

Approved by Commission on  
Water Resource Management  
at the meeting held on  
NOV 20 2013

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: October 16, 2013  
TIME: 9:00 am  
PLACE: DLNR Board Room  
Kalanimoku Bldg.  
1151 Punchbowl St., Room 132  
Honolulu, Hawaii 96813

Acting Chairperson William Balfour called the meeting of the Commission on Water Resource Management to order at 9:03 am.

The following were in attendance:

**MEMBERS:** Mr. William Balfour, Mr. Jonathan Starr, Mr. Ted Yamamura,  
Mr. Milton Pavao, Mr. Kamana Beamer, Ms. Loretta Fuddy

**ABSENT:** Mr. William J. Aila Jr. (arrives at 9:35am)

**STAFF:** William Tam, Roy Hardy, Lenore Ohye, Dean Uyeno, Neal Fujii,  
Paul Eyre, Malie Beach-Smith, Jonas Burgon, Rebecca Alakai,  
Jeremy Kimura, Charley Ice, Ryan Imata

**COUNSEL:** Julie China, Esq.

**OTHERS:** Jonathan Scheuer (NPS consultant), Ken Kawahara, Wayne Tanaka  
(OHA), Alec Wong (DOH/CWB), Dorothy Meisner (WSRSL), David  
Barnes (Waimea Water Services), Joanna Seto (DOH/SDWB), Darrell  
Yagodich (DHHL), Sherri Hiraoka (Townscape), Melia Lane-Kamahele  
(NPS), Shannon Wood (Windward Ahupua'a Alliance), Dan Chang  
(DOH), Quirino Antonio, Jr. (Department of Water, County of Hawaii),  
Keith Okamoto (Department of Water, County of Hawaii), Robert  
Whittier (DOH), Gary Gill (DOH), Myra Kaichi (ATG), Kaleo Manuel  
(DHHL), Lida Duke Angler (OHA), Susan Makai (Brown & Caldwell)

**A. APPROVAL OF MINUTES**

September 18, 2013

**MOTION: (Fuddy / Pavao)**  
**To approve the minutes.**  
**UNANIMOUSLY APPROVED.**

**B. ANNOUNCEMENTS**

Deputy Director William Tam announced that the Hawaii Water Works Association (HWWA) Conference will be held on Maui on October 23 – 25, 2013. Commissioners will be reimbursed for their conference fees, transportation and lodging. CWRM is in the process of filling three vacancies. However, due to the government shutdown in Washington D.C., The Director of Hawaii's Department of Budget and Finance (B&F) has ordered a "freeze" on hiring for all departments. CWRM can continue to recruit, but is not allowed to make any offers until after January 2, 2014.

Commissioner Starr conveyed his concerns about the delay in hiring. More staff is needed to handle the increasing workload. He asked how the process could be expedited.

Deputy Tam explained that the Department of Human Resources and Development (DHRD) is responsible for processing recruitment notices. The process can take up to 9 months. CWRM is not the only division affected.

Commissioner Starr asked if it was possible to rush the recruitments through DHRD.

Deputy Tam said the DLNR Personnel Office also suffers from vacancies.

Commissioner Fuddy clarified that the issue is not within the Department of Land and Natural Resources (DLNR), but rather the lack of DHRD staff to process the recruitment requests.

Commissioner Starr asked how the Commission could exert pressure on DHRD.

Deputy Tam responded that administrative staff is critical. Right now 100 percent of the work is being distributed to 80 percent of the people. The Governor's Office needs to understand where the priorities are. In this case, the bottleneck is in DHRD.

Commissioner Starr encouraged the commissioners to advocate on behalf of DLNR.

Deputy Tam emphasized the importance of expediting the process.

Commissioner Balfour added that the city government is slow and the state government is even slower. He said the system is difficult to change and does not feel advocacy will get rid of the problem.

Commissioner Pavao sympathized with the vacancy situation.

