

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: November 18, 2009
TIME: 9:00 a.m.
PLACE: Kalanimoku Building
Board Room 132

Chair Laura Thielen called the meeting of the Commission on Water Resource Management to order at 9:04 a.m.

The following were in attendance and/or excused:

MEMBERS: Ms. Laura Thielen, Dr. Lawrence Miike, Mr. Neal Fujiwara, Mr. Sumner Erdman, Ms. Donna Kiyosaki

STAFF: Deputy Director Ken Kawahara, Ed Sakoda, Roy Hardy, Lenore Ohye, Robert Chong, Dean Uyeno, Chui Cheng, Diane England, Neal Fujii

EXCUSED: Dr. Chiyome Fukino, Mr. William Balfour, Jr.

COUNSEL: Randall Ishikawa, Esq.

OTHERS: Dr. Thomas Giambelluca

A. APPROVAL OF MINUTES

1. September 24, 2009
2. October 21-22, 2009

MOTION: (Miike/Erdman)
TO APPROVE SEPTEMBER 24 AND OCTOBER 21-22 MINUTES
UNANIMOUSLY APPROVED.

B. ANNOUNCEMENTS

Deputy Director Ken Kawahara reviewed that the tax revenues are lower than previously projected and are continuing to decline. CWRM is receiving their payroll operating budget in quarterly allotments instead of the annual allotment. The payroll quarterly allotments have been reduced by 13.8%. Staff will continue to actively pursue Federal matches to stretch our limited dollars. Right now staff is closely watching some federal appropriations to see if we can take advantage of them.

Furloughs: A copy of the DLNR CWRM furlough schedule that reflected the two days per month furlough was distributed.

Vacancies: The CWRM organizational chart was distributed and Deputy Kawahara explained that there are 24 positions. The existing vacancies are in the ground water regulation branch and another who recently retired, one in the stream protection and management branch, one who recently resigned in the Survey branch. As a result of the Reduction in Force (RIF) the State is abolishing the Survey branch (four positions). Of the survey branch, one resigned, the secretary will move to the division of Boating and Ocean Recreation next week, the geologist who will be bumping into CWRM's stream protection and management branch and an engineering tech will be retiring at the end of the year, as

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well as our branch chief in the stream protection and management branch who will be retiring at the end of this year.

Deputy Kawahara recognized secretary Faith Ching who has been with the Water Commission for a long time and thanked her for her services. Deputy Kawahara added that the critical duties performed by the survey branch are being reallocated among the remaining three branches, however the volume of allocated work is large and the necessity three branches to perform these tasks in addition to their regular duties will likely extend the processing times for all high-priority tasks and put limits on the time available for staff to address important but non-essential items.

Deputy Kawahara thanked the Commission for the three resolutions that they signed for Susan Swanson, the engineering tech who retired at the end of October and was not able to attend today, and recognized Ed Sakoda, branch chief of the Stream Protection and Management Branch, who will be retiring at the end of the year with 32 years, and Mitch Ohye, also with the Survey Branch, will be also be retiring at the end of the year with 35 years. Deputy Kawahara mentioned that these are challenging times for both the staff and the commission.

Drought conditions continue in Maui County and the Big Island, ranging in intensities from D1 (drought–moderate) to D2 (drought–sever), with the south Kohala region on the Big Island in D3 (drought–extreme). Oahu and Kauai have some abnormally dry areas. The National Weather Service Climate Prediction Center continues their El Nino advisory with the following synopsis: northern Hemisphere Winter 2009-2010. Probabilities favor below-normal Hawaiian rainfall in the winter and spring.

Staff participated in the Maui County Drought Committee meeting via teleconference. Discussion focused on current and forecasted drought and El Nino conditions for Maui, existing preparedness and mitigation among impacted sections, and long-range drought mitigation planning and strategy.

