

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: August 28, 2008
TIME: 9:00 a.m.
PLACE: Kalanimoku Building
Conference Room 132

Chairperson Laura H. Thielen called the meeting of the Commission on Water Resource Management to order at 9:02 a.m.

The following were in attendance and/or excused:

MEMBERS: Ms. Laura Thielen, Ms. Meredith Ching, Mr. James Frazier, Mr. Neal Fujiwara, Ms. Donna Kiyosaki, Dr. Chiyome Fukino, Dr. Lawrence Miike

STAFF: Deputy Director Ken Kawahara, Ed Sakoda, Dean Uyeno, Robert Chong, Chui Cheng, Lenore Ohye, Neal Fujii, Jeremy Kimura, Roy Hardy, Ronnie Torres, Denise Mills, Elise Leroux

COUNSEL: Julie China, Esq.

OTHERS: Linda Chow, Esq.; Guy Nakamoto, HLA; Glenn Oyama, BWS; Sharon Ishikawa, U.S. Army Corps of Engineers; Glenn Okamoto, DOA; Isaac Moriwake, Earthjustice; Bill Tam, Alston Hunt, Cliff Lum, Dean Nakano, Barry Usagawa, and George Kuo of BWS Honolulu; Hanah Salas, Lucy Salas, Natasha Salas and Penny Rapoza, Waiahole Residents; Sherri Hiraoka, Townscape; Jeff Overton, Group 70 International; Earl Matsukawa and Tiffany Mathias, Wilson Okamoto Corp.; Craig Rasmussen, HFBF; David Schulmeister, A&B/HC&S; Dr. Jim Anthony, Executive Director of Laieikawai Association

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

Chair Thielen stated that she will take a few items out of order.

A. APPROVAL OF MINUTES

1. July 16, 2008

MOTION: (Frazier/Fujiwara)
To approve the minutes.
UNANIMOUSLY APPROVED.

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B. ANNOUNCEMENTS

Deputy Director Ken Kawahara said that the budget fiscal requirements for FY2009 are still being reviewed and examined where to make cuts since the Administration has asked for a 4% restriction and the Legislature imposed a 4% reduction.

State Water Projects Plan: Staff is participating in discussions with the Engineering Division to negotiate a scope of work for a partial update of the State Water Projects Plan, one of the components of the State Water Plan. The last update was in 2003.

Water Resource Protection Plan (WRPP): Staff presented the WRPP update to the Lanai Planning Commission at the August 20th meeting on Lanai. Concerns mostly were raised that recharge assessment needs to be looked at more closely in terms of accuracy and trends (USGS and UH will be presenting more hydrologic information at the next Lanai Planning Commission meeting). It was also pointed out by Mr. Kepa Maly that three aquifer system area names were incorrect and the correction will be made in an amendment in a submittal presentation later today.

Kona Water Round Table: Staff was unable to attend the second Kona Water Round Table meeting. A representative from the Division of Aquatic Resources attended the meeting and reported that the presentation on impacts to coastal biology were limited and were pushing an agenda that nutrient influx from ground water was not a big component. DAR did not agree with this presentation and is willing to convene a panel made up of Biologist from DAW, National Parks Services, USGS and Dr. Brock of UH, to review a pending long-term monitoring plan for the National Park.

North Kona Water Protection Working Group (NKWPWG): On the same day, the third (NKWPWG) meeting organized by the Kaloko-Honokohau National Historical Park, focused on the park's actual biological concerns and constraints regarding their anchialine pond and future ground water pumping in the area. The Division of Aquatic Resources attended and reported that it was a very polarized meeting between the National Park and others. In their assessment, the National Park has been working more independently from others on the anchialine pond issues and it was stressed that they need to be more partners with the community and share data and goals.

Waiahole Ditch Irrigation System (Water Use Permit (WUP) No. 851): Deputy Kawahara recapped that during the May 2008 Commission meeting, Mr. Paul Achitoff of Earthjustice raised some procedural question regarding the extension of the WUP. It was discussed with our counsel and it does not fall under the contested case proceeding. However, it should go through a permit modification process. Agribusiness Development Corporation (ADC) has submitted a permit modification application which staff is currently reviewing. This application would go through the normal WUP process, public notice, and if objections, public hearing(s), and ultimately to the Commission for decision making. Roy Hardy (staff) and ADC were available to answer questions.

