

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

In the Matter of the Contested Case Hearing) Case No. CCH-MO-97-1
on the Water Use Permit Application Filed by)
Kukui (Molokai), Inc.,) MINUTE ORDER RE: STATUS
) CONFERENCE; CERTIFICATE OF
) SERVICE
)

MINUTE ORDER RE: STATUS CONFERENCE

On March 3, 2008, a Status Conference was held in the Board of Land and Natural Resources' Conference Room. The Status Conference was attended by the Presiding Officer, Laura H. Thielen, via telephone; Linda Chow, Deputy Attorney General; Ken Kawahara, Deputy Director of the Commission on Water Resource Management; Kris Nakagawa, Esq. and Sandra Wilhide, Esq. representing the Applicants Molokai Public Utilities, Inc., Kaluakoi Water, LLC, and Molokai Properties Limited (hereinafter collectively referred to as "Molokai Properties")¹; Alan Murakami, Esq. and Camille Kalama, Esq. representing Intervenors Judy Caparida and Georgina Kuahuia; Jon Van Dyke, Esq. representing Intervenor Office of Hawaiian Affairs; and Clayton L. Crowell, Esq. representing Intervenor Department of Hawaiian Home Lands (hereinafter collectively referred to as "Intervenors").

During the course of the status conference the parties discussed the procedure to address the Motion to Continue Water Withdrawals filed by Molokai Properties and the hearing on remand on Molokai Properties' Application for a Water Use Permit, as it may be amended, and the scope of the hearing on remand. Based on the oral and written statements presented by the parties and the discussion during the status conference, the following schedule and procedure

¹ The Applicants are also required to file a separate pleading setting forth who is the successor in interest to the permittee, Kukui (Molokai), Inc. that will be the applicant on the amended permit application.

shall be applicable in this matter:

A. Motion to Continue Water Withdrawals

1. Applicant Molokai Properties will file a supplemental memorandum to its Motion to Continue Water Withdrawals which should address, at a minimum, the issues of water usage, including information regarding the current users of the water, the quantities currently being used, and whether waste is occurring, and its compliance with the eight (8) permit conditions previously imposed by the Commission on Water Resource Management ("Commission") on Applicant's predecessor in interest. Molokai Properties' supplemental memorandum shall be due no later than **Monday, June 2, 2008**.

2. Intervenors shall file a response to the Motion to Continue Water Withdrawals and supplemental memorandum by no later than **Thursday, July 17, 2008**.

3. No reply memorandum will be allowed at this time. In the event Molokai Properties deems it necessary to file a reply memorandum, it may file an ex parte motion requesting leave to file a reply memorandum within five days of the filing of Intervenors response. The Intervenors shall have five days to file a response to the motion.

4. Oral argument on the Motion to Continue Water Withdrawals may be set by the Commission upon further order.

B. Scope of the Hearing on Remand

1. Intervenors shall file memoranda regarding their respective position on the scope of the hearing on remand. Intervenors should not discuss the criteria for issuance of a water use permit under §174C-49, Hawaii Revised Statutes (HRS) as it is assumed that the scope of the

hearing will include those issues.

The Intervenors' memoranda should address, at a minimum, the issues raised in their Status Conference Statement including the relation of the permit application to the water transportation and delivery system (the Molokai Irrigation System or "MIS"), whether an environmental assessment pursuant to chapter 343, HRS, is required for the continued use of the MIS prior to holding the hearing on remand, and whether surface water permits must also be considered and issued in connection with the issuance of any ground water permit for water taken from Well #17. Intervenors memorandum shall be due no later than **Friday, May 2, 2008**.

2. Applicants Molokai Properties shall file a response to Intervenors' memoranda regarding the scope of the hearing on remand no later than **Monday, June 16, 2008**.

3. No reply memorandum will be allowed at this time. In the event Intervenors deem it necessary to file a reply memorandum, it may file an ex parte motion requesting leave to file a reply memorandum within five days of the filing of Molokai Properties' response. Molokai Properties shall have five days to file a response to the motion.

4. Oral argument on the Motion to Continue Water Withdrawals may be set by the Commission upon further order.

C. Motion to Substitute Intervenors

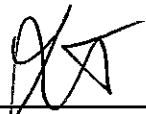
If Intervenors would like to pursue their request to add or substitute parties in the remand hearing, they will be required to file a separate motion and memorandum on this issue. This motion and memorandum will be at the same time as their memorandum regarding the scope of the hearing, **Friday, May 2, 2008**. Any response or opposition to this motion will be due no

later than **Monday, June 16, 2008**. Reply memoranda will be by leave of the Commission according to the procedure set forth above.

D. Hearing on Remand

The procedure regarding the further hearings on remand shall be decided pursuant to a further status conference once the above issues have been addressed by the Commission.

SO ORDERED this 16 day of March, 2008.



LAURA H. THIELEN
Presiding Officer

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

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Kukui (Molokai), Inc.,) CERTIFICATE OF SERVICE
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and accurate copy of the foregoing document was duly served upon the following parties by U.S. First-class mail:

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DATED: Honolulu, Hawaii, March 10, 2008.

Kathleen Oshiro

KATHLEEN OSHIRO

Secretary

Commission on Water Resource Management