BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

---------- In the Matter of ----------

MOKULEIA WATER, LLC and
MOKULEIA WATER USERS ASSOCIATION

DOCKET NO. 05-0009

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.

PREHEARING ORDER NO. 21884

Filed June 21, 2005
At 11 o'clock A.M.

Karen Higash
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
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
Prehearing Order No. 21884

PREHEARING ORDER

By this Prehearing Order, the commission memorializes the actions taken and procedures agreed upon at the prehearing conference held on June 17, 2005 at 11:00 a.m.

I.

Background

By Order No. 21531, filed on January 7, 2005, the commission required MOKULEIA WATER, LLC ("MW") and MOKULEIA WATER USERS ASSOCIATION ("MWUA") (MW and MWUA are collectively referred to as the "Respondents") to, among other things, appear at a hearing on June 28, 2005 at 9:00 a.m. to show cause why they should not be assessed a civil penalty for failure to comply with Hawaii Revised Statutes ("HRS") chapter 269 by operating as a public utility without a certificate of public convenience and necessity. Order No. 21531 further required MOKULEIA BEACH COLONY ASSOCIATION ("Complainant") to appear at the hearing to provide the
commission with information relating to an informal complaint it made against Respondents (collectively, Complainant and Respondents hereinafter referred to as "Parties").¹

On June 17, 2005, the commission held a prehearing conference with the counsel of Complainant and Respondents (collectively, the "Parties") to discuss the procedures for the hearing that will be held on June 28, 2005. Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-37, this Order memorializes the actions taken and procedures agreed upon at the June 17, 2005 prehearing conference.

II.

Orders

THE COMMISSION ORDERS that the following procedures shall govern and control the hearing scheduled to commence on Tuesday, June 28, 2005 at 9:00 a.m. in the commission's hearing room:

1. Counsel representing the Parties may present opening statements of not more than five (5) minutes per party to the Commissioners in the following order: Complainant, MW, and MWUA.

2. Counsel representing the Parties may also present closing statements of not more than five (5) minutes per party

¹Informal Complaint number 04-89, filed on June 7, 2004 by Michael W. Gibson, Esq. On behalf of Complainant. Order No. 21531 also noted that the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs is an ex officio party to this docket. In a telephone conference with the Consumer Advocate, it advised the commission that it would only observe rather than participate in the proceedings set to begin on June 28, 2005.
to the Commissioners in the same order set forth in ordering paragraph 1.

3. The Parties may present witnesses in the following order: MW, MWUA, and Complainant. Complainant may cross examine the Respondents' witnesses, and Respondents may cross examine the Complainant's witnesses. Redirect examination of witnesses shall be allowed at the discretion and direction of the presiding officer.

4. The Parties shall meet informally to determine the facts and documents to which they may stipulate, and present such agreements to the commission on or before June 24, 2005. The Parties shall, by the same date, provide the commission with their list of witnesses, with a brief description of the issue(s) or matter(s) to which the witness will account at the hearing, and their list of exhibits for the commission's use. Requests for subpoenas, if any, shall be filed with the commission, pursuant to HRS § 269-10 and HAR § 6-61-38, on or before June 22, 2005. Complainant's documents to be submitted into evidence shall be labeled sequentially beginning with "C-1". MW shall label its documents to be submitted into evidence beginning with "R1-1". MWUA shall label its documents to be submitted into evidence beginning with "R2-1".

5. Unless otherwise ordered, the Parties shall not provide the commission with post-hearing briefs, or supplement the record after the close of the adjournment of the hearing by the presiding officer.
6. Consistent with HAR § 6-61-37, this Prehearing Order shall govern and control the subsequent course of the hearing, unless modified by the commission at the hearing to prevent manifest injustice.

DONE at Honolulu, Hawaii __JUN 21 2005__.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By __Carlito P. Caliboso__, Chairman

By __Wayne H. Kimura__, Commissioner

By __Janet E. Kawelo__, Commissioner

APPROVED AS TO FORM:

_Catherine P. Awakuni_
Commission Counsel

05-0009
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Prehearing Order No. 21884 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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DATED: JUN 21 2005

Karen Higashi