

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: May 19, 2020
TIME: 10:00 am
PLACE: online via Zoom
Meeting ID: 957 1134 1350

Chairperson Suzanne D. Case called the meeting of the Commission on Water Resource Management to order at 10:00 a.m. and stated it is being live streamed via YouTube for public viewing; the meeting was set to take oral testimony live and the written testimony would be acknowledged when the submittal items come up.

MEMBERS: Chairperson Suzanne Case, Mr. Michael Buck, Mr. Neil Hannahs, Mr. Wayne Katayama, Mr. Keith Kawaoka, Mr. Paul Meyer,

STAFF: Deputy M. Kaleo Manuel, Mr. Roy Hardy, Ms. Lenore Ohye, Mr. Dean Uyeno, Dr. Ayrton Strauch, Mr. Nicholas Ing, Mr. Jeremy Kimura, Mr. Neal Fujii, Mr. Patrick Casey, Ms. Rae Ann Hyatt

OTHERS: Ms. Christin Reynolds (One World One Water), Mr. Brian Loving (USGS, PIWSC)

COUNSEL: Ms. Julie China

EXCUSED: Dr. Kamana Beamer

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties.

Chair Case thanked everyone for conducting the Commission meeting remotely due to the stay-at-home COVID-19 mandate. The contested case statement was not read orally.

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A. APPROVAL OF MINUTES

March 17, 2020

PUBLIC TESTIMONY – None

**MOTION: (MEYER/HANNAHS)
To approve minutes as submitted
UNANIMOUSLY APPROVED**

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B. PRESENTATIONS

1. Pearl Harbor Water Shortage Plan (PHWSP)

Ms. Lenore Ohye, Planning Program Manager, CWRM introduced the item and Ms. Christin Reynolds, consultant that staff worked closely with on the plan for over a year. Barring any substantive revisions, a final plan will come before the Commission at the June CWRM meeting for approval.

PRESENTATION GIVEN BY: Ms. Christin Reynolds; One World One Water

Ms. Reynolds presented the item via Zoom and read through the outline of the plan and explained the purpose of a water shortage plan is to have something ready in designated water management areas should there be a short-term deficit due to factors such as ground water recharge reduction. By rule the Commission needs to declare that a water shortage exist within all or part of a water management area when insufficient water is available to meet the requirements of the permit system. The Plan focuses on the Pearl Harbor Aquifer Sector Area with the permit classifications broken up by priority levels. All permittees shall submit to the Commission a water shortage plan outlining how it will reduce its own water usage in case of a shortage, with a minimum of a 5% voluntary reduction.

There are 86 active Water Use Permits in the Pearl Harbor Aquifer Sector Area, with 50 of them held by the Board of Water Supply (BWS). There are criteria and triggers that were considered in the plan: withdrawals that exceed recharge; declining water levels or heads; deterioration in the quality of water due to increasing chloride content; excessive waste of water which can be prevented; or further water development may endanger the ground water aquifer or existing sources of water supply. The Plan recommends specific, quantifiable triggers for water shortage declaration.

The water shortage stages are as follows: watch, alert and warning. In the watch stage, there will be more intense monitoring and enforcement. An alert is triggered by BWS declaration of low groundwater conditions or a deviation of -2 standard deviations from average water levels in one or more of the CWRM's deep monitoring wells for three monthly measurements, with an action of initiating an emergency rule declaring water shortage, and also all permittees to implement their Individual Water Shortage Plans, among other things. At the warning level, emergency rulemaking should be complete and mandatory water shortage reductions implemented according to priority levels.

There was stakeholder engagement with the Department of Navy, BWS, and WUP holders in the Pearl Harbor Aquifer Sector Area. Water Quality is also a threat to water shortage and has been incorporated into the Plan. CWRM will defer to DOH's Hazard Evaluation and Emergency Response (HEER), which has the responsibility and legal authority to respond as such.

Recommendations includes i.e., maintaining public engagement during water shortage; spot check meter reading; revise Water Code to eliminate requirement for rule-making for water shortage declaration for efficient and timely response; and adopt a “living document” approach by delegating authority to the Chairperson.

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Chairperson Case thanked Christin for a thorough and well-organized plan presentation and opened for questions from the Commissioners and acknowledged there was no testimony on the item.

QUESTIONS

Commissioner Hannahs – thanked Christin and wanted a reaction to the recommendation the CWRM amend the Water Code rulemaking requirement as a means for triggering the Water Shortage Plan and if it has been vetted by staff.

