

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

Approved by Commission on
Water Resource Management
at the meeting held on
DEC 19 2012

DATE: November 21, 2012
TIME: 9:00 am
PLACE: DLNR Board Room
Kalanimoku Bldg.
1151 Punchbowl St., Room 227
Honolulu, Hawaii 96813

Chairperson William Aila, Jr. called the meeting of the Commission on Water Resource Management to order at 9:08 am.

The following were in attendance:

MEMBERS: Mr. William Aila, Jr., Mr. Sumner Erdman, Mr. Ted Yamamura, Mr. William Balfour, Mr. Jonathan Starr, Ms. Loretta Fuddy, Mr. Neal Fujiwara

ABSENT: None

STAFF: William Tam, Lenore Ohye, Roy Hardy, Neal Fujii, Charley Ice, Paul Eyre, Patrick Casey

COUNSEL: Linda Chow, Esq.

OTHERS: H. Doug Matsuoka (Hawaii Guerilla Video Hui), James W. Macey, Yvonne Izu (Moriyama, Lau & Fong), Yarrow Flower (Monsanto), Scout Hammond (Hawaii Pacific University), Jacqueline Puppe (Hawaii Pacific University), Wayne Tanaka (Office of Hawaiian Affairs), Kaleo Manuel (DHHL), Angela Kieran-Vast (DOD), Mark Takemoto (Pioneer Hi-Bred), Earl Kawaa (Kua 'aina), Pono Kealoha, Daniel Anthony (Mana Ai), David Martin, Walter Ritte

A. APPROVAL OF MINUTES

October 10, 2012

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

B. ANNOUNCEMENTS

Neal Fujii (Commission on Water Resource Management) announced the upcoming Water Re-Use Conference hosted by the Hawaii Water Environment Association (HWEA) / American Water Works Association (AWWA) on November 29-30, 2012 in Kona.

C. STREAM PROTECTION AND MANAGEMENT

- 1. Application for Stream Diversion Works Permit (SDWP.3653.3), Petition to Amend Instream Flow Standard (PAIFS.3654.3), Declaratory Ruling No. DEC-ADM12-14, To allow *de minimis* amounts of water (i.e. less than five percent of the annual mean flow of a stream) to be withdrawn from a stream for data collection, research and scientific purposes, Manoa Stream, Honolulu, Oahu (TMK: (1) 2-8-029:015)**

SUBMITTAL PRESENTATION by: Robert Chong

Item C-1 is an application for a Stream Diversion Works Permit as well as a petition to amend the Instream Flow Standard. Staff is requesting that the Declaratory Ruling be withdrawn. The applicant is the University of Hawaii (UH) Water Resources Research Center. They would like to collect 350 gallons of water twice a week for a period of three months. UH is looking to test a slow-sand filtration system with an ultra violet and filtration unit to assess how well these devices filter out contaminants in the stream water. There are no major issues. The applicant is requesting a minimum amount of water that is equivalent to 0.017 million gallons per day (mgd). The annual mean stream flow for Manoa Stream is 10.74 cubic feet per second (cfs), equivalent to 0.5 percent. This request is considered a minimal amount that would have negligible impact.

RECOMMENDATION:

That the Commission:

1. Approve the applicant's Stream Diversion Works Permit (SDWP.3653.3) for a Honda WX 15 pump in Manoa Stream, Honolulu, Oahu within TMK: (1) 2-8-029:015);
2. Allow the applicant to divert up to 350 gallons of water, twice a week, at a pumping rate of 0.055 cfs for three months for data collection and research purposes;
3. Find that the applicant's proposed withdrawal rate 0.017 mgd is considered *de minimus*; therefore, a Petition to Amend Instream Flow Standar (PAIFS) is not required; and

(DISCUSSION)

Chairperson Aila asked if the applicant was present.

Mr. Chong replied "no."

Commissioner Erdman asked if there was anything on the end of the suction pipe.

Mr. Chong said "no." The description of the pipe indicates that it is a rigid perforated head, wrapped with fiber glass mesh.

