

**Request for the Office of Information Practices' Concurrence
for a Limited Meeting
(HRS § 92-3.1)**

Date: June 20, 2024

Name of Board: Commission on Water Resource Management
Contact Person: Dean Uyeno / Iwalani Kaaa Tel: (808) 587-0249 / (808) 587-0214
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Board's Attorney: Colin Lau Tel: (808) 587-2991
Fax: (808) 587-2999 Email: colin.j.lau@hawaii.gov
Date of Proposed Limited Meeting: June 27, 2024
Place/Location of Proposed Limited Meeting: Kamehameha Schools' Property and Punaluu Stream in Punaluu Valley, O'ahu

1. Type of Limited Meeting:

- location is dangerous to health or safety; OR
- public attendance is impracticable

2. (Attach relevant portion of draft or adopted minutes showing board's deliberation and vote to adopt the determination, including applicable timestamps if minutes were recorded.) After sufficient public deliberation at a prior regular meeting, and by vote of two-thirds of all members to which it is entitled, the Board has adopted a determination that:

- the limited meeting is necessary and the location would be dangerous to health or safety; OR
- the on-site inspection is necessary and public attendance is impracticable.

As shown in its minutes, the Board has made this determination based upon the following reasons:

Find that a "limited meeting" to visit portions of the Punaluu Stream Restoration Project on Kamehameha Schools' property, is (1) necessary and the location would be dangerous to the health or safety of the attending public; or (2) the on-site inspection is necessary.

3. Notice of the Limited Meeting under HRS § 92-7 (attach agenda):

- was filed on _____, 20____; OR
- will be filed by June 21, 2024.

4. Required Videotape of the Limited Meeting:

- will be made; OR
- Board requests a waiver of this requirement because:

CONCURRENCE

The Director of the Office of Information Practices concurs with the request made for a Limited Meeting and:

- does not waive the videotape requirement; OR
- waives the videotape requirement, with the following conditions:

If concurrence is granted, the Board must:

1. provide notice of the Limited Meeting in accordance with HRS § 92-7;
2. make no decisions at the Limited Meeting;
3. comply with all requirements of HRS § 92-9; and
4. videotape the Limited Meeting and make the videotape available at its next regular meeting, unless this requirement is fully waived above.



Carlotta Amerino
Acting Director



Date

**MINUTES
FOR THE MEETING OF
THE COMMISSION ON WATER RESOURCE MANAGEMENT**

DATE: June 18, 2024
TIME: 9:00 a.m.
PLACE: DLNR Boardroom, Kalanimoku Bldg.
1151 Punchbowl Street, 1st Floor
Online via Zoom, Meeting ID: 883 7811 5081

Online link to the video recording of the June 18, 2024 Commission on Water Resource Management meeting:

Chairperson Dawn Chang called the meeting of the Commission on Water Resource Management to order at 9:00 a.m. and stated it is a hybrid meeting being held in the Kalanimoku Building boardroom, remotely via Zoom and live streamed via YouTube. It was noted that people may testify via the information provided online. Chairperson Chang reminded the public not to use the chat feature for any comments, as it presents a Sunshine Law issue. She also read the standard contested case statement, took a roll call of Commissioners, and introduced Commission staff.

The following were in attendance and/or excused:

MEMBERS: Chairperson Dawn Chang, Mr. Neil Hannahs, Dr. Aurora Kagawa-Viviani, Mr. Wayne Katayama, Mr. Paul Meyer, Dr. Lawrence Miike, Ms. Kathleen Ho

STAFF: Deputy Dean Uyeno, Ms. 'Iwalani Kaaa, Ms. Katie Roth, Mr. Ryan Imata, Dr. Ayrton Strauch, Ms. Alexa Deike, Ms. Lyss Rousseve, Mr. Nick Ing

COUNSEL: Mr. Colin Lau

All written testimonies submitted are available for review by interested parties and are posted online on the Commission on Water Resource Management website.

20240618 00:09:22

B. ACTION ITEM

- 1. Determination and Approval of Draft Agenda by the Commission on Water Resource Management Under Section 92-3.1, HRS, for the Commission to Conduct a Site Visit to Privately-owned Lands to View the Punalu‘u Stream Restoration Project Kamehameha Schools, Punalu‘u Stream, Punalu‘u, O‘ahu, Hawai‘i on June 27, 2024, as a Limited Meeting, due to the Impracticability of Public Attendance for Reasons of Danger to Health or Safety, or in the Alternative, that On-Site Inspection is Necessary for Future Stream Management Purposes**

PRESENTATION OF SUBMITTAL: Deputy Dean Uyeno

Staff stated the summary of request which is that the draft agenda and limited site visit to view the Punalu‘u Stream Restoration Project Kamehameha Schools be approved for Thursday, June 27, 2024.

