

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

DATE: August 25, 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 9:02 a.m.

The following were in attendance and/or excused:

MEMBERS: Ms. Laura Thielen, Dr. Chiyome Fukino, Mr. Neal Fujiwara, Mr. Sumner Erdman, Mr. William Balfour, Jr.

STAFF: Acting Deputy Director Lenore Ohye, Roy Hardy, Dean Uyeno, Robert Chong, Neal Fujii, Ryan Imata, Charley Ice, Chui Cheng

EXCUSED: Ms. Donna Kiyosaki, Dr. Lawrence Miike

COUNSEL: Julie China, Esq.

OTHERS: Ken Kawahara, Kevin Gooding (Oceanit), Jocelyn Doane (OHA), Pam Bunn (PJPN/OHA), Barbara Natale (KAUPA), Isaac Moriwake (Earthjustice)

(Note: language for deletion is ~~strikethrough~~; new/added is italicized and underlined.)

A. APPROVAL OF MINUTES

1. April 21, 2010

MOTION: (Erdman/Fujiwara)

To approve the minutes.

UNANIMOUSLY APPROVED.

2. May 25, 2010

Dr. Miike emailed his request to delete the word ‘apologize’ on page 29, first paragraph, 4th line from the end of the paragraph. The following reflects the requested change.

“Dr. Miike compared Mr. Benjamin’s response to a scientist saying that more research was needed, but then ~~went on to apologize~~ stated that the presentation by staff did not contain an explanation of HC&S’ reasonable uses but noted that it was provided in Exhibit G-1 (of Exhibit 2, Compilation of Data Submissions, Part II) that provided HC&S’ average monthly water need and availability.”

Chair Thielen also included the change to the word ‘need’ to ‘needed’.

MOTION: (Erdman/Fujiwara)

Minutes

To approve the minutes as amended.
UNANIMOUSLY APPROVED AS AMENDED.

B. ANNOUNCEMENTS

Acting Deputy Director Lenore Ohye read into the minutes:

“RESOLUTION

WHEREAS, Mr. Ken C. Kawahara, Deputy Director in the Commission on Water Resource Management, Department of Land and Natural Resources, has served the Commission faithfully and conscientiously.

WHEREAS, he separated his employment from the State of Hawaii on the thirtieth day of June, 2010;

WHEREAS, he began his public service with the Department of Land and Natural Resources, Commission on Water Resource Management, by accepting the appointment to the Deputy Director position and approval by the Commission on the eighteenth of June, 2007.

WHEREAS, his absence will surely be noticed by the public whom he served so well and by his fellow workers who sought from him guidance and support;

BE IT THEREFORE RESOLVED by the Commission on Water Resource Management at its meeting on the twenty fifth day of August that this body hereby expresses its appreciation for the services rendered by Mr. Ken C. Kawahara, and extends to him its sincere congratulations and best wishes in his future endeavors.

BE IT FUTHER RESOLVED that this resolution be transmitted to Mr. Ken C. Kawahara and a copy incorporated into the minutes of the Commission on Water Resource Management on this twenty-fifth day of August.

Done at the meeting of the Commission on Water Resource Management, Office of the Department of Land and Natural Resources, Honolulu, Hawaii, on the twenty-fifth day of August 2010.”

Ms. Ohye presented the Resolution to Mr. Kawahara.

Personnel Update: Ms. Ohye referred to the CWRM Organizational Chart (handout distributed) which is unofficial because it hasn't been amended with the Legislative changes made in the last session. The yellow boxes show the current vacancies; the deputy director and six other vacancies are pending. The administration is seeking qualified candidates to fill the deputy director's position. In addition, a request to fill the SPAM Branch Chief position, which is considered a high priority vacancy, was submitted to Budget and Finance. However, it was returned, and the Chair is considering resubmitting the request along with a number of other high priority vacancies in the department back to Budget and Finance for reconsideration.

Priority Task List: This list was distributed a few months ago and is still in draft form. It has been changed with minor revisions. The front page lists CWRM's high priority tasks that staff wants to continue. The back page lists tasks under our mandate that will be impacted or suspended because the Commission is down about 32% in staff resources. Ms. Ohye asked for any input as this Program Status & Evaluation will be finalized and used as an internal roadmap to guide the staff's work priorities in the immediate future.

