



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

August 15, 2012
Honolulu, Oahu

Monsanto Company
APPLICATIONS FOR: 1) GROUND WATER USE;
2) WELL CONSTRUCTION; AND 3) PUMP INSTALLATION PERMITS
Kunia Farm Well No. 1 (Well No. 2402-06), TMK (1) 9-2-001:001, WUPA No. 954
Future back-up (Agricultural) Use for 2.636 Mgd
Waipahu-Waiawa Ground Water Management Area, Oahu

APPLICANT:

Monsanto Company
94-529 Kunia Road
Kunia, HI 96759

LANDOWNER:

Same

SUMMARY OF REQUEST:

The applicant, Monsanto Company ("Monsanto"), requests that the Commission approve a water use permit and allocate 2.636 million gallons per day (Mgd) of potable basal ground water from a new well in the Waipahu-Waiawa Ground Water Management Area. If approved, this new water use permit would provide back-up irrigation water for 2,052 net acres of seed corn and various other crops, currently irrigated by surface water from the Waiahole Ditch System.

LOCATION MAP: See Exhibit 1

BACKGROUND:

Pursuant to the Waiahole Contested Case Hearing Decision and Orders, and the subsequent transfer of the land and Ground Water Use Permits ("GWUP") from the Estate of James Campbell to Monsanto on November 13, 2007. Monsanto currently has a GWUP for 2.636 mgd of the surface water from the Waiahole Ditch System (GWUP No. 828).

The applicant is concerned that the Waiahole Ditch System (managed by the State Agribusiness Development Corporation) could be damaged and leave Monsanto without water for an extended period of time.

On May 4, 2012, Monsanto submitted applications for well construction/pump installation permits. Monsanto did not list a contractor. The application form was not complete. It did not submit a completed Ground Water Use Permit Application (GWUPA 954). To be consistent, well construction and pump installation permits are normally handled administratively and concurrently with the Commission's decision on a GWUPA. However, the Commission may choose to address the well and pump permits independently in the situation presented here. Information regarding the source, use, and notification is provided in Attachment A.

ANALYSIS/ISSUES:

The State Water Code, Haw. Rev. Stat. § 174C-49(a) establishes seven (7) criteria that must be met to obtain a water use permit.

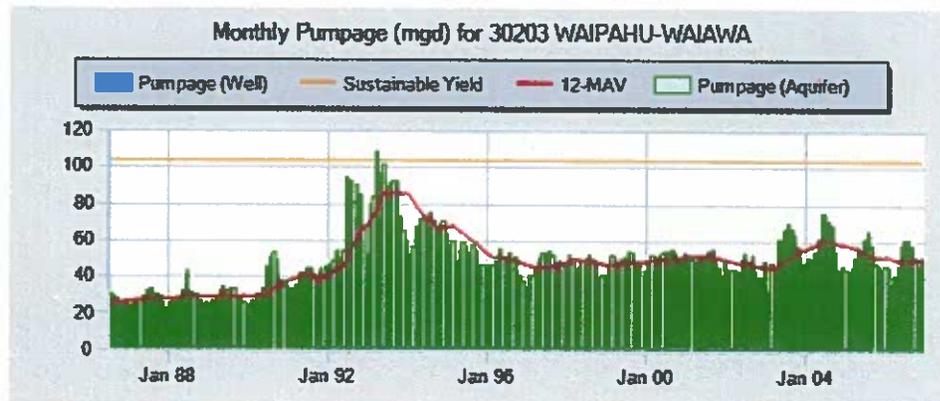
(1) Water availability

Through the Hawaii Water Plan, the Commission determined the sustainable yield for the **Waipahu-Waiawa** Aquifer System Area to be 104 million gallons per day ("mgd") Individual existing water use permits in this aquifer system area are shown in Exhibit 2. A summary of the current ground water conditions in the aquifer is set forth in Table 1:

Table 1. Waipahu-Waiawa Aquifer System Area

<u>ITEM</u>	Waipahu-Waiawa Aquifer System Area (Mgd)
Sustainable Yield	104
Less: Other Existing Water Use Permits (shown in Exhibit 2)	83.498
Reservation to DHHL	1.358
Subtotal (Current Available Allocation)	19.144
Less: Other Completed Applications	0
Less: This Application	2.636
Subtotal (Potential Available Allocation/Allocation Deficit)	16.508

Though not all users in the Waipahu-Waiawa Aquifer System are reporting monthly water usage, the data indicates that total 12 month average (“mav”) pumpage in the System was at least 50 mgd in 2006 (see chart below)



Based on these figures, there is sufficient water available in the Waipahu-Waiawa Aquifer System to accommodate the full allocation request of 2.636 mgd.

(2) Reasonable-beneficial

Haw. Rev. Stat. §174C-3 defines "reasonable-beneficial use" as

"...the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and the public interest".

I. Purpose of Use

The applicant requests the use of potable ground water as a backup source for irrigation of 2,052 (net) acres of seed corn and other crops. Haw. Rev. Stat. §174C-2(c) Declaration Policy states that the Water Code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for various purposes including agricultural uses.

II. Quantity Justification

In the Waiahole Contested Case Hearing, the Commission approved 2.636 mgd of Waiahole surface water for use on the fields proposed for use her (owned at the time by Campbell Estate).. That surface water use permit is not at issue here.

III. Efficiency of Use

The issue of efficiency of surface water for use on these lands was addressed in Waiahole and will not be re-evaluated here.

IV. Analysis of Practical Alternatives

In the Waiahole Contested Case Hearing, the Commission determined that the highest and best use of water from Waipahu-Waiawa Aquifer System Area is to meet potable needs. This proposed use would be a back up to the Waiahole Ditch System. It is not the Commission's preferred source, but it is an alternative. Monsanto analyzed alternatives to potable ground water as back up sources. Monsanto concluded that municipal sources, wastewater reuse, desalinization, and other surface water are not available.

(3) Interference with other existing legal uses

There are no other production wells within a mile of the proposed source. State Well No. 2503-04 is located approximately two-thirds of a mile northwest of the proposed well. It is a monitoring well.

There are contaminated Del Monte wells north of the subject well. These are subject of an EPA Consent Decree to clean up the wells. The State of Hawaii Department of Health Hazard Evaluation and Emergency Response Office (HEER) and EPA, indicated they have no concerns about Monsanto's application. The proposed well is outside of the area that is subject to the Consent Decree. There appear to be no negative impacts on the EPA / DOH mitigation work to remediate the contaminated plume. The proposed well will not be used for potable purposes.

Pump tests will be required for the proposed 2,083 gpm pump. Results of this pump test will be used to evaluate adverse impacts. Well Completion Reports (required under the administratively issued Pump Installation Permit) for this well will not be approved unless the pump tests show no or minimal adverse impacts to the aquifer.

The staff anticipates no adverse impacts due to pumping. However, this judgment depends on acceptable pump tests that show no adverse impacts for the proposed pump capacity.

(4) Public interest

The Water Code, Haw. Rev. Stat. §174C-2, - Declaration of Policy defines "public interest" as follows::

(c) The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and

customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.

