



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 11, 2015  
Honolulu, Oahu

Approval to Conduct a Limited Meeting to View Portions of the  
Kōke'e and Kekaha Ditch Irrigation Systems in Waimea, Kaua'i, Hawai'i

SUMMARY OF REQUEST:

Staff is requesting approval from the Commission on Water Resource Management (Commission) to conduct a limited meeting site visit to view portions of the Kōke'e and Kekaha Ditch Irrigation Systems in Waimea, Kaua'i, Hawai'i on October 20 and 21, 2015 in compliance with Section 92-3.1 of the Hawaii Revised Statutes, as amended. This is not a regular Commission meeting and there will be no deliberations or decision making related to this site visit. However, public testimony will be allowed for 30 minutes prior to the site visit. Due to liability, land ownership, safety and accessibility concerns, the visit needs to be conducted as a "limited meeting."

BACKGROUND:

On July 24, 2013, Po'ai Wai Ola and West Kaua'i Watershed Alliance, through their attorneys Earthjustice, filed: 1) a Complaint for Dispute Resolution; 2) a Petition to Amend Interim Instream Flow Standards; and 3) a Complaint for Declaratory Order Against Waste in the Waimea River and its tributaries, Waimea, Hawai'i.

On May 27, 2014, the Commission executed a Contract for Professional Services with Element Environmental, LLC which included the following services: 1) Project management, coordination and meetings; 2) Literature research and base map preparation; 3) Conducting a physical condition survey (field work); 4) Conducting a water budget analyses; and 5) Report of findings.

On November 25, 2014, the Commission staff, serving as intermediary, forwarded a fully executed copy of a right-of-entry agreement for Element Environmental, LLC, on behalf of the Commission, to conduct an assessment and investigation of the Kōke'e and Kekaha Ditch Irrigation Systems.

On February 18, 2015, Steve Spengler of Element Environmental, LLC provided a project update to the Commission including an overview of the physical conditions of the Kōke‘e and Kekaha Ditch Irrigation Systems and preliminary findings of ditch flow measurements.

On April 28, 2015, the Commission voted to conduct a limited site visit to view aspects of the Kōke‘e and Kekaha Ditch Irrigation System. Sites visited on this trip included views of the augmented flow in the Kōke‘e Stream, Pu‘u Lua Reservoir, the Pu‘u Moe ditch divide, the end of the Kōke‘e Ditch outflow and two views of the Kekaha Ditch. Public testimony was received at the beginning and end of the day, but not at each site location.

#### ANALYSIS/ISSUES:

There is a need for the Commission to understand the physical topography and characteristics of an area where it is not practical or it is not safe for the public to attend a site visit, the law provides for “limited meetings.”

Haw. Rev. Stat. §92-31 provides for the limited meeting process as follows:

**§92-3.1 Limited meetings.** (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

- (1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;
  - (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and
  - (3) Notice of the limited meeting is provided in accordance with section 92-7.
- (b) At all limited meetings, the board shall:
- (1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;
  - (2) Make the videotape available at the next regular meeting; and
  - (3) Make no decisions at the meeting. [L 1995, c 212, §1; am L 2008, c 20, §1]

It is important for the Commission to visit and see portions of the Kōke‘e and Kekaha Ditch Irrigation Systems to better understand the topography and extent of the issue. Sites that are on private land are not publicly accessible and sites that are on public land are not necessarily safe

for the public to attend due to vehicular (4WD) and handicap accessibility and general public safety concerns.

With the understanding that the two-thirds (2/3) voting requirement would be met, the Commission staff will send a Request for the Office of Information Practices' Concurrence for a Limited Meeting along with the site visit agenda. A two-thirds (2/3) vote of all the votes that the Commission is entitled to is required in favor of holding the limited meeting. The failure to obtain the required number of votes will result in cancellation of the proposed site visit.

RECOMMENDATION:

Staff recommends that the Commission, pursuant to and consistent with Haw. Rev. Stat. §92-3.1:

1. Find that a "limited meeting" to visit portions of the Kōke'e and Kekaha Ditch Irrigation Systems, as described in Exhibit 1, is necessary for practical and safety reasons.
2. Authorize a limited meeting to visit portions of the Kōke'e and Kekaha Ditch Irrigation Systems provided it is conducted in accordance with the legal requirements set forth in the statutes and is subject to concurrent by the Office of Information Practices.

Respectfully submitted,



W. ROY HARDY  
Acting Deputy Director

Exhibit 1. Agenda for the Limited Meeting of the Commission on Water Resource Management to conduct a site visit to the Kōke'e and Kekaha Ditch Irrigation Systems.

