



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

February 15, 2022
Honolulu, Hawai'i

Clarify the Distribution Points for South Waikapū 'Auwai as Part of the Implementation of the Final Decision and Order for CCH-MA15-01 and Order Wailuku Water Company and Waikapu Properties, Inc. to Implement Certain Actions to Initiate Delivery of Water to the South Waikapū 'Auwai, Nā Wai 'Ehā Surface Water Management Area, Waikapū, Maui

SUMMARY OF REQUEST

Staff is requesting that the Commission on Water Resource Management (Commission) modify the Commission's June 28, 2021 Decision & Order in CCH-MA15-01 to clarify the distribution points of water serving users on the South Waikapū 'Auwai; Order Wailuku Water Company to provide a total of 0.272 million gallons per day to the South Waikapū Pipeline maintained by Waikapu Properties; and Order Waikapu Properties to complete the installation of the 4-inch lateral line from the South Waikapū Pipeline to serve the water users originally fed by the South Waikapū 'Auwai.

LEGAL AUTHORITY

Under the State Water Code (Code), the Commission shall have jurisdiction statewide to hear any dispute regarding water resource protection, water permits, or constitutionally protected water interests, or where there is insufficient water to meet competing needs for water, whether or not the area involved has been designated as a water management area under this chapter. The final decision on any matter shall be made by the Commission. HRS § 174C-10.

BACKGROUND

Note: Please see Exhibits 1 and 2 (Briefing B1 and Testimony, respectively, from September 21, 2021 Commission meeting), and 3 and 4 (Submittal B2 and Testimony, respectively, from October 19, 2021 Commission meeting) for a more complete background of events related to this submittal.

On April 17, 2014, under contested case hearing CCH-MA06-01, the Commission issued an Order adopting the; 1) Hearings Officer’s Recommendation on the Mediated Agreement Between the Parties; and 2) Stipulation re Mediator’s Report of Joint Proposed Findings of Fact, Conclusion Of Law, Decision and Order. The Order established an interim instream flow standard of 2.9 mgd for Waikapū Stream.

In October 2020, the Commission staff began receiving reports that WWC had installed a new valve on the pipe release to the South Waikapū ‘Auwai from Reservoir 1, resulting in no water being received by kuleana users.

On June 1, 2021, WWC contacted Commission staff regarding worsening drought conditions and sought emergency relief to increase diversion of water from Waikapū Stream to Reservoir 1. In a letter from Chairperson Suzanne Case, dated June 4, 2021, WWC’s request for emergency relief was denied.

On June 28, 2021, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order (D&O) in contested case hearing CCH-MA15-01 regarding the Surface Water Use Permit Applications, Integration of Appurtenant Rights and Amendments to the Interim Instream Flow Standards, Na Wai Eha Surface Water Management Areas of Waihee, Waiehu, Iao and Waikapu Streams, Maui. In its D&O, regarding the management of the WWC delivery system and the South Waikapū ‘Auwai, the Commission set forth the following provisions:

D&O, pp. 305-307, Line 39:

- B. Appurtenant Rights and Surface Water Use Permits (SWUPs)
 - 39. SWUPA 2157 – Wailuku Water Company
 - b. As a condition of this permit, WWC is required to gage and continuously monitor with the installation of a parshall flume or a Commission staff approved water meter, at the following locations:
 - 1. Diversions:
 - i. South Waikapu Ditch at Reservoir 1 (CWRM gage 6-1)
 - 2. Distribution Points:
 - vi. South Waikapū ‘Auwai
 - c. WWC shall ensure that the following quantity of water is delivered to the following distribution points in the indicated amounts based on SWUPs that will be issued as a result of this decision. The amounts to be delivered shall be provided at all times unless identified in Tables 1-3, supra, or determined by the Commission to be an emergency:
 - vi. South Waikapū ‘Auwai – 0.265 mgd¹

In addition, the following users were awarded water use permits, sourced from Waikapū Stream and the South Waikapū Ditch, under the D&O (in pertinent parts):

D&O, pp. 341-345, Lines 140-141, 143-148:

4. Waikapū Stream

¹ MGD is million gallons per day.