The Board of Water Supply (“BWS”) is concerned that duplicate water uses permit for 2.636 mgd as a backup source (even if not pumped) will reduce the available allocation for other future uses. If a well construction permit and pump installation permit for back-up sources does not affect the long-term availability of potable ground water, for other users, then third parties will not be impacted. There have been no other objections to the well construction permit and the pump installation permit.

(5) State and County general plans and land use designations

The proposed uses are in the State Agricultural District. The County zoning is Agriculture. The proposed use is consistent with these land use designations.

Monsanto’s applications were reviewed by:

- 1) State Department of Land and Natural Resources (DLNR) and its divisions State Parks, Aquatic Resources, Historic Preservation, and Land; the Department of Health (DOH) Clean Water, Safe Drinking Water, and Wastewater Branch. The Department of Hawaiian Home Lands (DHHL) and Land Use Commission (LUC); and the Office of Hawaiian Affairs (OHA).
- 2) City and County of Honolulu Office of the Mayor, Department of Planning and Permitting, and the Board of Water Supply.

The Board of Water Supply is concerned about the issuance of water use permits as back up allocations for landowners who already have water use permits.

(6) County land use plans and policies

The Office of the Mayor, Department of Planning and Permitting, and the Honolulu Board of Water Supply reviewed Monsanto’s applications.

(7) Interference with Hawaiian home lands rights

All permits are subject to the prior rights of Department of Hawaiian Home Lands (“DHHL”). DHHL and the Office of Hawaiian Affairs (“OHA”) reviewed Monsanto’s applications. DHHL responded that its needs may exceed DHHL’s current 1.358 reservation.

Standard water use permit conditions 3(a), 6 and 9(f) inform all water use permittees that their permits are subject to and may not interfere with DHHL water rights.

Unless DHHL's reservation is increased, the 1.358 mgd reservation addresses DHHL's immediate needs. If the full 2.636 mgd is approved, 16.508 mgd will still be available under the current calculations – although this may change after the central Oahu recharge and evapo-transpiration studies are completed in 2014. DHHL's requests may be considered under a separate action. Monsanto's applications do not appear to interfere with DHHL rights at the present time.

(8) Other issues

I. Chapter 343 – Environmental Assessment (EA) Compliance

Environmental Assessment (EA).

In accordance with Haw. Rev. Stat. §343-5(a), the proposed action does not trigger the need for an EA.

II. Allocations for Backup Needs

In the past, the Commission has allowed modifications to or backup sources for existing wells with water use permits where the wells are part of a battery of wells from an existing source OR are part of an allocation within the same aquifer system area –provided there is no net increase to the allocation See Declaratory Judgment DEC-ADM97-A1 (Exhibit 3). The Honolulu BWS and Maui Department of Water Supply have used backup sources to optimize pumpage within their overall municipal systems.

Municipalities are perhaps unique in this regard due to their integrated and nearly island wide public obligations. However, this practice and Declaratory Ruling does not apply to Monsanto's situation here. Monsanto proposes a completely new source in a different aquifer system area that is not part of a battery of wells.

Allocations for the same use from two separate aquifer system areas raise a double counting problem. If two separate allocations are approved (from the same or different sources), other landowners would soon be precluded from applying for ground water in that area. The water available for allocation would be reduced. The Honolulu BWS is seriously concerned about double counting. The CWRM staff agrees with the BWS. Double counting is fundamentally unsustainable and unfair to others.

III. Well Construction & Pump Installation in Ground Water Management Areas (GWMA's)

In the past, the Commission allowed wells to be constructed in a ground water management area before a water use permit is issued. See Declaratory Rulings DEC-ADM92-G0 & DEC-ADM94-G2 (Exhibits 4 & 5).

However, pump installation permits have not and are not allowed prior to the approval of a water use permit.

This approach is used to address the “reliance” issue. The reliance issue arises from the risk assumed by an applicant when constructing a well in “reliance” upon a water use permit and allocation later. . In a Ground Water Management Area (“GWMA”), applicants have been allowed the option of drilling a well with the express understanding that they may not obtain a permit (and allocation) later. The purpose of this practice has been to provide the Commission with additional and better information to evaluate later water use permit decisions. If pump tests show no adverse impacts to existing sources, then a pump installation permit could then be administratively approved in non-designated areas.

The current status of the Waipahu-Waiawa Aquifer System Area and knowledge of the ground water supply suggests that a new well pumping 2.636 mgd would not have an immediate impact on the source. In an emergency, pumping at that rate should not harm third parties. However, it would change the current Commission ruling and practice regarding pump installation prior to approved GWUP.

DISCUSSION:

The staff looked at 3 options:

1. Deny the Ground Water Use Permit Application (GWUPA). Grant the Well Construction & Pump Installation Permits. Apply the Water Code’s Shortage Plan Provisions to address emergencies.

The Applicant seeks assurance that if the Waiahole Ditch ceased to provide surface water, some reasonable alternative is available.. It is not clear now what an emergency might entail or where. The full extent of an emergency is only knowable when it occurs. The Commission would need to address the duration of an emergency and alternative water sources after the scope of the problem is known.

The Water Code, Haw. Rev. Stat. §174C-62(g) provides:

If an emergency condition arises due to a water shortage within any area, whether within or outside of a water management area, and if the commission finds that the restrictions imposed under subsection (c) are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish, or aquatic life, or a public water supply, or recreational, municipal, agricultural, or other reasonable uses, the commission may issue orders reciting the existence of such an emergency and requiring that such actions as the commission deems necessary to meet the emergency be taken, including but not limited to apportioning, rotating, limiting, or prohibiting the use of the water resources of the area. Any party to whom an emergency order is directed may challenge such an order but shall immediately comply with the order, pending disposition of the party’s challenge. The commission shall give precedence to a hearing on such challenge over all other pending matters.

This provision gives the Commission the flexibility to address the problems that may arise. This section allows the Commission to fashion remedies appropriate to the situation. Until the nature of the problem is known, it is not possible to design a solution. An automatic right to pump well water might or might not be the answer. For example, there could be multiple parties affected by a disrupted by the breakdown of a surface water system. The solution may need to accommodate many users, not just one.

To avoid the double counting problems and in recognition that other parties would soon apply for similar back up wells, the Commission could a) deny this GWUPA, b) allow construction of the well and installation of the pump to provide an actual emergency relief alternative, and c) use the shortage plan provisions of the Water Code to address whatever emergency actually arises.

This approach avoids double counting, does not require an allocation from Waipahu-Waiawa that precludes others from applying for allocations for more immediate needs, and remains flexible to other solutions..

2. Issue a Ground Water Use Permit for 0.000 mgd

The Commission could allocate 0.000 mgd. This would allow the Commission to administratively issue a well construction and pump installation permit consistent with prior Commission rulings.

There could be a special condition to allow immediate relief pumpage in the event of an emergency under Haw. Rev. Stat. §174C-62(g). A special condition could also require the applicant to submit a future GWUPA within a prescribed amount of time from the date of the actual emergency.