Minutes

Chair Thielen mentioned that the departments across the State, going through the fiscal decline and reduction-in-force and furloughs, are reevaluating their focus rather than trying to do everything. The key thing is how we can be more efficient and effective. Commissioners' input is being sought to help guide staff on their focus.

Drought: Neal Fujii, State Drought and Water Conservation Coordinator, reported that the July 2010 year-to-date precipitation amounts were well below normal for all the Hawaiian Islands. The U.S. Drought Monitor (handouts distributed) indicates the drought designation continues to be D4 (Drought-Exceptional) on the Big Island in a couple of areas as well as D3 (Drought-Extreme) on the Big Island, Molokai, Maui and Lanai. Mr. Fujii said that we are in the middle of summer and it hasn't been getting better. The U.S. Seasonal Drought Outlook (handout valid to November 2010) indicates that drought is likely to persist or intensify in much of the State. The Climate Prediction Center's synopsis is that the current La Nina episode is expected to strengthen and last through the North Hemisphere winter 2010-2011. La Nina conditions are associated with normal to above normal rainfall amounts, but the relationship is not as strong as the relationship of El Nino to dry conditions. There may be some drought relief on the way.

The Climate Prediction Center is predicting a 40% chance of below normal rainfall through December. The USGS Water Watch website shows the percentile ranking of 28-day average stream flows for selected Hawaii streams. Many of the stations range from 'normal' to 'much below normal' category. The 'much below normal' category is the less than tenth percentile category.

On July 21, USDA Secretary Tom Vilsack designated the four counties in Hawaii as primary disaster areas due to the continuing drought that began January 1, 2010. This makes low interest loans available and activates some of the Farm Service Agency's emergency assistance programs. This information is available on both our Hawaii Drought website as well as the USDA Farm Service Agency website.

Hawaii Drought Council: Mr. Fujii reported that the Hawaii Drought Council met yesterday to discuss drought conditions and impacts across the State. The National Weather Service gave a briefing and the Council heard drought impact reports from the different sectors - water supply, agriculture, and wildfire. The water departments reported that they are not being impacted as of yet because many of their sources come from ground water. The USDA Farm Service Agency updated the Council on the supplemental assistance programs for this current drought disaster. The Council was also briefed on the status of Hawaii's emergency drought assistance request to Reclamation. Reclamation's decision on whether or not to fund these requests has yet to be made.

C. STREAM PROTECTION AND MANAGEMENT

1. **Application Stream Channel Alteration Permit (SCAP.2616.3), Three Rock Retaining Walls and Terraces, Kalihi Stream, Kalihi, Oahu, TMK: (1) 1-3-008:004**

Presentation By: Robert Chong

Minutes

Robert Chong stated that this was an application by a non-profit community group called KAUPA, and based on the environmental assessment exemption category, this project qualified as minor alteration and that there were no significant cumulative impacts.

Commissioner Fujiwara asked if the retaining walls were terraces built with soil. Mr. Chong said it will be built using the traditional Hawaiian dry-stack wall method. Commissioner Fujiwara was concerned that there will be trees grown behind the walls and depending on what type of trees are being grown, the roots can affect and weaken the whole retaining wall.

Barbara Natale, director of KAUPA, said that the height of the trees and the root mass will be taken into consideration, and that she was thinking of banana trees.

RECOMMENDATION:

That the Commission approve a Stream Channel Alteration Permit (SCAP.2616.3) for three rock retaining walls and terraces, Kalihi Stream in Kalihi, Oahu at TMK: (1) 1-3-008:004. The permit shall be subject to the Commission's standard conditions in Exhibit 5.

MOTION: (Fujiwara/Erdman)

To approve the submittal.

UNANIMOUSLY APPROVED.