a. South Waikapū Ditch

140. The surface water sources for the following multiple SWUPAs from Waikapu Properties are Waikapū Stream and Waihe‘e Ditch, which contains waters from all of the stream and rivers. They are included here under South Waikapū Ditch, because Waikapu Properties’ original SWUPAs received water from Waikapū Stream through the South Waikapū Ditch’s Reservoir 1. When HC&S closed its sugar cane operations and returned the lease ‘Īao-Waikapū fields, Waikapu Properties amended its SWUPAs, which now includes HC&S’ former SWUPA 2205 for the ‘Īao-Waikapū fields, and intends to move its operations largely to the ‘Īao-Waikapū fields.
141. **SWUPAs 2205, 2356/2297N, 3471N, and 3472N—Waikapu Properties (FOF 427)²**
- a. Parcel 3 is recognized as having appurtenant rights of 1,113,000 gpd³ (7.42 acres x 150,000 gad⁴).
 - b. Waikapu Properties is granted an existing use permit of 1,838 gpd (73.5 acres x 25 gad for cattle drinking water).
 - c. Waikapu Properties is granted a total new use permit of 1,815,937 gpd ((722.50 acres x 2,500 gad for diversified agriculture) plus (403.9 acres x 25 gad for cattle drinking water)).
143. **SWUPAs 2260/2261N—Ho‘okahi Alves (Miyashiro Trust) (FOF 429)**
- a. Parcel 27 is recognized as having appurtenant rights of 106,500 gpd (0.710 acres x 150,000 gad).
 - b. Alves is granted a new use permit for 75,000 gpd (0.5 acre x 150,000 gad) for lo‘i kalo. This full amount is granted based on the recognized appurtenant rights for Parcel 27. This amount is also under the priority as the exercise of traditional and customary rights.
 - c. Alves is also recognized as having domestic use of 600 gpd for which a permit will be issued.
144. **SWUPAs 2217/2218N—John Minamina Brown Trust/Crystal Smythe, Trustee (FOF 430)**
- a. Parcels 25 and 29 are recognized as having appurtenant rights of 187,500 gpd (1.25 acres x 150,000 gad).
 - b. Smythe is granted permits for a total of 172,500 gpd consisting of the following:
 - i. An existing use permit of 45,000 gpd (0.30 acre x 150,000 gad) for existing lo‘i kalo; and
 - ii. A new use permit of 127,500 gpd (0.85 acre x 150,000 gad) for new lo‘i kalo.

² Pursuant to FOF 427, Waikapu Properties shall receive a total of 6,351 gpd, sourced from Waikapū Stream, consisting of the following allotments of: 1) 1,750 gpd for cattle on 86.5 acres by Makani Olu; 2) 2,763 gpd for cattle on 110.5 acres by Beef & Blooms; and 3) 1,838 gpd for cattle on 73.5 acres by Beef & Blooms.

³ GPD is gallons per day.

⁴ GAD is gallons per acre per day.

The entire 172,500 gpd is granted based on the recognized appurtenant rights for Parcels 25 and 29. This amount is also under the priority as the exercise of traditional and customary rights.

- c. Smythe is also recognized as having domestic uses of 600 gpd for which a permit will be issued

145. **SWUPA 2366N—George & Yoneko Higa (FOF 431)**

- a. Parcels 3 and 4 are recognized as having appurtenant rights of 156,150 gpd (1.041 acres x 150,000 gad).
- b. The Higa ‘Ohana are recognized as having domestic use of 2,500 gpd (1 acre x 2,500 gad) for garden crops for which a permit will be issued.
- c. The Higa ‘Ohana request for a new use permit is denied without prejudice.

146. **SWUPA 2368—Teruo Kamasaki (FOF 432)**

- a. Parcel 10 has appurtenant rights of 53,250 gpd (0.355 acres x 150,000 gad).
- b. McCarthy’s request for an existing use permit is denied. Even though it was filed before the existing use application deadline of April 30, 2009, there was no existing use on April 30, 2008, the effective date of designation for Nā Wai ‘Ehā as a surface Water Management Area, because use ceased in July 2004.
- c. McCarthy is recognized as having a domestic use of 1,675 gpd (0.67 acres x 2,500 gad).

147. **SWUPA 2155—Clayton Suzuki (FOF 433)**

- a. Appurtenant rights for Parcels 9, 13, and 22 were extinguished by the reservation of water in the deed from Wailuku Agriculture in 2003.
- b. The Suzukis are issued an existing use permit for 8,350 gpd (3.34 acres x 2,500 gad) for diversified agriculture.
- c. The Suzukis are recognized as having domestic uses of 2,500 gpd (1 acre x 2,500 gad) for a domestic garden for which they will be issued a permit.