On today's agenda, Deputy Kawahara mentioned that HC&S filed a motion to consolidate 1) the 27 pending petitions to amend the Interim Instream Flow Standards (IIFS) for various East Maui streams filed May 24, 2001, and 2) the May 29, 2008 Complaint (CDR.1937.6) filed against East Maui Irrigation Company, Limited, by Na Moku Aupuni O Koolau Hui. In its motion, HC&S stated that they will "submit a report regarding the economic importance of HC&S to the economies of Maui County and the State of Hawaii by the end of August or the first week of September. By

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mid-September, HC&S will supplement this with detailed information on its water use rates and the management of its irrigation practices. Finally, by mid-November, HC&S will submit a proposal, complete with economic and biological justifications, regarding appropriate IIFS for all streams included in the 27 IIFS petitions”.

DAR has submitted their reports on the five (5) hydrologic units. Copies distributed and will be posted on the website. DAR will be presenting at the on September 2nd Commission meeting/site visit on Maui if approved.

Na Wai Eha Interim Instream Flow Standard (IIFS) Contested Case Hearing-Maui, Iao Ground Water Management Area high-level source water use permit applications and petition to amend interim instream flow standards of Waihee, Waiehu, Iao, and Waikapu Streams: Parties were to file their Proposed Findings of Fact, Conclusions of Law, and Decisions and Orders by the close of business on September 26, 2008. However, on July 18, 2008, the hearings officer received a motion from HC&S to reopen the evidence and an offer of proof of a study that HC&S had commissioned but which had not been completed at the time evidentiary hearings were concluded on March 4, 2008. On August 21, 2008, a hearing on the motion was held. The hearings officer concluded that the report contained newly discovered evidence of material value which should be considered as part of the cumulative evidence on establishing IIFS for Na Wai Eha streams. The motion to reopen evidence was approved, and the September 26, 2008 deadline for submission of the parties’ Proposed Findings of Fact, Conclusions of Law, and Decisions and Orders was vacated. Commissioner Miike added that he accepted the motion and will be going into one more day of hearings and at the conclusion of that will reset the date for the submission of proposed findings.

Deputy Kawahara stated that staff has completed and placed online on its website, both the existing water use permit for ground and surface water and the new water use permit application for ground water and surface water.

Deputy Kawahara announced that the Board of Water Supply will be giving a presentation on the status of their watershed management plans for Koolauloa and Waianae. These regional plans will be consolidated into an overall water use and development plan for the County.

Outreach:

July 24 National Conference of State Legislators – Representative Clift Tsuji gave a presentation on drought and participated on a panel discussion. Staff provided background material regarding drought.

Neal Fujii reported on the drought monitor assessment that is also available on the hawaiiidrought.com website. Copy of the Drought Monitoring Map was distributed. Recent reports from the agricultural sector indicates worsening drought conditions, south central Maui and leeward Kohala and upper Hamakua sections of the Big Island, are now rated as agricultural D3 areas (meaning extreme drought category) as well as East Oahu. There will be below normal rainfall to the end of the year.

Mr. Fujii also shared that the Hawaii Drought Council will be reconvening on September 16 to discuss some of these matters. In regards to water conservation, the BWS donated a couple of the new technology Dual Flush Toilet and is seeking a DLNR facility to install it and test it out.

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- July 25 Staff attended the Lanai Planning Commission Meeting
- August 2 Staff participated and had a booth at the 20th Anniversary of the Halawa Xeriscape Garden
- October 29-31 Staff will be presenting WRPP Sustainable Yields and Instream Flow Standards methodologies at the HWWA conference

Item D-1, taken out of order.

Commissioner Meredith Ching recused herself from Item D1.

D. STREAM PROTECTION AND MANAGEMENT

1. Approval to Conduct a Limited Meeting of Several East Maui Streams in Connection with the Petitions to Amend East Maui Interim Instream Flow Standards

Presentation by: Ed Sakoda

Ed Sakoda stated that staff is requesting approval to conduct a limited meeting of the Commission on September 2nd and 3rd, as applied in compliance with HRS Section 92-3.1 of the Hawaii Revised Statutes as amended and presented the background information.

