

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: February 25, 2003
TIME: 1:00 pm
PLACE: DLNR Board Room
Kalanimoku Bldg.

Chairperson Peter T. Young called the meeting of the Commission on Water Resource Management to order at 1:04 pm.

The following were in attendance:

MEMBERS: Mr. Peter T. Young, Ms. Meredith Ching, Mr. Clayton Dela Cruz, Mr. Brian Nishida, Mr. Herbert Richards, Jr.

STAFF: Dean Nakano, Roy Hardy, Ed Sakoda, Glenn Bauer, Lenore Nakama, Neal Fujii, Dean Uyeno, Charley Ice, Kevin Gooding, Tiffany Mathias

EXCUSED: Dr. Chiyome Fukino

COUNSEL: Linda Chow

OTHERS: Ernest Lau, Steve Bowles, Linnel Nishioka, Bert Kuioka, Gordon Tribble, Jon Nishimura, David Nobriga, Michael Tulang, Kip Dunbar, Paul Frandsen, Manabu Tagomori, Garret Hew, Jonathan Scheuer

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 22, 2003 meeting

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

2. Old Business/Announcements by Acting Deputy Director Dean Nakano

The Nominating Committee has been formed for seeking nominations to replace Commissioners Richards and Nishida whose terms expire on June 30, 2003. A Public Notice was published in statewide Sunday papers on February 23, 2003. The deadline for

applications is March 7. Two meetings of the nominating committee are scheduled in March. Names for the anticipated vacancies will be sent to the Governor for consideration and later sent to the Senate for confirmation in this legislative session.

Mr. Nakano requested that Item 7 be moved up in consideration to the off-island applicant.

3. Request for Approval of Mr. Ernest Y.W. Lau, Deputy for Water Resource Management

PRESENTATION OF SUBMITTAL: Dean Nakano

RECOMMENDATIONS:

That the Commission on Water Resource Management approve the appointment of Mr. Ernest Y.W. Lau to the position of Deputy for Water Resource Management.

TESTIMONIES:

Chair Young stated that written testimonies in support were received.

Ms. Linnel Nishioka strongly supported the appointment of Mr. Lau to the position of the Deputy for Water Resource Management. She is confident that he will perform very well.

Commissioner Ching stated for the record that she had the opportunity to work with Mr. Lau in forming the Kauai Watershed Alliance as well as other business matters on Kauai and felt that he has the required experience and sincere concern for conservation.

MOTION: (RICHARDS/CHING)

To approve the submittal.

UNANIMOUSLY APPROVED.

7. APPLICATION FOR AFTER-THE-FACT PUMP INSTALLATION PERMIT, Puelelu-Kainalu Ranch Well #1 (Well No. 0546-02), Well Construction: 10-inch Casing Diameter, 434-ft. Deep Well, Pump Installation: 140 gpm for Agricultural Use, TMK 5-7-3:62, Puelelu, Manae, Molokai

PRESENTATION OF SUBMITTAL: Charley Ice

AMENDED RECOMMENDATIONS:

That the Commission:

- A. Find Kainalu Ranch and American Drilling in violation of HAR §13-168-12(a), installing a pump without an appropriate permit.

- B. Assess no fine to Kainalu Ranch for the violation in Recommendation A as summarized in Exhibit 5a.
- C. Impose a ~~\$750~~ \$250 fine on American Drilling for the violation in Recommendation A, as summarized in Exhibit 5b, payable within 30 days.
- D. Suspend any current, pending, or future applications by the driller until the fine is paid and the driller completes the permit process for this well.
- E. Approve the issuance of an after-the-fact pump installation permit for Puelelu-Kainalu Ranch Well #2 (Well No. 0546-02) subject to the standard conditions in Exhibit 7.

A correction was made on page 3 of staff's submittal. It should be noted that instead of Ualapue Aquifer System, it should be Waialua Aquifer System.

TESTIMONY BY APPLICANT:

Mr. Paul Frandsen stated that he had walked the application in and handed it over to Charley Ice. With the application being turned in and the many telephone conversations he had with Mr. Ice, he assumed that the permit would be processed and approved.

Mr. Ice clarified staff only received a copy of an application, which differed on signature dates from the original the applicants have only produced at this meeting today.

Mr. Dunbar stated that he had phoned Mr. Ice and asked if all paper work was in order in regards to this second pump. Mr. Dunbar was informed that no further action was needed. He stated that it was not till 2002 that he was informed that the application for the second pump was not processed. He then faxed in the application for the second pump and anticipated that all paper work were in order.

In discussion after the motion was made, Commissioner Nishida stated that the recommendation delineates clearly the components of the penalty policy and is in agreement to reducing the \$750 fine but for protocol perspective, some clarity may be needed as to what the \$250 applies to. He stated that this area is in a water management area and it is a repeat offense.

