

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: April 21, 2010
TIME: 9:00 a.m.
PLACE: Kalanimoku Building
DLNR Board Room 132
1151 Punchbowl Street
Honolulu, Hawaii 96813

Chair Laura Thielen called the meeting of the Commission on Water Resource Management to order at 9:00 a.m.

The following were in attendance:

MEMBERS: Ms. Laura Thielen, Dr. Chiyome Fukino, Dr. Lawrence Miike, Mr. Neal Fujiwara, Ms. Donna Kiyosaki, Mr. William Balfour, Jr.

EXCUSED: Mr. Sumner Erdman

STAFF: Ken Kawahara, Roy Hardy, Lenore Ohye, Robert Chong, Ryan Imata

COUNSEL: Linda Chow, Esq.

OTHERS: Yvonne Izu (Haseko); Hugh Liu (City and County of Honolulu); Isaac Moriwake (Earthjustice), Glenn Koyama, Planning Consultant for the CCH

(Note: language for deletion is ~~struckthrough~~, new/added is underlined.)

A. APPROVAL OF MINUTES

1. March 17, 2010

MOTION: (Miike/Fujiwara)

To approve the minutes.

UNANIMOUSLY APPROVED.

B. ANNOUNCEMENTS

Deputy Ken Kawahara reminded all that it was Administrative Professional Day and recognized the commission staff secretaries with leis; Susan Danbara of the Planning Branch, Susan Hoagbin of the Ground Water Regulation Branch, Kathy Yoda of the Stream Protection and Management Branch, and Kathleen Oshiro, secretary to the commission.

Deputy Kawahara reported that Commissioner Erdman sends his regrets to the Commission as he could not attend today's meeting due to a wind farm project however, if the Commission goes into deliberations after this meeting on Na Wai Eha he would like to join in via teleconference.

Budget: Deputy Kawahara said that we continue to get our budget in quarterly allotments. As he mentioned in a previous meeting, the Legislature is considering our FY 2011 budget. Also, the House version crossed over to the Senate. Since then the Senate came up with their version

Minutes

of the budget. Currently, the House and the Senate are conferencing on the budget (will go over a handout later).

Furloughs: Staff continues on two days per month.

Vacancies (4): 2 Groundwater Regulation, 2 Stream Protection and Management

Diane [England] was formerly with the Survey Branch and then moved due to the RIF to our Stream Protection and Management Branch (SPAM), returned to the private sector and her last day was April 9, 2010. Although she was in the SPAM branch, she continued to do many of the survey functions that are high priority. Critical areas include, but not limited to, review of the well completion reports and pump test analyses, water use reporting, responding to public information requests, and deep monitor well program.

Na Wai Eha: Staff held a public meeting on Maui to gather additional information on the surface water use permits for existing uses in the Na Wai Eha Surface Water Management Areas. Approximately 60 people attended the public meeting, and the majority urged the Commission to wait until the Contested Case Hearing was settled and instream flow standards for the four streams have been determined. A public hearing will be held at a later date to gather testimony and more information on the surface water use permit applications for existing uses. Deputy Kawahara also mentioned that this Commission's previous decision made on a submittal asking that Commissioners Fujiwara and Erdman serve as Hearings Officers for this meeting but out of abundance of caution, because the Na Wai Eha Contested Case has not been settled, he asked both Commissioners Fujiwara and Erdman to not be the hearings officers for this meeting because he was concerned about the ex parte communication therefore, he had staff run the meeting. Deputy Kawahara stated that staff may come back with a submittal correcting the change.

The first handout shows March 2010 year-to-date precipitation amounts continue to be well below normal for most of the island chain. While some trade wind showers brought relief to windward sides of the islands, drought conditions continue on the leeward side of most islands. Maui County and the Big Island continue to experience the most severe conditions of D4. The National Weather Service Climate Prediction Center continues their El Nino advisory with the following synopsis: El Nino is expected to continue throughout the Northern Hemisphere spring 2010 and transition to ENSO-neutral conditions by Northern Hemisphere summer 2010.

Expected continuing dry conditions indicate that drought would persist or intensify in Maui and Hawaii Counties however, some improvement is expected in eastern Kauai – see U.S. Seasonal Drought Outlook handout.

In March, Governor Lingle issued a memo to all State Departments to remind them to conserve water – especially outdoor uses and to repair water leaks. CWRM also issued a press release (copies distributed) asking for residents and businesses to conserve water and help prevent wildfires. As a result of our press release the Honolulu Advertiser ran an article (copies distributed).

