



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
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Ref: ewa caprock interim wup conversion.sub

STAFF SUBMITTAL

for the meeting of the  
COMMISSION ON WATER RESOURCE MANAGEMENT

July 12, 2006  
Honolulu, Oahu

Hawaii Prince Golf Club/Hawaii Prince Hotel Waikiki Corp.,  
Well Nos. 1900-02, 1900-17 to 20, 1901-03, WUP No. 469, 0.301 mgd, TMK 9-1-10:6  
Haseko (Ewa), Inc., Well Nos. 1901-06, 1902-01, 1902-09 to 11, WUP No. 650, 3.300 mgd, TMK 9-1-12:5  
Department of Parks and Recreation, Well No. 2001-03, WUP No. 167, 0.030 mgd, TMK 9-1-61:35  
Palm Court Association, Well No. 2002-12, WUP No. 169, 0.040 mgd, TMK 9-1-61:22  
Palm Villa II Association, Well No. 2001-08, WUP No. 168, 0.048 mgd, TMK 9-1-61:27  
Arbors Association, Well No. 2001-07, WUP No. 171, 0.063 mgd, TMK 9-1-61:32  
U.S. Fish & Wildlife, Well No. 2101-14, WUP No. 247, 0.216 mgd, TMK 9-1-17:12  
Gentry Development Co., Well No. 2001-04, WUP No. 302, 0.040 mgd, TMK 9-1-61:7  
Gentry Development Co., Well No. 2001-09, WUP NO. 344, 0.023 mgd, TMK 9-1-61:2  
Ewa by Gentry Community Association, Well No. 2001-05, WUP No. 450, 0.066 mgd, TMK 9-1-70:132  
Gentry Homes, Ltd., Well No. 2001-12, WUP No. 504, 0.249 mgd, TMK 9-1-102:31  
Gentry Homes, Ltd., Well No. 1901-05, WUP No. 505, 0.056 mgd, TMK 9-1-69:8  
U.S. DOC/NOAA/NWS, Well No. 1900-23, WUP No. 501, 0.023 mgd, TMK 9-1-1:1  
Coral Creek Golf, Inc., Well No. 2002-17, WUP No. 577, 0.498 mgd, TMK 9-1-69:10  
Coral Creek Golf, Inc., Well No. 2001-13, WUP No. 578, 0.800 mgd, TMK 9-1-69:10  
Coral Creek Golf, Inc., Well Nos. 2001-14, 2002-15, 17, 19,  
WUP No. 579, 0.892 mgd, TMK 9-1-69:10&11, 9-1-61:54  
AOAO Suncrest/The Shores/Lombard Way/Avalon, Well No. 2001-10,  
WUP No. 629, 0.022 mgd, TMK 9-1-10:17  
State Housing Community Development Corporation of Hawaii,  
Well Nos. 2003-04, 07, WUP No. 432, 0.494 mgd, TMK 9-1-16:25  
State Housing Community Development Corporation of Hawaii,  
Well Nos. 2003-08, WUP No. 520, 0.237 mgd, TMK 9-1-16:108  
Kapolei People's Inc., Well Nos. 2003-01, 02, 05, WUP No. 438, 1.000 mgd, TMK 9-1-16:25  
Honolulu Board of Water Supply, Well Nos. 1905-08, 10, WUP No. 740, 0.302 mgd, TMK 9-1-16:1

CONVERSION OF INTERIM WATER USE PERMITS  
FOR NEW IRRIGATION USES TO PERMANENT WATER USE PERMITS  
Puuloa and Kapolei Ground Water Management Areas, Oahu

PERMITTEES: See Exhibit 1

LANDOWNERS: See Exhibit 1

SUMMARY OF REQUEST:

Staff recommends that the Commission correct past water use permit approval errors in the Puuloa and Kapolei Aquifer Systems Areas of the Ewa Caprock Ground Water Management Area and convert the interim water use permits for new irrigation uses to permanent water use permits.

LOCATION MAP: See Exhibit 2

BACKGROUND:

On March 3, 1993, the Commission officially adopted the boundary of the entire brackish Ewa Caprock Aquifer as a separate aquifer overlying the existing designated ground water management areas of the Waipahu-Waiawa, Ewa-Kunia, and Makaiwa Aquifer System Areas. Due to uncertainties regarding the caprock's sustainable yield and nonpotable utility, the Commission did not adopt a sustainable yield estimate for the caprock. All permitted Ewa Caprock irrigation uses prior to 1993 were operating under permanent water use permits.