148. **SWUPA 2156—Nadao Makimoto (FOF 434)**

- a. Parcel 21 is recognized as having appurtenant rights of 43,950 gpd (0.293 acres x 150,000 gad).
- b. Makimoto is issued an existing use permit for 1,000 gpd (0.4 acres x 2,500 gad) for diversified agriculture. This amount is granted based on the recognized appurtenant rights for Parcel 21.
- c. Makimoto is recognized as having a domestic use of 463 gpd (0.185 acres x 2,500) for landscaping.

The total amount of water awarded to the users, receiving water from South Waikapu Ditch, identified in the D&O above is 271,539 gpd.

On August 10, 2021, letters were sent to WWC and the South Waikapū ‘Auwai users informing them of the provisions set forth in the Commission’s D&O.

On August 11, 2021, Commission staff received a Complaint/Dispute Resolution Filing Form (Complaint) from Hui o Nā Wai ‘Ehā (Hui), regarding the lack of water to the South Waikapū ‘Auwai and downstream kuleana users not receiving any water. A Notice of Complaint/Dispute Resolution was sent to Wailuku Water Company on August 25, 2021, seeking a response. A response from Wailuku Water Company was received on September 8, 2021.

On September 21, 2021, Commission staff briefed the Commission at its regular monthly meeting regarding the status of Waikapū interim instream flow standard compliance and water availability issues on the South Waikapū Kuleana ‘Auwai (See Exhibits 1 and 2).

On October 19, 2021, the Commission staff briefed the Commission that a short-term solution was agreed upon, through discussions between representatives of the Hui and Waikapu Properties, that the South Waikapū Kuleana users could receive water from a lateral off the main line from Reservoir 1 (South Waikapū Pipeline), directly to the lower reach of the South Waikapū ‘Auwai. This proposed solution would considerably minimize loss in the currently unlined ‘auwai as it flows down approximately 1.0 mile from Reservoir 1. However, this would only serve as a short-term solution while a long-term solution (i.e., restoring the traditional ‘auwai directly from Waikapū Stream) is sought.

In conjunction with the briefing, the Commission approved an Order to Wailuku Water Company, LLC and Waikapu Properties, LLC to halt delivery of water to Kumu Farms from Reservoir 1, in compliance with the Commission’s June 2021 D&O. According to Mr. Albert Boyce, a managing partner of Maui Tropical Plantation, confirmed in an email dated January 27, 2022, that Kumu Farms ceased drawing water sourced from Reservoir 1 on October 26, 2021. Mr. Boyce noted that “a 6” mainline valve was closed, and a 4” submain serving Kumu Farms’ ag fields to the south was cut.” Mr. Boyce provided Photos 1 and 2 below. A site visit was also conducted by Commission staff on February 7, 2022 to confirm the halting of delivery from Reservoir 1 and the source of Kumu Farms’ water from Waihe‘e Ditch (Photos 3 to 6).

Photos 1 to 2.



1) Photo of mainline valve provided by Mr. Boyce.



2) Photo of cut 4” submain provided by Mr. Boyce.

Photos 3 to 6.



3) Meter on sand filters that previously received water from Reservoir 1 and provided water to Kumu Farms.



4) Condition of sand filters that previously received water from Reservoir 1 and provided water to Kumu Farms.



5) Reservoir located makai of Waihe'e Ditch, which provides water to Kumu Farms.



6) PVC lines from reservoir located makai of Waihe'e Ditch providing water to Kumu Farms.

On January 26, 2022, the Commission received an email update from Mr. Hōkūao Pellegrino, of the Hui, regarding the installation of the lateral off the main line from Reservoir 1, stating the following:

“Mike Atherton of Waikapū Properties, just called and informed me that they will be trenching all day Monday (1/31/22) and laying pipe on Tuesday (2/1/22). They are awaiting the arrival of the 8" Valve which they are hoping for this Friday.

“Mike did ask me one question that he was hoping i could clarify. He said Avery contacted him saying the source and name for the South Waikapū Kuleana Users will need to formally change. He was concerned that this would require a Commission decision in February and wanted to make sure something like that would hold up the work and delivery of water? While i understand that the delivery system is changing from an open ditch on the north to a pipeline on the south, both systems, still drop into the original/ancient South Waikapū Kuleana ‘Auwai and wanted to check on what you folks

are looking to possibly rename the system as? If yo could please advise on this, that would be greatly appreciated.”

Deputy Kaleo Manuel responded to Mr. Pellegrino’s email stating the following:

“It’s great to hear that there’s movement on this to get water to the kuleana farmers. Avery contacted me as well and asked if there’s a need to have Commission take action to clarify the requirements of the D&O, specific to the South Waikapū Kuleana ‘Auwai, which I think would be beneficial to be very explicit.

