

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: June 16, 1999
TIME: 9:00 a.m.
PLACE: DLNR Board Room
Kalanimoku Building

Chairperson Timothy Johns called the meeting of the Commission on Water Resource Management to order at 9:12 a.m.

The following were in attendance:

MEMBERS: Mr. Timothy Johns
Mr. Richard Cox
Mr. Herbert Richards, Jr.
Dr. Bruce Anderson

EXCUSED: Mr. David Nobriga
Mr. Robert Giraldo

STAFF: Mr. Edwin Sakoda
Mr. Roy Hardy
Mr. Eric Hirano
Mr. Dean Nakano
Mr. Glenn Bauer
Ms. Lenore Nakama
Mr. David Higa

Ms. Faith Ching

COUNSEL: Mr. Edsel Yamada

OTHERS:

George Hiu
Emilio Barroga
Linnel Nishioka & Family

Manabu Tagomori
Stacey Uehara

Charles Reppun
John Reppun

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties.

1. Minutes of the May 21, 1999 meeting

Chairperson Johns deferred of the minutes to the May 21, 1999 meeting.

2. **Old Business/Announcements**

Acting Deputy Director Edwin Sakoda announced that staff will be presenting a public information meeting on the Pearl Harbor Sustainable Yield on Monday, June 28 at 9:00 a.m. in the DAGS Conference Room, Kalanimoku Building, 3rd floor. A notice will be sent out for this meeting using our agenda mailing list as well as faxing and email.

This is basically an informational meeting for the general public. Staff has been meeting with interested parties, mainly the users, but now staff would like to broaden it to the public in general.

Mr. Sakoda also announced that this is the last meeting for Commissioner Cox.

Lastly, Mr. Sakoda announced the Department's 1999 Manager of the Year is Roy Hardy.

3. **Department of Transportation, Application for a Stream Channel Alteration Permit (SCAP-MA-282), Uaoa Bridge Replacement, Uaoa Stream, Makawao, Maui, (TMK 2-8-4: 55, 56, 59, 60)**

PRESENTATION OF SUBMITTAL: Mr. Roy Hardy

Mr. Hardy made an amendment to Exhibit 4 Condition 1 to change the date from January 21 to June 16, 1999 under the first condition. The permit application and staff submittal was approved by the Commission at its meeting on June 16, 1999 rather than January 21, 1999.

RECOMMENDATION:

That the Commission approve a stream channel alteration permit for a new bridge at Uaoa Stream, Makawao, Maui (TMK:2-8-4: 55, 56, 59, 60). The permit shall be valid for two (2) years subject to our standard stream channel alteration permit conditions in Exhibit 4 and the following special conditions:

- a. Prior to construction the applicant shall submit written documentation from the Department of Health indicating compliance with Section 401 of the Federal Clean Water Act.
- b. Prior to construction the applicant shall submit written documentation indicating it has acquired the right-of-way for the new bridge.

TESTIMONY BY APPLICANT: None

TESTIMONIES: None

MOTION: (Cox/Richards)
To approve the submittal as amended.
UNANIMOUSLY APPROVED AS AMENDED.

4. **John W. Miller/Koohio Realty Trust, VIOLATION OF WELL CONSTRUCTION PERMIT, Koohio Well (Well No. 1221-01), TMK 5-1-4:34, Kilauea Aquifer System, Kauai**

PRESENTATION OF SUBMITTAL: Ms. Lenore Nakama

RECOMMENDATION:

The staff amended the recommendations as follows:

Staff recommends that the Commission:

1. Find John W. Miller/Koohio Realty Trust in violation of Well Construction Permit Condition 6.e.
2. Find that the violation in Recommendation 1 is a willful violation.
3. Fine the landowner \$1,000 for recommendation 2.
4. Fine the landowner \$500 per day for the violation in Recommendation 1, beginning on April 8, 1999, the date on which the certified notice of the violation was sent to the permittee, to this submittal's date (69 days), for a total amount of \$34,500 (thirty-four thousand five hundred dollars), and continue to fine the landowner \$500 per day starting June 16, 1999 until the violation is corrected.
5. In the alternative to the fine in Recommendation 3, the permittee may submit an elevation (referenced to mean sea level) survey by a Hawaii-licensed surveyor within fifteen (15) days from this submittal's date. If an elevation (referenced to mean sea level) survey by a Hawaii-licensed surveyor is not received within fifteen (15) days, then the fines set forth in Recommendation 3 shall be effective.
6. Staff to initiate discussions with Mr. Miller on the issue of monetary fines or an alternative to the fines assuming he submits his report within 15 days.

