

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

Approved by Commission on
Water Resource Management
at the meeting held on

SEP 18 2013

DATE: August 21, 2013
TIME: 9:00 am
PLACE: DLNR Board Room
Kalanimoku Bldg.
1151 Punchbowl St., Room 132
Honolulu, Hawaii 96813

Chairperson William Aila Jr. called the meeting of the Commission on Water Resource Management to order at 9:04 am.

The following were in attendance:

MEMBERS: Mr. William Aila Jr., Mr. William Balfour, Mr. Jonathan Starr,
Ms. Loretta Fuddy, Mr. Milton Pavao, Mr. Kamana Beamer

ABSENT: Mr. Ted Yamamura

STAFF: William Tam, Lenore Ohye, Roy Hardy, Dean Uyeno, Neal Fujii,
Rebecca Alakai, Patrick Casey, Robert Chenet, Jeremy Kimura,
Malie Beach-Smith

COUNSEL: Colin Lau, Esq.

OTHERS: Joycelyn Self, Kaleo Manuel (DHHL), Myra Kaichi (AG Office),
Blake Kolona (Blake Kolona Trust), Al Frenzel (Blake Kolona Trust),
Ron Rickman (USGS), Paul Oshiro (Alexander & Baldwin), Dan Purcell,
Keith Kohl, Julianna Kohl, Wise K. Nicola, Doug Codiga (Schlack Ito),
Gordon Smith (USFWS), Mark Takemoto (PHI), David Henkin
(Earthjustice), Moana Kea Klausmeyer-Among

A. APPROVAL OF MINUTES

July 17, 2013

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

B. ANNOUNCEMENTS

Deputy Director, William Tam elaborated on CWRM's new policy on reimbursing water conference registration fees for commissioners.

Commissioner Starr thanked the CWRM staff for their attention to this matter. He said attending water conferences is very beneficial.

Deputy Tam notified the commissioners about the Hawaii Water Works Association (HWWA) meeting on Maui in October.

Commissioner Pavao asked why CWRM does not reimburse for transportation and lodging at the conferences.

Deputy Tam said another policy to cover transportation and lodging costs could be considered. CWRM staff will prepare a proposal.

Commissioner Starr agreed with Commissioner Pavao's suggestion.

C. ADMINISTRATION

Lenore Ohye (Commission on Water Resource Management) addressed the commissioner's questions about procurement and the appointment of a hearing officer. CWRM may request a hearing officer with special "water qualifications." Ms. Ohye elaborated on the process for posting and soliciting applications.

Commissioner Pavao asked how long someone could remain on the list of approved candidates.

Ms. Ohye replied that the list is updated annually.

Deputy Tam said staff would provide an update on the status of contracts and the selection of consultants after the addition of a "water specialist" to the professional services list.

Commissioner Starr asked for an update on the filling of vacancies.

Deputy Tam said there are two vacancies in the Stream Protection and Management (SPAM) Branch.

Roy Hardy (Commission on Water Resource Management) explained the recruitment process for the IT position and said the filling of vacancies is moving forward.

Ms. Ohye said an internal vacancy announcement is being prepared by the DLNR Personnel Office and will be posted sometime in September.

Deputy Tam explained the delay in posting is due to vacancies within the Personnel Office and at the State Department of Human Resources Development (DHRD).

Commissioner Starr thanked the staff for their hard work.

D. SURVEY**1. Request to Enter into a Joint Funding Agreement with U.S. Geological Survey for Statewide Hydrologic Data Collection and Water Resource Monitoring for Federal Fiscal Year (FFY) 2014**

SUBMITTAL PRESENTATION by: Patrick Casey (Geologist)

Patrick Casey (Commission on Water Resource Management) introduced Item D-1. Mr. Casey explained the need for more gages in the State of Hawaii. Gages are vital to properly manage our water resources and understand the impacts of climate change. The proposed co-op agreement includes the monitoring of 25 stream gages, 14 ground water wells, and 15 rain gages.

RECOMMENDATION:

Staff recommends that the Commission:

1. Authorize the Chairperson to enter into a Joint Funding Agreement with the U.S. Geological Survey in FFY 2014 to undertake the specified monitoring activities, and
2. Delegate authority to the Chairperson to modify the list of monitoring stations to delete stations from the Joint Funding Agreement if other cooperators can be found.

(DISCUSSION)

Commissioner Starr raised concerns about the diminishing number of data points. He said changes in rainfall and land use patterns creates the need for deeper understanding. He requested that CWRM staff have discussions internally and with USGS to create a needs and wish list for other water monitoring data.

