

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

DATE: October 20, 2015
TIME: 7:00 p.m.
PLACE: Waimea Neighborhood Center
4556 Makeke Road
Waimea, Hawaii 96796

Chairperson Suzanne Case called the meeting of the Commission on Water Resource Management to order at 7:30 p.m .

The following were in attendance:

MEMBERS: Ms. Suzanne Case, Mr. Jonathan Starr, Mr. Michael Buck, Mr. Kamana Beamer, PhD, William Balfour, Jr.

ABSENT: Mr. Milton Pavao , Ms. Virginia Pressler, M.D.

STAFF: Deputy Jeffrey Pearson, P.E., Dean Uyeno, Ayron Strauch, PhD

COUNSEL: Colin Lau, Esq.

OTHERS: Kaleo Manuel (DHHL); Bob Freitas (DHHL); David Henkin (Earthjustice); Kylie Wager (Earthjustice); Don Heacock (DLNR/DAR); Andy Hood (SRGII); Kawai Warren (KHHA); Kaina Makua (Farmer); Gary Hooser (Council member); Landis Ignacio (KAA); Myra Kaichi (ATG); Kane Turalde (Aha Moku); Doug Codiga (KAA); Joe Manini; Clayton Kubo (Waimea resident); Corey Todd; Phoebe Eng (Waimea resident); Kary Yadegovich (resident); Greg Kawekiu Young; John Aana (Poai Wai Ola, West Kauai Watershed Alliance); Mark Sueyasu (DLNR/DAR), Steve Spangler (E2)

Chair Case thanked everyone for coming to this meeting and said she was very happy to be back on Kauai. Chair Case explained that they will be giving an overview of the Commission on Water Resource Management (CWRM), background on Waimea, the complaint, history and timeline, what the Commission did today on their site visit, which will be online in a few weeks, and will take public testimony tonight.

The video for the limited meeting is online. Please refer to the website link:

<http://dlnr.hawaii.gov/cwrmsurfacewater/ifs/westkauai/>
<http://dlnr.hawaii.gov/cwrmsurfacewater/newsevents/meetings/>

Approved by Commission on
Water Resource Management
at the meeting held on
12/16/2015

Chair Case introduced Water Deputy Jeff Pearson who joined the CWRM at the previous meeting and will be leading the team.

Deputy Pearson said he started on August 25th and was happy to be here. Deputy Pearson stated that the Stream Branch Chief will give the overview and will be brief on all the agenda items so there is enough time for public testimony.

Stream Protection and Management Branch Chief Dean Uyeno explained that the Commission was formed through the State Water Code, Chapter 174C Hawaii Revised Statutes (HRS §174C) in 1987. The Commission is comprised of seven members, five which are here today, two ex-officio members are Chair Case as well as Virginia Pressler, the Director of Health. Here today are Kamana Beamer, Michael Buck, Jonathan Starr, and William Balfour.

Mr. Uyeno explained that the Commission is responsible for water quantity as opposed to the Department of Health which handles the water quality side of water issues.

Mr. Uyeno further explained that the Commission is divided into three branches, Planning, Ground Water Regulation, and the Stream Protection and Management. The Survey branch falls under the Ground Water Regulation. On the Stream Protection side we regulate channel permits and stream diversion works and stream channel alteration permits. Our big projects are establishing instream flow standards statewide. When the Commission was first created, instream flow standards were set at status quo process, and were given a deadline to set the instream flow standards.

Mr. Uyeno said their goal now is to go back and look at the streams and set the number by quantifiable or measureable amount. The Commission handles a lot of complaints statewide especially during drought times at low water flow periods, and lastly administration of surface water management areas as well as appurtenant water rights. Our first and only surface water management area at this time is in Na Wai Eha on Maui, the watersheds of Waihee, Waiehu, Iao and Waikapu streams.

[Referring to diagram 1] The diagram depicts some of the uses of surface water pertaining to instream and non-instream water uses. We created this diagram as part of the Water Use Protection Plan in 2008, to help explain when being asked about administering the Water Code, and identifying instream uses such as fish and wildlife habitat, recreation, maintenance of ecosystems, , aesthetics, navigation, hydropower, water quality, the conveyance of water and Hawaiian rights. The Code also allows for non-instream uses such as agriculture, industrial and municipal use. The Commission also needs the hydrology for a given stream, which is often missing, so we've been working with the U.S. Geological Survey to do more detailed studies. What the Code also says to look at is present use versus potential use, a complicated aspect.