RECOMMENDATION:

The staff recommends that the Commission find that it is necessary for the Commission to conduct a site visit of various locations in east Maui that are the subject of pending petitions to amend IIFS in order to better understand the needs and infrastructure of the water users in the area and the condition of the streams that are the subject of the petitions. Further, in doing so, the Commission:

1. Determines that within the proposed areas of the site visit are locations at which public attendance would not be practicable. Those portions of the meeting indicated in Exhibit 1 as "Limited" will be limited to public attendance. All other portions of the meeting will be open for public participation;
2. Declares that it will not make decisions at the meetings during the site visit in accordance with HRS 292-3.1(b)(3); and
3. Directs the Commission on Water Resource Management Deputy Director to:
 - a. Seek the concurrence of the Director of the Office of Information Practices in accordant with HRS 92-3.1(a);
 - b. Notice said meeting in accordance with HRS 92-7;

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- c. Provide minutes of said meetings in accordance with HRS 92-9; and
- d. Make arrangement to have the meeting videotaped.

Commissioner Fujiwara commented that he wanted a site visit to see more of the taro growers, and the water situation in the areas but evidently most of the areas on the agenda are streams. Commissioner Fujiwara asked why they weren't seeing more of the private lands. Deputy Kawahara explained that there was a telephone conference and what could be seen because of time constraints. Also discussed was the ability to obtain permission to go onto private property. A couple of taro farmers were hesitant to allow staff as well as Commissioners to enter their properties.

Commissioner Kiyosaki's concern was to be able to identify and see as much as possible. The information was not in the staff submittal and was referenced as various; and asked that the parties agree to obtain information and identify existing uses within and among the streams. Chair Thielen asked that this be conveyed to the staff and the parties that the Commission would like to see more of that information from both parties.

Deputy Kawahara explained the procedure of a limited meeting (which is videotaped) and that staff has received conditional approval from the Office of Information Practices (OIP); if the Commission decides to grant approval on the limited meeting today, it will be forwarded to the OIP today.

PUBLIC TESTIMONY:

David Schulmeister commented on the proposed limited meeting and site visit that he, HC&S, EMI, have had discussions with staff to facilitate this. However he had concerns on the second day that what is being seen from the Wailuanui Lookout up above and down at Wailualui Stream are EMI diversions, but the commissioners will not be able to see the user end down below and how the water is actually transported to those patches.

Chair Thielen asked if there were other options on public areas that can be accessed to have better viewing. Mr. Schulmeister said they could walk up and along Wailuanui Stream and see the pond below the falls. Chair Thielen asked if the agenda was amended to include the 2:00 pm Wailuanui Lookout, Road and Stream, but Mr. Schulmeister said Waikani Pond would be more specific.

Alan Murakami didn't agree that it was necessary to see some of the actual ways that water is distributed in the valley to understand that there is not enough water in the valley. Commissioner Fujiwara commented that it is very beneficial for the commissioners to walk the land and can't understand why Mr. Murakami's clients wouldn't allow the commissioners to see the ones that are most void of water.

Mr. Murakami felt that the burden shouldn't be on the farmer to prove that they need the water but the diverter should be held accountable to show that they have actual needs for the water off-stream and what they take does not harm the farmers.

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Commissioner Frazier agreed with Commissioner Fujiwara's view of getting to the properties and seeing the distribution.

Chair Thielen explained to Mr. Murakami that part of what the Commission does is to have a transparent process and be able to observe all these things and asked Mr. Murakami to convey to his clients that the commissioners do feel that it is important to see what is going on down in that area.

Motion was made to approve staff's recommendations as amended to include general access on the areas which commissioners can go on.

MOTION: (Miike/Frazier)

AG Linda Chow explained that the agenda was already posted and at this point, to modify the meeting in any way, there needs to be a break in the meeting into two separate meetings, in which case a new agenda will be posted for the Wednesday meeting, canceling the second half of the Tuesday meeting agenda.

The Motion was withdrawn by Commissioner Miike, and the second withdrawn by Frazier.

Motion was made to accept the staff recommendations as proposed.

MOTION: (Miike/Fukino)

Discussion took place regarding the terrain along the stream and up to the waterfall.