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

D. GROUND WATER REGULATION

- 1. Hydraflx Systems, LLC, Application For A Water Use Permit, Hydraflx Well (Well No. 2057-005), TMK (1) 9-9-001: 013, WUP No. 959, Future (Military) Use for 450 gallons per day, Waimalu Ground Water Management Area, Oahu**

SUBMITTAL PRESENTATION by: Roy Hardy

Item D-1 is a small request for 450 gallons per day (gdp) for the Hydraflx Well for scientific purposes to develop hydrogen-to-fuel conversion. The well sits on the eastern edge of the entrance to Pearl Harbor in the Waimalu Ground Water Management Area (GWMA). The application was received by the Commission at the beginning of September 2012. The sustainable yield of the Waimalu GWMA is estimated at 45 mgd. There is not enough basal water for this request. However, the well will not tap the basal aquifer (Figure, page 3). The well will tap the overlying Ewa caprock formation and will not count against the basal estimate for sustainable yield. Evidence for this comes from two nearby wells, indicating that the well will be shallow (~ 180 feet), stay within the caprock and not impact the basal aquifer. Well construction standards insure that wells only tap one aquifer. The small amount is equivalent to a single-family residence. Staff asked if the applicant could substitute the new well for an existing well, but they said the existing well is too far away. The request does not trigger the need for an Environmental Assessment (EA) because it is on federal land. A categorical exemption was issued by the Naval Facilities Engineering Command (NAVFAC) for the larger extent of this project on September 26, 2011, thus alleviating the National Environmental Policy Act (NEPA) environmental review concerns. The Honolulu Board of Water Supply (HBWS) is the main water user in this area. HBWS is working on a Water Use and Development Plan for the area that would include the Waimalu Aquifer System. The over-allocation issue will be addressed in that plan. Unless there is a new request for basal water, the Commission does not intend to revoke any permits.

RECOMMENDATION:

That the Commission:

Approve the issuance of Water Use Permit No. 959 to Hydraflx Systems, LLC for the reasonable and beneficial use of 0.000 mgd (450 gdp) million gallons per day of caprock potable water for military use from the proposed Hydraflx Well (Well No. 2057-005). The permit is subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

1. Well 2057-005 shall only be allowed to tap the caprock formation within the Waimalu Ground Water Management Area. Should the well encounter

basaltic geology; hence basal conditions, the well shall be backfilled to remain within the caprock formation and prevent the leakage or use of basal ground water.

2. 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.
3. 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.
4. Standard Condition 16 for a water shortage plan requirement is waived.

(DISCUSSION)

Commissioner Starr asked what mechanisms would ensure that the well does not pierce the caprock and be limited to 450 gdp.

Mr. Hardy said staff would observe the cuttings. The standards state that the applicant must stay within the caprock and submit monthly water use reports.

Commissioner Erdman asked if the aquifer's sustainable yield was calculated before or after sugar production.

Mr. Hardy replied "after." The latest sustainable yield numbers come from 2000.

Commissioner Erdman asked why the applicant would drill the well when the cost to drill would likely exceed the small amount requested for pumping.

Mr. Hardy replied that the applicant is field testing for other parts of the world where similar wells might be drilled.

Commissioner Starr said he was aware of the comments submitted by the Department of Hawaiian Home Lands (DHHL) and said he did not feel that the use would interfere. He requested that DHHL communicate early on about future uses and their needs for water.

Commissioner Balfour commented that caprock water is non-potable and can only be used for irrigation. He said it would not threaten other allocations.

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

2. Monsanto Company, Applications for:

- 1) Ground Water Use Permit;**
- 2) Well Construction Permit; AND**
- 3) Pump Installation Permit**

For 2.636 MGD. For Future Emergency Back-up to an Existing Ground Water Use Permit, Agricultural Use, Kunia Farm Well No. 1 (Well No. 2402-06), TMK (1) 9-2-001:001, GWUPA No. 954, Waipahu-Waiawa Ground Water Management Area, Oahu

AND

Amend Declaratory Ruling (DEC-ADM12-G6) to Allow Issuance of Pump Installation Permit Without a Ground Water Use Permit - In case of an Emergency in Ground Water Management Areas

SUBMITTAL PRESENTATION by: Deputy Director, William Tam

Item D-2 is a request by Monsanto Company for 2.636 mgd of water from the Waipahu-Waiawa GWMA as a source of back-up for the potential loss of water from a failure of the Waiahole Ditch. The application is for a 1) Well Construction Permit 2) Pump Installation Permit, and 3) Ground Water Use Permit. There are four parts to the staff's recommendation. The Declaratory Ruling (part four) does not require action today and is not essential to the application.

