



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

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

November 17, 2020
Honolulu, Hawai'i

Approval of Stream Diversion Works Permit Application (SDWP.5349.6) to
Abandon Registration of Stream Diversion Works No. 1081, Norman Stubbs
Uaoa Stream, Ha'ikū, Maui, Tax Map Key: (2) 2-8-002:223

APPLICANT / LANDOWNER

Norman Stubbs
1 Uapoko Place
Ha'ikū, HI 96708

SUMMARY OF REQUEST

Approve Stream Diversion Works Permit (SDWP.5349.6) Application that proposes to abandon Registration of Stream Diversion Works and Declaration of Water Use No. 1081 on the Uaoa Stream. The applicant registered a stream diversion works consisting of hand-carried bucket use of water with the Commission on Water Resource Management in May 1989, but asserts that the diversion was never constructed.

LOCATION: Uaoa Stream. See **Figure 1**.

BACKGROUND

In 1987, when the State Water Code was adopted, it required any person making a use of water in any area of the State to file a declaration of the person's use within one year. HRS §174C-26 and HAR §13-168-5. Further, HRS §174C-92 required any person owning or operating a stream diversion works within or outside of a water management area to register such works with the Commission.

On May 30, 1989, the Commission received a completed Registration of Stream Diversion Works and Declaration of Water Use (Registration) form filed by Mr. Norman Stubbs for use of

an earthen and natural diversion at an elevation of 600 ft. on Uaoa Stream. Little other information was provided in the form. See **Exhibit 1**.

Figure 1: Location, Uaoa Stream, Maui.



On May 16, 1991, the Commission received a letter dated May 7, 1991 from Mr. Stubbs following several requests for location information on his previously filed Registration form. In

the letter, Mr. Stubbs indicated that the “Diversion may have not been the correct description of use. The specific uses were the recreational use of a natural pool and use of water for watering plants along stream (carried in a bucket).” See **Exhibit 2**. In its diversion database, Commission staff has described this diversion as “hand carry with bucket.”

The trigger for Mr. Stubbs to abandon the diversion registration was due to a January 2020 phone call informing him of the requirement to report diverted stream water usage. The Landowner stated that he previously hand carried buckets of water from the stream to water nearby plants during the summer months but no longer does this. Staff discussed that to be released from the monthly reporting requirement he would need to submit a SDWP requesting abandonment.

On November 17, 1993, staff conducted a field investigation with the landowner. Staff noted that the stream was used for recreation. The section of the field memo that described infrastructure was marked with “not applicable.”

On February 11, 2020, the applicant filed a complete stream diversion works permit application that proposed to abandon Registration No. 1081 on the subject stream. The applicant registered a stream diversion works with the Commission on Water Resource Management in May 1989 but notes that “no work was ever done and no diversion was ever created.” The stream diversion works permit application SDWP.5349.6 can be viewed on the Commission website at: https://files.hawaii.gov/dlnr/cwrm/swreview/SDWP_5349_6.pdf.

On October 16, 2020, Commission staff conducted a field investigation of Mr. Stubbs’ property in Ha‘ikū, Maui. Due to time constraints and heavy vegetation, Commission staff was not able to access the stream channel a little over 300 ft. away from Mr. Stubbs’ residence. However, there were no visible indications that Mr. Stubbs was diverting or pumping water from the stream channel (See Exhibit 3 for Field Investigation Report).

STREAM DESCRIPTION

Uaoa Stream is a perennial stream about 6 miles long and is the only stream in the watershed. It is an ungraded stream and an unranked stream in the Hawai‘i Stream Assessment (1990).

PROJECT DESCRIPTION

The project scope is to formally abandon the subject registered diversion, described as use of water “carried in a bucket.” No work is proposed.

AGENCY REVIEW COMMENTS

Maui County, Planning Department: No objections.

Department of Hawaiian Home Land (DHHL): No objections.

Department of Land and Natural Resources (DLNR), Aha Moku: No comments received.

DLNR, Aquatic Resources: No comments.

DLNR, Engineering: No comments.

DLNR, Forestry and Wildlife (DOFAW): No comments received.

DLNR, State Historic Preservation Division (SHPD): No comments received.

DLNR, Land Division: No comments received.