However, the concept of a "0" allocation water use permit defeats the entire purpose of a permit in a designated ground water management area. Moreover, the nature of the emergency and new water use permit application would displace the old "0" permit and render it useless. This is not a helpful approach.

3. Issue a water use permit for 2.636 Mgd

If the full 2.636 mgd is allocated, the GWUP would have to provide that: 1) the permit will be fully or partially revoked (with the applicant agreeing to waive the right to a hearing) if the allocations in Waipahu-Waiawa are fully allocated to the sustainable yield (i.e. this would be automatic revocation); 2) that the applicant notify the Commission immediately upon turning on the pump for consumptive use; 3) that at no time shall the applicant ever exceed a combined total of 2.636 mgd from both the Waiahole Ditch System and the well; 4) should an alternate source become available that this allocation may be fully or partially revoked *without a hearing*; and 5) if pumping of this well has adverse impacts on the Kunia well, this permit may be revoked *without a hearing*.

This creates the “double counting” problem and invites other applicants’ in water management areas to do the same thing. There is no principled stopping point to the logic. It would immediately lead to analytical grid lock and generate legal issues among all users in the area. It will make planning and future management untenable.

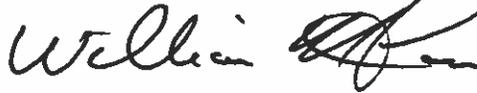
RECOMMENDATION:

Providing a water user with two allocation of water in the same land use is inherently unfair to all users, an invitation to a flood of similar requests throughout the state, an unsupportable approach to scarce natural water resources, and against public policy.

The staff strongly recommends that the Commission adopt option No.:

1. Deny the GWUP application.
2. Approve the Well Construction Permit.
3. Approve the Pump Installation Permit and pump testing.

Respectfully submitted,



WILLIAM M. TAM
Deputy Director

Attachment(s): A (Water Use Permit Detailed Information)
B (Water Use Permit Standard Conditions)
C (Well Construction Permit Standard Conditions)
D (Pump Installation Permit Standard Conditions)

Exhibit(s): 1 (Location Map)
2 (Existing Water Use Permits and 12-Month Moving Average Withdrawal)
3 (DEC-ADM97-A1 - Delegation of WUP Modification)
4 (DEC-ADM94-G2 - Combined WCP & PIP with WUP)
5 (DEC-ADM94-G2 - Allows exploratory WC prior to WUP in WMAs)

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

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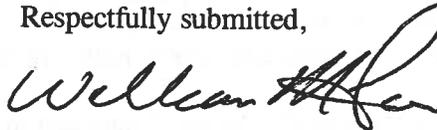
Providing a water user with two allocation of water in the same land use is inherently unfair to all users, an invitation to a flood of similar requests throughout the state, an unsupportable approach to scarce natural water resources, and against public policy.

The staff strongly recommends that the Commission adopt option No. 1 and act as follows:

1. Deny the Groundwater Use Permit (GWUP) application without prejudice.
2. Authorize the Chairperson to approve the Well Construction Permit, but only after the Applicant identifies and secures a licensed contractor.
3. Authorize the Chairperson to approve the Pump Installation Permit and pump testing, but only after the Applicant identifies and secures a licensed contractor; and subject to the following conditions:
 - a. Other than for routine maintenance, the pump may only be turned on and water pumped from the well if the Applicant informs the Commission of the nature and extent of the emergency related to the Waiahole Ditch System, and the Commission declares an emergency related to the Waiahole Ditch System. If the Applicant turns on the pump before the emergency declaration, the Applicant may be subject to fines;
 - b. After the emergency occurs, the Applicant shall immediately submit a written application for a emergency Groundwater Use Permit to the Commission;
 - c. The use of groundwater from the proposed well no. 2402-06 does not replace or duplicate ditch water that remains actually available under the Applicant's existing Water Use Permit no. 828.
 - d. The total quantity of ground water used from both the proposed well no. 2402-06 and the Waiahole Ditch System may not exceed the quantity of water authorized under Applicant's existing Water Use Permit no. 828.
 - e. The ground water from the proposed well no. 2402-06 shall only be used on the same locations (the same fields), for the same purposes, in the same quantities, and under the same conditions (as applicable) as required by the existing Water Use Permit no. 828.
 - f. If alternative sources of water are or become available, the Applicant shall make all reasonable efforts to use alternative sources. If alternative sources are available, but the Applicant determines such sources are not sufficient or practically available during the period of the emergency, then the Applicant shall explain the situation to the Commission and request an exemption.
 - g. The period of time during which the groundwater is or may be pumped from the proposed well no. 2402-06 shall not extend beyond the time of the declaration of

- emergency or as otherwise specified in any Commission action on the future emergency Groundwater Use Permit Application.
- h. The Applicant shall keep the Commission fully informed on the status of the emergency condition and submit regular and timely reports on the efforts to remedy the emergency and shall submit water use reports on a monthly basis.
 - i. Such other conditions that the Chairperson determines are reasonable, necessary, and appropriate to address the emergency situation.

Respectfully submitted,



WILLIAM M. TAM
Deputy Director

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APPROVED FOR SUBMITTAL:

WILLIAM J. AILA, JR.
Chairperson

WATER USE PERMIT DETAILED INFORMATION

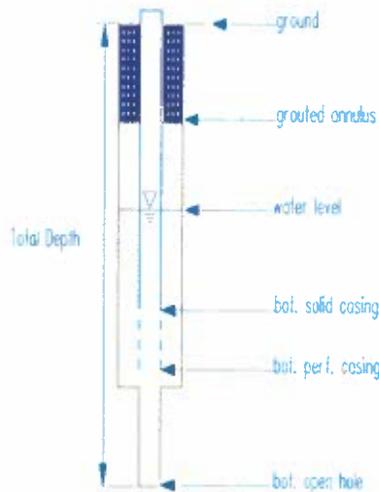
Source Information

AQUIFER: Waipahu-Waiawa System, Pearl Harbor Sector, Oahu
 Sustainable Yield: 104 mgd
 Existing Water Use Permits: 83.498 mgd
 Available Allocation: 19.144 mgd
 Total other pending applications: 0 mgd
 This application: 2.636 mgd

PROPOSED WELL: Kunia Farm Well No. 1 (Well No. 2402-06)
 Location: 94-520 Kunia Road, Oahu, TMK: (1) 9-2-001:001
 Casing Diameter: 18 in.
Elevations (msl = 0 ft.)
 Water Level: 16 ft.
 Ground: 616 ft.
 Bottom of Solid Casing: -20 ft.
 Bottom of Open Hole: -144 ft.

Total Depth: 760 ft.
 Grouted Annulus Depth: 600 ft.