D. GROUND WATER REGULATION

- 1. Sean Ginella, Applications for a Water Use Permit and Well Construction/Pump Installation Permits, Paumalu Well (Well No. 3901-01), TMK (1) 5-8-002:004, WUPA No. 881, Future (Agricultural) Use for 0.387 mgd, Kawaioloa Ground Water Management Area, Oahu**
Presentation by: Charley Ice

Charley Ice highlighted that the amount that was requested reflects the full irrigation requirements for the summer months and that when staff ran the Irrigation Water Requirement Estimation Decision Support System (IWREDSS) model, it averages use out over a 12-month period. So although the applicant requested 0.387 million gallons per day (mgd), staff recommends using the model, plus the amount of potable use, which totals 0.220 mgd rather than the 0.387 mgd that the applicant requested.

Commissioner Erdman asked if the applicant can use the 0.387 mgd during the summer months. Mr. Ice said yes, that the idea of using the averages is that use during the high use period would even out with low use in the winter time. Commissioner Erdman said they can't grow pangola grass on basically two inches of rainfall a month.

The applicant was not present to respond. Chair Thielen asked Mr. Ice what the applicant's response was when the recommendation was shared with them. Mr. Ice said the applicant did receive the submittal but staff hasn't heard from him.

Minutes

Chair Thielen said the answer to Commissioner Erdman's question is that the applicant would be allowed to use an amount based on a 12-month moving average. In the short-term the 0.387 mgd may be used, but over a 12-month period it must average out to 0.220 mgd.

Commissioner Fujiwara said the model did not provide for pangola grass but it provided for trees and other grass varieties and asked what the varieties are. Mr. Ice said he has forgotten what those three grasses are. Commissioner Fujiwara said he would like to make a request as he did many years ago, that on these types of irrigation requests, especially pastures, if the staff could provide rainfall within that area, the elevation and soil type if possible, that would help. Mr. Ice said it was a good suggestion.

Commissioner Balfour asked if a three year moving average was used in the past or was it always just the 12-month moving average. Roy Hardy responded that it has always been a 12-month, but prior to the Commission it had been a five year under the Board of Land and Natural Resources. Commissioner Balfour said with pasture and the 12-month moving average, he feels it is a little short and that a longer term is more reasonable because if it's a dry year you'd be in trouble. Commissioner Balfour would prefer three years as opposed to 12-months and asked if that could be considered. Chair Thielen asked if the 12-month moving average is in the Admin Rules. Mr. Hardy said no, nor is it in the Code. Ms. Ohye said that there is not a lot of guidance in the law and that the statistic is something that can be reviewed and revisited by staff. Commissioner Fujiwara said that there are not many areas that have irrigated pastures for a full 12-month and if they did, that it would break into the cost of raising cattle, many of the big cattle ranches don't have irrigated pastures.

Mr. Ice said the applicant is also basing his estimate on the experience of rainfall in that area and he has a clear picture of what the summer periods look like. Mr. Ice said he thought that for staff it would be useful for the Commission to chew over the fact with climate change and prolonged drought over the years, do we want to think about different kinds of averages or different ways of coming up with calculations to be, during dry periods any way, more generous.

Roy Hardy stated for clarification that the model does consider the one-in-five year drought. That's the standard that was selected and recommended by UH College of Tropical Agriculture and Human Resources (UH/CTAHR) when they proposed this model. It does consider the typical five year drought scenario; more extreme drought periods are calculated as well.

Chair Thielen thought that it would be most helpful to the Commission if staff would revisit the 12-month moving average and make recommendations on changing some of those guidelines and if the recommendation is not to change them, to be prepared for the questions from the Commission because these are going to continue to come up, given the drought and chronic problems especially around the pastures that commissioners are hearing from their islands. Chair Thielen encouraged the staff to continue that discussion because it will come up again.

RECOMMENDATION:

Staff recommends that the Commission:

- A. Approve the issuance of water use permit no. 881 to Sean Ginella for the reasonable and beneficial use of 0.220 million gallons per day of potable water for agricultural use from

Minutes

the proposed Paumalu Well (Well No. 3901-01), 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. 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/Pump Installation Permits for the Paumalu Well (Well No. 3901-01), subject to the standard conditions in Attachments C & D.
- C. Should pump tests show evidence of interference with Paumalu or Kaunala Streams, the applicant shall petition for an Interim Instream Flow Standard (IIFS) amendment to accommodate the water use permit allocation.