DLNR, State Parks: Not subject to our regulatory authority and permit.

Dept. of Health (DOH), Clean Water Branch: No comments received.

Office of Hawaiian Affairs: No comments received.

US Army Corps of Engineers: No comments received.

US Fish and Wildlife Service (FWS): No comments received.

Public Comments: No comments received.

TRADITIONAL AND CUSTOMARY PRACTICES

- 1) The identity and scope of cultural, historical, or natural resources in which traditional and customary native Hawaiian rights are exercised in the area.

The Applicant did not answer.

CWRM Staff Response: Lo‘i kalo and rice paddies were traditionally and historically cultivated near streams, and possibly hunting and gathering being that the location is higher up in the watershed. The area is zoned agriculture and developed decades ago. The Office of Hawaiian Affairs’ Kipuka database shows no historic sites, land awards, or crown lands involved. No comments were received by DLNR Aha Moku. No comments from the public.

- 2) The extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action.

The Applicant did not answer.

CWRM Staff Response: Affected or impaired resources are minimal since the area is fully developed.

- 3) What feasible action, if any, could be taken by the Commission in regards to this application to reasonably protect native Hawaiian rights.

The Applicant stated did not answer.

CWRM Staff Response: No further action as identified.

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT (EA) COMPLIANCE

In accordance with §HRS 343-5(a), the Landowner's construction does not trigger the need for an EA. An EA shall be required for actions, as summarized in part below, that propose:

- (1) use of state land or county lands, or the use of state or county funds;
- (2) use within any land classified as a conservation district;
- (3) use within a shoreline area;
- (4) use within any historic site as designated in the National Register or Hawaii Register;
- (5) use within the Waikiki area of O'ahu;
- (6) any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation, or preservation;
- (7) any reclassification of any land classified as a conservation district;
- (8) construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: (A) any land classified as a conservation district; (B) a shoreline area; or (C) any historic site as designated in the National Register or Hawaii Register;
- (9) any (A) wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single-family dwellings or the equivalent; (B) Waste-to-energy facility; (C) Landfill; (D) Oil refinery; or (E) Power-generating facility.

STAFF REVIEW

HAR §13-168-35(b) sets out the general criteria for ruling on abandoning a stream diversion works. Each application for a stream diversion permit to perform abandonment work shall be made on forms furnished by the commission, shall not require a fee, and shall include:

- (1) The name and address of the applicant;
- (2) The location and description of the proposed stream diversion work abandonment;
- (3) An assessment of the impact the abandonment will have on the stream environment;
- (4) Relevant maps, plans, and drawings; and
- (5) Other information as may be necessary for the commission to determine the merits of the proposed stream channel alteration, including any hazards to public health, safety, or welfare, and the desirability of issuing a permit.

CWRM Staff Response: Removing this registration from active management should not interfere with any instream or noninstream uses. There are three registered diversions located downstream (1) Diversion No. 170, located about 0.8 miles downstream; (2) Diversion No. 169,

located about 1.2 miles downstream; and, (3) Diversion No. 9940, about 1.2 miles downstream. All provide water to East Maui Irrigation. There is one registered diversion located upstream. According to our records, it is also a hand carry with a bucket with no physical structure.

RECOMMENDATION

That the Commission:

1. Approve Stream Diversion Works Permit (SDWP.5349.6) to abandon Registration of Stream Diversion Works and Declaration of Water Use No. 1081.6 on the Uaoa Stream subject to the standard conditions in **Exhibit 4**.

Ola i ka wai,

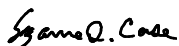


M. KALEO MANUEL
Deputy Director

Exhibits:

1. Registration of Stream Diversion Works and Declaration of Water Use Form filed by Norman Stubbs, received May 30, 1989
2. Letter from Norman Stubbs, dated May 7, 1991.
3. Field Investigation Report FI2020101601
4. Standard Stream Channel Alteration Permit and Stream Diversion Works Permit Conditions.
5. Legal Authorities.