As far as the West Kauai complaint, here's some background, as of July 2013, Poai Wai Ola and West Kauai Watershed Alliance, through Earthjustice, filed for petition for amending the instream flow standard and also filed a complaint and petition for declaratory order against waste. In August 2013, the Commission approved the Chair to hire an independent consultant to study the hydrology of the system. Our consultant, Steve Spengler began his investigation in June 2013.

We began working with our consultant and conducted a preliminary site visit in July 2014. We had several meetings with the Commissioners and respondents after that time. In February 2015 our consultant provided a presentation of the Kokee and Kekaha systems. That presentation is online on the CWRM website. In a few weeks the video from today's site visit will also be online.

On April 28 and 29, the Commission came out for a site visit on portions of the Kokee and Kekaha system, and also briefings by Kekaha Ag Association and KIUC.

In May 2015, the Commission sent in a request for information for water and hydropower use to Agribusiness Development Corporation (ADC) as well as to Kekaha Agriculture Association (KAA).

We did receive a response on the request for information July 2015. Two more things at the bottom at this time, we will be posting the letters that went out to them as well as their responses on our website. We also met with the respondents and petitioners as far as discussing the mediation. At the next Commission meeting, we will be seeking approval to hire a mediator to help us through these processes of medication with Earthjustice, KAA, and ADC, as well as Department of Homelands and Kauai Island Utility Cooperative (KIUC).

Ayron Strauch, hydrologist, discussed the areas of the Kekaha System the Commission visited on October 20 and the areas that will be visited on October 21. The third diversion system that Gay & Robinson manage will not be visited on this site visit.

Dr. Strauch explained that today we looked at the Kekaha system which originates up here in the Waihulu and Kauai diversions, brings water down to the Waimea hydropower unit and channels water in the ditch system through the Mana Plain [referring to diagram 2]. Down here we brought the commissioners up to the hydropower unit and saw the Menehune ditch issues with the stream channel at the mouth and visited the Hikipo Flume where KAA measures the flows passing into the Mana Plain. We looked at the hydro unit in Waiawa and the Kawaele Pumping Station which keeps Mana Plain dry and the last reservoir at the end of the system.

Dr. Strauch stated that tomorrow's site visit will be up in Kokee looking at the main diversions as well as Kauhao Gulch control point prior to the Puu Lua Reservoir.

Testimony:

1. Don Heacock (for himself not DAR): Thanks all for trying to balance the instream and out stream use of water and explained that he might not be able to join the group tomorrow.
2. Kawai Warren (KHHA): Worked on five year farm project and will need water for DHHL project. Things that work on the mainland may not work here.
3. Kane Turalde (Aha Moku): a taro farmer concern for water rights.
4. Joe Manini: spoke of historic land issues court case, hunting on watershed.
5. Clayton Kubo (Waimea resident): concern of changes in the Waimea River.

6. Cory Todd (resident, from mainland): Kawaikoi Stream is dead, dry below diversion.
7. Phoebe Eng (Waimea): dry riverbed & diversions pictures.
8. Kary Yadegovich (sp?) (resident): Waimea River ahupuaa should be restored, be sustainable.
9. Greg Kawekiu Apoilani Young: discussed pictures, restore the water.
10. John Aana (went on site visit w/CWRM): take into consideration for our future/kids.
11. Kaina Makua (taro farmer): stream gets wider, means getting shallower.
12. Mark Sueyasu (Waimea Valley, also work for DAR/DLNR Trout Program Coordinator, Kokee): not talking for DAR. Native or non-native, we need water.

Commissioner Kamana Beamer explained that the Commission looked into the complaint that was filed and was out on the aina to look at the different systems and sites to understand what the current condition is. The commission will make a decision about how to reallocate the water so all your testimony and manao is super important. We are here to investigate the petition and hear from the public to make the best decision possible.

