. YOU CAN SEE RIGHT OUT THE WINDOW. THAT HAPPENS
TO BE THE BIGGEST SOURCE, THE BIGGEST SINGLE SOURCE OF ANY
PUMP, WELL WATER THAT'S PUMPED FROM THE IAO AQUIFER.

THE APPLICATION WAS SUBMITTED IN A TIMELY FASHION
BY THE WATER DEPARTMENT. HOWEVER, THE LANDOWNER, WHICH WAS
-- I CAN'T REMEMBER, KEHAULANI MAUKA IS I GUESS THE
CORPORATE NAME OF THE ENTITY. IT'S A STANFORD CARR
DEVELOPMENT ENTITY. THEY OWN THE GROUND ON WHICH THE SHAFT
IS LOCATED, AND THEY DECLINED OR REFUSED TO SIGN OFF ON THE

DEPARTMENT'S APPLICATION.

EVENTUALLY THEY DID AGREE TO SIGN, BUT THEY SIGNED AFTER THE DEADLINE. AND THEREFORE, THE WATER COMMISSION HELD THAT THE APPLICATION WAS LATE, AND THEREFORE THEY DETERMINED THAT THE DEPARTMENT'S USE FROM THAT SOURCE WOULD BE DEEMED A NEW USE, NOT AN EXISTING USE, AND IT WOULD HAVE TO BE DECIDED AFTER ALL OF THE EXISTING USES WERE DEALT WITH.

CHAIRMAN VICTORINO: IF I MAY ASK A QUESTION. HOW MUCH WATER ARE WE TALKING ABOUT GALLONS PER DAY WITH THE WAILUKU SHAFT. I GUESS THAT'S THE QUESTION.

MISS LOVELL: THE WAILUKU SHAFT, THE APPLICATION WAS FOR 5.771 MILLION GALLONS PER DAY. IT'S A VERY PRODUCTIVE SOURCE.

CHAIRMAN VICTORINO: OKAY.

MISS LOVELL: THE DEPARTMENT CHALLENGED THAT FINDING THAT THEY WERE LATE AND SO FORTH, BUT THAT WAS HEARD

BY THE COMMISSION AND THE COMMISSION UPHELD ITS STAFF'S
RECOMMENDATION, AND SO WE WENT INTO THIS PROCESS NOW WITH
ALL OF THE OTHER SOURCES DEEMED AS EXISTING USES, THE
WAILUKU SHAFT DEEMED AS A NEW USE.

THE PARKS DEPARTMENT ALSO HAD A NUMBER OF
APPLICATIONS. EVEN THOUGH MANY OF THEIR WELLS ARE IN THE --
THAT THEY USE FOR IRRIGATING VARIOUS PARKS ARE IN THE
KAHULUI AQUIFER, THOSE DIDN'T NEED APPLICATIONS, BUT THEY
DID NEED TO APPLY TO PUMP FROM A NUMBER OF CAP ROCK SOURCES.
THESE DON'T REALLY COUNT IN TERMS OF THE SUSTAINABLE YIELD
OF THE AQUIFER, BUT TECHNICALLY THEY HAD TO GET THEIR
APPLICATIONS IN.

SO WHAT HAPPENED FIRST WAS ABOUT SIX MONTHS AGO
THE COMMISSION MET AND CONSIDERED ALL OF THE PARKS
DEPARTMENT'S APPLICATIONS AND THEY GRANTED THEM ALL. THOSE
WERE NOT AT ALL CONTROVERSIAL. THE AMOUNTS WERE RELATIVELY
SMALL, AND THE PARKS DEPARTMENT WAS ABLE TO SATISFY THE
COMMISSION THAT THEY HAD IN PLACE GOOD CONSERVATION
MEASURES, INCLUDING SEPARATE LITTLE WEATHER STATION KIND OF
THINGS THAT TELL THE PARKS DEPARTMENT WHEN NOT TO WATER. IN
OTHER WORDS, NOT TO HAVE THE SPRINKLERS ON WHEN IT IS

RAINING, THAT KIND OF THING. SO THOSE WERE THE FIRST APPLICATIONS THAT WERE GRANTED.

THEN ON FEBRUARY 15TH OF THIS YEAR, 2006, THE WATER COMMISSION GRANTED THE APPLICATIONS FOR ALL OF THE LOWER LEVEL SOURCES, EXCEPT THE WAILUKU SHAFT. AND SO THOSE APPLICATIONS THAT WERE GRANTED RESULTED IN ALLOCATION OF 11.227 MILLION GALLONS PER DAY TO THE DEPARTMENT OF WATER SUPPLY, AND THAT IS EXACTLY THE FIGURE THAT THE DEPARTMENT ASKED FOR.

SO NOW THE ONLY ONE OF THE BASAL SOURCES, AS THEY'RE CALLED, THAT'S LEFT TO BE DETERMINED IS THE WAILUKU SHAFT. THAT IS THE SUBJECT OF A CONTESTED CASE HEARING, BECAUSE KEHAULANI MAUKA PUT IN ITS OWN APPLICATION FOR THAT WATER. KEHAULANI MAUKA, THE LANDOWNER, AND THE DEPARTMENT ARE TRYING TO COME TO SOME KIND OF AN AGREEMENT OVER WHO WILL USE THAT WATER AND HOW IT WILL BE USED. BUT IN THE MEANTIME, THE WATER COMMISSION HAS THESE TWO COMPETING APPLICATIONS FOR THE SAME SOURCE.

SO ON APRIL 19TH, JUST LAST WEEK, A CONTESTED CASE

HEARING WAS HELD AND THE PARTIES PUT IN THEIR EVIDENCE AND TESTIMONY AND EXHIBITS. NOW THERE IS A BRIEFING SCHEDULE, AND THE DECISION WILL BE MADE BY THE HEARING OFFICER PROBABLY SOMETIME IN JULY. AFTER THAT, HE WILL MAKE HIS RECOMMENDATIONS TO THE COMMISSION ITSELF, AND I WOULD IMAGINE IN AUGUST OR SEPTEMBER THEY WILL VOTE.

AT THE HEARING KEHAULANI MAUKA CLARIFIED THAT THEY WERE NOT ASKING FOR 5.77 MILLION GALLONS OF THEIR OWN, THAT THEY WERE ASKING INSTEAD FOR 1.45 MILLION GALLONS PER DAY TO SERVE THE REST OF THEIR PROJECT, WHICH YOU CAN SEE JUST RIGHT OUT THE WINDOW IN THE EVENT THAT NO AGREEMENT IS REACHED WITH THE DEPARTMENT OF WATER SUPPLY. SO WE DON'T KNOW EXACTLY HOW THAT ONE IS GOING TO COME OUT. BUT FROM WHAT THE HEARING OFFICER INDICATED, IT SOUNDS TO ME THAT AT THE VERY LEAST THE DEPARTMENT OF WATER SUPPLY WILL BE ALLOCATED WE HOPE 5.771 MILLION GALLONS PER DAY. THERE'S A SUGGESTION THAT POSSIBLY THAT NUMBER MIGHT BE SLIGHTLY LOWER. BUT IN ANY EVENT, THOSE ARE THE BASAL SOURCES.

CHAIRMAN VICTORINO: AM I CORRECT IN UNDERSTANDING THAT RIGHT NOW YOU ARE STILL IN NEGOTIATIONS WITH KEHAULANI AS FAR AS THE USE OF THE WATER, THE COUNTY AND KEHAULANI?

MISS LOVELL: YES.

CHAIRMAN VICTORINO: IT'S ONGOING NEGOTIATIONS.

MISS LOVELL: YES.

CHAIRMAN VICTORINO: SO YOU'RE WAITING FOR THE
RECOMMENDATIONS AND THE COMMISSION. BUT IF IN THE MEANTIME
A RESOLUTION COMES TOGETHER BETWEEN KEHAULANI AND THE
DEPARTMENT, THEN WE ARE NOT GOING TO WORRY ABOUT THAT
DECISION?

MISS LOVELL: WELL, I THINK WHAT WOULD HAPPEN IS
IF AN AGREEMENT IS REACHED WE WOULD GO BACK TO THE WATER
COMMISSION, WE WOULD ADVISE THEM THAT AN AGREEMENT HAD BEEN
REACHED, WE WOULD PROBABLY GIVE THEM A COPY OF THE
AGREEMENT, AND THEN WE WOULD SEE IF ANY FURTHER PROCEEDINGS
IN THE CONTESTED CASE WERE NECESSARY.

CHAIRMAN VICTORINO: OKAY, THANK YOU. YES, MISS
PARSONS?

BOARD MEMBER PARSONS: DIDN'T WE DISCUSS THE REDEVELOPMENT OF THAT SHAFT?

MISS LOVELL: YES. THAT IS IN FACT PART OF WHAT IS BEING DISCUSSED IN TRYING TO COME TO SOME AGREEMENT WITH KEHAULANI MAUKA, AND THAT IS TO EVENTUALLY CLOSE THE SHAFT AND SINK NEW WELLS THAT WOULD REPLACE THAT SOURCE. AND I THINK TECHNICALLY IT'S NOT FEASIBLE TO DRILL A SINGLE WELL AND GET OVER 5 MILLION GALLONS A DAY OUT OF IT. THE SHAFT IS REALLY A MARVEL IN TERMS OF HOW MUCH WATER IT'S CAPABLE OF PRODUCING. BUT A SINGLE MODERN WELL WOULD NOT GIVE YOU THAT KIND OF CAPACITY.

SO THE DISCUSSIONS ARE HOW MANY WELLS, WHAT THE PUMPING CAPACITY WOULD BE, WHERE THEY WOULD BE PLACED. AND I KNOW THAT THE COMMISSION WOULD PREFER IF THE PUMPING IN THE AQUIFER COULD BE SPREAD OUT TO HAVE SOME WELLS OVER MORE TOWARDS THE WAIKAPU END OF THE AQUIFER, SAY, AS OPPOSED TO CONCENTRATING EVERYTHING IN THE CENTER. THEY THINK THAT WILL BE BETTER FOR THE HEALTH OF THE AQUIFER. AND POSSIBLY IF PUMPING WERE SPREAD OUT IT MIGHT BE POSSIBLE TO INCREASE THE SUSTAINABLE YIELD OF THE AQUIFER TO MORE THAN THE 20

MILLION GALLONS A DAY, WHICH IS WHERE IT HAS BEEN SET.

SO NOW WHAT REMAINS TO BE DONE ARE THE HIGH LEVEL SOURCE WATER APPLICATIONS. THESE ARE FOR HIGH LEVEL DIKE IMPOUNDED WATERS. AND FROM A GENTLEMAN LOGICAL STANDPOINT THESE ARE DEEMED TO BE DIFFERENT THAN THE BASAL SOURCES WHICH ARE LOWER DOWN.

THE DEPARTMENT HAS TWO APPLICATIONS THAT FIT INTO THAT CATEGORY. THE FIRST IS FOR KEPANIWAI, WHICH IS AN APPLICATION TO USE 1.042 MILLION GALLONS PER DAY. THE OTHER IS FOR THE IAO TUNNEL, AND THE APPLICATION IS TO USE 1.418 MILLION GALLONS PER DAY. WAILUKU WATER COMPANY, FORMERLY KNOWN AS WAILUKU AGRIBUSINESS, HAS A NUMBER OF SOURCES FOR WHICH THEY HAVE REQUESTED PERMITS. THESE INCLUDE WAIKAPU TUNNEL NUMBER ONE, WAIKAPU TUNNEL NUMBER TWO, BLACK GORGE TUNNEL, IAO NEEDLE TUNNEL, AND IAO NEEDLE TUNNEL NUMBER TWO.

HOWEVER, WE DO NOT HAVE GOOD DATA ON THE ACTUAL AMOUNT THAT THEY ARE APPLYING FOR, BECAUSE THESE SOURCES DON'T HAPPEN TO HAVE ANY GAUGES OR METERS ON THEM. SO IT'S DIFFICULT FOR THEM TO DETERMINE HOW MUCH THEY WERE ACTUALLY

USING ON THE DATE THAT THE AQUIFER WAS DESIGNATED.

CHAIRMAN VICTORINO: THESE ARE SURFACE SYSTEMS

NOW?

MISS LOVELL: WELL, THESE ARE THE WATERS THAT ARE
KIND OF, THEY'RE UP HIGH IN THE MOUNTAINS AND THEY ARE --
INSTEAD OF PUTTING YOUR WELL SHAFT DEEP DOWN AND DRILLING A
HOLE, SAY, A THOUSAND FEET DOWN AND THEN PUMPING WATER UP,
THESE CAN BE ACCESSED BY PUTTING A TUNNEL RIGHT INTO THE
SIDE OF THE MOUNTAIN AND THE WATER JUST RUSHES OUT.

CHAIRMAN VICTORINO: OUT OF THE MOUNTAIN.

MISS LOVELL: SO IT'S INTERESTING. THEY ARE A
LITTLE BIT LIKE GROUNDWATER, BECAUSE YOU HAVE TO TUNNEL OR
DIG TO GET TO IT, BUT MANY PEOPLE SEE IT AS MORE AKIN TO
SURFACE WATER, BECAUSE THIS IS WATER THAT WOULD BE FLOWING
IN A STREAM WERE IT NOT FOR A DIKE OR A WALL.

CHAIRMAN VICTORINO: A DIVERSION?

MISS LOVELL: ACTUALLY, A NATURAL ROCK WALL THAT

WAS FORMED WHEN THE MOUNTAINS THEMSELVES WERE FORMED.

BOARD MEMBER PARSONS: BUT IT IS CLEANER BECAUSE
IT DOESN'T RUN THROUGH THE FIELDS, CORRECT?

MISS LOVELL: WELL, I THINK THAT'S AN ENTIRELY
DIFFERENT SET OF ISSUES.

BOARD MEMBER PARSONS: IT'S A DIFFERENT TYPE OF
SURFACE WATER.

MISS LOVELL: WELL, IT'S NOT EVEN TECHNICALLY
SURFACE WATER. TECHNICALLY, FROM THE WATER CODE STANDPOINT,
IT IS GROUNDWATER. BUT MANY PEOPLE FEEL THAT THAT WATER
WOULD BE GOING INTO STREAMS AND WOULD BE STREAM WATER, IF IT
WERE NOT FOR THE LAVA DIKES.

BOARD MEMBER PARSONS: WHO OWNS THE PROPERTY WHERE
THESE WAILUKU WATER COMPANY PERMITS ARE LOOKING TO PUT IN
AND THE ONES WE'RE LOOKING TO PUT IN?

MISS LOVELL: THEY OWN SOME, WE OWN SOME, AND

THERE IS SOME QUESTION AS TO WHO OWNS SOME.

BOARD MEMBER PARSONS: DO THEY HAVE CLEAR TITLE ON
SOME OR IS IT QUESTIONABLE TITLE ON ALL OF IT?

MISS LOVELL: THAT I CANNOT SAY. I'VE NOT DONE A
TITLE SEARCH ON THEIR APPLICATIONS.

BOARD MEMBER PARSONS: IT'S MY UNDERSTANDING WHEN
YOU GET UP TO A CERTAIN HEIGHT THAT MOST OF THAT HASN'T BEEN
CLEAR TITLED.

MISS LOVELL: THAT I'M REALLY NOT PREPARED TO
ADDRESS. THAT'S NOT AN ISSUE THAT HAS COME UP YET.

BOARD MEMBER PARSONS: WOULDN'T IT BE AN ISSUE IF
WE WERE LOOKING AT -- I MEAN ARE YOU LOOKING AT THE WAILUKU
WATER COMPANY AS BEING IN COMPETITION TO WHAT WE WANT TO DO,
IS THAT GOING TO BE A PROBLEM?

MISS LOVELL: IT MAY BE A PROBLEM. IT HAS NOT
BECOME ONE YET AS TO THESE PARTICULAR APPLICATIONS. IT MAY
IN THE FUTURE, AND WE ARE CERTAINLY LOOKING INTO THE

QUESTION OF THE OWNERSHIP OF THE PROPERTY IN AND AROUND THE
IAO TUNNEL, BECAUSE THAT'S A VERY IMPORTANT SOURCE FOR US.

CHAIRMAN VICTORINO: DOES THAT SOURCE COUNT
AGAINST THE IAO AQUIFER'S AMOUNT?

MISS LOVELL: THE SUSTAINABLE YIELD?

CHAIRMAN VICTORINO: THE SUSTAINABLE YIELD. DOES
THAT COUNT AGAINST IT?

MISS LOVELL: THAT'S A VERY INTERESTING QUESTION,
BECAUSE WHEN THE AQUIFER WAS DESIGNATED, THE COUNTY
UNDERSTOOD THAT WE WERE ONLY ABLE TO PUMP FROM ALL OF THESE
SOURCES, WHETHER THEY WERE IN THE BASAL PART OF THE AQUIFER
OR THE HIGH LEVEL SOURCES, ONLY UP TO 90 PERCENT OF THE
SUSTAINABLE YIELD. BUT AS IT TURNS OUT, OVER THE COURSE OF
THE LAST COUPLE OF YEARS, WITH ALL OF THE LEGAL PROCEEDINGS
THAT HAVE GONE ON, THE COMMISSION HAS NOW DECIDED TO TREAT
THESE HIGH LEVEL SOURCES SEPARATELY.

SO IF YOU TAKE THE 11.227 MILLION GALLONS PER DAY

AND YOU ADD TO THAT 5.771, YOU GET ABOUT 17 MILLION. SO
IT'S POSSIBLE THAT THERE IS A LITTLE MORE THAT WE COULD BE
TAKING OUT OF THE GROUNDWATER AS A RESULT OF THESE RULINGS.

ALL RIGHT, NOW --

BOARD MEMBER HOWDEN: MAY I ASK A QUESTION?

MISS LOVELL: CERTAINLY.

BOARD MEMBER HOWDEN: WHEN YOU WERE TALKING ABOUT
THE WATER, THE WATER, THAT THE DIKE IMPOUNDED WATER, THAT
DOESN'T DOWN AS RUNNING WATERS IN TERMS OF LIKE MCBRIDE
ROBINSON, LIKE THAT?

MISS LOVELL: THAT'S WHAT I WAS SAYING BEFORE.

SOME PEOPLE TAKE THE POSITION THAT THAT SHOULD BE TREATED
LIKE SURFACE WATER. FOR THE PURPOSE OF THESE PROCEEDINGS,
THE COMMISSION IS TREATING IT AS GROUNDWATER. IT IS
MANAGING IT AS A PART OF THE GROUNDWATER MANAGEMENT AREA.
BUT MAYBE FROM A PHILOSOPHICAL AND EVEN A HYDRO-GEOLOGICAL
STANDPOINT, YOU COULD PROBABLY ARGUE BOTH WAYS.

BOARD MEMBER PARSONS: BUT IT'S WATER QUALITY THAT DETERMINES THAT, ISN'T IT?

MISS LOVELL: NO, I DON'T THINK THE WATER QUALITY HAS ANYTHING TO DO WITH IT WHATSOEVER. IT'S MORE A QUESTION OF HOW YOU GET TO IT, YOU KNOW, DO YOU HAVE TO DRILL A HOLE TO GET TO IT.

CHAIRMAN VICTORINO: THE SOURCES.

