

MINUTES
FOR THE MEETING OF
THE COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: July 19, 2022
TIME: 9:00 am
PLACE: DLNR Boardroom
1151 Punchbowl Street, 1st Floor
Honolulu, Hawaii 96814
& Online via Zoom-Meeting ID: 871 8332 2205

Chairperson Suzanne D. Case called the meeting of the Commission on Water Resource Management to order at 9:03 a.m. and stated the meeting was live and being held remotely and live streamed via YouTube for public viewing. It was noted the meeting was set to take live oral testimony and written testimony received can be found upon the Commissions website. Chairperson Case read the standard contested case statement and took a roll call of Commissioners.

MEMBERS: Chairperson Suzanne Case, Mr. Michael Buck, Mr. Neil Hannahs,
Mr. Wayne Katayama, Mr. Paul Meyer, Ms. Joanna Seto

ABSENT: Dr. Aurora Kagawa-Viviani

COUNSEL: Mr. Colin Lau

STAFF: Deputy M. Kaleo Manuel, Mr. Neal Fujii, Mr. Ryan Imata,
Dr. Ayron Strauch, Ms. Katie Roth, Mr. Jeremy Kimura
Ms. Rae Ann Hyatt

OTHERS: Commander James Sullivan, NAVFAC HI

071922 00:05:18

A. APPROVAL OF MINUTES

May 17, 2022

PUBLIC TESTIMONY – None

MOTION: (BUCK/HANNAHS)

**To approve the minutes of May 17, 2022 as submitted.
CASE/BUCK/HANNAHS/KATAYAMA/MEYER/SETO
UNANIMOUSLY APPROVED**

June 14, 2022 – Deferred

071922 00:06:05

B. NON-ACTION ITEM / INFORMATIONAL BRIEFING

1. Status of the Update to the Five Component Parts of the State Hawai‘i Water Plan Framework under Chapter 174C, HRS, by CWRM Planning Branch (Informational Briefing)

PRESENTATION GIVEN BY: Mr. Jeremy Kimura, CWRM Planning Branch

Mr. Kimura gave a presentation on the briefing item on the update of the HWP framework. The Hawai‘i Water Plan along with the Water Code encourages the conservation and management of our water resources. The HWP also incorporates other water use plans as well as the County’s Land/Water Use Plans. The framework was the guidance of the Commission updated in 2000 to say how the plan should be prepared and accomplish the goal of water resource planning.

The framework ties the land use and water use plans to assess and meet future water needs in terms of quantity and quality. The current approach is called the “integrated resources planning” approach. However, the current guidance does not address subjects like climate uncertainties, integration of indigenous knowledge, farmer needs, and integrating land and water policies among agencies. Focus groups that shared common values and goals were used to identify a new framework of the HWP.

Aia i hea ka wai a kāne? (*where are the waters of kāne?*) Waters are found in the ‘ua (rain), kai (ocean) and within the deep earth (the springs). The Water Resource Protection Plan (WRPP) will incorporate the new framework to include indigenous knowledge, climate projections, goals to improve and protect aquifers, inventory of cultural water sources, and define authorize planned use.

Public info meetings and updated guidance is set for September 2022, a final brief to the Commission is staged for October 2022, public hearing in January 2023, and final updates and approval of adoption of the plan in February 2023.

QUESTIONS/COMMENTS

Commissioner Buck – highlighted that within the Hawaii Water Plan and with implementing the Water Code and Instream Flow Standards as a driver for designation, notes a lot of the water purveyors don't have the knowledge or appreciation for what IIFS will do to develop water. For Lahaina, the County Water Development plan was not consistent with the water availability. If there’s a way we could better loop in the Water Resource Protection Plan (WRPP) or the instream flow standards and what the county and water purveyors think is available?

Mr. Kimura – Authorized planned use is a big question mark and very vague in the Water Code and we are defining it as we go, but we should have that transparency in the plan as we do with the setting of the instream flow standards. We have a section on that as a tool and

how we use it to manage our water resources but should be clearer and more transparent on the process. Some examples to use are what the outcomes have been so far for instream flow standards and where we can improve the process.

Deputy Manuel – thanked Commissioner Buck for elevating IIFS as it's been a priority in this administration which gives us a baseline of what is available in terms of surface water. This new framework will give us a chance to look at that integration and how we treat water. One water is a concept here in Hawai'i with the concept of water is all around us; in the streams, rivers, the valleys and found underground. It honors that connection as a whole cycle.

On the next update of the Water Resource Protection Plan, we can focus on prioritizing where we need to establish IIFS explicitly, and tie that with agriculture and off stream use and the Ag Water Use Development Plan and being more strategic on it. In the next couple years, there are lots of studies to be made available in which the Commission will have a lot of data at its fingertips to use to inform more proactive management throughout the State, as well as provide data and guidance to other agencies in how they do their planning in terms of water resources.