Mr. Casey agreed.

MOTION: (Pavao / Starr)

To approve the submittal.

UNANIMOUSLY APPROVED.

E. STREAM PROTECTION AND MANAGEMENT**1. Action on Carolee and Blake Kolona's Request for a Contested Case Hearing on Pacific Links Hawaii, LLC's Application for a Stream Channel Alteration Permit (SCAP.3645.3), Makaha West Golf Course Improvements, Makaha and West Makaha Streams, Makaha, Oahu, TMKs: (1) 8-4-002:053, 055, and 067**

SUBMITTAL PRESENTATION by: Rebecca Alakai

Rebecca Alakai (Commission on Water Resource Management) introduced Item E-1 as an action on Carolee and Blake Kolona's request for a contested case hearing.

Exhibit 1 is a map of Makaha. The Kolona property sits outside the project area and is upstream of the golf course. There will be no construction work in the stream channel or along the high water mark. Therefore, there is no potential impact on the Kolona property.

RECOMMENDATION:

Staff recommends that the Commission:

Deny the petition for a contested case hearing filed by Carolee and Blake Kolona.

(DISCUSSION)

Commissioner Beamer asked for more information about the request for a contested case.

Deputy Tam said the Stream Channel Alteration Permit (SCAP) submittal was presented at the May 22, 2013 meeting. At that point, there was a request for a contested case hearing. CWRM contacted the Attorney General's (AG) Office to provide legal counsel. The AG agrees that there is no right to a contested case. The AG opinion was not attached.

Commissioner Pavao asked if the AG agrees with staff's recommendation.

Deputy Tam said "that is correct." He explained that no action on the SCAP was taken at the May 22, 2013 meeting due to the request for a contested case. Since the parcel is mauka of the downstream activity, the Kolona's property will not be impacted. Thus, the Kolona's request for a contested case has no merit.

Joycelyn Self, a resident of Makaha, said the stream runs into her property and she will be impacted by the activity. She showed the commissioner's her request for a contested case. She cited a Land Court Order from 1951 (#10157).

Chair Aila explained that the agenda item is for a request for a contested case from the Kolonas. He said the timeframe to request a contested case should have been made at the May 22, 2013 meeting.

Commissioner Starr asked to see a map of Ms. Self's property.

Chair Aila said her property is located makai.

Ms. Self discussed her concerns about flooding.

Chair Aila explained that Ms. Self's concerns are not part of the ruling on agenda item E-1 and cannot be addressed at this particular meeting.

Ms. Self asked about the process.

Deputy Tam said the AG will review Ms. Self's request for a contested case.

Ms. Self said she was never notified about the SCAP application.

Chair Aila said he was not aware of a rule that mandates staff to notify neighboring property owners.

Deputy AG Lau said public notice about the May 22, 2013 meeting was properly noticed in accordance with the Sunshine Law.

Ms. Self asked how people without access to a computer can find out about the meetings. She requested to be notified by mail.

Commissioner Starr said there are requirements for notification. He asked CWRM staff to notify neighboring property owners if a project is located within the vicinity of their property.

Deputy Tam said CWRM publishes a monthly bulletin about pending applications. It is available on the CWRM website. CWRM staff is not responsible for notifying every individual.

Commissioner Pavao suggested that Ms. Self talk directly to CWRM staff about her concerns.

Chair Aila explained the process and advised Ms. Self to add her name to the mailing list.

Commissioner Balfour asked if Ms. Self has a right to a contested case.

Deputy Tam said the AG will review her request.

Commission Balfour said Ms. Self needs assurance that her concerns will be addressed.

Deputy Tam agreed. Her request will be sent to the AG.

Commissioner Starr requested a discussion on notice requirements to take place at a future meeting.

Commissioner Beamer commented that upstream users are sometimes affected by downstream activities. He cited the example of o'opu.

Ms. Alakai reiterated that there will be no construction in the stream bed that would impact the flow of water in the stream. The 1951 Land Court Order is an encumbrance on both properties. The Kolona property is at the 400 foot elevation mark and is not located in the coastal zone.

Ms. Self said none of her neighbors received notice about the application. Flooding is a major concern.