QUESTIONS / COMMENTS

COMMISSIONER HANNAHS: Thank you for the accommodation and the long memory. This goes way back. Please don't just do this for me. I think this is a really amazing project and Kamehameha stepped up in a big way. We created the plans, but the heavy lifting was done after I retired and to the credit of the team there and their trustees who made that investment to restore a system to what it should be. The abuses of the past in terms of really optimizing certain other values other than the value of the ecosystem there and the stream functions there itself, came at a high cost. That created great risk to the environment as well as to financial interests there, the homes that constantly got flooded and so forth. We've done that elsewhere, that's happened elsewhere and so we thought this would be a model or example to, what can you do? Can you go back and can you restore? I just thought it would be a worthy example for the Commission to review. Thank you.

COMMISSIONER KAGAWA-VIVIANI: I'll just say I remember before the restoration project, I was working part-time with SWCA with John Ford and Bob Kinzie, who has recently passed. Walking the stream was like a highway, discussing the flooding issues. I've been out there and I think it's a really good opportunity to be on site.

PUBLIC TESTIMONY – None

COLIN LAU: Chair, can I add that because the title is determination of approval for the limited meeting, may we ask that the approval include approval of the proposed agenda?

CHAIR CHANG: Ok.

20240618 00:14:04

MOTION: (KATAYAMA / HO)

To approve staff recommendation and proposed agenda

UNANIMOUSLY APPROVED

(MIKE/KATAYAMA/HANNAHS/CHANG/MEYER/KAGAWA-VIVIANI/HO)

June 18, 2024

Minutes

Respectfully submitted,

Iwalani Kaaa

'IWALANI KAAA
Commission Secretary

APPROVED AS SUBMITTED:



DEAN UYENO
Acting Deputy Director

WRITTEN TESTIMONIES RECEIVED:

Please refer to the Commission website to read and view written testimonies received:

<https://dlnr.hawaii.gov/cwrn/newsevents/meetings/>



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

June 18, 2024
Honolulu, Hawaii

Determination and Approval of Draft Agenda by the
Commission on Water Resource Management Under Section 92-3.1, HRS,
For the Commission to Conduct a Site Visit to Privately-owned Lands to View the
Punalu'u Stream Restoration Project, Kamehameha Schools, Punalu'u Stream,
Punalu'u, O'ahu, Hawai'i on June 27, 2024, as a Limited Meeting,
Due to the Impracticability of Public Attendance for Reasons of Danger to Health or Safety,
Or in the Alternative, that On-Site Inspection is Necessary
For Future Stream Management Purposes

SUMMARY OF REQUEST:

Before it may conduct a site visit as a Sunshine Law limited meeting, the Commission must determine by 2/3 vote that the site inspection is necessary to Commission business, and that public attendance is not practicable. The proposed site visit is for the Punalu'u Stream Restoration Project currently being undertaken by Kamehameha Schools on Punalu'u Stream in Punalu'u, O'ahu, Hawai'i.

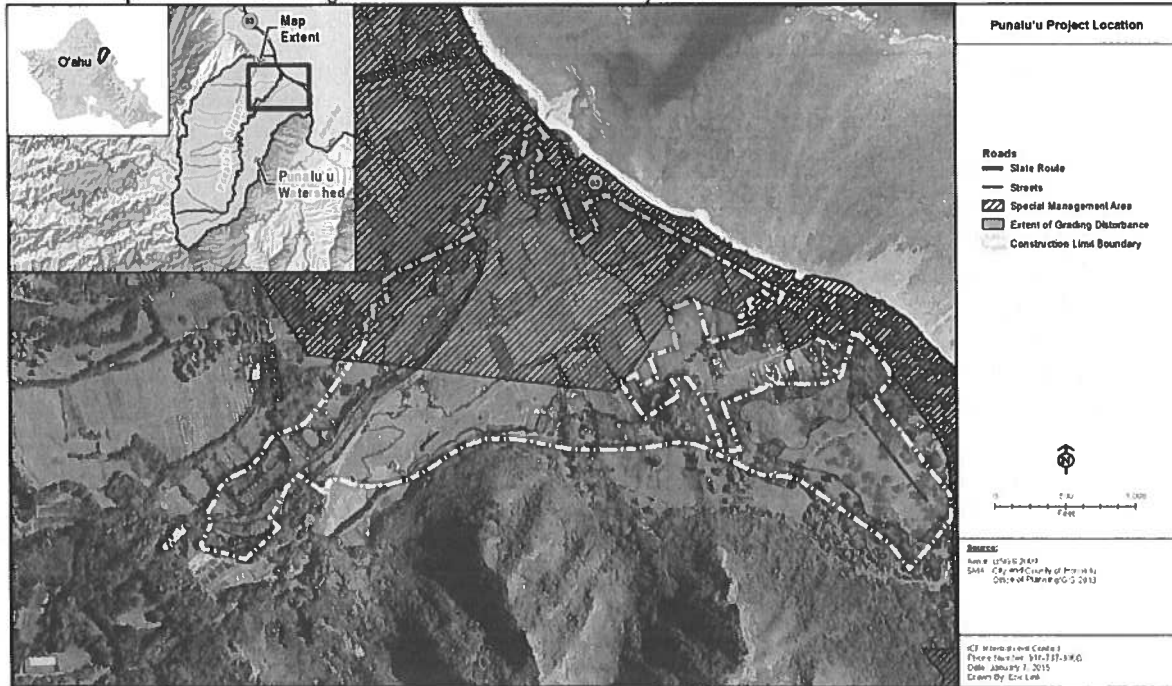
BACKGROUND:

The Commission on Water Resource Management (Commission) proposes to conduct a site visit to view portions of the Punalu'u Stream Restoration Project currently being undertaken by Kamehameha Schools (KS) on Punalu'u Stream in Punalu'u, O'ahu, Hawai'i.

The Punalu'u watershed, located on the windward coast of O'ahu in the Ko'olauloa District, drains 6.7 square miles of largely forested terrain from the crest of the Ko'olauloa to sea level. KS currently owns approximately 150 acres of the valley bottom. In May 2010, KS's Land Assets Division released their *Punalu'u Ahupua'a Plan*, which outlines a management strategy for its Punalu'u lands, incorporating five components: environment, economic, education, culture, and Hawaiian community. In particular, the *Plan* identified the mitigation of flooding and storm water runoff and facilitation of stream stewardship opportunities, including the stewardship of

native ecosystems and the control of invasive plants species and feral animals, with a priority on stream restoration.

Location Map: Punalu'u Flood Mitigation and Stream Restoration Project Location



(Text below excerpted from the *Punalu'u Stream Restoration Project, Final Environmental Assessment, October 2015*, prepared for Kamehameha Schools, by ICF International.)

The Punalu'u ahupua'a has been subjected to a range of historic impacts that include water diversions; invasion by non-native stream, plant, and animal life; stream channelization; unprotected stream crossings; land grading and alteration of natural drainage patterns; tillage; livestock grazing; aquaculture; and residential development. Currently, over 50 acres of the lower Punalu'u Valley are flooded annually. Flooding causes economic hardship and appears to be getting worse, possibly as a result of sedimentation within the stream. The most recent episode of flooding occurred on July 19, 2014, and damaged roads, properties, fields, and crops.

KS identified the lower Punalu'u Stream Valley as an opportunity to implement a project that incorporates its ahupua'a management strategy to provide flood mitigation and restore natural ecological form and process. Specific objectives of the project include, but are not limited to the:

1. Ecological restoration of native flora and fauna to a Hawaiian lowland stream;
2. Continuation of traditional Hawaiian land use compatible with periodic flood inundation;

3. Provision of improved flood protection and drainage for agricultural tenants and KS facilities;
4. Stabilization of eroding stream banks and a reduction in sediment discharge to the marine shoreline; and
5. Creation of eco-cultural educational opportunities to learn about sustainable agriculture and ecosystem function.

The primary restoration objective of this project is to develop sustainable flood protection and restore hydrologic processes in the Punalu'u watershed altered by a previous lessees, with a focus on the lower reach of Punalu'u Stream and its floodway. The comprehensive restoration design would reduce flooding along Punalu'u Stream using natural materials and methods that augment natural physical processes, are aesthetically pleasing, are sustainable with little to no maintenance, are acceptable to the Punalu'u community, all while enhancing aquatic and wetland habitats. Key components of the restoration design are to restore a natural valley floodplain and terrace landscape; re-designate land uses so that farmers on chronically flooded agricultural lands are relocated to the floodplain margins on elevated terraces; and create a new stream corridor with a new riparian forest that restores a floodplain connection with Punalu'u Stream.

This stream restoration project provides a unique opportunity to learn about a holistic approach to watershed and stream management and restoration of a highly-modified stream environment, which may ultimately serve as a model for other areas across the state. However, the site visit will occur on private property (i.e., Kamehameha Schools land), thus the general public cannot be reasonably accommodated, and stream water could pose a danger to health or safety. Access will be restricted to only the Commissioners and staff.

LEGAL ANALYSIS:

When there is a need for the Commission to understand the physical topography and characteristics of an area but where it is determined that the public should not attend the site visit because of danger to health or safety, or impracticable due such factors as accessibility of roads, terrain, lookouts, viewable sites, or logistical considerations (e.g., private property, liability, transportation, parking), the law provides for "limited meetings" in Haw. Rev. Stat. § 92-3.1:

§92-3.1 Limited meetings. (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

- (1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;

- (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and
- (3) Notice of the limited meeting is provided in accordance with section 92-7.