The data that's coming out, is key to consider and we've invested in collecting that data to make better management decisions. This body and the staff here really see the importance of establishing IIFS which are the streams and are key indicators for aquifer health, water availability, and of watershed health too.

Commissioner Hannahs – commented how pleased he is with the work of CWRM staff and (he) as a commissioner who has an obligation and duty to represent cultural perspective. It's a legacy that you leave Chair Case, Deputy Manuel and Jeremy; thank you for that leadership, for that embrace of cultural values and Hawaiian cultural constants that you've raised. It's about being more resource-centric than anthropocentric. We can then look to a planning model that optimizes the resource rather than mitigates impacts upon it.

In the minutes of the last meeting, there was an interesting discussion between me and Eva of Maui Department of Water Supply, which talked about the timing of these plans. So how we put this into a more logical timing framework is something to consider going forward and bring together a common mindset to have the integrated pieces unfold in these different plan elements.

Commissioner Katayama – reiterated Commissioner Hannahs' views on the timing of the plan(s) and the factors that are affected and seems like very circular; we're the State Water Plan effect instream flow and what the counties must work with in terms of their development plans. How would you go about synchronizing the different agency plans and that everyone is aware of what their impacts on the other's plan?

Mr. Kimura – it really is a circular approach and reflective of the county Land Use planning process where these general plans are going on their own schedule then the water plans come after. We've proposed some ideas to synchronize things like future projections of population growth and demand and different scenarios that the State comes up to create a common data set we all use regardless of when you are preparing a plan. Example, if you're planning for 2030 to 2050, everyone uses that same time set, and use 3 projected scenarios (which we've

established). Also, to prepare things in a more integrated manner amongst the agencies.

One agency missing from this component is the State Office of Planning. It's about getting everyone together planning and synchronizing.

Deputy Manuel – what we're seeing as a potential shift is the Hawai'i Water Plan. A lot of the conversations are very inward among water agencies and those that have kuleana around water like the Department of Health, Department of Ag, the County Department of Water Supplies, we're talking amongst ourselves. But as indicated, there are other factors that influence water management and water availability, and agencies that are impacted by those. It's trying to bridge those silos and not just have the Hawai'i Water Plan stand in the water Commission (we're the only ones that use it) but it needs to be embraced by the broader community.

This new framework, aia i hea ka wai a kāne is water that is connected, and we can show that connection through our own cultural lens and one water approach. With timing and synchronization, we can be more flexible in adaptive management to be ready to and communicate with other plan preparers and time our updates accordingly to align versus creating our own independent updates and instead do those congruently to show how they're connected.

071922 00:34:30

B. NON-ACTION ITEM / INFORMATIONAL BRIEFING

2. Summary of Current Instream Uses and Stream Diversions in the Huelo Region of East Maui (Informational Briefing)

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection and Management Branch

Dr. Strauch gave a presentation on the briefing item noting in the last 5 years CWRM established multiple instream flow standards across the State on islands of Kaua'i, Moloka'i, and Hawai'i Island. Surface water is critically important for drinking water supply, agriculture, instream uses, including traditional and customary practices, recreational use, and habitat for aquatic biota. On Maui, there's six surface water treatment facilities that produce potable water from surface water sources.

Noting the hydrology of an area, it's used to assess instream and non-instream uses. Rainfall varies substantially across elevations and hydrologic units and variation in geology with three primary geologic units (*further described the geological area and formation*). The rainfall and geology contribute to differences in groundwater recharge and surface flow across the region and in 2001, 27 streams were petitioned for amendment to the interim instream flow standards across 21 hydrologic units identified; then and those streams were diverted across the East Maui irrigation system regardless of the petition.

Last year the Sierra Club filed a petition to amend interim instream flow standards for the remaining 15 streams across 11 hydrologic units. We know about the hydrology of this

region as there's multiple USGS reports that describe the surface and groundwater resources and the irrigation system. We know that the 1984 to 2013 base period has experienced much less rainfall than historical averages and the region in East Maui is experiencing a decline in rainfall both an annually and seasonal basis.

(continued to describe the geology, stream diversions and stream biota in the areas and went through each hydrologic unit to describe the unique characteristics of the streams as well as the hydrology, stream flows, and ditch intakes [if any] and Mahalo to Skippy Hau for his stream knowledge and contributions shared with CWRM).

QUESTIONS/COMMENTS

Chairperson Case thanked Ayron including the DAR staff for everyone's efforts, data collections and sharing.

Commissioner Buck – commented that while he visited the East Maui streams during the site visits, realizes how complicated working on IIFS are and doing them region by region and knowing all the different dynamics that goes into each stream study and thanked Ayron for all the work done and wished we could include all the streams on private land as well. Asked if we have a handle on the non-EMI diversions of the amount of water for domestic use and dealing with the reasonable beneficial upstream uses?

Dr. Strauch – as part of this field work, we did outreach in every single registered diversion and did site visits to nearly all of them. We identified diversions that were registered that have now been abandoned as well as diversions that are still in active use and tried to quantify onsite how much was being used. Also encouraged all registrants to report their monthly use. It's a challenge to get accurate data but we have an idea of how much water the end uses are reliant upon.

