

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: April 16, 2003  
TIME: 9:00 am  
PLACE: DLNR Board Room  
Kalanimoku Bldg.

**A. CALL TO ORDER**

Chairperson Peter T. Young called the meeting of the Commission on Water Resource Management to order at 9:07a.m.

**B. ROLL CALL**

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:** Ernie Lau, Dean Nakano, Roy Hardy, Ed Sakoda, Glenn Bauer, Lenore Nakama, Kevin Gooding, David Higa, Dan Davidson and Charley Ice

**EXCUSED:** Dr. Chiyome Fukino

**COUNSEL:** Linda Chow and Yvonne Izu

**OTHERS:** Jo Ann Yasuda, Ryan Nakata, Robin Foster, Sheryl Nojima, George Abcede, Mike Medeiros, Jan Reichelderfer, Glenn Oyama, Rosemary Liu and Chester Lao

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.

**C. ACCEPTANCE OF AGENDA**

No recommended change at this time unless there is a request by the Commissioners.

**D. APPROVAL OF MINUTES – February 25, 2003 Meeting**

Commissioner Ching offered some clarification language on Item 8 – Adoption of the State Water Projects Plan, second paragraph on Page 6 of the proposed minutes:

“...Commissioner Ching also expressed concern about the large quantity of unmet needs indicated by the State Water Projects Plan and that the Commission needs to communicate to the counties and the public that this is a “wish list” of water needs, so as not to alarm them with figures. She also recommended that the SWPP be characterized in future CWRM communications as more of a macro-planning tool rather than a projection of needs.”

MOTION: (Richards/Dela Cruz)  
To approve the minutes as amended.  
UNANIMOUSLY APPROVED AS AMENDED.

**E. CORRESPONDENCE/ANNOUNCEMENTS by Deputy Director Ernest Lau**

The purpose of the new agenda was to provide a little more clarity and organization to the agenda and also to make it easier for the public to understand what we are doing here. No correspondence received but I wanted to announce that our intention is to post the approved minutes of every Water Commission Meeting on our website, making it available to the public. The idea is to provide more information to the public. We are already posting our agendas so we'd like to follow up only on the approved minutes.

**F. OLD BUSINESS**

**1. Kainalu Ranch REQUEST FOR RECONSIDERATION, FINDING OF VIOLATION, Puelelu-Kainalu Ranch Well #2 (Well No. 0546-02), Pump Installation Without a Permit, TMK 5-7-3:62, Waialua, Molokai**

PRESENTATION OF SUBMITTAL: Roy Hardy

RECOMMENDATIONS:

That the Commission:

Deny a reconsideration of the February 25, 2003 decision regarding Kainalu Ranch and American Drilling concerning Well No. 0546-02.

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

**G. NEW BUSINESS**

**1. Oasis Water Systems, REQUEST FOR A VARIANCE FROM THE AQUIFER (PUMP) TEST PROCEDURES, Ke Hoomaka Well (Well No. 1120-34), TMK4-9-11:13, Moloaa Valley, Kauai, Hawaii**

PRESENTATION OF SUBMITTAL: Lenore Nakama

RECOMMENDATIONS:

That the Commission:

- A. Approve a variance from the aquifer (pump) test procedure established in the Hawaii Well Construction and Pump Installation Standards as follows:
  - 1. The step-drawdown test shall conclude at a rate of 300 gpm.
  - 2. The constant-rate test shall be done by pumping at a constant rate of 300 gpm for 12 hours, followed by a 12-hour rest period, followed by another 12 hours of pumping at 300 gpm.
- B. All other aspects of the aquifer (pump) tests, not specifically mentioned above, shall apply.

TESTIMONY BY APPLICANT:

The applicant was not able to make the meeting.

MOTION: (Richards/Dela Cruz)

To approve the submittal.

UNANIMOUSLY APPROVED.

**2. ADOPTION OF WATER USE PERMIT STANDARD CONDITIONS**

PRESENTATION OF SUBMITTAL: Lenore Nakama

RECOMMENDATIONS:

That the Commission adopt the standard conditions for a water use permit shown in Exhibit 1.

Commissioner Nishida expressed concerns about due process. Deputy Attorney General Yvonne Izu stated that the standard conditions are repetitive of what's in the Water Code. The provision for continuation of existing use permits implied that new standard conditions applicable at the time of the adoption of Chapter 174C would be attached.