Minutes

Staff held teleconferences with Oahu and Maui county drought committees (and will convene the Big Island drought committee) to discuss possible requests for emergency drought assistance from the U.S. Department of Interior, Bureau of Reclamation. A teleconference with the Big Island drought committee will also be held.

Draft Watershed Management Plan (WMP): At the February meeting, copies of the Honolulu's Draft WMPs for the Waianae and Koolauloa regions were distributed. Staff has published a 90-day notice (copies distributed) statewide for the required public hearing. These WMPs are 2 of 8 regional plans that the Board of Water Supply and the Department of Planning and Permitting are putting together that will comprise the updated water use and development plan for Oahu. They are concurrently moving through the County's ordinance adoption process.

Deputy Kawahara invited the Commissioners to attend this hearing on the evening of June 23. Although not mandatory for Commissioners to attend, if they do want to attend and there are more than two commissioners, staff will need to notice the hearing in accordance with the Sunshine Law.

Staff volunteered to participate in the Mauka to Makai Clean Water Expo at the Waikiki Aquarium on April 10. The annual event is hosted by the City and County of Honolulu's Department of Environmental Service, the State Department of Health's Polluted Runoff Control Program, and the Waikiki Aquarium. Staff hosted a booth with a water conservation/drought awareness theme and helped over 150 children create their own water-conservation luggage tags.

In response to a request from the City and County of Honolulu, Agricultural Development Task Force, on April 5, staff gave a briefing on agricultural water needs, challenges, and supporting strategies.

Staffing and Budget: Deputy Kawahara again mentioned that the critical duties of the Survey Branch are being reallocated among the remaining three branches. However, the volume of the reallocated work is large and for the remaining staff to perform these tasks in addition to their regular duties will unfortunately extend the processing times of some items that we do. We have identified what is high priority and put limits on other things that are non-essential at this time. Because of that, a draft list was put together (copies distributed).

Deputy Kawahara referred to the Budget Comparison Worksheet (copies distributed) and repeated that the House and Senate are currently meeting in conference to resolve those differences. Deputy Kawahara reviewed the steps that took place for the Reduction in Force (RIF) of the four positions in the Survey Branch. He discussed the Position Organization Chart, and what staffing remains and money savings from furloughs.

He also stated that the Senate adjustment proposed to reduce two positions and the corresponding funds. After checking with the Senate Budget Analyst, this was to abolish the position of the water deputy director and his secretary in the beginning of the upcoming fiscal year, July 1, 2010. The House and Senate met last night and resolved their differences, taking the House position and restoring four positions (two of the positions were in the Survey Branch).

Minutes

The Senate proposed to reduce funds for delay in hire (six months) and the conference committee will reconvene at 5:00 p.m. and hopefully will resolve the reduce funds in delay in hire for our vacant positions. Deputy Kawahara was concerned that if it does go through, that dollar amount will be reduced from the base budget and even though next year's budget it will be minus that amount, if we hire someone, we would have to come up with the \$113,256 from within.

To summarize, there is the abolishment of two positions that were with the Survey Branch, so a total position of 19 positions that are general funded and three positions that are special funded for a total amount of 22 positions, of which six (including the two restored positions in Survey Branch) are still vacant. The legislature internal deadline to deck the budget is this Friday.

In reference to the organizational chart, the four positions highlighted in yellow are the four vacant positions.

Deputy Kawahara mentioned that they drafted the Program Status & Evaluation (copies distributed). Basically, with the four vacant frozen positions and the four RIF positions, the commission staff was down 33% in less than a year. The front page shows all the things that are of highest priority that we continue to do with the current staffing and financial resources that we have. On the back page, these items are either impacted, either suspended temporarily or possibly permanently depending on financial and human resources.

Deputy Kawahara reiterated that they will continue to do their best to keep the critical items going in these challenging times and want to thank the staff for all that they've been doing.

C. STREAM PROTECTION AND MANAGEMENT

1. **Application for After-the-Fact Stream Channel Alteration Permit (SCAP.2601.3), Emergency Repair of Numana Street Bridge, Kalihi Stream, Kalihi, Oahu, TMKs: (1) 1-4-009:007, 1-4-017:001, 028 and 033**

Presentation by: Robert Chong

RECOMMENDATION:

That the Commission approve an after-the-fact Stream Channel Alteration Permit (SCAP.2601.3) for the emergency repair of Numana Street Bridge across Kalihi Stream in Kalihi, Oahu at TMKs: (1) 1-4-009:007, 1-4-017:001, 028 and 033. The permit shall be subject to the Commission's standard conditions in Exhibit 5. Standard conditions 4 to 8 do not apply to this permit.

