



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

NOTICE TO APPLICANTS AND THOSE FILING OBJECTIONS

COMMISSION ON WATER RESOURCE MANAGEMENT
PROVISIONAL RECOGNITION OF APPURTENANT RIGHTS
NA WAI EHA SURFACE WATER MANAGEMENT AREA,
WAIHEE, WAIEHU, IAO, WAIKAPU STREAMS
MAUI, HAWAII

September 25, 2014

The Na Wai Eha water issues cover four streams (Waihee, Waiehu, Iao, and Waikapu) in western Maui and their respective watersheds. The State of Hawaii Commission on Water Resource Management ("Commission") must address three (3) separate, but ultimately related, processes in these areas: 1) Appurtenant rights; 2) Surface Water Use Permit Applications ("SWUPAs"); and (3) amendments to the Instream Flow Standards ("IFS") for the four streams in question.

On October 14, 2014 and November 21, 2014, the Commission will hold a *due process* hearing in Kahului, Maui to receive and act on the Hearings Officer's Findings and Recommendations regarding the *Provisional* Recognition of Appurtenant Rights for the Na Wai Eha Surface Water Management Areas of Waihee, Waiehu, Iao and Waikapu Streams. While the public may attend, the hearing itself is only for applicants and those with standing to object to particular applications.

APPURTENANT RIGHTS HEARINGS:

Tuesday, October 14, 2014 AND Friday, November 21, 2014
9:00 am to 5:00 pm
Kahului Community Center
275 Uhu Street
Kahului, Maui, HI 96732

Notice to Applicants and Those Filing Objections
Provisional Recognition of Appurtenant Rights
September 25, 2014

Under the State Water Code, “the commission . . . [s]hall determine appurtenant water rights, including quantification of the amount of water entitled to by that right, which determination shall be valid for purposes of this chapter.” Hawaii Revised Statutes §174C-5(15).

In this initial stage, the only issue to be addressed is whether, provisionally, the parcel of land which is the subject of an application has an appurtenant right.

A person or entity with a legal interest in the parcel and standing to address the “title” claim may exercise their due process right to present and cross examine evidence and witnesses on the sole question whether the parcel has an appurtenant right. The proceedings are limited to the applicant and those with legal rights in the proceedings. There is no public testimony.

Issues regarding quantification will be taken up at a *later* time.

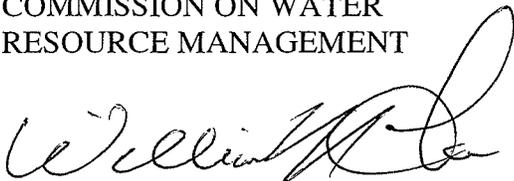
Final determination will be made later in the context of Surface Water Use Permit Applications (SWUPAs). At that time, the quantity of water accompanying each appurtenant right will be determined. Subsequently, there will be a second determination whether the quantity of water requested meets the requirements under the water use permit process, including whether the use is “reasonable and beneficial.” The amount of water eventually awarded under the permit may be less than the amount identified with the original appurtenant right.

The Hearings Officer’s Findings and Recommendations is available for viewing on the Commission’s website at <http://dlnr.hawaii.gov/cwrm/surfacewater/swma/nawaieha-rights/>.

You may attend. You may be represented by your legal counsel.

If you have any questions, contact the Commission in Honolulu at (808) 587-0234 or kathy.s.yoda@hawaii.gov.

COMMISSION ON WATER
RESOURCE MANAGEMENT



WILLIAM M. TAM
Deputy Director