Al Frenzel and Blake Kolona (Blake Kolona Trust) opposed staff's recommendation. Mr. Frenzel said Mr. Kolona was not notified about the meeting. He raised concerns about the lack of notification. The 1951 Land Court Order states that property owners near Makaha stream have a right to the free flowage of water. As an adjacent property owner, Mr. Kolona would like to invoke his right to the free flow of water along Makaha Stream. Mr. Frenzel and Mr. Kolona believe CWRM's recommendation to deny a contested case is in violation of the 1951 Land Court Order. Property owners in

Makaha Valley are concerned about the impact of new development, specifically as it relates to flooding and inadequate drainage systems.

Mr. Kolona expressed his disapproval of staff's submittal and recommendation.

Chair Aila reiterated the staff recommendation to Mr. Kolona.

Commissioner Beamer pointed out the importance of an ahupua'a and the interconnectedness of upstream and downstream users.

Commissioner Starr asked how Mr. Kolona was notified about the meeting.

Mr. Kolona said he was notified by one of his legal representatives.

Deputy Tam acknowledged that the letter to the Kolonas was mailed late. CWRM staff left a voicemail.

Commissioner Starr suggested that the item be deferred due to the lack of notice.

Chair Aila asked if deferment would change the opinion of the AG or simply delay the decision-making process.

Commissioner Starr said it would provide for greater transparency.

Commissioner Pavao supported the opinion of the AG and agreed with staff that the request for a contested case should be denied.

Commissioner Starr said he was reluctant to rubber stamp the opinions of the AG. He restated that interested parties should be properly noticed about the meetings.

Commissioner Fuddy agreed that the facts will not change, but recognized the need for proper notice.

Commissioner Balfour said the Kolona property is above the project area. However, he acknowledged that questions and concerns from the community remain unanswered. He agreed with Commissioner Starr.

Commissioner Beamer supported the motion to defer.

Deputy Tam explained that action on the merits of the SCAP application will eventually come back to the Commission. This agenda item is simply an action to determine if the Kolonas have a right to a contested case.

Deputy AG reminded the Commission to complete public testimony before proceeding with a vote.

Mr. Frenzel commented that the AG opinion is not fact and said the Land Court Order should be considered in future opinions. He asked why the applicant filed a SCAP application if no construction is taking place in the stream bed.

Keith Kohl, a property owner in Makaha, discussed his concerns about flooding in

Makaha Stream. He asked to see the AG opinion.

Chair Aila said the opinion is unlikely to be released due to attorney-client privilege.

Mr. Kohl asked why CWRM would attempt to usurp the authority of the Land Court.

Julianna Kohl, a resident of Makaha, detailed the reasons why she disagrees with staff's recommendation. She said the Land Court Order should be used to make decisions.

Chair Aila acknowledged that Ms. Kohl disagrees with staff's recommendation. He suggested that the merits of the SCAP application be debated at a later date.

Ms. Kohl said she was not notified about the meeting.

Chair Aila asked CWRM staff to add her to the mailing list.

Moana Kea Klausmeyer-Among, a resident of Makaha, pointed to a map and showed the commissioners the location of her property in relation to Mr. Kolona's. She cited the Land Court Order and stated that property owners along the stream have rights to the free flowage of water. The proposed project will impact the entire ahupua'a regardless of where the construction occurs. Ms. Among said Mr. Kolona has a right to a contested case.

Dan Purcell, a member of the public, expressed his concerns about the proceedings of the meeting.

Chair Aila said he would take his comments into consideration.

Ms. Self testified on behalf of Mr. Wise K. Nicola in opposition to staff's recommendation. She reiterated her right to be heard and asked staff to address her concerns.

Chair Aila said her name would be added to the contact list. He advised other members of the public to notify their friends and family and add their names on the contact list.

Commissioner Starr reiterated his stance that the item should be deferred based on inadequate notice to the applicant.

Commissioner Pavao restated his vote to support staff's recommendation and advised that the applicant seek consultation with the Land Court.

Commissioner Balfour said many questions remain unanswered.

Chair Aila asked Commission Balfour if he was referring to the SCAP process or the contested case request.

Commissioner Balfour said he wanted clarification on the Land Court Order and the AG opinion. He said the Commission needs to critically analyze staff's recommendations and not rubber stamp the opinions of staff or the AG.

Commissioner Fuddy said many of the testifiers are in opposition to the SCAP

application and not the request for a contested case. She encouraged the commissioners to stay focused on the agenda item. Comments regarding the SCAP would be vetted at a future meeting.

Commissioner Beamer asked staff to notify interested parties on a timely basis. He agreed to defer action on the request for a contested case.

MOTION: (Starr / Balfour)

To defer action on staff's recommendation.

(Starr, Balfour, Beamer = aye); (Pavao, Aila, Fuddy = opposed)

No action. The motion fails.