...

- (c) At all limited meetings, the board shall:
- (1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;
 - (2) Make the videotape available at the next regular meeting; and
 - (3) Make no decisions at the meeting.

...

[L 1995, c 212, §1; am L 2008, c 20, §1; am L 2014, c 221, §§2, 4; am L 2016, c 56, §§1, 2]

If the Commission staff's request for a limited meeting is approved, the Commission staff will submit a Request for the Office of Information Practices' Concurrence for a Limited Meeting (HRS § 92-3.1). All portions of the site visit will be video recorded and made accessible via the Commission website. The next regular meeting is scheduled for Tuesday, July 16, 2024.

A two-thirds (2/3) vote of all Commission voting members is required in favor of holding the limited meeting. The failure to obtain the required number of votes will result in cancellation of the site visit.

Therefore, the Commission should approve a "limited meeting" for this site visit in accordance with the provisions of Haw. Rev. Stat. §92-3.1.

RECOMMENDATION:

Staff recommends that the Commission, pursuant to and consistent with Haw. Rev. Stat. §92-3.1:

1. Find that a "limited meeting" to visit portions of the Punalu'u Stream Restoration Project on Kamehameha Schools' property, is (1) necessary and the location would be dangerous to the health or safety of the attending public; or (2) the on-site inspection is necessary and public attendance is impracticable.
2. Authorize a limited meeting to visit portions of the Punalu'u Stream Restoration Project on Kamehameha Schools' property, provided it is conducted in accordance with the legal requirements set forth by statute and has obtained the appropriate OIP Concurrence response.

Respectfully submitted,



DEAN D. UYENO
Acting Deputy Director

Staff Submittal
Punalu'u Stream, O'ahu, Limited Meeting

June 18, 2024

Exhibit 1. Tentative Agenda for the Limited Meeting of the Commission on Water Resource Management to conduct a site visit to the 'Ili'ili'ula-North Wailua Ditch System.

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG
Chairperson

JOSH GREEN, M.D.
GOVERNOR | KE KAA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON

KENNETH S. FINK, M.D., MGA, MPH
NEIL J. HANNAHS
AURORA KAGAWA-VIVIANI, PH.D.
WAYNE K. KATAYAMA
PAUL J. MEYER
LAWRENCE H. MIIKE, M.D., J.D.

DEAN D. UYENO
ACTING DEPUTY DIRECTOR

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 821
HONOLULU, HAWAII 96809

**AGENDA
FOR THE LIMITED MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT**

DATE: June 27, 2024
TIME: 11:00 am – 2:15 pm
PLACE: Various Sites along Lower Reach of Punalu'u Stream

The Commission on Water Resource Management (Commission) will conduct a limited meeting and site visit to the lower reach of Punalu'u Stream in Punalu'u, O'ahu, Hawai'i, where Kamehameha Schools is currently undertaking a stream restoration project.

The June 27, 2024 limited meeting and site visit locations and times are outlined below. The purpose of the site visit is to help educate the Commissioners on Kamehameha Schools' Punalu'u Stream Restoration Project, speak with project representatives, and understand how this Project may serve as a model in holistic watershed resource management for other areas of the state. This limited meeting is necessary because the location of the site visit is on private property, the general public cannot be reasonably accommodated, and stream water could pose a danger to health or safety. While four-wheel drive vehicles will not likely be required, site accessibility may be dependent upon weather and road conditions. The site visit will be recorded on video and the video will be made publicly accessible on the Commission website following the meeting.

- INTRODUCTION** 11:00 am (30 minutes)
Overview project presentation at Kamehameha Schools' field office.
- SITE #1** 11:30 am (30 minutes)
Drive to Site #1. View estuary and discuss functions of new estuary for flood mitigation.
- SITE #2** 12:00 pm (30 minutes)
Drive to Site #2 along new Green Valley Road to view stream restoration components.
- SITE #3** 12:30 pm (30 minutes)
Drive to Site #3. View upper area of stream restoration project and native plantings.
- SITE #4** 1:00 pm (30 minutes)
Drive to Site #4. View restored riparian area and native plantings.
- SITE #5** 1:30 pm (30 minutes)

EXHIBIT 1: Agenda for the Limited Meeting of the Commission on Water Resource Management

Agenda
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Drive to Site #5, Kahana component of the Project, to view constructed wetland and basin.

CLOSING 2:00 pm (15 minutes)
Return to Kamehameha Schools' field office for closing remarks.

For further information, please contact the Commission on Water Resource Management.

Commission on Water Resource Management
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Phone: (808) 587-0214
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Email: dlnr.cwrn@hawaii.gov

Site visit agenda is also available of the Commission website.
<http://dlnr.hawaii.gov/cwrn/newsevents/meetings/>

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