**C. ADMINISTRATION****1. CWRM policy on reimbursing members of the Commission on Water Resource Management for costs to attend designated Hawaii Water Conferences**

SUBMITTAL PRESENTATION by: William Tam

The new CWRM policy proposes to reimburse Commission members for costs incurred for travel, meals and hotel (subject to the restrictions of the State's per diem

limits) to attend any of the three designated Hawaii water conferences identified in the policy.

1. Commissioners may seek approval for reimbursement of expenses for travel, meals and lodging incurred to attend any of the three Hawaii water conferences described above (AWWA, HWEA, and HWWA) by submitting a request to the Chairperson (through the CWRM staff) at least 20 days prior to the conference date.
2. Upon the Chairperson's approval, the Commission will reimburse actual out of pocket expenses for travel, food, and lodging related to any of the three Hawaii water conferences, upon submission of a receipt and subject to the restrictions of the State's per diem limits and the availability of funds.

(DISCUSSION)

Commissioner Starr asked why mainland water conferences were not included in the policy.

Deputy Tam clarified that the July 2013 policy addressed only the three Hawaii conferences. He said staff could revisit the mainland travel issue.

Commissioner Pavao asked if the internal travel policy and process could be the same for the commissioners.

Deputy Tam said the process will be the same.

**MOTION: (Fuddy / Starr)**

**To approve the submittal.**

**UNANIMOUSLY APPROVED.**

**2. Scheduling for monthly Water Commission meetings**

Item C-2 is a request from Commission members to begin Water Commission Meetings at 10:00am to accommodate neighbor island travel.

Commissioner Starr said the new start time would give him more leeway during his commute from Kipahulu in East Maui.

Commissioner Pavao said he highly recommends that the meetings begin at 10:00am.

**MOTION: (Starr / Pavao)**

**To approve the new start time for Commission Meetings to begin at 10:00am.**

**UNANIMOUSLY APPROVED.**

**D. PRESENTATION****1. Update to the Hawaii Water Resource Protection Plan**

PRESENTATION by: Jeremy Kimura

Jeremy Kimura (Planning Branch, Commission on Water Resource Management) explained that the Hawaii Water Resource Protection Plan (WRPP) is part of the Hawaii Water Plan and is established in the Hawaii State Water Code. The Hawaii Water Plan is intended to set reasonable water resource policies, ensure proper conservation and development of water, guarantee adequate water quality, control water for public purposes, provide for the Department of Hawaiian Home Lands (DHHL) and recognize county home rule in water use and development. The Hawaii Water Plan is a program made up of smaller plans including the WRPP.

The WRPP documents aquifer and watershed boundaries, identifies demands and establishes limits and mechanisms for conservation. It is charged with the management and protection of the State's water resources. The first WRPP was completed in 1990 and was updated in 2008. It is currently being updated on a 5-year basis. Townscape is serving as the consultant for the current WRPP update.

Sherri Hiraoka (Townscape) said the new update will incorporate emerging issues and look at "hotspots" in the State. It will also identify supporting programs within other agencies. Townscape is meeting with CWRM staff to better understand the issues and plans to meet with other stakeholders. The initial draft will be released in the spring of 2014. Public hearings will be held on each island in late 2014. Comments will be compiled and the draft will be revised.

Commissioner Starr asked if the commissioners could be notified when the public hearings are scheduled.

Commissioner Beamer asked if the commissioners could be notified at least a month in advance. He asked if traditional and customary practices should be listed as a separate section in the plan.

Mr. Kimura acknowledged that traditional and customary rights were lacking in the 2008 update. He confirmed that they will be included in the new update to help set policy and guide management practices.

Commissioner Starr asked if traditional and customary rights would be a specific objective in the WRPP.

Mr. Kimura confirmed that it will be included as a section in the plan.

Ms. Lenore Ohye (Planning Branch Chief) reiterated the inclusion of traditional and customary rights in the update.

[Chair William J. Aila, Jr. joins the meeting]

Commissioner Beamer asked how to insure that the counties are using the WRPP when crafting their own water use and development plans.