MOTION: (Pavao / Fuddy)

To approve the submittal and staff's recommendation.

(Pavao, Aila, Fuddy = aye); (Starr, Balfour, Beamer = opposed)

No action. The motion fails. Item E-1 will be revisited at a later date.

2. Request to Authorize the Chairperson to Enter into a Joint Funding Agreement with the U.S. Fish & Wildlife Service to Restore the Riparian Corridor along Kahana Stream and Declare Project Exempt from Haw. Rev. Stat. Chap 343, Environmental Impact Statements, Windward O'ahu, Ko'olau Loa District

SUBMITTAL PRESENTATION by: Dean Uyeno

Dean Uyeno (Commission on Water Resource Management) introduced Item E-2 as an agreement with the U.S. Fish and Wildlife Service (USFWS) to restore the riparian corridor along Kahana Stream.

Gordon Smith (USFWS) described the National Fish Habitat Action Plan (NFHAP), which calls for the formation of a National Fish Habitat Board and Regional Fish Habitat Partnerships. Under NFHAP, the partnerships are intended to be composed of many different stakeholders and focus on specific regions and/or habitats. There are 18 fish habitat partnerships in the United States. The partnerships are responsible for strategic planning and have geographic focus areas. Work in Hawaii is primarily focused on stream habitats and the upstream/downstream migration of o'opu and opae. Current projects include the Waihe'e Stream Fish Passage Project and Waipa Stream in Hanalei Bay on Kauai. The Hawaii Fish Habitat Partnership would like to engage more with the statewide watershed partnerships and pay particular attention to fish passage projects.

Mr. Uyeno recognized the work of Glenn Higashi (Division of Aquatic Resources) and Martha Yent (State Parks) and said the Kahana project will be conducted in partnership with Hōala 'Āina Kūpono Corporation. The 2-year project will involve hau removal, monitoring and the out-planting of vegetation along the streambed. The total cost of the agreement is \$140,000. The Commission's share will be \$50,000. The project will be exempt from a Chapter 343 Environmental Assessment (EA).

RECOMMENDATION:

Staff recommends that the Commission:

1. Authorize the Chairperson to enter into a Joint Funding Agreement with the U.S. Fish & Wildlife Service to restore approximately 7.5 acres along the riparian corridor of Kahana Stream by removing invasive hau, replant native species, and to approve funding not to exceed \$50,000 to complete the study. Commission funding will be from general or special funds or a combination of both, subject to the availability of funding.
2. Declare that this project will likely have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment pursuant to Haw. Rev. Stat. Chap 343 and HAR Chap 11-200(A) (1) and (A) (4).

(DISCUSSION)

Commissioner Pavao asked if the project was included in the FY 2014 budget.

Mr. Uyeno said "yes."

Commissioner Balfour asked what a "complete study" would entail. He asked how much hau would be removed.

Mr. Uyeno said hau would be removed up to the stream bank.

Commissioner Balfour suggested removing the hau first before conducting a study.

Mr. Uyeno clarified that an assessment of the stream has already been done. The request is for the removal of the hau. No study needs to be done beforehand.

Commissioner Starr thanked CWRM staff and USFWS for their hard work.

Commissioner Pavao asked if the hau could be used to recoup the cost.

Mr. Uyeno said it was something they were looking into.

Commissioner Beamer said he supports the project and was excited to see the results.

MOTION: (Starr / Pavao)

To approve the submittal.

UNANIMOUSLY APPROVED.

3. **Delegation of Authority to the Chairperson to Appoint an Investigator, Po'ai Wai Ola and West Kaua'i Watershed Alliance (through Earthjustice) 1) Complaint for Dispute Resolution; 2) Petition to Amend Interim Instream Flow Standard; and 3) Complaint for Declaratory Order Against Waste in Waimea River and its Tributaries, Waimea, Kauai**

SUBMITTAL PRESENTATION by: Deputy Director, William Tam

Deputy Tam said the petition filed by Earthjustice is 1) a complaint for dispute resolution 2) a petition to amend the interim instream flow standard (IIFS) and 3) a declaratory order for waste in the Waimea River and its tributaries. Water that is not being used for a reasonable and beneficial purpose and is being diverted away from a stream could be characterized as "waste." Deputy Tam proposed that the Commission hire a consultant to conduct a fact-finding investigation to ascertain whether or not the allegations raised by Earthjustice are true.

