

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: April 20, 2011
TIME: 9:00 am
PLACE: DLNR Board Room
Kalanimoku Bldg.

Vice Chair Lawrence Miike called the meeting of the Commission on Water Resource Management to order at 9:03 a.m.

The following were in attendance:

MEMBERS: Mr. Lawrence Miike, Mr. Neal Fujiwara, Mr. Sumner Erdman, Mr. William Balfour, Jr., Ms. Donna Fay Kiyosaki, and Ms. Loretta Fuddy.

STAFF: William Tam, Robert Chong, Neal Fujii, and Ryan Imata

COUNSEL: Colin Lau, Esq.

OTHERS: Larry Beck, Thomas Fake, Jonathan Scheuer, Jon Nishimura, Keith Chang

A. APPROVAL OF MINUTES

March 16, 2011

MOTION: (Erdman/Balfour)
To approve the minutes.
UNANIMOUSLY APPROVED.

B. ANNOUNCEMENTS

Deputy Tam updated the Commission on legislative matters and the budget. He informed them that a series of hydroelectric projects on Kauai are before the Federal Energy Regulatory Commission (FERC) for preliminary permits which is a priority claim to file a license. Discussions continue regarding FERC exemptions.

C. STREAM PROTECTION AND MANAGEMENT

1. Application for Stream Channel Alteration Permit for Streambank Protection and Stabilization, Riverside Apartments, 333 Ohai Street, Wailuku River Hilo, Hawaii, TMK: (3) 2-6-003:009

Staff presentation by Robert Chong.

RECOMMENDATIONS:

1. That the Commission approve the applicant's Stream Channel Alteration Permit (SCAP.2868.8) for Streambank Protection and Stabilization, Riverside Apartments, 333 Ohai Street, Wailuku River in Hilo, Hawaii at TMK: (3) 2-6-003:009, subject to the standard conditions in Exhibit 5.

Kealohi Sandefur, Project Engineer with Yogi Kwong Engineers, LLC (YKE) addressed Commissioner Erdman's concerns regarding the stream bank slope stability. YKE assessed the stream bank and Mr. Sandefur testified that the rock outcrop appeared to be a very competent mass rock formation, relatively resistant to scouring. He reassured Commissioner Erdman that he did not foresee short-term problems. Mr. Sandefur explained the reinforced shotcrete construction and the drainage system design.

In reference to Commissioner Fujiwara's comment regarding the proposed streambank protection and stabilization work not qualifying for "emergency work", Mr. Sandefur stated that the unprotected slopes are prone to progressive erosion however, the February 2008 slope failure was an isolated event.

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

D. NON ACTION

1. Briefing on the County of Hawaii's Water Use and Development Plan Update

Mr. Fujii provided background information on the Water Use and Development Plan (WUDP). He introduced Larry Beck, Head of the Water Resources County of Hawaii Department of Water Supply and Jon Nishimura, President of Fukunaga & Associates. Jon Nishimura thanked the Commission for allowing him to present a powerpoint presentation on the County of Hawaii's WUDP.

Mr. Nishimura stated that the objective was to set forth the allocation of water to land use and to use this as a guideline for the County and its planning, management and development of water resources to meet projected demands. Key tasks included: 1) inventory of water related infrastructure and resources, 2) assessment of the County's land use plans and policies, 3) projection of the future water demands, 4) identification of the supply-side resource and demand-side options and 5) public participation and stakeholder input/review.

Land use plans and policies included three primary levels of land use planning: 1) state land use classification 2) County general plan - the "County's Vision" for development on the Big Island and 3) County zoning which is the allowable development of property by ordinance.

Identification of water resources included: 1) develop conventional water system infrastructure, 2) alternative water resource measures: desalination and reclaimed water and 3) demand side measures: conservation programs, landscape management and reduced development density.

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Public comments included: 1) objection to the use of Ag unit rate (3,400 gallons per day per acre irrigation figure), 2) objection to the assumption that all important agricultural lands are irrigated and 3) an assumed unit density rate of 35 units per acre unrealistically high.

Refinements to the Plan included revisiting the 1) full build-out demands with and without agricultural demands and 2) urban expansion area unit density rates.

General recommendations included: 1) promote water conservation, 2) use highest quality water for highest uses, 3) plan for use of non-potable sources and reclaimed water for landscape irrigation and agriculture, 4) more monitoring and studies to determine safe sustainable yields for ground water and 5) status quo use for stream surface water resources until the instream flow standards are established.

Mr. Nishimura referenced the implementation plan and concluded that 1) Department of Water Supply completed its twenty year water master plan for its CIP improvements, 2) Fukunaga & Associates initiated the long-term cooperation with the Department of Water Supply, Planning Department and County's Community Development Plans and 3) Fukunaga & Associates will pursue a regional assessment of available water resources in West Hawaii. The final draft is posted on the Department of Water Supply website: www.hawaiiidws.org.

Mr. Fujii stated that a public hearing will be held in August and comments on the report are welcomed.

2. Briefing on a Project to Develop a Statewide Water Conservation Program

Mr. Fujii presented a powerpoint presentation and provided a project update. The major objectives are to 1) develop a statewide strategy and policy framework, 2) develop a conservation program and 3) work collaboratively with all the stakeholders. Tasks include establishing a conservation advisory group to analyze different sectors for the potential for water conservation and cost effectiveness. The first meeting of the water conservation advisory group is tentatively scheduled for the third week in May to discuss the project. Staff will provide the Commission with semi-annual water conservation updates.

3. Briefing on the Waiahole Ditch Revocations

Staff presentation by Ryan Imata.

Mr. Imata distributed a handout and summarized the current permit status. He noted that the biggest change reflects the Intermediate Court of Appeals' Order to vacate Puu Makakilo Golf Course's water use permit application.

In reference to the bar graph and Commissioner Erdman's question regarding Syngenta's allocation, Mr. Imata explained that the 0.059 mgd represents Syngenta's existing permit allocation and does not include the additional requested allocation.

Mr. Imata highlighted Castle & Cooke's permit and explained that on his site investigation he discovered that the area that is now the Central Oahu Regional Park was accounted for in the

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Waiahole Contested Case Hearing, however it is no longer owned by Castle & Cooke and Waiahole water is not being used to irrigate that portion.

Vice Chair Miike commented that when a property is sold, the current water use permit remains with the land and the new owner is registered. Mr. Imata stated that in this case, the City and County does not use Waiahole water for the Central Oahu Regional Park. Staff met with Castle & Cooke's attorneys to discuss a permit modification to modify the reduction in agricultural water needs.

Commissioner Erdman mentioned that staff should consult with the City and County to discuss retaining the permit and its current use. Mr. Imata agreed, however he noted that it would not be realistic to transfer the current water use permit if the use has changed from agricultural use.

Mr. Imata concluded that there were eleven permittees and each of them provided reasons not to revoke their permits. Given the current economic situation and current land use changes, he suggested re-evaluating the four year non-use revocations at a later date. He noted that only a portion of Castle & Cooke's 267 acres is attributed to agricultural use and clarified that the only modification will be approximately 200,000 gpd for the entire system.

Vice Chair Miike stated that as long as there is production on the lands, the Commission is not compelled to revoke a permit.

Vice-Chair Miike asked for a memo from the Deputy Attorney General explaining the rationale regarding the 2000 Waiahole Contested Case that said if there is an indisputable relationship between surface water and ground water, both are subject to the permit provisions of the Code. The Commission has not done anything on the surface water diversions on Waiahole on the Windward side. One of which includes McCandless pipeline which is a diversion from the ditch into Waikane Stream. The Commission said it was going to subject them to permits. The Commission has never done that. On Maui because of the connection between surface water and ground water, the Commission designated a surface water management area. The Commission did not designate Waiahole. According to the Attorney General's office, the Supreme Court's decision said that the Commission needs to designate Waiahole as a surface water management area. Vice Chair Miike disagreed and asked why does the Attorney General's office believe the Commission has to designate a surface water management area first and why hasn't it been designated.

Mr. Imata noted that staff met with the McCandless permittees and there was uncertainty regarding metered uses in addition to the fact that no one wanted to be held accountable for the permit.

Vice Chair Miike added 1) one of the issues was the maintenance of the pipeline, 2) people taking water off the stream should be subject to the permit provisions and 3) it is not acceptable to object to diversions on the leeward side and not do anything on the windward side.

Mr. Imata noted that ADC has not provided Commission staff with an update regarding reservoir repairs due to financial considerations.

Vice Chair Miike asked staff to provide the Commission with the system losses data.

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In response to Vice Chair Miike's comment that with the exception of Castle & Cooke's transfer of property, there is no serious indication of non-use of allocated water, Mr. Imata cited Kamehameha Schools' as an example and explained that although 80% of its allocation is unused, it is a relatively small amount. Mr. Imata noted that KS presented staff with an agricultural plan to develop that area in the future.

Deputy Tam announced that 1) a request for a video conferencing system will be taken to the Land Board this quarter, 2) the goal for the October 19 Na Wai Eha public hearing is to deal with the appurtenant rights issue and 3) staff welcomes requests for briefing topics.

F. NEXT COMMISSION MEETINGS (TENTATIVE)

1. May 18, 2011
2. June 15, 2011

Meeting was adjourned at 10:47 a.m.

Respectfully submitted,

KATHY YODA

APPROVED AS SUBMITTED:

WILLIAM M. TAM
Deputy Director