Mr. Kimura said the Commission must approve the County Water Use and Development Plans (WUDP). Anytime a section of the Hawaii Water Plan is updated it must come to the Commission for approval.

Commissioner Beamer asked if the county plans are regional.

Mr. Kimura said most county plans are island-wide with the exception of Oahu which is broken up into regional plans.

Commissioner Starr asked about the island-wide WUDP used by the County of Maui.

Mr. Kimura explained that the Maui WUDP focuses on the county-wide demands and excludes private water users. Maui is in the process of updating their WUDP.

Deputy Tam commented that a number of studies will be completed within the next 12 months and will aid the update process.

**2. Water Quality Presentation by Gary Gill, Deputy Director, Environmental Health Administration, Department of Health**

PRESENTATION by: Gary Gill

Gary Gill (Deputy Director, Environmental Health Administration, Department of Health) described the water quality protection programs at the Department of Health (DOH) and explained the various mechanisms used to ensure water quality. He admitted that the Hawaii Water Quality Plan had not been updated since 1990. DOH has three water divisions that deal with 1) drinking water 2) waste water and 3) water quality. DOH is responsible for meeting federal clean water standards. Updating water quality standard rules is a constant endeavor and must be continuously revised. In addition, DOH engages in beach monitoring and will collect water samples from beaches like Waikiki twice a week. More remote beaches are tested less frequently. Hawaii has 300 watersheds and hundreds of streams. DOH is responsible for testing "impaired" bodies of water for total minimum daily loads (TMDLs). There are a number of streams and water bodies that have yet to be assessed. DOH has a comprehensive state groundwater protection program to safeguard drinking water. Other strategies and plans have been developed since 1990 and will be incorporated into the updated Hawaii Water Quality Plan. Deputy Gill stressed the importance of clean water in water reuse, especially in places like Central Oahu that have a history of pesticide use.

Commissioner Starr asked if places like Hana Bay could be tested more carefully.

Deputy Gill replied that concerns raised by communities regarding staph infections are often unwarranted. Water quality tests show that staph infections come from people, not the environment. "Impairment" is typically the result of sediment and runoff from agriculture. Heavy metals are rarely found in Hawaii's water.

Commissioner Starr asked if furloughed DOH staff had been replaced to work on the plan.

Deputy Gill said a geologist had been hired, but DOH is still in the process of hiring.

Commissioner Starr asked if a consultant would be hired to work on the plan.

Deputy Gill said the original goal was to do it in-house, but a contract may be required. The objective is to expand upon the original framework and not start from scratch.

Commissioner Beamer thanked Deputy Gill for the presentation. He asked when data would be available to the public.

Deputy Gill replied November 2013.

Commissioner Starr asked if the Commission could receive updates from DOH.

Deputy Gill responded "yes."

## **E. PLANNING**

### **1. Scope of Work for the Central Oahu Watershed Management Plan to Update the City and County of Honolulu Water Use and Development Plan**

SUBMITTAL PRESENTATION by: Neal Fujii

Neal Fujii (Planning Branch, Commission on Water Resource Management) introduced Item E-1. Staff is requesting that the Commission approve the scope of work for the Central Oahu Watershed Management Plan to update the City and County of Honolulu's Water Use and Development Plan (WUDP). Unlike counties on the neighbor islands, the County of Honolulu is broken up into 8 different development areas. Central Oahu is the sixth plan of Oahu's 8 neighborhood districts.

Barry Usagawa (Water Resources Division, Honolulu Board of Water Supply (HBWS)) introduced the consultant team from Brown and Caldwell. Mr. Usagawa explained that urban and agricultural development is a key issue in Central Oahu. The Central Oahu Watershed Management Plan incorporates the Hawaii Water Plan into its framework, including the WRPP and Water Quality Plan. The ahupua'a approach seeks to balance protection and use by encouraging conservation and changing social behavior. Objectives will drive specific projects in each district. Mr. Usagawa went on to describe the five phases of the planning process. More than 70 interviews are planned with various stakeholders. Community boards will be consulted.