RECOMMENDATION:

Staff recommends that the Commission:

1. Delegate to the Chairperson the authority to appoint a qualified consultant to investigate the facts (including the situation on the ground) in Po'ai Wai Ola and West Kaua'i Watershed Alliance's a) Complaint for Dispute Resolution; and b) Petition for Declaratory Order Against Waste for the Waimea River and its Tributaries, Waimea, Hawai'i.

(DISCUSSION)

Commissioner Pavao asked how the consultant would be selected.

Deputy Tam said the normal procurement process would apply. This person would have knowledge of water systems and understand how to read reports. Once all the evidence is compiled, the Commission will decide how to proceed.

Commissioner Balfour clarified that there are three separate processes. He asked if the "excess" water (i.e.: the water not being used) could be put back in the river.

Deputy Tam said "yes" that would be one option.

Commissioner Starr said he would like to walk the ditch system to better understand the concerns raised by Earthjustice. He asked about the option to designate the area as a water management area.

Deputy Tam pointed out that there must be reasonable evidence prior to designation.

Commissioner Balfour read aloud the complainant's allegations. He stressed the importance of water reporting and commented on the involvement of the Department of Hawaiian Home Lands (DHHL).

Commissioner Starr thanked the staff for putting this issue on the agenda.

David Henkin, an attorney with Earthjustice, representing Po'ai Wai Ola (aka: West Kauai Watershed Alliance), thanked the Commission for putting the item on the agenda so quickly. Earthjustice supports the recommendation of the staff to hire a consultant to investigate the issues presented in the petition. Water reports indicate that water diversions are still in use, even though Kekaha Sugar is no longer in business. Water that is not being used for some reasonable and beneficial use should

be put back into the stream. Mr. Henkin suggested that the petitioners accompany the investigator on site visits and field inspections. The Agribusiness Development Corporation (ADC) said they would also investigate the allegations and concerns raised by Earthjustice. Mr. Henkin proposed that public agencies like ADC provide written responses about how much water is being used and for what purpose. He advised that the staff's recommendation be amended to include his suggestions.

Doug Codiga (Schlack Ito) spoke on behalf of Kekaha Agriculture Association (KAA). He assured the Commission that KAA is looking into the allegations made by Earthjustice. He said it was important to make decisions based on the facts. KAA supports staff's recommendation to hire a consultant and is willing to cooperate during the investigation. Mr. Codiga agreed with the suggestions proposed by Mr. Henkin and said it makes sense to allow the interested parties to accompany the investigator on site visits.

Commissioner Starr thanked KAA for their willingness to cooperate with CWRM and Earthjustice. He asked about the history of the KAA.

Mr. Codiga said KAA is an agricultural cooperative, comprised of 5 members, each with independent land licenses through ADC. The water is licensed through a memorandum of agreement (MOA) with ADC. The members pay fees for the use of the land and the water.

Commissioner Beamer asked about the length of the leases.

Mr. Codiga said approximately 20 years.

Myra Kaichi (AG Office), representing ADC, said the relationship between ADC and KAA is symbiotic. ADC has four staff members. KAA regularly reports water usage. ADC supports staff's recommendation for an independent investigator. Ms. Kaichi raised concerns about liability when conducting the site visits.

Commissioner Starr asked why the AG was speaking on behalf of ADC and praising the water reporting of KAA.

Ms. Kaichi replied that she had been assigned to represent ADC. If the Commission prefers ADC staff to testify instead of the AG, then KAA staff should also be present.

Commissioner Beamer asked Commissioner Starr if he had an issue with the AG Office representing ADC.

Commissioner Starr said he was uncomfortable with AG representation.

Ms. Kaichi replied that she will continue to appear at meetings as long as other interested parties can have their attorneys present. She clarified that she does not represent KAA.

Mr. Henkin commented that the Commission should not be concerned about liability issues during site visits. Earthjustice is willing to sign waivers.

Commissioner Beamer asked how the Commission would proceed with the suggestions.

Deputy Tam said the Commission could ask the staff to organize the investigation according to the suggestions raised by Earthjustice.

Commissioner Pavao asked if the staff recommendation needed to be amended.

Chair Aila said a motion could be made to amend staff's recommendation.

MOTION: (Pavao / Balfour)

To amend staff's recommendation to allow interested parties to participate in the field investigations.

Commissioner Starr said he would prefer to have a motion to approve the original recommendation and a second motion to address the suggestions.

Commissioner Pavao asked if the Commission needed to clarify the term "interested parties."

Commissioner Balfour suggested changing the language of the motion to say "involved parties."