The Waipahu-Waiawa area is a designated water management area. The sustainable yield is currently 104 mgd and potentially 16 mgd is available. Agriculture is considered a reasonable and beneficial use. The HWBS is interested in using the water in this area for future municipal needs. The Water Commission and the Hawaii Supreme Court agree that future municipal needs are the primary goal for the use of this water. Reclaimed and re-use water is not currently available, but has potential to be used in this area in the future. A double allocation for the same purpose on the same land would not meet the public interest requirement. The DHHL has a reservation of 1.35 mgd to meet their needs but has not submitted a request. The permit would not violate any DHHL reservation claims in the area. The request does not trigger the need for an EA.

Several issues were brought up by the Water Commission regarding Monsanto's request. While the Commission has in some instances issued permits for a battery of wells (i.e. HBWS), issuing a water use permit for zero allocation has never been done. Monsanto is concerned about the failure of the Waiahole Ditch and the survival of their crops. A number of mechanisms under the Water Code lay out practical solutions to this problem that would not require the issuance of an additional water use permit. In fact, there is potential for the HBWS to supply water on an emergency basis via their pipeline along Kunia Road.

If the Water Commission were to grant Monsanto's request for an additional water use permit, there would be no principle basis to deny other applicants from making similar requests for "back-up" systems. If the remaining allocations went to back-up, no new applicants could apply. Water would be reserved for existing users and no new uses would be allowed. It is not possible to do this legally.

Emergency provisions defined in the Water Code are another solution to Monsanto's request. Emergency plans can tailor the remedy to the problem, especially since Monsanto is not the only agriculture user who will need emergency water. There is concern that the Commission would not be able to act quickly enough in an emergency situation. The Commission has a fiduciary duty to respond and the authority to meet on an emergency basis.

The practice in the past has been to *not* approve the Pump Installation Permit prior to the issuance of a Water Use Permit. However, there are instances where the Commission has deemed it appropriate. In the case of Monsanto, it would be subject to having an emergency plan on file. The Commission withdraws the need for a declaratory ruling at this time. The Commission requests that recommendations 4, 5, 6, and 9 (page 17) be withdrawn since they are predicated on approval of the prospectus emergency process. No prescriptive set of rules for how to handle an emergency situation are being addressed today.

RECOMMENDATION:

That the Commission:

- A. DENY Monsanto's Application for a Ground Water Use Permit.
- B. APPROVE Monsanto's applications for a Well Construction Permit and a Pump Installation Permit, but only after Monsanto obtains a contractor who signs the application and SUBJECT TO THE TERMS AND CONDITIONS set forth in this Submittal.
- C. DIRECT AND REQUIRE Monsanto to prepare and file an "Emergency Plan" as set forth in this Submittal.
- ~~D. REVISE EXISTING DECLARATORY RULINGS DEC ADM 92 G0 and DEC ADM 94 G2 (Exhibits 4 & 5) and ADOPT A NEW DECLARATORY RULING No. ADM 12 G6 to allow the issuance of a pump installation permit for emergency use in a Ground Water Management Areas without a concurrent water use permit.~~

ALL PROVIDED that the following terms and conditions are met:

- 1. Monsanto shall submit an "Emergency Plan" to address potential failures to the Waiahole water system that currently supplies Monsanto with water.
- 2. The Emergency Plan shall include and describe the following:
 - a. The time that Monsanto can operate without Waiahole water if the Waiahole Ditch System (or different parts of the system) fail;
 - b. The kinds of failures and estimated time to repair each;
 - c. All the information required by a Water Use Permit Application;
 - d. A statement by Monsanto verifying that it will pump its wells in a manner that ensures no harm to any third party;