Commissioner Hannahs – echoed Commissioner Bucks comments about the quality of the report and added on the extraordinary commitment of Ayron (and others) acquiring this information and thinking it through and thanked Chair Case and Deputy Manuel in supporting the Commissioners site visits as it added to our understanding of the systems. How do we deal with the habitat transforming risk in regard to bamboo density at streams and are we coordinating with watershed partner groups?

Chair Case – commented I think you're pinpointing one of those areas where we can't do everything, we must prioritize. The resources are focused on an area where we can keep the threat from spreading as it's already widespread in the lower elevations. Unless there's a locally driven community effort, there isn't an opportunity to make a big difference.

Commissioner Hannahs – when you have a bio control you can turn the tide and we'd love to be able to do that. I think we ought to be explicit and aggressive about putting the resources that we need to hold the line.

Chair Case – the rating sheets in the beginning of each section, can you describe how you get to the biodiversity rating and the total watershed rating?

Dr. Strauch – there's the Hawai'i Stream Assessment which ranks regionally and statewide

the aquatic, riparian, cultural, and recreational resources for each stream. There are separate ratings for watersheds division of aquatic resources does particularly in relation to habitat. So, the size of the watershed, the length of stream channel, the reaches whether it's a terminal estuary or waterfall. The HSA provides ranks both within the context of the island as well as the entire state of each stream.

Chair Case – noting that the rankings are predated

Dr. Strauch – yes, this is the historical work that's been done by the State to prioritize streams.

Commissioner Buck – would it make sense to prioritize, where water might be used upstream at the higher elevations in Wailoa Ditch while not utilizing a lot of the diversions at the lower elevations; is that a strategy we should consider?

Dr. Strauch – yes as the impacts of the lower elevation ditches on downstream flows are greater because they're diverting all of the low flows that are gaining in the stream channel. If we were to seal some of these lower elevation intakes and continue that gaining flow from mauka to makai to provide for those instream uses, that would go a long way. If all the low flows get transported downstream to provide that physical and hydrological connectivity, that's something to consider as we move forward.

Commissioner Buck – it'd be great to get input from the EMI ditch operator as the ditch is an incredibly valuable resource in delivering off stream water. An idea of some of the economics, we could shut down a lot of the lower elevations as it would help instream flow but reduces the cost of operating the ditch system. I think that's important as we consider our determinations

Dr. Strauch – we have reached out to the irrigation system operator and discussed the potential for abandoning specific locations throughout the system strategically to support instream uses; they know it's on the table.

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PUBLIC TESTIMONY

Ms. Lucienne de Naie, Sierra Club Maui

- appreciated the discussion on the topic
- resident of Huelo Ahupua'a, resides above Waipio Bay which is a repository of a number of streams in the area.
- pleased with the report and note there are about 1,000 residents living in the area; and appreciative of CWRMs efforts.
- helped to coordinate access for CWRM to look at the streams
- hoped for more follow-up outreach to the community to present preliminary findings to provide input
- Kalo was grown historically in the area, but it was not mentioned in the report
- issue of the forest canopies affecting stream life is why we need the investment in our

water sheds.

- communities want to do more and been very supportive of the proposed community water authority with efforts in East Maui; being placed on ballots in November as a charter amendment; it would allow funding streams for restoration activities in the lower watersheds.
- can't give up on the lower areas because they're not all overgrown with invasives; it has valuable native plants and forest gardens that were planted by the ancestors of the place.
- bamboo is traveling throughout the Huelo district.
- There's a lot more could be doing and to be done to these valuable lands.
- from the earlier report of wanting to integrate our water views with Hawaiian culture, the past and the future; these Huelo streams are a great chance to do that.

Chairperson Cased thanked and encouraged Ms. de Naie to reach out to Ayron (CWRM) in providing more of her insights.

Mr. David Frankel, Counsel for Sierra Club

- thanked Ayron for his efforts
- pointed out a few things missing from Ayron's report: Alexander & Baldwin's EIS report which concluded that full diversion of these 12 streams causes the loss of 88% of the habitat which the Board of Land & Natural Resources authorized.
- biologist Mike Keto observed a juvenile 'o'opu nakea at Ho'olawa Stream by Ha'iku ditch.
- *read part of the data from the 1990 portion from the Hawaii Stream Assessment noting this report is merely a snapshot of the State Hawaii streams in 1990*
- CWRM should not be putting much weight in the rankings provided by the HSA from three decades ago.
- Currently, A&B / EMI are authorized to take all the water from these streams and reactivate Haiku and Lowrie Ditch legally and take all the water from there.
- meaningful instream flow standards need to be set quickly.
- in Sierra Club petition notes that 80% of the water taken from these streams has not been used reasonably and beneficially even though the Water Commission instructed the diverter to start installing efficiency measures.
- there's an incredible amount of water lost to seepage and evaporation from these reservoirs and the ditch.