The Maui Department of Water Supply transmitted a copy of the review draft of their Final Candidate Strategies Report for the Central District. The plan has also been submitted to their Board, which will hold two public hearings on it. Based on comments and discussion of this report a Draft Central District Plan will be amended and compiled for consideration for adoption (along with the other drafts addressing other Maui districts and non-DWS users and purveyors) as the updated Maui County Water Use and Development Plan.

East Maui Streams Update: Deputy Kawahara told the commissioners that they should have received a CD which is compilation of data submissions and public review comments. Also, on the CD is 15 reports from the Division of Aquatic Resources (DAR) and pointed out that although there are 16 hydrologic units that encompasses the 19 streams that is being looked at to amending, there are only 15 of DAR reports, the reason being that one of the streams was not on their maps and therefore they did not survey the Waiaka stream.

Deputy Kawahara continued with the update of the public fact gathering meeting that was held on October 15 at the Paia Community Center on Maui to hear public comments on the remaining 19 petitioned streams in east Maui. About 110 people attended the meeting and 53 individuals provided public testimonies. October 30 was the deadline for public comments and staff received about 100 written comments.

A Commissioner site visit was held on October 21-22 in Maui. During the site visit, Commissions and staff met with the Upcountry farmers and ranches, and visited the Maui Department of Water Supply Olinda Water Treatment facility, and the HC&S Puunene Sugar Mill factory and field operations.

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Staff returned to Maui on November 9 to meet with residents of the Lower Nahiku community. On this field visit, staff mainly focused on the hydrology and uses of Makapipi Stream below Hana Highway to the stream mouth.

This past Monday (Nov. 16), staff met with East Maui Irrigation (EMI) staff and visited the EMI major and minor diversions on Makapipi and Hanawi Streams about the highway. Staff attempted to visit Kuhiwa Well but was unable to cross the stream due to high flows.

Staff is scheduled for another site visit tomorrow to accompany USGS staff, to look at possible Instream Flow Standards monitoring locations for the remaining 19 petitioned streams. This is part of the overall agreement that the Commission had approved to work with USGS to put in a total of 15 staff gages through the various streams. USGS already installed five and are looking at ten other possible locations.

Na Wai Eha Contested Case: Deputy Kawahara mentioned that some of the Commissioners might have heard the oral arguments on October 14-15 in Maui and reported that the Commission is holding deliberations on this case.

Outreach:

Deputy Kawahara said the 2009 Update for the Hawaii Well Construction and Pump Installation Standards public review draft has been postponed. We are about 70% complete and anticipate having the draft ready by the end of the year. Staff plans to hold statewide video conferencing meeting similar to the previous 2004 update early next year to highlight changes and gathers public comments. Depending on the amount of responses staff hopes to bring it back to the Commission for decision in the spring.

Staff will be participating in a Taro Security and purity Task Force meeting today at UH Manoa on behalf of the Department of Land and Natural Resources. Deputy Kawahara announced that they just came out with their draft report that they are required to submit to the Legislature at the beginning of the 2010 session.

C. GROUND WATER

- 1. Terry and Pamela Harris, Application for a Water Use Permit, Papohaku-Harris Well (Well No. 0915-02), TMK 5-1-007:068, WUP No. 878, Future Agricultural Use for 0.008 mgd, Kaluakoi Ground Water Management Area, Maui**

Presentation by: Charlie Ice

RECOMMENDATIONS:

Staff recommends that the Commission:

- A. Approve the issuance of water use permit no. 878 to Terry and Pamela Harris for the reasonable and beneficial use of 0.008 million gallons per day of Brackish basal water for Agricultural from the Papohaku-Harris Well (Well No. 0915-02), subject to the standard water use permit conditions listed in Attachment B and the following special conditions:**

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1. The applicant shall obtain appropriate approval for the disposal of desalting waste stream brine from the Department of Health, and meet the Division of Aquatics approval for any described impacts on the nearshore environment, prior to using any water from a desalting process.

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.

