FROM: RYAN
DATE: 9/30/09
TO:
CHENG, C.
CHING, F.
CHONG, R.
DANBARA, S.
ENGLAND, D.
FUJII, N.
HARDY, R.
HOAGBIN, S.
ICE, C.
IMATA, R.
KAWAHARA, K.

WELL NUMBER: 7448-07
WELL NAME: Honopueo

application type: PUMP
1 WCP COVER LETTER x pump only, not necessary
2 WCP x pump only, not necessary
3 WELL CHECK PRINTOUT x pump only, not necessary
proposed well section issues?

4 PIP COVER LETTER
5 PIP

COMMENTS:
6 SDWB date rec'd issues?
7 WWB
8 CWB
9 HEER
10 LD
11 HP
12 LUC in CD
13 OCCL in CD
14 SMA in SMA
15 BWS (Oahu)

NOTES:
DRILLER: None
phone #/A fax #/A

TMK 5-4-009:024
PUMP CAPACITY
WELL OWNER Karl Toubman
LAND OWNER Karl Toubman
COMMENT DEADLINE 7/28/09

SUSPENSE DATE:

PLEASE:
See Me
1 Review & Comment
Take Action
Type Draft
2 Type Final
File
Xerox copies

Can we accept & issue this when check comes in?

• Can assume this app was received 9/25/09?
• we never did issue the 90 day deadline to 9/25/09, though notice should suffice, though there is nothing tying them to the 90-
October 13, 2009

Mr. Rodney Diamond
Diamond Construction and Water Well Drilling
HCR#3 Box 14073
Keeau, HI 96749

Dear Mr. Diamond:

Pump Installation Permit
Honopuwoe Well (Well No. 7448-07)

Enclosed are two (2) originals of your approved Pump Installation Permit for the captioned well(s) that authorize permanent pump installation work for your well(s). As part of the Chairperson's approval, the following special conditions were added and are part of your permit under Permit Condition 14:

Special Conditions

1. If the elevation benchmark needs to be altered, the permittee, well operator, and/or well owner shall ensure that the benchmark is transferred (or the well resurveyed) and documentation of the new benchmark shall be submitted to the Commission within sixty (60) days after the pump is installed.

2. Attached for your information are copies of the Department of Health's (DOH) review comments. Please note DOH's requirements related to discharge of effluent from well drilling and testing activities. Also, please contact the Noise Radiation and Indoor Air Quality Branch at 586-4700 to check compliance with construction noise permit requirements for this project.

The permittee is responsible for all conditions of the permit. This includes ensuring the submission of a completed Well Completion Report Part II form within sixty (60) days after the pump installation work is completed. Be advised that you may be subject to fines of up to $5,000 per day for any violations of your permit conditions starting from the permit approval date.

Please sign both permit originals and return one copy to the Commission office for our files.

IMPORTANT - Pump installation shall not commence until a fully signed permit is returned to the Commission.

Finally, this is notice that we have accepted your application as complete as of October 9, 2009.

If you have any questions, please call Ryan Imata of the Commission staff at 587-0255 or toll-free at 974-4000 (Hawaii), extension 70255.

Sincerely,

[Signature]
LAURA H. THEILEN
Chairperson

Enclosure

c: Kathie Pomeroy (with applicable comments – DOH SDWB, WWB, CWB)
USGS
Hawaii DWS
PUMP INSTALLATION PERMIT
Honopueo Well, Well No. 7448-07

Note: This permit shall be prominently displayed at the site until the work is completed

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management Administrative Rules, Section 13-168, entitled “Water Use, Wells, and Stream Diversion Works”, this document permits the installation of the pump installation for Honopueo Well (Well No. 7448-07) at TMK 5-4-009-024, Hawaii, subject to the Hawaii Water Conservation & Pump Installation Standards (HWCPIS - February 2004) which include but are not limited to the following conditions:

1. The Chairperson to the Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work covered by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules (HAR).

2. No withdrawal of water shall be made other than for testing until a Certificate of Pump Installation Completion has been issued by the Commission.

3. This permit shall be prominently displayed, or made available, at the site of construction until work is completed.

4. The pump installation permit shall be for installation of a 30 gpm rated capacity, or less, pump in the well. This permanent capacity may be reduced in the event that the pump test data does not support the capacity.

5. A water-level measurement access shall be permanently installed, in a manner acceptable to the Chairperson, to accurately record water levels.

6. The permittee shall install an approved meter or other appropriate means for measuring and reporting withdrawals and appropriate devices or means for measuring chlorides and temperature at the well head.

7. Well Completion Report Part II shall be submitted to the Chairperson within sixty (60) days after completion of work (please contact staff or visit www.hawaii.gov/dlnr/cwrm/resources_permits.htm for current form).

8. The permittee, well operator, and/or well owner shall comply with all applicable laws, rules, and ordinances, and non-compliance may be grounds for revocation of this permit.

9. The pump installation permit application and, if relevant, any related staff submittal approved by the Commission are incorporated into this permit by reference.

10. If the HWCPIS are not followed and as a consequence water is wasted or contaminated, a lien on the property may result.

11. Any variances from the HWCPIS shall be approved by the Chairperson prior to invoking the variance.

12. The work proposed in the pump installation permit application shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Chairperson upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Chairperson no later than the date the permit expires.

13. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.

14. Special conditions in the attached cover transmittal letter are incorporated herein by reference.

Date of Approval: October 9, 2009
Expiration Date: October 9, 2011

Laura H. Thiezen, Chairperson
Commission on Water Resource Management

I have read the conditions and terms of this permit and understand them. I accept and agree to meet these conditions as a prerequisite and underlying condition of my ability to proceed and understand that I shall not commence work until I and the pump installer have signed, dated, and returned the permit to the Commission. I understand that this permit is not to be transferred to any other entity. I also understand that non-compliance with any permit condition may be grounds for revocation and fines of up to $5,000 per day starting from the permit date of approval.

Installer’s Signature: ___________________________ C-57, C-57a, or A License #: BC-23379 Date: __________

Printed Name: Rodney Diamond Firm or Title: Diamond Construction and Water Well Drilling

Please sign both copies of this permit, return one copy to the Commission office, and retain the other for your records.

Attachments
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
APPLICATION FOR A WELL CONSTRUCTION / PUMP INSTALLATION PERMIT

WELL LOCATION INFORMATION

1. TUPUELE WEL (if already assigned) 2. WELL NAME: Horonpolee Well
3. LAND: Hawaii 4. TOW: 5 4 009
6. WELL OPERATOR'S NAME/COMPANY: well Operator's Contact same
7. WELL OPERATOR'S Mailing Address: this for a larger pump to replace the 3 gpm already in Well.
same
8. WELL OPERATOR'S Phone same: Well Operator's Fax same
9. LANDOWNER'S NAME/COMPANY: Landowner's Contact Same
10. LANDOWNER'S Mailing Address: PO Box 1566 Kapaau, HI 96755
12. LANDOWNER'S Phone: 889-5393
13. LANDOWNER's Fax: 808-899-1911
14. Proposed Surveyor name and license number (a surveyor is required for all Well Construction Permits) are required for some
Pump Installation Permits: Deferred

PROPOSED WELL CONSTRUCTION

b. Construction Type: [ ] Drilled [ ] Dug [ ] Shaft [ ] Tunnel
c. Method of Flow test X Flow meter
10. Proposed Work: [ ] Install New Pump. [ ] Replace Pump
11. Proposed Pumping Rate, gpm (gallons per minute) 30
12. Proposed Amount of Withdrawal, gpd (gallons per day) 500-1200

PROPOSED PUMP INSTALLATION

13. Method of flow test X Flow meter

OTHER LEGAL REQUIREMENTS If required, Items 22, and 23, must be obtained before the Commission can legally issue a permit:

21. Conservation District Use Permit (CDUP)
   [ ] Required, CDUP # , date approved
   [ ] Not Required (attach documentation from OCCL)
   [ ] I have not checked with OCCL about whether or not a CDUP is required. I understand that checking with the County prior to making this application will expedite my review. I further understand that issues raised by this agency may delay or result in denial of the permit issuance, or revocation of the permit after it is issued.

22. Special Management Area Permit (SMAP)
   [ ] Required, SMA # , date approved
   [ ] Not Required (attach documentation from applicable County agency)
   [ ] I have not checked with the county about whether or not an SMA is required. I understand that checking with the County prior to making this application will expedite my review. I further understand that issues raised by this agency may delay or result in denial of the permit issuance, or revocation of the permit after it is issued.