(end of public testimony)

RECESS: 10:55 AM

RECONVENE: 11:04 AM

071922 02:03:38

C. ACTION ITEMS

1. Approve Extension Request for Action on the Sierra Club’s Petition to Amend Instream Flow Standards for Kōlea, Punalu‘u, Ka‘aiea, ‘O‘opuola, Puehu, Naili‘iliha‘ele, Kailua, Hanawana, Hoalua, Waipi‘o, Mokupapa, and Ho‘olawa Streams, East Maui

PRESENTATION GIVEN BY: Mr. Dean Uyeno, CWRM Stream Protection & Management Branch

Mr. Uyeno stated the submittal request and provided some background information of the timeline of the petition and stated its recommendations. Noted that the information of the Handy & Handy report is included in the Instream Flow Standards Assessment report.

QUESTIONS/COMMENTS

Commissioner Buck – asked to map out the next 180-days if approved?

Mr. Uyeno – the 180 days started earlier (*referred to the timeline in submittal*) the Commission received the letter and there were discussions between Sierra Club and CWRM. In the next few months this point, we are looking at holding public meetings to disseminate information that Ayron collected about the stream and instream assessment reports. Next month Ayron will be presenting on the information of the instream flow standard assessment reports and will bring it for approval in September.

Commissioner Buck – under this leadership and this commission, has shown the capacity to take on these issues, and a lot of our final D&Os have been both historic and unprecedented and we look forward to using that same process on it.

071922 02:10:08

PUBLIC TESTIMONY

Ms. Tara Apo

- Senior Sustainable Science management at UH-Maui; worked along with the Sierra Club Maui and community members to develop a stream monitoring program for some of the Huelo area streams.
- collected water quality and observational data at Hanehoi and Ho‘olawa
- sense of urgency as the 1988 status quo interim instream flow standards are not adequate to protect the streams.
- the current standards allow the base flow to be diverted leaving the streams completely dry for a large portion of the year which devastates watershed ecosystems.
- dewatering of streams deprives communities the opportunity to access these streams for spiritual and recreational value, native Hawaiian traditional and customary

practices, domestic, and agricultural needs, all protected public trust beneficial uses of surface water.

- how can we rank the recreational value of a stream that doesn't have water?
- obligation to rectify the situation in accordance with our State Water Code.

Mr. Philip Raya

- West Maui resident and small business owner
- in support of C-1 recommendations with urgency
- support kuleana rights

Mr. David Frankel, Counsel for Sierra Club

- Sierra Club didn't request a 180-day extension; CWRM asked the Club to request a 180 days extension because CWRM staff needed more time and recognize the work of Dr. Strauch
- A&B lumps the vast majority of water in the category as reservoir, fire, protection, evaporation, dust control, hydraulics, and system losses; although very little water is actually needed for fire protection; what's needed is a reservoir that contains the water that doesn't let the water leak.
- there's a huge category of uses of water that is not being used in a reasonable and beneficial way.
- important for instream flow standards be set soon, to help keep more water in streams and ensure less water is wasted.

Mr. Hauoli Konohia

- seventh generation heir to the moku of Hamakua
- appreciate all the work CWRM invested in both the West and East Side of Maui.
- Ohana is kalo farmers and lawai'a; knows the importance of water
- supports C-1, C-2 & C-3 recommendations
- concerns of the other rivers which has some of the most dangerous stagnant water at the ocean mouth.

Mr. Jay Franey

- Mahalo to Ayron and Sierra Club in moving this forward
- teach in the Ho'olawa Stream and this will give an opportunity for our native species there to flourish
- support this item.

(end of public testimony)

QUESTIONS/COMMENTS

Commissioner Hannahs – (to Ms. Apo) thanked her for the area of study and working with community and commented on recreational uses noting at some level it can be a very passive

use. We also saw in our site visits heavy use of certain streams by recreational users; is there a way to educate our recreational users on the responsible ways to enjoy the resource without abusing it or damaging that habitat? Is there much work going on in the community to help accomplish that education?

Ms. Apo – it's not something we've focused on in our stream monitoring program, but I think it should be part of any efforts moving forward to take care of these places and perhaps collaboration with different agencies in doing so. Certainly, community plays an important role, and a stream monitoring program is a great opportunity for community members to be engaged in things like that.

Commissioner Buck – is there any dialogue or opportunity to also consider the other streams on private land?

Deputy Manuel – we're running out of time within this administration; it's a capacity and resource issue. If you look at how long and how much time Ayron and our team have spent in the field, just in East Maui, it has been a lot of management of staff and resources and prioritization. As highlighted, we started before the petition came in, and these streams are as important in our overall regional evaluation.

As we move forward, it ties well into our prior presentation and IIFS is something we are going to continue to do throughout the State and develop quantifiable instream flow standards, but it takes time to collect the data. Once we start to work through that and prioritize streams throughout the State, you'll see more of this happening.