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

Form 8810-2



STATE OF HAWAII
COMMISSION ON WATER RESOURCE MANAGEMENT
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF WATER RESOURCE MANAGEMENT

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DIV. OF WATER & LAND DEVELOPMENT

REGISTRATION OF STREAM DIVERSION WORKS
AND
DECLARATION OF WATER USE

INSTRUCTIONS: Please type or print. If information is not available or not applicable, indicate as N/A. Fill out as completely as possible, sign, and mail form to the Division of Water Resource Management, P.O. Box 373, Honolulu, Hawaii 96809. Phone 548-3948 or 548-7543 for assistance.

MULTI-SOURCE SYSTEMS: For a system of two or more diversion structures, submit a single package to describe the complete system. Include a single location map (or a set of maps if required) showing all diversion structures and measurement points, and a separate copy of this form for each structure and measurement point. On forms describing diversion structures, complete parts A, B, D, and E. On forms describing measurement points, complete parts A, B, and F.

STREAM NAME: UAOA ISLAND: Maui
DIVERSION STRUCTURE NAME: N/A
DIVERSION SYSTEM NAME: N/A

A. DIVERSION WORKS OPERATOR

Firm name: N/A
Contact person: NORDYAN STUBBS
Address: 960 HANA HWY
HAIKU, HI
Zip: 96708 Phone: 572-8053

B. OWNER OF DIVERSION WORKS SITE

Firm name: N/A
Contact person: NORDYAN STUBBS
Address: 960 HANA HWY
HAIKU, HI
Zip: 96708 Phone: 572-8053

C. STREAM DIVERSION LOCATION

Tax Map Key: 28-021-103 & 104, Town, Place, District: PEARL, MAUI, HAWAII
Attach USGS "Quad" map (scale 1:24,000), tax map, or other map showing the diversion location.

D. STREAM DATA

Streamflow at diversion site is: Perennial (Water is always flowing) Intermittent (Channel is sometimes dry)
Is streamflow gaged? Yes No IN DROUGHT
If yes, provide gage name, and show location on map. Name: _____
Average flow before diversion: N/A mgd gpm cfs

E. DIVERSION STRUCTURE DATA

Year constructed: N/A Elevation (Above mean sea level): 600'
Diversion structure is: Concrete Wood Pipe Other (Describe): EARTH & H
& NATURAL
Diverted flow is: Controlled Uncontrolled
Divertable capacity is: N/A mgd gpm cfs

Submit an "as-built" drawing and dated photograph of the diversion works, if available.

N/A ... (continued over)

For Official Use Only:

Date received: _____ Date accepted: _____
Field checked by: _____ Date: _____ Latitude: _____ Hydrologic Unit: _____
Comments: _____ Longitude: _____ State Diversion No.: _____

References: Hawaii Revised Statutes, Chapter 174C.
Hawaii Administrative Rules, Chapters 13-167 to 13-171.

F. DECLARATION OF WATER USE

NOTE: The purpose of the Declaration of Water Use is to obtain information necessary for the management of the State's water resources. The Declaration does not confer a legal right to water or its use.

Location and name of measurement point (Show on location map): N/A
 Water use data are recorded: Continuously Daily Other: _____
 Method of measurement (Check box and describe below): Weir Rating flume Other
 Description: N/A

Quantity of Use (Report gaged or estimated monthly water use from the diversion described on the reverse side of this form, for the calendar years 1983 through 1987):

WATER USE, IN N/A (unit of measurement)

	1983	1984	1985	1986	1987
January					
February					
March					
April					
May					
June					
July					
August					
September					
October					
November					
December					
ANNUAL					

Typical times of usage: _____

Type of Use (Check all category boxes that apply and provide additional information as indicated.):

Category	Additional Information
<input type="checkbox"/> Municipal (including resorts, hotels, businesses)	_____
<input checked="" type="checkbox"/> Domestic (systems serving 25 people or less)	Number of service connections: _____
<input checked="" type="checkbox"/> Irrigation	Acres Irrigated: _____ Crop(s): <input type="checkbox"/> Sugar <input type="checkbox"/> Pineapple <input type="checkbox"/> Other (specify): _____ Non-Crop: <input type="checkbox"/> Landscape <input type="checkbox"/> Golf Course <input type="checkbox"/> Other (specify): _____ Method: <input type="checkbox"/> Drip <input type="checkbox"/> Furrow <input type="checkbox"/> Sprinkler
<input type="checkbox"/> Industrial	<input type="checkbox"/> Cooling <input type="checkbox"/> Manufacturing <input type="checkbox"/> Mill
<input type="checkbox"/> Military	<input type="checkbox"/> Other (specify): _____
<input type="checkbox"/> Other	Specify (livestock, hydroelectric, aquaculture, etc.): _____

Location of Use (Describe the location of water use, relative to the diversion, and indicate on location map. If water is used by others, submit a list of their names and addresses.):

Same THK

I declare that the contents of the above Declaration of Water Use are, to the best of my knowledge and belief, true, correct, and complete.