“One proposed order from Commission would be to:

1. Require WWC to provide the 268,000 gpd (sorry don’t have the exact number in front of me) at filter station that is fed from the South Side of Reservoir 1 (expanded side). From the filter station, water will be piped by Waikapū Properties and dropped into the South Waikapū Kuleana ‘Auwai to meet the needs of the kuleana users.
2. Require WWC to provide the XXXX gpd to Suzuki at the North Side of Reservoir 1 (original side) from the pipe dropping into the South Waikapū ditch.

“I would like to get agreement on language so I can also share a draft with Avery before we finalize the submittal for Commission action. Thoughts?”

Mr. Pellegrino responded with the following comments:

“Everything looks good to be except the part of Suzuki? Has he or Avery said, he would stay on the old system? It was my understanding that everyone, including Suzuki would be on the new system. I would be a bit shocked if Suzuki stayed on the old system which would be reduced to 10,000 GPD and would likely not even reach his intake? Maybe need to clarify. Mahalo”

On January 27, 2022, Deputy Manuel followed up on a phone call with Mr. Avery Chumbley, of Wailuku Water Company (WWC), via email seeking to clarify the implementation of the Commission’s D&O:

“Mahalo for the call yesterday. In re-reviewing the language in the Decision and Order and the intent, you can allow Waikapū Properties to connect immediately to the pipe that comes from the filter station once they are ready to connect the system because the water will eventually be dropped into the South Waikapū ‘Auwai via this new configuration. You will still be complying with the Decision and Order of the Commission.

“Per the Decision and Order 39.b.c.6. on page 306, “Wailuku Water Company shall ensure that the following quantity of water is delivered to the following distribution points in the indicated amounts based on SWUPs that will be issued as a result of this decision.”

“6. South Waikapū ‘Auwai – 0.265 mgd

“We are still planning to bring a submittal to the Commission on February 15, 2022 to clarify the implementation of the Decision and Order in this situation, but if the pipe is ready to be connect prior to that date to get water to the South Waikapū ‘Auwai kuleana, then allow the connection.”

Mr. Chumbley responded as follows:

“Thanks Kaleo for the follow up, I do want to confirm that the responsibility for delivery to the Kuleana ENDS for WWC at the point of connection to the pipe at the WWC filter station (new distribution point), should there be a pipe rupture or failure of some type beyond that connection point and No water is delivered to the Kuleana’s that is NOT the responsibility of WWC to fix the pipe, nor can WWC be held in violation of the D&O for No water deliveries to the kuleana.

“That is my understanding, do you agree and can you please confirm that back to me in an email response.”

Deputy Manuel responded as follows:

“Mahalo Avery. Yes, that is what I understand from my conversations with you, but I am coordinating a conversation with the kuleana users and Waikapū Properties to confirm their understanding of the situation and confirm if what you reference below is their understanding as well.

“As you mentioned in our site visit, your easement and management of the water system ends at the filter station and the rest of the system that runs on Waikapū Property land is their responsibility. Could you provide me with that easement document (I apologize if you sent it already)? I’d like to reference that in the conversation with Waikapū Properties.”

Mr. Chumbley responded back as follows:

“Aloha Kaleo... until there is a clear and documented understanding between all Parties (CWRM, WWC, Waikapu Properties, all Kuleana users) as to who is responsible for possible ruptures, leaks or failures of the piping, WWC will not allow for the tie in off of the filter station distribution point. Just so you are clear on the configuration aspect of this change I will provide details below.

“Waikapu Properties installed and owns (on their private property) the 8 inch main line that ties into our filter station located just below Reservoir #1, as the point of delivery for water to them back around 2008, their main line runs sub-surface makai in an easterly direction for approx. 4,200 feet (and continues past the new Kuleana tie in point easterly) the point of which a new 4inch line will be tapped into that existing main line. That new 4 inch line will then run north approx. 900 feet until to the existing south Waikapu auwai where it will discharge the water. Due to the elevation drops clay valves (pressure reducers) will need to be installed. I have told the Atherton group that in order for them to

tie into our upper existing filter station WWC will require a meter at both the upper tie in location at the filter station and the lower line in order to control the required drop of 265,000 GPD.

“There is NO easement document that you refer to.”

On January 31, 2022, a meeting was held with the Hui and their representatives to confirm their understanding of the installation of the new lateral, off of the main 8-inch line from Reservoir 1, to convey water to the South Waikapū ‘Auwai kuleana users.

