

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
)  
MOKULEIA WATER, LLC and )  
MOKULEIA WATER USERS ASSOCIATION) )  
Notice of Failure to Comply With )  
the Commission's Laws and Rules; )  
Order to Show Cause Why )  
Respondents Should Not be )  
Assessed a Civil Penalty. )  
\_\_\_\_\_)

DOCKET NO. 05-0009

ORDER NO. 21697

Filed March 16, 2005  
At 2:30 o'clock P.M.

Karen Higashi.  
Chief Clerk of the Commission

BIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

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ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

Karen Higashi.



commission's hearing room to show cause why they should not be assessed a civil penalty for failure to comply with the legal requirements set forth in Order No. 21531 ("Show Cause Hearing"). Order No. 21531 also required the MOKULEIA BEACH COLONY ASSOCIATION ("Complainant"), who filed an informal complaint against Respondents on June 7, 2004, to appear at the Show Cause Hearing.

On February 22, 2005, Respondents jointly wrote to the commission to request an extension of time by which they must submit their Written Statements and appear for their Show Cause Hearing.<sup>1</sup> Respondents indicate in their letter that MW "has been actively pursuing a plan to bring water from the Board of Water Supply of the City & County of Honolulu ("BWS") to the Respondents' respective water systems." Respondents claim that the additional time requested "would hopefully afford [MW] with sufficient time to reduce to writing the necessary arrangements with the BWS and other affected persons."

Respondents indicate that they discussed their requests for extension of time with the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, which indicated that it had no objection to such requests.

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<sup>1</sup>Respondents request until May 23, 2005 to file their Written Statements and until June 23, 2005 to appear for the Show Cause Hearing.

On February 23, 2005, Complainant wrote to the commission to object to Respondents' requests for extension of time to file their Written Statements and to appear at the Show Cause Hearing ("Complainant's Objection"). Complainant argues, among other things, that MW's "alleged discussions [with BWS] have no bearing on whether the existing system is or has been in the past subject to [commission] regulation."

On February 25, 2005, the Association wrote to the commission in response to the Complainant's Objection, further explaining the events occurring up to the Respondents' request for extension of time, including a briefing of Complainant's counsel as to MW's negotiations with BWS for connection of Respondents' systems with the BWS system. In addition, on March 2, 2005, MW wrote to the commission to provide greater detail of MW's discussions with BWS for the alternatives for such connection with the BWS system.

Hawaii Administrative Rules ("HAR") § 6-61-23(a)(1) provides the commission with the discretion, for good cause shown, to enlarge a period by which a required act must be completed, if a written request is made before the expiration of the period originally prescribed. The commission believes that the connection among the Respondents' systems and the BWS system likely would be beneficial to the water users served by

Respondents' systems. Moreover, it finds that additional information relating to the agreements that may be established with BWS will also be helpful. The commission finds good cause in this instance to enlarge the deadline by which the Respondents must submit their Written Statements to the commission and by which Respondents and the Complainant must appear at the Show Cause Hearing. Accordingly, the commission will grant Respondents' requests until May 23, 2005 to submit their Written Statements and until June 28, 2005 to appear for the Show Cause Hearing.

## II.

### Orders

#### THE COMMISSION ORDERS:

1. Respondent's requests for an extension of time by which they must file their Written Statements and appear at the Show Cause Hearing are granted, pursuant to HAR § 6-61-23(a)(1). Respondents must file their Written Statements on or before May 23, 2005, with a copy served upon the Complainant, and two copies upon the Consumer Advocate. Respondents, the Complainant, and the Consumer Advocate shall appear for the Show Cause Hearing at 465 South King Street, Room B3, Honolulu, HI 96813, at 9:00 a.m., on June 28, 2005.

2. Respondents and Complainant may be represented by counsel. If Respondents and Complainant do not retain counsel, they may be represented at the hearing as follows: (a) an individual may appear on his or her own behalf; (b) a partner may represent a partnership; and (c) an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

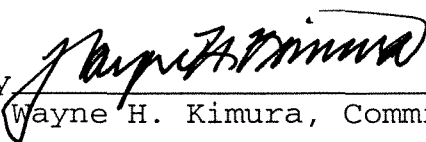
3. Pursuant to HAR § 6-68-15, if Respondents fail to appear on the date and at the time and place designated in this order, the commission may assume that the facts alleged in the order are true, and if the facts establish liability, the commission:

- a. Will issue a final decision and order; and
- b. May impose the maximum amount of penalties and assessments allowed under the regulatory law.

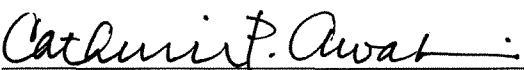
DONE at Honolulu, Hawaii MAR 16 2005.

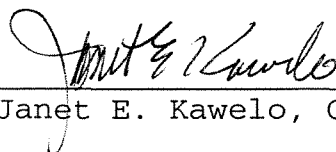
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

By   
Janet E. Kawelo, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21697 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DIVISION OF CONSUMER ADVOCACY  
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Karen Higashi

DATED: MAR 16 2005