Commissioner Miike did not agree with his fellow commissioners that they could understand in detail or enough about this to significantly affect their specific decision making process. Commissioner Miike would just like to see the sites.

Chair Thielen summarized that there is a variety of opinions of the Commission about whether it would be helpful in their decision making to look at the private lands down below. For the purposes of the agenda, it would be worded so that it would be an option, not that it was mandatory.

To approve the submittal.
FOR: Miike, Kiyosaki
OPPOSED: Frazier, Fujiwara, Fukino, Thielen
Abstained: Ching

Motion was made to hold a second limited meeting on September 3, 2008, and follow the AG's recommendation.

Chair Thielen explained the motion to be:
To hold a second limited meeting on September 3, 2008, with an agenda as described by the Deputy Attorney General that would allow broader viewing and access in that area.

AG Chow suggested clarifying the language on September 3rd.

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Chair Thielen recommended adding an additional agenda item at 3:00 pm, Wailuanui Stream, Waikani Pond, Dam 1, and Waikamilo.

Motion was made to accept the staff's recommendations for the Limited Meeting but to hold a second Limited Meeting on September 3, 2008, and to insert a new agenda item after 2:00 pm for access to Waikani Pond, Wailuanui Steam, Dam 1, Waiokamilo Stream, Limited Meeting.

Mr. Sakoda added for clarification that Dam 1 is not on Waiokamilo Stream but off Kualani Stream. This is added to the motion for clarification.

AG Chow wanted to clarify that the Commission is making the same findings regarding the purpose or the necessity to hold a Limited Meeting for the September 3rd meeting as well, so that the same reasons apply to both the September 2nd and September 3rd meetings. The Commission will comply with the requirement of 92 in regard to the September 3rd meeting as well as the September 2nd.

MOTION: (Fujiwara/Fukino)

To approve the submittal as amended.

FOR: Thielen, Fukino, Kiyosaki, Miike, Frazier, Fujiwara

Abstained: Ching

Chair Thielen called for a recess.

2. Hawaiian Commercial and Sugar Company's Motion to Consolidate Petitions to Amend Interim Instream Flow Standards for East Maui Streams and Complaint Relating Thereto filed May 29, 2008

Presentation by: Ed Sakoda

Ed Sakoda summarized and presented chronological background information; the staff is requesting that the Commission approve a briefing schedule and hearing on the above referenced motion filed by Hawaiian Commercial and Sugar Company (HC&S) in connection with the 27 petitions filed for amendment of Interim Instream Flow Standards (IIFS) for streams in east Maui.

On August 18, 2008, HC&S filed its Motion to Consolidate Petitions, requesting the Commission consolidate all 27 previously filed petitions into one and to consider amending the IIFS for all 27 streams in one unified proceeding. The motion also requests that the Complaint relating to waste be consolidated with the petition to amend the IIFS.

RECOMMENDATION:

The staff recommends that the Commission allow any other interested party to file a brief in response to HC&S' motion and to set the motion for hearing. In particular, the staff recommends that the Commission adopt the following:

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1. All interested parties should file briefs on HC&S' motion no later than the close of business on Thursday, September 18, 2008. Briefs should be filed both on paper, nine (9) copies, and electronically. The electronic version may be e-mailed to: dlr.cwrwm@hawaii.gov.
2. The hearing on HC&S' motion will be held on September 24, 2008, at the Haiku Community Center, 1008 Hana Highway, Haiku, Hawaii 96708, at 2:00 p.m. Only persons submitting a brief will be allowed to present argument at the hearing on this motion.

PUBLIC TESTIMONY:

David Schulmeister commented that the USGS did stream studies in Maui, but the studies USGS did not include two units, Hanawai Stream or Honopou Stream. The schedule that was proposed in terms of information was to provide additional information that they thought was important for the staff to consider in developing this recommendation as well the Commission to consider when it takes action.

Alan Murakami stated that the main concern for his clients for both Honopou and Wailuanui is the timing of this motion and it might not have been as much of a concern if it was filed earlier, after the petitions were filed seven years ago, after the Commission announced that it could be focusing on the five hydrological areas back in March, after the informational gathering was held on April 10. The public has been prepared to present testimony on those five hydrological units and hope that the process does not get derailed which would lead to postponement.