Commissioner Jonathan Starr said they spent a bunch of time today in Waimea River and at the mouth as well getting a better understanding what's happening there. There is awareness that the changes at the bottom of the Waimea River, is something that is serious and not a positive thing at all and something that should be dealt with. As far as what causes and solutions are, he doesn't think that anyone at this point knows. Its maybe a step forward to agree that there is a problem and is something that has to be worked on and a solution has to be found because it's not good neither from the flooding perspective or the fact that its drying up and the fact that the silt there is not allowing the creatures that want to live in the stream to be able to move through it, or the community to be able to utilize it. We will be doing more site inspections tomorrow and will be seeing if we can get some action as it moves along. In the meantime, mahalo for patience and helping us in understanding. We're here because we care and we're trying. Thank you.

Chair Case echoed the same thing and thanked all for coming tonight for taking the time to share their experience with the Commission. It is super helpful for the Commission to go out and see the places you're talking about and hear from you about them. It's an iterative process and we were able to develop a little bit at the end of April, stop and reflect and come back and do it again, see more parts of it and hear from you again. It's a complicated system and we're learning about the system and seeing firsthand the challenges you are seeing and the things you are concerned about and it's going to take a while to sort it through. We want to take care to understand the whole system, what balance is, what the appropriate uses are, and where are we too far off in one place or another. That's our job here and that's why we're here, to really interact and hear from you to help in our learning process. Thank you. 1:25:30

Chair Case adjourned the meeting at 9:28 p.m.

Respectfully submitted,

Kathleen Oshiro
Secretary

APPROVED AS SUBMITTED:

JEFFREY T. PEARSON, P.E.
Deputy Director

Diagram 1: Instream and Non-Instream Uses defined by the State Water Code

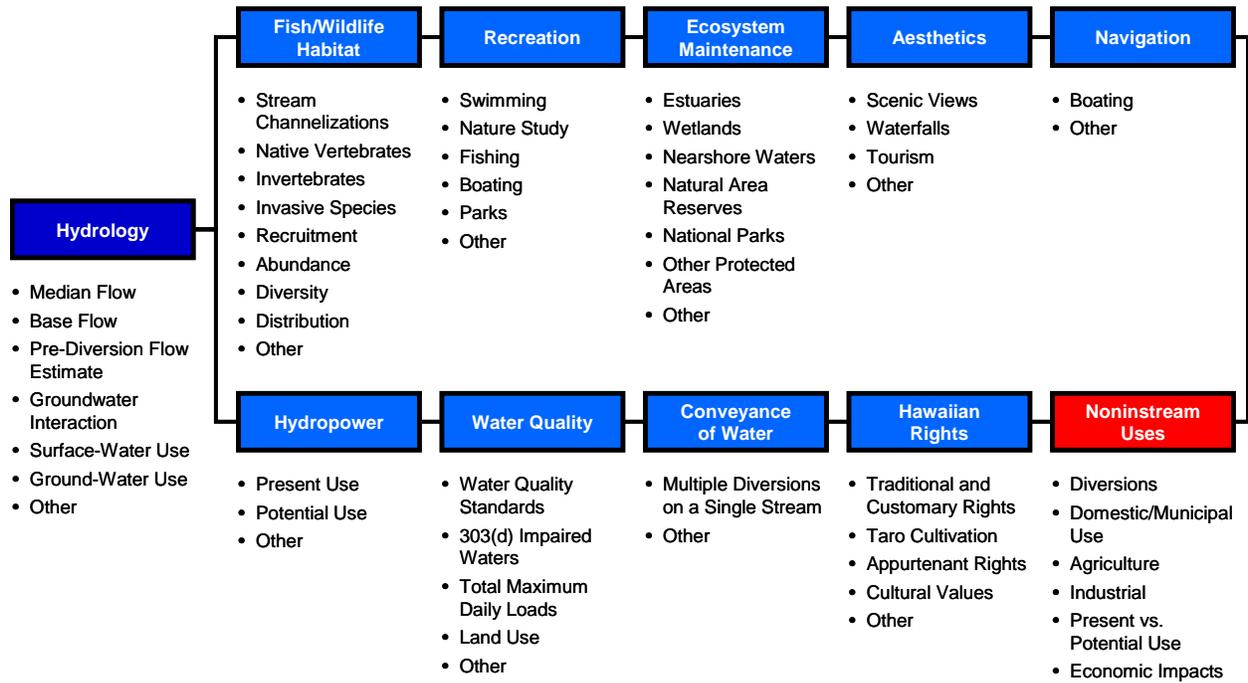


Diagram 2: Waimea Hydrologic Unit