Pump Capacity 2,083 gpm



Use Information

Quantity Requested: 2.636 gallons per day.
Type of Water Use: future back up agricultural
Place of Water Use: TMK: (1) 9-2-001:001, 9-2-004:009, 9-2-002:007

Waipahu-Waiawa Aquifer System
Current 12-Month Moving Average Withdrawal (See Exhibit 2): 49.820 mgd

Public Notice

In accordance with HAR §13-171-17, a public notice was published in the Honolulu Star Advertiser on May 18, 2012 and May 25, 2012 and a copy of the notice was sent to the Office of the Mayor. Copies of the completed application were sent to the Department/Board of Water Supply, Department of Planning and Permitting, Department of Health, Department of Hawaiian Home Lands, Office of Hawaiian Affairs, the various divisions within the Department of Land and Natural Resources, and other interested parties for comments. Written comments and objections to the proposed permit were to be submitted to the Commission by June 11, 2012.

Objections

The public notice specifies that an objector meet the following requirements: (1) state property or other interest in the matter; (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; (3) state all grounds for objections to the proposed permits, (4) provide a copy of the objection letter(s) to the applicant, and (5) submit objections meeting the previous requirements to the Commission by June 11, 2012.

To the best of staff's knowledge there are no objectors who have property interest within the Waipahu-Waiawa Aquifer System or who will be directly and immediately affected by the proposed water use.

Briefs in Support

Responses to objections, or briefs in support, regarding the application are required to be filed with the Commission ten (10) days after an objection is filed and, presumably, copies are served to the applicant. No briefs in support were filed with the Commission.

STANDARD WATER USE PERMIT CONDITIONS

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization which is both reasonable and consistent with State and County land use plans and the public interest." (HRS § 174C-3)
2. The right to use ground water is a shared use right.
3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
 - a. Can be accommodated with the available water source;
 - b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
 - c. Will not interfere with any existing legal use of water;
 - d. Is consistent with the public interest;
 - e. Is consistent with State and County general plans and land use designations;
 - f. Is consistent with County land use plans and policies; and
 - g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).
4. The ground water use here must not interfere with surface or other ground water rights or reservations.
5. The ground water use here must not interfere with interim or permanent instream flow standards. If it does, then:
 - a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
 - b. The interim or permanent instream flow standard, as applicable, must be amended.
6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.
7. The water use permit application and submittal, as amended, approved by the Commission at its August 15, 2012 meeting are incorporated into this permit by reference.
8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
 - a. protect the water sources (quantity or quality);
 - b. meet other legal obligations including other correlative rights;
 - c. insure adequate conservation measures;

- d. require efficiency of water uses;
- e. reserve water for future uses, provided that all legal existing uses of water as of June, 1987 shall be protected;
- f. meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
- g. carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

- 10. An approved flowmeter(s) must be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis (attached).
- 11. This permit shall be subject to the Commission's periodic review of the Waipahu-Waiawa Aquifer System's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the Waipahu-Waiawa Aquifer System, or relevant modified aquifer(s), is reduced.
- 12. A permit may be transferred, in whole or in part, from the permittee to another, if:
 - a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
 - b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.

- 13. The use(s) authorized by law and by this permit do not constitute ownership rights.
- 14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances which will affect the permittee's water use.
- 15. The permittee understands that under HRS § 174C-58(4), that partial or total nonuse, for reasons other than conservation, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period of forfeiture.

16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Waipahu-Waiawa Ground Water Management Area.
17. The water use permit shall be subject to the Commission's establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.
18. Special conditions in the attached cover transmittal letter are incorporated herein by reference.
19. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.

STANDARD WELL CONSTRUCTION PERMIT CONDITIONS

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management's Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", this document permits the construction and testing of Kunia Farm 1 Well (Well No. 2402-06) at 94-520 Kunia Road, Oahu, TMK (1) 9-2-001:001, subject to the Hawaii Well Construction & Pump Installation Standards (1/23/97) which include but are not limited to the following conditions:

1. The Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules.
2. The well construction permit shall be for construction and testing of the well only. A minimum one-inch diameter monitor tube shall be permanently installed, in a manner acceptable to the Commission, to accurately record water levels. The permittee shall coordinate with the Commission and conduct a pumping test in accordance with the attached **Aquifer Pump Testing Procedure (attached)**. The permittee shall submit to the Commission the test results as a basis for supporting an application to install a permanent pump and withdraw water for use. No permanent pump may be installed until a pump installation permit is approved and issued by the Commission.
3. In basal ground water, the depth of the well may not exceed one-fourth (1/4) of the theoretical thickness (41 times initial head) of the basal ground water unless otherwise authorized by the Chairperson.
4. The permittee shall incorporate mitigation measures to prevent construction debris from entering the aquatic environment, to schedule work to avoid periods of high rainfall, and to revegetate any cleared areas as soon as possible.
5. In the event that subsurface cultural remains such as artifacts, burials or concentrations of shells or charcoal are encountered during construction, the permittee shall stop work and contact the Department's Historic Preservation Division (587-0045) immediately.
6. The proposed well construction shall not adversely affect existing or future legal uses of water in the area, including any surface water or established instream flow standards. This permit or the authorization to construct the well shall not constitute a determination of correlative water rights.
7. The following shall be submitted to the Commission within sixty (60) days after completion of work:
 - a. Well completion report, **(attached - Part I, Well Construction Report)**.
 - b. Elevation (referenced to mean sea level, msl) survey by a Hawaii-licensed surveyor.
 - c. As-built sectional drawing of the well.
 - d. Plot plan and map showing the exact location of the well.
 - e. Complete pumping test records, including time, pumping rate, drawdown, chloride content, and other water quality data.
8. The permittee shall comply with all applicable laws, rules, and ordinances.
9. The well construction permit application is incorporated into this permit by reference and is subject to the Hawaii Well Construction & Pump Installation Standards (January 23, 1997; HWCPIIS). If the HWCPIIS are not followed and as a consequence water is wasted or contaminated, **a lien on the property may result**.
10. The permit may be revoked if work is not started within six (6) months after the date of approval or if work is suspended or abandoned for six (6) months, unless otherwise specified. The work proposed in the well construction permit application shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Commission upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Commission no later than three (3) months prior to the date the permit expires. If the commencement or completion date is not met, the Commission may revoke the permit after giving the permittee notice of the proposed action and an opportunity to be heard.
11. If the well is not to be used it must be properly capped. If the well is to be abandoned then the applicant must apply for a well abandonment permit in accordance with §13-168-12(f) prior to any well sealing or plugging work.
12. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.
13. The well construction permit application and staff submittal approved by the Commission at its August 15, 2012 meeting are incorporated into the permit by reference.