AG Chow restated for clarification, if the Commission decides to grant the motion on the 24th can they then amend the IIFS? The only bar being that the some of the decision may be inconsistent, the answer is absolutely yes. The Commission always has the ability to determine what scope they want to amend the IIFS. They can do it on stream-by-stream basis; it can be for a portion of a stream, or a hydrological unit or an entire area. It's always within the Commission's authority to make a decision on what the scope of its amendment for setting the IIFS is. The only thing is to be consistent with the decision of the motion and what you decide is the amendment of the IIFS.

Craig Rasmussen of Maui testified that he does use the water and is not against the establishment of instream flows that would protect the environment as well as the traditional users of the watershed, however the picking of the five steams rather than the whole watershed area would lead to non-flexibility by doing it one stream at a time. Mr. Rasmussen also added that there will be more water flowing down some of the streams that would lead to EMI being able to deliver less water to the central valley and upcountry farmers.

Isaac Moriwake of Earthjustice commented on the belated motion when this process has been going on for years. Mr. Moriwake questioned why EMI and HC&S waited so long? Mr. Moriwake said a lot of people have been working hard to provide the information and work in moving the ball forward.

Commissioner Fujiwara asked how long it would take to come up with instream flow standards on the other 22 streams. Ed Sakoda guessed that it could take another year. Deputy Kawahara added

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that one component of the five hydrologic units is more than five streams, not just five streams. A component is the Division of Aquatic Resources did their stream surveys and would have to go back and check how much data they have on the other 22 streams which would be another component on the recommendations on these remaining streams.

Mr. Sakoda explained that it is the same procedure if followed for these particular five units; the assessment report takes a while. Mr. Sakoda said they have a lot of the basic information but will need the specific information for each separate hydrological unit which would take a little longer.

Chair Thielen stated that the first question would be does the Commission would want to respond to this motion by providing the parties to have a briefing and to make their arguments in front of the Commission.

Motion was made to accept the staff's recommendation.

Chair Thielen explained that the first motion on the agenda would be the motion to consolidate because if the Commission was to approve to consolidate at that point, the Commission may defer on the IIFS. Because the recommendation would allow briefing and presentations, Chair Thielen said she would probably give forewarning to the parties that there would be time limits on the presentations at that meeting and briefs should be filed a week prior so that the Commissioner would have some time to look at it.

MOTION: (Fujiwara/Fukino)
To approve the submittal.
UNANIMOUSLY APPROVED.

C. SURVEY

1. **Request to Enter into a Contract for Professional Services to Consolidate the Water Use Reporting Databases into Structured Query Language (SQL) Platform and Install ArcGIS Server-Based Applications**

Presentation by: Ronnie Torres

Ronnie Torres gave background information, scope of work and estimated costs.

Chair Thielen explained that the Department overall is trying to have better access to the data that we have and added that a lot of data are still in paper files, or different access files in separate divisions and branches. The data that the Water Commission maintains are useful not only for all branches of the Commission but also important for the Division of Forestry and Wildlife and the Division of Aquatics Resources. Work will be done with assistance from the Data Processing division in coming up with a scope of work for this contract to create a standard database that can be accessed within the divisions of DLNR as well as by other State agencies.

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RECOMMENDATION:

Staff recommends that the Commission authorize the Chairperson to enter into an agreement for professional services to consolidate the water use reporting databases into SQL platform and implement ArcGIS Server-based applications. Final consultant selection and contract execution will be done in accordance with Chapter 103D, Hawaii Revised Statutes and Chapter 3-122, Hawaii Administrative Rules.

MOTION: (Frazier/Miike)
To approve the submittal.
UNANIMOUSLY APPROVED.

2. Request to Enter into a Contract for Professional Services to Conduct Borehole Assessment of Deep Monitor Wells in Maui and Oahu and Develop Video Logging Capabilities within the Commission on Water Resource Management

Presentation by: Ronnie Torres

Ronnie Torres presented background information and project proposal.

RECOMMENDATION:

Staff recommends that the Commission authorize the Chairperson to enter into a contract for professional services to conduct borehole assessment of deep monitor wells in Maui and Oahu and develop video logging capability within CWRM.