Commissioner Ching expressed concerns about new regulatory requirements under the new standard conditions, such as the installation of flowmeters, which had not previously been required of existing use permittees. Deputy Attorney General Yvonne Izu stated that staff will work with permittees as requests for issuance or reissuance of water use permits come in. Permittees can voice their concerns and request variances or waivers of specific conditions.

Commissioner Nishida inquired about the noticing of the adoption of the new standard conditions. Staff responded that a mass mailing to every permittee was not planned at this time. However, a 20-year review of compliance with the water use permit conditions must be completed by 2007-2008, and staff will be working with permittees to notify them of the new conditions and address any concerns they may have. Commissioner Nishida suggested that care be given in noticing and how we administer the changes.

MOTION: (Richards/Dela Cruz)

To approve the submittal.

UNANIMOUSLY APPROVED.

**3. Application for a Stream Channel Alteration Permit (SCAP-357), Kahala Senior Living Community, Inc., Drainage Modifications, Waialae Nui Stream, Honolulu, Oahu, TMK (1) 3-5-017:013**

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for drainage modifications to Waialae Nui Stream (TMK: 3-5-017:13) Honolulu, Oahu. The permit will be valid for two (2) years subject to our standard permit conditions in Exhibit 4.

MOTION: (Richards/Ching)

To approve the submittal.

UNANIMOUSLY APPROVED.

**4. Application for a Stream Channel Alteration Permit (SCAP-OA-351), Emergency Access Road, Nanakuli Stream, Oahu (TMK: 8-9-01:02 & 3 and 8-9-06:69)**

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That the Commission approves a stream channel alteration permit (SCAP-OA-351). 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:

1. Prior to beginning any ground disturbance associated with the proposed bridge construction at Nanakuli Stream, the applicant shall ensure that a revised archaeological inventory survey report for the WCEAR is submitted to the State Historic Preservation Division for review and approval. The State Historic Preservation Division shall verify the acceptability of the report in writing.

2. An acceptable mitigation plan for all significant historic sites found to be in or near the WCEAR, including the OR & L Railroad, shall be submitted to the State Historic Preservation Division for review and approval, prior to beginning any ground disturbance.

MOTION: (Dela Cruz/Richards)

To approve the submittal.

UNANIMOUSLY APPROVED.

5. **Application for a Stream Channel Alteration Permit (SCAP-354), Board of Water Supply, Construct 16” Water Main, Whitmore Reservoir, North Fork Kaukonahua Stream, Wahiawa, Oahu (TMK 7-1-02:004)**

PRESENTATION OF SUBMITTAL:Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for the placement of a water line across Kaukonahua Stream, Wahiawa, Oahu (TMK: 7-1-02:004). The permit will be valid for two (2) years subject to our standard permit conditions in Exhibit 3 and the following special condition.

“The applicant shall coordinate the construction placement of the submerged pipeline with the Division of Aquatic Resources. The coordination shall address the scheduling of the construction work to minimize disruption to navigation and fisheries management activities. This coordination shall occur prior to construction activities, and the applicant shall provide the Commission with written documentation from the Division of Aquatic Resources indicating an acceptable scheduling of construction work.”

MOTION: (Richards/Nishida)

To approve the submittal.

UNANIMOUSLY APPROVED.

6. **Application for a Stream Channel Alteration Permit (SCAP-356), Board of Water Supply, Construct Discharge Structure for Nanakuli 242’ Reservoir, Nanakuli Stream, Oahu, TMK (1) 8-9-08:003)**

PRESENTATION OF SUBMITTAL:Ed Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for the construction of a

discharge structure and riprap in Nanakuli Stream (TMK 8-9-08:003). The permit will be valid for two (2) years subject to our standard permit conditions in Exhibit 4.

MOTION: (Ching/Dela Cruz)

To approve the submittal.

UNANIMOUSLY APPROVED.

**7. Declaratory Ruling No. DEC-ADM03-S9, Department of Transportation, Highways Division, STREAM CLEARING ACTIVITIES**

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATIONS:

That the Commission adopt Declaratory Ruling No. DEC-ADM03-S9, STREAM, CLEARING ACTIVITIES FOR THE STATE DEPARTMENT OF TRANSPORTATION, to apply only to work done by the State Department of Transportation as follows:

- A. Stream channel alteration permits are not required for activities listed in Part A.
- B. The Chairperson may approve stream channel alteration permits for stream clearing activities listed in Part B that may affect instream uses, but meet the following criteria:
  - 1. The stream channel alteration permit application must contain the following:
    - a. A copy of the Clean Water Act, Section 404 permit from the U. S. Army Corps of Engineers, and the Clean Water Act, Section 401 Water Quality Certification and Best Management Practices Plan from the Department of Health. In the event that the project is not subject to these sections of the Clean Water Act the applicant shall submit written documentation from the Corps of Engineers citing the exemption.
    - b. Clean Water Act Section 402 (NPDES) permit if applicable.
    - c. Written description of the scope of work including:
      - 1) A location map showing the affected stream reach. Cross section(s) showing typical contours of the before and after removal of material. Photographs.
      - 2) Amount of material to be removed.
      - 3) Method of clearing including a description of the types of equipment to be used.
      - 4) Location and practice of spoils disposal.
      - 5) Frequency of clearing time required for each clearing.
      - 6) Written concurrence from the State Historic Preservation Division and the Division of Aquatic Resources that the work may proceed.

2. Must not alter stream diversion works or interim instream flow standard.
3. The amount of material to be removed is less than 500 cubic yards and will take less than 2 weeks to complete the work.
4. Clearing activity does not include the placement or removal of any structures in the stream.
5. Clearing must not be after-the-fact.
6. Clearing must not be in violation of any other applicable Federal, State, or County permit.
7. Must not restrict access to property.
8. Must not be subject to a Special Management Area Permit (HRS, Chapter 205A).
9. Chairperson approved SCAPs are subject to the following conditions:
  - a. Standard Chairperson Approved SCAP Conditions.
  - b. Special conditions may be added by the Chairperson including but not limited to:
    - 1) Requiring the applicant to produce a Best Management Practice Plan acceptable to the Department of Health
    - 2) Requiring the applicant to notify the State Historic Preservation Division on start of clearing activities.
  - c. The permit will be valid as long as the Commission does not revoke the permit or until the Commission amends this Declaratory Ruling.

Commissioner Richards suggested that we include the counties of Maui, Kauai and Hawaii and what would be the problem of including them at this time?

Mr. Sakoda responded that he didn't think there would be any problem. We can look into that.

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

## **H. REPORTS**

Deputy Director Ernest Lau reported that there was one item, First Quarterly Report, Implementation of Lalakea Alternative Mitigation Project on the Big Island submitted by

Kamehameha Schools. Kamehameha Schools will come before this Commission at the June 18, 2003 meeting to do a formal briefing.

Commissioner Nishida commented on the letter from Kamehameha Schools, the second paragraph, “without in-kind contributions of Bishop Museum totaling \$57,685.00,” what does that mean? Ed Sakoda responded by saying that Bishop Museum would do some work and they estimated that cost of that in-kind work and put it in. However, after discussing that subject with Bishop Museum they decided not to do it for whatever reason, Kamehameha Schools will fund it themselves.

Another question posed by Commissioner Nishida was about the tentative work plan that they are laying out, would it be possible for staff to ask Kamehameha School to insert directly into the schedule, interactions with the staff? Deputy Director Lau stated we will make that suggestion.

#### **I. TOPICS FOR FUTURE COMMISSION MEETINGS**

The purpose for this section is to alert the Commission on upcoming issues that may be coming before them. The first example is McCandless Pipeline Water Use Permit Applications. This is tied into the Waiahole Ditch Case.

The next item is the Hanawana Stream Dispute Resolution. Dr. Miike, our hearings officer and Ed Sakoda went to Maui to hold the hearing. Dr. Miike has issued a decision and order. The parties will have until the end of the month to respond to the decision and order. Once we receive the response we will bring it before the Commission again.

#### **J. NEXT COMMISSION MEETINGS**

1. Wednesday, May 21, 2003
2. Wednesday, June 18, 2003

#### **K. COMMISSION’S UPCOMING EVENTS**

1. A free seminar on Thursday, April 17, 2003, “Incorporating Sound Science into Water Quality Monitoring” by Dr. Robert Ward. The meeting will be held in the Marine Science Building from 3:00p.m. to 4:15p.m.
2. May 13 – 16, 2003, American Water works Association (AWWA) Conference, Hawaii Section at the Ilikai Hotel.
3. Summit to the Sea Conference in October, This event is being spearheaded by the CZM Hawaii Program in the Office of Planning. DLNR will be heavily involved in that Conference. It will cover issues from the mountains to the ocean.

**L. ADJOURNMENT**

The meeting was adjourned at 10:07a.m.

MOTION: (Richards/Dela Cruz)  
UNANIMOUSLY APPROVED

Respectfully submitted,

PAULYNE ANAKALEA  
Secretary

APPROVED AS SUBMITTED:

---

ERNEST Y.W.LAU  
Deputy Director