Water User's Signature: Norman Stubbs Date: 5/20/20
 Printed Name: NORMAN STUBBS
 Firm or Title (Diversion Operator, etc.): OWNER

Norman R. Stubbs
960 Hana Highway
Haiku, Maui, Hawaii 96708
808-572-8053

RECEIVED

MAY 16 A10: 37

DIV. OF WATER &
LAND DEVELOPMENT

May 7, 1991

State of Hawaii
Department of Land and Natural Resources
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

File Reference: Stubb

Dear Staff Persons:

Please accept my apology for not submitting the following data in a timely manner. I will refer to your letter of February 8, 1991 requesting further information.

In answer to information requested for item number:

1. Diversion may have not been the correct description of use. The specific uses were the recreational use of a natural pool and use of water for watering plants along stream(carried in a bucket).
- 2&3. I understand from tenants, use at Kuiaha Stream had been abandoned prior to May 1988. I wish to withdraw this registration.
4. I enclose a USGS map and a plot plan of property to indicate location of wells(also stream and pool).

I may be contacted at 572-8053 should you require any further information.

Thank You.

Sincerely



Norman Stubbs

rt

Need answer to
our Q's 5/6 -
left phone on 5/22/91
@ 9:45 am 5/22/91
- BJR -



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
Stream Protection and Management Branch

FOR STAFF USE ONLY

FIELD INVESTIGATION REPORT
FI2020101601 (Stubbs-Uaoa)

File ID: REG.1081.6

Doc ID: 22994

Date of Field Investigation:	10/16/2020	Time (24-hour):	0830-0900
CWRM Staff:	Verify abandoned Uaoa Stream Diversion Works 1081		
Individuals Present:	Ayron Strauch, Douglas Kagawa (CWRM); Norman Stubbs		
Reference:	REG.1081.6; Uaoa Stream NHD Reach Code 20020000000913		
TMK Parcels (9-digit):	(2) 2-8-002:103, (2) 2-8-002:104		
Findings:			
Performed Field Investigation at Mr. Stubbs' property on Friday between 0830 and 0900.			
The 1989 registration record noted that diversion is a natural earthen pond located within Uaoa Stream, while a May 1991 letter from Mr. Stubbs indicated that "the specific uses were the recreational use of a natural pool and use of water for watering plants along stream (carried in a bucket)." A 1993 CWRM Field Memorandum notes that Mr. Stubbs uses the pond for recreation.			
Mr. Stubbs said the Uaoa Stream flow is very low to no flow except during lengthy or heavy rains. He mentioned that he has not been down to pond for over 15 years. Mr. Stubbs escorted CWRM staff to a plateau which had a vantage point approximately 300-ft. away and 70-ft. above the pond location (13-deg or 23% average slope/grade between vantage point and pond). Entire stream area at the Stubbs property was densely overgrown with hau (Hibiscus tiliaceus), and there was no access trail since Mr. Stubbs has not visited the pond for over a decade. No equipment for pumping stream water to Mr. Stubbs' property at the higher elevations above the stream were observed. After viewing stream area from the vantage point at the plateau, CWRM staff made the decision to cancel the hike down through dense vegetation to pond due to time concerns.			
Image Listing: (Attach PDF of image contact sheet)			
File Name:		Brief Description:	
--		--	
GPS Listing:			
Shapefiles: (List file names of all shapefiles created and a brief description of each)			
File Name:		Brief Description:	
--		--	
Waypoints: (List all waypoints in decimal degrees and provide a brief description of each)			
WP No.	Latitude	Longitude	Brief Description:
--	--	--	--
Attachments:			
Brief Description:			
--			
Recommendations:			
CWRM staff believes that there is no physical diversion of water from Uaoa Stream by Mr. Stubbs and recommend that this diversion be formally abandoned as Mr. Stubbs has indicated he has no intention of diverting or taking water from the stream in the foreseeable future.			