MOTION: (Fujiwara/Erdman, with some reservations)
No vote taken.

Motion was made to amend Staff's recommendation to increase 0.220 mgd to 0.300 mgd.

- A. Approve the issuance of water use permit no. 881 to Sean Ginella for the reasonable and beneficial use of ~~0.220~~ 0.300 million gallons per day of potable water for agricultural use from the proposed Paumalu Well (Well No. 3901-01), 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. 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/Pump Installation Permits for the Paumalu Well (Well No. 3901-01), subject to the standard conditions in Attachments C & D.
- C. Should pump tests show evidence of interference with Paumalu or Kaunala Streams, the applicant shall petition for an Interim Instream Flow Standard (IIFS) amendment to accommodate the water use permit allocation.

MOTION: (Sumner/Fujiwara)
To approve the submittal as amended.
UNANIMOUSLY APPROVED AS AMENDED.

2. **Division of Forestry and Wildlife, APPLICATION FOR A WATER USE PERMIT, Kawainui 1 to 11 Wells (Well No. 2235-05 to -11, 2345-02 to -05),**

Minutes

TMK 4-2-013:005, 4-2 013:022, WUP No. 882, Future (Irrigation) Use for 0.202 mgd, Waimanalo Ground Water Management Area, Oahu

Presentation by: Ryan Imata

Ryan Imata stated that typically staff would look at requested allocations in this aquifer system and look at the one-to-one relationship between pumping ground water and surface water but in this case the applicant/consultant did an analysis to show the de minimus effects on the adjacent stream. Staff also looked at that in terms of the 343 requirement and thought that the exemption for minor alteration of the conditions of water to be applicable.

RECOMMENDATION:

Staff recommended that the Commission:

- A. Approve the issuance of water use permit no. 882 to Division of Forestry and Wildlife for the reasonable and beneficial use of 0.202 million gallons per day of fresh water for habitat maintenance from the Kawainui 1 to 11 Wells (Well No. 2235-05 to -11, 2345-02 to -05), 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. 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.
 - 3. Cumulative pump tests of the entire system (i.e. all 11 pumps pumping together) must show that there are no adverse effects on other existing legal uses and/or surface water. If pump tests show any potential adverse effects, the pump capacities shall be reduced until such time as the cumulative pump test does not show any potential adverse effects.
- B. Declare that, after considering the effects of the proposed Water Use Permit as provided by Chapter 343 HRS and Chapter 11-200, HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of a supplemental EA.
- C. Authorize the chair to approve and issue well construction and pump installation permits at a later date, subject to pump test results and the standard conditions of Well Construction and Pump Installation Permits.

MOTION: (Erdman/Balfour)

To approve the submittal.

UNANIMOUSLY APPROVED.

Minutes

3. Brent Cullinan, Application for a Water Use Permit, Brent's Well (Well No. 3104-03), TMK 6-5-002:024, WUP No. 896, Future (Agricultural, Irrigation, Domestic) Use for 0.032 mgd, Wahiawa Ground Water Management Area, Oahu

Presentation by: Ryan Imata

The applicants were asking for a higher amount but staff is recommending 0.029 mgd. Ryan added that in doing the analysis, staff changed the recommendations based on a couple of minor tweaks; 1) the bigger one being the zeroing out of the initial reservoir filling since that's not something the applicant would do on a yearly basis; and 2) given the fact that recently the Commission issued a water use permit that took into account about 2-1/2 gallons per day, per pig. Relatively, compared to the entire amount they're asking, that's about 225 gallons per day that he really didn't think it would show up on the 12-month moving average. Commissioner Erdman said the 2-1/2 gallons is probably more realistic than the 10 gallons requested by the applicant. Normally goats are not big water users and by doing that it's not going to show up unless it was a larger project.

