

March 28, 2008

MEMO TO: Members of the Water Resources Committee

F R O M: Michelle Anderson, Committee Chair *emp for MA*

SUBJECT: DOCUMENT TRANSMITTAL

OFFICE OF THE
COUNTY COMMISSIONER

08 MAR 28 19:45

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Please consider the attached document in connection with Item No. 27 on your Committee agenda.

Attachment

CHARMAINE TAVARES
Mayor



JEFFREY K. ENG
Director

ERIC H. YAMASHIGE, P.E., L.S.
Deputy Director

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DEPARTMENT OF WATER SUPPLY

COUNTY OF MAUI

200 SOUTH HIGH STREET

WAILUKU, MAUI, HAWAII 96793-2155

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March 20, 2008

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08 MAR 20 P 4:28
OFFICE OF THE MAYOR
COUNTY OF MAUI

Honorable Charmaine Tavares
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Michael P. Victorino
Council Member
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Charmaine Tavares
Mayor
03.20.08
Date

Dear Council Member Victorino:

SUBJECT: ACCESS THROUGH THE HANS MICHEL PROPERTY FOR MAINTENANCE AND OPERATION OF KANAHA VALLEY STREAM (WR-27)

This responds to your correspondence dated March 12, 2008. Thank you for the opportunity to provide updated comments on the status of the agreements with Mr. Hans Michel. There are two agreements that pertain to the Mr. Michel's property: the original June 3, 1994 agreement, and a May 23, 2005 amendment. This discussion updates our status letters of September 11, 2006, February 23, 2007 and September 5, 2007.

June 3, 2004 Agreement between Hans Michel and the Board of Water Supply:

1. **Water Meter for the Property:** The board shall provide a 5/8-inch water meter on the Hans Michel property and adjacent to existing the 0.30 million gallon Kanaha tank after (1) the property owner makes a request, and (2) the owner enters into an elevation agreement with the County. The property owner shall pay for the water consumed.

"By Water All Things Find Life"



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Comment: Mr. Michel, the property owner, has not submitted application for a water meter, and elevation agreement has not been executed. Mr. Michel must submit an application for a water meter and initiate a request for an elevation agreement. As such, Mr. Michel has not yet been issued a water meter.

- 2. Maintenance of Dirt Roadway Located Between the Lahainaluna High School's Piggery and the Board's Kanaha Pump Station No. 2:** The Board of Water Supply shall maintain the existing roadway and stream crossing within the property, and pursue resolution with the State of Hawaii regarding which governmental entity should maintain the existing roadway and stream crossing within the State's property. The Board shall limit maintenance work to repair damage or wear caused by the Board with crushed rock waste or base course. Damage to the stream crossing due to storm flow shall be jointly funded by the owner and the Board.

Comment: The board, or department, has delivered and placed base course on the existing roadways on numerous occasions as needed. The Department has also recently, within the last year, completed the repair of the stream crossing.

- 3. Drainage Control Improvements Within the Board's 0.30 million gallon Kanaha Tank Site:** The Board shall repair damage to the roadway adjacent to Kanaha tank site caused by runoff through the tank site. Repair work to restore ground to original condition as reasonably possible.

Comment: This has been completed. Although a dry-stack rock wall was originally considered, the Department recently constructed a hollow tile wall along the tank site boundary to address drainage concerns.

- 4. Board Vehicles Parking on the Property Adjacent to the 0.30 million gallon Kanaha Tank:** The owner shall allow the Board vehicles to park adjacent to tank, and grade to maintain the parking area.

Comment: This has been completed. As noted in No. 3 above, the Department constructed a hollow tile wall to permanently address grading and drainage concerns.

- 5. Grading of the Roadway Near the Tank Site Access Driveway Gate:** The Board shall perform excavation work, one-time to the satisfaction of the owner, for vehicle turn-around near tank site access.

Comment: This has been completed.

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6. **0.30 million gallon Kanaha Tank Site Boundary Adjustment:** Board shall modify the subdivision map (SD 90-15) to delete a portion of land the owner wishes to acquire. The owner shall coordinate with State to acquire State-owned land.

Comment: Early in the project, a consultant prepared a preliminary subdivision plat. The plat was not submitted because of existing land title issues. The Department is coordinating the services of a land title company to perform a title search. After the title report is provided by the title company and the Department has thoroughly reviewed the report and analyzed its options, the next steps will be planned appropriately.

7. **Easements:** The owner shall grant easements to Board for (1) Board vehicle parking, (2) 0.30 million gallon Kanaha tank overflow discharge, (3) Kanaha tank surface runoff discharge, (4) pump prelubrication discharges at pump stations 1 & 2, (5) vehicular access along existing dirt road to Kanaha tank site & pump stations 1 & 2, and (6) waterlines and appurtenances.

Comment: Mr. Michel has not yet granted the easements to the County due to the title issues discussed in No. 6 above.

8. **Repair Eroded Areas Within the Property and Along the Pedestrian Trail:** The Board shall discuss with the State of Hawaii and Pioneer Mill the owner's request to repair pedestrian trail along a cliff eroded by overflow water from the screenbox, and erosion on the property caused by overflow water.

