

**MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT**

DATE: May 25, 2005
TIME: 9:00 a.m.
PLACE: KALANIMOKU BUILDING
CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

CALL TO ORDER

Chairperson Peter Young called the meeting of the Commission on Water Resource Management to order at 9:10 a.m.

ROLL CALL

The following were in attendance:

MEMBERS

Mr. Peter Young
Ms. Meredith Ching

Mr. Clayton Dela Cruz
Dr. Lawrence Miike

STAFF

Glenn Bauer, Neal Fujii, Kevin Gooding, W. Roy Hardy, David Higa, Lenore Nakama, Dean Nakano, Edwin Sakoda, Dean Uyeno

COUNSEL

Russell Tsuji, Esq.

OTHERS

Heidi Bigelow, Veronica Cid, Stephen Gingerich, Brian Kau, Ken Kurokawa, Chester Lao, Dan Lum, Paul Matsuo, Jonathan Likeke Scheuer

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

{Note: language for deletion is bracketed, new/added is underlined}

Acting Deputy Director Dean Nakano announced that the Department of Agriculture briefing regarding the Status of the Agricultural Water Use and Development Plan (Phase 2) will precede submittal Item 2. and the presentation by Dr. Clark Liu on the Analytical Groundwater Flow and Transport Modeling for Estimation of the Sustainable Yield of Pearl Harbor Aquifer will precede submittal Item 3.

APPROVAL OF MINUTES

1. April 20, 2005

MOTION: (Ching/DelaCruz)
To approve the April 20, 2005 minutes.
UNANIMOUSLY APPROVED

SUBMITTALS

1. Partial After-the-Fact Application for a Stream Channel Alteration Permit (SCAP-MA-379), Launiupoko Associates, Inc., Culvert Crossing, Launiupoko Stream, Lahaina, Maui, (TMK: (2) 4-7-009:035, 036, 037; TMK: (2) 4-7-010:008, 009, 010)

Presentation of Submittal: Ed Sakoda

RECOMMENDATION:

1. Find the applicant in violation of §174C-71, Hawaii Revised Statutes (HRS) for grading a stream channel without the necessary stream channel alteration permit.
2. Impose a fine on the applicant of \$500.00 following the Commission’s Civil Penalty Guideline (G01-01). The \$500.00 is based on a first time non-repeat violation for two incidents (2 culverts @ \$250.00 each) without gravity component.
3. Issue a written warning to the applicant indicating any future violations involving the alteration of stream channels or stream diversions without the necessary stream channel alteration permit or stream diversion works permit may be considered repeat violations with fines up to \$5000 for each day of violation.
4. Approve a stream channel alteration permit for the construction of two culvert crossings at Launiupoko Stream, Lahaina, Maui (TMK: (2) 4-7-009:035, 036, 037; TMK: (2) 4-7-010:008, 009, 010). The permit shall be valid for two years subject to the Commission’s standard conditions in Exhibit 6, and the following special condition:

“The applicant shall conduct a field investigation of the archaeological sites which are slated for protection where the culverts are to be located. The site investigation shall be done by a qualified archaeologist. The results of the survey shall be acceptable to the State Historic Preservation Division, and the applicant shall provide the Commission with a written letter of concurrence from the State Historic Preservation Division, indicating the preservation plan is being properly implemented.”

DISCUSSION:

Commissioner Miike stated that aside from the fact that the applicant should have been aware that he needed a stream channel alteration permit, the Commission staff should coordinate with the Counties to inform the applicant that a stream channel alteration permit may be required before the Counties issue a grading permit.

TESTIMONY BY APPLICANT:

Ms. Veronica Cid and Mr. Ken Kurokawa of Austin Tsutsumi & Associates and Ms. Heidi Bigelow of West Maui Land Company, Inc. on behalf of the applicant were present to answer questions. In response to Commissioner Miike's question regarding the culvert and site plan exhibits, Ms. Cid stated that the exhibits were part of the construction plan approved by the County.

Mr. Kurokawa reported that Austin Tsutsumi & Associates has worked on many subdivisions statewide. He noted that the applicant obtained all other applicable approvals. Mr. Kurokawa explained that the U.S. Army Corps of Engineers inspected the site and issued a letter stating that Launiupoko Stream is not a significant stream. Austin Tsutsumi & Associates assumed that no further permits were required. Mr. Kurokawa admitted that they overlooked the stream channel alteration permit approval and as consultants they should have known better.