Chair Thielen noticed that staff kept the same reservoir evaporation rate but on the initial reservoir filling even though it's not included in the 12-month moving average, it's something that they will be able to do. Mr. Imata said that he thought because the pump capacity is 45 gallons per minute and if they are doing everything else, they are going to spread that initial reservoir filling across a couple of weeks to fill the reservoir or do it all at one time and suspend other operations until they get the reservoir filled.

RECOMMENDATION:

Staff recommends that the Commission approve the issuance of water use permit no. 896 to Brent Cullinan for the reasonable and beneficial use of 0.029 million gallons per day of Potable water for Agricultural, Irrigation, Domestic from the Brent's Well (Well No. 3104-03), 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. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

MOTION: (Erdman/Fujiwara)

To approve the submittal.

UNANIMOUSLY APPROVED.

E. NON-ACTION ITEM

(Taken out of order; E2 on the agenda taken first.)

1. Update on the Implementation of Maui Interim Instream Flow Standards

Presentation by: Dean Uyeno

Minutes

Handouts were distributed and made a part of the record.

Dean Uyeno reported that following the May 25, 2010 decision by the Commission, staff accompanied East Maui Irrigation Co. (EMI) on June 23-24, 2010, along with U.S. Geological (USGS) and the Division of Aquatic Resources (DAR) to measure and implement streamflow releases on Honopou Stream. The group also looked at different streams where interim IFS values were amended to look at streamflow, diversion, and select monitoring sites. Staff has been coordinating with USGS, DAR, and EMI in meeting objectives as outlined in the handout. During the week of September 13-17, 2010, staff will be accompanying EMI to release water past the Wailoa Ditch intake on Makapipi Stream, while USGS will be conducting a week-long controlled flow release study.

On the Na Wai Eha implementation, staff began teleconferencing with Wailuku Water Company (WWC) and Hawaiian Commercial and Sugar Company (HC&S) in late July. On August 2, 2010, a press release was issued to inform the public of the release and any potential safety concerns. On August 9, 2010, water was released on Waihee River and North Waiehu Stream. Water was released on South Waiehu Stream on August 10, 2010. Future actions for Na Wai Eha are outlined in the handout.

Chair Thielen said that one of the comments that she wanted to point out is that there have been some other cases where the court has ordered water returned to the stream, most notably Waiahole and Waikane, and in that case the Commission was dealing with a water user that went out of business, what to do with that water that's been allocated to that user, and a relatively simple system in comparison to this. What the staff is doing in both east and west Maui is dealing with restoration of water from an incredibly complex, multiple ditch, multiple stream system, with existing users for the diversions, people downstream seeking water, and it's been a tremendous effort. Plus, unlike the court cases, the staff is responsible for gathering all the science and doing the measurements and making the recommendations in the east Maui streams. So, it's been three years of immense effort and with this implementation, going out and doing implementation on two streams in west Maui where there are multiple ditch systems staking off and having to do measurements, restorations between multiple diversions along the same stream and then the eight streams over on east Maui, it's really been a phenomenal effort. Chair Thielen wanted to commend staff for marching through that over the past three years doing these updates, photographs, coordinating with the various parties, and having open communications throughout. This is the first time an effort like this has been done, so there are a lot of people that are second guessing what the staff is doing. Chair Thielen wanted to emphasize that she commends staff's efforts and to continue to do what it takes to get the implementation done.

Dr. Fukino asked how many kuleana users were cut off versus how many had restoration below. Mr. Uyeno said specifically for south Waiehu there is possibly four up to seven users that may have been affected. Mr. Uyeno stated that they are working with word of mouth and water use permits, and in that case only two of the four applied for water use permits and the other two staff wasn't aware of until speaking with the parties, HC&S and Earthjustice. He didn't believe there were any stream diversions below down to the ocean. It's a different case in north Waiehu where water was restored. There is an intake off of north Waiehu below the diversion and Robert Chong would have it in his water use permit field reports.

Minutes

In the case of Waihee, there are a lot more users that take off of the ditch. The kuleana users are provided with water through the WWWC/ HC&S system so there was greater concern releasing the full amount and not knowing what the impact to the water head, or the pressure they would be getting through their water system. Staff will need to look at that when the parties implement the full release.