- e. Such other terms and conditions as the Chairperson may prescribe.
3. Staff will present Monsanto's Emergency Plan to the Commission for consideration and approval. If the Commission's approves the Emergency Plan, the Commission will authorize the Pump Installation Permit.
4. ~~If an emergency (as defined in the "Emergency Plan") occurs, Monsanto shall notify the Commission immediately and request authorization to turn on the pump.~~
5. ~~Upon such notification, Monsanto shall be able to immediately activate and use the pump to replace permitted Waiahole water not available to Monsanto, provided that the emergency upon which Monsanto is acting, is an emergency covered in Monsanto's Emergency Plan. The right to pump shall continue until the Commission has the opportunity to act on the Applicant's Remedial Action Plan (as set forth below).~~
6. ~~Not later than 10 calendar days (or the next business day if the date falls on a weekend or holiday) after Monsanto notifies the Commission of an "Emergency" under its approved Plan, Monsanto shall submit a "Remedial Action Plan" describing the problem, estimating how long it will take to fix it, alternatives to the lost source, and a plan of action. If the repair is estimated to take longer than one year, the applicant shall also apply for a water use permit for the well.~~
7. Monsanto shall conduct any required pump tests in accordance with the Hawaii Well Construction and Pump Installation Standards, and submit the results within 24 hours of completing the test.
8. Monsanto shall provide and report all information requested by the Commission on a regular and timely basis.
9. ~~If the "emergency" is not one described and covered in an approved emergency plan, then Monsanto shall notify the Commission, submit its Remedial Action Plan within the same 10 calendar day period. However, the Applicant's right to pump shall not extend beyond 45 days, unless otherwise approved by the Commission.~~
10. At any time, the Commission reserves the right and may issue orders to cease pumping the well or require additional testing requirements (monitoring water levels in adjacent monitor wells, etc.), to ensure that there are no harmful effects of pumpage on the aquifer and third parties.

(DISCUSSION)

Commissioner Starr asked if part D of the recommendation would be withdrawn.

Deputy Tam responded "yes."

Commissioner Starr asked if part D and sections 4, 5, 6 and 9 were being withdrawn from staff's recommendation.

Deputy Tam said "correct."

Commissioner Starr asked about options for storage and why it was not being looked at as an alternative.

Deputy Tam responded that reservoirs do exist. However, it is unlikely that it would be enough to meet the long term needs. It will depend on the nature of the emergency and how many users are affected.

Commissioner Starr asked how many agriculture users would be affected if there was a catastrophic failure of the Waiahole Ditch.

Deputy Tam said that water withdrawals can vary. All the former Campbell Estate lands are in some state of agriculture use, as well as Castle and Cooke. Water use is currently in the vicinity of 10-12 mgd. More land is being cultivated for agriculture every day. There are a number of contingencies that need to be figured out.

Commissioner Balfour commented that pumping uphill from Lake Wilson would be costly and inefficient.

Commissioner Starr asked if back-up could be considered a reasonable and beneficial use.

Deputy Tam responded that duplicate allocations have never been granted. It is inconsistent with the notion of a reasonable and beneficial use. In some cases, one user will have multiple well sites (i.e. Kamehameha Schools), but no new rights have ever been granted for a dual purpose. Back-up sources make practical sense. However, the notion of granting two different rights when others are in competition is a different proposition.

Commissioner Balfour commented on Monsanto's reply under Condition 8. He said the recommendation under 2 (b) on page 17 of the submittal was for the state to decide.

Deputy Tam responded that the applicant would be responsible for providing that information to the Commission.

Commissioner Balfour said he thinks the state should tell the user how long it could take to fix a break in the system.

Commissioner Yamamura asked how Monsanto's request could be considered "double counting" when the uses would not be used simultaneously.

Deputy Tam said the request is for two different stand-alone rights and is not contingent upon something else. If the Water Commission makes this the standard practice for granting permits, then everyone could potentially stake claim to a similar right. If all the water was allocated for contingent uses, it would prohibit the Water Commission from issuing permits to new users. Water use permits are an indefinite grant of a right. Unless there is a non-use or a change in location or amount, water use permits cannot be withdrawn.

Commissioner Yamamura asked about using the back-up source as an interim solution until the primary source is restored.

Deputy Tam responded that the Commission cannot grant a water use permit contingently for an unknown event. In terms of new grants, it is an unsustainable proposition. There are other solutions to Monsanto's dilemma that do not require the issuance of a back-up water use permit.

Chairperson Aila asked what other authorities are available to Monsanto.

Deputy Tam replied that the methods to solve this problem are not limited to the statute. The Hawaii Supreme Court stated that the sovereign has power authorities to deal with an emergency. It is the inherent obligation of the Water Commission as part of the public trust doctrine to protect the health, safety and welfare of the people and supersedes any statutory provision.

Commissioner Fujiwara asked if the issuance of a back-up permit would set a precedent.

Deputy Tam replied "yes."

Commissioner Fujiwara asked if requests would be approved on a case-by-case basis.

Deputy Tam said there would be no legal basis to reject some requests and approve others. Many users face the same concerns as Monsanto. It makes sense to want to have back-up. However, the Water Commission should not use the water use permitting process as the mechanism to allow back-up when the implications will unravel the Water Code.