23. Historic Preservation Division (HPD) of the DLNR
   [ ] I have consulted with the HPD regarding potential impacts of well construction activities on historic sites. I have attached applicable documentation from the HPD.
   [ ] I have not consulted with the HPD regarding potential impacts of well construction activities on historic sites. I understand that checking with the HPD prior to making this application will expedite my review. I further understand that issues raised by this agency may delay or result in denial of the permit issuance, or revocation of the permit after it is issued.

Additional remarks, explanations, etc. (attach additional sheet if more space is needed)

WELL DRILLER (Must be filled out if application is for Well Construction)

Rodney K Diamond
HCR #3 Box 14073 Keaau HI 96749
Phone 987-8100
Fax 966-4129

PUMP INSTALLER (Must be filled out if application is for Pump Installation)

Rodney K Diamond
HCR #3 Box 14073 Keaau HI 96749
Phone 987-8100
Fax 966-4129

NOTE: Signing below indicates that the signatures understand and swear that the information provided is accurate and true to the best of their knowledge. Further, the signer understands that upon permit approval: 1) the proposed work to be completed within 2) the contractor shall submit to the Commission a copy of the completion report within 60 days after the completion date of the permitted work; and 3) in the event that the application is not completed correctly, any permit may be suspended until the item is brought into compliance, and any work done while the permit is in suspension may result in fines of up to $500/day.

WSI App Form 150567
PROPOSED WELL SECTION (Please attach schematic if different from diagram provided below)

Hole Diameter: n/a inches.

Minimum of 2' Radius & 4" Thick Concrete Pad (to contain benchmark surveyed to nearest 0.01 ft.)

Ground Elevation: n/a ft, msl*

Cement Grout: n/a fl. (min. 70% of distance from ground elevation to top of water surface or 500 ft., whichever is less).

Annular space between hole and casing (1.5" for positive displacement, 3" for other methods).

n/a in.

Total Depth:

n/a feet.

Material:

Rock or Gravel Packing:

n/a fl.

□ Crushed Basalt
□ Rounded Gravel

Estimated Water Level Elevation:

n/a ft, msl*

Please refer to the HAWAII WELL CONSTRUCTION AND PUMP INSTALLATION STANDARDS to ensure that your as-built is in compliance with applicable standards.

Solid Casing: (≥ 90% x (Ground Elev.-Water Level Elev.))

Total Length: n/a ft.

Nominal Diameter: 6 in.

Wall Thickness: S40 in.

Bottom Elevation: n/a ft, msl*

Open Casing: □ Perforated □ Screen

Total Length: n/a ft.

Nominal Diameter: 6 in.

Wall Thickness: S40 in.

Bottom Elevation: n/a ft, msl*

Note: Neither bentonite nor mud should be used in saturated zone during drilling.

Open Hole:

Length: n/a ft.

Diameter: n/a in.

Bottom Elevation: n/a ft, msl*

- approximate elevation must be referenced to mean sea level (msl) at time of application filing. Final elevations of well components shall be submitted in the Well Completion/Well Abandonment reports and referenced to a benchmark which has been established by a surveyor licensed by the State.

- Non-salt water Basal Wells - bottom elevation of well shall not be deeper than 1/4 of aquifer thickness or, in Elevation of Well Limit = (Water Elevation - )

Type: Estimated + 2 ft. Water Level Elev. Bottom Elevation of Well Limit = (2 - ) x -18.5 ft.

 Lid Casing Material:

- Bon Steel: compliant with another (check one or more):
  □ ANSI/AWWA C200 □ API Spec. 5L □ ASTM A53 □ ASTM A139
  □ AWWA C242 (or A606) □ Type E □ Type S □ Grade B □ Other
  □ AWWA D420 (production wells) □ ASTM A312 (monitor wells)

- S Plastic conforming to ASTM F480 and ASTM D1527: (check one) □ Schedule 40 □ Schedule 80

- C Plastic conforming to ASTM F480 and (ASTM D1785 or ASTM D2241): (check one) □ Schedule 40 □ Schedule 80 □ Schedule 120

- Ermoset Plastic: (check one) □ Filament Wound Resin Pipe conforming to ASTM D2996

- Centrifugally Cast Resin Pipe conforming to ASTM D2997

- Reinforced Plastic Mortar Pressure Pipe conforming to ASTM D3517

- Glass Fiber Reinforced Resin Pressure Pipe conforming to AWWA C950

- PTFE Fluorocarbon Tubing conforming to ASTM D3296

- FEP Fluorocarbon Tubing conforming to ASTM D3296

Open Casing Material:

- Bon Steel: compliant with another (check one or more):
  □ ANSI/AWWA C200 □ API Spec. 5L □ ASTM A53 □ ASTM A139
  □ AWWA C242 (or A606) □ Type E □ Type S □ Grade B □ Other
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- Reinforced Plastic Mortar Pressure Pipe conforming to ASTM D3517

- Glass Fiber Reinforced Resin Pressure Pipe conforming to AWWA C950

- PTFE Fluorocarbon Tubing conforming to ASTM D3296

- FEP Fluorocarbon Tubing conforming to ASTM D3296

WCPI App. Form 10/05/04
Spoke with Lori Diamond about the check since haven’t received yet for the amended application. She explained the owners had been insisting that they provide a special order pump that would run on solar power. Recently Pomeroy says the 30 gpm is too expensive and there is a delay for them to do the work now. I let Lori know that the 10/13/09 deadline is really the well owners burden. Haven’t gotten the check yet for the amended application and it didn’t sound like Diamond will be able to remove the pump by the 90-day deadline. Lori said if they ran a camera down to check the well (and some collapsable black tube in the well) if that would be good enough and I said no, the 3 gpm is suppose to be out by 10/13/09 and is the well owners burden. Have you had any other communications with the well owner since the 8/24/09 letter? - nothing in the file.
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FIP? YO.K waiting for chills to sign

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**COMMISSION ON WATER RESOURCE MANAGEMENT**
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**TOTAL** $150.00

**REMARKS:**

LINE (1) Fines for Well No. 7448-07
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LINE (9)
LINE (10)
August 24, 2009

Ms. Kathie Pomeroy  
P.O. Box 1556  
Kapaau, HI 96755

Dear Ms. Pomeroy:

Notice of Commission Action  
Honopueo Well (Well No. 7448-07)

This letter serves as your official notice of action taken by the Commission on Water Resource Management (Commission) on the subject application. By a unanimous vote of the Commission at their meeting on July 15, 2009, the Commission:

A. Found the applicant in violation of HRS §174C-84(a) and HAR§13-168-7(a).

B. Imposed a fine of $150 on the applicant as summarized in Exhibit 6 of the staff submittal, payable within 30 days.

C. Approved an after-the-fact Pump Installation Permit, subject to the following special condition:

1. The existing installed 3 gpm pump shall be removed and reinstalled by contractor with a C-57, C-57a or A license within 90 days, and a Well Completion Report Part II shall be submitted within 30 days of completion of that work. Prior to commencement of work, the contractor shall sign and return the pump installation permit to our office.

D. Suspended any current, pending or future applications related to Toubman/Pomeroy until the fines are paid and the applicant/driller completes the removal/reinstallation of the 3 gpm pump for this well.

If you have any questions, please contact Ryan Imata of Commission staff at 587-0255 or toll-free at 974-4000 (Hawaii), extension 70255.

Sincerely,

[Signature]

KEN C. KAWAHARA, P.E.  
Deputy Director

RI:ss
To: Mr. Larry Konda, Hawaii State Civil Defense  

From: Gordon Tribble, Director, USGS Pacific Islands Water Science Center  

December 11, 2006

Larry,

To follow up on our telephone conversation, I am providing the following information about the well at Kapa'au (State well number 7448-07) on property owned by Karl Toubman and Kathie Pomeroy.

1) USGS is currently the legal owner of the well. The USGS is planning to transfer ownership of the well to Toubman and Pomeroy, pending an agreement between Toubman/Pomeroy and Hawaii DWS.

2) Toubman and Pomeroy are authorized to use this well as an emergency water source because of earthquake damage to the Kohala Ditch system. This authorization will continue until the Ditch system is restored or emergency situation no longer exists.

3) The well was drilled by the USGS in 1989 to study ground water resources in the area. The well is currently not used, but is not considered abandoned.

I hope this information is helpful. Please feel free to contact me if you have any questions.

