

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: January 13, 2004
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 9:11 A.M.

B. ROLL CALL

The following were in attendance:

MEMBERS: Mr. Peter T. Young, Ms. Meredith Ching, Mr. Clayton Dela Cruz, Ms. Stephanie Whalen, Mr. James Frazier

STAFF: Ernie Lau, Dean Nakano, Roy Hardy, Ed Sakoda, Glenn Bauer, Lenore Nakama, Dean Uyeno, Kevin Gooding, David Higa and Charlie Ice

EXCUSED: Dr. Chiyome Fukino

COUNSEL: Yvonne Izu

OTHERS: Kapua Sproat, Gordon Tribble, Dennis Imada, George Tengan, Wendy Taomoto, Rose Francis, Greg Kamm, Steve Anthony, Todd Presley, Steve Gingerich, Ed Carlson, and Bill Thomas

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

C. ACCEPTANCE OF AGENDA

The items were taken out of order and they are shown in the order taken up by the Commission.

D. APPROVAL OF MINUTES

MOTION: (Frazier/Dela Cruz)
To approve the minutes as circulated.

Commissioner Ching suggested that the following sentence under H.1. Reports be deleted because it sounds as if the Commission of Water Resource Management took action: “However, the Commission has decided to defer designation action on the Waihe’e Aquifer System.”

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

E. CORRESPONDENCE/ANNOUNCEMENTS by Deputy Director Ernest Lau

Deputy Director Lau stated that correspondence was received from the Association of Hawaiian Civic Clubs. This resolution urged the Commission on Water Resources Management to establish instream flow standards as required by the Water Code.

The second correspondence is related to item F1 and was received from the United States Department of the Interior, U S Geological Survey in regards to the revised measuring point elevation for selected wells in the Waihe’e and Iao Aquifers on the Island of Maui.

G. NEW BUSINESS

3. Application for a Stream Channel Alteration Permit (SCAP-KA-363), Jeffrey S. Lindner, West Waiakalua LLD, Vehicular Culvert Crossing, Wailapa Stream, Hanalei, Kauai (TMK (4) 5-1-05: 003, 125, 126)

PRESENTATION OF SUBMITTAL: Ed Sakoda

Mr. Sakoda stated that the purpose of this project is to provide vehicular access to a 20 acre agricultural parcel with an allowable density of 5 dwelling units. The applicant expects the work in the stream channel to take approximately 4 weeks to complete. Wailapa Stream is an intermittent stream near Anahola, Kauai and the Division of Historic Preservation has no objections to this project. The County of Kauai, Planning Department, has determined that a special management area permit is not required and that a FEMA certification of no rise determination is not required.

Staff has coordinated with the Department of Health to address whether the project is subject to the Department of Health’s jurisdiction under the Federal Clean Water Act.

RECOMMENDATION:

That the Commission approve a stream channel alteration permit for the construction of a vehicular access crossing at TMK: 5-1-05:3, 125, 126 at Wailapa Stream, Anahola Kauai. The stream channel alteration permit will be valid for two years subject to the standard conditions in Exhibit 5, and the following special condition:

“The applicant shall coordinate with the Department of Health Clean Water Branch and

the U. S. Army Corps and obtain a written determination as to whether this project is subject to Section's 401, 402 or 404 of the Federal Clean Water Act. If it is determined by these agencies that the project is not subject to these Sections, the applicant shall prepare and submit a site specific Best Management Practices Plan to the Department of Health Clean Water Branch. Prior to construction activities, the applicant shall obtain a written acceptance from the Department of Health indicating the BMPP is acceptable to minimize water pollution. A copy of this written acceptance shall be submitted to the Commission before start of construction work."

Commissioner Frazier stated that the TMK map does not show what's above this subdivision. His concern is that the stream that comes off this property and the potential for debris coming down the stream.

Greg Kamm stated that above and below the crossing are reservoirs. Above this crossing is the Kaloko Reservoir with the Wailapa Stream leaving that reservoir and passing through State land and then entering said property. Mr. Kamm stated that they will rigorously maintain the crossing but if the Commission feels that a protective measure is needed they will be willing to incorporate it. Commissioner Frazier asked if there was any thought or design to this crossing. Mr. Kamm stated that there has not been a lot of debris in that particular stream so they did not incorporate that in the design. They have no objection to doing it though.

Commissioner Frazier suggested that because of the lack of management above said location, that some protection would be advisable.