Yvonne Izu, representing Monsanto, addressed two issues facing the Commission. All water use permits are conditional and users must abide by a set of standard conditions. In addition to the standard conditions, Monsanto is proposing a set of special conditions that include revoking the allocation if the sustainable yield in the aquifer reaches 95 percent. Monsanto agrees that it will not ask for a Contested Case. Before filing the application, Monsanto met with the HBWS. The HBWS said they do not have any immediate plans to ask for additional allocations. The well will only be used if the Waiahole Ditch fails. Monsanto does not agree with the issue of double counting. The emergency provision in the Water Code is the basis for Monsanto's rejection of the staff's recommendation. The issuance of a water use permit includes requirements for a public notice. An emergency meeting cannot be called to issue a water use permit. Under the parameters of the Water Code, the only way to allow for back-up systems is through the issuance of a water use permit. Monsanto is requesting that the Commission grant the water use permit for a back-up source of water in the amount of 2.636 mgd, subject to the 10 special conditions listed on pages 7-10 of the submittal.

Chairperson Aila, asked why 95 percent.

Ms. Izu answered that the sustainable yield for the Waipahu-Waiawa Aquifer is over 104 mgd. 95 percent leaves more than 10 mgd available.

Chairperson Aila asked if Monsanto would take legal action if the Water Commission decided to limit or reduce the allocated amount.

Ms. Izu said Monsanto would not ask for a Contested Case or file a lawsuit. Under the Administrative Procedures Act, Monsanto would need to exhaust its administrative remedies first, which would mean asking for a Contested Case.

Chairperson Aila asked about the potable water line along Kunia Road. He asked if Monsanto had asked HBWS for access to that water line in the event of a catastrophic failure of the Waiahole Ditch.

Ms. Izu said Monsanto met with HBWS, but was told that the water line could not be used because the extent of the emergency is unknown.

Barry Usugawa (HBWS) commented on service alignment. The HBWS reservoir is located at 645 feet elevation. Monsanto is located at a similar elevation, which would make filling the ditch difficult. The reservoir is located next to the ditch. Pumping would be required. Depending on the type of emergency, HBWS may have the ability to assist Monsanto. However, there is an issue of capacity and pressure. HBWS may not have enough water to meet Monsanto's demand.

Commissioner Fujiwara asked Deputy Tam to address Ms. Izu's comments.

Deputy Tam responded that the public interest questions were addressed but not answered. The 95 percent rule means that Monsanto is making policy for the state. Requests for water use will increase as agriculture lands go into production and urban growth accelerates in Central Oahu. The urban growth in Ewa is contingent upon the water from Central Oahu. Monsanto is not in charge of creating public policy for the state. The HBWS is not the only alternative source of water for Monsanto. Schofield Barracks is in the process of treating water for irrigation purposes, some of which could be dropped into the Waiahole Ditch.

Commissioner Balfour asked how long it would take to issue an emergency permit.

Deputy Tam said it will be up to the Commission to decide what alternative sources of water might be available. The Commission would meet after an emergency situation is declared and grant water use permits to users in the same situation. The permits would be withdrawn after the emergency.

Commissioner Balfour said two weeks is too long.

Deputy Tam said the Water Commission should be able to act in a timely manner.

Commissioner Erdman requested that the Commission go into Executive Session after the public testimony.

Wayne Tanaka (Office of Hawaiian Affairs) testified that OHA shares the staff's concerns about Monsanto's request for a back-up source of water. OHA believes that Monsanto's concerns can be alleviated by replacing their current allocation from the Waiahole Ditch with an allocation from the Waipahu-Waiawa Aquifer.

Commissioner Balfour commented that siphons are not a practical alternative and could still present a problem.

Commissioner Starr asked if Monsanto should terminate their use of the ditch system and apply for a ground water use permit instead.

Mr. Tanaka shook his head "yes."

Commissioner Yamamura asked when OHA found out about Monsanto's request.

Mr. Tanaka replied that OHA saw the initial request on the August agenda.

Commissioner Yamamura asked what prevented OHA from testifying in August.

Mr. Tanaka replied that he started working for OHA in September and could not comment on why OHA had not been present to testify at the August Commission Meeting.

Commissioner Yamamura asked what OHA's testimony was based on.

Mr. Tanaka responded that the contingencies are not well defined.

Commissioner Yamamura asked why the word "back-up" was not a sufficient explanation.

Mr. Tanaka said the word "back-up" is used to describe a use for a contingency that is uncertain.