On February 3, 2022, Commission Chair Suzanne Case sent an email to Mr. Chumbley regarding installation of the new lateral, stating the following:

“We received notification yesterday from the Hui that the new 4” distribution pipe from the main 8” line from Reservoir 1 has been installed to provide water to the South Waikapu Kuleana ‘Auwai users, which was discussed and shared at our October 2021 Commission meeting. We’re happy to see that this will help with system efficiencies and addressing the current system losses on South Waikapu Ditch where WWC is currently providing water to the South Waikapu Kuleana ‘Auwai.

“As discussed at the Water Commission meeting to implement the Commission’s Final Decision and Order, WWC needs to ensure that the required 265,000 gpd of water is provided from WWC at the filter station that ties into the 8” main line going to Waikapu Property so we can ensure that the traditional and customary practices and appurtenant rights of those on the South Waikapu Kuleana ‘Auwai are met.

“As clarified in earlier emails to staff, it is the CWRM’s understanding that WWC’s responsibility ends at the filter station. The main 8” line and 4” lateral is on land owned by Waikapu Properties, so they will be responsible for the management (ruptures, leaks, or failures of piping) of that portion of the system. We also understand that there is an existing meter at the filter station, which should be sufficient to ensure that the quantity of water discussed above is provided by WWC.

“Please provide confirmation via email that the requirement above has been met.”

Mr. Chumbley responded to Chair Case’s email as follows:

“Aloha Chair Case... I appreciate your direct involvement in this matter as there continues to be some unresolved issues and lingering concerns. WWC is anxious, supportive, and willing to make this proposed conversion.

“While the Hui may be anxious to get this proposed transition completed, I fear they are not providing you or Kaleo with all of the details or a clear understanding of the complexities of the system. I do understand that Waikapu Properties was working on installing the 900 lineal feet the 4-inch PVC pipe that connect to their 8-inch main line this week however, there has been complications.

“That 8-inch main line runs approx. 4,200 lineal feet maki [sic] from the WWC filter station and because of a significant elevation drop had to have several clay valves (pressure reducers) installed, historically there has been numerous ruptures of the main line due to high water pressure and air surges. I was informed earlier today that they proceeded to charge the new 4-inch line and it ruptured. As I understand it, a clay valve located just above the 4-inch tie in to the 8-inch line is set at approx. 35 PSI, that tells me the engineering plan on the tie in does not provide for a sufficient pressure reduction or in their zest to get this done they did not give the piping gluing sufficient time to set.

“As I have informed all of the Parties involved, there needs to be two functioning meters installed, the first is at the distribution point of the existing 8 -inch tie in at the filter station, that meter (which has not been functioning for some time and is the responsibility of the users not WWC) needs to be replaced prior to a delivery conversion to the pipe for the Kuleana auwai users, the second meter needs to be on the 4 inch line prior to the Suzuki delivery tie in so that we can account for the collective required South Waikapu Auwai distribution deliveries , and separate the deliveries to Waikapu Properties. I understand there is a proposed clay valve beyond the meter which can then be calibrated to drop the required volume of deliveries to the Kuleana users. These are obligations on the users under the D&O but not under our direct control of WWC and need to be complied with, as does the reported monthly usage by all permit holders off of this system.

“I have yet to be informed that the South Waikapu Kuleana Auwai users collectively agree to and consent that WWC has no obligation beyond the proposed new distribution point at the WWC filter station, I have only been informed that Waikapu Properties has this obligation, what is the position of the Kuleana permit holders ?

“Lastly, while I can not profess to say if all these changes in obligations and duties requires a formal amendment action to the existing D&O by the Water Commission Members at a noticed agenda item, I have copied and defer to our counsel to provide further comments or directions.

“Again, like you and I’m sure of all the permit holders we are anxious to get this resolved.”

Deputy Manuel also contact Mr. Mike Atherton, of Waikapu Properties, Inc. to confirm his understanding of the lateral installation, stating the following:

“I understand that a new pipe system has been installed to assist in getting water to the South Waikapu Kuleana ‘Auwai in a more efficient manner. From what I understand Waikapu Properties will take on management of the 8” pipe and 4” lateral (on Waikapu Properties land) that receives water from the filter station from Wailuku Water Company from Reservoir 1. I would like to see this system up and running as soon as possible and want written confirmation from you that Waikapu Properties will be responsible for the

management of that portion of the system on Waikapu Properties land (e.g. fixing ruptures, leaks, or failing of pipes).