Commissioner Whalen wanted to clarify if the parcel was agricultural land. Mr. Kamm commented that it was. Mr. Kamm stated that this crossing is being requested to provide access to the property. At present no vehicle can enter the area. The property will be used for both farm dwellings and grazing and a crossing is needed in order to accomplish this.

MOTION: (Ching/Whalen)
To approve the submittal.
UNANIMOUSLY APPROVED.

F. OLD BUSINESS

1. Modification of Designation Trigger for Waihe'e Aquifer System Area (60103) as a Ground Water Management Area, Wailuku, Maui, Hawaii.

Roy Hardy, Branch Chief for Ground Water Regulations, requested a deferral on the designation and modifying the trigger issues until current tests and analysis of those tests are completed.

Ed Carlson, Pacific Geodetic Region advisor from the National Geodetic Survey briefed the Commission on the techniques used to resurvey the well sites. His responsibilities are to work with the state to resolve problems with determinations of elevations in the islands.

Commissioner Whalen stated that the last time NGS was in Hawaii was during 1950's and 1960's, why did it take so long to come back? Mr. Carlson stated that they are a national agency and supposed to service the entire nation, not just Hawaii. He compared Hawaii's 1,000 benchmarks to the coterminous United States' 280,000 benchmarks. Most of the time they return because of a political issue and it's been requested by a Congressman.

Chairman Young asked if there was any change in the quality of water. Mr. Hardy, Regulation Branch Chief, stated that the water was good and chlorides were stable. However, staff's opinion of the situation may change after the recovery test.

Kapua Sproat urged the Commission to designate the Waihe'e Aquifer as a ground water management area. The five points that she covered were:

1. The fact that the chloride levels are currently good in Waihe'e doesn't justify deferring designation.
2. There have been spikes in chloride levels in Mokuhou 2, and that these increases can be rapid and dramatic. One does not know how quickly the chlorides will rise, and in light of this uncertainty, the Commission should designate the aquifer to protect the resource before the chloride level spikes.
3. There is no deep monitor well in Waihe'e.
4. Aquifer recovery tests will not provide any concrete data regarding the mid-point of the transition zone.
5. This Commission lacks the power to reconsider a final quasi-judicial decision. It lacks the power to reconsider the decision that it made when it denied Maui Meadows petition to designate Iao and Waihe'e.

Ms. Sproat urged the Commission to designate the aquifer.

Chairman Young asked what the magnitude of the spike was at the well. Ms. Sproat gave two examples based on data that was collected by the Department of Water Supply: chloride levels increasing from 103 to 297 mg/L, and from 175 to 360 mg/L. Both of these are over the EPA guidelines for drinking water of 250mg/L.

Chairman Young stated that we have an agreement with Maui County to reduce the pumpage during this process, which is another cautionary measure that we are taking. Staff is not asking for any change except to defer. The trigger was established based on inaccurate information.

Gordon Tribble, USGS District Chief, stated that there was a lot of cooperation between USGS, NGS, CWRM, and the Department of Water Supply to get the best numbers for accuracy. He made the following four points:

1. Designation is a state action, and as a federal agency, they cannot comment on that. However, designation may improve reporting and access to water use data.
2. The new elevation information shows that water levels throughout western Maui, not just in Waihe'e, are about 1.5 ft lower than thought. This has implications on the transition zone and mid-point elevation of the aquifer, which is a fairly serious change in the status of the aquifer.
3. The passive recovery test is underway. It will provide information on changes in the aquifer in response to pumping. But the test will not provide information on ground-water sustainability in the next month. We really need a deep monitor well to better understand this.
4. As Kapua and others have noted, there can be a significant lag between pumping and the salinity in wells. Just because salinity is low now, doesn't mean that it will stay that way. Gordon provided three examples to illustrate.

Therefore, although no predictions can be made at this time for Maui, it should be noted that just because salinity is low doesn't mean that it will stay that way.

Chairperson Young asked about the need for a deep monitor well. Gordon replied that opinions are unanimous that a deep monitor well is needed.

USGS is requesting help from NGS in the resurvey of elevation benchmarks for other areas of the state, like Pearl Harbor.

RECOMMENDATION:

Due to the time staff feels is required to adequately review the data collected to determine the health of the Waihe'e Aquifer area, staff recommends that the Commission:

1. Defer designation action on the Waihe'e Aquifer System area required by the now questionable Kanoa Test Hole water-level trigger as established on November 20, 2002.