#### RECOMMENDATION:

Staff recommends that the Commission:

1. Approve the City and County of Honolulu's Scope of Work for the Central Oahu Watershed Management Plan;

2. Require that the City and County of Honolulu, prior to the commencement of the remaining watershed plans for South Oahu (Primary Urban Center, and East Honolulu), submit proposed scopes of work (i.e., "Project Descriptions") for those regional areas to the Commission for review and approval; and
3. Authorize CWRM staff to participate in meetings and/or workshops, as necessary, with pertinent State and County agencies to facilitate implementation of statutory and framework provisions for updating Oahu's County Water Use and Development Plan.

(DISCUSSION)

Commissioner Starr asked if the recharge models from USGS were representative of the loss of recharge in Central Oahu.

Mr. Usagawa said HBWS has a cooperative study with USGS.

Commissioner Balfour commented on the use and disposal of sewage effluent.

Ms. Ohye informed the Commission that various studies including Tom Giambelluca's evapotranspiration study and the USGS Oahu recharge analysis will be completed by the end of next year.

Dan Purcell notified the Commission of the comprehensive audit of the HBWS and the problems with estimated billing. He encouraged the commissioners to review the audit.

**MOTION: (Starr / Pavao)  
To approve the submittal.  
UNANIMOUSLY APPROVED.**

**F. GROUND WATER REGULATION**

1. **U.S. Department of Interior, National Park Service, Kaloko- Honokōhau National Historical Park, Petition for Ground Water Management Area Designation, Keauhou Aquifer System Area, North Kona, Hawaii**

SUBMITTAL PRESENTATION by: Paul Eyre

Paul Eyre (Hydrologist, Ground Water Regulation Branch, Commission on Water Resource Management) introduced Item F-1. In September 2013, the National Park Service (NPS) issued a petition to designate the Keauhou Aquifer in Kona. NPS argues that current management practices are inadequate to protect the natural resources in and around Kaloko- Honokōhau National Historical Park (National Park). If designated, the Commission would have the authority to approve or disapprove water use permits and protect the resources. The Water Code defines the process for designation. Mr. Eyre outlined the process and said the Commission has 60 days to consult with the counties in order to make a decision about whether or not the process to designate should move forward. The Commission also has the authority to extend the 60 day timeframe. Staff received testimony from several

county agencies asking for deferment. One piece of testimony asked for the petition to be denied. The CWRM staff believes the time should be extended to gather more information.

Mr. Eyre elaborated on the concerns raised by the National Park. NPS believes that an increase in mauka development will intensify groundwater pumpage, thus reducing the flow of groundwater to the near shore environment. The Water Code establishes 8 criteria for the Commission to consider in the designation process. NPS invokes 5 of the 8 criteria to justify designation. NPS believes the sustainable yield calculation does not consider the impact of pumping on the natural biota or the effect on traditional and customary rights. Furthermore, projected water demands for the area are likely to exceed the sustainable yield. These concerns are exacerbated by climate change and declining rainfall which are not currently calculated into the sustainable yield. NPS's petition points to excessive waste and serious disputes concerning the effect of development on the resources and the hydro-geologic structure of the Keauhou Aquifer System.

CWRM staff feels that the concerns raised by NPS about the sustainable yield are not warranted. Ground water recharge is four times the sustainable yield of 38 million gallons per day (mgd). The definition of "authorized planned use" is not well defined. There are discrepancies with County general plans and it is difficult to estimate authorized planned use for future growth. Current pumpage is around 12-13 mgd and is expected to increase to 20 mgd by 2025. The observed effect of current pumpage on the Keauhou Aquifer appears to be minimal.

Roy Hardy (Branch Chief, Ground Water Regulation) explained the history of the Water Resources Working Group. Since 2007, roundtable meetings have continued among the various agencies and hydrologists. According to a 2011 USGS study, recharge in Keauhou is significantly higher than in other parts of the Big Island. Monitor wells and collaboration studies continue to provide new data about the aquifer and the relationship between the high level and basal lens.

NPS is primarily concerned about the potential threats of additional pumpage on the National Park's resources.