Mr. Glenn Bauer of staff suggested that an officer from the Division of Conservation and Resource Enforcement investigate the well construction and make sure that a pump hasn't been installed. If a pump has been installed, Mr. Miller would be in violation again for not obtaining a permit.

TESTIMONY BY APPLICANT: None

TESTIMONIES: None

MOTION: (Anderson/Richards)
To approve the submittal as amended.
UNANIMOUSLY APPROVED AS AMENDED.

5. **USDOC/NOAA/National Weather Service, REQUEST FOR VARIANCE FROM 1,000 MG/L CHLORIDE CAP, Pacific Tsunami Well (Well No. 1900-23), TMK 9-1-1:1, Puuloa Ground Water Management Area, Oahu**

PRESENTATION OF SUBMITTAL: Ms. Lenore Nakama

RECOMMENDATION:

Staff recommends that the Commission approve a variance from the 1,000 mg/l chloride cap for Well No. 1900-23 (WUP No. 501) to become effective once the following items are submitted to the Commission and accepted as being reasonably complete:

1. Well Completion Reports Parts I and II.
2. Elevation (referenced to mean sea level) survey by a Hawaii-licensed surveyor.
3. As-built sectional drawing of the well and installed pump.
4. Plot plan and map showing the exact location of the well.
5. Validated Water Use Permit.
6. Validated Well Construction Permit.
7. Validated Pump Installation Permit.

TESTIMONY BY APPLICANT: None

TESTIMONIES: None

MOTION: (Cox/Richards)
To approve the submittal.
UNANIMOUSLY APPROVED.

6. **Honolulu Board of Water Supply, REQUEST FOR EXEMPTION FROM HAWAII WELL CONSTRUCTION AND PUMP INSTALLATION STANDARDS, Waialae West Exploratory Well (Well No. 1747-05), TMK 3-3-14:16, Waialae West Aquifer System, Oahu**

DECLARATORY ORDER (DEC-ADM99-G6) ON: EXEMPTION TO HONOLULU BOARD OF WATER SUPPLY FROM THE HAWAII WELL CONSTRUCTION AND PUMP INSTALLATION STANDARD FOR 3-INCH ANNULAR SPACE

PRESENTATION OF SUBMITTAL: Ms. Lenore Nakama

RECOMMENDATION:

Staff amended the recommendation as follows:

Staff recommends that the Commission:

1. Exempt the Honolulu Board of Water Supply from the minimum requirement under Section 2.6(d) of the HWCPIIS provided that a minimum 1½-inch annular space is made for Well No. 1747-05.

TESTIMONY BY APPLICANT: None

TESTIMONIES: None

MOTION: (Richards/Anderson)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

7. **Request for Approval of Ms. Linnel T. Nishioka, Deputy for Water Resource Management**

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

RECOMMENDATION:

That the Commission on Water Resource Management approve Ms. Linnel T. Nishioka to the position of Deputy for Water Resource Management.

TESTIMONY BY APPLICANT:

Ms. Nishioka introduced her parents and husband and said that she is deeply honored and humbled to be given this opportunity to be the Deputy for Water Resource Management.

Chairperson Johns stated that there were several applicants along with resumes that were received. They were all reviewed. Finalists were identified, personal interviews held, took input from Commissioners, and made the final decision.

TESTIMONIES:

Mr. Charlie Reppun stated that he hoped that the process would have been more open for the public to say whether they want this individual to be in this position or whether they don't and to meet all the other candidates and be informed of their background.

Chairperson Johns stated that there was no intent on the Commission's part in doing things other than what was completely required by the law and that when he was appointed, he was never on an agenda. He said that the process that was followed was very open. The Water Deputy position is an appointment with the concurrence of the Commission and feels that they did everything that was appropriate.

MOTION: (Richards/Cox)

To approve the submittal.

UNANIMOUSLY APPROVED.

Chairperson Johns called a recess at 10:07 a.m.

Chairperson Johns called the meeting back to order at 10:08 a.m.

Chairperson Johns commended Acting Deputy Director Edwin Sakoda for doing an excellent job for the past 2 years and thanked him for his commitment.

Commissioner Cox commented that Mr. Sakoda has been such a great asset to the Commission, showed a lot of patience and displayed a lot of common sense in making recommendations so that the Commission could make sound decisions.

8. **Discussion of Procedures for the Public Hearing Continuance Regarding Kamehameha Schools Bishop Estate's Application for a Water Use Permit, Waiahole Ditch System, Oahu**

Acting Deputy Director gave a brief background of Kamehameha Schools Bishop Estate's (KSBE) application for a Water Use Permit for the Waiahole Ditch System.

Mr. Sakoda stated that Earthjustice has been meeting monthly with KSBE and would like more time to work together. Although KSBE is willing to meet with Earthjustice, KSBE would like the process to move ahead.

The question of continuing the public hearing is the reason why staff is presenting this discussion to the Commission. Mr. Sakoda stated that if the public hearing is continued, that would be the time for anyone to request for a contested case hearing, if they so chose.

The target date for the continuance of the public hearing would be August 18, after the Commission meeting.

Mr. Manabu Tagomori of KSBE stated that the meetings were to explain, talk, educate and express each other's views. In discussions about the application, there were no means of direction. The positions of both parties remain the same as reported. KSBE's position is that they would like the Commission to proceed with the process, whichever way the process will take them.

Mr. Charlie Reppun, representing Earthjustice, stated that as far as proceeding with the public hearing, he did not have an opportunity to meet with Mr. Achitoff or Ms. Sproat. Mr. Reppun had a concern that the work stated in the decision and order has not been completed. The other 2 technical committees need to submit their reports. He also stated that the conflict of interest matter has not been and needs to be resolved.

Ms. Stacey Uyehara of KSBE made clarification that KSBE's application for water emanates from the Waiawa lands which is on the Leeward side of Oahu. It is physically impossible for the application to impact the Windward streams. KSBE is not asking for water that comes from the Windward side. The information that is coming from the

technical advisory committee does not have a bearing upon this current application for water. This is the reason why the Commission needs to proceed with the public hearing.

A motion was made at 10:45 am to enter into Executive Session for Item No. 8.

MOTION: (Richards/Cox)
UNANIMOUSLY APPROVED.

Chairperson Johns called the meeting back to order at 11:26 am and stated that the intent of the Commission is to continue the public hearing until technical advisory committee reports that are outstanding have been received. They are the hydrology and the engineering/agricultural committees. Chairperson Johns asked that the reports be submitted within 90 days. At the end of the 90-day period the Commission will then reexamine whether the public hearing should be scheduled for the final meeting of the public hearing. Chairperson Johns encourages the parties to continue their discussions in hopes of reaching a resolution.

A motion was made and seconded to Chairperson Johns' request.

(Richards/Cox)
UNANIMOUSLY AGREED.

9. **Other Business**

Acting Deputy Director Sakoda gave a status report on the Lower Hamakua Ditch. The Department of Agriculture has a request for proposal for 3 quotes for geological investigation of the Hamakua Ditch. A design-build contract should be completed late August or September. If it is awarded in October, then the design and construction is to begin by December. DOA is waiting for NRCS approval of funds. Although this is verbal, Mr. Sakoda is asking the DOA to state this information in writing.

Chairperson Johns adjourned the meeting at 11:35 am.

Respectfully submitted,

FAITH F. CHING
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA
Deputy Director