Deputy Tam commented that there could be subsidiary parties not mentioned in the petition that may want to be involved.

Commissioner Starr asked Deputy Tam for suggestions about the wording.

Commissioner Balfour suggested ADC, Earthjustice, KAA and CWRM.

Deputy Tam said it was unclear how many parties may be involved.

Chair Aila asked if it was necessary to broaden the scope.

Deputy Tam said it is up to the Commission to decide how to proceed.

Commissioner Pavao commented that un-named parties might react unfavorably. He said he does not have a problem naming the interested parties.

Commissioner Beamer made a motion for ADC to provide a written log of their reports.

Chair Aila explained that the Director of ADC said he would undertake his own investigation of the facts. The Commission is asking for the report from that investigation.

Mr. Henkin said ADC and KAA have a contractual relationship and engage in record keeping. Earthjustice would like access to those water reports during the investigation.

Mr. Codiga was unsure what types of reporting have been provided to ADC. He suggested that the investigator prepare the scope of work. He agreed that a special

investigator should be hired and the details about the scope of the investigation could be worked out at a later date.

Commissioner Balfour asked why KAA and ADC were not reporting to CWRM.

Mr. Henkin said his suggestions are relevant to the agenda item and should be considered in the scope of work.

Ms. Kaichi suggested a request for proposals instead of an invitation for bids.

Chair Aila said staff would follow the procurement process. KAA and ADC should both be reporting to CWRM and make those reports available to the parties. Chair Aila asked Commissioners Pavao and Balfour to withdraw their original motions and proceed with a new motion.

Commissioner Starr motioned to approve the staff's submittal and amend the recommendation to allow the petitioner to accompany the investigator on site visits.

MOTION: (Starr / Pavao)

To approve the staff submittal and amend the submittal to allow the petitioner to accompany the investigator on site visits.

UNANIMOUSLY APPROVED.

Commissioner Starr made a motion for a second amendment. He requested that the water users provide their reports to ADC and CWRM.

Deputy AG Lau cautioned about straying from the agenda item.

Deputy Tam assured the Commission that staff would follow-up on the water use reports.

4. Motion to Hold a Contested Case Hearing for the *Provisional* Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Areas, Waihee, Waiehu, Iao, and Waikapu Streams, Maui, Hawaii

SUBMITTAL PRESENTATION by: Deputy William Tam

Deputy Tam clarified the purpose of the submittal.

RECOMMENDATION:

Staff recommends that the Commission:

1. Determine a contested case hearing is required for the provisional recognition of Appurtenant Rights in the Na Wai Eha Surface Water Management Areas of Waihee, Waiehu, Iao, and Waikapu Streams, Maui, Hawaii

MOTION: (Starr / Balfour)

To go into Executive Session to consult with legal counsel and CWRM staff regarding Agenda Item E-4.

UNANIMOUSLY APPROVED.

(EXECUTIVE SESSION)

Deputy Tam said the Commission may make recommendations about how to proceed.

Pam Bunn (Office of Hawaiian Affairs) asked about the purpose of the submittal.

Chair Aila said the purpose of the submittal is to vote formally on a contested case.

Ms. Bunn asked if the proceedings would change.

Chair Aila said the August 30, 2013 will be cancelled and rescheduled. Notice will be provided to all interested parties.

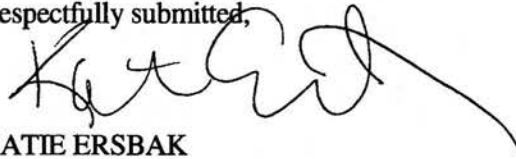
MOTION: (Starr / Beamer)

That the Commission determine that contested case hearings are required for the provisional recognition of appurtenant rights in the Na Wai Eha Surface Water Management Areas of Waihee, Waiehu, Iao, and Waikapu Streams on Maui, Hawaii UNANIMOUSLY APPROVED.

Chair Aila clarified that the August 30, 2013 meeting will be cancelled and a briefing for the Commission will be arranged to inform the commissioners about the issues and process involved in a contested case hearing.

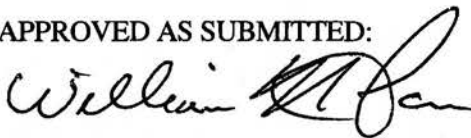
Chairperson William Aila Jr. adjourned the meeting at 12:25 pm.

Respectfully submitted,



KATIE ERSBAK
Private Secretary to the Deputy

APPROVED AS SUBMITTED:



WILLIAM M. TAM
Deputy Director