Commissioner Beamer asked if more areas could be designated if future growth threatened to exceed the sustainable yield.

Deputy Tam explained that the opinions of the CWRM staff are not final conclusions. More data and analysis is needed before making a final decision about designation. The criteria for designation as it concerns sustainable yield relates primarily to proposed land use.

Mr. Hardy said the county plans tend to be over-zoned.

Deputy Tam explained that the potential to exceed the sustainable yield could serve as the basis for designation.

Mr. Eyre said the data does not show an immediate threat to the Keauhou Aquifer. Staff recommends that the timeline be extended to allow for further study. More information and data will be presented in December 2014.

RECOMMENDATION:

Staff recommends that the Commission:

Extend the review period a) to allow important and ongoing studies to be completed; and to provide time for full consultation with affected parties to take place. These studies are not expected to be finished until after September 30, 2014. The data and studies must then be evaluated and integrated. These investigations provide critical information needed before the Chairperson may make an informed recommendation about the designation process.

Therefore, we request that the review period be extended until such time as the studies (identified above) are received and evaluated and after appropriate consultation may take place. In light of these considerations, the review period should be extended through December, 2014.

(DISCUSSION)

Commissioner Starr said the 60 day deadline limits the amount of information available to make an informed decision. He asked if staff could compare chloride levels in the National Park versus other locations. The Water Code is intended to apply statewide. Other areas will likely be designated in the future. Without designation there is little incentive to report water usage. He recommended that the Commission go on a field visit to the site to better understand the issues and concerns.

Melia Lane-Kamahele (Manager, NPS Pacific Islands Office) explained that NPS employees are prohibited from reviewing, analyzing or preparing comments due to the federal government shutdown. She requested that the Commission defer action on the submittal and extend the review period to ensure that NPS and the county agencies can submit and share their full comments.

Commissioner Starr asked if NPS staff had read staff's recommendation.

Jonathan Scheuer (Consultant, NPS) said there has been no formal communication about the submittal due to the government shutdown. He surmised that NPS would have substantial comments about the staff's submittal.

Commissioner Beamer asked why NPS asked for a deferment until December 18, 2013.

Mr. Scheuer replied that December 18, 2013 is the date of the December Commission Meeting.

Chair Aila asked if an extension until December 18, 2013 would be enough time for NPS to review the submittal and provide comments.

Mr. Scheuer replied "yes."

Commissioner Starr asked if the submittal could be deferred to early 2014 and a workshop organized to explain the designation process.

Deputy Tam affirmed Commissioner Starr's request and said it could be arranged.

Mr. Hardy commented that CWRM staff would be making a presentation before the Hawaii County Council about the NPS petition and designation process sometime in November 2013.

Deputy Tam said a separate presentation before the Commission could also be organized.

Commissioner Pavao asked how many more aquifers in the state would have to be designated if designation was based on the potential to exceed the sustainable yield. He said the NPS petition to designate is premature.

Deputy Tam replied that he was not in a position to speculate or pre-judge. He explained it is important to understand the long-term needs before making a decision about designation. The current data offer rough calculations and are not absolute truths.

Commissioner Pavao responded that designation is not necessary because the sustainable yield has not been met.

Deputy Tam explained that while current data suggests pumping at 12-13 mgd, it is important to look beyond the current use and make calculations based on future needs.

Chair Aila commented that a workshop to go over the designation process would be helpful.

Commissioner Pavao asked when it is the right time to make a decision.

Deputy Tam suggested that the Commission wait until the studies have been completed. The Commission can continue to extend the deadline until they feel there is sufficient information to make a decision.

Commissioner Pavao commented that the Commission has the authority to deny.

Deputy Tam discouraged the commissioners from denying the petition without having all the information presented.

Commissioner Starr interjected that the Commission could also accept the petition. He discouraged the commissioners from cherry-picking criteria and asked how to extend the deadline.

Deputy Tam suggested that the Commission agree to extend the deadline to December 2014, with the option to act sooner if the commissioners feel they have all the information they need to make a decision.