STANDARD PUMP INSTALLATION PERMIT CONDITIONS

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management's Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", this document permits the pump installation for Kunia Farm 1 Well (Well No. 2402-06) at 94-520 Kunia Road, Oahu, TMK (1) 9-2-001:001, subject to the Hawaii Well Construction & Pump Installation Standards (1/23/97) which include but are not limited to the following conditions:

1. The Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work covered by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules.
2. The pump installation permit shall be for installation of a 2,083 gpm capacity, or less, pump in the well.
3. The permittee shall provide and maintain an approved meter or other appropriate means for measuring and reporting withdrawals and water levels, and appropriate devices or means for measuring chlorides and temperature. These data shall be measured monthly and reported to the Commission on monthly basis, on forms provided by the Commission (**attached**).
4. The proposed use shall not adversely affect existing or future legal uses of water in the area, including any surface water or established instream flow standards. This permit or the authorization to pump water from a well shall not constitute a determination of correlative water rights. The permittee is notified and by this provision understands that the quantity of water taken from the well could be reduced by the Commission in the future. This permit is not a commitment that the pump capacity permitted here or even some lesser amount is guaranteed in the future.
5. The applicant shall complete and submit as-built drawings and Part II - (Permanent) Pump Installation Report of the Well Completion Report (**attached**) to the Commission within sixty (60) days after completion of work.
6. The applicant shall comply with all applicable laws, rules, and ordinances.
7. The pump installation permit application and staff submittal approved by the Commission at its August 15, 2012 meeting are incorporated into the permit by reference.
8. The permit may be revoked if work is not started within six (6) months after the date of approval or if work is suspended or abandoned for six (6) months, unless otherwise specified. The work proposed in the pump installation permit application shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Commission upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Commission no later than three (3) months prior to the date the permit expires. If the commencement or completion date is not met, the Commission may revoke the permit after giving the permittee notice of the proposed action and an opportunity to be heard.
9. If the well is not to be used it must be properly capped. If the well is to be abandoned then the applicant must apply for a well abandonment permit in accordance with §13-168-12(f) prior to any well sealing or plugging work.
10. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.

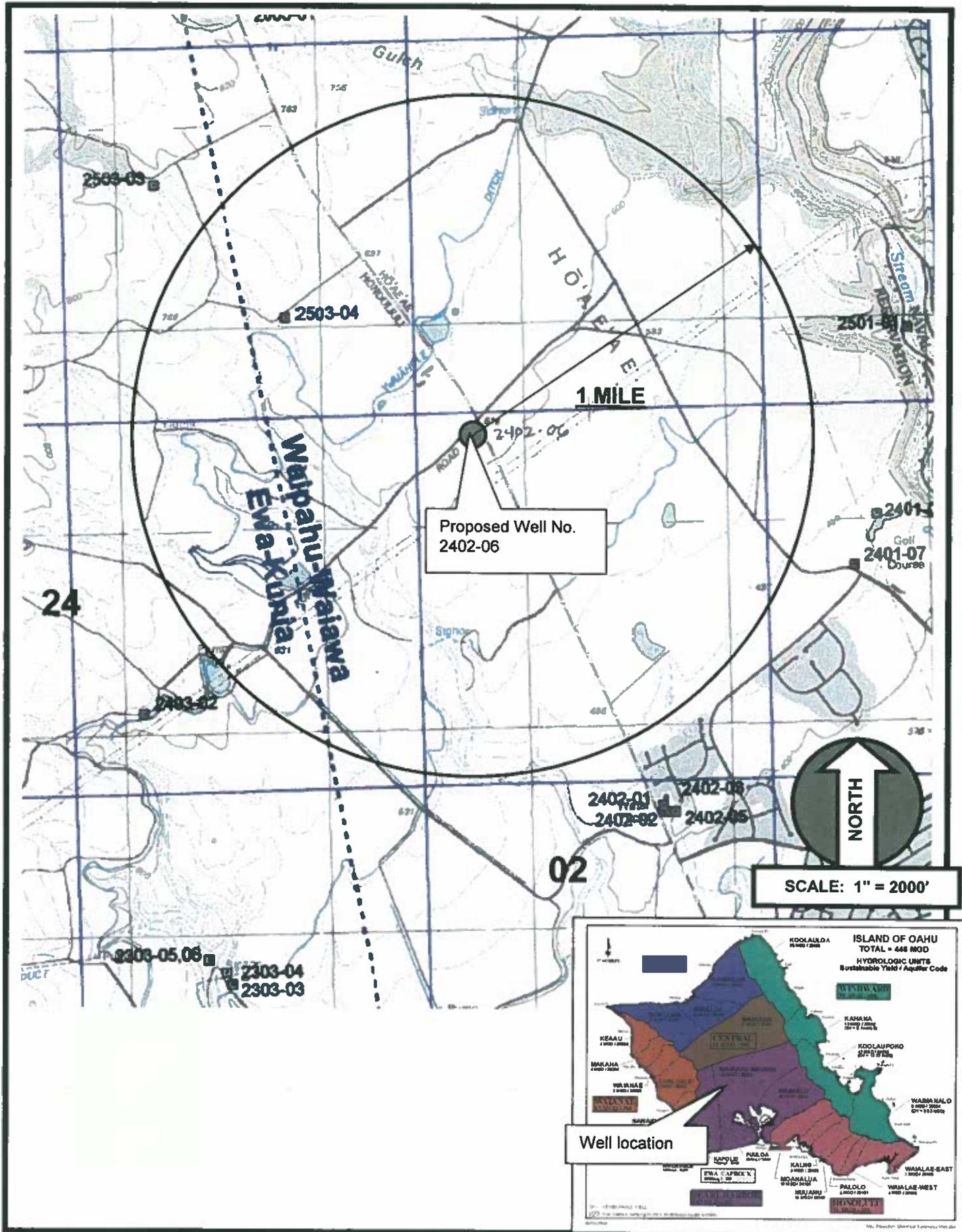


EXHIBIT 1



Report Parameters

Island: Oahu
 Applicant: All
 Well # Prefix: All
 Date: All
 Aquifer: 30203 WAIPAHU-WAIAWA
 TMK: All
 Aquifer Type: All

WUP = Water Use Permit, 12-MAV = 12 month moving average, Diff = WUP-12-MAV, mgd = million gallons per day

Island of OAHU

Aquifer System Ground Water Management Area: **30203 WAIPAHU-WAIAWA**
 Sustainable Yield (mgd): **104**