Image 1: 3D Google Earth map used to estimate distance from vantage point to pond on Uaoa Stream.

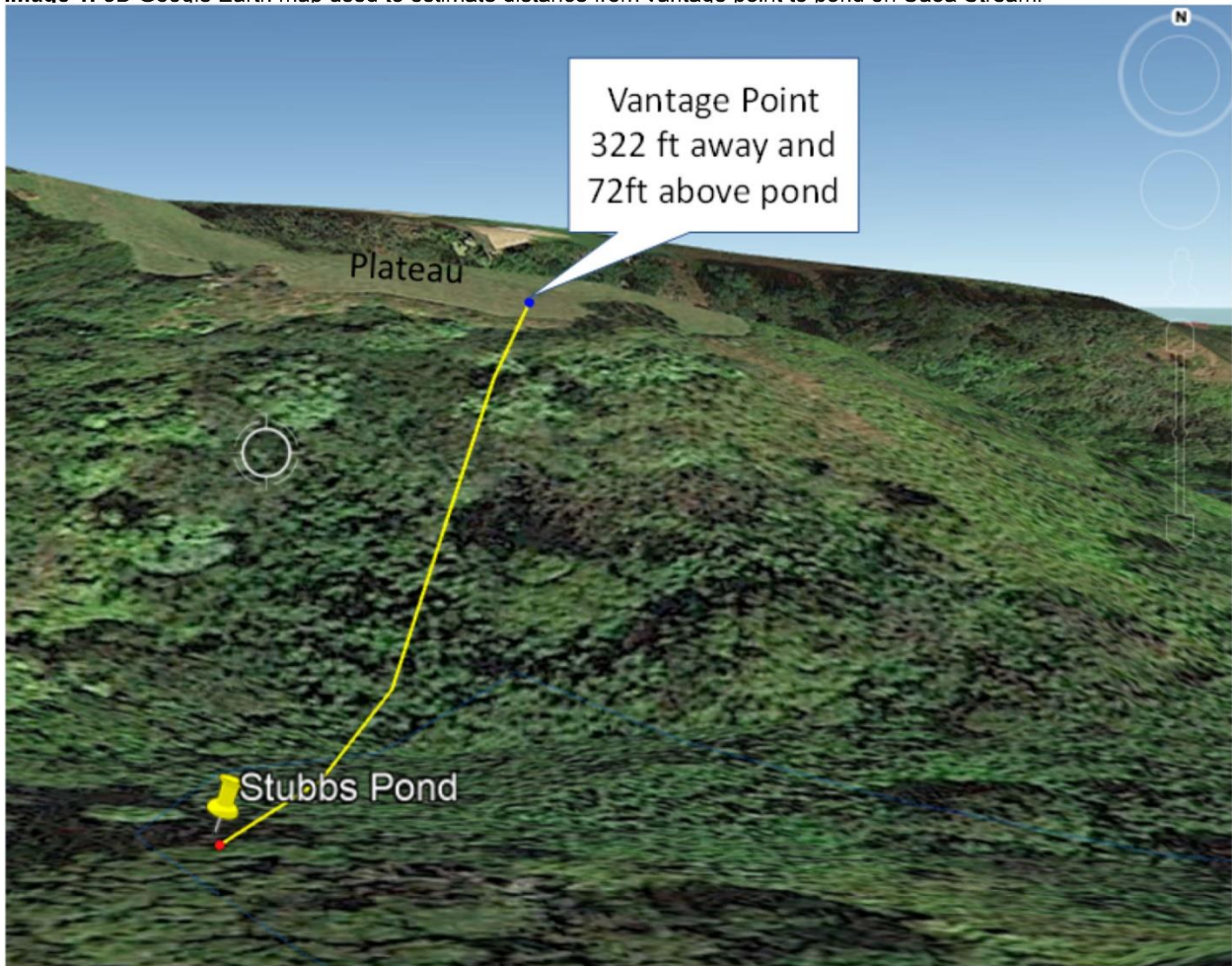


Image 2: 3D Google Earth map used to estimate elevation gradient from vantage point to pond on Uaoa Stream.