Designation of the Ewa Caprock and its Aquifer System Areas as water management areas was precipitated by the City and County of Honolulu's (City) urbanization plans for the Ewa area and a City ordinance requiring dual water systems for all new developments. Potable water was to be provided through the municipal system. Possible sources of non-potable water were brackish ground water from the Ewa Caprock Aquifer Sector Area and reclaimed sewage effluent from the Honouliuli Wastewater Reclamation Facility. The estimated non-potable demand of 25 mgd after full buildout (Kumagai, 1996) far exceeded the estimated natural recharge to the caprock aquifer of less than 16 mgd (Bauer, 1996).

Because there were concerns regarding the future viability of the caprock as a dependable source of brackish water due to the significant loss of return irrigation recharge from sugarcane agriculture, in 1993, the Commission began awarding temporary one-year permits for new uses of caprock ground water. In analyzing water availability, the Commission used guidelines for estimating sustainable yields for the Puuloa, Kapolei, and Malakole Aquifer System Areas (Yuen & Associates, Inc., 1989; Exhibit 2).

On July 13, 1994, the Commission extended temporary one-year permits. The duration of the extended permits was to July 12, 1995.

On July 5, 1995, the Commission extended the permits, which were now called interim (instead of temporary) permits.

On March 13, 1996, the Commission deferred action on existing interim permits and new applications pending a decision on the establishment of a formal sustainable yield for the caprock.

Also on March 13, 1996, the Commission adopted the following policy statement, clearing the way for application of reclaimed water on lands overlying the Ewa Caprock Aquifer Sector Area:

*“It is the policy of the Commission on Water Resource Management (Commission) to promote the viable and appropriate reuse of reclaimed water in so far as it does not compromise beneficial uses of existing water resources.*

*I. Ewa Caprock*

*Recognizing that reclaimed water is a valuable resource in the Ewa Plain, direct or indirect reuse will be championed by the Commission. It is the policy of the Commission that the water resources of the Ewa Caprock Aquifer will be allocated only for nonpotable uses.”*

On May 14, 1997, the Commission adopted a sustainable yield based on a sustainable capacity for each individual irrigation well at 1,000 milligrams per liter (mg/l) of chloride as an interim management plan, subject to review within two (2) years. The rationale behind the chloride cap was to limit pumpage in those wells approaching the limit, to prevent a build-up of sodium in the clay soils, and to protect other users adjacent to those pumping higher chloride water. The Commission also adopted the Puuloa, Kapolei, and Malakole Aquifer System Areas in the Ewa Caprock Aquifer Sector Area and approved pending applications for new and continued irrigation uses. The interim water use permits were to expire on October, 1998 or until such time that a significant change in permitted, actual, or projected uses or water supply occurs. The October, 1998 date coincided with the possible revocation of unused (former Oahu Sugar Company) agricultural permits and also provided a milestone date to check on the progress of wastewater reuse for private caprock well owners, the availability of which was then scheduled for July, 1999. (Note: Wastewater reuse was anticipated due to the 309 Consent Decree settlement between the City and DOH/EPA in 1994, which required the City to implement a reuse program with agreed-upon time schedule and associated volumes: 2.0 mgd by 7/1/98, 5 mgd by 6/30/99 and 10 mgd by 7/1/01. The City requested and received extensions to the implementation schedule.)

On October 22, 1998, the Commission extended the interim water use permits, subject to the Standard Conditions of a water use permit and new special conditions. The interim permits specified a duration to July, 2001, or 1) until treated wastewater is available and acceptable for use, or 2) until such time that a significant change in permitted, actual, or projected uses or water supply occurs.

On July 20, 2000, an agreement was reached between the Honolulu Board of Water Supply (BWS), the City, and U.S. Filter for BWS' purchase of the Honouliuli Wastewater Reclamation Facility. The agreement includes BWS becoming the purveyor of reuse water, with the task of securing customers for 10 mgd by July 1, 2001. U.S. Filter will operate the facility for BWS under a 20-year service agreement. The City will provide secondary effluent to the facility and will take back 4 mgd of the R-1 water for City reuse applications. Some of the reclaimed water will supply industrial uses at Campbell Industrial Park.

