

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: February 28, 2001  
TIME: 9:00 am  
PLACE: DLNR Board Room  
Kalanimoku Bldg.

Vice Chairperson David Nobriga called the meeting of the Commission on Water Resource Management to order at 9:14 a.m.

The following were in attendance:

**MEMBERS:** Dr. Bruce Anderson, Mr. Robert Girald, Mr. Brian Nishida,  
Mr. David Nobriga, Mr. Herbert Richards, Jr.

**STAFF:** Ms. Linnel Nishioka, Mr. Roy Hardy, Mr. Ed Sakoda, Mr. Eric  
Hirano, Mr. Dean Nakano, Mr. Glenn Bauer, Ms. Lenore Nakama,  
Mr. David Higa, Mr. Charley Ice, Mr. Neal Fujii

**EXCUSED:** Mr. Gilbert S. Coloma-Agaran

**COUNSEL:** Dawn Chang

**OTHERS:** Manabu Tagomori, Ben Kudo, Karen Piltz, Tom Nance, Jim  
Anthony, Paul Achitoff, Bert Kuioka, Kapua Sproat, Sang Ho, Bill  
Meyer

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.

**1. Minutes of the January 24, 2001 meeting**

MOTION: (RICHARDS/GIRALD)  
To approve the minutes.  
UNANIMOUSLY APPROVED.

Commissioner Richards read his statement declaring that opinions from the Department of the Attorney General and the State Ethics Commission stated that he has no conflicts with any matters relating to Kamehameha Schools.

**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 WAIHAOLE DITCH COMBINED CONTESTED CASE HEARING (DEC-OA00-G6)**

**Kamehameha Schools APPLICATION FOR A WATER USE PERMIT, Waiawa Development Tunnel (Well No. 2657-05), TMK 9-6-05:003, Existing/New (Irrigation and Dust Control) Use for 4.2 mgd, Koolaupoko, Kahana, and Waipahu-Waiawa Ground Water Management Areas, Oahu**

PRESENTATION OF SUBMITTAL: Ms. Lenore Nakama

AMENDED RECOMMENDATIONS:

Staff recommends that the Commission:

1. Approve a 90-day extension of time from the date of this submittal for Kamehameha Schools to provide additional information on alternative water sources, including a detailed verifiable cost breakdown for each identified alternative and detailed analyses on the feasibility of each identified alternative.
2. ~~Delegate the authority to the Chairperson to approve any future extension requests. All other conditions set forth in the November 29, 2000 Commission action remain in full force & effect.~~

Ms. Nakama made an amendment to staff's submittal. In the last paragraph of the submittal (the paragraph before staff's recommendation), the third sentence (KS is also continuing to meet with the Windward parties and other parties that may be affected by the use of a proposed alternative.) should be deleted.

TESTIMONY BY APPLICANT:

Mr. Manabu Tagomori, Water Resource Manager of Kamehameha Schools (KS), stated that KS has retained Tom Nance as the consultant for the ground water and surface water study and Roy Abe of Hawaii Pacific Engineers who is knowledgeable in the wastewater area. Clarification and guidance from the Commission staff and the Board of Water Supply (BWS) was obtained through meetings on how the study should be conducted. Mr. Tagomori stated that KS was not able to have a follow up meeting with the Windward parties although written comments were obtained from them. With these written comments and meetings of the Commission staff and BWS, KS has come up with the scope of study that is being implemented. For this, Mr. Tagomori said that the reason why KS is requesting an extension is because more time is needed to complete the study. He also stated that other alternatives might be needed to feasibly carry out the study. Field investigations are necessary on some of the alternatives. He feels strongly that if granted the 90-day extension, the study could be completed.