B. Approve the well construction and pump installation permits for the Papohaku-Harris Well, (Well No. 0915-02) subject to the standard conditions of Attachments C and D, and the following special condition:

1. Prior to commencement of well construction, The applicant shall obtain appropriate approval for the disposal of desalting waste stream brine from the Department of Health, and meet the Division of Aquatics approval for any described impacts on the nearshore environment, prior to using any water from a desalting process.

Charley Ice pointed out that Attachment A (second page) indicated 0.008 gallons per day and it should be million gallons per day. Commissioner Miike said that the applicants are asking for 0.008 but its six acres and the submittal says it's 8,000 per acre so how come they're only asking only for 8,000.

Charley Ice said that's a question they've asked them too and they apparently are going on the basis of historical use and the metered use from the Molokai Public Utility. Mr. Ice doesn't know how they plan to do that, which almost half of that is kiawi and grassland that we might think didn't think needed a lot of attention.

Commissioner Erdman asked if they are currently irrigating the three acres of kiawi trees and grassland. Mr. Ice said in his mind since they are evidently not on site, he understands that their buildings and their well have been approved for the SMA permit, it seems the solar array and the desalting facility is not yet completed, and does not know what stage they are at as far as actual irrigation. Commissioner Erdman asked if their current use from Molokai Public Utility includes their irrigation. Mr. Ice said they didn't go into that and perhaps they have been there on site on occasion and they have tried to get something going and that's their experience for the use so far.

Chair Thielen asked Charley Ice to report anything that stands out from the rest of the submittal since it has been already reviewed by the Commissioners.

Commissioner Miike wanted it on record that they have 6 acres and they're getting 8,000 not 48,000 [gpd]. Charley Ice said that's correct and mentioned that special conditions apply. They need to get approval from the Department of Health for disposal of the brine affluent from their desalting process. Commissioner Erdman asked if there was a condition in there if they do get more of these wells go in there and it becomes a health problem can we put in a condition there to revoke the permit at that time. Mr. Ice said thought that it might be a standard situation but that he could certainly put that in as a special condition. Chair Thielen said they would have to get Department of Health's approval before they dig the well and what their disposal plans going to be since they are the ones looking at the clean water, now if they wanted to do more water then they would have to come back to us. Mr. Roy Hardy stated that in Attachment B, the Standard Water Use Permit Conditions, No. 9, and read "This permit may be modified by the Commission and the amount of water initially granted or reduced if the Commission determines it is necessary" and it goes through a list of things and one is to protect the water sources (quantity or quality), and emphasized that it is one of the standard conditions that the Commission can modify. Commissioner Fujiwara recalled that there was an earlier water use permit in

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this area that was approved and didn't recall that the brine disposal was an issue. Mr. Roy Hardy stated that the brine issue was also addressed for that well with the same recommendations as this submittal.

MOTION: (Fujiwara/Miike)
TO APPROVE THE SUBMITTAL.
UNANIMOUSLY APPROVED.

D. STREAM PROTECTION AND MANAGEMENT

1. Application for a Stream Channel Alteration Permit (SCAP.2454.6), New Concrete Low Ford Crossing, Makapipi Stream, Nahiku, Maui, TMK: (2) 1-2-001:015

Presentation by: Robert Chong

Robert Chong added that during agency reviews no major concerns were expressed. However, last week staff emailed a copy of the submittal to the Nahiku Community Association and received emailed comments from six board members which were not included in the packet. Copies of the email comments were distributed.