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE  
Chairperson



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
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AGENDA  
FOR THE LIMITED MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: October 20, 2015  
TIME: 8:00 am – 6:00 pm  
PLACE: Various Sites in West Kaua‘i

DATE: October 21, 2015  
TIME: 8:00 am – 5:00 pm  
PLACE: Various Sites in West Kaua‘i

The Commission on Water Resource Management (Commission) will be conducting a site visit to view portions of the Kōke‘e and Kekaha Ditch Irrigation Systems, Waimea, Kaua‘i, Hawai‘i, including stream diversions, transfer ditches, hydroelectric power plants, water end-users, and associated infrastructure. Due to the access and safety concerns, the site visit will be limited and not open to the general public. All times are tentative.

**DATE: Tuesday, October 20, 2015**

**TIME:**

08:00 Meet at Kekaha Agriculture Association Office  
8315 Kekaha Road, Suite E, Kekaha.  
Testimony will be allowed for 30 minutes.

Site 1 10:00 Waiahulu Diversion on Waimea River

Water from Koai‘e Stream is diverted into the Waimea River upstream of the Waiahulu Diversion. The Waiahulu diversion then feeds the Kekaha ditch.

Site 2 10:45 Mauka Hydropower plant on Waimea River and ditch overflow

Kekaha ditch water flows into a siphon and powers a hydropower plant. After flowing through the power plant, some water is dumped downslope from the ditch back into Waimea River.

Site 3 11:15 Visit Black Pipe Siphon (if possible depending on time)

## Exhibit 1

This is the newly modified siphon that carries Kekaha Ditch water from the Eastern to the Western side of the valley.

Site 4 12:00 Visit Menehune ditch in Waimea

Water from Kekaha ditch feeds the Menehune ditch for local agriculture in Waimea

Site 5 12:30 Waimea River from swinging bridge to the mouth

Water from Waimea Hydrologic Unit exits into the ocean

13:30 Lunch in Waimea

Site 6 14:30 Visit the Waiawa hydropower plant

Kekaha ditch water flows into a siphon and powers a hydropower plant as it crosses the Waiawa gulch. Some water leaks from the ditch back into Waiawa stream and some water is diverted from the ditch into the Waiawa Reservoir.

Site 7 15:30 Visit the Kawaiele Pumping Station and Mana Plain Wetland Restoration site

This pump keeps water below the rooting depth for agriculture and limits the flooding risk to Kekaha town.

Site 8 16:30 Visit the Nohili pumping Station

This pump keeps water below the rooting depth for agriculture and limits the flooding risk to the Pacific Missile Range Facility.

Site 9 17:30 Visit Field N Reservoir at the end of the Kekaha ditch system

Last reservoir that receives water from the Kekaha ditch for distribution to agricultural users.

**DATE: Wednesday, October 21, 2015**

**TIME:** 08:00 Meet at Kekaha Agriculture Association Office  
8315 Kekaha Road, Suite E, Kekaha  
Testimony will be allowed for 30 minutes

Site 10 10:00 Visit Waiakoali Stream diversion

First active diversion that feeds the Kōke‘e ditch system. Almost 100% of baseflow is diverted by the dam into the ditch. Prior to being abandoned, a

diversion on Mohihi Stream fed water through an addition section of ditch to Waiakoali Stream.

Site 11 10:45 Visit Kawaikōi Stream diversion

Almost 100% of water is diverted from Kawaikōi Stream by a dam and feeds a ditch on the right bank. The Kōke‘e ditch passes through a flume over the Kawaikōi Stream and merges with water from Kawaikōi Stream. The ditch largely remains in tunnels until it daylight on the other side in the Kauaikinanā watershed.

Site 12 11:30 Visit Kauaikinanā Stream diversion

Kōke‘e ditch dumps water into the Kauaikinanā Stream, augmenting its flow. The stream is used to convey ditch water past the diversion into the next tunnel. Currently, flow in Kauaikinanā downstream of the diversion is augmented by excess ditch water.

12:30 Lunch

Site 13 14:00 Visit Kōke‘e Stream diversion

The Kōke‘e ditch flows in a cement lined ditch until it dumps into the Kōke‘e Stream. The flow into the tunnel is currently restricted, and the Kōke‘e Stream Diversion sluice gate is completely open permitting water to pass through the diversion and augmenting flow in the Kōke‘e Stream downstream of the diversion.

Site 14 16:00 Visit Kauhao sluice gate

On the other side of the Waimea watershed divide, the Kōke‘e ditch daylight and flows in a mostly unlined ditch. The Kauhao sluice gate serves as an emergency release to prevent excess flows from going downstream in the ditch or into Pu‘u Lua Reservoir. The USGS operated a gaging station for many years at the Kauhao sluice gate.