MISS LOVELL: BY DIKE IMPOUNDED WATERS I DON'T MEAN A MAN-MADE DIKE OR DAM OR DIVERSION, I'M TALKING ABOUT A GEOLOGICAL DAM. AND MY GEOLOGY 101 DAYS ARE RATHER FAR IN THE PAST, BUT AS I RECALL, WHEN YOU ARE DEALING WITH VOLCANIC STRUCTURES WHAT HAPPENS IS THAT THERE WILL BE A CREVASSE OR A FISSURE THAT WILL DEVELOP, AND THEN HOT MOLTEN LAVA WILL BE SQUEEZED UP THROUGH THAT NARROW OPENING AND IT FORMS A LAVA WALL OR A ROCK WALL THAT IS CREATED BY NATURE. IT'S NOT CREATED BY MAN-MADE MEANS. SO THOSE ARE THE WATERS THAT WE ARE TALKING ABOUT.

BOARD MEMBER HOWDEN: IF THIS WERE LITIGATED, WHAT

WOULD BE YOUR JUDGMENT LEGALLY IN TERMS OF HOW THEY WOULD BE SEEN?

MISS LOVELL: THAT IS A QUESTION I THINK THAT WOULD GET US INTO STRATEGY, AND THAT'S SOMETHING THAT I WOULD PREFER NOT DISCUSS THAT.

CHAIRMAN VICTORINO: I WOULD RATHER NOT GO INTO THAT AREA YET, PLEASE.

MISS LOVELL: BUT I MUST SAY ALSO THAT I AM NOT SURE THAT I'M PREPARED TO ANSWER THAT QUESTION TODAY, BECAUSE I WOULD WANT TO LET THE PROCESS PLAY OUT A LITTLE BIT LONGER BEFORE REACHING THAT.

SO NOW TO RETURN TO THE SUBJECT OF THE WATER USE PERMIT APPLICATIONS, THE WATER COMMISSION DECIDED THAT IT WOULD PLACE THREE DIFFERENT PROCEEDINGS IN ONE CONTESTED CASE. ONE PART OF THAT WILL BE THE WATER USE PERMIT APPLICATIONS FOR THESE HIGH LEVEL SOURCES, IN THE CASE OF DWS KEPANIWAI AND IAO TUNNEL.

THE TWO OTHER THINGS THAT ARE FOLDED INTO THE

SAME CONTESTED CASE ARE A PETITION TO AMEND THE INTERIM
INSTREAM FLOW STANDARDS FOR THE FOUR MAJOR STREAMS IN THE
AREA, THE HUI O NAWAIEHA, AND THAT WAS FILED ON JUNE 25,
2004 BY EARTH JUSTICE ON BEHALF OF A HUI OF LOCAL CITIZENS.

THERE IS ALSO A CITIZENS COMPLAINT FOR WASTE THAT
WAS FILED BY MANY OF THE SAME PARTIES ON OCTOBER 19, 2004,
ALLEGING THAT WAILUKU, THEN WAILUKU AG, NOW WAILUKU WATER,
IS TAKING MORE WATER THAN IT CAN AND IS USING IN A
REASONABLE AND BENEFICIAL WAY. UNDER OUR WATER LAWS, BOTH
COMMON LAW AND THE STATE WATER CODE, PEOPLE ARE ENTITLED TO
USE WATER IF IT'S FOR A REASONABLE AND BENEFICIAL PURPOSE.
AND THERE ARE MANY THINGS THAT ARE REASONABLE AND
BENEFICIAL. CERTAINLY A PUBLIC WATER SUPPLY IS REASONABLE
AND BENEFICIAL, AGRICULTURE IS REASONABLE AND BENEFICIAL,
AND SO FORTH. BUT THE ALLEGATION WAS THAT THEY WERE
DIVERTING WATER FROM THE STREAMS AND THEN NOT USING ALL OF
IT AND THEN JUST DUMPING IT.

THE PETITION WHICH I BROUGHT HERE TO SHOW YOU HAS
ALL OF THESE ATTACHMENTS, AND THESE ARE PHOTOGRAPHS,
APPARENTLY THERE'S ALSO A VIDEO, WITNESS STATEMENTS, AND SO

FORTH TO SUPPORT THE ALLEGATION THAT WATER IS BEING WASTED. THE WATER COMMISSION HAS BEEN LOOKING INTO THAT ALLEGATION NOW FOR YEARLY TWO YEARS. THERE HAVE BEEN SOME INTERIM REPORTS FROM STAFF OF THE WATER COMMISSION. THEY HAVE NOT BEEN ABLE TO REACH A CONCLUSION IN PART BECAUSE NOT ALL OF THE WATER IS METERED.

SO FOR INSTANCE, HC&S TAKES SOME OF THE WATER THAT'S DIVERTED THROUGH DIVERSIONS SET UP BY WAILUKU SUGAR COMPANY, YOU KNOW, MAYBE A CENTURY AGO. HC&S TAKES SOME OF THAT WATER TO WATER THEIR FIELDS. HC&S KNOWS HOW MUCH WATER IT IS TAKING AND HC&S HAS REPORTED THAT FIGURE TO THE STATE WATER COMMISSION. BUT HC&S'S FIGURES DON'T JIVE WITH WAILUKU AG'S FIGURES. AND PART OF THE PROBLEM IS THAT THERE IS WATER THAT IS DIVERTED FOR KULEANAS THAT'S NOT MEASURED, AND THERE ARE VARIOUS PLACES ALONG THE STREAM AND THE DITCH SYSTEM WHERE THERE IS NO GAUGING OR MEASURING DEVICE.

SO IN ANY EVENT, THE CITIZENS GROUP THE HUI O NAWAIEHA AND THE MAUI TOMORROW FOUNDATION HAVE REALLY BEEN PUSHING FOR RESOLUTION. WAILUKU AG HAS TAKEN THE POSITION THAT IT IS NOT WASTING ANY WATER WHATSOEVER. THE MAYOR HAS APPEARED BEFORE THE WATER COMMISSION AND HAS ASKED THEM TO

PLEASE TAKE ACTION AS QUICKLY AS POSSIBLE, BECAUSE THIS IS OF IMPORTANCE TO ALL OF US.

SO NOW WE HAVE THIS CONTESTED CASE IN WHICH ALL THREE OF THESE ITEMS ARE GOING TO BE ROLLED INTO ONE. THE HEARING OFFICER HAS JUST BEEN CHOSEN, IT'S GOING TO BE DR. LARRY NAIKI (PHONETIC), WHO WAS ALSO THE HEARING OFFICER FOR THE OTHER CONTESTED CASE HEARING THAT WE HAD OVER WAILUKU SHAFT. HE'S A MEMBER OF THE COMMISSION. HE IS BOTH A MEDICAL DOCTOR AND A LAWYER, AND HE IS ALSO THE PERSON WHO HAS PRESIDED OVER THE WAIHOLI DITCH CASE, WHICH HAS BEEN IN LITIGATION NOW FOR SOME 14 YEARS. SO AT THE VERY LEAST, WE CAN SAY HE IS EXPERIENCED IN THIS AREA.

SO NOW WE ARE GOING TO BE PREPARING FOR THIS TRIPARTITE PROCEEDING BEFORE, IN FRONT OF THE HEARING OFFICER, DR. NAIKI, ON THESE THREE ITEMS. AND IT IS AT THIS POINT THAT WE IN CORP COUNSEL FEEL THAT IT WOULD BE PRUDENT TO ENGAGE OUTSIDE COUNSEL TO ASSIST US. I HAVE BEEN DOING A LOT OF THE LITIGATION TYPE WORK ON THIS TO DATE. ED KUSHI AND I HAVE BEEN WORKING VERY CLOSELY TOGETHER ON THIS SUBJECT. WE HAVE HAD EXCELLENT SUPPORT FROM THE STAFF OF

THE WATER DEPARTMENT, PARTICULARLY FROM THE PLANNING BRANCH. THESE ARE THE PEOPLE, ELLEN AND EVA IN PARTICULAR, WHO HAVE WORKED UP ALL OF THE PERMIT APPLICATIONS. THEY'VE ALSO PROVIDED ALL THE INFORMATION TO THE COMMISSION THAT IT NEEDS, AND SO FORTH. THEY HAVE DONE A REALLY GREAT JOB.

SO FAR WE HAVE DONE OKAY JUST DOING IT ALL IN HOUSE, BUT NOW IT SEEMS THAT THE STAKES ARE VERY HIGH. WE ARE LOOKING AT TWO SOURCES BETWEEN KEPANIWAI AND IAO TUNNEL THAT PROVIDE TWO-AND-A-HALF MILLION GALLONS ROUGHLY PER DAY. WE HAVE THE PETITION TO AMEND INTERIM INSTREAM FLOW STANDARDS, WHICH IS WHAT WILL DETERMINE HOW MUCH, IF ANY, WATER WILL GO BACK INTO THE STREAMS, AND HOW THE STREAM WATER SHOULD BE FAIRLY ALLOCATED AS BETWEEN NEEDS OF THE COUNTY FOR ITS PUBLIC DRINKING WATER SUPPLY, NEEDS OF AGRICULTURE, AND NEEDS OF THE STREAM ITSELF, NOT TO MENTION ALL OF THE TRADITIONAL AND CUSTOMARY USES THAT MIGHT BE MADE OF THAT WATER AND THAT WERE MADE OF THAT WATER IN THE PAST, AS WELL AS KULEANA NEEDS.

SO AT THIS POINT THE CORPORATION COUNSEL IS RECOMMENDING AND IS PREPARED FOLLOWING CONSULTATION WITH THIS BODY TO REQUEST FROM THE COUNTY COUNCIL AUTHORIZATION

TO ENGAGE EXPERT OUTSIDE COUNSEL. NOT TO TAKE OVER THE
WHOLE CASE, BUT TO ASSIST US WITH SOME OF THE VERY
INTERESTING AND THORNY QUESTIONS OF CONSTITUTIONAL LAW AND
WATER LAW, NATIVE HAWAIIAN RIGHTS, ENVIRONMENTAL LAW, AND SO
FORTH. IT'S KIND OF BEYOND THE POINT WHERE ONE DEPUTY CORP
COUNSEL, EVEN WORKING VERY DILIGENTLY, CAN MANAGE.
PARTICULARLY GIVEN THAT WE DON'T HAVE ANYONE IN OUR
DEPARTMENT WHO IS ABLE TO DEVOTE FULL TIME TO IT. IT'S ONLY
ONE OF MANY ASSIGNMENTS.

SO THAT IS OUR RECOMMENDATION, THAT IN PROCEEDING
WE HAVE THE ASSISTANCE OF OUTSIDE COUNSEL, AND WE ARE
PREPARED TO GO TO THE COUNTY COUNCIL TO REQUEST FUNDS FOR
THAT PURPOSE.

CHAIRMAN VICTORINO: BRIAN, DO YOU HAVE ANYTHING
ELSE YOU WOULD LIKE TO ADD?

MR. MOTO: NO. I WANT TO THANK JANE FOR HER
SUMMARY.

CHAIRMAN VICTORINO: VERY THOROUGH. THANK YOU

VERY MUCH. AGAIN, I'D LIKE TO OPEN UP FOR QUESTIONS. AGAIN, KEEPING IN MIND THAT WE ARE ADVISORY, AND THE QUESTIONS YOU ASK WE WANT TO TRY TO STAY FROM -- I GUESS AGAINST OR STAY AWAY FROM TRYING TO GET ANSWERS LIKE WHAT WILL HAPPEN IF THIS HAPPENS. BECAUSE AGAIN, TO BE HONEST WITH YOU, MICHAEL, A LOT OF THIS WON'T EVER BE DETERMINED UNTIL WE ACTUALLY GO TO COURT OR HAVE CASE HEARINGS. AND TO SPECULATE, ESPECIALLY IN A MEETING LIKE THIS, WOULDN'T BE APPROPRIATE AT THIS POINT, AND MAYBE WILL PUT THEM IN AN UNCOMFORTABLE POSITION, ALL OF THE MEMBERS HERE.

BUT QUESTIONS AS FAR AS -- AND THIS IS SUCH, AS YOU GUYS HAVE JUST HEARD, A CUMBERSOME SITUATION. THERE ARE MANY ENTITIES THAT ARE GOING TO BE INVOLVED IN THIS WHOLE THING. GO AHEAD, MICHAEL.

BOARD MEMBER HOWDEN: I JUST HAD ONE QUESTION.

EARTH JUSTICE, OHA, ET CETERA, ARE THESE GROUPS ALLIED WITH THE QUESTIONS THAT THE COUNTY WILL BE RAISING, ARE THEY RESOURCES FOR THE COUNTY?

MISS LOVELL: YES, MOSTLY. ORIGINALLY WHEN THE DEPARTMENT PUT IN ITS WATER USE PERMIT APPLICATIONS, BOTH OF

THOSE GROUPS OBJECTED TO OUR APPLICATIONS. THEY FILED WRITTEN OBJECTIONS. BUT THEN WE HAVE BEEN WORKING TOGETHER, WE HAVE DISCOVERED THAT WE HAVE MORE SIMILARITIES THAN DIFFERENCES IN OUR APPROACH AND IN WHAT WE WANT TO ACHIEVE. SO THEY EVENTUALLY WITHDREW THEIR OBJECTIONS TO THE BASAL SOURCE WELLS AND TO THE WATER USE PERMITS FOR THOSE, THE 11.2 MILLION GALLONS THAT HAVE BEEN GRANTED. AND THE MAYOR FOR HIS PART PLEDGED TO USE HIS BEST EFFORTS TO GET SOME WATER BACK INTO SEVERAL OF THE STREAMS, PARTICULARLY THE IAO.

NOW, THE MAYOR CANNOT DO THAT ALONE, HE NEEDS THE COOPERATION AND THE SUPPORT OF THE COUNTY COUNCIL. BUT THE MAYOR LISTED A NUMBER OF STEPS THAT HE WAS WILLING TO TAKE, AND HE IS METHODICALLY WORKING THROUGH THOSE STEPS TO TRY TO GET MORE COUNTY CONTROL OVER THE WATER SOURCES, PARTICULARLY THE STREAMS.

AND AS A PART OF THAT, TO PUT SOME OF THE WATER BACK INTO SOME OF THESE STREAMS WHICH HAVE DRY REACHES MANY MONTHS OUT OF THE YEAR, TO SEE IF A MORE NATURAL FLOW CAN BE

RETURNED WITHOUT UNDULY HARMING AGRICULTURE OR HARMING THE COUNTY'S NEED FOR DRINKING WATER FOR ITS PEOPLE.

SO WE HAVE, I THINK, A VERY GOOD AND FRUITFUL ALLIANCE. THERE IS A LOT OF EXPERTISE THERE, PARTICULARLY KAPUA SPROAT, WHO IS THE ATTORNEY FOR EARTH JUSTICE, WHO HAS BEEN THROUGH THE WAIHOLI DITCH CASE. SHE SPENT MANY YEARS OF HER LEGAL CAREER WORKING ON PRECISELY THOSE ISSUES, AND SHE HAS BEEN EXTREMELY HELPFUL TO US.

THERE ARE A FEW MATTERS IN WHICH THE COUNTY HAS NOT FORMALLY TAKEN A POSITION. ONE IS THE CITIZENS COMPLAINT ON WASTE AND THE OTHER ONE IS THE PETITION TO AMEND THE INTERIM INSTREAM FLOW STANDARDS. WE WILL BE A PART OF THOSE PROCEEDINGS, BUT TO DATE WE HAVE NOT TAKEN A FORMAL POSITION. WE ARE VERY INTERESTED IN THE OUTCOME; WE WILL PARTICIPATE ACTIVELY. BUT WE HAVE NOT PUBLICLY STATED WHETHER WE THINK, FOR INSTANCE, THAT WAILUKU WATER COMPANY IS ACTUALLY WASTING WATER. WE DO WANT TO GET TO THE BOTTOM OF THAT ISSUE AND DO WANT IT RESOLVED.

CHAIRMAN VICTORINO: MISS PARSONS?

BOARD MEMBER PARSONS: IS WAILUKU WATER COMPANY
REGULATED BY THE PUC?

MISS LOVELL: NOT AT THIS TIME.

BOARD MEMBER PARSONS: SO IS THE ENTITY REAL?

MISS LOVELL: I HAVE SEEN DOCUMENTS THAT INDICATE
THAT THERE WAS A SORT OF A STOCK -- I DON'T KNOW WHAT THE
EXACT TERM IS, STOCK SWAP OR SOMETHING LIKE THAT, THAT THE
STOCKHOLDERS OF WAILUKU AG BECAME STOCKHOLDERS OF WAILUKU
WATER COMPANY. SO FROM WHAT I'VE SEEN, I WOULD SAY THAT
IT'S SET UP AS A CORPORATION. BUT I HAVE CHECKED WITH THE
PUBLIC UTILITIES COMMISSION, AND I HAVE NOT SEEN ANY
APPLICATION TO BECOME A PUC REGULATED WATER COMPANY.

CHAIRMAN VICTORINO: YES, MR. OKAMURA.

BOARD MEMBER OKAMURA: A COUPLE OF QUESTIONS,
MR. CHAIR. SO THE UPPER LEVEL SOURCES, THE CONTESTED CASE
HEARING IS WITH WAILUKU AG BECAUSE THEY WANT SOME OF THE
WATER TOO?

MISS LOVELL: YES, MOSTLY WAILUKU AG. HC&S IS INVOLVED, BUT ONLY VERY MINIMALLY. THEY HAVE ONLY ONE VERY SMALL SOURCE, IT'S ABOUT 1.1 MILLION GALLONS A DAY. SO THEY THEMSELVES DID NOT REQUEST A CONTESTED CASE, BUT THEY PROBABLY WILL INTERVENE AND WILL PARTICIPATE.

BOARD MEMBER OKAMURA: SO THERE'S TWO CONTESTED CASE HEARINGS GOING ON. ONE REGARDING THE WAILUKU SHAFT AND THE OTHER WITH THESE THREE THINGS?

MISS LOVELL: YES.

BOARD MEMBER OKAMURA: I WANTED TO KNOW LIKE THE INSTREAM FLOW STANDARDS WOULD COVER HOW MANY STREAMS?

MISS LOVELL: THE PETITION IS FOR -- GOSH, I DON'T HAVE THE PETITION. I BELIEVE IT'S EIGHT STREAMS IF YOU COUNT THE VARIOUS FORKS, LIKE NORTH WAIEHU.

BOARD MEMBER OKAMURA: AND DOES THE COUNTY, THE COUNTY DRAWS ABOUT HOW MUCH WATER FROM THESE STREAMS NOW, WOULD YOU KNOW OFFHAND, MR. TENGAN?

DIRECTOR TENGAN: AT THE PRESENT TIME WE JUST
HAVE THE TREATMENT PLANT UP AT THE IAO TANK SITE UP THERE,
AND WE WERE PROCESSING ABOUT 1.5 MILLION GALLONS A DAY.

BOARD MEMBER OKAMURA: BUT THE IDEA WOULD BE TO
TRY TO RESTORE THE INSTREAM STANDARDS, AND POSSIBLY GET MORE
WATER FOR PUBLIC USE?

DIRECTOR TENGAN: CORRECT.

CHAIRMAN VICTORINO: ANY OTHER QUESTIONS?

MICHAEL.

BOARD MEMBER HOWDEN: AND IF IT CAN'T BE ANSWERED,
I'LL DEFER IT.

MISS LOVELL: I'LL LET YOU KNOW.