The first concern of the Board members was the impact of the proposed ford crossing on the stream flow, the migration of native species and the ecosystem. Mr. Chong previously mentioned that the Makapipi Stream is affected by EMI's diversion at the Koolau Ditch. The USGS estimated that the annual base flow at the gaging station above the Hana Highway is about 1.96 millions gallons per day, or .303 cubic feet per second, which is a really low flow and that part of the stream flow could be from Makapipi Spring. Staff believes that the ford crossing would allow the water to flow over the ford and will not affect the stream flow or impede the upstream migration of native species. The second concern is the discharge of pollutants into the stream and water quality issues which will be addressed by the Army Corps and the Department of Health, Clean Water Branch. The third concern involves alternative routes for crossing the stream. The Spankos have an easement agreement with EMI to cross EMI's property along the edge to get to Makapipi Stream and to cross to the Spankos' property. The fourth concern is the community's desire to restore the steam flow of Makapipi Stream to a year round flow. Staff prepared an Instream Flow Standard Assessment Report (IFSAR) for Makapipi Stream which was distributed for public review and comment and plans to present instream flow recommendation for Makapipi Stream to the Commission by the end of this year.

RECOMMENDATIONS:

That the Commission approve a Stream Channel Alteration Permit (SCAP.2410.2) to construct a concrete, low ford crossing across Makapipi Stream in Nahiku, Maui at TMK: (2) 1-2-001:015 subject to the standard conditions in Exhibit 5.

Chair Thielen asked if there is an alternate access to the property. Mr. Chong said that there really isn't and referred to the map included in the handout.

Commissioner Fujiwara asked if the property owners live on the parcel. The owners do not live on the property but need to get to the property and cross the stream and are planning to construct a house after they get the necessary approvals. Mr. Chong reported that they are presently crossing the stream by driving across the rocks.

MOTION: (Erdman/Miike)

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TO APPROVE THE SUBMITTAL.
UNANIMOUSLY APPROVED.

E. SURVEY

1. **Request to Enter into a Right-of-Entry Agreement with Waikoloa Mauka, LLC and Waikoloa Village Association In Order to Access Pu'u Anahulu Monitor Well (5347-01), Waikoloa, Hawaii**

Presentation by: Diane England

Diane England reported that as of yesterday she received the signed agreements from the landowners and it has been signed off by one of the deputy attorney general.

RECOMMENDATIONS:

Staff recommends that the Commission approve and allow the Chairperson to enter into the right-of-entry agreements (Attachments 1 and 2) with Waikoloa Mauka, LLC and Waikoloa Village Association. The agreements were drafted in consultation with the Attorney General's office.

Commissioner Erdman asked if there was any way to make this an administrative decision. Chair Thielen shared that this has been brought up at the Land Board about delegating authority to the Chair to take some of the items off of the agenda. The Land Board will be having only once a month meetings. Certain things like rights of entry, contracts under a certain amount that the Commission wants to delegate to the Chair can be put on those items on the agenda for the next month.

MOTION: (Miike/Erdman
TO APPROVE THE SUBMITTAL AS REVISED.
UNANIMOUSLY APPROVED.

F. NON ACTION ITEM

1. **Briefing on "Hawaii Rainfall Atlas Update, and Related Research" by Dr. Thomas Giambelluca, Department of Geography, University of Hawaii**

Presentation by: Dr. Thomas Giambelluca

Neal Fujii introduced Dr. Thomas Giambelluca, a professor at the UH of Manoa, received his PhD from the UH Manoa and his dissertation was actually the Water Balance of Pearl Harbor so he's very familiar with some of these water issues here. Dr. Giambelluca is a respected expert in climatology, hydrology with specific interest in water balance in tropical forest. His research projects were in South America and Southeast Asia, and also Hawaii research projects which includes the Rainfall Atlas of Hawaii, Drought in Hawaii, numerous publications in scientific journals. Dr. Giambelluca is currently the principal investigator in the project to update the Rainfall Atlas of Hawaii, which we have cooperated with the Army Corps of Engineers. Mr. Fujii said that Tom is here today to talk about some of that work, the Rainfall research and touch on climate change.

A copy of the power point is included for the records.

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F. NEXT COMMISSION MEETINGS (TENTATIVE)

1. December 16, 2009 (Maui)
2. January 20, 2010

Meeting was adjourned at 12:30 p.m.

Respectfully submitted,

KATHLEEN OSHIRO
Secretary

APPROVED AS SUBMITTED:

KEN C. KAWAHARA
Deputy Director