Cc: Karl Toubman
June 9, 2009

TO: Morris Atta, Administrator
   Land Division

FROM: Ken C. Kawahara, P.E., Deputy Director
       Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
         Honopueo Well (Well No. 7448-07) TMK S-4-009:024

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump
Installation permit application.

We would appreciate your comments on the captioned application with regard to the programs,
plans, and objectives specific to your division. Please respond by returning this cover memo form by
June 29, 2009. If we do not receive comments or a request for additional review time by this date, we
will assume you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this
permit application, request additional information, or request additional review time, please contact Ryan
Imata of the Commission staff at 587-0255.

RI:ss
Attachment(s)

RESPONSE:

[ ] A water lease/permit is required of this applicant and an application for such will be requested by our
division.

X[ ] A water lease/permit is not required of this applicant.

[ ] A water lease/permit has been obtained by the applicant through lease no.

[ ] Other relevant Land Division rules/regulations, information, or recommendations are attached.

[ ] No objections

X[ ] Other comments: Original source of private title is Grant #2750 issued prior to statehood.

Contact Person: Gary Martin
Phone: 587-0421

Signed: Gary Martin Date: Jun 9 2009
June 9, 2009

TO: Honorable Chiyome L. Fukino, M.D., Director
Department of Health
Attention: Tomas See, Chief, Wastewater Branch
Stuart Yamada, Chief, Safe Drinking Water Branch
Alec Wong, Chief, Clean Water Branch
Dr. Keith Kawoaka, Office of Hazard Evaluation and Emergency Response

FROM: Laura H. Thielen, Chairperson
Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
Honopueo Well (Well No. 7448-07)

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

We would appreciate your comments on the captioned application for any conflicts or inconsistencies with the programs, plans, and objectives specific to your department. Please respond by returning this cover memo form by June 29, 2009. If we do not receive comments or a request for additional review time by this date, we will assume that you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this permit application, request additional information, or request additional review time, please contact Ryan Imara of the Commission staff at 587-0255.

RI: ss
Attachment(s)

RESPONSE:

[1] This well qualifies as a source which will serve as a source of potable water to a public water system (defined as serving 25 or more people at least 60 days per year or has 15 or more service connections) and must receive Director of Health approval prior to its use to comply with Hawaii Administrative Rules (HAR), Title 11, Chapter 20, Rules Relating to Potable Water Systems, §11-20-29.

[1] This well does not qualify as a source serving a public water system (serves less than 25 people or more people at least 60 days per year or 15 service connections) and if the well water is used for drinking, the private owner should test for bacteriological and chemical presence before initiating such use and routinely monitor the water quality thereafter. However, if future planned use from this source increases to meet the public water system definition then Director of Health approval is required prior to implementation.

[1] If the well is used to supply both potable and non-potable purposes in a single system, the user shall eliminate cross-connections and backflow prevention by physically separating potable and non-potable systems by an air gap or an approved backflow preventer, and by clearly labeling all non-potable outlets with warning signs to prevent inadvertent consumption of non-potable water. Backflow prevention devices should be routinely inspected and tested.

[1] It does not appear that this well will be used for consumptive purposes and is not subject to Safe Drinking Water Regulations.

[1] For the applicant's information, a source of possible wastewater contamination (i.e. 1) is not located near the proposed well site (information attached).

[1] An NPDES permit is required.

[1] Other relevant DOH rules/regs, information, or recommendations are attached.

[1] In the event that the location of the well changes but is still within the parcel described on this application, our division considers the comments to still be applicable, and we do not need to review the new location.

[1] No comments/objections

Contact Person: __________________________ Phone: 587-4305
Signed: __________________________ Date: 6-17-09

Laura H. Thielen, Chairperson
June 9, 2009

TO: Honorable Chiyome L. Fukino, M.D., Director

Department of Health
Attention: Tomas See, Chief, Wastewater Branch
Stuart Yamada, Chief, Safe Drinking Water Branch
Alec Wong, Chief, Clean Water Branch
Dr. Keith Kawaoka, Office of Hazard Evaluation and Emergency Response

FROM: Laura H. Thielen, Chairperson
Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
Honopueo Well (Well No. 7448-07)

(3) 54-009: 024

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

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Please find the attached maps to locate the proposed well. If you have any questions about this permit application, request additional information, or request additional review time, please contact Ryan Imata of the Commission staff at 587-0255.

RI:ss
Attachment(s)

RESPONSE:

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This well does not qualify as a source serving a public water system (serves less than 25 people or more people at least 60 days per year or 15 service connections) and if the well water is used for drinking, the private owner should test for bacteriological and chemical presence before initiating use. If use then Director of Health approval is required prior to implementation.

If the well is used to supply both potable and non-potable purposes in a single system, the user shall eliminate cross-connections and backflow connections by physically separating potable and non-potable systems by an air gap or an approved backflow preventer, and by clearly labeling all non-potable spigots with warning signs to prevent inadvertent consumption of non-potable water. Backflow prevention devices should be Routinely inspected and tested.

It does not appear that this well will be used for consumptive purposes and is not subject to Safe Drinking Water Regulations.

For the applicant's information, a source of possible wastewater contamination is located near the proposed well site (information attached).

An NPDES permit is required.

Other relevant DOH rules/regulations, information, or recommendations are attached.

In the event that the location of the well changes but is still within the parcel described on this application, our division considers the comments to still be applicable, and we do not need to review the new location.

Contact Person: Dane Hiromasa, Eng. in Kona

Signed: [Signature]

Date: 06-16-09
June 9, 2009

TO: Honorable Chiyome L. Fukino, M.D., Director
Department of Health
Attention: Tomás See, Chief, Wastewater Branch
Stuart Yamada, Chief, Safe Drinking Water Branch
Alec Wong, Chief, Clean Water Branch
Keith Kawaoka, Office of Hazard Evaluation and Emergency Response

FROM: Laura H. Thielen, Chairperson
Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
Honopueo Well (Well No. 7448-07)

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

We would appreciate your comments on the captioned application for any conflicts or inconsistencies with the programs, plans, and objectives specific to your department. Please respond by returning this cover memo form by June 29, 2009. If we do not receive comments or a request for additional review time by this date, we will assume that you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this permit application, request additional information, or request additional review time, please contact Ryan Imata of the Commission staff at 587-0255.

R: ss
Attachment(s)

RESPONSE:

[1] This well qualifies as a source which will serve as a source of potable water to a public water system (defined as serving 25 or more people at least 90 days per year or has 15 or more service connections) and must receive Director of Health approval prior to its use to comply with Hawaii Administrative Rules (HAR), Title 11, Chapter 20, Rules Relating to Potable Water Systems, §§11-30-27

[1] This well does not qualify as a source serving a public water system (serves less than 25 people or more people at least 90 days per year or 15 service connections) and if the well water is used for drinking, the private owner should test for bacteriological and chemical properties before initiating such use and routinely monitor the water quality thereafter. However, if future plans are made from this source increases to meet the public water system definitions then Director of Health approval is required prior to implementation.

[1] If the well is to supply both potable and non-potable purposes as a single system, the user shall eliminate cross-connections and backflow preventers by physically separating potable and non-potable systems by an air gap or an approved backflow preventer, and by clearly labeling all non-potable systems with warning signs to prevent inadvertent consumption of non-potable water. Backflow prevention devices should be routinely inspected and tested.

[1] It does not appear that this well will be used for potable purposes and is not subject to Safe Drinking Water Regulations

[1] For the applicant's information, a source of possible wastewater contamination [(1)(1)] is not located near the proposed well site (information attached)

[1] An NFDES permit is required

[1] Other relevant DOH rules/regulations, information, or recommendations are attached

[1] In the event that the location of the well changes due to pull within the parcel described on this application, our division considers the comments to still be applicable, and we do not need to review the new location

[1] No comments/objections

Contact Person: Miguel Mihaylo
Phone: 586-4253

Signed: __________________________  Date: 6/15/09
Karl Toubman and Kathie Pomeroy  
P.O. Box 1556,  
Kapa‘au, Hawaii 96755  

Commission on Water Resource Management  
P.O. Box 621  
Honolulu, Hawaii 96809  

June 9, 2008  

Dear Water Commission members,  

Please find enclosed the two forms requested by Mr. Ryan Imata:  

   1) Application for Well Pump Installation Permit with attachments (10 copies)  
   2) Well Completion Report, Part 2 (1 copy)  
   3) We have also made 10 copies of this cover letter with attachments.  