Chair Young stated that there is a motion for a reduced fine of \$250 without definition and was not sure if a definition was needed.

MOTION: (RICHARDS/CHING)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

4. Delegation of a Hearing Officer To Hear and Make Recommendations to the Commission Regarding the Douglas/White Hanawana Stream Intake Dispute

PRESENTATION OF SUBMITTAL: Edwin Sakoda

RECOMMENDATIONS:

We recommend that the Commission delegate this matter to a hearing officer and authorize the Chairperson to appoint a hearing officer.

Commissioner Ching stated that if the intake is on A & B lands then she may have a conflict.

To clarify, Mr. Sakoda stated that most of Hanawana Stream is diverted by EMI Ditch except for a 2-inch pipe that bypasses the ditch. During low flows the only water that comes down is from that 2-inch intake that bypasses the ditch.

Counsel stated that this submittal is only for the delegation of duties and not the evidentiary report. So, Commissioner Ching does not have a conflict of interest.

Commissioner Richards made one point to move as quickly as possible and set deadlines.

MOTION: (RICHARDS/CHING)

To approve the submittal.

UNANIMOUSLY APPROVED.

5. U.S. Geological Survey REQUEST FOR VARIANCE OF GROUTING REQUIREMENT, Ahualoa Treatment Plant Well (Well No. 6331-01), TMK 4-6-11: 038, Hawaii

PRESENTATION OF SUBMITTAL: Roy Hardy

RECOMMENDATIONS:

Staff recommends that the Commission approve the request for variance from the 3” annular space requirement stated in the Hawaii Well Construction and Pump Installation Standards section 2.6(d) for the Ahualoa Treatment Plant Well (Well No. 6331-01), to allow a 2” annular space.

MOTION: (DELA CRUZ/ NISHIDA)

To approve the submittal.

UNANIMOUSLY APPROVED.

6. REQUEST FOR VARIANCE OF GROUTING REQUIREMENTS, Kanehoa and HOVE Monitor Wells (Well Nos. 6144-01 & 0445-01), TMK 6-2-9: 027 & 9-2-197: 1, Hawaii

PRESENTATION OF SUBMITTAL: Roy Hardy

RECOMMENDATIONS:

Staff recommends for the Kanehoa Monitor (Well No. 6144-01) and HOVE Monitor (Well No. 0445-01) Wells, that the Commission:

1. Deny the request for a variance from the minimum grouting depth requirement of 500' to a depth of 200'.
2. Delegate the authority to the Chairperson to reduce the depth of grout, subject to the following conditions:
 - a) Prior to grouting, the applicant shall submit a copy of the geologic logs to Commission staff and get concurrence regarding the grouting depth.
 - b) If there is no concurrence from staff regarding any reduction in grout depth, the depth of grout shall be in compliance with Section 2.6(c) of the Hawaii Well Construction and Pump Installation Standards.
3. Approve the request for a variance from the minimum 3" annulus to reduce the annular space requirement to 2" below the 100' depth of these wells.

TESTIMONY BY APPLICANT:

Mr. Gordon Tribble of USGS accepted staff's recommendation and stated that he will work with staff on all that is required.

MOTION: (RICHARDS/DELA CRUZ)

To approve the submittal.

UNANIMOUSLY APPROVED.

8. Adoption of the State Water Projects Plan

PRESENTATION OF SUBMITTAL: Lenore Nakama

RECOMMENDATIONS:

That the Commission adopt the State Water Projects Plan and transmit copies of the document to the counties for incorporation within their respective County Water Use and Development Plans.

Ms. Nakama provided a powerpoint presentation on the State Water Projects Plan which is one of the eight components of the Hawaii Water Plan (HWP). This is the first component of the HWP to undergo a complete revision and update, resulting in a recommendation for adoption by the Commission.

Commissioner Ching inquired about the Agricultural Water Use and Development Plan (AWUDP) integration. Staff responded that a report is being prepared to discuss the integration strategy. Staff also noted that completion of the AWUDP by the Department of Agriculture has been delayed. Commissioner Ching also expressed concern about the unmet needs and that the Commission must communicate with the counties and the public, not to alarm, but more of a warning. She also recommended that a macro planning tool be developed.

Commissioner Nishida suggested that staff followup on where the Counties stand on their plans. It would be helpful to the Commission.

Commissioner Richards added that someone, perhaps the County, should talk to the larger businesses and see what they are doing and encourage the sharing of information to the County.

MOTION: (RICHARDS/DELA CRUZ)
To approve the submittal.
UNANIMOUSLY APPROVED.

This meeting was adjourned at 2:28 pm

MOTION: (RICHARDS/CHING)
UNANIMOUSLY APPROVED.

Respectfully submitted,

FAITH F. CHING
Secretary

APPROVED AS SUBMITTED:

ERNEST Y. W. LAU
Deputy Director