“Please advise as soon as possible. “

Mr. Atherton responded as follows:

“Waikapu Properties will be responsible for management of 8 inch main and newly installed 4 inch lateral to south kuleana ditch. We will get water flowing as fast as we can. We have had to wait for valves back ordered from the mainland. sorry about the delay.”

On February 4, 2022, Deputy Manuel followed up with Mr. Atherton with the following:

“Mahalo Mr. Atherton for your response and it’s great to hear that this project is moving forward. I had a few follow up questions based on conversations I’ve had with Mr. Avery Chumbley.

1. I’m assuming the valves you are referencing are the clay valves that will act as pressure reducers on the system? I was informed by Mr. Avery Chumbley that when pressurizing the pipe system, the new 4” line ruptured. Is that true?
2. There’s a current meter after the filter station on the 8” line that has not been functioning. Does Waikapū Properties get its water for its cattle before or after the filter station?
3. Based on the new 4” lateral from the 8” line that will serve Mr. Suzuki and the South Kuleana Users, I would suggest that a water meter be placed prior to the Suzuki Delivery tie in so we can make an accurate account of how much water is being delivered at that point. This will be a good place to monitor and report monthly usage from.”

Responses to the above questions were received from Mr. Boyce on February 10.

1. Not true. The line has not been pressurized yet.
2. After.
3. Yes, a water meter will be installed prior to the Suzuki Delivery tie in.

Deputy Manuel was later contacted on February 4, by Mr. Duane Ting, an associate of Waikapu Properties, who was overseeing the installation of the new lateral line. Mr. Ting conveyed the following points:

- Mr. Ting was on the ground overseeing the installation of the new distribution point, when on February 3, the new line was trenched and the laid in the ground according to the way Mr. Clayton Suzuki designed it. Mr. Suzuki then proceeded to flush the system. It was at this point that a pipe “blew up”. In fact, the blown pipe was not the newly installed lateral, but an abandoned line that previously fed Kumu Farms, which was unknown to Waikapu Properties. Kumu Farms used to farm this lower corner of the

property. Mr. Suzuki believed the pipe to be abandoned, but it was found to still have been receiving water from the 8-inch main line. Mr. Ting decided to cut and cap the former Kumu Farms pipe.

- Throughout the pandemic, Mr. Ting has had to constantly maintain the system because Kumu Farms was not actively managing and maintaining the system, including the growth of freshwater clams in the system that are clogging air relief valves resulting in water hammering in the 8-inch main line. Filling the main line took 3 day to ensure that there were no air pockets.
- Waikapu Properties (Mr. Atherton) is committed to fixing and managing the system for everyone’s benefit.
- The second valve (to provide water to the kuleana users) is expected to arrive on February 15 and will be installed at the end of the 4-inch lateral. Installation is expected to take two hours. There are currently two ball joints to be able to shut down the system. If the first CLA valve, located right below the first check valve functions properly, as designed (120 PSI), they should be able to regulate the 4-inch line. Mr. Ting would prefer to install a second valve to manage pressure, but the system could be turned on earlier. If turned on earlier, they would not be able to check and manage the volume of water allotted at the end of the pipe to the South Waikapū Kuleana ‘Auwai.
- Water for Waikapu Properties’ cattle comes off of the 8-inch main line, so the meter right after the filter station is important to calculate how much water they are using.

On February 7, 2022, Commission staffer Dean Uyeno met with Mr. Ting at the Waikapu Properties location to observe and confirm the details as stated in the conversation with Deputy Manuel, and confirm the current conditions of the South Waikapū ‘Auwai distribution point, the South Waikapū Pipeline, construction of the 4-inch lateral to feed the South Waikapū ‘Auwai, and the halting of water delivery and new source from Waihe‘e Ditch to Kumu Farms.

Photos 7 to 8.



7) Continued water release from Reservoir 1 to the South Waikapū Kuleana ‘Auwai.



8) Flume located in the South Waikapū Kuleana ‘Auwai measured approximately 0.3 million gallons per day.

Photos 9 to 14.



9) Sand filters located on the main 8-inch line from Reservoir 1.



10) Meter on main line coming from the sand filters just below Reservoir 1.



11) Lateral 4-inch line connection off of main 8-inch line.



12) Installation of lateral 4-inch line off of main 8-inch line.