Hopefully, the future administration continues the momentum we've established to continue this good work of setting quantifiable IFS.

Dr. Strauch – we've been working with the pedal to the metal and every instream flow standard has follow up field work; it doesn't end when you vote. We're still working on every stream that you voted on for the last 6 years or so and we haven't added more staff. It's a challenge, we have priorities, processes, and the way we work in the future, and invest in USGS gages on high priority streams for off stream use and where we need to improve, it's a balancing act.

Chair Case – added it's a matter of prioritization statewide; this is not the only area that is important to a lot of people. When we focus on one area, that means we can't focus on another area, so we are trying to prioritize that and have supported Ayron and his team doing the huge amount of work here. (*recalled Dr. Beamer's last meeting in which he named the 49 streams [CWRM approved IIFS on]*) we are now at 63 streams. It's a great confluence of skill and dedication on the staff level and support from the Commission with our goal to finish the great work that we can in the next few months and to make sure the staff are supported and set up properly to go into the future.

Commissioner Buck – hopes landowners would see some benefit in providing the certainty for themselves about water use and the operation of the ditch system to find some value and contribute resources. On a historical note, Alexander and Baldwin was the first private landowner in 1906, to surrender their lands to the State of Hawaii, which established the beginning of a forest reserve system.

Mr. Uyeno – added we do go through a prioritization process with regards to planning. Our emphasis has been in streams that have been diverted by historic or legacy plantation systems; usually those are where the most water is diverted. Our emphasis is to address those affected by the irrigation ditches. Noted, the on-boarding of a new hydrologist, Cody Ching who received her masters from UH in environmental resource management. Also, thanked the legislature for giving us back for four aquatic biologist positions with two of those positions allocated to Maui and hopes for their on-boarding next year to work on enforcement of IFSs.

Commissioner Hannahs commented that the Hawaii Conservation Conference is going on right now and should put those available jobs out to the community.

071922 02:33:00

**MOTION: (SETO/HANNAHS)
To approve Item C-1 as submitted.
UNANIMOUSLY APPROVED**

071922 02:33:36

C. ACTION ITEMS

- 2. Approve Extension of Temporary Relief for a Period of 90 Days and Delegation of Authority to the Chairperson to Approve Future Extensions of Temporary Relief from the Interim Instream Flow Standard for Kaua‘ula Stream, Kaua‘ula Stream, Lahaina, Maui, to Provide for the Continued Diversion of 300,000 Gallons Per Day During Low-Flow Conditions to Kuleana Users and Kamehameha Schools’ Tenants Whose Sole Source of Water is Kaua‘ula Stream**

PRESENTATION GIVEN BY: Mr. Dean Uyeno, CWRM Stream Protection & Management Branch

Mr. Uyeno stated the submittal request and noted that Ayrton has been in discussions with the kuleana tenants, Kamehameha Schools and Launiupoko Irrigation Company (LIC) regarding the system and how things will work under this temporary relief period. Noted that the system was set up for irrigation or agriculture as well as hydroelectric, so for the system to deliver such small quantities of water, it’s difficult. LIC had to closely manage the situation. To some degree it's not working out for the kuleana tenants and so discussions with them to come back to you at a future date to look at setting aside the IFS for a period.

Mr. Uyeno stated the staff’s recommendations.

QUESTIONS/COMMENTS

Commissioner Hannahs – asked when is the well being developed for Kamehameha Schools as it stated it was delayed due to Covid.

Mr. Uyeno – drilling was complete and they're ready to install the pump but haven't gotten any new updates since.

Deputy Manuel – we'll follow-up with them as we haven't heard any updates; we've been focusing more on the surface water delivery as that will help alleviate some of the pressure when that well is developed.

Commissioner Buck – can we put a time limit for 180-days (on recommendation #4) and it could be changed later?

Commissioner Seto – clarified is that a 180-days for the additional period of temporary relief, or a 180-days for the authority the chairperson has?

Commissioner Buck – replied, the authority in granting the Chairperson.

Deputy Manuel – clarified that it is to delegate authority to the chairperson to extend additional periods of temporary relief from the interim IFS for Kaua'ula Stream not to exceed an additional 180 days, or not to exceed an additional 90 days, so that would give a total period of 180-days; so the first extension is for the first 90 days, then the Chair can extend another 90, but would be a 180-day total period?

Commissioner Buck – it's just a suggestion.

Deputy Manuel – to address that, similar to the Wailuku Kuleana Town 'Auwai and issues on implementation, a lot is contingent upon conversations with landowners, water purveyors, and staff getting into the field. We seek these temporary periods to be reasonable and create some urgency to come up with solutions. We understand the need to bring this back as soon as possible, but there's specifics we're trying to work through.

Commissioner Buck – good point; I withdraw.

Commissioner Meyer – I was going to ask you to withdraw as it seems this is such a complicated local issue and being handled adequately by the staff. As written is fine with me, and the right approach is for the Chair to deal with that based on the advice of staff.

071922 02:42:33

PUBLIC TESTIMONY

Mr. Philip Raya

- in favor of the extension for the kuleana relief and Kamehameha Schools
- It's an urgent situation

Mr. Glenn Tremble, Launiupoko Irrigation Company

- in support of the extension for temporary relief.
- CWRM, LIC kuleana tenants, and KS had several meetings over the past 90 days.
- we're working through the issues that staff (CWRM) reported.
- request Commission support; been a been productive eye-opening period to understand the technical workings of the hydro plan and challenges with the diversion.

(end of public testimony)

QUESTIONS/COMMENTS

Commissioner Katayama – is that the best timing in terms of managing the relieving stress on water users? When was the temporary relief put in place in April?

Mr. Uyeno – originally was April 19, 2022; when the Commission voted on it.

Commissioner Katayama – prior to April, how long has this water stress been in progress? How soon can you make these adjustments to help the users' relief, and if approved, can it be universal to all water adjustments throughout the State?

Deputy Manuel – a great point; as staff to the Commission, my job is implementing the orders and policies of the Commission. When that is unclear, it's when we come back to the Commission for approval so I'm not acting independent of the commission's orders and authorities.

With an emergency situation, there's certain requests that come in hard and fast to deal with those on some level in decision making that's within the authority of the Code. My role as Deputy is to support the Commission in that effort.

In this case, the good thing is the action in April is prior to this Commission moving forward with designation. As part of the designation process, we'll have better idea of all the users in the area and their needs; so, we can better protect them and ensure they receive the water for their end uses. We try to come up with solutions to support everyone.

This is the recommendations currently and there are potential systemic recommendations or to delegate authority to the chair or deputy, to make operational decisions with situations like shortage and drought. In a water management area, we are required to develop a shortage plan and working with all users on a holistic approach on how we manage (the water) with the limited resources we have.

We're going to have mechanisms in place in the next year, 2, 3 to deal with these kinds of situations so you won't have these temporary reliefs.

Commissioner Katayama – from the time users are under stress because of water availability, are we able to react quick enough? Is 30, 60, 90 days tolerable for these users to be under that kind of stress? Surface flows are dynamic and change rapidly. These recommendations are written specific to this one event. Could we make it more of a guidance for you to govern these situations and working with the users?

Deputy Manuel – what's challenging and what Ayron laid out about stream systems, it is stream by stream and the IIFS we set by the Commission since 2018, hasn't been met. We're realizing the implementation, the follow-through, the data collection, and working with the diverter and users, we potentially need to re-address the IIFS. We have more data we've collected since establishing the IIFS.

We're doing as much as we can within our authority and what's recommended is a safe space to operate in without completely divesting this commission of its authority to make ultimate decisions. It's delegating the right amount of discretion to the Chair to make decisions and any larger policy decisions will come back to the Commission for final disposition.

What we're recommending is fair and doesn't hinder us from doing our job and does provide us time to react to these situations. What we're all learning is we're in a different world today. We need to prep before June hits and through October, January through May; enjoy the rain, but store it and manage your systems well because it's going to get tighter every year.

It shouldn't be a reactionary event and shouldn't be in this emergency situation because we should know that you if you live on the leeward side of the island, you may have a limited resource.

Commissioner Katayama – if you feel that you have enough discretion to act timely, that's great. With Jeremy's presentation earlier, it helps tie in for us setting IIFS. Are we cognizant of what the County and State development plans are when we do this and how much of a silo are we in.

071922 02:53:00

**MOTION: (MEYER/SETO)
To approve C-2 as submitted.
UNANIMOUSLY APPROVED**

071922 02:54:01

C. ACTION ITEMS

- 3. Finding of Violation against Sea Grace LLC (landowner) and American Drilling (contractor) for Well Construction and Pump Installation Without Permits in July 2020; Makila Kai Well (Well No. 6-5138-002), TMK (2) 4-7-012:007, Launiupoko Aquifer System Area, Lahaina Aquifer Sector, Maui**

PRESENTATION GIVEN BY: Mr. Ryan Imata, CWRM Ground Water Branch

Mr. Imata stated the submittal request and noted that driller drilled the well and performed work without adequate permits, although the driller did apply for the permits. It does appear everything is in compliance with our standards except for the duration of the pump test.

Mr. Imata further stated the staff's recommendations of the submittal.

QUESTIONS/COMMENTS

Commissioner Buck – where does the proceeds or fines go?

Deputy Manuel – it goes to our water resource management special fund which we use for monitoring and other types of studies.

Commissioner Buck –I know there's been recent historic pressure on special funds, and this one is not.

Deputy Manuel – during the sweep of special funds, from the session before this one, it did get highlighted. We do use this fund a lot for example, our contested case hearings, our hearings officers; we also use it for some of our studies and some of the gauges. It doesn't generate a lot of revenue for us, so we do spend within our limits and the ceiling that we're allowed to spend in.

