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WILLIAM M. TAM  
DEPUTY DIRECTOR

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

COMMISSION ON WATER RESOURCE MANAGEMENT

January 22, 2014

STAFF SUBMITTAL

Rescinding Water Use Reporting Exemptions and Deferments  
Established under September 16, 1992 Commission Action, Statewide, Hawaii

SUMMARY OF REQUEST:

On September 16, 1992, the Commission on Water Resources Management ("Commission") adopted a policy "temporarily" deferring and exempting certain classes of water users from the statutory duty to report all water uses (attached as Exhibit 1).

After 21 years, the Commission staff now requests that the Commission **repeal** this policy and return to the original requirement in the State Water Code (Haw. Rev. Stat §174C-5(14), -50, -71, -82, and -92) and its Administrative Rules (Haw. Adm. Rul. §13-168-7) that require monthly water use recording and reporting from all owners of wells or stream diversions.

BACKGROUND:

Haw. Adm. Rul. §13-168-7 (May 27, 1988) provides:

§13-168-7 Report of water use. (a) The owner or operator of any well or stream diversion works from which water is being used shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage on a monthly (calendar or work schedule) basis. If a well or stream diversion works is one of a battery of interconnected water sources, a centralized measuring device or facility may be approved by the commission.

(b) The owner or operator of any well or stream diversion works or battery of such water sources shall file a report of total water usage on a regular monthly (calendar or work schedule) basis to the commission on forms provided by the

commission on or before the end of the month following the month for which water usage is to be reported. The reports may include other use-related information such as type of use, salinity, and water level, as may be deemed appropriate and reasonable by the commission.

(c) At the discretion of the commission, requirements for measuring and reporting monthly water usage may be lessened, modified, or exempted for owners or operators of small, individual wells or stream diversion works. The lessening, modification, or exemption of such requirements shall be approved, disapproved, or otherwise decided by the commission on a case-by-case basis. [Eff. MAY 27 1988](Auth: HRS §174C-8)(Imp: HRS §§91-2, 174C-50, 174C-82)

On September 23, 1991 and March 24, 1992 requests for monthly water use reports were sent to all well and stream diversion owner registrants to meet the provisions of Haw. Adm. Rul. §13-168-7(b).

On September 16, 1992, the Commission approved a policy exempting and deferring certain classes of well and stream diversion reporting by owners and end users both in and outside water management areas (see Exhibit 1). Notwithstanding this policy, water use permits have standard conditions which require reporting in order to monitor compliance with allocations.

On January 1997, the Commission approved the first edition of the Hawaii Well Construction and Pump Installation Standards (HWCPIS) in accordance with Haw. Rev. Stat. §174C-86 and its Administrative Rule (Haw. Adm. Rul. §13-168-14). This version required all post-1997 permitted production wells to install flow meters and to record and report monthly pumping, static water-levels, and salinity. These have been standard conditions on all well construction and pump installation permits administratively approved by the Commission statewide. The 2004 second edition of the HWCPIS clarified that salt water wells (greater than 17,000 parts per million (“ppm”) chlorides) need not install flow meters.

In December 2009, a consultant to the Commission produced a handbook with guidelines for appropriate devices and means of measuring water use that would not be unduly burdensome on water users.

In July 2012, the Commission’s Water Resource Management Information System (WRIMS) went live. The online WRIMS system allows source owners to monitor their historical use from each source.

In March 2013, online reporting passed beta testing with staff, county water departments, and various volunteers. The staff continues to engage all owners of wells, stream diversions, and end users to report online. The staff is focusing first on reporting in water management areas and by large users (e.g., public water systems) in non-designated areas.

SUMMARY AND ANALYSIS:

Individual reporting is essential to track the demand on ground and surface water use. Until 2012, water use reporting was done by hand on individual pieces of paper. Reports were received by the Commission staff. The information was processed manually. Every piece of information was transferred by hand. As a practical matter, the task proved daunting. By 2009, the staff could no longer keep up. Compiling and analyzing the information was postponed. There was no way to do effective or systematic enforcement. Overall management of the resource was delayed.

To date, there are 4,163 known production and permanent observation wells statewide. Approximately one-third (1/3) of all known production wells are reporting. Two-thirds (2/3) of the large ground water producers (like the county water departments) are reporting. There are 911 unused wells that need follow-up. Of the estimated 1,288 stream diversions, the Commission receives water use reports on approximately one-fifth (1/5).

Part of the incomplete tracking is due to the Commission's 1992 Policy that exempts measurements and reporting from the well or stream diversion less than 50,000 gallons per month (using a 12 month moving average). This equates to about 1,700 gallons per day ("gpd").

According to the County Water System Standards (2002) developed by all the county water departments, individual domestic use from a single family home averages 400 gpd. Therefore, the current water use exemption allows four times (4x) the amount of a typical individual domestic use. Even in designated water management areas, the Water Code requires that all uses (other than individual domestic uses) to obtain a water use permit. Haw. Rev. Stat. §174C-48(a) and Haw. Adm. Rul. §13-168-7.

The 1992 Policy was a temporary accommodation, but it was inconsistent with Water Code requirements regarding the significance of the type and amount of water use in a water management area. Moreover, small individual domestic wells are becoming more common. Their cumulative impact on water resource is becoming significant. The 22 year old policy is no longer "temporary."

Another problem (from the 1992 Policy) has been the deferment of monthly measurement and reporting of surface water use outside designated surface water management areas.

First, surface water management areas have only recently been designated (Na Wai Eha, Maui). Information about surface water diversions is important and complex because of its great variability, its ecological implications, and its impact on other stream uses. The information is critical in setting instream flow standards (IFS). The lack of such information complicates and delays resolution of contested case hearings on these issues.

Second, the guidelines describing appropriate devices and means for measuring gravity flow open ditch stream diversion works has been available since 2009.

Third, with the guidelines on appropriate surface water diversion work measurement in place and the recent implementation of the Commission's WRIMS online reporting system, it is now possible and practical to measure all well pumping and stream diversion. Landowners with wells and stream diversions can meet their reporting responsibilities without undue burden.

WRIMS will enable the Commission's limited staff to more efficiently enforce and timely track, compile, and analyze data that affects ground and surface water resources statewide.

The staff will focus first on water use reporting from all water sources in water management areas. Even if a source is exempted or not currently pumping, the cumulative impact from all wells may be significant. Even data on water levels and salinity from non-pumping or observation wells are important in assessing the status of the overall resource.

In addition, online water use reporting provides timely alerts about changes in source ownership that could indicate potential changes in use. Reporting keeps contact and ownership information current and available. Accurate information, in turn, is important statewide where water uses may be modified or abandoned permits. In water management areas, the information is essential in actions to transfer or modify water use permits.

**RECOMMENDATION:**

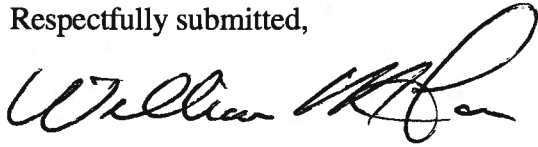
That the Commission:

1. Rescind the September 16, 1992 Commission Policy allowing exemptions from the legal requirement to measure and report monthly water use.
2. Continue exemptions from the requirement to measure and report monthly water use for the activities listed below, UNLESS the Commission determines a specific need for this data to resolve disputes, establish instream flow standards, or quantify the amount of water use for a water use permit in a water management, or for similar needs:
  - (a) Passive agricultural consumption (e.g. when crops are planted in or adjacent to natural springs and natural wetland areas);
  - (b) Livestock drinking from dug wells or stream channels;
  - (c) In non-surface water management areas, individual end uses on multi-user ditch systems where IFS or water use permits are not an issue;
  - (d) Salt-water wells may continue to report monthly *estimates* of pumpage and monthly *actual measured* water-levels and salinity on an annual basis.
3. Affirmatively require that unused and observation wells report monthly water-levels and salinity as determined by staff.

Rescinding 1992 CWRM Action Exempting Certain  
Water Use Reporting

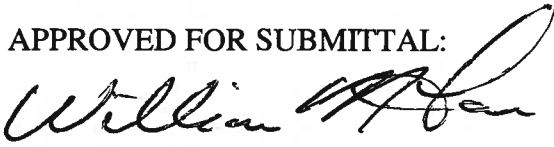
January 22, 2014

Respectfully submitted,



WILLIAM M. TAM  
Deputy Director

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.  
Chairperson

Exhibit(s):  
September 16, 1992 Commission Submittal Exempting Certain Water Use Reporting  
Requirements

CWRM STAFF SUBMITTAL Rescinding September 16, 1992  
Commission Action Exempting and Deferring Certain Classes  
of Water Uses from Reporting Requirements, Statewide, Hawaii

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

September 16, 1992

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

Gentlemen:

Approval to Allow Exemptions from Requirements for  
Measuring and Reporting Monthly Water Use

Background

The Administrative Rules of the State Water Code require that owners or operators of wells and stream diversion works statewide measure their water use and submit regular monthly reports of that use. In particular, HAR §§13-168-7(a) and (c) provide that:

(a) "The owner or operator of any well or stream diversion works from which water is being used shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage on a monthly (calendar or work schedule) basis. If a well or stream diversion works is one of a battery of interconnected water sources, a centralized measuring device or facility may be approved by the commission."