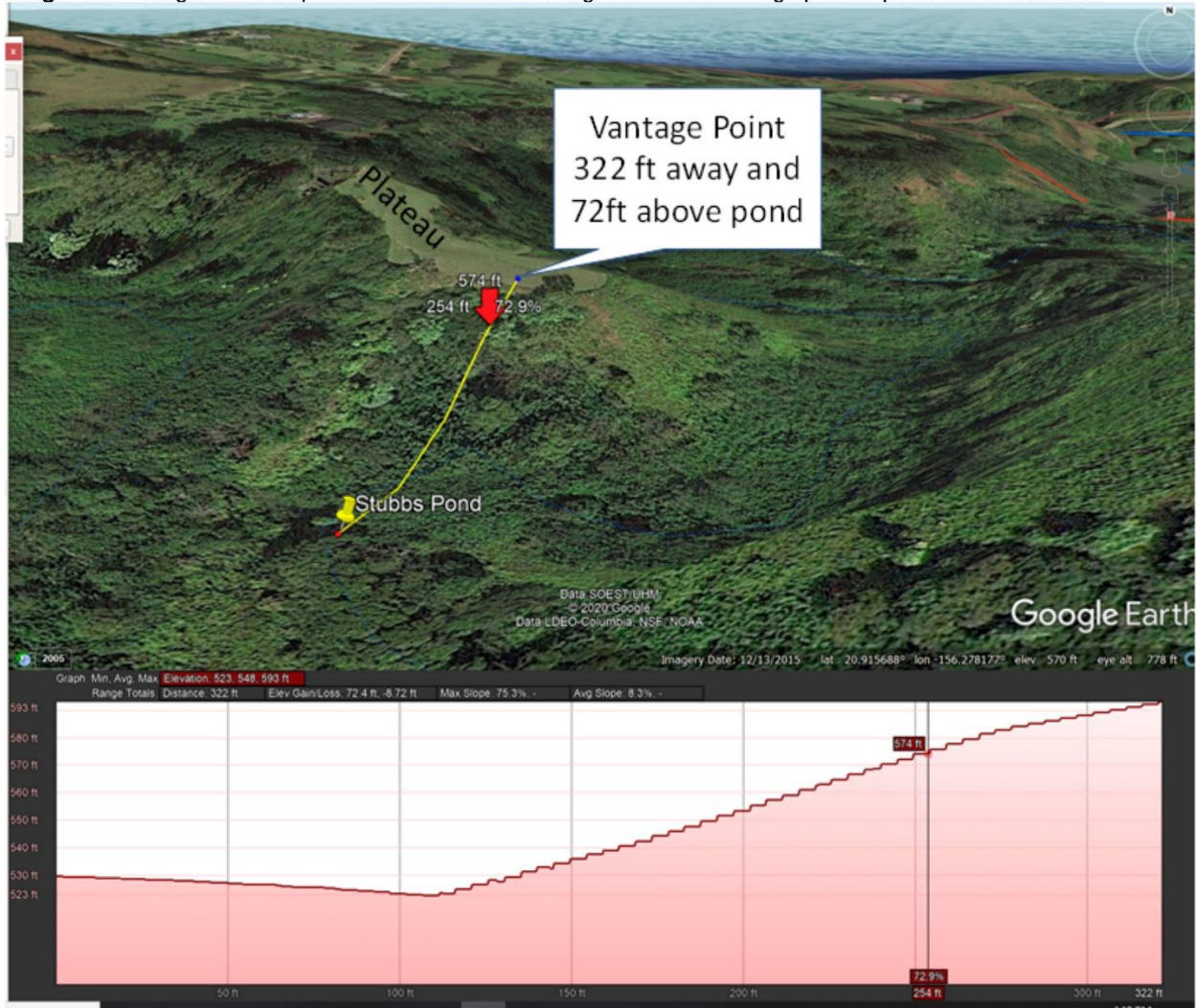


Image 3: Photo from vantage point looking towards pond on Uaoa Stream. Note thick vegetation down to the stream channel.