TESTIMONY:

Mr. Scheuer of the Office of Hawaiian Affairs stated his concern regarding the culverts allowing for upstream migration if water was actually returned to the stream. Mr. Scheuer also noted a possible violation regarding Pioneer Mill's lack of continuous water use reporting.

Commissioner Ching believed the reason the Division of Aquatic Resources did not object to the culverts was because they allowed upstream migration.

Commissioner Miike stated that he believes the culverts are standard culverts and he does not see the culverts causing a problem for upstream migration.

MOTION: (Ching/Dela Cruz)
To approve as recommended by staff
UNANIMOUSLY APPROVED

NON-ACTION ITEMS

1. Briefing by the Department of Agriculture on the Status of the Agricultural Water Use and Development Plan (Phase 2).

Brian Kau, Administrator with the Agricultural Resource Management Division in the Department of Agriculture (DOA) introduced Dan Lum from Water Resource Associates. Mr. Lum introduced his associate, Paul Matsuo.

Mr. Lum presented an update on Phase 2 of the Agricultural Water Use and Development Plan (AWUDP). In Phase 2, the focus is on forecasting water demand to meet diversified agricultural potential. In developing this future water demand for diversified agriculture, historical data on metered water use by dedicated full-time farmers in Lalamilo was obtained from the Department of Agriculture.

Commissioner Miike believed that this data would be useful in regards to demand projections because at the start of the Waiahole case the Commission was thinking of setting up an agricultural reserve based on the imprint of the old Waiahole Ditch. However, Commissioner Miike did not believe that this data would be useful regarding the Waiahole Supreme Court Decision and the relevancy of water use permits to the actual agricultural use.

In response to Commissioner Miike's concerns regarding the usefulness of historical data being appropriately applied to other systems with different kinds of agricultural operations, Mr. Lum stated that this was the best data available for planning purposes; unfortunately, reliable data could not be found for other areas.

Mr. Nakano agreed with Commissioner Miike regarding the limitations of Phase 2 of the AWUDP. Submittal Item 2. will address some of Commissioner Miike's concerns regarding actual crop type relative to the area and climate variability.

SUBMITTALS

2. Request to Enter Into a Contract for Professional Services to Further Develop the Hawaii Water Resources Study (HWRS) and Agricultural Water Use and Development Plan

Presentation of Submittal: Neal Fujii

RECOMMENDATION:

Staff recommends that the Commission authorize the Chairperson to enter into a tri-party contract for professional services with DOA (as co-purchasing agency) and the University of Hawaii (UH) (as contractor) to develop the HWRS (Phase 2) and the AWUDP (Phase 3). The terms of this contract will be subject to the approval of the Chairperson and the Department of the Attorney General. Contract execution will be done in accordance with Chapter 103D, HRS, and Chapter 3-122, Hawaii Administrative Rules (HAR).

DISCUSSION:

In response to Commissioner Ching's concerns regarding the identification of water source, Mr. Nakano stated that he did not believe this was in the current scope of this particular project. He stated that Commissioner Ching's question should not be overlooked because the Statewide Framework for Updating the Hawaii Water Plan recognizes the importance of current and future agricultural water demand forecasts. He also noted that the framework should form the basis of DOA's water resource development and irrigation system rehabilitation strategies.

In answer to Commissioner Ching's question regarding the usefulness of the study in terms of protecting the resources of the State, Mr. Nakano stated that Phase 3 will give the Commission staff more information to evaluate water use permits as well as allow for the reservation of agricultural water for future use, if the demand justifies that reservation. Situations regarding whether current diversions are actually being used will need to be addressed in subsequent phases.

MOTION: (Ching/Miike)
To approve as recommended by staff
UNANIMOUSLY APPROVED

NON-ACTION ITEMS

2. Presentation by Dr. Clark Liu on the Analytical Groundwater Flow and Transport Modeling for Estimation of the Sustainable Yield of Pearl Harbor Aquifer.

Mr. Nakano introduced Dr. Clark Liu, Professor with the Department of Civil Engineering at the University of Hawaii and researcher for the Water Resources Research Center.