Acting Deputy Ohye wanted to update what was happening out at south Waihee. Ms. Ohye said that Wailuku Water Company informed her that on August 3rd, someone had taken it into their own hands to close the gate to restore the ditch flow and Wailuku Water undid that, but it happened again yesterday and they undid that. Ms. Ohye reported that Wailuku Water is concerned that someone is blocking up the flow that it's going to push the ditch walls and cause the failure of ditch system.

2. Na Wai Eha Surface Water Management Areas: Briefing on Applications for Surface Water Use Permits for Existing Uses

Presentation by: Robert Chong

Three handouts were distributed and made a part of the record. The first handout was the information sheet; the second handout was a listing of all 125 surface water use permit applications; and the third handout was a list of all the objections received regarding the surface water use permits.

Mr. Chong said 115 of the 125 applications were accepted; 10 applications were either incomplete or late; 69 applications were claiming appurtenant rights, and 301 objections to the surface water use permits were filed.

Chair Thielen confirmed with Deputy AG Julie China that the Commission could accept public testimony for non-action items.

1. Pam Bunn wanted to echo Chair's remarks on staffs' dedication and hard work on getting this implementation done. It really has been phenomenal and they have been working very hard. Ms. Bunn said with respect to the south Waiehu stream the parties worked before the release to try to reach a stipulation which is with the Deputy AG for review. This stipulation would be in effect a partial stay of the order while some of the mechanical issues got worked out; how to split flow between the stream and the ditch where the kuleana users could take it is one of the issues. Another issue is it apparently takes 0.5 mgd going into the ditch to get 0.25 to the kuleana users and that is something that HC&S agreed to look at to see if they can improve the efficiency of that. The parties are in agreement about at least what the immediate term should be done about it.

2. Isaac Moriwake stated that the Commissioners are aware that kuleana users have been cut-off during this implementation phase of the Na Wai Eha instream flow standards. This was brought to his attention several days before the implementation was to take place. There was a very intense couple of days of scramble on the part of their office, their clients and the Office of Hawaiian Affairs, trying to contact the parties to see what was going on, trying to contact the kuleana users who didn't testify in this case who are not represented by

Minutes

anyone, working directly with HC&S on south Waiehu. On the day of the implementation (he heard of this on Thursday and the following Monday was the implementation) they were trying to sort this out. For two weeks, the kuleana users on south Waiehu have been cut-off. As far as he is concerned, it's an unacceptable situation because these users are constitutionally protected. If anyone takes off the streams at all, these users should be provided for first. Mr. Moriwake stated that none of the parties object to it, it's in writing in terms of contracts, Wailuku Water Company has client contracts between Wailuku Water Company and HC&S and should be undisputed as far as legal obligations to supply these users.

Chair Thielen said that Mr. Moriwake mentioned that the kuleana users taking out of the ditch were not represented and she understands that they might not be one of Mr. Moriwake's clients, but pointed out that the Office of Hawaiian Affairs does represent all beneficiaries which would include kuleana users. Chair Thielen thought Mr. Moriwake had implications in his statement that these users were only working with HC&S people taking off the ditch and were obviously continuing working with Wailuku Water Company and HC&S as far as getting their water off the ditch, but these people were also available to you and the Office of Hawaiian Affairs in doing due diligence in the case. Chair Thielen did not make her comments to be argumentative but to correct those statements.

3. Jocelyn Doane responded that OHA recognizes that some of the kuleanas may be beneficiaries; one that's been affected has been identified as an ohana beneficiary. Not all kuleana users were constitutionally protected have to be Hawaiian, and the understanding is that most of them are not OHA beneficiaries, but there is concern about the fact that they're being cut off so OHA, Earthjustice and as well as the other parties have been working on a resolution to that.

F. NEXT COMMISSION MEETINGS (TENTATIVE)

1. September 15, 2010
2. October 20, 2010

G. The meeting was adjourned.

Respectfully submitted,

KATHLEEN OSHIRO
Secretary

APPROVED AS SUBMITTED:

LENORE N. OYHE
Acting Deputy Director