Commissioner Yamamura asked if the Commission could deny without prejudice.

Deputy Tam said it would be inappropriate to deny without having the results of the studies and giving NPS the opportunity to testify.

Commissioner Balfour agreed that the petition to designate was premature and unnecessary.

Deputy Tam restated that it would be wrong to deny without hearing all the evidence.

Commissioner Balfour asked how a decision could be made without the appropriate information.

Deputy Tam said much of the information has not been presented.

Commissioner Beamer agreed that more information is needed before making a decision.

Commissioner Pavao disagreed and said it would be a waste of time to investigate an issue that will not be relevant for another 40-50 years.

Quirino Antonio, Jr. (Manager and Chief Engineer, Hawaii County Department of Water Supply) said the issue was important to the Water Board and requested an extension of the 60 day deadline to gather more information. He commented on the pending studies and recommended that the petition be denied. Comments indicate that the data is incomplete and the petition to designate is premature. Mr. Antonio suggested that the NPS re-submit their petition after more conclusive evidence has been presented.

Commissioner Starr asked Mr. Antonio if he was speaking on behalf of other county agencies.

Mr. Antonio said he was speaking on behalf of the Hawaii County Department of Water Supply ("DWS"). After reviewing the submittal, he decided to change his recommendation and deny the petition. Mr. Antonio said he consulted with the Hawaii County Mayor's Office before giving his testimony and they agreed with his recommendation.

Commissioner Starr asked if the Mayor's Office supported his recommendation to deny.

Mr. Antonio replied "yes."

Commissioner Yamamura asked if a motion to deny staff's recommendation was also a motion to deny the petition.

Deputy Attorney General (AG) Julie China said she believes that is correct.

Deputy Tam disagreed. Staff's recommendation is to extend the 60 day deadline, *not* to deny the petition.

Deputy AG China asked if the recommendation is to extend time.

Deputy Tam replied "yes." The motion as written is only to extend the time. There is not enough information at this time to make a decision on the merits.

Commissioner Beamer commented that it would be wrong to deny without hearing testimony from the NPS.

Deputy AG China confirmed that the recommendation is to extend the timeframe for review of the petition.

Commissioner Yamamura asked what would happen if the Commission denied staff's recommendation.

Deputy AG China replied that the Commission would fail to meet the 60-day deadline.

Deputy Tam explained that the 60-day statutory deadline was put in place to ensure prompt review. However, investigations take time. More information needs to be presented before a judgment on the merits can be made.

Deputy AG China said there is no consequence for failure to act within the 60 days.

Commissioner Yamamura asked if the Commission could approve staff's recommendation and further extend the deadline to 2035.

Deputy Tam said that would be irresponsible and a breach of public trust. The Commission has an obligation to investigate petitions. Studies will be completed within the next 12 months that will help shed light on some of these issues. The Commission could revisit the issue sooner than 12 months.

Commissioner Balfour asked if denying the petition would preclude the NPS from filing a new petition in the future.

Deputy AG China said "no."

Commissioner Beamer asked why the commissioners wanted to deny the petition.

Commissioner Balfour said the petition is premature. He said staff's time could be better spent on other issues.

Commissioner Starr commented on the legal ramifications of denying a petition without hearing comments from NPS and the other county agencies.

Chair Aila agreed that the merits had not been presented to the Commission.

Peter Young testified in opposition to the petition. Mr. Young said he currently works with a landowner on the Big Island and has reviewed groundwater reports for the area. The geology of the aquifer is still under dispute. The sustainable yield for the Keauhou Aquifer was calculated under the assumption that the area has a traditional basal lens. However, the sustainable yield should be higher for confined water. A recent study estimated recharge levels to be much higher. These two factors mean that the sustainable yield for the Keauhou Aquifer should be higher. Anticipated water use according to the WUDP is lower than the sustainable yield. Mr. Young stressed that it is premature to consider a petition for designation. He suggested that the Commission consult with other hydrologists and look into other studies and research before considering a petition to designate. Mr. Young re-stated his recommendation to deny.