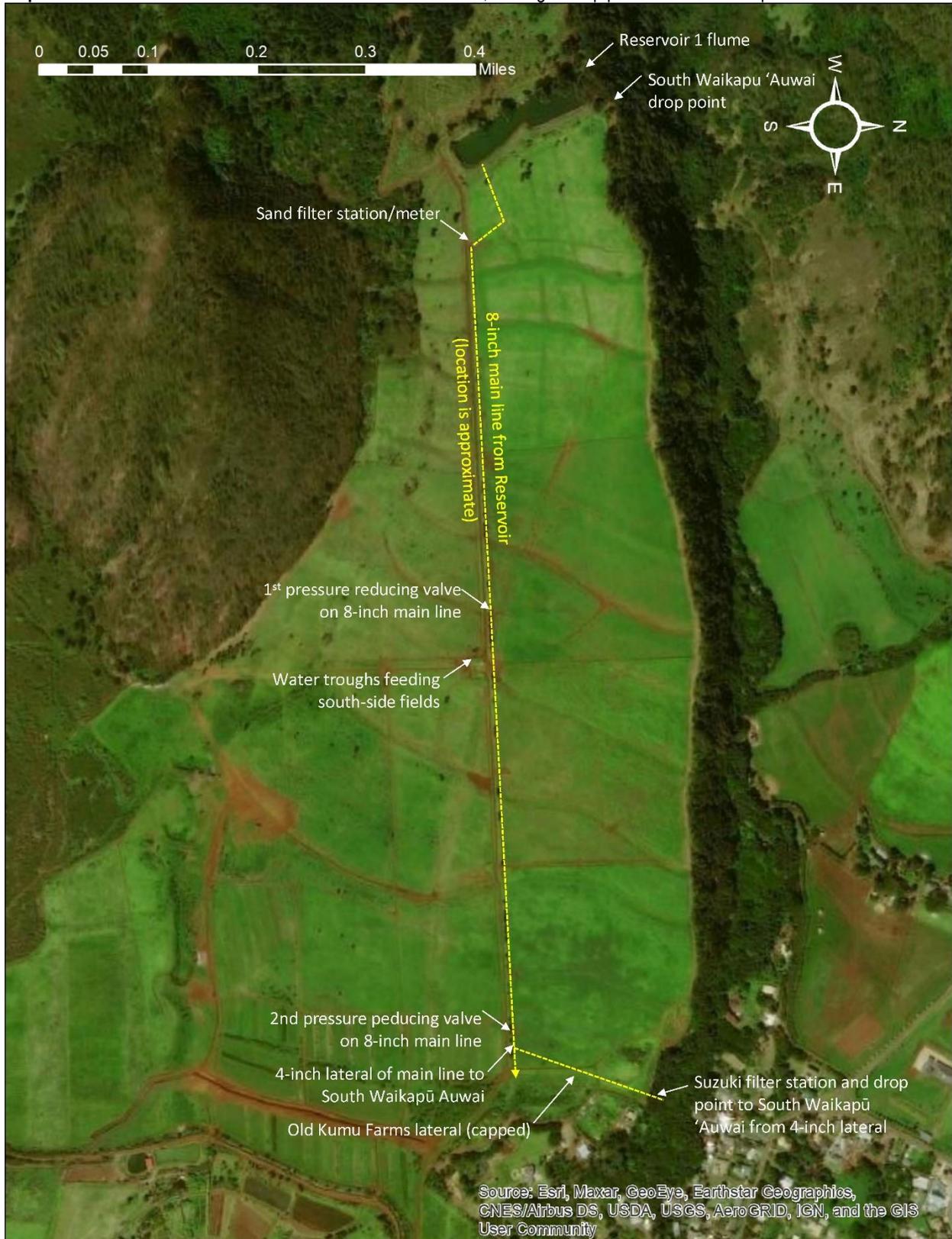


13) Capped 4-inch lateral line previously used by Kumu Farms.



14) Mr. Suzuki's sand filters with lateral (at left) from 4-inch lateral line, awaiting connection.

Map. Location of main line and related features from Reservoir 1, leading to drop point to South Waikapū ‘Auwai.



Photos 15 to 16.



15) Lateral 4-inch line, with line to Suzuki at left, then continues to South Waikapū Kuleana ‘Auwai in background. Meter will be installed after the ball (control) valve in the foreground.



16) End of lateral 4-inch line at drop point to South Waikapū Kuleana ‘Auwai. Little flow was noted in the ‘auwai. CLA (pressure-reducing) valve will be installed before the last ball (control) valve to the ‘auwai.