On July 18, 2001, the Commission extended the interim water use permits, subject to the Standard Conditions of a water use permit and new special conditions (Exhibits 3 and 4). Special Condition 3 specifies that the duration of the interim permits is to July 1, 2006, or 1) until treated wastewater is available and acceptable for use, or 2) until such time that a significant change in permitted, actual, or projected uses of water supply occurs.

ANALYSIS/ISSUES:

All of the subject permits are for new irrigation uses that have a July 1, 2006 expiration date. Under the Water Code and Administrative Rules, interim permits are only mentioned in the sections dealing with existing uses. Section §174C-50 HRS contains the provisions for existing uses. Subsection (e) provides for the issuance of interim permits for existing uses:

*“§174C-50 Existing uses. ... (e) The commission shall issue an interim permit; provided that the existing use meets the conditions of subsection (b). The commission shall also issue an interim permit for an estimated, initial allocation of water if the quantity of water consumed under the existing use is not immediately verifiable, but the existing use otherwise meets the conditions of subsection (b) for a permit of an interim permit. An interim permit is valid for such time period specified therein. The commission may issue successive interim permits of limited duration. Interim permits are subject to revocation under section 174C-58. Whenever interim permits are to be issued, the time periods specified in subsection (d) apply to the issuance or nonissuance of interim permits.” §174C-50(e) HRS*

Staff believes the intent of the provision is to bring existing users in newly-designated areas under regulation in a timely manner by issuing interim permits pending verification of the quantity of the existing use. Subsection (f) provides for the installation of metering or gauging devices, and if so prescribed, *“...such metering or gauging devices shall be in place and operational for at least one year before a determination is made as to the quantity of water being consumed in an existing use and a final permit is issued.” §174C-50(f) HRS*

Because the Water Code gives preference to existing uses over new uses and water reservations, it is important that permitted existing use quantities be verified. In the event of future competition, existing uses may have a higher priority than new uses.

In issuing permits for new uses, the applicable statute, §174C-53 HRS, does not mention interim permits.

The recommended action is to correct the error that was made in issuing interim permits for new uses and to let users know that they can continue their use beyond July 1, 2006, subject to the Standard and Special Conditions that have been attached to these permits (Exhibits 3 and 4), with the exception of Special Condition d., which limits the duration of these new use permits. Special Condition d. is not necessary because the Water Code provides for review of water use permits (§174C-56 HRS), modification of water use permits (§174C-57 HRS), and revocation of water use permits (§174C-58 HRS); therefore, permanent permits are still subject to review, modification, and revocation.

The Deputies Attorney General have concurred that the awarding of interim permit for new uses is an error. The erroneous practice of approving and issuing interim permits for new uses was corrected beginning in about 2003. The current practice of the Commission is to approve permanent permits for new uses, which are always subject to standard and special conditions that define limitations of these permits.

There are other instances in which the Commission has issued interim permits for new uses in the Ewa Caprock and other water management areas. However, the Commission did not attach specific expiration dates to other interim permits for new uses. Therefore, the staff is planning to address the status of other interim permits, as well as all permanent water use permits, including the subject permits, as part of the 20-year compliance review that is required under §174C-56 HRS. This compliance review will be initiated in 2007 and completed in 2008.

RECOMMENDATION:

Staff recommends that the Commission correct the error of approving and issuing interim permits for new irrigation uses in the Puuloa and Kapolei Ground Water Management Areas of the Ewa Caprock Aquifer Sector Area by converting the subject interim water use permits to permanent water use permits. All terms and conditions of the permits shall remain unchanged, except for Special Condition d., which is deleted. The permittees shall be notified by letter of the Commission's action to convert these water use permits from interim to permanent and the deletion of Special Condition d. Re-issuance of these water use permits is not necessary.

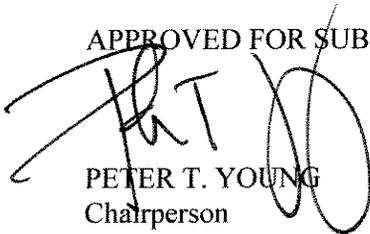
Respectfully submitted,



DEAN A. NAKANO  
Acting Deputy Director

- Exhibit(s):
- 1 (Interim Water Use Permittees)
  - 2 (Location Map)
  - 3 (Standard Water Use Permit Conditions)
  - 4 (Special Water Use Permit Conditions)

APPROVED FOR SUBMITTAL:



PETER T. YOUNG  
Chairperson