STANDARD STREAM CHANNEL ALTERATION PERMIT AND
STREAM DIVERSION WORKS PERMIT CONDITIONS
(Revised May 15, 2018)

1. The permit application and staff submittal approved by the Commission at its meeting on the above date shall be incorporated herein by reference.
2. The project may require other agency approvals regarding wetlands, water quality, grading, stockpiling, endangered species, and floodways. The permittee shall comply with all other applicable statutes, ordinances, and regulations of the Federal, State and county governments, including, but not limited to, instream flow standards.
3. The permittee, his successors, assigns, officers, employees, contractors, agents, and representatives, shall indemnify, defend, and hold the State of Hawaii harmless from and against any claim or demand for loss, liability, or damage including claims for property damage, personal injury, or death arising out of any act or omission of the permittee or his successors, assigns, officers, employees, contractors, and agents under this permit or related to the granting of this permit.
4. The permittee shall notify the Commission, by letter, of the actual dates of project initiation and completion. The permittee shall submit a set of as-built plans and photos in pdf format of the completed work to the Commission upon completion of this project. This 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 proposed work under this stream channel alteration permit 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 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.
5. Before proceeding with any work authorized by the Commission, the permittee shall submit one set of construction plans and specifications in PDF format to determine consistency with the conditions of the permit and the declarations set forth in the permit application.
6. The permittee shall implement site-specific, construction Best Management Practices in consultation with the DOH Clean Water Branch and other agencies as applicable, that are designed, implemented, operated, and maintained by the permittee and its contractor to properly isolate and confine activities and to contain and prevent any potential pollutant(s) discharges from adversely impacting State waters per HRS Ch. 342D Water Pollution; HAR §11-54-1 through §11-54-8 Water Quality Standards; and HAR Ch. 11-55 Water Pollution Control, Appendix C.
7. The permittee shall protect and preserve the natural character of the stream bank and stream bed to the greatest extent possible. The permittee shall plant or cover lands denuded of vegetation as quickly as possible to prevent erosion and use native plant species common to riparian environments to improve the habitat quality of the stream environment.
8. In the event that subsurface cultural remains such as artifacts, burials or deposits of shells or charcoal are encountered during excavation work, the permittee shall stop work in the area of the find and contact the Department's Historic Preservation Division immediately. Work may commence only after written concurrence by the State Historic Preservation Division.

EXHIBIT 4

LEGAL AUTHORITIES

Water as a Public Trust. The four public trust purposes are:

1. Maintenance of waters in their natural state.
2. Domestic water use of the general public, particularly drinking water.
3. The exercise of Native Hawaiian and traditional and customary rights, including appurtenant rights. *Waiahole*, 94 Hawaii 97; 9 P.3d 409 (2000).
4. Reservations of water for use on Hawaiian home lands. *Waiola O Molokai, Inc.*, 103 Hawaii 401; 83 P.3d 664 (2004).

Activities on undeveloped lands. *Public Access Shoreline Hawaii v. Hawaii County Planning Commission (PASH I)*. 79 Hawaii 246 (1993).

HRS §174C-26 Filing of declaration. (a) Any person making a use of water in any area of the State shall file a declaration of the person's use with the commission within one year from the effective date of rules adopted to implement this chapter.

(b) When the commission requires filing of declarations by rules, it shall cause public notice of the rule to be given statewide for filings in the city and county of Honolulu and areawide or countywide statewide for filings in counties other than the city and county of Honolulu. The commission shall also cause notice of the rules to be given by mail to any person required to file of whom the commission has or could readily obtain knowledge or who has requested mailed notice to be given when the commission adopts rules requiring the filing of declarations.

(c) The declarations shall be in such form and contain such information as the commission by rule prescribes, including the quantity of water used, the purpose or manner of the use, the time of taking the water, and the point of withdrawal or diversion of the water. Each declaration shall contain a statement, signed and sworn to by the person required to file the declaration, or by some other person duly authorized in the person's behalf, to the effect that the contents thereof are true to the best of the person's knowledge and belief.