(c) "At the discretion of the commission, requirements for measuring and reporting monthly water usage may be lessened, modified, or exempted for owners or operators of small individual wells or stream diversion works. The lessening, modification, or exemption of such requirements shall be approved, disapproved, or otherwise decided by the commission on a case-by-case basis."

The enforcement of the water use reporting requirement began in 1988 with the monthly collection of water use reports from major users, including county departments of water supply and large plantations.

The declaration of water use program identified approximately 1,550 users of water statewide who take water from wells, stream diversions, and water systems. Of these, approximately 250 filers were identified by the Commission staff as having "medium-to-large" uses, and 1,300 were identified as having small uses. This distinction was made on a judgmental basis without written or formal guidelines. Generally, small uses were considered to include individual domestic supplies, water systems involving small water capacities (pump motors less than 5 HP, or gravity-feed pipes less than 2-inch diameter), and agricultural irrigation of fewer than three acres.

Current Effort

In 1991, the implementation of the water use reporting requirement was enforced by requesting reports from approximately 150 users with medium-to-large uses of water from well sources, as identified through the declaration of water use program. These users were individually notified of the water use reporting requirements by an initial letter in September 1991, and by a follow-up letter in March 1992 to users who had not responded.

ITEM 7

**EXHIBIT**

Presently, approximately 140 medium and large users of water from well sources are submitting regular reports of their monthly water use to the Commission in accordance with the Administrative Rules. Staff is continuing to follow up on approximately 20 other users who have not responded to the staff request for water use reports. Pending Commission action on this submittal, staff will also follow up on the attached requests from some of the medium and large users from well sources for exemption from, or modification of, the reporting requirements.

Water use reports have not yet been requested from the 1,300 water use declarants identified by staff as "small users," or from approximately 100 medium-to-large users who take water from stream sources and third-party distribution systems. The Commission staff anticipates that a majority of these 1,400 users will find the reporting requirements to be burdensome and will request an exemption from or modification of the requirements.

#### Staff Request

The Commission staff seeks the authority to exempt certain cases of water use from the water use reporting requirements, and to modify the water use reporting requirements in other cases.

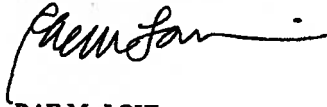
#### Recommendations

1. That the following cases of water use be exempted from the requirements for measuring and reporting monthly water use unless the Commission determines a specific need for these data for purposes such as resolving disputes, establishing instream flow standards, or quantifying the amount of water use for a water use permit in a water management area:
  - (a) individual end uses of water on multi-user distribution systems where the end user does not control or operate the water supply source(s) to the system, providing that the operator of the system reports the total usage from the system and also maintains records which are available to the Commission upon request to describe the specific location, type, and quantity of individual end uses;
  - (b) water uses from individual water systems where the quantity of use averaged over a one-year period does not exceed 50,000 gallons per month;
  - (c) passive agricultural consumption, such as when crops are planted in or adjacent to springs and natural wetland areas;
  - (d) livestock drinking from dug wells or stream channels;
2. That the following cases of water use be modified to allow reporting of monthly water use on an appropriate quarterly, semi-annual, or annual basis, as determined by the Commission staff, unless a specific need is determined for monthly reporting:
  - (a) water uses from individual water systems where the quantity of use averaged over a one-year period, does not exceed five (5) million gallons per month;
  - (b) water uses from salt water or brackish water sources;
  - (c) water uses from surface water sources.

September 16, 1992

3. That the requirement for monthly measurement and reporting of water use from gravity-flow, open ditch stream diversion works which are not already being measured and which are not in designated surface water management areas be deferred until the Commission adopts guidelines regarding appropriate devices and means for measuring water use which are not unduly burdensome on water users.

Respectfully submitted,



RAE M. LOUI  
Deputy Director

Attachment

APPROVED FOR SUBMITTAL



WILLIAM W. PATY, Chairperson