Mr. Imata asked us to explain why we installed a pump without a permit. It was due to our own misunderstanding of the requirement. We’ll tell you our story about what has taken place, and hope that the Commission will be able to take these circumstances into account when deciding whether or not to process our pump permit after the fact. Please bear with our cumbersome paperwork here. We want you and Gordon Tribble (Director, USGS Pacific Islands Water Science Center) to see documentation of our track record so far, rather than relying solely on our word or future intentions. In requesting that this permit be accepted and processed, if it is of any benefit for our particular case, we want to demonstrate to you that the water resource has been and will be used for the public good.  

The pump was installed on January 11, 2008 by Karl Toubman with the help of two other men. We see on the Pump Permit that a licensed pump installer was required and we did not have one (although, in retrospect, we must have consulted with at least three of them, not realizing at the time that it was a licensed profession). One man who helped us had installed two pumps before in a ranch well in California. The other man has a business installing irrigation systems and helped to complete the ditch water irrigation system for our community association, which serves 12 lots and about 600 acres (no ditch water now, however). Karl Toubman, who has a business installing solar and wind power systems, installed the solar panels and did the wiring for the pump. Utmost care has always been taken not to contaminate the wells. Our farm is organic and no poisons that could mire the water table are used. In fact, we were the ones who told Gordon Tribble in 2003 that the well covers were open and rusted through. In response to this update, he immediately had all the well covers in Kohala replaced and locked.  

To give you an example of community benefit, Kathie Pomeroy secured a USDA grant ($10,000) for the solar/wind powered pump. The grant was from the 2006 Hawaii Agricultural Development Program (HADP) via the Big Island Resource, Conservation, and Development Council to interface with Ka Hana Noe‘au, a youth program (see enclosed letter from Mr. Fuertes to Mr. Skipper, dated 6/6/06). Karl and Kathie’s farm, Kohala Medicinal Herb Farm,
was honored to be awarded this grant for two consecutive years, which is very unusual (three HADP award letters enclosed). The grant, awarded before the 10/15/06 earthquake, was to be used for other purposes, including completion of irrigation laterals for ditch water. Altering the grant budget to install the pump was allowed by the USDA inspector because, as he judged it, having ag water was more important than completing the irrigation system. (As you know, the Kohala ditch water system was destroyed by the earthquake.) The grant did not involve submitting permits and we were still under the apparently mistaken impression we that didn’t need one.

How did we get this impression? It goes back to just after the earthquake. Please find enclosed the December 11, 2006 letter from Gordon Tribble to Larry Konda of Hawaii State Civil Defense which authorizes us to use the well temporarily. This letter is not the reason for our confusion, rather, it was the scramble to garner funds to pump well 7448-07 and two others (owned by Surety Kohala Corp.) in this district to supply emergency water. We were a humble “tag along” contingent of an emergency effort by hydrologists, Surety, FEMA, and county and state civil defense to get water back into the ditch. The money (over $180,000 as we recall) was being channeled from a Dept. of Defense fund on Oahu via the Hawaii Economic Development Agency. We were to get $60,000 to pump the well on our property to the 600 surrounding acres of ag land since the transfer pipes were already installed. We were to get a 25 horsepower pump and 45 hp generator, or really any pump and generator civil defense could come up with (they had none). In the end, only $30,000 would be available to us from the fund. We formally declined the $30,000 because it would mean our neighbors would have to supply the matching $30,000. We could not see organizing the community association for such money, even if anyone had it, as the well use was authorized only temporarily by Gordon Tribble and title to the well is still unclear. An alternate source of water became available and we were able to use $5,000 of that fund to install a pipe to get water for the community association. Unfortunately, nothing was in writing (from Surety) and that was discontinued not long after the pipe was installed. It is unlikely that ditch water will return to much of Kohala because two of the three lateral feeder pipes are old and need replacing, at an estimated cost of $800,000 for the pipe to our area. People are looking for alternatives, and we are lucky to have the wells on our property, so we used one as soon as we were able, which was when we got the HADP grant budget changed to buy the necessary equipment.

Because of these events after the earthquake, everything was geared toward supplying water any way possible. Civil defense inspected the well and its access to see how they could bring equipment in. An “inner circle” of well connected experts were finding money for us to pump well 7448-07. It was as if we were swept up in some wave to provide water because we could. It simply didn’t occur to us that paperwork was needed, and no one else ever mentioned it. The only paperwork ever requested by these authorities was the letter enclosed from Mr. Tribble to Mr. Konda. We thought any permits had been waived. In fact, the members of our community association, who had been waiting three years for the DWS to supply us with county water (meters and transfer pipes already paid for), was able to finally get county water only a few months after the earthquake. An additional year’s worth of steps and paperwork were waived by the DWS. So we simply had a mindset that overlooked this important detail of getting the pump
permit. It was our mistake entirely, but this gives you some background as to the oversight.

Gordon Tribble has been helpful in gaining USGS permission to pump well 7448-07. With the help of the USGS solicitor he has taken time to navigate the unfamiliar territory of our case, a process which started seven years ago. Gordon researched and cited the USGS Policy Memo 87.17 that allows the USGS to turn ownership of a USGS well over to the land owner. Recently, however, various Title Reports for our property raised the fundamental question of well ownership. With all due respect to the USGS, Gordon Tribble, and the Water Commission, that is why we have filled out the Well Completion Report, Part 2, Item # 10 (“well owner”) as “USGS and/or Toubman/Pomeroy?” Gordon has offered to consult the USGS solicitor regarding the necessary documentation for establishing well ownership as soon as he is able, probably this month.

We would like to get all these loose ends straight as we are increasingly feeling pressure to supply water to neighbors. We had some hesitation about an agricultural water cooperative, but now think it is possible to do it without encumbering our property too much. We are now in the initial stages of looking into this with the USDA Rural Development Agency. If an ag water cooperative is possible, we would need to get a bigger pump, a wind turbine, more solar panels, and generator back up, and the necessary reservoir(s) to serve this area. A cooperative would make substantial federal funding available to us. Of course, we would not make the same mistake twice and install any equipment without the proper permits.

Additionally, we would like to better understand our chances of continuing to use the well as it is or even possibly expand its use since on June 3 (see enclosed USDA email) the USDA requested Kathie’s grant application for a Community Food Project (due July 2). This is a $300,000 grant involving multiple stakeholders from the community over a three year period. The enclosed Letter of Intent gives more details if you’re interested. The organizing principle for this is also an ag cooperative. We are not yet sure if this would include an ag water coop (ditch and /or well water) or if that would be separate, but we do know that the availability of the well water, even at its current maximum level of 1440 gal/day, is key to the success of this project as we would use our land and irrigation as a demonstration farm area and for community gardens.

Kohala ditch water is not likely to become available again to our community association, although our community association still trying to get it back, also possibly via a co-op to get the $800K to fix the feeder pipe. Ideally we would have ditch water and well water. However, if we did get ditch water again, and another earthquake happens, the ditch could go down again. The well seems more reliable in such a scenario, which, although we hesitate to even feature it, is entirely possible. If the Community Food Project gets funded, or for the next ag grant we secure, we would like to use the well water as much as possible. Our neighbors continue to press us to expand the well production to make ag endeavors possible here. We have explained the current limitations to this and that we are trying to work it out via the proper channels. Their access to irrigation water would augment any efforts to grow crops/raise livestock, for the Community Food Project or otherwise. Using county water, even with our ag rates, is quite expensive by
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This is probably more than you would like to know, but we thought it was better to tell more than to tell less. We take full responsibility for overlooking the pump permit, but perhaps you can now better understand how we managed to do so. Please accept our apologies and accept this belated application, assuming the pump installation has met the standards. If they have not been met, we will make every effort to bring them up to par.