Ms. Reynolds – replied that it has been discussed with CWRM staff

Ms. Ohye, CWRM Planning Program Manager – answered that CWRM does support changing the code to eliminate rulemaking so the CWRM can be more nimble and flexible to protect water resources in times of shortage. CWRM will have to go through the legislative process and hopefully at next session CWRM can put forth an admin bill to change the code that way.

Chair Case – asked if there was an emergency rulemaking provision?

Ms. Ohye – replied yes there is one and it will be relied on until the Water Code can be changed. It can be done in ninety (90) days as opposed to waiting on the rule-making process.

Commissioner Katayama – thanked Christin for her presentation and asked about the priority levels. Does the classification of IAL lands change the priority of agriculture, assuming that Ag lands are priority level three (3); and under the water shortage warning reduction levels by its priorities, how do you ensure it’s sufficient for the water protection levels?

Ms. Reynolds – answered that all Ag is priority three and did research on what a 20% reduction would in terms of impact. According to other WSP, it seemed attainable for irrigation and outdoor uses. There is an additional authority to declare a water emergency, so it is hard to anticipate what percent reduction would be enough.

Commissioner Meyer – commented on how well-organized the presentation (slides) were and thanked Christin and felt it was a good management program, objective, clear, sounds workable, and would be understandable to the general-public. The unwinding of the stages should take place in inverse order when going through the monthly determination of the water level stages. Also feels that moving power to the Chair should be quicker than waiting for the 90-day period, with the proviso the other Commissioners are consulted on it also.

Chair Case – looks forward to the finalization of the plan

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2. USGS Stream Gaging

PRESENTATION GIVEN BY: Mr. Brian Loving, USGS Pacific Islands Water Science Center

Mr. Loving presented the item via Zoom and read through the outline of the presentation which included stream gages and streamflow data and measurements as well as details about some of the gages on Wailuku River on Maui. Streamflow is also called “discharge,” which USGS measures by cfs (cubic feet per second). The stream stage is measured through various ways i.e., manually, automatically and continuously. A staff plate is used to manually measure the stage (height) in feet, while the float and pulley system, pressure sensors, and radar sensors are methods used to record stage automatically and continuously. Streamflow cannot be “measured” continuously. Its computed as a continuous streamflow record using stage and a “rating curve”. After a gage is installed, manual streamflow measurements are used and then USGS does several measurements covering a range of flows, which usually takes 4-12 months.

A stream gage consists of a monitoring station that measures stream stage continuously using an electronic sensor that records and transmits the stages to the USGS using a small computer with a built-in radio.

The process of installing a new gage is based on when a government agency has a need and funding for a gage in a particular location. The agency would request USGS to establish the gage and if the data from the gage can be used to meet the USGS’s mission of “*providing reliable scientific information to describe and understand the Earth; minimizing loss of life and property from natural disasters and managing water resources,*” then they generally move forward with siting the gage and obtaining needed permissions to install it. Some factors may affect the siting of the stream gage such as: flood warning, land ownership, environmental, accessibility, tributary flows, or diversions from streams. A natural stream pool is the most ideal location for a gage.

Once a gage is installed, USGS generally visits every eight (8) weeks or sooner if there is an emergency, such as for repairs or other factors. The water data can be found easily on the internet at <http://usgs.gov/piwsc> or simply Google “USGS water Hawaii”. The data on the internet is accurate; however, once in a while there may be a potential issue that would cause an inaccurate reading in the streamflow such as flow or people moving rocks, in the stream, changing vegetation growth in the stream, or trees or other debris falling in the channel.

Mr. Loving also touched upon the two stream gages located near Kepaniwai Park and ‘Iao Valley Road on Wailuku River, and the Waihe‘e River gage above the Waihe‘e Ditch intake on Maui, which are both funded by CWRM in cooperation with USGS.

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Chairperson Case thanked Mr. Loving for an informative presentation and asked the Commissioners for questions.

QUESTIONS

Commissioner Meyer – thanked USGS for the useful presentation and asked what is the provisions for maintenance due to moving rocks and sediment. Does the USGS rely entirely on USGS staff or can they use other people as well?

Mr. Loving – replied that current policies within USGS, is that USGS can only use measurements made by their own staff, although other measurement information such as calibration can be shared from other agencies like CWRM, which is always helpful. At times the members of the community and informal observers report issues observed at the gage site.

Commissioner Katayama – asked with regards to establishing streamflows, how is the budget required to add additional stream gage stations, what is the outlook and what is the future timetable for the fiscal year in cooperation with USGS to meet our goals of establishing instream flows throughout the State?