071922 02:58:01

PUBLIC TESTIMONY

Mr. Jeffrey Ueoka, Counsel for Sea Grace LLC

- available for questions by staff and Commissioners.

(end of public testimony)

071922 02:58:27

**MOTION: (HANNAHS/MEYER)
To approve C-3 as submitted.
UNANIMOUSLY APPROVED**

RECESS: 12:00 PM

RECONVENE: 12:32 PM

071922 03:02:12

D. RED HILL ITEM

1. Update by Groundwater Branch on the Violation Letter to the Navy for Overpumpage of Waiawa Shaft, Waiawa Shaft Data, and Status of Various Monitor Wells (Informational Briefing)

PRESENTATION GIVEN BY: Mr. Ryan Imata, CWRM Ground Water Branch

Mr. Imata presented an update on the violation letter that CWRM sent to the Navy for over pumping of Waiawa Shaft and shared data collected at Waiawa Shaft and informed on the status of the various monitoring wells. Noted that Waiawa Shaft has an allocation of 14.977 mgd. A map of the Hickam Water System noting the water sources, waterline distribution, and service areas were shown. A chart highlighting the 12-mo moving average was noted, along with the weekly chloride data which shown to be stable although pumping increased.

On June 9, 2022, CWRM sent a violation letter to the Navy (with 30-days to respond) recognizing that Waiawa Shaft is over pumped and asked the Navy to respond by either reducing pumpage to be in compliance with the allocation or submit an application to modify the water use permit to accommodate the increased reliance.

The Navy responded on July 8, 2022 and acknowledged the notice of violation letter and replied they initiated water conservation measures and implemented additional measures in April to reduce the pumpage, and requests to meet with CWRM to explore further reducing pumpage volume.

The next steps include: 1) CWRM meet w/the Navy to discuss pumpage reduction measures; 2) CWRM staff continue to monitor chlorides from Waiawa Shaft; 3) if unresolved, find the Navy in violation and impose fines through Commission action.

There are (11) monitor wells currently in construction and (2) more wells being applied for (*area map of wells shown*) as well as future wells are planned for soon.

(due to time constraint, Chairperson Case requested to hear from Commander James Sullivan of NAVFAC HI)

CDR Sullivan – stated is the current NAVFAC Environmental OIC for Red Hill. I agree with the statements and the discussion regarding the monitoring wells and update provided. We're focusing on the (12) sentinel wells outside the perimeter of Red Hill and have run into a few issues regarding permitting and real estate to get all those wells on but are making progress on the P-wells near adit-3 and around the Red Hill facility.

To date, we have completed two of those wells and are currently drilling two additional ones. We received three different sample results back from P01/P02 which shows non-detects. We're pushing to ensure we get those monitoring wells in as soon as possible and appreciate all the continued coordination and support whenever we run into issues with section 106 requirement or assistance with real estate actions or use of any government land.

In the spirit of continuing to be completely transparent to share data to ensure we have the same picture of any contamination that may exist or potential for spreading, we'll be requesting to share or receive any data that you might have from your monitoring wells and sent that request to BWS yesterday and will send that also to other stakeholders.

I appreciate the opportunity and am still getting up to speed as quickly as I can and understand how critical it is we continue to keep a sense of urgency and be completely transparent as we work with all the regulators and stakeholders to make sure we're protecting our people and aquifer.

QUESTIONS/COMMENTS

Commissioner Meyer – referred to an article referencing a lava tube that is running in a northerly direction and asked where it is relative to the tank farm? The article stated the lava tube was an avenue for future or current contamination or infiltration.

Mr. Imata – not aware of the location of that lava tube and asked Commissioner Seto (who shook her head “no”)

Commissioner Meyer – clarified it was in Halawa Shaft and is where the fire system leaked roughly 20,000 plus or minus gallons which would be a significant potential avenue for contamination which perhaps has not been fully explored yet and wondered where on a map it was relative to other wells.

Chair Case – agreed with Commissioner Meyer.

Commissioner Buck – thanked Commander Sullivan and noted that Katie (Roth) and Commissioner Buck represented CWRM at an event organized by the EPA and Department of Health and disclosed a request made to Cdr. Sullivan pertaining to the 5 million gallons being pumped into Halawa Stream from Red Hill Shaft and noted the water looked clear and if it's good enough to be put in the stream, it's probably good enough to use for irrigation. Encouraged Cdr. Sullivan for opportunities to utilize the 5 million gallons for irrigation to alleviate over pumping of Waiawa Shaft. Noted that DOH was also looking at potential use of that water.

Cdr. Sullivan – it's something that we continue to work on and discuss. Originally some of the projects and options we'd been looking at for the many months, we were able to get some options back but all of the options we're getting are very expensive and long term. It would take several years to get some of the infrastructure for the pipes as obviously it's not feasible to pump directly into trucks and are looking at more permanent solutions which would be a year to two. We continue to look for simpler, easier, quicker solutions and look at other options for treatment facilities at the location.