Sincerely,

Karl Toubman

Enclosures:

1) Application for Well Pump Installation Permit (10 copies)
   i) USGS topographic map with well location
   ii) Property map (TMK 3/5-4-9:24) w/ well site and access schematic
   iii) Photograph of well site

2) Well Completion Report, Part 2 with attachments (1 copy)
   i) pump performance curve
   ii) photo of well head

3) This cover letter with enclosures (10 copies)
   i) Letter from Gordon Tribble to Civil Defense dated 12/11/06
   ii) HADP 2005 & 2006 grant award letters (3 letters)
   iii) Email from USDA requesting grant proposal from K. Pomeroy dated 6/3/08
   iv) Letter of Intent for USDA Community Food Project dated 1/9/08
   v) Letter from David Fuertes, dated 6/6/06

Cc:

Gordon Tribble, Director, USGS Pacific Islands Water Science Center
Karl Toubman and Kathie Pomeroy  
P.O. Box 1556, Kapa‘au, Hawaii 96755

Commission on Water Resource Management  
P.O. Box 621 Honolulu, Hawaii 96809

June 9, 2008

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Sincerely,

Karl Toubman

Kathie Pomeroy

Enclosures:

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   iii) Photograph of well site

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   i) pump performance curve
   ii) photo of well head

3) This cover letter with enclosures (10 copies)
   i) Letter from Gordon Tribble to Civil Defense dated 12/11/06
   ii) HADP 2005 & 2006 grant award letters (3 letters)
   iii) Email from USDA requesting grant proposal from K. Pomeroy dated 6/3/08
   iv) Letter of Intent for USDA Community Food Project dated 1/9/08
   v) Letter from David Fuertes, dated 6/6/06

Cc:

Gordon Tribble, Director, USGS Pacific Islands Water Science Center
United States Department of the Interior  
U. S. GEOLOGICAL SURVEY  
Pacific Islands Water Science Center  
677 Ala Moana Blvd #415  
Honolulu, HI 96813  
808-587-2405

To: Mr. Larry Konda, Hawaii State Civil Defense  

From: Gordon Tribble, Director, USGS Pacific Islands Water Science Center  

December 11, 2006

Larry,

To follow up on our telephone conversation, I am providing the following information about the well at Kapa'au (State well number 7448-07) on property owned by Karl Toubman and Kathie Pomeroy.

1) USGS is currently the legal owner of the well. The USGS is planning to transfer ownership of the well to Toubman and Pomeroy, pending an agreement between Toubman/Pomeroy and Hawaii DWS.

2) Toubman and Pomeroy are authorized to use this well as an emergency water source because of earthquake damage to the Kohala Ditch system. This authorization will continue until the Ditch system is restored or emergency situation no longer exists.

3) The well was drilled by the USGS in 1989 to study ground water resources in the area. The well is currently not used, but is not considered abandoned.

I hope this information is helpful. Please feel free to contact me if you have any questions.

Co: Karl Toubman
Big Island Resource Conservation & Development

August 30, 2006

Ms. Kathie Pomeroy
Kohala Medicinal Herb Farm
P.O. Box 1556
Kapa’au, Hi 96755

Dear Kathie,

The Big Island Resource Conservation and Development Council, Inc. is pleased to announce that you have been awarded $15,000.00 through the FY2006 Hawaii Agricultural Development Program. Your cost share is $1500.00.

You will not receive funding from Fiscal Year 06 until your current project is completed and funds exhausted and a final report submitted to the project manager.

A meeting is scheduled for September 8, 2006 at 9:30am in our office located at the Hilo Lagoon Centre, 101 Aupuni Street, Suite 229A. This meeting is to explain the Hawaii Agricultural Development Program and awardees’ responsibilities. If you have any questions, please feel free to call 933-6996.

Mahalo,

[Signature]

Larry M. Komata
President
July 15, 2005

Ms. Christine Richardson
Ms. Kathie Pomeroy
North Kohala Community Resource Center
P.O. Box 2
Hawi, Hawaii 96719

Aloha,

The Big Island Resource Conservation and Development Council is pleased to announce that you have been awarded $10,000.00 through the FY2004 Hawaii Agricultural Development Program. A meeting is scheduled for July 25, 2005 at 1:30pm in the RC&D Conference Room to inform you of the requirements of this program. Please call the office at 933-6996 to let us know you will be attending.

Mahalo,

Larry M. Komata
President
September 21, 2006

Ms. Kathie Pomeroy  
Kohala Medicinal Herb Farm  
P.O. Box 1556  
Kapa’au, Hi  96755

Dear Ms. Pomeroy,

You have been awarded an additional $1,000.00 for your project with the Hawaii Agricultural Development Program. These funds must be spent by December 31, 2006.

Please submit a budget to our office as to how the funds will be expended as soon as possible.

If you have any questions, please call the office at 933-6996.

Sincerely,

Larry M. Komata  
President
Karl Toubman

From: "Karl Toubman" <karltoub@hawaiiantel.net>
To: "Karl Toubman" <karltoub@hawaiiantel.net>
Sent: Sunday, June 08, 2008 8:53 AM
Attach: LOI MS word.docx; WC cover letter 2.wps.docx
Subject: Fw: Re-start 08 Community Food Projects Competition

From: Tuckermannty, Elizabeth <ETUCKERMANTY@csrees.usda.gov>
Date: Tue.
Subject: Re-start 08 Community Food Projects Competition
To: "Tuckermannty, Elizabeth" <ETUCKERMANTY@csrees.usda.gov>

Applicants:
You are receiving this email because you have applied for the Community Food Projects Program (CFP) 2008. Please proceed with your proposal development, based on your accepted letter of intent.
The Farm Bill has passed into law as of May 22, 2008. The CFP did receive funding.

The Community Food Projects Competitive Grant Program is re-opened immediately.

The deadline for submission of proposals is 5:00 pm Eastern Time on June 08, 2008.

A notice will go out from Grants.gov announcing Request for Applications (RFA) changes, however, the only change is the re-establishment of a deadline date for proposals. There are no other changes.

Please follow instructions within the RFA carefully (www.csrees.usda.gov under "funding Opportunities") and the CSREES Grants.gov Application Guide (http://www.csrees.usda.gov/funding/grant_forms/electronic_app_guide.pdf). Updated RFA and grants.gov information should be complete by the end of the day.

Remember electronic submission is mandatory and it increases the amount of time you need to submit your proposal.

Elizabeth Tuckermannty, Ph.D.
National Program Leader
Competitive Programs, CSREES, USDA
Telephone: 202-205-0241 Fax: 202-401-6488
Email: etuckermannty@csrees.usda.gov

CSREES' mission is to advance knowledge for agriculture, the environment, human health and well being, and communities.
January 9, 2008

Project: Community Food Project $100,000 per year for Three Years

Applicant: Big Island Resource, Conservation, and Development
Hilo Lagoon Center
101 Aupuni Street, Suite 229A
Hilo, Hawaii 96720

Title: Kohala Community Food Cooperative

Key Personnel: Project Director
Dr. Kathie Pomeroy, Naturopathic Physician
Kohala Medicinal Herb Farm

Project Location: District of North Kohala, Big Island (Island of Hawaii), Hawaii.
21 square miles, mainly agricultural land

Purpose:

Hawaii imports about 90% of its food supply. The general purpose of the Kohala Community Food Cooperative is for North Kohala to become 50% self-sufficient in its food supply, using only organic, non-GMO growing methods, by the year 2013. The specific purpose of this project is to create a cooperative regional model which organizes existing resources and develops the infrastructure for growth. This model would be reproducible throughout the state of Hawaii, thus promoting regional self-sufficiency and reduced import dependence.

Approaches:

North Kohala district, not unlike many other districts in Hawaii, enjoyed a thriving sugar plantation economy for many decades before the '70s. Many of the elements necessary for food sustainability and a local economy are already in place. What is needed is organizing the existing human and food resources and then “growing them” into a system that perpetuates itself for the common good of the people and the land.

Community meetings for becoming more self-sufficient for food and energy needs in the Kohala District are already underway. Additionally, in October of 2007 the first “Food Summit” in Hawaii was held on this island and addressed this very issue. It is evident that the Big Island, and particularly this community, which is small, capable, and interested, is ripe for this endeavor.

In order to accomplish the objectives of this project, an agricultural cooperative would be created. Most of Hawaii’s farms are small and the cooperative would allow for lower costs of production, processing, transportation, marketing and help to achieve economies of scale. The cooperative will be designed to be all inclusive, from the farmer to the consumer, thus engaging the entire community in the project of growing food, be it for market or for their own household. This approach also provides economic opportunity to under-represented producers.

To ensure steady product supply, a core group of employees to tend to row crops and processing will be necessary. Our intent at Kohala Medicinal Herb Farm is to start small with 2-3 part-time farm laborers per quarter acre, depending on what is grown. The cooperative model makes farm workers stakeholders in the cooperative with voting power and a fair share in the profits.