Mr. Tom Nance of Tom Nance Water Resources Engineering stated that three different types of alternative sources that have been identified are: 1) reclaimed wastewater that will be treated to R1 quality; 2) ground water to be developed on site; and 3) surface water from Waiawa Stream. Four (4) wastewater alternatives have been identified. They are: 1) retain, treat, and reuse all wastewater generated on site; 2) Because the amount of wastewater available will be modest, this alternative will require a supplemental source from the first day; 3) reactivation of the Mililani Wastewater Treatment Plant and 4) Honouliuli Wastewater Effluent used for R1 treatment, and additional reverse osmosis treatments.

With regard to developing groundwater on site, 4 options were identified, 2 of which are cost wise, feasible and the other 2 are not as feasible. The first option is to utilize 2 existing wells (Oahu Sugar wells). The second groundwater option would be to install 2 new wells at the project site that will incur an added cost. The third groundwater option is to use a battery of 14 wells. The fourth option is to use 4 of Gentry's potable wells.

With regard to surface water only 1 system which is an existing system of Oahu Sugar's Aaron's Ditch and Reservoir 545A will be analyzed.

#### TESTIMONIES:

Mr. Paul Achitoff of Earthjustice restated for the record the Windward parties concern about Commissioner Richards participation in this matter. He stated that Commissioner Richards' statement does not answer any of the issues or concerns that the Windward parties have expressed. He concluded that Earthjustice will still maintain their objection.

With regards to the submittal, Mr. Achitoff stated that KS is not addressing whether a study of the feasibility or alternatives that serves its intended purpose where it considers feasibility to be merely the relative cost of alternatives. He feels that KS is going through this lengthy process and still is not addressing the issue. Mr. Achitoff stated that unless an analysis is done of the affordability and not merely the relative cost of these alternatives, the study is useless.

Dr. Jim Anthony of Hawaii Laieikawai Association stated that the Commission should rule on the motion for declaratory ruling and to not grant KS the 90-day extension. Dr. Anthony is also opposed to recommendation number 2 of staff's submittal. Dr. Anthony also hopes that the Commission would follow the Supreme Court's decision that future decisions as this current submittal should be made consistent with terms of the public trust doctrine and the Integrated Resource Planning (IRP). When the IRP for Oahu is completed, Dr. Anthony feels that is when KS should resubmit this application.

#### MOTION: (GIRALD/RICHARDS)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

4. **Restructure Commission Condition #2 of Denial of Petition to Designate Lana'i a Water Management Area, "Continue to Conduct Annual Informational Briefings"**

PRESENTATION OF SUBMITTAL: Mr. Charley Ice

AMENDED RECOMMENDATIONS:

That the Commission amend its Recommendation #2 of the April 16, 1997 decision,

*“(That the Commission:)*

- 2. *Continue to conduct annual public informational hearings in October to monitor conditions until the formation of a permanent advisory group to monitor implementation of the LWGR.”.*

to read:

- 2. Continue to participate in the Lana’i Water Advisory Committee, presenting an aquifer analysis of data reported by Castle & ~~Cook~~ Cooke Resorts LLC (CCR) for its Lana’i properties; make appropriate changes in CCR’s reporting form and periodically verify the reporting methods; and monitor progress on the watershed management program. The Commission reserves the right to return to the annual informational briefing format in the future, if that seems necessary.

Commissioner Richards made corrections to the submittal. Castle & Cook should be Castle & Cooke.

MOTION: (GIRALD/NISHIDA)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

**2. Old Business/Announcements by Deputy Director Linnel Nishioka**

Deputy Director Nishioka announced that the deadline for applications for commissioner is today. The nominating committee is meeting on Thursday, March 8.

The Commission was part of a consortium that received a watershed grant. Mr. Sakoda attended meetings and submitted the Commission’s name as part of the consortium. This grant is for a comprehensive watershed study. The Commission also has more grants pending with the State Civil Defense.

**5. Eric J. Golting Request for Exemption from Survey Requirement, Papula-Golting Well (Well No. 5425-03), TMK 3-8-2:25, Papaula Point, Spreckelsville, Maui**

PRESENTATION OF SUBMITTAL: Mr. Charley Ice

## RECOMMENDATIONS:

That the Commission exempt the Papaula-Golting Well (Well No. 5425-03) from the requirement for surveying the wellhead elevation.