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)	12-MAV (mgd)	Diff (mgd)	Date Last Reported
57	07/11/1985	Nazarene Church	3-2358-049	Pearl City	0.003			
58	07/11/1985	Honolulu Board of Water Supply, BWS	3-2400-001	Waipahu I P2	6.000	3.535	2.465	01/31/2007
			3-2400-002	Waipahu I P1				
			3-2400-003	Waipahu I P4				
			3-2400-004	Waipahu I P3				
73	03/27/1987	Honolulu Board of Water Supply, BWS	3-2557-003	Pearl City III	0.500	0.316	0.184	01/31/2007
84	05/17/1989	Harris Rug & Carpet Cleaners	3-2201-014	Pearl Harbor	0.003	0.000	0.003	12/31/1992
90	05/17/1989	Al Watanabe	3-2300-011	Waipahu	0.680	0.702	-0.022	06/30/1983
91	05/17/1989	Al Watanabe	3-2300-020	Waipahu	0.400	0.000	0.400	05/31/1967
92	05/17/1989	Honolulu Board of Water Supply, BWS	3-2301-034	Hoaeae P1	6.610	7.543	-0.933	01/31/2007
			3-2301-035	Hoaeae P2				
			3-2301-036	Hoaeae P4				
			3-2301-037	Hoaeae P3				
			3-2301-038	Hoaeae P5				
			3-2301-039	Hoaeae P6				
108	05/17/1989	Dorothy Yoshimura	3-2459-021	Waipahu	0.006	0.002	0.004	06/30/1993
111	05/17/1989	Navy Public Works Center 1	3-2558-010	Waiawa Shaft	14.977	11.259	3.718	07/31/2009
454	01/30/2002	Hawaii Country Club	3-2603-001	Hawaii Country Club	0.400	0.312	0.088	04/30/2009
456	12/18/1996	Tadahiro Abe	3-2202-002	Honouliuli	0.009			
495	08/26/1998	Tadao Abe	3-2201-002	Honouliuli	0.002			
500	08/26/1998	Gary Takiguchi (Takiguchi Family)	3-2201-002	Honouliuli	0.019			
566	06/21/2000	State Dept. of Haw. Home Lands, DHHL 1		RESERVATION	1.358			
573	12/19/2001	KENNETH SIMON	3-2358-035	Pearl City	0.040			
			3-2358-044	Pearl City				
574	12/19/2000	KENNETH SIMON	3-2358-036	Pearl City	0.004			
575	06/05/1996	ROYAL KUNIA CC	3-2401-007	Royal Kunia C C	0.600	0.352	0.248	09/30/2009
582	11/08/2000	HONOLULU BWS	3-2402-001	Kunia II P1	2.710	1.955	0.755	01/31/2007
			3-2402-002	Kunia II P2				
			3-2402-003	Kunia II P3				
			3-2402-005	Kunia II P4				
585	04/18/2001	C&C DES, GOLF COURSE DIV	3-2201-003	EP 2	0.000	0.975	-0.975	03/21/2003
			3-2201-004	EP 2		0.937	-0.937	09/18/2000
			3-2201-007	EP 2				
587	04/24/2001	HONOLULU BWS	3-2500-001	Waipio Hts II-1	1.000	0.425	0.575	01/31/2007



Island of OAHU

Aquifer System Ground Water Management Area:

30203 WAIPAHU-WAIAWA

Sustainable Yield (mgd):

104

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)	12-MAV (mgd)	Diff (mgd)	Date Last Reported
597	08/22/1986	HONOLULU BWS	3-2500-002	Waipio Hts II-2	2.100	1.732	0.368	01/31/2007
			3-2400-005	Waipahu II-1				
			3-2400-006	Waipahu II-2				
			3-2400-008	Waipahu II-3				
608	06/21/2000	HONOLULU BWS	3-2400-014	Waipahu II-4	3.029			
			3-2400-009	Waipahu III-1				
			3-2400-010	Waipahu III-2				
			3-2400-011	Waipahu III-3				
			3-2400-012	Waipahu III-5				
626	12/18/2002	Pearl City Community Church	3-2359-010	Trias	0.005	0.000	0.005	03/31/2005
627	09/18/2002	U.S. FISH & WILDLIFE	3-2359-019	PHNWR 1	0.180	0.095	0.085	07/25/2011
642	07/19/1989	KIPAPA ACRES ASSOC OF OWNERS	3-2600-002	Kipapa Gulch	0.100	0.024	0.076	03/02/2012
692	10/25/2005	WAIAWA DEVELOPMENT LLC	3-2658-007	GENTRY WAIAWA 1	0.524			
693	10/25/2005	WAIAWA DEVELOPMENT LLC	3-2658-008	GENTRY WAIAWA 2	0.458			
742	12/18/1996	MARK H. ORTIZ	3-2202-001	Honouliuli	0.003	0.004	-0.001	05/31/2005
744	06/02/1993	HONOLULU BWS	3-2600-003	Mililani III-7	1.250	0.850	0.400	01/31/2007
			3-2600-004	Mililani III-8				
			3-2858-001	Mililani IV-9				
			3-2858-002	Mililani IV-10				
745	07/28/1993	HONOLULU BWS	3-2858-003	Mililani IV-11	2.022	1.679	0.343	01/31/2007
			3-2858-004	Mililani IV-12				
			3-2358-021	Pearl City				
			3-2358-022	Pearl City				
749	03/21/2007	TABA FARM, INC.	3-2358-026	Pearl City	0.864			
			3-2358-029	Pearl City				
			3-2301-044	Waipahu IV-2				
761	03/07/2006	HONOLULU BWS	3-2301-045	Waipahu IV-3	3.000			
			3-2301-046	Waipahu IV-1				
			3-2301-047	Waipahu IV-4				
			3-2302-001	Kunia I P1				
762	05/17/1989	HONOLULU BWS	3-2302-002	Kunia I P2	5.000	3.957	1.043	01/31/2007
			3-2302-003	Kunia I P3				
			3-2302-004	Kunia I P4				
			3-2202-021	BWS Ewa Shaft				
764	03/07/2006	HONOLULU BWS	3-2202-021	BWS Ewa Shaft	7.661			
767	10/18/2006	Robinson Kunia Land, LLC	3-2602-003	Robinson No. 1	0.100			
805	01/26/2000	D.R. Horton - Schuler Homes, LLC	3-2102-002	EP 18 Battery	7.969	0.834	7.135	02/06/2012
			3-2102-004	EP 18 Battery				
			3-2102-005	EP 18 Battery				
			3-2102-006	EP 18 Battery				
			3-2102-007	EP 18 Battery				
			3-2102-008	EP 18 Battery				
			3-2102-009	EP 18 Battery				
			3-2102-010	EP 18 Battery				
			3-2102-011	EP 18 Battery				
			3-2102-012	EP 18 Battery				



Island of Oahu

Aquifer System Ground Water Management Area:
Sustainable Yield (mgd):