Kohala Medicinal Herb Farm intends to expand its production of culinary and medicinal herbs, and focus on native Hawaiian crops such as taro, sweet potato, palms, and breadfruit. Other crops of interest are tomatoes and mushrooms. Livestock including cattle, poultry, sheep, goats, and rabbits add to the local food supply and provide manure for the composting operation which is central to the success of any organic small farm, especially in Hawaii where the cost of soil amendments is exorbitant due to freight charges.
Objectives:

A principal income stream is a value added product line of locally grown and processed organic foods grown on small farms. To accomplish this, the Kohala community needs a central processing area with a certified community kitchen, food dehydrator, oil press, storage facility, and transport hub. The value added products, as well as produce, fish, meat, dairy, and eggs, will be sold at farmers' markets, local grocers and restaurants, and the luxury resorts and restaurants of the Kohala Coast. A network of Community Supported Agriculture (CSA) will provide reasonably priced organic food to residents and further augment income to the small farms. This economic model will be reproducible in any district in the state of Hawaii.

A well developed educational program, both didactic and hands on, is central to the success of this project. Topics such as nutrition, operation of the processing facility, composting, community and backyard "victory gardens," making herbal preparations, and understanding the cooperative model, all geared toward specific audiences, would help ensure the long term success of this venture.

Kohala Medicinal Herb Farm will become Kohala's first demonstration farm for these objectives and others would inevitably follow as the model is designed to reflect each district's unique local flavor, yet still be reproducible throughout the state. Such farms will enhance Hawaii's growing demand for agricultural and health tourism, thus preserving the agricultural resources and rural beauty of the islands.
June 6, 2006

Stephen Skipper
Big Island RC & D
101 Aupuni St. #229A
Hilo, Hi 96720-2461

Dear Sir:

Ka Hana No'ea is a DOE grant funded mentorship program. It consists of 7 mentorship areas that focus on Hawaiian culture: Taro Growing, Hawaiian Plant Propagation, Biotechnology, Hula, Wildlife Conservation, Hawaiian Culinary Arts and Hawaiian Saddle Making. The purpose of the program is to support the community vision of health and wellness and to create positive programs for our youth in deterring the substance abuse problem in the Kohala community. The Kohala Intergenerational Center (K.I.C) is a community facility with a certified kitchen and is funded by Ka Hana No'ea. Ka Hana No'ea and K.I.C are collaborating with Kohala Medicinal Herb Farm (KMHF) to create youth programs in entrepreneurial and self-development skills. KMHF can support our program by providing irrigated, organic farm land conveniently located near our certified kitchen. In addition, Kathie, Karl, and their son, Jesse, will provide person power to facilitate the interface of the organizations. We think this will be beneficial to the Kohala community.

Sincerely,

[Signature]

David Fuertes
Chairman
**STATE OF HAWAI‘I**
**DEPARTMENT OF LAND AND NATURAL RESOURCES**
**COMMISSION ON WATER RESOURCE MANAGEMENT**
**APPLICATION FOR A WELL CONSTRUCTION / PUMP INSTALLATION PERMIT**

**WELL LOCATION INFORMATION**

1. STATE WELL NO. (if already assigned)
   - 71-48-07

2. WELL NAME
   - Honopueo

3. ISLAND
   - Hawaii

4. TAK
   - 315.4

5. WELL OPERATOR'S NAME/COMPANY
   - Karl Toubman

6. LANDOWNER'S NAME/COMPANY
   - Toubman/Pomeroy

7. WELL OPERATOR'S MAILING ADDRESS
   - P.O. Box 1556 Kapoho HI 96765

8. LANDOWNER'S MAILING ADDRESS
   - Landowner's Contact

9. WELL OPERATOR'S PHONE
   - 889-5393

10. LANDOWNER'S PHONE
    - Same

11. WELL OPERATOR'S FAX
    - 889-5393

12. LANDOWNER'S FAX
    - Same

13. LANDOWNER'S E-MAIL
    - karl.toubman@hawaiiantel.net

14. PROPOSED WELL CONSTRUCTION

<table>
<thead>
<tr>
<th>Proposed Work</th>
<th>Proposed Pump Installation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construct New Well</td>
<td>N/A</td>
</tr>
<tr>
<td>Modify Existing Well</td>
<td>N/A</td>
</tr>
<tr>
<td>Abandon/Seal Well</td>
<td>N/A</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

15. Proposed Pump Rate, gpm (gallons per minute)
   - 2-3

16. Proposed Amount of Withdrawal, gpd (gallons per day)
    - 1440 gpd

17. Is this well part of a battery of wells?
    - Yes

18. Proposed Surveyor name and license number (a surveyor is required for all Well Construction Permits and may be required for some Pump Installation Permits)
    - None.

19. Pump installed by landowner (K. Toubman)

**PROPOSED PUMP INSTALLATION**

10. N/A

11. Install New Pump

12. N/A

13. N/A

14. N/A

15. N/A

16. N/A

17. N/A

18. N/A

19. N/A

20. N/A

**OTHER LEGAL REQUIREMENTS**

21. Conservation District Use Permit (CDUP)

22. Special Management Area Permit (SMAP)

23. State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources

**NOTE:** Signing below indicates that the signatories understand and swear to the information provided is accurate and true to the best of their knowledge.

Further, the signatories understand that upon permit approval: 1) the proposed work is to be completed within two (2) years of the approval date; 2) the contractor shall submit to the Commission a well completion/bandonment report within 60 days after the completion date of the permitted work; 3) in the event that the application is not completed correctly, any permit may be suspended until the item is brought in compliance, and any work done while the permit is in suspension may result in fines of up to $500/day.

**SIGNED**

**DATE**

**WCPH Application Form 02/26/2007**
To: Mr. Larry Konda, Hawaii State Civil Defense  
From: Gordon Tribble, Director, USGS Pacific Islands Water Science Center  

December 11, 2006

Larry,

To follow up on our telephone conversation, I am providing the following information about the well at Kapa'au (State well number 7448-07) on property owned by Karl Toubman and Kathie Pomeroy.

1) USGS is currently the legal owner of the well. The USGS is planning to transfer ownership of the well to Toubman and Pomeroy, pending an agreement between Toubman/Pomeroy and Hawaii DWS.

2) Toubman and Pomeroy are authorized to use this well as an emergency water source because of earthquake damage to the Kohala Ditch system. This authorization will continue until the Ditch system is restored or emergency situation no longer exists.

3) The well was drilled by the USGS in 1989 to study ground water resources in the area. The well is currently not used, but is not considered abandoned.

I hope this information is helpful. Please feel free to contact me if you have any questions.

Cc: Karl Toubman
June 9, 2008

Dear Water Commission members,

Please find enclosed the two forms requested by Mr. Ryan Imata:

1) Application for Well Pump Installation Permit with attachments (10 copies)
2) Well Completion Report, Part 2 (1 copy)
3) We have also made 10 copies of this cover letter with attachments.

Mr. Imata asked us to explain why we installed a pump without a permit. It was due to our own misunderstanding of the requirement. We’ll tell you our story about what has taken place, and hope that the Commission will be able to take these circumstances into account when deciding whether or not to process our pump permit after the fact. Please bear with our cumbersome paperwork here. We want you and Gordon Tribble (Director, USGS Pacific Islands Water Science Center) to see documentation of our track record so far, rather than relying solely on our word or future intentions. In requesting that this permit be accepted and processed, if it is of any benefit for our particular case, we want to demonstrate to you that the water resource has been and will be used for the public good.

The pump was installed on January 11, 2008 by Karl Toubman with the help of two other men. We see on the Pump Permit that a licensed pump installer was required and we did not have one (although, in retrospect, we must have consulted with at least three of them, not realizing at the time that it was a licensed profession). One man who helped us had installed two pumps before in a ranch well in California. The other man has a business installing irrigation systems and helped to complete the ditch water irrigation system for our community association, which serves 12 lots and about 600 acres (no ditch water now, however). Karl Toubman, who has a business installing solar and wind power systems, installed the solar panels and did the wiring for the pump. Utmost care has always been taken not to contaminate the wells. Our farm is organic and no poisons that could mire the water table are used. In fact, we were the ones who told Gordon Tribble in 2003 that the well covers were open and rusted through. In response to this update, he immediately had all the well covers in Kohala replaced and locked.