Robert Chong said the City and County of Honolulu requested the authorization for the emergency repair; however, it took them eight months to design, two additional months to stage the area, and the repair work took four months for a total of 14 months.

Dr. Miike asked why it took so long for them to come in for a permit.

Minutes

Glen Koyama, planning consultant for the City, said Belt Collins prepared the after-the-fact application. They anticipated that this project would have moved quickly in terms of design, agency review and approvals; however, there was a lot going on. They did not anticipate this type of delay for an emergency project but had the intention that this would be approved expeditiously, and this is the only explanation he could offer. Dr. Miike said that they should have at least informed the staff that they were going to be doing this project, and it's kind of late to talk about an emergency. He understood about not having all the design ready to submit, but the City should have informed staff.

Commissioner Fujiwara asked about the Department of Health Clean Water Branch not condoning the after-the-fact approval of permit, yet under the Commission's emergency rule, it is allowed. There seems to be an inconsistency between departments. Dr. Fukino responded, that DOH does not want the water to be polluted which is why it says 'we do not condone'; otherwise, people would run through their work and forget about runoff pollution issue. Chair Thielen said it's probably more of a policy statement because they don't want to encourage it.

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

2. Application for Stream Diversion Works Permit (SDWP.2586.6) and Petition to Amend Interim Instream Flow Standard for New Auwai for Irrigation and Domestic Use, Honokala Gulch, Haiku, Maui, TMK: (2) 2-9-002:041

Presentation by: Robert Chong

RECOMMENDATION:

That the Commission:

1. Approve the applicant's Stream Diversion Works Permit (SDWP.2586.6) for a New Auwai for Irrigation and Domestic Use, Honokala Gulch in Haiku, Maui at TMK: (2) 2-9-002:041;
2. Approve the applicant's Petition to Amend the Interim Instream Flow Standard (PAIIFS) for a stream diversion at Honokala Gulch in Haiku, Maui at TMK: (2) 2-9-002:041;
3. Amend the Interim Instream Flow Standard for Honokala Gulch, in Haiku, Maui as adopted by the Commission on October 19, 1988, to include the changes at TMK: (2) 2-9-002:041; and
4. Allow the applicant to divert up to 500 gallons per day at a pumping rate of 0.007 cfs for irrigation purposes. This amendment of the interim instream flow standard shall be subject to the conditions for interim instream flow amendments in Exhibit 5.

Dr. Miike asked if they are asking for 500 gallons a day. It states that they are asking for a high volume to power the water wheel and a low volume drip irrigation system and asked if 500 gallons a day is going to be enough to power a water wheel. Mr. Chong said the 500 gallons is the capacity

Minutes

of the storage tank. Dr. Miike asked if he was requesting that they approve that as the amount of the permit. Mr. Chong said that was correct. Dr. Miike said the submittal does say de minimis, but there's only been one measurement, and yet they are asking to amend the interim instream flow standard. He thought that it was unnecessary to amend the interim instream flow standard. He also pointed out in the recommendation there is a missing zero in the conversion to cfs.

Commissioner Balfour referred to two photos in the Exhibits that showed partial construction of the auwai. Once you start a partial construction, it's an after-the-fact; so he was not sure how it would be handled. Mr. Chong said construction was started on the auwai, but the actual diversion gate on the stream itself and the water wheel have not been constructed. Balfour felt that this off-stream work constituted a start of the overall project of the stream.

AMENDED RECOMMENDATION:

That the Commission:

1. Approve the applicant's Stream Diversion Works Permit (SDWP.2586.6) for a New Auwai for Irrigation and Domestic Use, Honokala Gulch in Haiku, Maui at TMK: (2) 2-9-002:041;
2. ~~Approve the applicant's Petition to Amend the Interim Instream Flow Standard (PAIIFS) for a stream diversion at Honokala Gulch in Haiku, Maui at TMK: (2) 2-9-002:041;~~
3. ~~Amend the Interim Instream Flow Standard for Honokala Gulch, in Haiku, Maui as adopted by the Commission on October 19, 1988, to include the changes at TMK: (2) 2-9-002:041; and~~
4. 2. Allow the applicant to divert up to 500 gallons per day at a pumping rate of ~~0.007~~ 0.0007 cfs for irrigation purposes. This permit shall be subject to the Commission's standard conditions in Exhibit 4.