PUBLIC TESTIMONY:

Dr. Jim Anthony asked why similar data collections and monitoring of wells aren't also imposed on private purveyors, who have water use permits. Dr. Anthony feels that the Commission under the Code may add conditions to the water use permits. The Commission inquired whether the assessment involves privately owned wells. Mr. Torres explained that the wells being referred to in the submittal are those owned and being maintained by CWRM. Dr. Anthony said if it's important for the Commission to expend this kind of effort in getting the data, why doesn't the Commission also require private purveyors engaged in similar activities.

Chair Thielen said that although the Commission is able to address only the items on the Agenda, Dr. Anthony raised a good question. Chair Thielen threw it back to the Commission staff that perhaps at a future meeting, it can be addressed during the announcements of staff's ability to make this requirement on private water purveyors; and that it would be nice to be able to provide notice of when staff would report to Dr. Anthony, so he would be aware of that as well.

MOTION: (Fujiwara/Miike)
To approve the submittal.
UNANIMOUSLY APPROVED.

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3. Request to Enter into a Cooperative Agreement with U. S. Geological Survey for Statewide Hydrologic Data Collection and Water Resource Investigations for Fiscal Year 2009

Presentation by: Ronnie Torres

Ronnie Torres mentioned that there was an error in the table on page two under Total Joint Funding Requirement for FY2009, which was entered as \$816,344. The correct amount should be \$837,344. Also, the gages to be operated in FY2009 as listed in Exhibit 4 are still being reviewed, but the changes will be minor and would not affect the state-side funding level for this cooperative agreement.

RECOMMENDATION:

Staff recommends that the Commission authorizes the Chairperson to enter into a cooperative agreement between the Commission and the U.S. Geological Survey (USGS) to undertake the specified monitoring activities. The terms of this agreement will be subject to the approval of the Chairperson and the Department's Deputy Attorney General. Contract execution will be done in accordance with Chapter 103D, HRS, and Chapter 3-122, Hawaii Administrative Rules.

PUBLIC TESTIMONY:

Gordon Tribble, Director of USGS Pacific Islands Water Science Center, testified that this annual event goes back a hundred years. The costs of the USGS and the Commission gaging program are paid for by the State with Federal matching funds up to 50%, but the State-Federal ratio is now 60-40. Mr. Tribble said it looks like we are going to lose five stream gages this year and still in discussion of which gages specifically it might be, and will lose five gages next year.

Mr. Tribble said that in the past, Senator Inouye put an earmark in the budget and that Mr. Tribble is committed to the Commission to spend up to \$100K if the earmark comes through as it has in the past to save some of these gages.

Dr. Jim Anthony said one of the gages that will be axed if this measure goes forward is the gage on Punaluu Stream which would be an irretrievable loss. Both public and private purveyors of water externalize the cost of water to be limited to the delivery cost to consumers as opposed to the real costs related to water resource. Dr. Anthony stated that because we say there is no money, and that we undercharge for the resource that we are trying to protect by gathering this information, the Commission should defer any action. Dr. Anthony said we are undercharging every consumer that is consuming water, and the time has come for the Commission to accept the responsibility that even though it is not empowered by law to regulate the price of water, it has at least a moral obligation to the public trust responsibility to look at the question of water rights because that is the primary source from which we get money to do all the things that are necessary to protect the resource.

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Commissioner Miike said this agenda item is on how much the USGS is going to contribute to monitoring, which is outside the issue that Dr. Anthony is saying that other people should also be paying. So if this item is deferred, the Commission would not get even the USGS matching fund.

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

Chair Thielen called a recess.
11:32 a.m. back in session.

E. PLANNING

1. Adoption of 2008 Water Resource Protection Plan Update, Hawaii Water Plan

Presentation by: Lenore Ohye

Lenore Ohye gave a PowerPoint presentation and provided information on the Hawaii Water Plan, the Water Resource Protection Plan (WRPP), the updating process, related issues, and recent requested amendments. Ms. Ohye also submitted two letters of support from Glenn Bauer and the Honolulu Board of Water Supply.

RECOMMENDATION:

Staff recommends that:

- 1) The Commission adopts the updated 2008 Water Resource Protection Plan.
- 2) In accordance with the Hawaii Water Plan framework, the next comprehensive update will occur in 2013, though updates to portions of the plan may occur on a case-by-case basis and shall follow the adoption procedures outline in Section 174C-31, HRS.