Mr. Glenn Bauer commented that there are other benchmarks outside of the airport as shown in the map exhibit. He stated that at some time Mr. Golting obtain a surveyor to survey for these benchmarks to see if they can be used instead.

Commissioner Anderson made a motion to defer so that more information may be obtained about alternative benchmarks.

MOTION TO DEFER: (ANDERSON/RICHARDS)

To approve deferral.

UNANIMOUSLY APPROVED TO DEFER

**6. Mr. Kevin Sang Ho After-the-Fact Applications for Stream Channel Alteration and Stream Diversion Works Permits, and Petition to Amend the Interim Instream Flow Standard (SCAP-HA-317), Stream Diversion for Agricultural Use, Malamalamaiki (Honomu) Stream, Hamakua, Hawaii (TMK: 2-8-11:005)**

PRESENTATION OF SUBMITTAL: Mr. Ed Sakoda

## RECOMMENDATIONS:

That the Commission:

1. Find the applicant in violation of:
  - a. Hawaii Revised Statutes §174C-71 for not obtaining a stream channel alteration permit for the present diversion system.
  - b. Find the applicant in violation of Hawaii Revised Statutes §174C-93 for not obtaining a stream diversion works permit for the present diversion system.
  - c. Find the applicant in violation of Hawaii Administrative Rules §169-46 for installing a new diversion system without amending the interim instream flow standard.
2. Advise the applicant that future diversions or channel alterations by the applicant without the necessary Commission approvals may be considered 'willful violation's of the Commission's rules and may be subject to penalties under Hawaii Revised Statutes §174C-15.
3. Approve after-the-fact stream channel alteration and stream diversion works permits and petition to amend the interim instream flow standard for a stream diversion at Malamalamaiki (Honomu) Stream at TMK: 2-8-11:005. The applicant may divert

up to 100 gallons per day for washing harvested ginger and to clean farm equipment. The stream channel alteration and stream diversion works permits are subject to the standard conditions for stream diversion on Exhibit 6. The amendment to the interim instream flow standard shall be subject to the standard interim instream flow standard conditions in Exhibit 7, and the following special condition.

“The petitioner shall not discharge effluent from the diversion into Malamalamaiki Stream.”

Mr. Sakoda made correction to the submittal in the first paragraph, first sentence under DESCRIPTION, should be 660-foot not 620-foot.

TESTIMONY BY APPLICANT:

Commissioner Anderson advised the applicant to check with the Department of Health (DOH) on the use of stream water for the purpose of washing the ginger.

Mr. Sang Ho did check with the DOH and they told him that the water he is using does not apply for his purpose. Mr. Sang Ho is basically using the stream water to wash his equipment and taking the ginger elsewhere to be washed.

Commissioner Nishida stated that the applicant should be made aware of regulations on nonpoint source pollution of water.

MOTION: (RICHARDS/NISHIDA)

To approve the submittal.

UNANIMOUSLY APPROVED.

**7. City and County of Honolulu, Department of Design & Construction Application for a Stream Channel Alteration Permit (SCAP-OA- 321), Manoa Valley District Park Streambank Improvements, Oahu (TMK 2-09-036:3)**

PRESENTATION OF SUBMITTAL: Mr. Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit to the City and County of Honolulu, Department of Design and Construction, for the alteration of the west bank of Manoa Stream (TMK:2-9-036:3) Honolulu, Oahu. This project is subject to our standard conditions for stream channel alteration permits in Exhibit 7.

MOTION: (ANDERSON/RICHARDS)

To approve the submittal.

UNANIMOUSLY APPROVED.

Since there was no other business, Vice Chair Nobriga adjourned the meeting at 11:09 am.

Respectfully submitted,

FAITH F. CHING  
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA  
Deputy Director