MOTION: (Miike/Fujiwara)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

D. GROUND WATER

1. **Application for a Water Use Permit, Ocean Point 1-4, EP-27 (Well No. 1902-09,-10,-11, 1901-06, 1902-01), TMK 9-1: various WUP No. 884 (Modification of WUP No. 784), To New (Agricultural) Use for 1.500 mgd, Puuloa Ground Water Management Area, Oahu**

Presentation by: Ryan Imata

RECOMMENDATION:

Staff recommends that the Commission modify WUP No. 784 by approving the issuance of WUP No. 884 to Haseko (Ewa), Inc. for the reasonable and beneficial use of 1.337 million gallons per day

Minutes

of non-potable brackish water for golf course and landscape irrigation and dust control from the Ocean Point 1-4, EP-27 Wells (Well Nos. 1902-09,-10,-11, 1901-06, 1902-01), 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 this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. The applicant shall contact the Environmental Management Division, State Department of Health, at 586-4304, concerning "GUIDELINES APPLICABLE TO GOLF COURSES IN HAWAII" dated July, 2002 (version 6).
3. Standard Condition 16 for a water shortage plan requirement is waived.
4. The permittee shall submit a contingency plan for water use in the event the chloride concentration in the permitted well(s) exceeds the 1,000 mg/l sustainable capacity limit established for Ewa caprock aquifer sources, the permittee shall seek an alternative source of supply. The contingency plan shall be submitted to the Commission within 30 days of the issuance of this permit.
5. The area that this permit is valid for is defined by the footprint in Exhibit 1 (TMK 9-1: various). The permittee is not required to notify the Commission of TMK changes provided that the change occurs within the footprint and that the uses remain in compliance with state and county general plans and land use designations and county land use plans and policies.

Ryan Imata explained that this is a modification of a previous water use permit and explained that the modification is 1) applicant wants to decrease their allocated amount; 2) expand the land area over which allocation applies; and 3) delete the standard condition to notify staff of any TMK changes of the land use and the reason is they are going through the subdivision process and the notification could be on the order of a couple hundred or over a thousand notifications to us. Mr. Imata said the other issue is we ran our calculations for what he felt would be a reasonable and beneficial amount and they were requesting a reduction to 1.5 however staff is recommending a reduction to 1.337 mgd.

Chair Thielen asked when the photo in Exhibit 1A was taken. Yvonne Izu said she did not have a date but looking at the extent of development, the picture is probably two years old. The scraped out area (in Exhibit 1A photo), maybe a third of the mauka portion is developed now. Ms. Izu also commented that Haseko does not object to staff's recommendation that the permit be reduced to 1.337.

Commissioner Balfour asked what their plans were once the water turns salty. Ms. Izu said that they are getting R1 water from the Board of Water Supply (BWS) and basically they are taking as much as BWS can supply to them. Ms. Izu said the original thinking was that BWS would provide 600,000 gallons per day but they haven't been able to do that. Ms. Izu explained that there is an irrigation pond at the golf course and BWS, for their operational purposes, supplies water to the golf course at night. BWS fills the irrigation pond on the golf course with as much water they can provide, some times filling up the pond, and other times not. Ms. Izu said that right now the chlorides do exceed a thousand and Haseko has a variance to exceed that limitation. The golf

Minutes

course uses very salt tolerant grass and has been working. Ms. Izu said, hope is that the BWS would figure out a way to get more R1 water to the golf course. Any water that's needed during the day that's not in the irrigation lake Haseko has to pump out of their wells.

Commissioner Balfour said that he mentions this is digging the marina basically at some point in time will salt up the caprock and it's not going to have a viable water supply. Ms. Izu said they are aware of that and their intent is to rely on R1 water and mentioned that a lot of the water need is for dust control. As the project is built out, the need for dust control water decreases.

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

E. NEXT COMMISSION MEETINGS (TENTATIVE)

1. May 19, 2010
2. June 16, 2010

Deputy Kawahara added that the commissioners were polled for their availability for the end of May to go back to east Maui on the interim IFS. Staff has received the data from the different parties that were asked of them during the December commission meeting and a subsequent meeting staff had with the parties. We are evaluating that data right now and will have a better indication if ready to return to Maui.

Chair Thielen mentioned that there was some question that since the Commission asked for more information and coming back, would we need to reopen the next Maui meeting for public testimony and the answer to that is yes we do.

F. MEETING WAS ADJOURNED.

Respectfully submitted,

KATHLEEN OSHIRO
Secretary

APPROVED AS SUBMITTED:

KEN C. KAWAHARA
Deputy Director