Dr. Liu presented an overview of the modified robust analytical model (RAM). The purpose of this study is to find an accurate estimation of how much water can be pumped from a basal aquifer. The modified RAM builds upon the original RAM, developed by John Mink (1980), by incorporating data collected from deep monitor wells. The modified RAM will include a salt transport component in the calculation of sustainable yield of the Pearl Harbor Aquifer.

In response to Commissioner Miike's question regarding the determination of an equilibrium head and a sustainable yield if the rate of pumping changes, Mr. Nakano stated that this model is not intended to arrive at a specific sustainable yield. The Commission's objective is to ascertain whether the estimated sustainable yield in the original RAM, is accurate or not using the modified RAM approach.

Dr. Liu commented that the modified RAM will be used to re-evaluate the sustainable yields for 16 basal aquifers in the State. The results of this study will augment the Commission's overall effort to evaluate and manage aquifer systems within the State.

SUBMITTALS

3. Request for Chairperson's Authorization to Enter into a Memorandum of Agreement with The Water Resources Research Center, University of Hawaii, Testing and Application of the Modified RAM Model for Estimating Sustainable Yields of Hawaiian Basal Aquifers

Presentation of Submittal: Kevin Gooding

RECOMMENDATION:

Staff recommends that the Commission authorize the Chairperson to enter into a Memorandum of Agreement (MOA) with the University of Hawaii's Water Resources Research Center to test and apply the RAM2 model to estimate sustainable yields of 16 basal aquifers in Hawaii. Procurement of services will be done in accordance with Chapter 103D, HRS and Chapter 3-122, HAR.

DISCUSSION:

In response to Mr. Scheuer's concerns regarding the limitations of the model, Dr. Liu stated that the modified RAM is trying to find a sustainable yield for an individual aquifer. Unfortunately, detailed models are still not available to evaluate sustainable yield because there are many parameters for the entire aquifer that cannot be controlled.

MOTION: (Ching/Miike)

To approve as recommended by staff

UNANIMOUSLY APPROVED

4. Request to Enter Into a Consultant Contract for Professional Services To Develop an Internet Based Water Use Reporting Web Application and Geographic Information System Well Analysis Software Application

Presentation of Submittal: W. Roy Hardy

RECOMMENDATION:

Staff recommends that the Commission authorize the Chairperson to enter into an agreement for professional services develop an Internet based Water Use Reporting Application and Geographic Information System (GIS) spatial well analysis application. Final consultant selection and contract execution will be done in accordance with Chapter 103D, HRS and Chapter 3-122, HAR.

DISCUSSION:

In response to Commissioner Miike's question regarding the Commission's water use reporting system, Mr. Hardy explained that this application/system will provide staff a more graphical way of analyzing well information.

MOTION: (Dela Cruz/Ching)

To approve as recommended by staff

UNANIMOUSLY APPROVED

NON-ACTION ITEMS

3. Lalakea Alternative Mitigation Project (LAMP) Quarterly Report (January 1 – March 31, 2005)

Ed Sakoda announced that in July, Kamehameha Schools will present to the Commission a progress report for the period January 1 – March 31, 2005 regarding the Lalakea Alternative Mitigation Project.

ANNOUNCEMENTS

Mr. Nakano gave an overview of upcoming events for the June and July Commission meetings.

The Conference Committees considered providing the Commission on Water Resource Management (Commission) with an additional geologist and surface water hydrologist positions under HB 1433. However, due to lack of sufficient funding this measure was deferred.

While staff is already performing its duties as mandated in House Concurrent Resolution 293, House Draft 1 of the 2005 Legislative Session, Mr. Nakano stated that the Commission’s proposed Stream Protection and Management Implementation Plan that will be presented in July, will fulfill the requirements of the concurrent resolution and will also be incorporated in the Commission’s Annual Report to the legislature.

Commissioner Miike reported:

- the parties in the Waiahole case asked for another extension to file submittals for the closing arguments, therefore, the Proposed Findings of Fact, Conclusions of Law, and Decision and Order will be completed in the Summer 2005;
- the Commission staff is still talking with the parties on the Iao aquifer designation regarding information required by the Supreme Court Decision; an informal meeting will be held with the interested parties before the final hearing next month.

NEXT COMMISSION MEETINGS (TENTATIVE)

1. July 27, 2005
2. August 17, 2005

Meeting was adjourned at 10:56 a.m.

Respectfully submitted,

KATHY S. YODA

Approved as submitted:

DEAN A. NAKANO
Acting Deputy Director