



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

STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

February 21, 2007
Honolulu, Oahu

Chairperson's Recommendation
Hui o Na Wai Eha and Maui Tomorrow Foundation, Inc.'s
Petition for Surface Water Management Area Action
Waihee, Waiehu, Iao, and Waikapu Surface-Water Hydrologic Units
Wailuku, Maui

PETITIONER:

Hui o Na Wai Eha and Maui Tomorrow Foundation, Inc.
c/o Earthjustice
223 South King Street, Suite 400
Honolulu, HI 96813-4501

SUMMARY OF REQUEST:

The Chairperson, after consultation with Maui's Mayor, County Council, and Department of Water Supply, recommends that the Commission on Water Resource Management (Commission) accepts the petition to designate the Waihee, Waiehu, Iao, and Waikapu Surface-Water Hydrologic Units as water management areas, and continues the designation process.

LOCATION MAP: See Exhibit 1

BACKGROUND:

On December 6, 2006, Earthjustice, representing Hui o Na Wai Eha and Maui Tomorrow Foundation, Inc. filed a petition requesting that the Commission either: (1) recognize the watersheds of Waihee, Waiehu, Iao, and Waikapu Streams (collectively, Na Wai Eha) as part of the existing Iao Ground Water Management Area, or (2) designate the Na Wai Eha Surface-Water Hydrologic Units as a surface water management area. The State Water Code,

at §§174C-41 to 47, and Hawaii Administrative Rules, at §§13-171-3 to 10, cover the topic of designation of water management areas.

In brief, the process for taking action on a petition to designate an area is as follows:

Summary of Water Management Area Designation Process

- (1) Petition filed with the Commission or recommendation by Chairperson.
- (2) Consultation with appropriate Mayor, County Council, and County Department of Water Supply (DWS).
- (3) Comments received from Mayor, County Council and DWS.
- (4) Chairperson makes a recommendation to the Commission to accept or reject petition within 60 days of receipt of the petition.
- (5) Commission accepts or rejects petition. Accepting the petition continues the designation process.
- (6) Publication of notice of public hearing.
- (7) Public hearing held.
- (8) Completion of staff investigation.
- (9) Completion of findings of fact.
- (10) Second consultation with Mayor, County Council and DWS.
- (11) Recommendation to Commission for or against designation
- (12) Commission final action.

ISSUES/ANALYSIS:

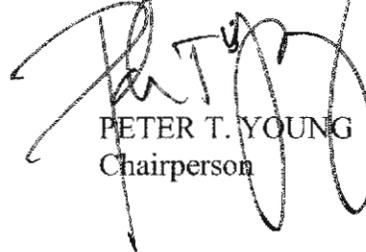
We are at step (4) in the designation process. The petition was filed on December 6, 2006, by Earthjustice, representing Hui o Na Wai Eha and Maui Tomorrow Foundation, Inc. In December 2006, the Chairperson requested comments from the previous Mayor, County Council, and DWS. Responses from both the previous Mayor and previous Director of the DWS stated that they believed “the statutory criteria for surface water designation have been met.” On January 23, 2007, Mayor Charmaine Tavares and Acting Director of the DWS, Jeffrey Eng, similarly responded that they believe that “the statutory criteria for surface water designation have been met.” (Exhibits 2 and 3). On February 2, 2007, the County Council adopted Resolution No. 07-13, “SUPPORTING THE PETITION TO DESIGNATE NA WAI EHA AS A SURFACE WATER MANAGEMENT AREA” by a unanimous vote (Exhibit 4).

The State Water Code provides that the Chairperson is to make a recommendation to accept or reject the proposed designation within 60 days after receipt of the petition “or such additional time as may be reasonably necessary.” The 60-day deadline was February 4, 2007. On January 24, 2007, the Commission, at its regularly scheduled meeting, voted to extend the 60-day deadline from February 4, 2007 to the February Commission meeting. On January 26, 2007, the Chairperson sent a memorandum to the commissioners recommending that the Commission continues the surface water management area designation process and that he will make a formal recommendation to continue the designation process, by a submittal, at the Commission’s next meeting in February 2007 (Exhibit 5).

RECOMMENDATION:

That the Commission continues the surface water management area designation process. The designation process includes publicizing and holding a public hearing, initiating and completing investigations, completing findings of fact, further consultation with the Mayor, County Council, and the Department of Water Supply, and final Commission action.

Respectfully submitted,



PETER T. YOUNG
Chairperson

- Exhibit(s):
- 1 (Location Map)
 - 2 (January 23, 2007 letter from Charmaine Tavares, Mayor, County of Maui)
 - 3 (January 23, 2007 letter from Jeffrey Eng, Acting Director, Maui DWS)
 - 4 (Maui County Council Resolution No. 07-13)
 - 5 (January 26, 2007 memo from Peter T. Young, Chairperson, Department of Land and Natural Resources)