BOARD MEMBER HOWDEN: THANK YOU. GIVEN THAT THE
RUNNING WATERS IN THE STATE UNDER THE HAWAII STATE
CONSTITUTION ARE PUBLICLY OWNED FOR THE BENEFIT OF THE

PUBLIC, HOW IS A PRIVATE ENTITY ABLE TO DRAW UNLIMITED, UNMETERED USE OF WHAT ARE CONSIDERED LEGALLY TO BE PUBLIC WATERS?

MISS LOVELL: WAILUKU AG, LIKE MANY OTHER OF THE PLANTATIONS, WAS IN EXISTENCE AND HAD DIVERSIONS THAT WERE IN EXISTENCE BEFORE THE STATE WATER CODE WAS ADOPTED. THAT CAME INTO EFFECT I WANT TO SAY IN 1978, 1979, SOMEWHERE IN THAT TIME FRAME. SO A LOT OF THE RULES AND REGULATIONS DEALING WITH STREAM DIVERSIONS GRANDFATHERED IN PEOPLE WHO WERE ALREADY DIVERTING. AND AS LONG AS THEY DON'T CHANGE THEIR DIVERSION IN ANY WAY, RE-ENGINEER IT, DIVERT MORE WATER THAN THEY HAD IN THE PAST, OR MOVE THEIR DIVERSION TO SOME OTHER LOCATION, AS LONG AS THEY'RE STILL DOING WHAT THEY WERE DOING A HUNDRED YEARS AGO, THEY'RE ALLOWED TO CONTINUE. BUT THEY MAY NOT DO SO, THEY MAY NOT DIVERT WATER IF IT'S NOT GOING TO BE USED BENEFICIALLY AND IN A REASONABLE MANNER.

SO YOU CAN'T HAVE A DIVERSION -- LET'S SAY YOU HAD A DIVERSION A HUNDRED YEARS AGO TO WATER SUGARCANE AND NOW THAT YOU DON'T HAVE ANY CANE LAND ANYMORE YOU CAN'T DIVERT ALL THAT WATER, RUN IT THROUGH YOUR DITCHES, AND THEN DUMP

IT INTO THE OCEAN. THAT WOULD NOT BE DEEMED A REASONABLE AND BENEFICIAL USE. AND THAT IS WHY THE HUI O NAWAIEHA FILED THIS PETITION. THAT IS EXACTLY WHAT THEY ALLEGE IS BEING DONE.

I MUST SAY THAT IT'S HARD TO FIGURE OUT THE

NUMBERS, BECAUSE WAILUKU AG IS SAYING ON THE ONE HAND TO THE WATER COMMISSION THAT EVERY DROP IS BEING USED. THEY'RE TELLING THE COUNTY, HOWEVER, THAT THEY'D BE HAPPY TO DELIVER MORE WATER TO US, MORE SURFACE WATER FOR USE AS DRINKING WATER AT A SOMEWHAT HEFTY PRICE.

AND THE MAYOR DID NOTE THAT IN HIS REMARKS TO THE

WATER COMMISSION, THAT HE'S HAVING TROUBLE PUTTING TOGETHER THE PROPOSAL THAT WAS MADE TO THIS BODY IN 2003, WHERE THEY WANTED TO SELL THEIR WATERSHED LANDS, AND THE IDEA WAS THAT THERE WOULD BE SOME, I THINK, 17 MILLION GALLONS A DAY OF SURFACE WATER THAT THE COUNTY WOULD BE ABLE TO USE AFTER EVERYONE ELSE THAT THEY HAVE CONTRACTS WITH WAS TAKEN CARE OF. IT'S A LITTLE HARD TO BALANCE THOSE STATEMENTS AGAINST THE MORE RECENT STATEMENTS BEFORE THE WATER COMMISSION THAT EVERY SINGLE DROP IS USED AND THERE'S NO EXTRA, AND

THEREFORE NOTHING IS BEING WASTED.

THERE HAVE BEEN A NUMBER OF CITIZENS WHO HAVE GONE OUT AND WHO HAVE BEEN CHECKING OUTFALLS, THEY HAVE BEEN CHECKING RESERVOIRS, THEY HAVE BEEN CHECKING STREAMS, THEY'VE BEEN TAKING VIDEO AND PHOTOGRAPHS, AND I THINK PERSONALLY THEY'VE MADE A PRETTY STRONG CASE. SOMETHING IS AMISS. BUT WHETHER IT'S A QUESTION OF JUST NOT BEING ABLE TO MAKE THESE FIGURES MATCH UP BECAUSE OF NO METERING, OR WHETHER THERE IS SOMETHING GOING ON THAT SHOULDN'T BE GOING ON, AT THIS POINT WE DON'T KNOW. BUT THAT'S WHAT PART OF THE PROCEEDINGS WILL BE ABOUT.

BOARD MEMBER HOWDEN: THANK YOU.

BOARD MEMBER PARSONS: SO JUST TO CLARIFY, WAILUKU AG SWAPPED STOCK. AND I HEARD IT WAS LIKE 150.

CHAIRMAN VICTORINO: WELL, LET US NOT SPECULATE. WE ONLY WILL STICK WITH FACTS, PLEASE.

BOARD MEMBER PARSONS: THIS WAS TESTIFIED TO IN FRONT OF COUNCIL. BUT IT BECAME WAILUKU WATER COMPANY. HOW

DOES -- HOW DO THEY MAINTAIN THE WATER -- IT'S A DIFFERENT ENTITY, IT'S A WHOLE DIFFERENT ENTITY, IT'S NOT THE SAME ENTITY ANY MORE, CORRECT?

MISS LOVELL: IT'S A SUCCESSOR ENTITY. AND IF WHAT YOU'RE ASKING IS HOW DID THEY GET GRANDFATHERED IN ON THEIR DIVERSIONS, I ASSUME THAT THEY SET THEIR COMPANY UP WITH THAT IN MIND, SO THAT THEY WOULD BE ABLE TO. THEY'VE GONE THROUGH SEVERAL ITERATIONS OVER THE YEARS. IT WAS WAILUKU SUGAR COMPANY, AND THEN IT WAS WAILUKU AGRIBUSINESS, AND NOW IT'S WAILUKU WATER COMPANY, BUT IT'S BASICALLY STILL ALL THE SAME PEOPLE. BUT I HAVE NOT DELVED ENOUGH INTO THEIR CORPORATE STRUCTURE TO KNOW EXACTLY HOW ALL OF THAT WAS DONE.

CHAIRMAN VICTORINO: IS THIS OUTSIDE COUNSEL THAT YOU ARE REQUESTING FOR GOING TO DO SOME STUDIES ALSO IN THOSE AREAS, OR IT'S A COMPREHENSIVE ADVISORY TO YOU, TO THE COUNTY OF MAUI?

MISS LOVELL: WELL, WE WOULD LIKE THE OUTSIDE COUNSEL TO HELP US WITH AS BROAD AN AREA AS POSSIBLE. WE

WOULD LIKE TO WRITE THE RESOLUTION IN SUCH A WAY THAT IT'S NOT SO NARROWLY WRITTEN THAT IF WE HAVE QUESTIONS OUTSIDE OF THAT SCOPE THAT WE CANNOT GO TO THIS OUTSIDE COUNSEL.

I CERTAINLY WILL MYSELF KEEP WORKING HARD ON ALL OF THIS. I'M VERY INTERESTED IN IT. I'VE BEEN WORKING ON IT NOW FOR THREE YEARS, AND I'M NOT GOING TO JUST HAND ALL THE FILES OVER TO SOMEBODY ELSE OUTSIDE WHO CAN START BILLING US BY THE HOUR FOR ALL OF THAT WORK. BUT IT WOULD BE VERY HELPFUL TO HAVE AN EXTRA SET OF HANDS AND TO HAVE SOMEONE WHO HAS EXPERTISE IN THE VERY TRICKY AND INTERESTING ISSUES OF CONSTITUTIONAL LAW, NATIVE HAWAIIAN RIGHTS, WATER RIGHTS, AND SO FORTH.

CHAIRMAN VICTORINO: YOU MENTIONED AT THE VERY TOP OF THIS THAT WE COULD, I GUESS FOR LACK OF A BETTER TERM, MAKE A MOTION TO RECOMMEND OUTSIDE COUNSEL BE HIRED TO ASSIST YOU, BUT I ALSO HEAR THAT YOU WOULD LIKE TO MAKE THE RESOLUTION AS COMPREHENSIVE AS POSSIBLE. GO AHEAD, BRIAN, I DON'T WANT TO PUT THE CART BEFORE THE HORSE.

MR. MOTO: AS JANE SAID, THE SPECIAL COUNSEL IS BEING RETAINED TO REPRESENT THE COUNTY OF MAUI AND TO ADVISE

THE COUNTY OF MAUI ON ALL MATTERS PERTAINING TO THE FOUR ITEMS THAT ARE PENDING BEFORE THE STATE WATER COMMISSION, AND THAT ARE EITHER ALREADY IN CONTESTED CASE HEARING OR ABOUT TO GO TO CONTESTED CASE HEARING. WE ANTICIPATE THAT THAT LAWYER WILL ASSIST IN THE PROCEEDINGS THEMSELVES, AND ALSO ADVISE COUNTY OFFICIALS AS THE CONTESTED CASE PROCEEDINGS GO ALONG.

THE ISSUES PROBABLY WILL BE COMPLICATED. THERE'S A CHANCE THAT MANY DIFFERENT SORTS OF LAWS WILL BE BROUGHT UP. IT'S POSSIBLE THAT THE CONTESTED CASE HEARING MAY BE QUITE LONG, ESPECIALLY GIVEN THE CONTENTIOUS NATURE OF SOME OF THE ISSUES RAISE AND THE IMPORTANCE TO THE PARTIES.

CERTAINLY THE WAILUKU WATER COMPANY, AMONG OTHERS, HAS SOME VERY STRONG INTERESTS AT STAKE IN THE OUTCOME OF THESE PROCEEDINGS, SO THEY PROBABLY WILL END UP BEING VIGOROUSLY CONTESTED. WE ALSO HAVE IN THESE PROCEEDINGS THE OFFICE OF HAWAIIAN AFFAIRS, WHICH IS A PARTY, AND ALSO EARTH JUSTICE ON BEHALF OF ITS CLIENTS.

CHAIRMAN VICTORINO: SO I GUESS MY QUESTION, AND

FIRST OF ALL, I'D LIKE TO THANK YOU VERY MUCH FOR THIS, IT'S VERY COMPREHENSIVE. IT'S REALLY BROUGHT TO LIGHT. AND FOR THE THREE OF US WHO HAVE BEEN AROUND FOR A LONG TIME, THIS IS GREAT NEWS BECAUSE WE'VE BEEN WAITING TO HEAR SOMETHING LIKE THIS. FOR THE THREE OF YOU WHO ARE BRAND NEW, LUCKY YOU GUYS COME IN, AND BAM, YOU'VE GOT ALL THE INFORMATION HERE.

FROM OUR BOARD RECOMMENDING TO THE COUNCIL AND TO THE MAYOR THE HIRING OF A SPECIAL COUNSEL, IS THAT WHAT YOU WOULD LIKE US TO DO, STRONGLY RECOMMEND?

MR. MOTO: YES. WE CAME BEFORE YOU BECAUSE WE THOUGHT IT WAS IMPORTANT THAT YOU KNOW THE STATUS OF THESE LEGAL MATTERS BECAUSE THEY WILL HAVE -- THEY COULD HAVE SIGNIFICANT CONSEQUENCES FOR THE COUNTY OF MAUI AND THE PEOPLE OF MAUI COUNTY. AND WE ALSO CAME HERE BEFORE YOU BECAUSE BY CHARTER AS INTERPRETED BY THE HAWAII SUPREME COURT, THE COUNCIL MUST APPROVE OF THE RETENTION OF ANY SPECIAL COUNSEL, OF ANY OUTSIDE COUNSEL THAT WORKS FOR THE COUNTY. THE CHARTER ALSO SAYS THAT YOU SHOULD BE CONSULTED AND ADVISED ABOUT SIGNIFICANT MATTERS RELATING TO OTHER MATTERS.

SO WE'RE DOING THIS IN STEPS. WE HAVEN'T GONE TO COUNCIL YET ON THE ISSUE OF OUTSIDE COUNSEL, BUT WE CERTAINLY INTEND TO. BUT BEFORE WE DID THAT, WE WANTED TO COME TO YOU AT A MEETING FIRST TO GIVE YOU THIS OPPORTUNITY TO LEARN WHAT'S HAPPENING, AND TO SEE IF YOU WOULD SUPPORT THIS RECOMMENDATION TO OBTAIN OUTSIDE COUNSEL.

CHAIRMAN VICTORINO: OKAY, THANK YOU, BRIAN. THEN I WILL OPEN THE FLOOR TO A MOTION TO SUPPORT AND REQUEST VERY VIGOROUSLY THAT SPECIAL COUNSEL BE BROUGHT IN FOR THESE MATTERS TO ASSIST THE CORPORATION COUNSEL ON ALL THESE WATER ISSUES. SO IF SOMEBODY WOULD KIND OF PUT IT IN WORDS. I DON'T WANT TO BE THE ONE TO MAKE THE MOTION. LEE?

BOARD MEMBER ALDRIDGE: MAY I ASK ONE QUESTION? I HAVE ONE QUESTION FIRST.

CHAIRMAN VICTORINO: SURE, SURE.

BOARD MEMBER ALDRIDGE: THAT IS THAT CLEARLY THERE IS A LAW FIRM THAT HAS THE TYPE OF EXPERTISE THAT YOU ARE

LOOKING FOR.

MR. MOTO: MR. CHAIRMAN, YES, UNDER THE STATE
PROCUREMENT LAW WE ARE REQUIRED TO FOLLOW VARIOUS PROCEDURES
TO OBTAIN THE SERVICES OF A PROFESSIONAL, INCLUDING
PROFESSIONAL LEGAL SERVICES, AND WE HAVE DONE THAT. AND THE
PERSON THAT WE HAVE SELECTED AND WHOSE NAME WE WILL PUT
FORWARD FOR RECOMMENDATION IS PROFESSOR JOHN VAN DYKE.
PROFESSOR VAN DYKE IS A PROFESSOR AT THE UNIVERSITY OF
HAWAII LAW SCHOOL. HE'S TAUGHT THERE FOR MANY YEARS. HE IS
QUITE EXPERT ON HAWAII LAW, HAWAII WATER LAW, AND
CONSTITUTIONAL MATTERS, AND HE'S REPRESENTED THE COUNTY OF
MAUI BEFORE ON OTHER LEGAL MATTERS AND HAS ALWAYS PERFORMED
SATISFACTORILY. ONE OF HIS FORMER CLIENTS INCLUDES THE
COUNTY COUNCIL.

SO WE BELIEVE THAT BASED UPON HIS QUALIFICATIONS
AND EDUCATION AND EXPERIENCE THAT HE'S MORE THAN QUALIFIED
TO ASSIST US IN THESE MATTERS.

CHAIRMAN VICTORINO: AND LET ME ADD TO THAT THAT
I'VE HAD A FEW OCCASIONS TO DISCUSS AND SIT DOWN AT SOME
WATER MEETINGS WITH THE PROFESSOR, AND I THINK I'VE ALWAYS

ENJOYED HIM, AND HE'S VERY COMPREHENSIVE, AND I THINK HE
WILL DO A GOOD JOB FOR US. SO I WOULD PUT MY PERSONAL
FEELINGS IS THAT, YES, THIS IS A GOOD SELECTION ON YOUR
PART, BRIAN. SO AGAIN, I OPEN THE FLOOR FOR A MOTION.
MICHAEL?

BOARD MEMBER HOWDEN: I WOULD MOVE THAT WE ACCEPT
THE CORPORATION COUNSEL'S REQUEST AND SUPPORT THEIR DESIRE
TO HIRE SPECIAL COUNSEL TO REPRESENT THE COUNTY.

CHAIRMAN VICTORINO: DO I HEAR A SECOND?

BOARD MEMBER ALDRIDGE: I'LL SECOND.

CHAIRMAN VICTORINO: IT HAS BEEN MOVED AND
SECONDED. ANY DISCUSSION?

BOARD MEMBER OKAMURA: I THINK IT'S IMPORTANT,
BECAUSE THE SOURCES OF WATER FOR THE CENTRAL MAUI AREA IS
SORT OF GETTING LOW NOW, AND IT'S GETTING LESS, AND IT'S
IMPORTANT TO FIND NEW SOURCES. AND THE POTENTIAL FOR
SOURCES FROM THESE STREAMS ARE GOOD RIGHT NOW, FOR SURFACE

WATER ARE GREATER THAN THE AMOUNT THAN WE'RE GETTING NOW.
OR ARE THERE ANY PLANS TO GET MORE LIKE SOURCES OF SURFACE
WATER FROM SOME OF THESE STREAMS?

CHAIRMAN VICTORINO: I THINK THAT'S NOT AN
APPROPRIATE QUESTION ONLY BECAUSE WHAT WE'RE TRYING TO
DISCUSS IS THE SUPPORT OF THAT, AND I THINK SOME OF THIS
WILL ALL COME OUT IN WHAT THEY'RE PLANNING TO DO. I THINK
TO ANSWER YOUR QUESTION IN A SIMPLE MANNER, WHEN ALL THIS IS
SAID AND DONE, I THINK THE PEOPLE OF THE COUNTY OF MAUI WILL
BE BEST SERVED IN ALL OF THIS.

BOARD MEMBER OKAMURA: BECAUSE WATER IS IMPORTANT
TO THE CENTRAL MAUI DISTRICT RIGHT NOW. BECAUSE EARLIER I
WAS GOING TO ASK THE QUESTION, BUT I WAS GOING TO TRY TO
SQUEEZE IT IN, BUT I'LL ASK IT LATER.

CHAIRMAN VICTORINO: SINCE THERE IS NO OTHER
DISCUSSION, ALL THOSE IN FAVOR SAY "AYE."

(A CHORUS OF AYES)

OPPOSED?

(NONE)

WE WILL DRAFT A LETTER NOW AND MAKE SURE THAT
LETTER IS FORWARDED TO THE COUNTY COUNCIL. THANK YOU,
BRIAN. APPRECIATE YOU FOLKS BEING HERE.

MR. MOTO: THANK YOU.

MISS LOVELL: NICE TO MEET YOU.

CHAIRMAN VICTORINO: NOW, I GUESS IF WE'RE OKAY
WITH THIS, LET'S GO BACK TO THE ORDER, WHICH I'VE BEEN OUT
OF ORDER ALL DAY, SO I APOLOGIZE. LET US GO BACK. WE'VE
DISCUSSED 06-05, AND 06-06 HAS BEEN DEFERRED. SO WE WILL
MOVE DOWN TO DIRECTOR'S REPORT 06-02, FISCAL YEAR 2006
WRITE-OFFS. AND THOSE ARE ON PAGES 130 TO 132.

GEORGE, WHO WILL TAKE THIS DISCUSSION? MISS
HOLLY. MISS PERDIDO, GO AHEAD.

MS. PERDIDO: GOOD MORNING. ALMOST AFTERNOON.

THIS IS A STANDARD WRITE-OFF THAT WE EVERY YEAR BRING BEFORE THE BOARD, AND WE'RE JUST RECOMMENDING WRITING OFF FOR THIS YEAR IT WOULD BE \$11,481. WE DO WRITE IT OFF, BUT WE DO SEND IT TO COLLECTION, SO IT'S CONTINUED TO BE PURSUED. AND ONCE THIS IS WRITTEN OFF, IF IT IS PURSUED AND WE DO GET THE MONIES, THEN WE PUT IT BACK IN. IT'S A VERY LOW PERCENTAGE OF OUR TOTAL ACCOUNTS RECEIVABLE. IT'S LESS THAN ONE PERCENT.