Comment: The discussion between the Board, State, and Pioneer Mill is ongoing regarding Mr. Michel's request to repair the pedestrian trail. The design of the overflow allows water to cascade over the cliff wall. This 1994 design consolidates two outlets into one. The drainage system returns overflow from the State Department of Education water tanks, Department of Water Supply water tank, and Department's Lahaina Water Treatment Facility to the stream.

9. **Boulder Removal:** The Board, at its cost, must remove or relocate five boulders from property.

Comment: This has been completed.

10. **Relocation of Board Waterlines:** The Board, at its cost, must relocate portion of 6-inch waterline from pump station 2 into the access easement.

Comment: In the Department's past conversation with Mr. Michel, relocation of the waterline at this time is not cost effective, and serves no purpose. We intend to relocate

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the waterline into the proposed easement when repairs are required, or the easements will be designated to encompass the existing waterline location.

11. **Ownership of the Pump Site No. 2:** The owner shall dedicate to the Board title to Kanaha Pump Site No. 2, as revised. Ownership shall revert back to the owner if pump station function abandoned.

Comment: Mr. Michel has not yet dedicated Site No. 2 to the County due to title issues discussed in No. 6 above.

12. **Relocation of Access Gate at Pump Station No. 2:** The Board shall relocate vehicle access gate to east side of site. The owner to grant easements for roadway and power pole relocation.

Comment: The Board has not yet relocated the vehicle access gate to the east side of the site, nor has Mr. Michel granted easements in favor of the County for roadway and power pole relocation due to title issues discussed in No. 6 above. Mr. Michel and the Department recently entered into an agreement to reduce the pump site from 4,874 square feet to 2,000 square feet, with the corresponding revisions to the easement agreement. This amendment to the easement agreement is dated May 23, 2005 and recorded in the Bureau of Conveyances on October 10, 2005 as Document No. 2005-205101. The conditions of that agreement are discussed in more detail below. We note that the reference to the gate as being on the east side of the site is inaccurate, as the gate is located on the south side of the site.

13. **Grading of Land Near Pump Station No. 2 for Access Onto Kanaha Stream:** The Board must discuss with State and Pioneer Mill excavation work to access stream with heavy equipment.

Comment: This has been completed. Heavy equipment access into the stream is available.

14. **Flowage Easement for Discharge From the Lahaina Water Treatment Plant Improvements and the Existing State and Pioneer Mill Co., Ltd. Water System:** The Board must pay \$25,000 for flowage easement from south boundary line of property to Kanaha Valley.

Comment: This has been completed.

15. **Payment of Attorney Fees:** The Board must pay the owner \$900.00 for attorney fees during May 11, 1993 meeting.

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Comment: This has been completed.

16. **Reimbursement to the Owner for Improvements Performed by the Owner Which Benefited the Board:** The Board must pay the owner \$40,000.00 for materials, equipment and labor for various maintenance and improvements.

Comment: This has been completed.

17. **Damage or Injury from Landslide or Earthquake and Falling Rocks:** The owner is not responsible or liable for damages or injury resulting from landslide, earthquake or falling rocks.
18. **Stream Crossing and Heavy Flood Water:** The owner not responsible for loss or injury when crossing stream.
19. **Damage to Vehicle and Injuries to Employees and Agents:** The owner's property is a farm. The owner is not responsible for damage or injury caused by collision with animals.
20. **Permission Over Roadway Easements:** The Board shall not grant permission over roadway easements, except employees and agents pursuing Board business.

May 25, 2005 Amendment to Agreement between Hans Michel and Department of Water Supply, Bureau of Conveyances Document No. 2005-2055101:

1. **Revise Kanaha Pump Site 2:** Revise Kanaha Pump Station Site 2 (Lot B) to: (a) 2,000 square feet area reflected by existing fenced site and parking lot turn-around, and (b) revise 20-foot wide easements 9 and 12 to follow south boundary of Lot B.

Comment: This work is has not yet been completed. We are working with Mr. Michel to address title issues as discussed in No. 6 above.

2. **Revise Exhibits A & B (1994) with Exhibits A-1 and B-1 (2005).**
3. **Other terms, covenants, and conditions of 1994 agreement unchanged.**

Additionally, in 2004, the Department constructed a man bridge to provide safe crossing over the stream during high flows. This work was done in addition to the work the Department performed in accordance with the agreements.

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Several years ago, a dry stack rock wall constructed by Mr. Michel was damaged by an excavator hired by the Department. After much discussion and consideration of alternatives, the Department repaired the rock wall in 2006.

Following the December 2007 storm and related damages, the department reinforced the intake dam, restored the spillway, and addressed the undermining caused by erosion. We also hired a contractor on two separate occasions in 2007 to excavate the eroded landslide material accumulated behind the dam. Recent rainfall has again transported sediment to the dam. We are coordinating the services of a contractor to remove the sediment from the dam.

In conclusion, the outstanding items related to this issue are primarily regarding outstanding title issues discussed above.

Thank you for the opportunity to provide this update. If you have any further questions, please contact Eric H. Yamashige, Deputy Director of Water Supply, at Ext. 7834.

Sincerely,



for

JEFFREY K. ENG
Director of Water Supply

xc: Jo Anne Johnson, Council Member
Michelle Anderson, Council Member
Michael J. Molina, Council Member
Charmaine Tavares, Mayor
Sheri A. Morrison, Managing Director