To give you an example of community benefit, Kathie Pomeroy secured a USDA grant ($10,000) for the solar/wind powered pump. The grant was from the 2006 Hawaii Agricultural Development Program (HADP) via the Big Island Resource, Conservation, and Development Council to interface with Ka Hana Noe’au, a youth program (see enclosed letter from Mr. Fuertes to Mr. Skipper, dated 6/6/06). Karl and Kathie’s farm, Kohala Medicinal Herb Farm,
was honored to be awarded this grant for two consecutive years, which is very unusual (three HADP award letters enclosed). The grant, awarded before the 10/15/06 earthquake, was to be used for other purposes, including completion of irrigation laterals for ditch water. Altering the grant budget to install the pump was allowed by the USDA inspector because, as he judged it, having ag water was more important than completing the irrigation system. (As you know, the Kohala ditch water system was destroyed by the earthquake.) The grant did not involve submitting permits and we were still under the apparently mistaken impression we that didn’t need one.

How did we get this impression? It goes back to just after the earthquake. Please find enclosed the December 11, 2006 letter from Gordon Tribble to Larry Konda of Hawaii State Civil Defense which authorizes us to use the well temporarily. This letter is not the reason for our confusion, rather, it was the scramble to garner funds to pump well 7448-07 and two others (owned by Surety Kohala Corp.) in this district to supply emergency water. We were a humble “tag along” contingent of an emergency effort by hydrologists, Surety, FEMA, and county and state civil defense to get water back into the ditch. The money (over $180,000 as we recall) was being channeled from a Dept. of Defense fund on Oahu via the Hawaii Economic Development Agency. We were to get $60,000 to pump the well on our property to the 600 surrounding acres of ag land since the transfer pipes were already installed. We were to get a 25 horsepower pump and 45 hp generator, or really any pump and generator civil defense could come up with (they had none). In the end, only $30,000 would be available to us from the fund. We formally declined the $30,000 because it would mean our neighbors would have to supply the matching $30,000. We could not see organizing the community association for such money, even if anyone had it, as the well use was authorized only temporarily by Gordon Tribble and title to the well is still unclear. An alternate source of water became available and we were able to use $5,000 of that fund to install a pipe to get water for the community association. Unfortunately, nothing was in writing (from Surety) and that was discontinued not long after the pipe was installed. It is unlikely that ditch water will return to much of Kohala because two of the three lateral feeder pipes are old and need replacing, at an estimated cost of $800,000 for the pipe to our area. People are looking for alternatives, and we are lucky to have the wells on our property, so we used one as soon as we were able, which was when we got the HADP grant budget changed to buy the necessary equipment.

Because of these events after the earthquake, everything was geared toward supplying water any way possible. Civil defense inspected the well and its access to see how they could bring equipment in. An “inner circle” of well connected experts were finding money for us to pump well 7448-07. It was as if we were swept up in some wave to provide water because we could. It simply didn’t occur to us that paperwork was needed, and no one else ever mentioned it. The only paperwork ever requested by these authorities was the letter enclosed from Mr. Tribble to Mr. Konda. We thought any permits had been waived. In fact, the members of our community association, who had been waiting three years for the DWS to supply us with county water (meters and transfer pipes already paid for), was able to finally get county water only a few months after the earthquake. An additional year’s worth of steps and paperwork were waived by the DWS. So we simply had a mindset that overlooked this important detail of getting the pump
permit. It was our mistake entirely, but this gives you some background as to the oversight.

Gordon Tribble has been helpful in gaining USGS permission to pump well 7448-07. With the help of the USGS solicitor he has taken time to navigate the unfamiliar territory of our case, a process which started seven years ago. Gordon researched and cited the USGS Policy Memo 87.17 that allows the USGS to turn ownership of a USGS well over to the land owner. Recently, however, various Title Reports for our property raised the fundamental question of well ownership. With all due respect to the USGS, Gordon Tribble, and the Water Commission, that is why we have filled out the Well Completion Report, Part 2, Item # 10 ("well owner") as "USGS and/or Toubman/Pomeroy?" Gordon has offered to consult the USGS solicitor regarding the necessary documentation for establishing well ownership as soon as he is able, probably this month.

We would like to get all these loose ends straight as we are increasingly feeling pressure to supply water to neighbors. We had some hesitation about an agricultural water cooperative, but now think it is possible to do it without encumbering our property too much. We are now in the initial stages of looking into this with the USDA Rural Development Agency. If an ag water cooperative is possible, we would need to get a bigger pump, a wind turbine, more solar panels, and generator back up, and the necessary reservoir(s) to serve this area. A cooperative would make substantial federal funding available to us. Of course, we would not make the same mistake twice and install any equipment without the proper permits.

Additionally, we would like to better understand our chances of continuing to use the well as it is or even possibly expand its use since on June 3 (see enclosed USDA email) the USDA requested Kathie's grant application for a Community Food Project (due July 2). This is a $300,000 grant involving multiple stakeholders from the community over a three year period. The enclosed Letter of Intent gives more details if you're interested. The organizing principle for this is also an ag cooperative. We are not yet sure if this would include an ag water coop (ditch and well water) or if that would be separate, but we do know that the availability of the well water, even at its current maximum level of 1440 gal/day, is key to the success of this project as we would use our land and irrigation as a demonstration farm area and for community gardens.

Kohala ditch water is not likely to become available again to our community association, although our community association still trying to get it back, also possibly via a coop to get the $800K to fix the feeder pipe. Ideally we would have ditch water and well water. However, if we did get ditch water again, and another earthquake happens, the ditch could go down again. The well seems more reliable in such a scenario, which, although we hesitate to even feature it, is entirely possible. If the Community Food Project gets funded, or for the next ag grant we secure, we would like to use the well water as much as possible. Our neighbors continue to press us to expand the well production to make ag endeavors possible here. We have explained the current limitations to this and that we are trying to work it out via the proper channels. Their access to irrigation water would augment any efforts to grow crops/raise livestock, for the Community Food Project or otherwise. Using county water, even with our ag rates, is quite expensive by
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
APPLICATION FOR A WELL CONSTRUCTION / PUMP INSTALLATION PERMIT

Instructions: Please print in ink or type and send completed application with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. Application must be accompanied by 10 copies and a non-refundable filing fee of $25.00 payable to the Dept. of Land and Natural Resources. The Commission may not accept incomplete applications. For assistance, call the Regulation Branch at 587-0229. For further information and updates to this application form, visit http://www.hawaii.gov/dlnr/wrm.

WELL LOCATION INFORMATION
1. STATE WELL NO. (If already assigned) T-18-07
2. WELL NAME Honopu 6 000 3. ISLAND Hawaii
4. TMK 315 4 954

The following must be attached before this application is accepted as complete:
- On x-6 Min. Series USGS topographic map (scale 1:24,000) with well location labeled and include the name of the quad map
- Property tax map, showing well location referenced to established property boundaries
- Photograph of the proposed well site
- A schematic diagram showing the well site, access road and proposed well infrastructure
- For dug wells, attach a grading plan with cross section profiles showing existing and finished grade

5. WELL OPERATOR’S NAME/COMPANY Karl Touman
6. Landowner’s Contact Touman/Pomery 889-5393
7. Operator’s Mailing Address
P.O. Box 1556, Kapolei HI 96783
8. Operator’s Phone 889-5393
9. Operator’s Fax
10. Landowner’s Phone
11. Landoner’s Email

PROPOSED WELL CONSTRUCTION
7. Proposed Work
☐ Construct New Well
☐ Modify Existing Well
☐ Abandon/Seal Well
☐ N/A

8. Construction Type
☐ Drilled
☐ Dug
☐ Shaft
☐ Tunnel

10. Proposed Work
☐ Install New Pump
☐ Replace Pump

11. Proposed Pumping Rate, gpm (gallons per minute)
2-3

13. Method of flow measurement
☐ Flowmeter
☐ Other (explain) no meter for 3 gpm

PROPOSED PUMP INSTALLATION
12. Proposed Amount of Withdrawal, gpd (gallons per day)
1440 gpd

9. Is this well part of a battery of wells? Yes No

14. Proposed Surveyor name and license number (a surveyor is required for all Well Construction Permits and may be required for some Pump Installation Permits)
None. Pump installed by landowner (K. Touman)

PROPOSED USE
☐ 15. Municipal (water systems serving greater than 25 individuals or 15 service connections)
☐ 16. Domestic Number of units to be served:
☐ 17. Industrial (describe)
☐ 18. Irrigation (describe crop and no. of acres)
☐ 19. Military (describe)
☐ 20. Other (describe)

OTHER LEGAL REQUIREMENTS
If required, items 21 and 22. must be obtained before the Commission can legally issue a permit:

21. Conservation District Use Permit (CDUP)
☐ Required, CDUP date approved
☐ Not Required

22. Special Management Area Permit (SMAP) # N/A
☐ Required, SMAP date approved
☐ Not Required

23. State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources
☐ I have consulted with the HPD regarding potential impacts of well construction activities on historic sites. I have attached applicable documentation from the HPD.
☐ I have not consulted with the HPD regarding potential impacts of well construction activities on historic sites. I understand that checking with the HPD prior to making this application may expedite my review. I further understand that issues raised by this agency may delay or result in denial of the permit issuance, or revocation of the permit after it is issued.