Dr. Strauch – answered that the timetable in terms of planning how many new gages we can afford and the type of monitoring – whether its natural flow or for instream flow standards is carefully evaluated and CWRM works closely with USGS to develop that. Deputy Manuel and other DLNR staff were able to work with the legislature to increase last year's base budget to provide for more funding of USGS gaging stations, which is the largest single item in CWRM's annual budget. Key sites were determined which should be monitored long-term as index stations. A lot of time is spent by CWRM maintaining our IFS monitoring stations with limited capacity to expand and now we have an unknown budget for next fiscal year.

Commissioner Katayama – commented that we need more gaging stations but more that is installed, the higher the maintenance level; asked is that doable?

Mr. Loving – noted that to install new stations, USGS only has the capacity within staff and can at times be challenging with permitting, etc. USGS has capacity to install 8-10 new stations a year, not including other outside agency requests for new stations. CWRM has added six (6) new stations in the last couple years, which is the max that USGS can physically get done. Added that USGS has matching funds to combine with CWRM funds to pay for the sites but those funds had been flat from Congress for several years. So as new stations are added, currently USGS has no more money to put towards it.

Commissioner Buck – followed-up on Commissioner Meyers' comments on how can we engage the community for instream monitoring, assessment and gaging if given a budget?

Dr. Strauch – answered on monitoring the instream values; flow is complicated and challenging to monitor but understanding what a certain level of flow means for the instream uses such as traditional and customary practices, water quality, and recreational

needs is important. CWRM doesn't have a lot information and relies mostly on the Hawai'i Stream Assessment. Monitoring whether a particular restoration effort has met the goals of providing for the instream values, takes monitoring which is limited by staff time and travel budget. Having community members develop protocols to assess certain levels of flow would be meaningful. Engaging community participation to monitor stage flow at a particular site that they can report to us and may work but we don't have much room in our field work schedule to maintain additional equipment everywhere we need monitoring.

Commissioner Buck – asked if a budget was developed like other DLNR divisions (e.g., DOCARE) so CWRM could create a program like an adopt a stream so that community members could assist in that way?

Dr. Strauch – replied CWRM has not and that one of the biggest problems is access as a lot of the locations are on private lands; however with IIFS on Kaua'i or East Maui, it's more accessible or on public lands and is more practical to implement and could work with DOCARE or other division and get staff on the ground to engage with the community.

Mr. Loving – added that one of the challenges is for community to monitor streamflow. Whereas stream stages are easier to monitor. USGS would welcome training community members in making their own streamflow measurements; the methods and procedures on how to do it.

Chair Case – expressed her gratitude to USGS and the helpful presentation and wanted to draw the staff's attention to complaints regarding Kahoma Stream and the need for checking on those and prioritizing the gages on West Maui and referred to CWRM staff.

Dr. Strauch – answered that West Maui has been prioritized and there are five (5) new gages to be installed in the next few months, two in Kaua'ula, one in Kahoma, two in Kanahā and moving as quickly as possible, however the pandemic (COVID-19) has stalled installation, but moving forward.

Mr. Loving – replied that the Kahoma and Kaua'ula stations will hopefully be installed next month as it was originally scheduled for mid-March and we are now shooting for early June. Kanahā will be scheduled for the later part of this year as USGS is awaiting on the right-of-entry agreements to start installation.

Chair Case – thanked Brian and his team at USGS and noted the importance for all to understand the water tracking, measurements and allocation and appreciates USGS collaboration with the CWRM staff. Also thanked Ayron (and team) for the stream monitoring work as well.

Mr. Loving – thanked the Commission and appreciates their support of USGS and noted that DLNR (and CWRM) are the biggest cooperator.

PUBLIC TESTIMONY

Written testimony was received by Maui Councilmember Tamara Paltin

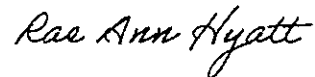
D. NEXT COMMISSION MEETINGS (TENTATIVE)

June 16, 2020 (TUESDAY)

July 21, 2020 (TUESDAY)

This meeting was adjourned at 11:21 pm.

Respectfully submitted,



RAE ANN HYATT
Secretary

OLA I KA WAI:



M. KALEO MANUEL
Deputy Director

Civil No. 19-1-0019-01 (JPC)

Defendant A&B/EMI's Exhibit AB-78

FOR IDENTIFICATION _____

RECEIVED IN EVIDENCE _____

CLERK _____