30203 WAIPAHAU-WAIAWA
104

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)	12-MAV (mgd)	Diff (mgd)	Date Last Reported
			3-2102-013	EP 18 Battery				
			3-2102-014	EP 18 Battery				
			3-2102-015	EP 18 Battery				
			3-2102-016	EP 18 Battery				
			3-2102-017	EP 18 Battery				
			3-2102-018	EP 18 Battery				
			3-2102-019	EP 18 Battery				
			3-2102-020	EP 18 Battery				
			3-2102-021	EP 18 Battery				
			3-2102-022	EP 18 Battery				
			3-2202-003	EP 18 Battery		2.260	5.709	02/06/2012
			3-2202-004	EP 18 Battery				
			3-2202-005	EP 18 Battery				
			3-2202-006	EP 18 Battery				
			3-2202-007	EP 18 Battery				
			3-2202-008	EP 18 Battery				
			3-2202-009	EP 18 Battery				
			3-2202-010	EP 18 Battery				
			3-2202-011	EP 18 Battery				
			3-2202-012	EP 18 Battery				
			3-2202-013	EP 18 Battery				
			3-2202-014	EP 18 Battery				
			3-2202-015	EP 18 Battery		0.120	7.849	02/06/2012
			3-2202-016	EP 18 Battery		0.000	7.969	06/30/1996
			3-2202-017	EP 18 Battery				
			3-2202-018	EP 18 Battery				
			3-2202-019	EP 18 Battery				
			3-2202-020	EP 18 Battery				
806	01/02/2007	Honolulu BWS	3-2401-004	Kunia III-1	3.050	2.993	0.057	01/31/2007
			3-2401-005	Kunia III-2				
			3-2401-006	Kunia III-3				
814	05/17/1989	Roman Catholic Church - Hawaii	3-2101-001	Honouliuli	0.110	0.010	0.100	06/30/2005
831	07/28/1993	Waiawa Ridge Development LLC	3-2659-004	Waiawa 575Ft-2	0.300	0.000	0.300	08/31/2008
832	08/29/2008	Honolulu BWS	3-2458-001	Pearl City Shaft	1.000	0.903	0.097	01/31/2007
833	08/29/2008	Honolulu BWS	3-2458-003	Pearl City I-1	1.150	0.988	0.162	01/31/2007
			3-2458-004	Pearl City I-2				
834	08/29/2008	Honolulu BWS	3-2457-001	Pearl City II-1	1.500	1.404	0.096	01/31/2007
			3-2457-002	Pearl City II-2				
			3-2457-003	Pearl City II-3				
835	08/29/2008	Honolulu BWS	3-2459-019	Waipio Hts P-2	0.500	0.115	0.385	01/31/2007
			3-2459-020	Waipio Hts P-1				
836	08/29/2008	Honolulu BWS	3-2459-023	Waipio Hts. I-1	0.500	0.209	0.291	01/31/2007
			3-2459-024	Waipio Hts. I-2				
837	08/29/2008	Honolulu BWS	3-2659-002	Waipio Hts III-2	1.250	1.302	-0.052	01/31/2007
			3-2659-003	Waipio Hts III-1				
838	08/29/2008	Honolulu BWS	3-2800-001	Millilani I P1	2.670	2.051	0.619	01/31/2007



Island of Oahu

Aquifer System Ground Water Management Area:

30203 WAIPAHU-WAIAWA

Sustainable Yield (mgd):

104

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)	12-MAV (mgd)	Diff (mgd)	Date Last Reported
			3-2800-002	Mililani I P2				
			3-2800-003	Mililani I P3				
			3-2800-004	Mililani I P4				
839	08/29/2008	Honolulu BWS	3-2859-001	Mililani II P5	1.590	1.291	0.299	01/31/2007
			3-2859-002	Mililani II P6				
840	08/29/2008	Honolulu BWS	3-2458-005	Manana 1	0.700	1.656	-0.956	01/31/2007
902	01/26/2000	Hoban E&C USA, Inc.	3-2301-001	Waipahu WP1	0.950	0.348	0.602	01/31/2010
			3-2301-002	Waipahu WP1				
			3-2301-003	Waipahu WP1				
			3-2301-004	Waipahu WP1				
			3-2301-005	Waipahu WP1				
			3-2301-006	Waipahu WP1				
			3-2301-007	Waipahu WP1				
			3-2301-008	Waipahu WP1				
			3-2301-009	Waipahu WP1				
			3-2301-010	Waipahu WP1		0.536	0.414	01/31/2010

Summary for WAIPAHU-WAIAWA (142 detail records)

Total:	84.856	49.820	17.965
Available:	19.144		



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

MICHAEL O. WILSON
CHAIRPERSON

ROBERT G. GIRALD
DAVID A. NOBRIGA
LAWRENCE H. MIKE
RICHARD H. COX
HERBERT M. RICHAROS, JR.

RAE M. LOUI, P.E.
DEPUTY

Declaratory Ruling No. DEC-ADM97-A1

Declaratory Order on:
Delegation of Water Use Permit Modification Approval
Meeting Certain Criteria to the Chairperson

BACKGROUND:

The Honolulu Board of Water Supply (BWS) requested modifications/adjustments of permitted uses within a water management area to reflect the actual pumpages at existing municipal supply sources which are driven by system demands. Requested increases were small and ranged from 0.012 to 0.390 mgd. To balance these increases, BWS proposed to reduce permitted uses at other sources within the same aquifer system so that no net change occurs. The modification was approved at the Commission meeting on October 22, 1997.

ANALYSIS/ISSUES:

Section 174C-57 HRS states:

"A permittee may seek modification of any term of a permit. A permittee who seeks to change the use of water subject to the permit, whether or not such change in use is of a material nature, or to change the place of use of the water or to use a greater quantity of water than allowed under the permit or to make any change in respect to the water which may have a material effect upon any person or upon the water resource, shall make application pursuant to section 174C-51 in respect to such a change.

BWS submitted a letter request for these proposed modifications, rather than making application(s) pursuant to §174C-51 HRS that would be subject to the full permitting process, which provides for public notice and objections.

However, §174C-57 HRS also provides:

"County agencies are exempt from the requirements of this section except where the modification involves a change in the quantity of water to be used or where the new use would adversely affect the quality of the water or quantity of use of another permittee.

Although BWS' modification request involved increases in the quantity of water used at specific sources, the net change in total permitted municipal uses within the aquifers is zero. The modifications would result in more optimal operation of BWS' interconnected system.

BWS' proposal seeks to optimize pumpage and minimize potential overpumpage violations at these sources. The Commission's records of BWS pumpage supports this proposal. Because the proposed allocation changes result in no net change within the same aquifers, and because the adjustments reflect actual historical pumpages, no adverse impacts to water resources or other existing legal uses are anticipated.

This optimization exercise can and should be extended to non-county agency permittees where the permittees may have multiple wells within the same aquifer system. A declaratory ruling that clarifies the statute and Administrative Rule regarding water use permit modifications and delegates the authority to the Chairperson to approve future such modification requests would be beneficial to the staff.

RECOMMENDATION:

That the Commission adopt the following declaratory order:

DECISION AND ORDER:

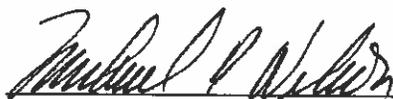
The Commission delegates the approval of water use permit modifications to the Chairperson for allocation adjustments that meet the following criteria:

1. The net change in permitted use within an aquifer is zero.
2. The modification would result in more efficient and optimal operation of multiple sources under a single operator.
3. No adverse impacts to water resources or other existing legal uses are anticipated.
4. End use location and type remain unchanged.

Dated: Honolulu, Hawaii January 5, 1998

APPROVED BY THE COMMISSION ON WATER RESOURCE MANAGEMENT AT
ITS MEETING ON NOVEMBER 19, 1997

APPROVED AND SO ORDERED:



MICHAEL D. WILSON, Chairperson

State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources
Honolulu, Hawaii

August 19, 1992

Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

Combined Well Construction & Pump Installation Permits and
Water Use Permits Prior to Well Construction and Pump Installation Permits

Your approval is requested to adopt the following considerations for the staff in processing construction and pump installation permits. These will be used by the Commission staff in evaluating and processing well permit applications for action by the Commission. These are considerations only; each request will be considered on a case-by-case basis.