Ms. Ohye informed the Commission that several amendments to the WRPP are being recommended. Kepa Maly, a renowned cultural expert on Lanai, pointed out at a recent Lanai Planning Commission meeting that two of the aquifer system area names and one of the aquifer sector area names on Lanai were misspelled. (These misspellings were carried over from the initial 1990 WRPP.) In addition, Maui Department of Water Supply recently requested that a table outlining existing municipal demands be replaced with an updated table that also provided a more detailed breakdown of municipal end uses. Ms. Ohye recommended that these last minute revisions be incorporated in the plan because they are not substantive and would result in a more correct and updated document.

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AMENDED RECOMMENDATION:

- 1) The Commission adopts the updated 2008 Water Resource Protection Plan, as amended to:
 - a. Correct Lanai Aquifer System Area names (Paomai & Kealia),
 - b. Correct Lanai Aquifer Sector Area name (Kamao), and
 - c. Update Maui County's existing municipal demands & billing categories (Table 6-13).
- 2) In accordance with the Hawaii Water Plan framework, the next comprehensive update will occur in 2013, though updates to portions of the plan may occur on a case-by-case basis and shall follow the adoption procedures outlined in Section 174C-31, HRS.

Chair Thielen noted that if the Commission approves the plan, the presentation indicates that the Commission would also be approving a framework for the plan and a process that will allow the plan to be updated more regularly as a living document. That the plan hasn't been updated for 18 years illustrates the importance of having a framework to allow the Commission to update the plan on a more regular basis.

Commissioner Frazier complimented the staff, not only for the work that was done but also for the staff's flexibility and adaptability to the input that came from the public. Ms. Ohye stated that it was a team effort and acknowledged the hard work of the consultant and current and former staff.

PUBLIC TESTIMONY:

Former Deputy Attorney General Bill Tam testified that he strongly supports the staff submittal. Mr. Tam made reference to the need for flexibility and staff's recommendation that the updating of the plan may occur on a case by case basis. Mr. Tam expressed his view that regular updating as new information becomes available is really important. Mr. Tam stated that the working group on the Big Island is a good example of how additional information that might not be publishable can be reviewed by a group of hydrologists that know the area and who can give feedback to each other as a way to reach a consensus on some of these issues. There are a lot of consequences down the line with the sustainable yields numbers. It's not a purely academic exercise because land use decisions by the county planning departments and the State Land Use Commission are going to be made based on these numbers, and so accurate, current information is really critical.

Chair Thielen asked Mr. Tam to clarify his statements on flexibility and getting a consensus specifically whether he was talking about a consensus on the data and not a consensus of public opinion. Mr. Tam confirmed that he was referring to a consensus on the data.

Ms. Ohye clarified that the WRPP is already utilizing a living document approach. As new information comes up, the commission does update the WRPP, such as was done in 1993 to establish the sustainable yields for the Ewa Caprock Aquifer System Areas and in 2000 to revise the sustainable yield numbers for the Pearl Harbor Aquifer Sector. Although updates are done periodically, a recompilation of the WRPP does not occur every time.

Mr. Tam also advocated that the Administrative Rules be updated regularly as well.

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Dr. Jim Anthony asked that the Commission begin to look at where the money to implement the WRPP is going to come from. One place that it should come from is from the sale of the resource. Dr. Anthony also drew the Commission's attention to the work of the Pearl Harbor Ground Water Monitoring Group. The group's report was to have been presented to the Commission six years ago, but the report is still not complete. Dr. Anthony feels six years is too long a time to wait for a matter of such considerable importance as the Pearl Harbor system and what it represents to the availability of potable water for this island.

Dr. Jim Anthony also questioned the 37 mgd sustainable yield figure for the Punaluu area. Dr. Anthony said there ought to be a new set of ground water modeling studies to determine the accuracy of that figure. There were red flags raised with respect to increase the salinity in the Punaluu system; some of the wells were shut down. There were new monitoring wells that were supposed to be established and issues of spatial distribution were supposed to be addressed. These issues are not sufficiently highlighted in the plan and Dr. Anthony asked that the Commission question the staff as to the status of the Pearl Harbor Ground Water Monitoring Working Group.