Commissioner Starr asked why Mr. Young would make a recommendation to deny, while acknowledging that more investigation is needed.

Mr. Young said there is not a problem with the aquifer. Therefore, it should not be designated at this time. He reiterated his suggestion to continue the studies.

Darrell Yagodich (Planning Officer, Department of Hawaiian Home Lands) testified on behalf of DHHL Chairperson Jobie Masagatani. DHHL supports the recommendation to extend the review period to fully consult with the affected parties. The NPS petition provides a compelling argument. To ensure that the review of the Keauhou Aquifer System is conducted properly, DHHL recommends that CWRM not approve any new permits until the review period has expired. DHHL continues to look at their long term water needs and has significant interest in the Keauhou Aquifer. In addition, the cultural and natural resources of the area are important to DHHL beneficiaries.

Commissioner Starr thanked Mr. Yagodich for testifying on behalf of DHHL.

Mr. Yagodich introduced DHHL Planner, Kaleo Manuel.

Wayne Tanaka (Office of Hawaiian Affairs) testified on behalf of OHA and recommended that staff's recommendation be deferred until the NPS has had a chance to testify. OHA has a particular interest in ensuring the protection of traditional and customary practices, which may be impacted in the near shore waters.

Deputy Tam clarified some of the comments that were made earlier. Current pumping in the Keauhou Aquifer is not a problem. However, designation is not judged on the current situation. There are potential future concerns that need to be taken into account. If the NPS petition were denied today, the Commission would be in breach of their duty to investigate and obligations under the law. The Commission needs to hear all the evidence before making a decision on the merits of the petition.

Commissioner Pavao asked if it would be legal to amend the recommendation and request a denial of the petition to designate.

Deputy AG China said the title is broad enough to amend the recommendation.

Deputy Tam reiterated his suggestion to hear the evidence before making a decision. It would be arbitrary and capricious for the Commission to act prior to being presented with all the evidence.

Chair Aila commented that there may be unintended consequences if the Commission were to take action on the merits without having the evidence in front of them.

Commissioner Fuddy restated staff's recommendation.

Commissioner Starr commented that it would be inappropriate to make a decision about the petition itself without hearing testimony from NPS and the other county agencies.

Commissioner Balfour asked if the Commission could decide to deny the petition before December 2014.

Deputy Tam replied "yes." Once the information has been presented, the Commission can act on the petition.

Commissioner Pavao asked if the investigation would put added work on CWRM staff.

Deputy Tam said it is our job to investigate these issues. Additional work for staff should not be used as a reason to deny the petition.

Commissioner Beamer said there is not enough evidence to deny.

Commissioner Starr made a motion to approve staff's recommendation and said it would not preclude the Commission from acting sooner.

Commissioner Beamer asked if the commissioners could visit the site to better understand the community's concerns.

Commissioner Pavao expressed his concern that an approval of staff's recommendation may set a precedent for other communities to file petitions to designate ground water management areas.

Commissioners Yamamura said he agreed with Commissioner Pavao and testifier Peter Young. He expressed his disappointment with the process.

**MOTION: (Starr / Beamer)**

**To approve staff's recommendation and amend the recommendation to include a possible site visit and workshop about the designation process. The motion to approve staff's recommendation does not preclude the Commission from making a decision prior to December 2014.**

**(Starr, Beamer, Aila, Fuddy = aye); (Yamamura, Balfour, Pavao = opposed)**

The motion passes. The staff's recommendation is approved.

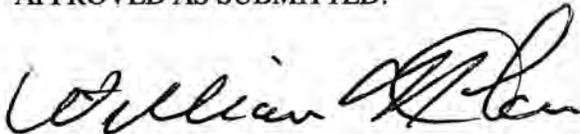
Chairperson William J. Aila, Jr. adjourned the meeting at 1:18 pm.

Respectfully submitted,



KATIE ERSBAK  
Private Secretary to the Deputy

APPROVED AS SUBMITTED:



WILLIAM M. TAM  
Deputy Director