CHAIRMAN VICTORINO: FOR THE THREE NEW MEMBERS, JUST A QUICK OVERVIEW. EACH AND EVERY YEAR THE DEPARTMENT COMES TO US AND BRINGS US LIKE THIS LIST THAT YOU SEE IN FRONT OF YOU OF THOSE UNCOLLECTABLE BILLS, OKAY. THERE ARE MANY REASONS, AND WE CAN GET INTO A LONG DISCUSSION, BUT MOST OF THE REASONS ARE EITHER THE PEOPLE HAVE MOVED ON, SOLD LAND, THE METER WAS LEAKING AND THEY DISAGREED THAT THEY OWE THE MONEY, CONTESTED OR WHATEVER. THERE'S A WHOLE BUNCH OF OTHER REASONS THAT EXIST. SO THEY BRING IT SO THEY CAN WRITE IT OFF AND MOVE ON.

AND HOLLY, IF YOU WOULD, ONCE YOU WRITE THIS OFF, LET'S SAY OVER THE NEXT TWO YEARS IS THERE KIND OF LIKE A PERCENTAGE THAT MAY, THROUGH COLLECTION, BE COLLECTED BACK,

DO YOU HAVE ANY KIND OF IDEA.

MS. PERDIDO: IT'S REALLY LOW. I MEAN I WOULD SAY
OUT OF THIS 11,000, MAYBE A THOUSAND DOLLARS. SO IT'S NOT
THAT MUCH THAT WE DO. BUT THEY DO CONTINUE TO PURSUE IT
UNTIL THEY DEEM IT IS UNCOLLECTABLE. OUT OF THIS THERE'S A
CERTAIN PERCENTAGE, \$1,900 IS BANKRUPTCY, AND WE DO HAVE
THAT PROBLEM ON A FEW.

CHAIRMAN VICTORINO: GO AHEAD, LEE.

BOARD MEMBER ALDRIDGE: THE ONLY QUESTION I HAD
IS, IF THIS IS DONE EVERY YEAR, HOW COME THERE ARE SOME THAT
DATE BACK TO 1998?

MS. PERDIDO: WE KEEP THEM ON OUR BOOKS AND WE TRY
TO COLLECT THEM FIRST. AND THEN ONCE WE HAVE NO -- THE
COLLECTION AGENCIES SEND THEM BACK AND SAY, "WE CANNOT
COLLECT THEM," THEN WE BRING IT TO THE BOARD. BUT WE STILL
DO GET SOME PAYMENTS AFTER THIS TIME.

BOARD MEMBER ALDRIDGE: SO THERE'S A FEW OF THEM

THAT JUST LINGER FOR QUITE SOME TIME, BUT THEY STAY ON YOUR BOOKS AS ACCOUNTS RECEIVABLE.

MS. PERDIDO: THEY STAY ON OUR BOOKS UNTIL WE FINALLY WRITE THEM OFF.

CHAIRMAN VICTORINO: KEN?

BOARD MEMBER OKAMURA: SO THIS IS PRESENTED FOR US FOR INFORMATION, BECAUSE RIGHT NOW WE CANNOT ACT TO WRITE IT OFF, RIGHT? SO YOU'RE JUST PRESENTING IT FOR INFORMATION, OR WE WOULD RECOMMEND TO SOMEBODY THAT THEY WRITE IT OFF, OR WHAT WOULD WE DO?

CHAIRMAN VICTORINO: GEORGE, WOULD YOU LIKE TO ANSWER THAT?

DIRECTOR TENGAN: MR. CHAIR, I WOULD SAY THAT THIS ITEM HERE IS TO SERVE TWO PURPOSES. ONE IS TO PROVIDE INFORMATION TO THE BOARD, AND THE OTHER WOULD BE TO OBTAIN THE CONCURRENCE OF THE BOARD THAT THESE ACCOUNTS WOULD BE WRITTEN OFF.

BOARD MEMBER OKAMURA: I SO MOVE.

CHAIRMAN VICTORINO: WAIT, HANG ON. MISS PARSONS,
YOU HAD A QUESTION?

BOARD MEMBER PARSONS: I WAS JUST LOOKING.

MARRIOTT GROUP, WHY WOULDN'T YOU COLLECT IT? I WAS JUST
CURIOUS, WHEN IT'S A MAJOR COMPANY LIKE THAT.

BOARD MEMBER HOWDEN: WHEN PEOPLE DON'T PAY THEIR
BILLS ARE THEIR WATER METERS SHUT OFF?

MS. PERDIDO: WE DO SHUT THEIR WATER METERS OFF.

A LOT OF THESE HAPPEN PRIOR TO WHEN WE WERE COLLECTING
DEPOSITS, BUT WE COLLECT A SMALL DEPOSIT, AND THEN AFTER ONE
YEAR THE DEPOSIT IS REFUNDED TO THE INDIVIDUAL. BUT A LOT
OF TIMES AFTER -- NOW IT'S AFTER 90 DAYS, WHICH IS LIKE
BEFORE THE SECOND BILLING COMES OUT, WE GO OUT AND LOCK
METERS. AND SOMETIMES THE TIME PERIOD CHANGES. IT DEPENDS
ON SITUATIONS.

BUT WE LOCK METERS, AND ONCE WE LOCK METERS TO ASK

TO REOPEN THEY HAVE TO PAY THEIR BILL. BUT THERE'S A FEW
THAT STILL HAPPEN THAT DO NOT GET LOCKED, OR THEY GET LOCKED
AND THEN THEY DON'T PAY.

BOARD MEMBER PARSONS: WHEN SOMEBODY SELLS A HOUSE
AND THEY GET LOCKED, DOES THE NEW OWNER HAVE TO PAY IT TO
GET IT UNLOCKED?

BOARD MEMBER LESTER: ESCROW WOULD USUALLY TAKE
CARE OF THAT.

MS. PERDIDO: UNFORTUNATELY, THAT'S A PROBLEM.
FOR NEW OWNERS, WE CAN'T HOLD THE NEW OWNERS RESPONSIBLE FOR
PRIOR BILLS, AND IT WOULD BE NICE. WE DO HAVE SOME REALTORS
WHO CALL US AND GET IT ALL CLEARED UP. BUT POSSIBLY SOME OF
THESE ARE PAST SOLD PROPERTIES THAT HAVE NOT PAID THE
BALANCE FROM THE CLOSING BILL AND HAVE MOVED ON.

CHAIRMAN VICTORINO: SO DURING ESCROW. WE HAVE
ALL THESE PARTICULAR EXPERTS IN MANY AREAS. WHEN YOU DO AN
ESCROW AND TITLE SEARCH, IS SOME OF THESE THINGS PART OF
THAT TITLE SEARCH?

BOARD MEMBER LESTER: YES, THEY ARE, IF THERE'S A LIEN. BUT A LOT OF TIMES PEOPLE CHANGE NAMES, AND WE WILL FIND IT THERE, AND THAT'S WHEN WE USUALLY LET ESCROW KNOW.

BOARD MEMBER PARSONS: SO SHOULD WE BE PUTTING IT SO THEY CAN FIND IT IN A TITLE SEARCH NOW, BECAUSE THERE'S SO MUCH REAL ESTATE TURNING OVER? AFTER A CERTAIN PERIOD OF TIME SHOULD YOU LOOK AT MAYBE FILING?

BOARD MEMBER LESTER: IT WOULD MAKE TOO MUCH WORK FOR THE AMOUNTS THAT ARE SHOWING.

MR. KUSHI: IF MAUI ELECTRIC DOES IT, THEN WE CAN DO IT. I DON'T THINK THEY DO IT.

CHAIRMAN VICTORINO: JUST A NICE RECOMMENDATION. BUT I HAVE TO AGREE WITH KUI, THAT IT STARTS TO BECOME TOO MUCH COST BEARING, IF YOU ARE TALKING \$125.

BOARD MEMBER PARSONS: SOME OF THESE ARE 8 AND 9.

CHAIRMAN VICTORINO: BUT SOME OF THESE HAVE FILED

BANKRUPTCY, SO THAT'S AGAIN ANOTHER ISSUE.

BOARD MEMBER PARSONS: MAYBE OVER A CERTAIN AMOUNT
YOU LOOK AT DOING THAT. THERE'S SO MUCH REAL ESTATE BEING
SOLD, IT'S TOO BAD SOMEBODY CAN WALK AWAY.

MS. PERDIDO: IF I AM NOT MISTAKEN, A FEW YEARS
AGO A LETTER WAS SENT TO THE REALTORS ASKING THEM TO TRY TO
GET REALTORS TO WORK WITH US. MAYBE WE CAN PURSUE THAT
AGAIN.

CHAIRMAN VICTORINO: THAT'S A GOOD IDEA, HOLLY.

MS. PERDIDO: AT LEAST THE TITLE COMPANIES. THAT
WAY THEY NOTIFY US WHAT NEEDS TO BE DONE. YOU CAN SAY, "DO
THAT ON YOUR LIST OF DOCUMENTS THAT NEEDS TO BE CHECKED."

CHAIRMAN VICTORINO: LET'S LOOK INTO THAT. AND
MAYBE IF YOU CAN COME BACK AT THE NEXT MEETING AND SEE WHAT
YOU HAVE COME UP WITH. NOT THAT YOU HAVE NOTHING ELSE TO
DO, I KNOW THAT. I APOLOGIZE.

OKAY, ANY OTHER QUESTIONS? I WILL ENTERTAIN A

MOTION THAT WE ACCEPT THE REPORT. GO AHEAD, MR. OKAMURA.

BOARD MEMBER OKAMURA: I MOVE THAT WE RECOMMEND
THAT THE DEPARTMENT WRITE OFF THESE ACCOUNTS.

CHAIRMAN VICTORINO: THE \$11,000, WHATEVER THE
AMOUNT IS. \$11,481.58. DO I HEAR A SECOND?

BOARD MEMBER PARSONS: SECOND.

HEARINGS OFFICER: IT HAS BEEN MOVED AND
SECONDED. ALL THOSE IN FAVOR SAY "AYE."

(A CHORUS OF AYES)

OPPOSED?

(NONE)

OKAY, THANK YOU VERY MUCH.

MOVING RIGHT ALONG, DIRECTOR'S REPORT 06-03, WATER

TEST RESULTS FOR UPCOUNTRY AND HANA WATER SYSTEMS. THEY
WILL BE FOUND ON PAGES 133 AND 134. I THINK THAT'S A
SEPARATE ATTACHMENT AGAIN, BUT THAT'S THE NUMBERS I WAS
GIVEN. AND WHO WILL SPEAK ON THAT?

DIRECTOR TENGAN: MR. CHAIR, WE HAVE JOE MENDONCA
AND CARI SUMABAT.

CHAIRMAN VICTORINO: WE HAVE THE REPORT IN FRONT
OF US. AND JOE AND CARI, BETWEEN THE TWO OF YOU, WHOEVER
WANTS TO ENLIGHTEN US ON THIS REPORT.

MR. MENDONCA: MY NAME IS JOE MENDONCA. HELLO
EVERYONE. I GUESS THIS IS A CONTINUATION FROM LAST MONTH'S
REPORT. I DON'T HAVE LAST MONTH'S REPORT IN FRONT OF ME
RIGHT NOW. THIS DATA HERE WOULD BE THE THM DATA AND THE
HA-5 DATA.

BOARD MEMBER PARSONS: DISINFECTION BY-PRODUCTS.

MR. MENDONCA: DISINFECTION BY-PRODUCTS FOR
SURFACE WATER.

CHAIRMAN VICTORINO: MAYBE BEFORE YOU START, JOE,
A REAL QUICK OVERVIEW. WHAT DOES THIS MEAN? BECAUSE,
AGAIN, WE HAVE THREE NEW BOARD MEMBERS THAT RIGHT NOW YOU
JUST THREW IN ALL THOSE TERMS. SO A REAL QUICK OVERVIEW,
WHAT DOES THIS MEAN TO US AND TO THE PUBLIC AND TO THE
DEPARTMENT, A REAL QUICK OVERVIEW.

MR. MENDONCA: WHAT HAPPENS IS WHEN YOU ADD
CHLORINE TO A SURFACE WATER SYSTEM YOU PRODUCE CERTAIN
BY-PRODUCTS, AND TWO GROUPS OF BY-PRODUCTS THAT WE'RE
LOOKING AT RIGHT NOW ARE THE THM'S, WHICH IS THE
TRIHALOMETHANES, AND THE HAA5'S, WHICH ARE HALOACETIC ACIDS.
BOTH GROUPS HAVE MAXIMUM CONTAMINANT LEVELS. THE THM'S
WOULD HAVE MAXIMUM CONTAMINANT LEVELS OF 80 PARTS PER
BILLION. THE HAA5'S WOULD HAVE MCL LEVELS OF 60 PARTS PER
BILLION.

CHAIRMAN VICTORINO: AND WHAT AFFECT, AGAIN,
BECAUSE WE HAVE NEW MEMBERS, WHAT AFFECT DO THESE HAVE ON
THE DRINKING WATER AND THE PERSON WHO IS CONSUMING THE
WATER? WHAT WOULD BE AN OVERVIEW OF WHAT AFFECTS WOULD THAT
HAVE ON US IF THESE LEVELS WERE EXTREMELY HIGH?

MR. MENDONCA: IT WOULD BE A CHRONIC PROBLEM, AND WE WOULD HAVE SOME ADVERSE EFFECTS ON CANCEROUS REPRODUCTION ISSUES, MISCARRIAGES.

CHAIRMAN VICTORINO: ARE WE CLEAR WITH THAT, LADIES AND GENTLEMEN? OKAY, GO AHEAD, CONTINUE. I'M SORRY, I DIDN'T MEAN TO PUT YOU ON THE SPOT, JOE.

MR. MENDONCA: THAT'S OKAY. WHAT WE HAVE HERE, WE HAVE THE MAKAWAO RESULTS AND WE HAVE THE UPPER KULA SYSTEM RESULTS, AND HANA DISTRICT, MAKAWAO, LOWER KULA. AND THE UPPER KULA WOULD BE -- THE 247 WOULD BE THE LOWER KULA, SYSTEM. 15 WOULD BE THE UPPER KULA SYSTEM.

BOARD MEMBER ALDRIDGE: CAN I ASK A QUESTION?

CHAIRMAN VICTORINO: SURE.

BOARD MEMBER ALDRIDGE: FOR COMPLIANCE FOR 247, ARE THESE THE INDIVIDUAL QUARTERLY SAMPLE RESULTS, NOT THE RUNNING QUARTERLY?

MR. MENDONCA: YES, THOSE ARE THE INDIVIDUAL REPORTS. SO WHAT HAPPENS IS EACH ONE OF THESE LOCATIONS ARE AVERAGED, AND THEN THEY'RE AVERAGED AGAIN ANNUALLY.

BOARD MEMBER ALDRIDGE: RIGHT. AND THEN YOU DROP THE OLDEST ONE AND ADD THE NEWEST QUARTERLY SAMPLE? IT LOOKS LIKE IT'S SLIGHTLY OVER 80 IF YOU AVERAGE ALL OF THOSE 80.1'S TO BE EXACT.

MR. MENDONCA: WE COULD HAVE OVER 80, BUT IF YOU WENT ON AN ANNUAL BASIS THEN YOU WOULD BE LOWER THAN 80.

BOARD MEMBER ALDRIDGE: YOU WOULD BE LOWER. IT'S VERY CLOSE.

MR. MENDONCA: IT'S VERY CLOSE.

BOARD MEMBER ALDRIDGE: SO IT WOULD BE A PROBLEM IN STAGE TWO DISINFECTION BY-PRODUCTS WHEN YOU START DOING A LOCATIONAL RUNNING AVERAGE?

MR. MENDONCA: EXACTLY.

BOARD MEMBER PARSONS: JOE, A COUPLE OF QUESTIONS.

WHEN WE HAD THE HAA5 NOTIFICATION, WAS THAT FROM 2004?

REMEMBER WHEN WE WENT BACK TO THE CHLORAMINES, WERE THE HIGH

HAA5'S IN 2004 AND NOT IN 2003? BECAUSE WE DIDN'T CHANGE

BACK TO CHLORAMINES UNTIL 2005 FEBRUARY. SO IT WASN'T

JANUARY, IT WAS LIKE BEFORE THAT, CORRECT, BECAUSE IT'S NOT

SHOWING UP IN HERE.

MR. MENDONCA: NO, IT IS NOT SHOWING UP.

BOARD MEMBER PARSONS: AND THAT UPPER SYSTEM WHERE

E WENT BACK TO CHLORAMINES ON, AS I'M LOOKING AT THIS IN

2005, IS THIS IN CHLORAMINES AND WE'RE STILL UP THIS HIGH?

MR. MENDONCA: WELL, THE 215 WE'RE ON CHLORAMINES,

AND IT'S PRETTY LOW, ACTUALLY.

BOARD MEMBER PARSONS: THE SECOND QUARTER IS 4 AND

WE'RE ON CHLORAMINES, RIGHT? FEBRUARY OF '05 WE WENT BACK

TO CHLORAMINES. SO ON THE SECOND QUARTER WE'RE GOING UP,

AND ON THE THIRD QUARTER WE'RE GOING UP, AND ON THE THM'S.

AND WE'RE UP ON THE FOURTH QUARTER AS WELL IN A COUPLE OF

SPOTS ON CHLORAMINES. NOW, I DON'T UNDERSTAND IT AS WELL AS YOU DO, BUT I KNOW WITH FREE CHLORINE WHEN WE MIX IT IN AND WE'RE HIGH. WHEN WE GO TO CHLORAMINES AND WE'RE MIXING, WHAT DOES THAT MEAN WHEN IT GOES HIGH?

MR. MENDONCA: WE'RE TALKING ABOUT THE 215?

BOARD MEMBER PARSONS: I'M LOOKING AT THE THM'S IN THE 247 RANGE.

MR. MENDONCA: OKAY, 247 IS A CHLORINE SYSTEM.

BOARD MEMBER PARSONS: THAT IS A CHLORINE SYSTEM.

I THOUGHT YOU SAID THAT 247 WAS THE UPPER KULA. 215, OKAY.

CHAIRMAN VICTORINO: HE DID SAY THAT. HE CLARIFIED THAT.

MR. MENDONCA: SINCE WE'RE ON CHLORAMINES, I MEAN WE HAVE PRETTY GOOD NUMBERS.

BOARD MEMBER PARSONS: SO WHAT ARE WE DOING THEN?

WHAT DID WE DO TO BRING THESE DOWN IN THE LOWER SYSTEM, AND WHY DO YOU THINK -- BECAUSE I NEED WE'VE GOT A LOT OF IN-HOUSE PROBLEMS ON NAALAE, AND WE HAD SOME REALLY HIGH, WE HAD LIKE 9400 CFU IN THE HOUSEHOLDS OVER THERE ON NAALAE.

AND I HAVE ANOTHER ONE, JUST YESTERDAY, THAT I WAS OVER THERE THAT'S GOT SOME HIGH IN-HOUSE HPC. SO WHY DO YOU SUPPOSE THIS AREA IS SO HIGH? WHY IS IT -- IN THE FREE CHLORINE SYSTEM WE'RE NOT SUPPOSED TO HAVE SO MUCH PROBLEM, RIGHT?

MR. MENDONCA: NO, IT'S THE OPPOSITE. IN A FREE CHLORINE SYSTEM THAT'S WHERE WE HAVE THE PROBLEMS.

BOARD MEMBER PARSONS: BUT WE DIDN'T GO TO CHLORINES ON THIS. WE DID IN UPPER KULA BECAUSE WE HAD A BIGGER PROBLEM. I'M SAYING WE STAYED IN FREE CHLORINE IN THIS AREA AND MAKAWAO, BECAUSE IT IS NOT AS BAD OF A PROBLEM AS THE UPPER KULA SYSTEM. BUT WHY DO YOU THINK THAT 247 GOT AS HOT AS IT GOT, DO YOU THINK WE HAVE MORE ORGANIC MATTER OR ARE THEY OLDER PIPES OR IS THERE ANY KIND OF THEORY OF MAYBE WHY YOU HAVE THAT?

MR. MENDONCA: WHAT HAPPENED WAS THERE'S A NEW SUBDIVISION, THE HAWAIIAN HOMELANDS, AND THAT'S OUT FURTHER OUT IN THE SYSTEM. AND SO WHAT HAPPENED WAS THE DEPARTMENT OF HEALTH CHANGED THEIR SAMPLE POINTS TO ACCOMMODATE THAT, BECAUSE NOW THE RESIDENT'S TIME IS HIGHER OUT IN THE HAWAIIAN HOMES SUBDIVISION, AND THAT'S WHY THESE NUMBERS ARE DIFFERENT FROM LET'S SAY 2004, BECAUSE THEY WERE SAMPLE POINTS.

SO NOW WE'RE USING HAWAIIAN HOMES, WHICH IS THE PUEO ROAD, AND THE NAALAE SUBDIVISION. THOSE ARE NEW. I MIGHT WANT TO CORRECT THAT WITH CARI. IS THAT CORRECT, CARI?

MS. SUMABAT: THE PUEO ONE IS HAWAIIAN HOMES, AND NAALAE IS THE END OF THE LINE FOR THE LOWER KULA SYSTEM.

BOARD MEMBER PARSONS: IT IS.

CHAIRMAN VICTORINO: THAT'S THE END OF THE LINE, THAT'S WHY.

MS. SUMABAT: WHAT THEY WANT TO SEE IS THE LONGEST RESIDENTS' TIME IN ALL OF THE LEGS, SO THAT'S ONE OF THE END-OF-THE-LINE SITES.

BOARD MEMBER PARSONS: THEN THE PUEO ROAD, THIS IS GOING BACK TO WHEN WE WERE LOOKING AT CHLORINE, IT LOOKED LIKE IT WAS BEING EATEN UP BY THE TANK FOR AWHILE. ALL THE WAY AT THE END OF PUEO THEY WERE GETTING VERY LOW CHLORINE READINGS. DID WE BOOST THAT AREA?

MR. MENDONCA: NO. WE WANT TO CONTROL THE CHLORINE WITH FLUSHING, BECAUSE IF WE BOOST THEN WE ARE GOING TO HAVE HIGHER NUMBERS. SO IT'S ESSENTIAL THAT WE DON'T ADD ANY CHLORINE IN THE SYSTEM.

BOARD MEMBER PARSONS: ARE YOU DOING MUCH MORE FLUSHING DOWN THERE?

MR. MENDONCA: YOU WILL NOTICE THE HIGHER NUMBERS IN THE THIRD QUARTER. WHAT WE DID WAS WE MODIFIED OR CHANGED THE SYSTEM AROUND. WE TOOK ONE TANK OFF LINE. BASICALLY, THE HAWAIIAN HOMES SUBDIVISION HAS A CAPACITY, A

STORAGE CAPACITY OF A MILLION GALLONS, AND WE CUT THAT DOWN BY BETWEEN 60 TO 70 PERCENT. SO THAT REDUCED THE RESIDENTS TIME THERE. AND WE CAME UP WITH SOME STRATEGIES ON HOW WE CAN CONTROL THE BY-PRODUCTS.

BOARD MEMBER PARSONS: DID THEY GET ANY NOTIFICATION ON THIS, THE RESIDENTS?

MR. MENDONCA: NO.

BOARD MEMBER PARSONS: WERE WE REQUIRED TO NOTIFY ANYBODY?

MR. MENDONCA: NO.

BOARD MEMBER PARSONS: WHEN WE'RE HIGH THM'S OR HAA5'S WE HAVE NO REQUIREMENTS?

MR. MENDONCA: WE DO IF WE GO INTO VIOLATION.

BOARD MEMBER PARSONS: BUT WE'RE IN VIOLATION ON THESE TWO.

MR. MENDONCA: IT DOESN'T WORK THAT WAY. IT IS AVERAGED ON THE UPPER COLUMN, AND IT IS ALSO AVERAGED ANNUALLY. SO WHEN WE GO INTO THE STAGE TWO, THEN WHAT'S GOING TO HAPPEN IS EACH LOCATION WOULD BE A LOCATIONAL AVERAGE, SO EACH LOCATION WILL HAVE ITS OWN NUMBER.

BOARD MEMBER OKAMURA: SO LIKE 247 IS THE LOCATION. YOU MEAN ALL THOSE FOUR STREETS COMBINED IS THE LOCATION, OR JUST THAT ONE STREET IS THE LOCATION?

MR. MENDONCA: 247 IS THE NUMBER OF THE WATER SYSTEM.

BOARD MEMBER OKAMURA: YOU USED THE WORD "LOCATION." WHAT IS THAT? LIKE WHICH DO YOU AVERAGE, DO YOU AVERAGE THE WHOLE STREET OR DO YOU AVERAGE THE SYSTEM?

MR. MENDONCA: OKAY, YOU WOULD AVERAGE, LET'S SAY IN THE FIRST QUARTER YOU WOULD AVERAGE ALL OF THESE LOCATIONS TOGETHER.

BOARD MEMBER OKAMURA: ALL THE WHOLE THING?

MR. MENDONCA: NOT THE WHOLE PAGE, JUST FOR THE
247. AND THAT AVERAGE WOULD BE AVERAGED ANNUALLY.

BOARD MEMBER OKAMURA: SO ACTUALLY YOU DON'T GO
OVER VIOLATION.

MR. MENDONCA: YOU CAN ACTUALLY GO WAY OVER
VIOLATION IN ONE QUARTER, AND THEN THE NEXT QUARTER WOULD BE
LOW. SO THAT'S WHY THE NEW RULES TOOK THAT INTO
CONSIDERATION. THEY SAID, WELL, HOW COME THIS SECTION HERE
IS GETTING HIGH DISINFECTION BY-PRODUCTS IN MY JURISDICTION
AND THE OTHER PERSON'S JURISDICTION IS GETTING LOW
DISINFECTION BY-PRODUCTS?

BOARD MEMBER OKAMURA: SO THEY CHANGED THE RULES
NOW. DID THEY CHANGE IT?

MR. MENDONCA: YES. I THINK THEY WILL GO INTO
EFFECT IN 2012.

BOARD MEMBER OKAMURA: SO THAT WOULD MEAN IF THE

PARTICULAR ROAD IS HIGH THEN YOUR SUBDIVISION WOULD BE IN VIOLATION, SOMETHING LIKE THAT?

MR. MENDONCA: YES.

BOARD MEMBER PARSONS: I'M LOOKING AT THIS JUST FROM THE STANDPOINT OF EDUCATION. DO WE PUT THESE ON THE INTERNET, DO WE DO ANYTHING BESIDES BRING THEM BEFORE THE BOARD? IS THERE ANY WAY THAT WE CAN HAVE PEOPLE START TO LOOK AT -- BECAUSE THERE ARE SOME THINGS THEY CAN DO AT THE POINT OF USE, YOU KNOW. IF YOU GET HIGH THM'S, WELL, YOU COULD PUT A FILTRATION IN THE SHOWER, FOR EXAMPLE. IT'S NOT GOING TO TAKE DOWN EVERYTHING, BUT IT WOULD TAKE DOWN SOME.

BUT IF YOU'VE GOT A PREGNANT WOMAN IN THAT AREA AND SHE'S EXPOSED TO THM'S AND HAS A MISCARRIAGE, YOU KNOW, WHEN THERE MAY HAVE BEEN SOMETHING THAT COULD HAVE BEEN USED TO PREVENT IT.

BOARD MEMBER ALDRIDGE: I WOULD STAY THE BEST STRATEGY IS TO DEAL WITH IT AT THE TREATMENT PLANT AND THE SECONDARY DISTRIBUTION SYSTEM. MY QUESTION WOULD BE WHY YOU'RE NOT USING CHLORAMINES IN THIS AREA WHERE YOU HAVE GOT

LONG DISTRIBUTION AND LONG RESIDENCE TIME.

MR. MENDONCA: THAT'S A GOOD QUESTION. THE ONLY PROBLEM IS THAT WE ACTUALLY EXCHANGE WATER. NOT REALLY EXCHANGE, BUT WE ACTUALLY PUMP WATER FROM THE LOWER SYSTEM TO THE UPPER SYSTEM, WHICH IS CHLORAMINES. BUT WE ALSO GRAVITY FEED FROM THE LOWER KULA SYSTEM TO THE MAKAWAO SYSTEM.

SO CHLORAMINES WOULD HAVE TO HAVE ALL OF THOSE SYSTEMS ON CHLORAMINES, PLUS THE HAIKU SYSTEM WOULD ALSO HAVE TO BE ON CHLORAMINES, BECAUSE ACTUALLY IN CASE ONE OF OUR PUMPS GOES DOWN IN HAIKU WE ARE GOING TO HAVE TO SUPPLEMENT THAT SYSTEM. THAT WATER WOULD FLOW DOWN TO HAIKU FROM THE KAMOLE TREATMENT PLANT OR FROM THE PI' IHOLO TREATMENT PLANT. SO YOU WOULDN'T WANT A MIXTURE OF CHLORINE AND CHLORAMINES.

BOARD MEMBER PARSONS: ARE THERE HOLDING TANKS ON ALL OF THESE STREETS OR JUST ON THE PUEO, AND NAALAE IS REGULAR FEED AND JUST DEAD END?

MS. SUMABAT: THERE'S A TANK AT THE KULA KAI SITE.

NOTHING AT NAALAE OR PIIWALE.

BOARD MEMBER OKAMURA: BUT IT SEEMS LIKE SINCE YOU PULLED THAT STORAGE TANK OUT THERE'S GOING TO BE LESS. EVEN ON THE STREET IT'S GOING TO BE LOWER LEVELS OF THM OR WHATEVER, BECAUSE YOU PULLED THAT. YOU HAVE SORT OF MODIFIED THE SYSTEM.

BOARD MEMBER PARSONS: HE'S BRINGING IT DOWN. IT'S WAY DOWN NOW. THEY STARTED GOING DOWN.

BOARD MEMBER OKAMURA: SO YOU DON'T EXPECT THERE WOULD BE A PROBLEM IN THE FUTURE BECAUSE YOU MADE THAT CHANGE?

MR. MENDONCA: THAT'S A GOOD QUESTION. IT DID HELP, BUT IT'S NOT THE PANACEA OF THIS PROBLEM. WE STILL HAVE THIS PROBLEM, AND WE'RE STILL LOOKING AT IT AS A HOW DO YOU MANAGE IT. WHEREAS IN THE FUTURE WE'RE LOOKING AT HOW DO YOU SOLVE IT WITH A GAC FILTER AT THE PLANT TO REMOVE THE TLC'S, AND THAT WOULD SOLVE OUR PROBLEMS. AND AT THAT POINT MAYBE WE COULD ADD MORE CHLORINE TO THE SYSTEM DOWN LOWER.

BOARD MEMBER PARSONS: IS THERE ANYTHING YOU CAN DO -- I KNOW WE ARE GOING TO BE CHANGING OUT TANKS AND EVERYTHING, BUT IS THERE ANYTHING YOU CAN DO AT THE TANK LEVEL BEFORE IT GOES TO THE HOMEOWNERS WHEN IT IS GOING INTO A SUBDIVISION LIKE HAWAIIAN HOMELANDS, IS THERE ANYTHING THAT CAN BE DONE AT THAT STAGE TO FILTER OR TO DEAL WITH IT?

MR. MENDONCA: DEAL WITH THE BY-PRODUCTS? IT WOULD HAVE TO BE DONE AT THE PLANT. THAT'S WHERE THE POTENTIALS ARE. THAT'S WHERE YOU HAVE YOUR CARBONS.

BOARD MEMBER PARSONS: BUT WHY DOES IT READ HIGHER HERE AND IT'S ALL COMING OUT OF THE PLANT, AND IT DOESN'T READ HIGHER ON THAT ROAD THERE?

MR. MENDONCA: BECAUSE THE HIGHER THE RESIDENTS TIME, THE MORE THE CHLORINE HAS TO REACT WITH THE ORGANISM.

BOARD MEMBER PARSONS: SO AT THE HOLDING TANK SOMETHING COULD BE GOING ON. IS THAT A POSSIBILITY? IS THAT SOMETHING WE HAVE LOOKED INTO?

MR. MENDONCA: "GOING ON" MEANING?

BOARD MEMBER PARSONS: WELL, IF IT IS COMING OUT OF THE PLANT AND IT'S GOING ALL THE WAY AROUND HERE, AND THIS ROAD TENDS TO HAVE -- THIS PUEO TENDS TO HAVE HIGHER THM'S THAN THE ROAD NEXT TO IT. FOR EXAMPLE, IT'S NOT IN THE SUBDIVISION AND IT'S NOT BEING FED OFF OF A TANK. WHAT CAUSES PUEO TO BE HIGHER IN THM'S AND THE SAME DISTRIBUTION SYSTEM FEEDING ANOTHER ROAD IN THE NEIGHBORHOOD BUT NOT IN THE SUBDIVISION TO BE LOWER?

MR. MENDONCA: IT COULD BE THE CONSUMPTION. IF THE CONSUMPTION IS HIGHER ON THAT ROAD THEN YOU HAVE PRESSURED WATER COMING IN. THE WATER WON'T STAY THERE. THE LONGER THE RESIDENTS TIME, THE MORE PROBLEMS WE HAVE. THAT'S THE ISSUE.

BOARD MEMBER PARSONS: BUT THE HOLDING TANK COULD POSSIBLY BE CAUSING THE PROBLEM.

MR. MENDONCA: IT'S HOW LONG THE WATER RESIDES IN THE TANK. THE LONGER IT RESIDES IN THE TANK, THE MORE

PROBLEMS. THERE'S NOTHING ELSE THAT'S CONTRIBUTING TO IT.

BOARD MEMBER PARSONS: SO SOMEWHERE THE TANK IS IN THE MIX. SO THE PROBLEM, WHETHER IT'S GOT TOO MUCH WATER IN IT OR IF IT'S TOO LONG, WE'RE GOING TO SHORTEN THE TIME. IT'S A TANK THAT'S THE ISSUE.

MR. MENDONCA: YES. WE DID BRING THE LEVELS DOWN AS FAR AS WE COULD TO SUFFICE THE FIRE CODE, WHICH WOULD BE THE MINIMUM WE COULD HAVE IN THE TANK, AND I THINK IT WAS 160,000 GALLONS, OR SOMETHING LIKE THAT. BUT BETWEEN THE HAWAIIAN HOMES AND THE KULA KAI IT'S LIKE 115,000 GALLONS ONLY IN THE LINE. SO YOU CAN SEE THE LINE IS A STORAGE ITSELF, PLUS THE TANKS.

BOARD MEMBER PARSONS: SO IT'S JUST THE LONGER -- FRESHER WATER DOESN'T REACT AS QUICKLY AS STAGNANT WATER WILL.

MR. MENDONCA: EXACTLY.

CHAIRMAN VICTORINO: OKAY. I THINK WE'VE BEAT

THAT ONE TO A PULP.

BOARD MEMBER PARSONS: WE'RE LEARNING. IT IS A
LEARNING LESSON.

CHAIRMAN VICTORINO: THANK YOU VERY MUCH, WE
APPRECIATE IT, JOE. AND CARI, THANK YOU VERY MUCH FOR BEING
HERE, WE APPRECIATE IT. NOW THE NEW MEMBERS ARE SO
ENLIGHTENED.

BOARD MEMBER PARSONS: BY THE WAY, CARI IS OUR
CHEMIST IN THE BASEYARD, AND JOE HIMSELF PUT TOGETHER OUR
SCADA SYSTEM, WHICH IS REALLY FASCINATING IF YOU EVER GET A
CHANCE TO GO TOUR IT. IT FEEDS FROM THE BASEYARD AND
MONITORS THE CHLORINE AND THE CHLORAMINES.

CHAIRMAN VICTORINO: CAN WE MOVE ON?

BOARD MEMBER PARSONS: THIS IS YOUR NEW MEMBERS,
THEY SHOULD KNOW.

CHAIRMAN VICTORINO: YOU ARE TAKING MY THUNDER
ALREADY. I AM GOING TO LET YOU SIT DOWN. YOU'RE OUT OF

ORDER (LAUGHTER). MOVING RIGHT ALONG. EXCUSE ME, SHE GETS LIKE THAT SOMETIMES. AGAIN, JOE AND CARI, THANK YOU.

BOARD MEMBER LESTER: DO WE HAVE REPORTS FROM THEM ON A REGULAR BASIS?

CHAIRMAN VICTORINO: ON A REGULAR BASIS. AGAIN, A VERBAL UPDATE ON SOURCE ON POOKELA WELL. HERE WE GO. THIS IS THE GOOD NEWS.

MR. NAKAMURA: I DON'T KNOW.

CHAIRMAN VICTORINO: BY THE WAY, JUST FOR YOUR INFORMATION, NEW MEMBERS, POOKELA WELL NOW IS PRETTY CLOSE TO GETTING ON LINE. IT WAS A PROCESS THAT WAS STARTED BACK IN 2000 -- WHEN WAS IT, GEORGE, 2000 WE STARTED THE POOKELA WELL?

DIRECTOR TENGAN: PROBABLY 2001.

CHAIRMAN VICTORINO: OKAY, 2001. AND WE'VE HAD SOME CHALLENGES, BUT WE'RE VERY, VERY CLOSE TO GETTING IT ON

LINE, ACCORDING TO ALVA'S LAST REPORT, AND HOPEFULLY NOTHING HAS CHANGED. GO AHEAD, MR. NAKAMURA.

MR. NAKAMURA: ON POOKELA WELL, WHAT I HANDED OUT TO YOU WAS THE LATEST SCHEDULE THAT WE GOT FROM BALICK DRILLING (PHONETIC). TAKE A LOOK AT THE SECOND PAGE OF THE SCHEDULE, THE LAST ENTRY. THEY WERE FINISHED ON JUNE 15TH OF THIS YEAR. BUT EARLIER THIS MONTH WE RAN INTO A SNAG. THE SNAG WAS THAT THEY HAD STARTED TO INSTALL CHECK VALVES INTO THE COLUMN. AND IF YOU TURN TO THE NEXT PAGE YOU CAN SEE THERE'S A DRILL RIG, AND YOU SEE A LONG PIPE THERE. AND IF YOU TURN TO THE NEXT PAGE YOU SEE A BUNCH OF PIPES. YOU SEE THAT RED SHORT PIECE ON THE LOWER RIGHT-HAND CORNER? THAT'S WHAT THEY CALL A CHECK VALVE. AND IF YOU LOOK AT THE NEXT PAGE THERE'S A CLOSER VIEW OF WHAT A CHECK VALVE IS.