The GAC that is there, the water coming out of the well is tested as well as leaving and so far, have no signs of the fuel contamination and verifying we're pumping clean water in. The GAC systems in place are not drinking water compliant and have a lot of work ahead to get a permanent facility in. I do not have a solution fully identified, but it's one of our focuses and understand about our water usage and how we have to be responsible.

Commissioner Hannahs – they are in violation and over pumping daily by 1 to 2 million gallons per day. We want to meet, and we have no idea when this comes to a reasonable conclusion. Meanwhile, we're over pumping the sustainable yield of that aquifer. We need to bring this pumping into immediate compliance, and we're overstressing the resource while we talk. Can we reverse that and protect the resource, then talk and see if that leads to a period where we decide it's okay to over pump it?

Mr. Imata – we are monitoring chlorides to see what the potential impacts are. We're not seeing significant impacts to the chlorides, but the allocation is issued via the water use permit, and they do need to come into compliance on that. Maybe what you're proposing is to issue a formal violation and find them in violation subject to the statutory penalties, which is \$5,000 a day.

It's hard to bring them back into compliance because it's on a 12-month moving average; so, are we going to wait for the 12-month moving average to come down then fine them \$5,000 a day for that? There're things we need to resolve and meeting with them is important to understand what their projections in terms of the duration of the over pumpage of that source are. I think the longer the projections go, the more immediate need for them to apply for a modification of their water use permit.

It's incumbent on the Navy to meet with us and let us know what the projections are, and then apply for an increase in use if it's going to be a prolonged increase in exceeding their allocation.

Commissioner Hannahs – I'd like to tie that into the set allocation rather than acknowledge at the fact that they're pumping a lot more and if they want to apply for more, they can and then we can make that decision at that time. Let's begin by coming back into compliance and not allowing this to go on while there's discussions as we've seen how long and protracted these can get on issues with regard to Red Hill.

Commissioner Meyer – it's bothersome and does appear to be a willful violation of the terms of the permit. As Ryan said, we may have to wait because it's an average basis and before any fines, one would think under the circumstances given, the nature of the violation and the spirit of cooperation, that the Navy would cut back their pumpage to stay within the terms of the permit.

Mr. Imata – this is not an action item today; I'll meet with the Deputy and talk about what we're going to bring back to the Commission next month to address this situation and appreciate you expressing your concerns.

071922 03:24:05

PUBLIC TESTIMONY

Ms. Meredith Wilson

- Military spouse; lived at Hickam for (5) years
- suffers from health issues due to the water contamination
- the Joint-Base Facebook page adds insult to injury to the families residing there who are directly affected.
- families continue to take extreme measures to avoid their exposure and are still buying bottled water with their own monies.
- residents continue to witness wasting of water by the military with no accountability visible
- does DOH have the only say on what “contamination” is defined as?
- was JP-5 the only additive in the Red Hill well? without this information, there is no way to safeguard the public.
- weren't medically treated by military leadership
- does CWRM have any power or influence over the Navy when it comes to water concerns at users' homes?
- share thoughts on why homes are still testing below 211 parts per billion, and yet still showing sheens and people are experiencing symptoms; possible contaminated pipes or appliances, like water heaters
- what other regulations can you use to protect ground water quality?

Ms. Gina Hara

- family resided in Halawa for 50 years
- Tphd that previous testifier was speaking about is still at 400 parts per 1 billion.
- request Commissioner Seto follow-up with Kathleen Ho; feels the Tphd should be at 100 parts per billion as people are still ill.
- testified on this for 8-years
- regard to over pumping, don't wait for the Navy to be transparent; we need to control the information.
- defueling plan is needed and overdue
- daily reports should be made known
- thanked the Commission for it's dedication and time

Ms. Ann Wright

- retired Army Colonel and former U.S. Diplomat
- resides in Honolulu the past 23 years
- hold the Navy accountable in all aspects relating to the leak, data information and over pumping.
- as O'ahu is on water reduction, so shall the Navy be.
- thanked the Commission and to continue to push forward for the public.

(end of public testimony)

COMMENTS

Commissioner Buck – (to Deputy or Mr. Imata) last month we approved a process to start a permit modification for the Navy for the express purpose of leveraging their use of water with their cooperation and echo Commissioner Hannahs and Meyer that we're conserving and they're over pumping, is not acceptable. So next month, if they're still over pumping, I believe a violation is in order and want to see a timetable to have a public process to begin the permit modification and need to look at it in a comprehensive way. It's the most leverage the State and DOH has.


Chairperson Case thanked the Commissioners for their valued input.

E. NEXT COMMISSION MEETINGS (TENTATIVE)

August 16, 2022 (Tuesday)
September 20, 2022 (Tuesday)

This meeting adjourned at 1:06 p.m.

Respectfully submitted,



RAE ANN HYATT
Commission Secretary

OLA I KA WAI:



M. KALEO MANUEL
Deputy Director

Written Testimonies Received:

***Please refer to the Commission's website at:
to read and view written testimonies received.***