COMBINED WELL CONSTRUCTION/PUMP INSTALLATION PERMITS MAY BE ALLOWED WHEN:

1. There is no evidence that it will affect other existing and proposed wells.
2. It is in an area where the hydrology and water quality is known or where the sustainable yield is substantially more than existing and proposed withdrawals.
3. The request is for backup wells in areas where the hydrology and water quality is known.
4. The request is for small capacity wells such as wells drilled for domestic/household uses, small irrigation wells, etc.
5. In water management areas, a water use permit has already been obtained and it is evident that the well will not affect other existing and proposed wells.

IN DESIGNATED WATER MANAGEMENT AREAS, UNLESS THE APPLICANT CAN PROVIDE CLEAR AND CONVINCING EVIDENCE TO THE CONTRARY, WATER USE PERMITS SHOULD BE OBTAINED PRIOR TO APPROVAL OF WELL CONSTRUCTION APPLICATIONS AND PUMP INSTALLATION APPLICATIONS.

IN CASES WHERE A WATER USE PERMIT IS OBTAINED, THE COMMISSION MAY DELEGATE AUTHORITY TO THE CHAIRPERSON TO APPROVE THE WELL CONSTRUCTION AND PUMP INSTALLATION PERMITS.

ITEM 18

DISCUSSION

These items were first presented at the June 17, 1992 Commission meeting. Some of the following major concerns were raised:

1. extent to which a rule or code change is required instead of a policy statement;
2. collapsing permits in water management areas does not allow maximum public review and comment, if it is believed that public review should be greatest in water management areas; and
3. well construction and pump installation permits should be allowed prior to water use permits in cases where test pumping is needed to find out more about the resource.

Our analysis is as follows:

1. Although the Commission may delegate authority to the Chairperson by policy, these guidelines will be incorporated in our on-going redraft of the administrative rules.
2. The water use permit procedure allows for public review through the public notice requirements as stated in the Water Code. This public review and comment is not diminished through this recommended policy.
3. The Commission may allow well construction and pump installation prior to water use permits on a case-by-case basis. Again, these are considerations for the staff to utilize in evaluating and processing applications.

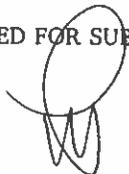
Your favorable action and adoption will be appreciated.

Respectfully submitted,



RAE M. LOUI
Deputy Director

APPROVED FOR SUBMITTAL:



WILLIAM W. PATY, Chairperson

State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources
Honolulu, Hawaii

March 16, 1994

Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

Honolulu Board of Water Supply
Application for a Well Construction Permit
and Request for a Declaratory Ruling
Manoa IV Exploratory Well (Well No. 1848-01), Manoa, Oahu

Applicant:

Honolulu Board of Water Supply
1151 Punchbowl Street
Honolulu, HI 96843

Landowner:

Department of Parks & Recreation
650 South King Street
Honolulu, HI 96813

Background: The applicant has submitted both water use permit and well construction permit applications to the Commission. It has been a practice of the Commission that "in designated water management areas, unless the applicant can provide clear and convincing evidence to the contrary, water use permits shall be obtained prior to approval of well construction applications and pump installation applications" (Approved by Commission on August 19, 1992).

Action Requested: The applicant is requesting that Commission approve a Well Construction Permit to drill the exploratory well prior to the issuance of the water use permit. Information obtained from the drilling and testing of the well will help determine the viability of the project and will determine what the applicant will request in the water use permit.

Commission staff is requesting a declaratory ruling to allow the drilling and testing of an exploratory well prior to obtaining a water use permit for the well, in areas where there is a lack of information.

Well Location/Tax Map Key: The well site is at Manoa, Oahu, at Tax Map Key: 2-9-36: 3 (see attached map).

Well Description:

Ground elevation:	160 ft.
Casing diameter:	12 inches
Solid casing depth:	100 ft.
Screen casing depth:	500 ft.
Open hole:	none
Total depth:	500 ft.
Grouted annulus:	0 to 95 ft.

Analysis: The applicant proposes to drill an exploratory well in the alluvium of Manoa Valley. A water use permit application will be submitted if pumping tests show a safe yield worth developing. The applicant recognizes that if pumping the well reduces stream flow, it could have an effect on the aquatic biota of the stream. Should the water level in the well approximate the water level of the stream, they will ask the U.S. Geological Survey to gage the stream during the testing. If pumping affects stream flow the applicant will consider petitioning the Commission to amend the interim instream flow standard for Manoa Stream and will be prepared to conduct any necessary biological reconnaissance survey. The applicant is of the opinion that if the water level in the well is substantially below Manoa Stream, then the stream is perched relative to the aquifer tapped by the well and no gaging or biological reconnaissance should be necessary.

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Concerning the issuance of a well construction permit prior to a water use permit, the staff is of the opinion that it is reasonable to let the applicant drill the well first, as long as it is made clear that the issuance of the drilling permit shall in no way prejudice any future consideration by the Commission on the issuance or non-issuance of a water use permit. The applicant must understand that even if the well is successful, there is no guarantee that a water use permit will be approved. For exploratory wells, drilling and testing the well first gives the applicant the necessary information on which to base the water use permit request.

RECOMMENDATIONS:

- A. That the Commission approve the issuance of a well construction permit, subject to the following conditions:
1. The Commission shall be notified before work commences.
 2. The well construction permit shall be for construction and testing of the well only. The applicant shall coordinate with the Commission and conduct a pumping test in accordance with the protocol established by the Commission. A one-inch diameter (minimum) galvanized pipe shall be permanently installed, in a manner acceptable to the Commission, to accurately record water levels. No permanent pump may be installed and no water used from the well without first obtaining a water use permit and a pump installation permit from the Commission.
 3. The applicant shall notify the Commission at least one week prior to conducting the pumping test, and shall coordinate with and notify the Commission of any proposed stream gaging conducted during the testing of the well.
 4. The applicant shall comply with all applicable laws, rules, and ordinances.
 5. The permit application and staff submittal approved by the Commission at its meeting on March 16, 1994 shall be incorporated herein by reference.
 6. The permits may be revoked if work is not started within six months of the date of issuance or if work is suspended or abandoned for six months. The work proposed in the well construction permit application shall be completed within two years from the date of permit issuance.
- B. That the Commission issue a declaratory ruling, effective in designated water management areas, that where there is insufficient information, an applicant may be allowed to drill and test an exploratory well prior to applying for a water use permit. The applicant shall be informed that the issuance of the drilling permit shall in no way prejudice any future consideration by the Commission on the issuance or non-issuance of a water use permit. If the well is successful, the applicant will apply for a water use permit. If the well is not successful, the applicant will apply for a permit to seal/abandon the well, or properly secure it in a manner approved by the Commission.

Respectfully submitted,


RAE M. LOUI
Deputy Director

Attach.
APPROVED FOR SUBMITTAL:


KEITH W. AHUE, Chairperson