BASICALLY WHAT A CHECK VALVE IS, THEY SCREW THIS ONE RIGHT ABOVE THE PUMP, AND THEN FURTHER UP THE COLUMN THEY INSTALL A COUPLE OF THESE TO PREVENT THE POSSIBILITY THAT IN THE EVENT THAT SAY THEY HAVE A POWER FAILURE, THE COLUMN OF WATER THAT'S IN THIS PIPE WON'T COME CRASHING BACK DOWN ONTO THE PILLARS AND POSSIBLY DAMAGE THE PUMP. SO THEY PUT THESE THINGS IN FOR THAT PURPOSE. IT BASICALLY BLOCKS

THE FLOW OF THE WATER HAVING TO COME BACK DOWN ONTO THE PUMP.

WHAT HAPPENED WAS WHEN THEY TRIED TO SCREW THIS CHECK VALVE ONTO THE PIPE THEY FOUND THAT THE THREADS DIDN'T MATCH, SO THEY HAD TO TRY TO RETHREAD IT. AND THEY TRIED TO RETHREAD IT, BUT AFTER DOING THAT WE HAD SOME QUESTIONS WITH REGARD TO THE STRUCTURAL INTEGRITY OF THE CHECK VALVE, BECAUSE THIS IS GOING TO BE HOLDING SO MUCH WEIGHT. AND WE ASKED THE MANUFACTURER TO CERTIFY THAT THEY STILL HAD THE SAME STRUCTURAL STRENGTH AS BEFORE THEY DID THE RETHREADING, AND THE MANUFACTURER REFUSED TO DO IT. SO WE THEN TOLD DAVID TO ORDER NEW CHECK VALVES WITH THE PROPER THREADING SO THAT IT COULD BE NOW UTILIZED ON THE PIPE.

AS IT TURNED OUT, THE MATERIAL THAT THE NEW CHECK VALVE WAS MADE OF WAS NOT OF THE SAME MATERIAL AS OUR SPECS, SO WE THEN HAD TO HAVE THE CHECK VALVES TESTED AT A TESTING LABORATORY TO BE SURE THAT IT WOULD BE ABLE TO WITHSTAND ABOUT THE 60 TONS OF WEIGHT THAT THIS WHOLE COLUMN WOULD HAVE. AND WE SENT IT ON TO THE LAB FOR A TEST AND THEY MADE THE TEST. AND I GUESS I THINK THEY EXERTED ABOUT 150 TONS

AND IT WAS STILL OKAY. SO THAT SATISFIED US THAT THIS THING
WOULDN'T FAIL ONCE THEY PUT THIS VALVE INTO THE SYSTEM.

SO ONCE THAT CAME BACK THEY STARTED INSTALLATION
OF THE EARLIER -- ON MONDAY THEY STARTED WORKING AGAIN, AND
THEY HAVE INSTALLED ABOUT 800 FEET OF PIPE GOING DOWN. BUT
AS OF TODAY WE GOT INTO ANOTHER SNAG WHERE THEY RAN OUT OF
PVC PIPE, THREADED PVC PIPE THAT GOES PARALLEL TO THIS PIPE
INTO THE HOLE TO PROVIDE FOR SENSORS TO BE INSTALLED.

AND THEY WANTED TO SHORTCUT THE METHOD BY
UTILIZING -- INSTEAD OF HAVING THREADED PVC PIPE, HAVING IT
GLUED, CUT SECTIONS AND JUST GLUING IT TOGETHER. AND IN
DISCUSSIONS WITH STAFF, THEY FELT THAT THERE WAS A
POSSIBILITY THAT THAT COULD CREATE A PROBLEM FOR US. IT
COULD SNAG. AND DEPENDING HOW LONG IT WOULD TAKE FOR THEM
TO GET THIS NEW MATERIAL IN, SINCE THEY UNDER-ORDERED THE
MATERIAL, WE WOULD MAKE A DECISION AS TO WHETHER WE WOULD
ALLOW THEM OR NOT.

THIS MORNING WE GOT WORD THAT IT WOULD TAKE THEM
ABOUT A WEEK TO GET THE NEW THREADED PVC PIPE SO THEY COULD
BEGIN INSTALLATION AGAIN. SO RATHER THAN SHORTENING THE

THING AND TELLING THEM TO CONTINUE ON WITH SOMETHING MORE
INFERIOR, WE DECIDED TO TAKE THE ONE ADDITIONAL WEEK DELAY
TO GET THE PROPER MATERIALS IN SO THAT THEY COULD BE
INSTALLED ACCORDING TO OUR SPECS.

SO AT THIS POINT IN TIME THE MATERIAL IS BEING
ORDERED, AND IT WILL PROBABLY TAKE ABOUT A WEEK. SO THERE'S
GOING TO BE ANOTHER WEEK'S DELAY BEFORE THEY CAN CONTINUE ON
WITH THE INSTALLATION OF THIS PIPE. THEY'VE INSTALLED SO
FAR ABOUT 800 FEET OF THIS MATERIAL.

AS YOU CAN ALSO SEE, ON THE LAST PAGE THEY KIND OF
TACK WELD THE PIPES TOGETHER, YOU KNOW, THE SLEEVES AND THE
PIPING, JUST TO BE SURE. THEY DO THAT PRIMARILY TO PREVENT
THE POSSIBILITY OF MOVEMENT OF THE THREADS ONCE THE PUMP
GETS STARTED, BECAUSE OF ALL THE TORQUE THAT GETS APPLIED TO
THE PIPING MATERIAL. SO THEY TACK WELD THIS FOR THE FIRST
20 SECTIONS, AND BEYOND THAT THEY DON'T DO THAT ANYMORE.

BOARD MEMBER PARSONS: NO LEAD SOLDER, THOUGH.

MR. NAKAMURA: NO, NO. SO ANYWAY, THAT'S WHAT THE

STATUS OF THIS IS. SO THE 6/15 DATE THAT THEY SHOW HERE IS A LITTLE OPTIMISTIC. IT MIGHT GET A LITTLE DELAYED FOR A COUPLE OF WEEKS OR SO. SO THAT'S KIND OF WHERE WE STAND ON THIS PROJECT RIGHT NOW, BARRING ANY MORE UNFORESEEN SNAGS THAT POSSIBLY COME UP. AND AT THIS POINT I DON'T HAVE ANY OTHER THINGS THAT I CAN THINK OF THAT COULD GO WRONG, BUT THAT'S WHERE WE STAND RIGHT NOW.

BOARD MEMBER PARSONS: THIS IS A WONDERFUL REPORT.

BOTTOM LINE, WHEN IS THE PARTY?

MR. NAKAMURA: I DON'T KNOW, WE WILL JUST HAVE TO WAIT AND SEE.

CHAIRMAN VICTORINO: SO NOW WE ARE KIND OF PUSHING IT BACK TO MAYBE 7/1, OR SOMETHING LIKE THAT?

MR. NAKAMURA: THE REASON I BROUGHT THESE PICTURES IS THEY SAY A PICTURE SAYS A THOUSAND WORDS. AND THAT WAY YOU CAN AT LEAST UNDERSTAND WHAT WE'RE TRYING TO DO HERE, OKAY.

BOARD MEMBER OKAMURA: WHO PAYS FOR THE

CORRECTIONS?

MR. NAKAMURA: IT'S GOING TO BE ON THE CONTRACTOR.

LIKE I SAID, THEY WANTED TO SHORTEN IT. THEY WANTED TO BUY SOME LOCAL PVC AND JUST GLUE IT TOGETHER AND ALL THAT. BUT WE FELT WITH THOSE COUPLINGS ON, IT COULD SNAG.

BOARD MEMBER OKAMURA: YOU WONDER HOW COME THEY ORDERED THE ONES WITH DIFFERENT THREAD, YEAH?

MR. NAKAMURA: I HAVE NO IDEA. IN FACT, WHEN YOU THINK ABOUT IT, THOSE VALVES WERE SITTING AROUND IN THE YARD THERE FOR MONTHS AND NO ONE -- THE CONTRACTOR NEVER BOTHERED TO CHECK TO SEE WHETHER THE THREADS FIT ON THE PIPE OR NOT UNTIL THEY ACTUALLY TRIED TO INSTALL THEM. SO I MEAN THESE KINDS OF THINGS HAPPEN.

BOARD MEMBER PARSONS: NO DIFFERENT IN YOURS THAN
IT IS WITH OUR HOUSES.

CHAIRMAN VICTORINO: IT'S BEEN A LONG DAY, SO I'D LIKE TO CONTINUE ON. THANK YOU, ALVA, APPRECIATE IT.

GOING TO C, UPDATE FROM DWS STAFF ON THE REQUEST BY THE PLANNING COMMISSION CHAIR AT THE JOINT WORKSHOP HELD ON JANUARY 24, 2006 FOR REGULAR DATA ON THE AVAILABILITY OF WATER FOR PROJECTS SEEKING APPROVAL. ELLEN, THAT WOULD BE YOU.

MS. KRAFTSOW: I NEED A MINUTE TO SET UP. WHAT I DID WAS I PUT THE SPREAD SHEET ON A LAPTOP SO I COULD JUST SHOW IT ON POWER POINT, SO YOU CAN JUST SEE HOW IT'S CALCULATED.

CHAIRMAN VICTORINO: WHILE YOU ARE DOING THAT, FOR EXPEDIENCY PURPOSES I WILL MOVE ON AND COME BACK TO YOU.

RECEIPT OF BOARD MEMBER REQUESTS FOR AGENDA ITEMS TO BE PLACED ON FUTURE BOARD AGENDAS. WHAT I ASK ALL BOARD MEMBERS, IF YOU HAVE THINGS THAT YOU WOULD LIKE TO SEE ON THE AGENDA, THAT YOU GET IT TO ME BY THE FIFTH DAY OF THE FOLLOWING MONTH, SO THAT IT ALLOWS ME AND THE STAFF TIME TO RESEARCH, AND IF IT'S AVAILABLE THAT WE CAN PUT IT ON. IF NOT, THEN WHEN WE CAN'T PUT IT ON AS FAR AS ANY KIND OF REPORTS, ANY KIND OF INFORMATION THAT YOU MAY BE SO

REQUESTING.

SO EITHER VIA EMAIL OR -- AND MOST OF YOU HAVE MY
EMAIL. IF YOU DON'T, I WILL GIVE IT TO YOU. OR YOU CAN
FORWARD IT DIRECTLY TO GERI AND THEN GERI GETS IT TO ME. WE
NEED A FEW DAYS TO GET IT TOGETHER, BECAUSE THE AGENDA HAS
GOT TO GO OUT SEVEN DAYS PRIOR TO OUR MEETING. ESPECIALLY
ON MOLOKAI, IF YOU HAVE THINGS PARTICULARLY THAT YOU WANT,
YOU CAN EMAIL THEM OR CALL OR WHATEVER. AND THAT WAY BY THE
FIFTH DAY OF THE UPCOMING MEETING MONTH WE CAN GET IT OUT
AND THEN WE CAN WORK ON IT.

THE OTHER THING I WILL ASK IS IF YOU ARE GOING TO
REQUEST THINGS TO BE ON THE AGENDA, THAT -- AND I AM NOT
TRYING TO STIFLE ANYBODY FROM REQUESTING INFORMATION -- BUT
IF WE ARE GOING TO DO SOMETHING FROM OUR SIDE, THAT YOU NOT
SEND THE REQUEST TO THE COUNTY COUNCIL OR MICHELLE, BECAUSE
THEY GET ALL MUCKED UP AND THEY'RE CALLING ME ASKING WHAT IS
THIS REQUEST PERTAINING TO. IF YOU WANT US TO PUT ON AN
AGENDA ITEM, BRING IT TO US SO WE CAN THEN FORWARD IT TO
WHOMEVER WE NEED TO ASK QUESTIONS OF, THE COUNTY COUNCIL,
THE WATER RESOURCE COMMITTEE, WHOMEVER, AND WE WILL THEN

FORWARD IT TO THEM. BUT IF YOU FORWARD IT TO THEM AND THEN
THEY CALL I HAVEN'T EVEN LOOKED AT MY EMAIL AT THAT POINT
AND I'M GETTING ASKED A QUESTION, I KIND OF LOOK BAD. BUT
THAT'S OKAY, I LOOK BAD ALL THE TIME. I CAN DO THAT MYSELF.

PROPER PROTOCOL I GUESS IS WHAT I'M ASKING. LET
ME KNOW SO WE CAN THEN GO AND FIND THE VARIOUS ENTITIES.
BUT IF YOU GO STRAIGHT TO THEM, THEY COME BACK TO ME ASKING
WHAT THIS SPECIFICALLY MEANS, THEN I'M KIND OF LIKE BEHIND
THE EIGHT BALL AT THAT POINT. SO I DON'T STIFLE ANYBODY'S
COMMUNICATIONS, I DON'T STIFLE YOU GUYS' RIGHT TO GO OUT AND
ASK QUESTIONS. IT'S YOUR RIGHT, I NEED YOU TO DO THAT.

HOWEVER, IF YOU ARE GOING TO PUT IT ON THE AGENDA,
LET US KNOW SO THAT WE CAN ASK FIRST AND MAKE SURE WE HAVE
THE PROPER ANSWER ON THE AGENDA ITEM.

AGENDA ITEMS. WE DON'T HAVE ANYTHING NOW, BUT IF
YOU HAVE ANYTHING NOW BECAUSE WE'RE WAITING FOR ELLEN --

BOARD MEMBER HOWDEN: HAVE YOU GUYS DISCUSSED THE
DUAL LINE AT ALL, THE DUAL LINE, THE AGRICULTURAL LINE
COMING IN, USDA SPONSORED?

CHAIRMAN VICTORINO: I DON'T THINK SO, NOT IN RECENT TIMES. THAT MATTER MIGHT HAVE COME UP YEARS AGO, IF I CAN REMEMBER. WHEN I FIRST CAME ON THE BOARD I REMEMBER HEARING AND DISCUSSING SOMETHING OF THAT NATURE, THE DUAL LINE, BUT NOTHING HAS BEEN BROUGHT UP IN RECENT YEARS.

BOARD MEMBER HOWDEN: IT WOULD BE GREAT TO GET AN UPDATE ON THAT.

CHAIRMAN VICTORINO: WE WILL PUT THAT ON THE AGENDA, UPDATE ON THE DUAL LINE. AND AGAIN, LET ME PREFACE THIS, MICHAEL. SOMETIMES WHEN WE GO TO THE DEPARTMENT THEY CANNOT GET IT TOGETHER FOR THE NEXT, THE UPCOMING MEETING. THEY WILL CALL ME AND SAY, "WE ARE NOT ABLE TO PULL ALL THE INFORMATION TOGETHER, CAN WE DEFER IT TO THE FOLLOWING MEETING?" AND I WILL LET YOU KNOW THAT AT THAT POINT. BUT WE WILL PUT IT FOR AN AGENDA ITEM NEXT MEETING IF WE CAN GET ALL THE NECESSARY INFORMATION.

BOARD MEMBER HOWDEN: I'D RATHER HAVE THE INFORMATION THAN SEE IT NEXT MONTH.

CHAIRMAN VICTORINO: OKAY. KUI, DO YOU HAVE ANYTHING?

BOARD MEMBER LESTER: NO, NO QUESTIONS.

CHAIRMAN VICTORINO: MISS PARSONS?

BOARD MEMBER PARSONS: NOT AT THIS TIME.

CHAIRMAN VICTORINO: THAT'S WHY I SAY BY THE FIFTH DAY OF THE FOLLOWING MONTH. I WOULD APPRECIATE THAT. DO YOU ALL HAVE MY EMAIL?

BOARD MEMBER ALDRIDGE: UNLESS IT IS ON YOUR CARD. I HAVE YOUR CARD.

CHAIRMAN VICTORINO: I WILL GIVE YOU MY CARD. YOU HAVE MY CARD. GIVE MICHAEL AND KUI MY CARD. MY EMAIL IS THERE. PLEASE FEEL FREE TO EMAIL ME ANY AGENDA ITEM THAT YOU'D LIKE TO SEE, AND I'LL TRY AND MAKE SURE IT GETS ON.

OKAY, MOVING RIGHT ALONG, DIVISION REPORTS. WE

ARE GIVING ELLEN SOME MORE TIME SO THAT ONCE THIS IS DONE
MAYBE WE CAN CONCLUDE THE MEETING. WE HAVE THE DIVISION
REPORTS. AND AGAIN, FOR THE NEW MEMBERS, EVERY MONTH THE
VARIOUS REPORTS ARE GIVEN TO US BY THE VARIOUS DIVISIONS BY
THE TREATMENT PLANTS, BY THE SOURCES, BY PROJECTS, AND
THAT'S THIS PAGE YOU HAVE GOT BACK HERE, THE DIVISION
REPORTS.

THE PURPOSE OF THAT IS TO KEEP US UPDATED ON
PROGRESS, IF YOU ARE TALKING PROJECTS, IF YOU ARE TALKING
TREATMENT, YOU ARE TALKING VARIOUS PUMPAGE USAGE. THERE'S A
WHOLE GAMUT OF THINGS. I KNOW TODAY YOU GUYS HAVE BEEN
OVERWHELMED AND WE HAVE THROWN EVERYTHING AT YOU. IF YOU
HAVE ANY SPECIFIC QUESTIONS ON THESE REPORTS, LIKE WHEN YOU
RECEIVE THEM AND YOU HAVE SOMETHING, AND AGAIN, SO LONG AS
IT DOESN'T BECOME BURDENSOME FOR THE STAFF, I ALWAYS SAY
YOU'RE FREE TO CALL A STAFF PERSON IN THE DIFFERENT
DEPARTMENTS AND ASK THEM WHAT DOES THIS MEAN AND ALL THAT.

REMEMBER NOW, MANY OF THESE STAFF MEMBERS ARE VERY
BUSY IN MANY AREAS. SO WHEN YOU CALL THEM AND YOU ASK THEM
A SPECIFIC QUESTION, MAKE SURE YOU KNOW WHAT SPECIFICALLY

YOU WANT FROM THEM SO THEY CAN GET TO THE ANSWER, OR A
LEAST TRY TO FIND THE ANSWER FOR YOU. BUT NOT BE VAGUE SO
THAT THEY HAVE TO DO RESEARCH, BECAUSE YOU DON'T WANT TO BOG
THEM DOWN BECAUSE THEY HAVE A JOB TO DO. FOR US, IF WE ASK
FOR INFORMATION THAT'S WHAT WE'RE ASKING, FOR INFORMATION.
SO TRY TO TAPER THAT AS MINIMAL AS POSSIBLE.

BUT WHENEVER NECESSARY AND YOU REALLY FEEL
SOMETHING IS VERY IMPORTANT AND YOU DON'T UNDERSTAND, HERE
IS THE TIME TO ASK. OR IF YOU WANT TO CALL THE VARIOUS
DEPARTMENTS AND ASK THEM THE SPECIFIC QUESTION, I'M NOT
GOING TO OPPOSE THAT. AND I'VE TOLD THE DIRECTOR, MR.
TENGAN, THAT I WILL MAKE IT LIMITED IN THE SENSE THAT YOU
GUYS ARE NOT CALLING EVERY DAY WITH THIS QUESTION AND THAT
QUESTION, BECAUSE THEIR TIME IS VERY VALUABLE, AND THEY ARE
ON BUSY SCHEDULES.

BUT ON THIS REPORT, DOES ANYBODY HAVE ANY SPECIFIC
QUESTIONS ON THIS REPORT THAT WE GOT, THE DIVISION REPORTS?
IF YOU COME UP WITH ANYTHING AND YOU WANT TO GO TO ANY
VARIOUS DEPARTMENT, PLEASE, ALL I ASK YOU IS BE FRUGAL IN
YOUR EFFORTS AND TRY NOT TO BOTHER THEM TOO MUCH. BUT IF
IT'S IMPORTANT, PLEASE DON'T BE AFRAID TO ASK THE QUESTION.

ELLEN, ARE YOU ALMOST READY?

MS. KRAFTSOW: YES.

BOARD MEMBER OKAMURA: MR. CHAIRMAN, I WAS GOING
TO ASK IF ELLEN COULD GIVE A SHORT BACKGROUND ON THIS ISSUE.

CHAIRMAN VICTORINO: BECAUSE WE HAVE THREE NEW
MEMBERS, JUST KIND OF GIVE A QUICK OVERVIEW ON WHAT YOU'RE
DOING.

CHAIRMAN VICTORINO: INTRODUCE YOURSELF, PLEASE,
ELLEN.

MS. KRAFTSOW: HIGH. I'M ELLEN KRAFTSOW, I'M WITH
THE WATER RESOURCES AND PLANNING DIVISION OF THE DEPARTMENT.
THE BOARD MEMBERS HAD ASKED FOR A LITTLE BIT OF AN
INTRODUCTION TO HOW MUCH WATER IS AVAILABLE IN EACH SYSTEM
AND THE BASIS THAT WE CALCULATE IT.

AND I SHOULD MENTION THAT IN THE PROCESS OF DOING

THE WATER USE AND DEVELOPMENT PLAN UPDATE WE ARE ALSO ASKING OUR CONSULTANT TO LOOK AT RESOURCE AVAILABILITY AS PART OF THE REVIEW. WE MAY ALSO END UP NEEDING SOME ADDITIONAL CONSULTANT SERVICES JUST BECAUSE THERE ARE SOME ISSUES WITH THE STANDARDS THAT WE'RE USING NOW.

BOARD MEMBER OKAMURA: CAN I ASK A QUESTION, BECAUSE THIS IS RELATED TO THE LAST PLANNING COMMISSION MEETING THAT WE HAD, THE JOINT MEETING?

MS. KRAFTSOW: YES. IN FACT, THIS IS THE --

BOARD MEMBER OKAMURA: AND THE PLANNING COMMISSION ASKED FOR DATA BEFORE THEIR MEETING ON A REGULAR BASIS SO THEY COULD DETERMINE HOW MUCH WATER WAS AVAILABLE? AND YOU ARE NOT ABLE TO DO THAT YET, IS THAT CORRECT, OR ARE YOU DOING THAT?

MS. KRAFTSOW: WELL, WE GAVE THEM THE DECEMBER 31ST HANDOUTS, WHICH I AM GOING OVER WITH YOU. AND THERE ARE TWO WAYS OF DOING STANDARDS. THERE'S OUR STRICT STANDARDS, WHICH ARE THAT YOU SHOULD BE ABLE TO MEET MAXIMUM DAY DEMAND IN 16 HOURS PUMPAGE TIME WITH THE LARGEST PUMP

OUT. THAT WORKS OUT MATHEMATICALLY TO YOU NEED ABOUT TWO
AND A QUARTER TIMES, OR 225 PERCENT OF YOUR AVERAGE DAY
DEMAND INSTALLED.

SO IF YOU HAD A SYSTEM THAT HAD 100 MILLION
GALLONS A DAY DEMAND, YOU WOULD NEED TO HAVE 225 MILLION IN
CAPACITY. THAT'S HOW THAT STANDARD WORKS OUT, WHICH IS
QUITE EXPENSIVE. SO ALTHOUGH WE HAVE THESE STANDARDS -- AND
THAT'S FOR GROUNDWATER -- ALTHOUGH WE HAVE THESE STANDARDS,
THEY'RE VERY EXPENSIVE TO MAINTAIN. AND WE REQUIRE
DEVELOPERS THAT ARE PUTTING IN NEW SYSTEMS TO MEET THEM.

BUT INTERNALLY, JUST BECAUSE THERE ARE ALSO SO
MANY SMALL HOMES THAT ONLY PAY THE FEE THAT DON'T HAVE TO --
THE FEES DON'T ALWAYS COVER THE FULL COST OF DEVELOPMENT
YET, THEY'RE NOT ALL THE WAY UP TO WHERE THEY REALLY COVER
THE FULL SOURCE OF DEVELOPING A NEW SYSTEM. SO WE END UP
BEING BEHIND THOSE STANDARDS IN ALMOST EVERY SYSTEM.

SO HISTORICALLY OVER THE YEARS THOSE STANDARDS
WERE -- MODIFIED VERSIONS OF THOSE STANDARDS WERE USED. SO
WHAT WE'RE LOOKING AT INTERNALLY IS HOW DO WE GET CLOSER TO

THE STANDARD AND MAYBE DEVELOP A MORE -- IF THERE IS A MORE APPROPRIATE STANDARD, MAYBE DEVELOP THAT. OTHERWISE, JUST MOVE TOWARD THE STANDARD.

SO WHAT I GAVE TO THE PLANNING COMMISSION -- THIS IS KIND OF BACKWARDS. I WAS GOING TO GET TO THIS POINT THAT YOU WERE RAISING. THAT'S, OKAY IT DOESN'T MATTER. WHAT I GAVE TO THE PLANNING COMMISSION WAS --

DIRECTOR TENGAN: CAN YOU DO THE SPREAD SHEET AT MAYBE 80 PERCENT OR 70 PERCENT SO THAT WE CAN SEE MORE OF THE SPREAD SHEET AT ONCE?

MS. KRAFTSOW: IT'S AT 85 NOW. I'LL PRESS 75.

DIRECTOR TENGAN: MAYBE 50 MIGHT BE BETTER.

MS. KRAFTSOW: CAN PEOPLE SEE THAT, THOUGH? MY EYES AREN'T THAT GOOD. SO YOU CAN SEE THAT THERE ARE TWO COLUMNS, REMAINING SYSTEM CAPACITY BY STANDARDS. ON THE FAR RIGHT THERE'S ONE REMAINING CAPACITY BY HISTORICALLY USED MODIFIED STANDARD, AND THEN JUST TO THE LEFT OF THAT THERE'S REMAINING CAPACITY BY STANDARDS, AND THOSE ARE THE ONES THAT

GO DOWN COLUMNS.

SO THIS IS REMAINING CAPACITY BY STRICT SYSTEM STANDARDS, AND THIS IS BY THE HISTORICALLY USED MODIFIED STANDARD THAT HAD BEEN USED. AND THESE THEN ARE THE RESULTING NUMBERS HERE AND HERE. SO YOU CAN SEE THEY'RE VERY DIFFERENT. ONE IS MORE THAN A MILLION GALLONS LEFT, AND ONE IS ALMOST TWO MILLION GALLONS SHORT. THEY'RE VERY DIFFERENT NUMBERS.

BOARD MEMBER PARSONS: SO WE'RE SOMEWHERE IN BETWEEN?

MS. KRAFTSOW: WELL, IN ANSWER TO KENNETH'S QUESTION, THE REASON THAT WE HAVEN'T BEEN -- THAT I STILL HAVEN'T BEEN SUPPLYING THE PLANNING COMMISSION AT THIS POINT YET WITH THIS IS THAT THERE ARE TWO NUMBERS, AND INTERNALLY WE'RE STILL DISCUSSING FOR EACH SYSTEM. ON AN INTERIM BASIS WE FEEL THAT THE COLUMN ON THE RIGHT IS JUST TOO LOOSE, THAT WE NEED TO HAVE SOMETHING A LITTLE BIT MORE PROTECTIVE THAN THAT, BUT WE'RE TOO FAR FROM REACHING THE COLUMN ON THE LEFT.

SO INTERNALLY WE HAVE BEEN DISCUSSING, AND I
EXPECT HOPEFULLY -- I'M HOPING NOW WITH APRIL WE WILL MAKE A
PROPOSAL FOR JUST ONE NUMBER, THAT WE CAN GIVE EVERYBODY ONE
NUMBER AND EXPLAIN BASED ON THAT ONE NUMBER. JUST GIVE THEM
AS OF THIS WRITING ON THIS DATE THIS IS WHAT THE
AVAILABILITY IS. BUT RIGHT NOW THAT ONE NUMBER HASN'T BEEN
THROUGH ALL THE INTERNAL DISCUSSIONS THAT IT NEEDS TO GO
THROUGH YET.

BOARD MEMBER PARSONS: IF YOU HAVEN'T GOT AN
ANSWER BY A CERTAIN DATE, CAN YOU GIVE THIS TO THE
COMMISSION?

MS. KRAFTSOW: WE GAVE THIS TO THE COMMISSION.

BOARD MEMBER PARSONS: OKAY, SO THEY HAVE THIS.
SO THEY CAN BASICALLY WORK OFF THEIR OWN CONCLUSIONS AT THAT
POINT, RIGHT?

MS. KRAFTSOW: YES. WHAT WE SAID IS THAT WE WOULD
DO A NUMBER EVERY QUARTER. SO RIGHT NOW WE SHOULD HAVE THE
MARCH QUARTER DONE. BUT AS YOU KNOW, I'VE HAD TWO-THIRDS OF

MY STAFF OUT AND WE'RE A LITTLE BIT BEHIND. SO I'M HOPING BY THE END OF NEXT WEEK TO HAVE THE AVAILABILITY UPDATES FOR THE MARCH QUARTER DONE, BUT WE DON'T HAVE THEM RIGHT NOW. SO ANYWAY, THIS IS WHAT I GAVE THE PLANNING COMMISSION.

SO GOING BACK TO THAT, AND WE CAN DISCUSS THE WHY AND WHERE OF THAT A LITTLE BIT MORE LATER, IF YOU WANT. BUT JUST THE NUTS AND BOLTS OF THIS. ARE YOU SURE YOU CAN SEE?

BOARD MEMBER PARSONS: WE CAN SEE.

MS. KRAFTSOW: FOR ME IT'S JUST A BLUR UP THERE.

SO WHAT WE DO IS YOU SEE THIS SAYS GPM HERE. THAT'S GALLONS PER MINUTE. THAT'S THE SIZE OF EACH PUMP THAT WE HAVE INSTALLED. AS I SAID, THE STANDARD IS TO MEET MAXIMUM DEMAND WITH 16 HOURS PUMPING. SO 16 HOURS IS TWO-THIRDS OF THE DAY.

SO THERE'S TWO WAYS WHEN YOU ARE TRYING TO THINK, MOST PEOPLE TRY TO THINK IN TERMS OF AVERAGE DAILY USE AND HOW THAT WOULD COMPLY. SO YOU CAN EITHER PLOT MAXIMUM DEMAND AGAINST TWO-THIRDS, OR YOU CAN PLOT AVERAGE DAY

DEMAND AGAINST TWO-THIRDS OF TWO-THIRDS, BECAUSE MAXIMUM DAY DEMAND IS THREE HALVES OF AVERAGE DEMAND. AND 16 HOURS PUMPING IS TWO-THIRDS OF 24 HOURS PUMPING. SO WHEN YOU WORK THAT OUT, THAT'S HOW THAT WORKS OUT ANYWAY.

SO I PLOTTED, I MADE THE SPREAD SHEET ALL WORK OUT IN TERMS OF AVERAGE DEMAND. THIS WAS THE LAST 12 MONTHS MOVING AVERAGE CONSUMPTION FOR THE YEAR 2005.

BOARD MEMBER PARSONS: AND WE WERE WET IN 2005, WE WEREN'T IN THE DROUGHT ANY LONGER, RIGHT?

MS. KRAFTSOW: YES. THIS IS ACTUALLY PRODUCTION, NOT CONSUMPTION. SO THIS HAS BUILT IN ANY KIND OF SYSTEM LOSSES, OR WHAT HAVE YOU. IT'S BUILT IN BECAUSE WE'RE SHOWING NOT WHAT PEOPLE BILLED CONSUMPTION BUT ACTUAL PRODUCTION HERE. AND THEN THIS IS THE SAME NUMBER, BUT IN TERMS OF GALLONS PER DAY.

AND NOW HERE YOU SEE -- I DON'T KNOW IF YOU CAN SEE THIS NOTE, BUT IT SAYS TWO-THIRDS CAPACITY IS ACTUALLY 20,787,020. HOWEVER, THIS IS MODIFIED DOWNWARD TO ACCOUNT FOR AQUIFER LIMITATIONS. SO ALTHOUGH WE HAVE MORE INSTALLED

CAPACITY IN THE IAO AQUIFER, THE COMMISSION IS ASKING US NOT TO PUMP ANY MORE THAN 18 MILLION GALLONS A DAY. AND ACTUALLY KEPANIWAI COULD BE MOVED OUT OF THERE NOW, BECAUSE THEY'RE NOT COUNTING THAT AGAINST THE BASAL WATER ANYMORE, BUT THEY USED TO. AND WHEN THEY DESIGNATED US THEY DID COUNT IT. SO THAT'S GIVING A SAFETY FACTOR THERE.

SO THIS IS JUST THE AVERAGE USE. SO IT'S JUST THIS IS TWO-THIRDS OF TWO-THIRDS OF THE PUMP CAPACITY LESS THE -- AND MAYBE THIS IS 1 TWO-THIRDS, WHICH IS HOW IT WAS HISTORICALLY DONE. THEY JUST WERE USING 1 TWO-THIRDS, BECAUSE THEY FIGURED THE OTHER TWO-THIRDS WAS JUST FOR INFRASTRUCTURE AND WASN'T NECESSARY.

IAO NON-GROUNDWATER, THE IAO TUNNEL, IT'S THE SAME THING. WE ARE SHOWING A MEAN USE OF 2.015892 MILLION GALLONS. NOW, WE HAVE A STANDARD THAT'S 80 PERCENT OF INFLOW FOR SURFACE WATER SYSTEMS, BUT WE FEEL THAT IT'S NOT CONSERVATIVE ENOUGH TO COVER ANY KIND OF A DROUGHT. SO I SORT OF ROUTINELY ACROSS THE BOARD USED -- I SUBTRACTED AT LEAST ONE STANDARD DEVIATION FOR THE INTERIM STANDARD. BUT IT TURNS OUT THAT FOR IAO ACTUALLY THE STANDARD DEVIATION IS

LESS THAN 20 PERCENT. SO I SHOULD HAVE USED A DIFFERENT NUMBER HERE, BUT I USED THE 1.9.

AND THEN THIS IS IAO TREATMENT PLANT. THE INSTALLED CAPACITY, RATED CAPACITY IS 2.3 MILLION WITH THE THREE FILTERS. BUT BASED ON -- AT THAT TIME BASED ON THE HYDRAULICS OF THE DITCH INTAKE, AND BASED ON THE ACTUAL PERFORMANCE OF THE FILTERS AGAINST EACH DIFFERENT QUALITY HAS A DIFFERENT FILTER PERFORMANCE DEPENDING UPON WHICH DEBRIS MIGHT BE IN THE WATER AND SO ON, WE WERE ONLY GETTING ABOUT 1.5 MILLION OUT OF THAT PLANT AT THE TIME, ALTHOUGH WE HAD A BIGGER CAPACITY. SO I LOWERED THAT.

AND THEN THIS IS THE WELLS IN NORTH WAIHEE, SAME THING. WE LIMITED IT TO FOUR, EVEN THOUGH THE INSTALLED CAPACITY WAS 4 AND A HALF, BASICALLY. AND THEN THE STANDARD -- SO THOSE WERE THE TOTALS HERE. YOU COME UP WITH TWO-THIRDS OF INSTALLED CAPACITY BEING ABOUT 25 MILLION. IT'S ACTUALLY CONSIDERABLY HIGHER, BUT IN BOTH CASES, IAO AND WAIHEE, WE LOWERED THE CAPACITY TO THE AQUIFER SERVICE, AND THAT'S WHAT WE STARTED DOING HERE.

SO NOW BY USING TWO-THIRDS OF TWO-THIRDS OF

INSTALLED CAPACITY WITH AQUIFER LIMITATIONS AND THE LARGEST PUMP OUT, YOU START OUT WITH BEING ABOUT 6 MILLION GALLONS A DAY SHORT IN THE CENTRAL SYSTEM. IF YOU JUST TAKE A SINGLE TWO-THIRDS AND YOU DON'T TAKE THE LARGEST PUMP OUT BECAUSE YOU HAVE ALREADY LOWERED BY A COUPLE MILLION TO MEET THE CRM REQUEST FOR AQUIFER LIMITATIONS, YOU END UP WITH 1.2 OR 1.3 MILLION.

AND THEN FOR EACH ONE OF THESE COLUMNS THIS ON THE LEFT SIDE IS THE NEXT ADJUSTMENT, AND ON THE RIGHT SIDE IS THE CUMULATIVE EFFECT OF THAT ADJUSTMENT. SO THERE WERE 374 THOUSAND GALLONS RESERVED. THAT MADE IT GO TO 6.8 MILLION SHORT. AND THEN THERE WERE 78,000 DHHL STILL PENDING. THAT MADE IT GO TO 6.9 MILLION SHORT. AND THEN THERE WERE 1.3 MILLION IN RECENTLY ISSUED METERS, AND THAT MADE IT GO TO 8 MILLION SHORT.

BUT THEN YOU START DOING SUPPLY ADJUSTMENTS BASED ON SOURCE THAT WAS EXPECTED TO BE ON WITHIN THE NEXT YEAR OR TWO, BECAUSE IT'S A SIMILAR TIME FRAME TO THE ADDITIONAL EXPECTED DEMAND IN THE NEXT YEAR OR TWO.

BOARD MEMBER PARSONS: IS H'POKO IN THERE?

MS. KRAFTSOW: H'POKO IS IN THERE, A PORTION OF
H'POKO.

BOARD MEMBER PARSONS: SO ARE YOU LOOKING AT
TAKING THAT OUT?

MS. KRAFTSOW: YES. WHAT IS NOT IN THERE --
WELL, IT IS IN THERE. SO THEY FIGURED H'POKO WOULD GIVE
ANOTHER HALF MILLION. THIS IS DECEMBER 31ST, REMEMBER.
THAT WOULD BE A POLICY DECISION ANYWAY, GINNY. I DON'T MAKE
THAT DECISION.

BOARD MEMBER PARSONS: WELL, DO YOU THINK BY THE
NEXT MEETING WE WILL HAVE DISCUSSED THAT SO THAT WE CAN GET
AN UPDATE ON THIS?

MS. KRAFTSOW: THE APRIL QUARTERLY? I HOPE SO.
IAO TREATMENT PLANT FOURTH FILTER, THAT IS GOING TO GO
FORWARD AND THAT WILL BRING -- BASED ON THIS, WE ESTIMATED
IT WILL BE 3.2. THE ACTUAL CAPACITY WILL BE 4.6, SO IT IS
CONCEIVABLE THAT IT WILL BRING EVEN MORE THAN THAT.

AND THEN THE OTHER THING IS THAT MANY OF THE PUMPS
ACTUALLY PUMP MUCH MORE THAN 16 HOURS A DAY, EVEN THOUGH
THAT'S THE STANDARD. IF YOU AVERAGE ALL THE PUMPS, THE
AVERAGE IS ABOUT 16 OR EVEN LESS HOURS A DAY, BUT THE PUMPS
CERTAINLY CAN PUMP ALL DAY. AND IN SOME CASES IT'S BETTER
FOR THEM NOT TO BE TURNED OFF AND SHUT OFF.

SO WE MADE AN ADJUSTMENT TO AN AVERAGE OF 20 HOURS
PUMPING TO BRING THIS. BY STRINGENT STANDARDS WE'RE STILL
ALMOST 2 MILLION SHORT, BUT BY THE OLD TWO-THIRDS STANDARD
WE'RE HAVING ALMOST 2 MILLION IN EXCESS.

SO YOU SEE IT'S NOT VERY SATISFYING TO GIVE THIS
TO THE PLANNING COMMISSION, BECAUSE IT'S LIKE TWO WILDLY
DIFFERENT NUMBERS, AND WHAT WE WANT TO HAVE IS A NUMBER THAT
WE REALLY FEEL COMFORTABLE WITH. THIS IS WHAT WE CAN OFFER
ON THIS SYSTEM. AND WHAT IT'S LOOK LIKE NOW,
SPEAKING TO THE CONSULTANT ABOUT THE CENTRAL MAUI SYSTEM, IS
THAT THE INITIAL PROPOSAL THAT WE SORT OF FLOATED WAS WHAT
IF YOU TOOK MAV PLUS 15 PERCENT AS A SAFETY FACTOR AND JUST
1 TWO-THIRDS.

AND WE ASKED THE CONSULTANT TO LOOK AT THAT, AND HE'S COMING UP WITH BETWEEN SEASONAL VARIATIONS AND VARIATIONS FROM WET TO DRY YEARS. IF WE USE THE HISTORICALLY USED, BUT TOOK ONE PUMP OUT AND THEN ADDED 21 PERCENT TO DEMAND. SO THAT'S WHAT OUR PROPOSAL TO THE DEPARTMENT WILL BE ONLY FOR THE CENTRAL SYSTEM. IT VARIES FOR EACH SYSTEM.

WHAT HE'S LOOKING AT IS HISTORICAL FLUCTUATIONS IN DEMAND BASED ON SEASONAL AND WET/DRY YEARS IN EACH SYSTEM. NOW, THAT'S STILL NOT GOING TO APPROACH YOUR HUNDRED YEAR DROUGHT, BUT THIS IS MOSTLY A GROUNDWATER SYSTEM AT THIS POINT ANYWAY.

SO I'M SORRY, I FEEL LIKE I KIND OF STARTED AT THE REVERSE AND TRIED TO WORK MY WAY BACK, BUT DOES EVERYBODY GET THAT, WHAT I'M DOING THERE? THAT'S WHAT WE HAVE FOR CENTRAL MAUI RIGHT NOW.

BOARD MEMBER OKAMURA: SO WOULD A HUNDRED YEAR DROUGHT AFFECT ALL SYSTEMS THE SAME?

MS. KRAFTSOW: IT WOULD CERTAINLY AFFECT SURFACE WATER SYSTEMS MUCH MORE. BUT THEN AS YOU ARE AWARE WITH USGS, THE TIME OF TRAVEL AND THE FLOW RATE FROM THE GROUND INTO THE AQUIFER VARIES TREMENDOUSLY WITH WHICH AQUIFER YOU HAVE. SO IN SOME CASES THEY THINK IT SHOWS UP WITHIN LIKE EVEN IN A FEW DAYS AND A WEEK, AND IN OTHER AQUIFERS IT CAN TAKE HUNDREDS OF YEARS. SO FOR THOSE AQUIFERS WHERE THE RECHARGE IS VERY FAST, THE DROUGHT WOULD HAVE MORE AFFECT THERE TOO.

SO THAT'S CENTRAL MAUI. SO I HAVE CENTRAL MAUI, UPCOUNTRY, LAHAINA. WHAT DOES ANYBODY WANT TO HEAR NEXT? DOES ANYBODY WANT TO HEAR THE OTHER ONES? THEY PRETTY MUCH WORK ALMOST THE SAME WAY.

BOARD MEMBER OKAMURA: SO MAYBE UPCOUNTRY BRIEFLY OVER UPCOUNTRY, BECAUSE THAT'S MOSTLY SURFACE WATER.

MS. KRAFTSOW: YES, OKAY. YES, LAHAINA IS ABOUT HALF AND HALF. DOES ANYBODY HAVE THE SHEETS THAT WE GAVE OUT THE LAST TIME?

BOARD MEMBER OKAMURA: THIS IS AT THE PLANNING

COMMISSION MEETING?

MS. KRAFTSOW: YES. NO, IT'S RIGHT. SO THIS IS
UPCOUNTRY. NOW, UPCOUNTRY WE DID SOMETHING A LITTLE BIT
DIFFERENT. WE TOOK ESTIMATED DROUGHT CAPACITY FROM THE
RESERVOIR, FROM THE ENGINEERING DOCUMENTS THAT WERE USED TO
SIZE THE KAHAKUPAO AND PROPOSED PI' IHOLO RESERVOIR. WE TOOK
THE NUMBERS THAT THEY USED AS RELIABLE FLOWS, BECAUSE IN
UPPER KULA AND LOWER KULA EVEN ONE STANDARD DEVIATION IS
QUITE A BIT HIGHER THAN JUST AN 80 PERCENT FLUCTUATION.

IN FACT, THERE ARE SOME CASES EVEN IF YOU LOOK AT
DAILY FLOWS WHERE THE STANDARD DEVIATION IS SO GREAT, IS
LIKE GREATER THAN THE MEAN, BUT YOU CAN NORMALIZE THAT WITH
MONTHLY OR ANNUAL FLOWS.

BUT ANYWAY, WE TOOK DROUGHT CAPACITY OUT OF
ENGINEERING DOCUMENTS THAT HAD BEEN FOR SIZING RESERVOIRS,
SO THEY PROBABLY HAVE BEEN DOING FLOW DURATION CURVES AND
MASS BALANCE EQUATIONS TO ARRIVE AT THESE NUMBERS. AND FOR
MAKAWAO -- FOR KAMOLE WE JUST SPOKE TO -- SOME OF THE
TREATMENT PLANT WORKERS HAVE BEEN THERE FOR SEVERAL DECADES,

AND THEY HAVE A SENSE OF WHAT'S THE LOWEST THEY CAN EVER GET OUT OF THAT PLANT. AND SO THIS IS NOT A STANDARD, THIS IS LIKE AN INTERIM STANDARD THAT WE USED BASED ON THE BEST INFORMATION WE HAD FOR OUR DROUGHT CAPACITY.

AND THEN WE DID THE SAME THING, EXCEPT FOR UPCOUNTRY BECAUSE OF IT BEING A SURFACE SYSTEM, EVEN FOR THE INTERIM STANDARD WE LEFT IN 15 PERCENT. AND WHAT IS SURPRISING HERE IS THAT ALTHOUGH BY SYSTEM STANDARDS WE'RE STILL BELOW, BY THE MODIFIED STANDARD WE ACTUALLY START HAVING WATER AS SOON AS WE GET THAT ADDITIONAL FILTER IN AT OLINDA, AND POOKELA IS COMPLETE. SO WE START HAVING WATER VERY SOON FOR UPCOUNTRY.

AGAIN, IN THIS CASE IT WAS DOH RATES AT PEAK CAPACITY. WHAT THEY DO IS THEY RATE AN APPROVED RATE OF FLOW THROUGH THE FILTERS, AND THEN BY THE NUMBER OF FILTERS THAT YOU HAVE AND THE SIZE OF THE FILTER BEDS, YOU CAN CALCULATE WHAT YOUR PEAK DAY FLOW IS. AND THEN THE 10 STATE STANDARDS REQUIRE THAT YOU TAKE THE LARGEST FILTER OUT.

SO THAT'S WHAT THE RATED AVERAGE DAY CAPACITY

BECOMES. AND WE REDUCE THAT AGAIN FOR DROUGHT CAPACITY
BASED ON THOSE ENGINEERING STUDIES, AND THEN COMPARED THAT
TO THE LAST 12 MONTHS' PRODUCTION PLUS 15 PERCENT FOR SAFETY
FACTORS. AND WITH THE GROUNDWATER WE DID THE SAME THING.
WE DID TAKE THE LARGEST PUMP OUT.

SO THIS STANDARD BECOMES CLOSER TO -- I MEAN I
THINK HE'S GOING TO COME UP WITH MORE THAN 15 PERCENT FOR
UPCOUNTRY BASED ON THAT HE CAME UP WITH MORE THAN 15 PERCENT
EVEN FOR CENTRAL MAUI. SO IT'S GOING TO BE LOWER THAN THIS,
BUT IT'S PROBABLY GOING TO BE CLOSER TO THIS THAN TO THIS
WHEN WE GET AN INTERIM PROPOSAL. HE WON'T HAVE ALL THE
SYSTEMS -- HE WON'T HAVE ANSWERS FOR ALL THE SYSTEM BY
APRIL. IF WE NEED TO, WE WILL HIRE ADDITIONAL CONSULTANTS
TO REALLY COMPILE. WE HAVE ABOUT TEN YEARS OF SURFACE WATER
DATA COMPILED, BUT IT'S JUST NOT ENOUGH TO REALLY JUDGE A
HUNDRED YEAR DROUGHT. WE'VE BEEN ENTERING DAILY FLOWS FOR
ABOUT TEN YEARS, BUT IT'S JUST NOT ENOUGH.

SO WE MAY END UP DOING ADDITIONAL CONSULTANT
STUDIES, BUT IN THE INTERIM WE WILL PROBABLY PICK A SIMILAR
NUMBER TO EITHER THE 15 PERCENT OR THE 21 PERCENT, OR IF YOU
CAN COME UP WITH A BETTER VARIATION. BUT IT'S STILL PRETTY

CONSERVATIVE, THIS ESTIMATE, BECAUSE WE USED PRETTY
RESTRICTIVE DROUGHT FLOWS. WELL, PRETTY RESTRICTIVE DROUGHT
FLOWS. WE DIDN'T ASSUME ZERO FLOW, BUT THEY'RE CONSIDERABLY
LESS THAN CAPACITY IN EACH CASE.

BOARD MEMBER OKAMURA: HOW WOULD YOU READ THAT
NUMBER 600,000 WHAT?

MS. KRAFTSOW: YES, 600,000.

BOARD MEMBER OKAMURA: 600,000 GALLONS PER DAY?

MS. KRAFTSOW: GALLONS PER DAY, SORRY, YES. AS
OPPOSED TO A CAPACITY OF LIKE ALMOST 1.3 MILLION.

CHAIRMAN VICTORINO: OKAY, ELLEN, THANK YOU VERY
MUCH. I DO APPRECIATE IT. AND AGAIN, I DO APOLOGIZE TO THE
NEW MEMBERS. I THINK TODAY WE ALMOST FORCE FED YOU A LOT OF
INFORMATION FOR YOUR FIRST MEETING. AND I DIDN'T INTEND IT
TO BE THIS WAY, BUT IT SURE CAME OUT THAT WAY. IT HAS BEEN
BROUGHT TO MY ATTENTION ABOUT LUNCH, AND I APOLOGIZE. I
DON'T HAVE ONE BUDGET FOR THOSE KINDS OF THINGS.

BOARD MEMBER OKAMURA: I WANT TO ASK ONE MORE QUESTION.

CHAIRMAN VICTORINO: OKAY, ONE QUICK QUESTION, MR. OKAMURA.

BOARD MEMBER OKAMURA: SO ELLEN, ON THE STANDARDS THAT YOU ARE WORKING ON, ARE YOU PLANNING TO COME UP WITH SOMETHING WITHIN THE DEPARTMENT OR YOU ARE NOT REALLY SURE, IT DEPENDS?

MS. KRAFTSOW: RIGHT. WHAT'S GOING ON IS WE WILL CONTINUE TO DO QUARTERLY UPDATES THAT SHOW ACCORDING TO THE OFFICIAL STATEWIDE STANDARDS. AND WITH THE WATER USE AND DEVELOPMENT PLAN PROCESS WE HOPE TO PROPOSE STANDARDS TO USE FOR RESOURCES AS OPPOSED TO JUST INFRASTRUCTURE. AND THEY WILL BE SOMETHING LIKE THIS. BUT WITH THE APRIL THING WE WILL HAVE, YOU KNOW, I DON'T WANT TO CALL IT ANY MORE THAN AN INTERIM STANDARD PROPOSAL.

IN APRIL WE ARE SUPPOSED TO GET -- THAT'S THIS MONTH -- WE ARE SUPPOSED TO GET THE MARCH QUARTERLY REPORT

DONE. AND WE WANTED TO DO A PROPOSAL AT LEAST FOR CENTRAL MAUI FOR THE NEW CALCULATION FOR AN INTERIM BASIS ANYWAY, SO THAT WE'D AT LEAST HAVE ONE NUMBER TO WORK WITH. BECAUSE WE FEEL STUPID SENDING TWO NUMBERS DOWN TO PLANNING, BUT RIGHT NOW THAT'S WHAT IT IS. YOU KNOW, THERE'S THE HISTORICAL WAY AND THERE'S THE REAL WAY. WE WANTED TO HAVE THAT APRIL, WHICH IS PROBABLY GOING TO BE DONE IN MAY. I'VE HAD TWO-THIRDS OF MY STAFF OUT FOR THE LAST FEW WEEKS.

SO WE WANT TO HAVE A PROPOSAL THAT WE CAN THEN DISCUSS WITHIN THE DEPARTMENT AND SAY, CAN WE USE THIS NUMBER TO REPORT TO THE PLANNING COMMISSION. SO THAT WHEN WE REVIEW OUR PERMITS WE SAY -- AND WE HAVE PEOPLE LIKE IN LAHAINA WE HAVE THEM WAITING TO GIVE OUT SUBDIVISION PERMITS UNTIL WE COME UP WITH OUR INTERIM. AND I DON'T THINK HE'S GOING TO HAVE EVEN LOOKED AT WEST MAUI BY THIS MONTH. SO WE ARE PROBABLY GOING TO USE THE 15 PERCENT DEFAULT UNTIL WE KNOW.

SO I GUESS WHAT I'M TRYING TO TELL YOU IS IT IS A MOVING TARGET, AND I'M EMBARRASSED THAT IT'S A MOVING TARGET BECAUSE WE SHOULD BE ABLE TO JUST TELL YOU THIS IS THE

ANSWER, BUT IT'S NOT SO -- IF WE WENT TO THE STANDARDS WE
COULD CERTAINLY TELL YOU HERE, THIS IS THE ANSWER, AND WE'D
HAVE THAT FOR EVERY SYSTEM. AND THE ANSWER IS WE CAN'T GIVE
OUT WATER ANYWHERE.

BY THE WAY, WE HAVEN'T BEEN ABLE TO SINCE I
STARTED WORKING FOR THE DEPARTMENT IN 1991. WE HAVE NOT MET
SYSTEM STANDARDS IN ANY OF OUR SYSTEMS SINCE THEN. I AM NOT
AWARE OF ANY TIME THAT WE HAVE ACTUALLY MET SYSTEM STANDARDS
IN THE MAJORITY OF OUR SYSTEMS.

SO THEN THE QUESTION BECOMES WHAT DO YOU NEED TO
DO TO PROTECT PEOPLE IN THE EVENT OF ANY KIND OF A DROUGHT
OR RESOURCE SHORTAGE? WHAT IS A VIABLE STANDARD? DO YOU
NEED TO WORK UP TO THE STRICTEST STANDARD? AND EVEN THE
STRICTEST STANDARD FOR SURFACE WATER ISN'T ANYWHERE NEAR
STRICT ENOUGH, BECAUSE IT'S ONLY 80 PERCENT OF INFLOW. AND
WE CERTAINLY KNOW THAT IN TIMES OF DROUGHT WE HAVE
VARIATIONS THAT ARE MUCH MORE THAN 20 PERCENT, RIGHT? SO
WE'RE LOOKING AT WE HAVE TO SET A RELIABILITY STANDARD. DO
WE SAY NO MORE THAN 20 PERCENT RESTRICTIONS IN A HUNDRED
YEAR DROUGHT, OR WHAT DO WE SAY? SO THAT DOES REQUIRE MORE
INTENSIVE STUDY. AND WE'RE JUST GOING TO WORK WITH THE

INTERIM METHOD UNTIL WE CAN --

BOARD MEMBER OKAMURA: SO WE SHOULD ASK YOU AGAIN
IN A COUPLE OF MONTHS THEN WHAT THE INTERIM STANDARD WILL
BE?

MS. KRAFTSOW: THE INTERIM STANDARD FOR CENTRAL
MAUI AND UPCOUNTRY, YES, THE INTERIM STANDARD. BUT THE REAL
ANSWER IS I THINK MORE THAN A COUPLE OF MONTHS AWAY,
UNFORTUNATELY.

BOARD MEMBER OKAMURA: THANK YOU.

CHAIRMAN VICTORINO: THANK YOU, ELLEN. ALL RIGHT,
MEMBERS. LONG MEETING TODAY. AND I DO APOLOGIZE AGAIN, BUT
WE HAVE THESE KINDS OF MEETINGS ONCE IN A WHILE. I DON'T
THINK I HAVE ANYTHING ELSE. ANY MORE QUESTIONS FOR ANYONE?
OF COURSE, EVERYBODY HAS LEFT.

AGAIN, ON BEHALF OF MYSELF AND ALL OF THE BOARD
MEMBERS THAT HAVE BEEN HERE FOR AWHILE, WE'D LIKE TO AGAIN
WELCOME ALL THREE OF YOU TO THE BOARD. AGAIN, IT'S

IMPORTANT THAT HOMEWORK IS DONE WHEN YOU GET THESE REPORTS.

AND WE WILL TRY OUR BEST TO GET THEM OUT AS EARLY AS

POSSIBLE. THAT'S A REAL CHALLENGE, SOMETIMES, IS GETTING

DIFFERENT REPORTS OUT TO YOU. BUT AGAIN, IF YOU HAVE

SPECIFIC QUESTIONS, FEEL FREE TO CALL.

IF NOTHING ELSE, MEETING ADJOURNED.

(THE PROCEEDINGS WERE CONCLUDED AT 1:00 P.M.)

C E R T I F I C A T I O N

I, JEANNETTE W. IWADO, NOTARY PUBLIC FOR THE STATE OF

HAWAII, CERTIFY:

THAT THE PROCEEDINGS CONTAINED HEREIN WERE TAKEN BY

ME IN MACHINE SHORTHAND AND WERE THEREAFTER REDUCED TO PRINT
UNDER MY SUPERVISION BY MEANS OF COMPUTER-AIDED
TRANSCRIPTION; THAT THE FOREGOING REPRESENTS, TO THE BEST OF
MY ABILITY, A TRUE AND ACCURATE TRANSCRIPT OF THE
PROCEEDINGS HAD IN THE FOREGOING MATTER.

DATED THE 15TH DAY OF MAY, 2006

NOTARY PUBLIC, STATE OF HAWAII

MY COMMISSION EXPIRES 2/5/08

IWADO COURT REPORTERS, INC.

"By Water All Things Find Life"

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