2. Direct staff to thoroughly update trigger recommendations based on data submitted from the MDWS, USGS, and NGS investigations described in this submittal by the next scheduled Commission meeting in February 2004.

MOTION: (Ching/Whalen)
To approve the submittal.
UNANIMOUSLY APPROVED

F. NEW BUSINESS

- 1. Ka’ala Ranch/Dole Food Company, Inc., APPLICATION FOR A WATER USE PERMIT No. 679, Mokuleia Exploratory Well (Well No. 3309-02), TMK 6-8-7:01, New (Pasture and Nursery Irrigation, Livestock Water) Use for 0.127 mgd Mokuleia Ground Water Management Area, Oahu**

PRESENTATION OF SUBMITTAL: Lenore Nakama

Commissioner Whalen is wondering what the staff did to determine economic and efficient utilization as opposed to just having cows there for non-agricultural purpose. What standards are used to determine if this is an economic activity? Ms. Nakama stated that staff interpreted the word “economic” to be in line with the word efficient, is it an efficient water use?

Commissioner Frazier stated that we have a volume that is an allocation, will be there monitoring of the actual use of that allocation? Ms. Nakama stated that one of the standard conditions of this water use permit is the installation of a flow meter. We will be looking at the actual water use and the code does provide that if they don’t use any or the entire amount it can go back into the pot. Lenore stated that we are requiring metering at the source.

RECOMMENDATION:

Staff recommends that the Commission approve the issuance of Water Use Permit No. 679 to Ka'ala Ranch/Dole Food Company, Inc. for the reasonable and beneficial use of 0.127 million gallons per day of brackish water for pasture and nursery irrigation and livestock water use from the Mokuleia Exploratory Well (Well No. 3309-02), subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

1. Should an alternate permanent source of water be found for any of these uses, the Commission reserves the right to modify or revoke this permit, after a hearing.
2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

MOTION: Frazier/Dela Cruz
To approve the submittal.
UNANIMOUSLY APPROVED

**2. James Shephard, APPLICATION FOR WATER USE PERMIT No. 678,
Kalua'aha-Shephard Well (Well No. 0449-06), TMK 5-7-11:20
Future (Domestic and Agricultural) Use for .008 mgd
Ualapu'e Ground Water Management Area, Molokai**

PRESENTATION OF SUBMITTAL: Charley Ice

Mr. Ice requested that the Commission defer this decision for thirty days so that we could assure adequate notice. The statute requires two things to have adequate notice: 1) to publish in a newspaper with daily circulation; and 2) to publish in the Commission's monthly bulletin. When we accepted the application the first did occur but the second did not, the December issue of the bulletin did not go out. Because of the lack of adequate notice given to the residents of Moloka'i to allow them to make comments, a thirty-day extension is requested.

Commissioner Frazier asked if the applicant was aware of the requirements of the notification and sensitive to the response of the Moloka'i community and the sensitivity there? Mr. Ice stated that the applicant understood the issue.

Commissioner Frazier questioned whether the Commission bulletin was only posted on the website. It was stated that the bulletin is also mailed and emailed to those that are on our database. The addresses are kept current in case of change of addresses.

Commissioner Frazier also asked if it was policy of the department to have public hearings on this kind of issues. Mr. Ice stated it was policy only if there were an objection.

MOTION: (Dela Cruz/Frazier)
To approve the staff recommendation.
UNANIMOUSLY APPROVED

A brief recess at 10:55 A.M.
Meeting resumed at 11:05 A.M.

H. REPORTS

1. Overview on Stream Protection and Management Program Activities.

PRESENTATION OF REPORT: Ed Sakoda

See attached PowerPoint presentation by Branch Chief Hydrologic Program Manager, Edwin Sakoda.

I. TOPICS FOR FUTURE COMMISSION MEETINGS

J. NEXT COMMISSION MEETINGS

1. February 18, 2004
2. March 17, 2004

K. UPCOMING EVENTS

L. EXECUTIVE SESSION

M. ADJOURNMENT

The meeting was adjourned at 11:35 A.M.

MOTION: (Whalen/Dela Cruz)
UNANIMOUSLY APPROVED

Respectfully submitted,

PAULYNE ANAKALEA
Secretary

APPROVED AS SUBMITTED:

ERNEST Y.W.LAU
Deputy Director