ANALYSIS

The negotiated solution between the Hui and Waikapū Properties appears to provide a short-term solution that is agreeable to both parties, where the total amount of water permitted (271,539 gpd) can be met from the 8-inch main line from Reservoir 1, sourced from Waikapū Stream. The issues raised by Wailuku Water Company can be addressed by amendments to the Commission’s June 28, 2021 D&O.

Waikapu Properties has already implemented and is near completion of the short-term solution, a 4-inch lateral line coming off the main 8-inch line, from Reservoir 1, to meet the needs of Mr. Suzuki and the kuleana users (Alves, Smythe, Higa, Kamasaki, and Makimoto) originally provided water from the South Waikapū ‘Auwai which was fed from water on the north side of Reservoir 1. Waikapu Properties is awaiting parts (flow meter and pressure-reducing valve) to complete construction of the 4-inch lateral line, with an estimated date of February 15, 2022. Installation of these parts is expected to be less than one (1) day.

The Commission staff recommends that amendments be made to the surface water use permits issued to Wailuku Water Company and Waikapu Properties to address the concerns raised by Wailuku Water Company by: 1) modifying the distribution point to meet the needs of the South Waikapū ‘Auwai users; 2) identifying the responsible party for any maintenance issues on Waikapū Properties property related to management of the South Waikapū Pipeline.

RECOMMENDATIONS

Staff recommends that the Commission:

- 1) Modify the Commission’s June 28, 2021 D&O, SWUPA 2157 (pp. 306-309, in pertinent part) to Wailuku Water Company, regarding the South Waikapū ‘Auwai, as follows:

- a) Modify Item c.7. “South Waikapū ‘Auwai – 0.265 mgd” with “South Waikapū Pipeline on South Side of Reservoir 1 – 0.272 mgd).
- 2) Modify the Commission’s June 28, 2021 D&O, SWUPAs 2205, 2356/2297N, 3471N, and 3472N (pp 341-342, in pertinent part) to Waikapu Properties, as follows:
 - a) Add Item e to state, “Waikapu Properties shall manage and maintain the South Waikapū Pipeline after the receipt of water delivered by Wailuku Water Company to the sand filters located just below Reservoir 1, to ensure the delivery of water to Mr. Suzuki and the South Waikapū ‘Auwai.”
 - b) Add Item f to state,” Waikapu Properties shall report monthly on the: 1) amount of water received from Reservoir 1 at the flow meter at the sand filter station on the South Waikapū Pipeline; and 2) amount of water delivered to Mr. Suzuki and the South Waikapū ‘Auwai at the flow meter before Mr. Suzuki’s sand filter station.”
- 3) Order Wailuku Water Company to provide a total of 0.272 mgd to the filter station that is maintained by Waikapu Properties and fed from the south side of Reservoir 1. From the filter station, water will be delivered via the 8-inch main line managed by Waikapu Properties to the 4-inch lateral line to Mr. Suzuki and the kuleana users who originally received water from the South Waikapū ‘Auwai.
- 4) Order Waikapu Properties, Inc. to complete the installation of the 4-inch lateral from the South Waikapū Pipeline immediately, upon receipt of the flow meter and pressure-reducing valve, to provide water to Mr. Suzuki and the kuleana users who originally received water from the South Waikapū ‘Auwai.

Ola i ka wai,



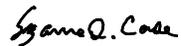
M. KALEO MANUEL
Deputy Director

Exhibit:

1. September 21, 2021, Briefing B1: Status of Waikapū Interim Instream Flow Standard Compliance and Water Availability Issues on the South Waikapū Kuleana ‘Auwai, Waikapū Surface Water Hydrologic Unit, Nā Wai ‘Ehā, Maui
(Exhibit 1 available online at:
<https://files.hawaii.gov/dlnr/cwrm/submittal/2021/sb20210921B1.pdf>)
2. September 21, 2021, Testimony related to Briefing B1
(Exhibit 2 available online at:
<https://files.hawaii.gov/dlnr/cwrm/submittal/2021/sb20210921BIT.pdf>)

3. October 19, 2021, Submittal B2: Approve Order to Wailuku Water Company, LLC and Waikapu Properties, LLC to Halt Delivery of Water to Kumu Farms from Reservoir 1, Waikapū Stream, Nā Wai ‘Ehā, Maui
(Exhibit 3 available online at:
<https://files.hawaii.gov/dlnr/cwrp/submittal/2021/sb20211019B2.pdf>)
4. October 19, 2021, Testimony related to Submittal D2
(Exhibit 4 available online at:
<https://files.hawaii.gov/dlnr/cwrp/submittal/2021/sb20211019B2T.pdf>)

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson