

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: May 31, 2000
TIME: 9:00 am
PLACE: DLNR Board Room
Kalanimoku Bldg.

Chairperson Timothy E. Johns called the meeting of the Commission on Water Resource Management to order at 9:17 a.m.

The following were in attendance:

MEMBERS: Mr. Timothy Johns, Dr. Bruce Anderson, Mr. Robert Girald,
Mr. Brian Nishida, Mr. Herbert Richards, Jr.

STAFF: Ms. Linnel Nishioka, Mr. Roy Hardy, Mr. Ed Sakoda, Mr. Eric
Hirano, Mr. Dean Nakano, Ms. Lenore Nakama, Mr. Glenn Bauer

COUNSEL: Edsel Yamada

OTHERS: Neil Hannahs, Manabu Tagomori, Ben Kudo, Stacy Uehara, Dr.
Jim Anthony, Kapua Sproat, Sunny Greer, Kelly Washino, Ken
Windram, Calvin Hoe, Stephen Kubota, Pat Bradey, George Hudes,
Cha Smith, Mary Brooks, Ilima Morrison, Amy Luersen, Pat
Tummons, Dawn Shigezawa

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties. The items were not taken in the order posted on the agenda.

2. Old Business/Announcements by Deputy Director Linnel Nishioka

Both the administration bills that were reported the past months during session passed. They are both awaiting the Governor's signature. These bills are the special fund and water license bills which passed both House and Senate are awaiting signature.

4. County of Hawaii, Department of Public Works, Application for a Stream Channel Alteration Permit (SCAP-HA-306), Bank Stabilization, Waiakea Stream, Hilo, Hawaii (TMK: 2-4-04:)

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for bank stabilization of Waiakea Stream (TMK: 2-4-04). The permit will be valid for two years subject to our standard permit conditions in Exhibit 5.

MOTION: (RICHARDS/NISHIDA)

To approve the submittal.

UNANIMOUSLY APPROVED.

5. City and County of Honolulu, Department of Design and Construction, Application for a Stream Channel Alteration Permit (SCAP-OA-298), Construction of a 24-inch Sewer Outfall, South Fork Kaukonahua Stream, Wahiawa, Oahu, (TMK 7-3-07:01, 02)

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That staff amends recommendations as follows:

That the Commission approve a stream channel alteration permit for the construction of a deep outfall at the south fork of Kaukonahua Stream (TMK 7-3-07:01, 02). The stream channel alteration permit will be subject to our standard conditions in Exhibit 4 and the following special condition:

The applicant shall prepare a navigation plan to provide boat access around the work area while the outfall is being constructed. The navigation plan shall be acceptable to the Division of Aquatic Resources and prior to construction work the applicant shall provide the Commission with written documentation on DAR's acceptance.

Approval of the permit be conditioned upon the City and County of Honolulu, Department of Design and Construction, receipt of a valid NPDES permit from the Department of Health to address water quality concerns.

TESTIMONY BY APPLICANT:

Mr. Bill Liu of the City and County of Honolulu, Department of Design and Construction was present to help facilitate the approval of the application. Mr. Ralston Nagata of State Parks has been contacted to work out the special condition regarding navigation requirements. In the construction management plan, the diffusion requirement will be monitored closely and if there are any problems associated with the diffusion requirement, they will be corrected.

TESTIMONIES:

Commissioner Anderson agreed with staff's recommendations on the water quality issues being the jurisdiction of the Health Department. The issues are in study now for years and the deep outfall will help to improve water quality.

Dr. Jim Anthony asked the Commission and staff if there were any studies on water quality and the impact of pollutants on habitat in this area. He stated that nearshore water quality is at least not further deteriorated. He stated that there should be an additional condition

written into this application to impose further conditions to require the applicant to continue to provide data over as long a period of time as possible as to the impacts on water quality.

Commissioner Anderson stated that the proper venue to addressing the water quality concerns is the NPDES permit which will be issued by the Health Department. There is a monitoring requirement to this permit. If there are adverse impacts, that would be best addressed in the process. Should there be a significant impact, the discharge would not be allowed. Therefore, the recommendations should be modified to make reference to the NPDES permit specifying that the approval be conditional upon the City and County of Honolulu, Department of Design and Construction, receipt of a valid NPDES permit to address water quality concerns.

MOTION: (RICHARDS/GIRALD)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

6. Department of Transportation, Application for a Stream Channel Alteration Permit (SCAP-OA-301), Keaahala Road Widening, Keaahala Stream, Kaneohe, Oahu, (TMK 4-5-23:09)

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for a roadway widening at Keaahala Stream (TMK: 4-5-23:09). The permit will be valid for two years subject to our standard permit conditions in Exhibit 3 and the following special condition:

Upon clearing the vegetation at the spring, the applicant shall notify the Commission by facsimile to allow the Commission staff to document the spring source. The applicant shall not excavate, seal or otherwise destroy the Keaahala Spring.

MOTION: (GIRALD/NISHIDA)

To approve the submittal.

UNANIMOUSLY APPROVED.

3. Waiahole-Waikane Community Association, Hakipu'u Ohana, Ka Lahui Hawaii, Kahalu'u Neighborhood Board No. 29, and Makawai Stream Restoration Alliance, PETITION FOR DECLARATORY ORDER DENYING BISHOP ESTATE'S WATER USE PERMIT APPLICATION FOR FAILING TO COMPLY WITH THE COMMISSION ON WATER RESOURCE MANAGEMENT'S FINAL DECISION AND ORDER IN THE WAIAHOLE DITCH COMBINED CONTESTED CASE HEARING (DEC-OA00-G6), Kamehameha Schools, APPLICATION FOR A WATER USE PERMIT (WUP No. 474), Waiahole Ditch System, Existing/Future Irrigation and Dust Control Use for 4.2 mgd, Koolaupoko, Kahana, and Waipahu-Waiawa Ground Water Management Areas, Oahu

Commissioner Nishida recused himself from Item 3.

PRESENTATION OF SUBMITTAL: Ms. Lenore Nakama

RECOMMENDATIONS:

The staff recommends that the Commission adopt one of the six outlined options or another option of its own on the issues of the Petition and the further processing of this application.

TESTIMONY BY APPLICANT:

Mr. Neil Hannahs, Director of the Land Asset Division of Kamehameha Schools (KS), stated that in light of recent developments, KS does not believe it necessary that the merits of this petition be reached at this time. Instead a 4-month deferral of action was requested. He stated that KS will work with the aforementioned parties, Gentry and other government agencies. By requesting deferral, KS is hoping to work on building a productive dialogue.

TESTIMONIES:

Kapua Sproat of Earthjustice stated that they would like to work with KS over the next 4 months. She asked the Commission to support this process.

Dr. Jim Anthony stated that he feels the Commission needs to be very specific about reporting back to the Commission on the progress that is being made. He also asked who will be meeting and if it would be open to the public.

Sunny Greer amended her testimony in support of KS testimony.

Kelly Washino of East Honolulu Community Coalition is in support of Earthjustice and in light of the new development, supports KS testimony.

Ken Windram, Project Manager of USFilter stated that he offers services to assist the community. He is willing to participate in the discussions.

Calvin Hoe of Hakipuu and lives in Waiahole stated that everyone should try to work together and work something out.

Stephen Kubota of the Ahupuaa Action Alliance stated that they are very encouraged by the report and foster the dialogue away from contested proceedings. He stated that everyone needs to seriously look at managing our resources.

Kat Brady of Life of the Land summarized her written testimony by encouraging the Commission to support the process that was described by KS and the Windward community.

Cha Smith of Kehia Hawaiian Environmental Alliance Islandwide Organization commended KS for agreeing to enter into the examination of alternative uses and sources of water.

Mary Brooks, a Windward resident, stated that the ahupuaa needs to be restored. Ms. Brooks also stated that she would like to participate working with KS.

Senator Bob Nakata stated that he did not believe this process can be completed in 4 months; he believes that it would take a year. He thanked Mr. Hannahs and KS for taking such a historic step in offering to work together and prove themselves by their deeds and not their words.

Amy Luersen, Chair of Kahuku Neighborhood Board stated that they are willing and eager to participate in trying to formulate and work with KS in a good faith effort to see if we can move forward on integrated water resource planning.

Meala Bishop submitted written testimony and also stated that she was happy to hear that KS is seeking other alternative ways to use water.

Mr. John Reppun stated that he feels that Mr. Hannahs and KS want to be a part of the alliance and supports the process that has been suggested.

Kala Hoe, a member of Hakipuu Ohana, stated that he is encouraged and thankful that KS is changing its ways.

Chairperson Johns asked that a motion be made to enter into executive session in order to confer with counsel on the submittal, the discussion of the Supreme Court's pending decision and clarification of the Hawaii Revised Statutes.

MOTION: (RICHARDS/GIRALD)

At 11:07 am the Commission went into Executive Session.

The meeting was resumed at 11:25 am. Chairperson Johns stated that they were able to discuss the legal issues with counsel and asked for a motion.

Commissioner Girald made a motion and moved that:

1. based on the request that was made by the parties, we defer the hearing on item number 3 for 4 months;
2. the Commission would encourage the parties, Kamehameha Schools, Waiahole-Waikane Community Association, Hakipuu Ohana, Kalahui Hawaii, Kahaluu Neighborhood Board No. 29 to include any appropriate and/or other agencies in discussions and deliberations;
3. monthly reports be provided both in written and oral form at the Commission meetings.

MOTION: GIRALD/ANDERSON

UNANIMOUSLY AGREED TO DEFER ITEM 3.

Chairperson Johns reminded the audience that the public hearing is still open and not closed so basically this was an action on the petition that was filed by Waiahole-Waikane Community Association, et al.

1. Minutes of the April 19, 2000 meeting

Note: Minutes for the 9:00 am meeting at the DLNR Board Room and the 1:00 pm USFilter facility tour were approved.

MOTION: (RICHARDS/GIRALD)

To approve the minutes.

UNANIMOUSLY APPROVED.

Chairperson Johns asked for a motion to adjourn.

MOTION: (GIRALD/ANDERSON)

UNANIMOUSLY AGREED.

This meeting was adjourned at 11:40 am.

Respectfully submitted,

FAITH F. CHING
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA
Deputy Director