There is no indication of time Chair Thielen added that the presentation also contained that if the Commission approves the plan, it would also be approving the framework for the plan in process that could be updated more regularly as a living document. It hasn't been updated for 18 years and illustrates the importance of having a framework to allow the Commission to continue on a regular basis than what was happening in the past.

Dr. Anthony said we are not charging adequately for it (water) to be able to finance all the things we do for protecting the resource.

MOTION: (Frazier/Fujiwara)
To approve the submittal as amended.
UNANIMOUSLY APPROVED.

12:08 p.m.: Chair Thielen excused herself from the rest of the meeting and asked Commissioner Miike to chair the rest of the meeting.

2. Approval of the Scopes of Work for the North Shore and Koolauoko Watershed Management Plans

Presentation by: Jeremy Kimura

Jeremy Kimura explained that the County Water Use and Development Plan (WUDP) is one component of the Hawaii Water Plan. The approach that the Honolulu Board of Water Supply (BWS) has taken is to develop an Oahu Water Management Plan (OWMP), which is to be comprised of regional watershed management plans. Based upon the scopes of work provided by BWS, the staff feels that the proposed watershed management plans for North Shore and Koolauoko meet with the framework requirements for the Oahu Water Management Plan.

Minutes

Chair Miike asked why BWS needs the Commission's approval on the scopes of work. Mr. Kimura stated that when the OWMP was adopted by the Commission, it was adopted with the notion that the Commission would approve each subsequent watershed management plan. It's a way for the staff to ensure that there is a consistent approach, since other counties have taken an island-wide approach, but Oahu is developing regional plans.

PUBLIC TESTIMONY:

Dr. Jim Anthony testified that he is not sure if there is regulatory basis for the Commission to endorse this plan, but thinks it is ill advised. Dr. Anthony said the community still hasn't given the Koolauloa management plan its endorsement. There are no provisions in the scopes of work for timelines. There is the issue of priorities which is related to timelines - which action items are more important than the others and when it is that you're going to do that. Dr. Anthony feels that the same problem exists in these two scopes of work. Where is the money going to come from? Dr. Anthony stated if the Commission is going to consider these two scopes of work, the Commission should insert as one of its conditions for the final report that there should be specification as to how much will it cost, and where is the money going to come from? Otherwise, you will end up with management plans for which there is no money in terms of implementation of the plan.

Chair Miike referred to page six of the scope of work for the North Shore Watershed Management Plan, Section 6.1 that says a realistic schedule of actions and events will be defined along with the provision of cost estimates and information on sources of funds. So in a general sense, the scope of work does define what Dr. Anthony is concerned about.

Chair Miike said that Dr. Anthony's point is well taken, that it's not just the delivery cost of the water but the sustainability of the resource itself. In terms of the general scope, staff and BWS should be aware that when we talk about a realistic schedule, that does imply that we will state what are our priorities and which we should do first, second, third and fourth. Also, regarding sources of funds, Chair Miike would like a realistic assessment and discussion on new ideas about where money comes from.

RECOMMENDATION:

Staff recommends that the Commission:

1. Approve the City and County of Honolulu, Board of Water Supply's Scope of Work for the North Shore and Ko'olaupoko Watershed Management Plans;
2. Require that the Board of Water Supply, prior to the commencement of the other watershed plans for South Oahu (Ewa, Central Oahu, Primary Urban Center, and East Honolulu), submit proposed scopes of work (i.e., "Project Descriptions") for those regional areas to the Commission for review and approval; and
3. Authorize staff to participate in meetings and/or workshops, as necessary, with pertinent State and County agencies to facilitate implementation of statutory and framework provisions for updating Oahu's County Water Use and Development Plan.

Minutes

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

Item F1, non-action items on the briefing of Koolauloa and Waianae Watershed Management Plans by the Board of Water Supply was deferred at the earlier request of Chair Thielen.

E. NEXT COMMISSION MEETINGS (TENTATIVE)

1. September 2-3, 2008
2. September 24-25, 2008
3. October 15, 2008

Respectfully submitted,

KATHLEEN OSHIRO
Secretary

APPROVED AS SUBMITTED:

KEN C. KAWAHARA
Deputy Director