A member of the public expressed his anger with Monsanto. Water should be reserved for the people, not a corporation. He demanded that the Water Commission set a precedent and let Monsanto know that water is for food and for the people of Hawaii.

Commissioner Starr asked if the speaker thought the proposal from Monsanto was an equitable solution.

The member of the public responded that 85 percent of what we consume equates to \$3.1 million. Through farming and producing our own food, Hawaii will manage our resources better and grow the economy. Monsanto grows food that is exported and not grown for local consumption. Hawaii contributes to chemical farming by exporting corn seed from Monsanto. Hawaii's water is not meant for other countries to grow genetically modified organisms (GMOs). He commented that the decision made by the Water Commission today will impart a clear message that Monsanto is not welcome in Hawaii.

Commissioner Starr asked if the member of the public was harvesting kalo.

He replied that he has a small plot in Kahalu'u but does not have a lease on the land. To farm taro you must live on the land.

Another member of the public testified that Monsanto is poisoning the land. He asked the Water Commission to consider this when making a decision about Monsanto's request. More land is needed to farm and grow food to sustain our children. Large corporations like Monsanto should not have control of the 'aina. The land belongs to the people of Hawaii. He asked the Commissioners to think about sustainability and what it means to eat local food. The land needs to be protected from companies like Monsanto.

Walter Ritte (Molokai) said the Water Commission's decision will have huge impacts on the community. Water is the issue. Water is limited. Monsanto wants to use surface and ground water to ensure profitability. On Molokai, we pray for water. Nothing is guaranteed when you farm, but Monsanto wants a guaranteed source of water. Having a "back-up" system for water is not a good reason to change the Water Code. Molokai is suffering from the impacts of Monsanto. Monsanto has other alternatives that need to be exhausted before a decision is made. The public does not trust Monsanto.

Earl Kawaa (son of a taro farmer on Molokai) commented that the law allows big corporations to take water, but the law is not always right. Mr. Kawaa does not agree with giving a cultural water right to Monsanto. Water is everyone's responsibility and is not meant to benefit one person or entity. "Kanawai" translates to the division of water and the sustainability of life. Monsanto's request for "back-up" is really about control. Mr. Kawaa said he "votes no" on Monsanto's request.

James Macey testified that Monsanto's chemicals are poisoning the water table. Mr. Macey said he asked the HBWS if they test the water for pesticides and herbicides. HBWS does not test for herbicides. He asked the Water Commission to test the water for chemicals.

Chairperson Aila responded that the HBWS is responsible for testing the water.

Commissioner Starr commented on the EPA consent decree to clean up the Dole property. He suggested that Monsanto provide a list of pesticides and herbicides used in the well head protection area. The well head protection areas are managed by the Department of Health (DOH).

Mr. Macey said he would like his water tested.

Pono Kealoha testified on the merits of Monsanto's right to occupy the land. Mr. Kealoha asked if the kupuna would approve of Monsanto.

David Martin (taro farmer) said the request from Monsanto should be treated as a planning issue. Mr. Martin applauded the Water Commission staff on their recommendation to deny Monsanto's request for a water use permit. He said there should be consideration of the reasonable and beneficial use of the water. Studies show major declines in stream flow and the flows coming out of the Waiahole Ditch are uncertain. The availability of water in this aquifer is currently under study. Mr. Martin suggested that the application be deferred and that the Water Commission complete the regional water use and development plan for this area.

Commissioner Erdman requested that the Commission go into Executive Session.

Commissioner Starr asked if staff could join.

Chairperson Aila said he did not think staff could join.

MOTION: (Erdman / Balfour)

To go into Executive Session

5 ayes (Erdman, Balfour, Aila, Yamamura, Fujiwara), 1 nay (Starr).

Chairperson Aila said that several members of the Commission would be leaving the meeting due to time constraints. He said it was unlikely that the Commission would reach a decision today. The decision will be deferred to December.

MOTION: (Erdman / Fujiwara)

To defer a decision

UNANIMOUSLY APPROVED FOR DEFERRAL.

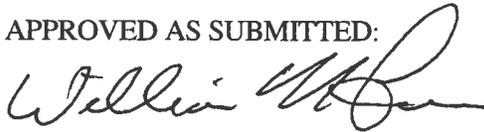
Chairperson Aila, Jr. adjourned the meeting at 11:05 am.

Respectfully submitted,



KATIE ERSBAK

APPROVED AS SUBMITTED:



WILLIAM M. TAM
Deputy Director