HRS §174C-71 Protection of instream uses. The commission shall establish and administer a statewide instream use protection program. In carrying out this part, the commission shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the commission shall:

- (2) Establish interim instream flow standards;
 - (D) In considering a petition to adopt an interim instream flow standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for noninstream purposes, including the economic impact of restricting such uses;
- (3) Protect stream channels from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses;
 - (A) The commission shall require persons to obtain a permit from the commission prior to undertaking a stream channel alteration; provided that routine

- streambed and drainageway maintenance activities and maintenance of existing facilities are exempt from obtaining a permit;
- (C) The commission shall establish guidelines for processing and considering applications for stream channel alterations consistent with section 174C-93;

HRS §174C-92 Registration of existing stream diversion works. Any person owning or operating a stream diversion works within or outside of a water management area shall register such work with the commission. Registration shall be on the forms provided by the commission. Reporting requirements on the registration forms shall be reasonable.

HRS §174C-95 Abandonment. Any owner of any stream diversion work wishing to abandon or remove such work shall first obtain a permit to do so from the commission.

HAR §13-168-2 Definitions.

“Instream flow standard” means a quantity or flow of water or depth of water which is required to be present at a specific location in a stream system at certain specified times of the year to protect aquatic life, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.

“Instream use” means beneficial uses of stream water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Instream uses include, but are not limited to:

- (1) Maintenance of aquatic life and wildlife habitats;
- (2) Outdoor recreational activities;
- (3) Maintenance of ecosystems such as estuaries, wetlands, and stream vegetation;
- (4) Aesthetic values such as waterfalls and scenic waterways;
- (5) Navigation;
- (6) Instream hydropower generation;
- (7) Maintenance of water quality;
- (8) The conveyance of irrigation and domestic water supplies to downstream points of diversion; and
- (9) The protection of traditional and customary Hawaiian rights.

“Stream diversion” means the act of diverting, pumping or otherwise removing water from a stream into a channel, ditch, pipeline, or other conduit.

“Stream diversion works” means any artificial structure, excavation, pipeline, or other conduit constructed singly or in combination, for the purpose of diverting or otherwise removing water from a stream into a channel, ditch, tunnel, pipeline, etc.

HAR §13-168-5 Declaration of water use. (a) Any person making a use of water from a well or stream diversion works in existence on the effective date of these rules in any area of the state shall file a declaration of the person’s use with the commission within one year from the effective date of these rules.

(c) Declarations by the user shall be made on forms provided by the commission and shall contain information including, but not limited to, the location of the water sources and all usage-related facts, or information within his knowledge or possession. The user shall include a declaration of the manner, purposes, and time in which the water source is being used and

operated, the rate and volume of water being withdrawn or diverted therefrom, and the method or means of measuring and controlling the water taken or used. Each declaration shall contain a statement, signed and sworn to by the person required to file the declaration, or by some other person duly authorized in the person's behalf, to the effect that the contents thereof are true to the best of the person's knowledge and belief.

HAR §13-168-31 Registration of existing stream diversion works. Within one year from the effective date of these rules, the owner or operator of any stream diversion works in any area of the state shall register such facility with the commission. Registration shall be on the forms provided by the commission and shall include information such as location, dimensions, elevations, divertible capacity, construction plans, method of measuring flows, and all other facts or information reasonably required.

HAR §13-168-35 Abandoned stream diversion works. (a) The owner of any stream diversion works wishing to abandon or remove such works shall first obtain a stream diversion permit issued or caused to be issued by the commission. No abandonment work shall be undertaken by the applicant until such a permit is issued by the commission.

(b) Each application for a stream diversion permit to perform abandonment work shall be made on forms furnished by the commission, shall not require a fee, and shall include:

- (1) The name and address of the applicant;
- (2) The location and description of the proposed stream diversion work abandonment;
- (3) An assessment of the impact the abandonment will have on the stream environment;
- (4) Relevant maps, plans, and drawings; and
- (5) Other information as may be necessary for the commission to determine the merits of the proposed stream channel alteration, including any hazards to public health, safety, or welfare, and the desirability of issuing a permit.

§13-169-44 Interim instream flow standard for East Maui. The Interim Instream Flow Standard for all streams on East Maui, as adopted by the commission on water resource management on June 15, 1988, shall be that amount of water flowing in each stream on the effective date of this standard, and as that flow may naturally vary throughout the year and from year to year without further amounts of water being diverted offstream through new or expanded diversions, and under the stream conditions existing on the effective date of the standard.