See cover letter.

NOTE: Signing below indicates that the signatures understand and swear to the information provided is accurate and true to the best of their knowledge. Further, the signatures understand that upon permit approval: 1) the proposed work is to be completed within two (2) years of the approval date; 2) the contractor shall submit to the Commission a well completion/abandonment report within 60 days after the completion date of the permitted work; 3) in the event that the application is not completed correctly, any permit may be suspended until the item is brought in to compliance, and any work done while the permit is in suspension may result in fines of up to $5000/day.

24. WELL DRILLER (Must be filled out if application is for Well Construction)
☐ N/A

Licensee business name C-57 License No.
25. PUMP INSTALLER (Must be filled out if application is for Pump Installation)
not licensed installer
Licensee business name C-57/C-57/A License No.

Signature Print Date
WCP Application Form 02/26/2007

Karl Touman 815/08
August 30, 2006

Ms. Kathie Pomeroy  
Kohala Medicinal Herb Farm  
P.O. Box 1556  
Kapa`au, Hi 96755

Dear Kathie,

The Big Island Resource Conservation and Development Council, Inc. is pleased to announce that you have been awarded $15,000.00 through the FY2006 Hawaii Agricultural Development Program. Your cost share is $1500.00.

You will not receive funding from Fiscal Year 06 until your current project is completed and funds exhausted and a final report submitted to the project manager.

A meeting is scheduled for September 8, 2006 at 9:30am in our office located at the Hilo Lagoon Centre, 101 Aupuni Street, Suite 229A. This meeting is to explain the Hawaii Agricultural Development Program and awardees' responsibilities. If you have any questions, please feel free to call 933-6996.

Mahalo,

Larry M. Komata  
President

The Big Island Resource Conservation and Development Council is a non-profit, tax exempt 501(c)3 corporation organized to assist communities of Hawaii to promote the conservation of natural resources, support economic development and enhance our environment and standard of living. The Big Island Resource Conservation and Development Council is an Equal Opportunity Provider and Employer.
September 21, 2006

Ms. Kathie Pomeroy
Kohala Medicinal Herb Farm
P.O. Box 1556
Kapa‘au, Hi 96755

Dear Ms. Pomeroy,

You have been awarded an additional $1,000.00 for your project with the Hawaii Agricultural Development Program. These funds must be spent by December 31, 2006.

Please submit a budget to our office as to how the funds will be expended as soon as possible.

If you have any questions, please call the office at 933-6996.

Sincerely,

Larry M. Komata
President

The Big Island Resource Conservation and Development Council is a non-profit, tax exempt 501(c) 3 corporation organized to assist communities of Hawaii to promote the conservation of natural resources, support economic development and enhance our environment and standard of living, with community capacity building. The Big Island Resource Conservation and Development Council is an Equal Opportunity Provider and Employer
comparison in the long run and even limited. We understand that the DWS can cut our ag water off in favor of residential use under drought conditions, which parts of the state are experiencing now.

This is probably more than you would like to know, but we thought it was better to tell more than to tell less. We take full responsibility for overlooking the pump permit, but perhaps you can now better understand how we managed to do so. Please accept our apologies and accept this belated application, assuming the pump installation has met the standards. If they have not been met, we will make every effort to bring them up to par.

Sincerely,

Karl Toubman

Kathie Pomeroy

Enclosures:

1) Application for Well Pump Installation Permit (10 copies)
   i) USGS topographic map with well location

   ii) Property map (TMK 3/5-4-9:24) w/ well site and access schematic

   iii) Photograph of well site

2) Well Completion Report, Part 2 with attachments (1 copy)
   i) pump performance curve

   ii) photo of well head

3) This cover letter with enclosures (10 copies)
   i) Letter from Gordon Tribble to Civil Defense dated 12/11/06

   ii) HADP 2005 & 2006 grant award letters (3 letters)

   iii) Email from USDA requesting grant proposal from K. Pomeroy dated 6/3/08

   iv) Letter of Intent for USDA Community Food Project dated 1/9/08

   v) Letter from David Fuertes, dated 6/6/06

Cc:

Gordon Tribble, Director, USGS Pacific Islands Water Science Center
June 6, 2006

Stephen Skipper
Big Island RC & D
101 Aupuni St. #229A
Hilo, HI 96720-2461

Dear Sir:

Ka Hana No‘eau is a DOE grant funded mentorship program. It consists of 7 mentorship areas that focus on Hawaiian culture: Taro Growing, Hawaiian Plant Propagation, Biotechnology, Hula, Wildlife Conservation, Hawaiian Culinary Arts and Hawaiian Saddle Making. The purpose of the program is to support the community vision of health and wellness and to create positive programs for our youth in deterring the substance abuse problem in the Kohala community. The Kohala Intergenerational Center (K.I.C) is a community facility with a certified kitchen and is funded by Ka Hana No‘eau. Ka Hana No‘eau and K.I.C are collaborating with Kohala Medicinal Herb Farm (KMHF) to create youth programs in entrepreneurial and self-development skills. KMHF can support our program by providing irrigated, organic farm land conveniently located near our certified kitchen. In addition, Kathie, Karl, and their son, Jesse, will provide person power to facilitate the interface of the organizations. We think this will be beneficial to the Kohala community.

Sincerely,

David Faletes
Chairman
Karl Toubman

From: "Karl Toubman" <karltoub@hawaiiantel.net>
To: "Karl Toubman" <karltoub@hawaiiantel.net>
Sent: Sunday, June 08, 2008 8:53 AM
Attach: LOI MS word.docx; WC cover letter 2.wps.docx
Subject: Fw: Re-start 08 Community Food Projects Competition

From: Tuckermany, Elizabeth <ETUCKERMANTY@csrees.usda.gov>
Date: Tue, Jun 3, 2008 at 4:37 AM
Subject: Re-start 08 Community Food Projects Competition
To: "Tuckermany, Elizabeth" <ETUCKERMANTY@csrees.usda.gov>
Applicants:

You are receiving this email because your Letter of Intent was accepted for the Community Food Projects Competitive Grant Program (CFP) for fiscal year 08. Please proceed with your proposal development, based on your accepted letter of intent.

The Farm Bill has passed into law as of May 22, 2008. The CFP did receive funding.

The Community Food Projects Competitive Grant Program is re-opened immediately.

The deadline for submission of your proposal is:

5:00 pm Eastern Time on July 2, 2008.

A notice will go out from Grants.gov announcing Request for Applications (RFA) changes, however the only change is the re-establishment of a deadline date for proposals. There are no other changes.

Please follow instructions within the RFA carefully (www.csrees.usda.gov under "funding Opportunities") and the CSREES Grants.gov Application Guide (http://www.csrees.usda.gov/funding/grant_forms/electronic_app_guide.pdf). Updated RFA and grant information should be complete by the end of the day.

Remember electronic submission is mandatory and it increases the amount of time you need to submit your proposal.

Elizabeth Tuckermany, Ph.D.
National Program Leader
Competitive Programs, CSREES, USDA
Telephone: 202-205-0241 Fax: 202-401-6488
Email: etuckermany@csrees.usda.gov

CSREES' mission is to advance knowledge for agriculture, the environment, human health and well being, and communities.
January 9, 2008

Project: Community Food Project
$100,000 per year for Three Years

Applicant: Big Island Resource, Conservation, and Development
Hilo Lagoon Center
101 Aupuni Street, Suite 229A
Hilo, Hawaii 96720

Title: Kohala Community Food Cooperative

Key Personnel: Project Director
Dr. Kathie Pomeroy, Naturopathic Physician
Kohala Medicinal Herb Farm

Project Location: District of North Kohala, Big Island (Island of Hawaii), Hawaii.
21 square miles, mainly agricultural land

Purpose:

Hawaii imports about 90% of its food supply. The general purpose of the Kohala Community Food Cooperative is for North Kohala to become 50% self sufficient in its food supply, using only organic, non-GMO growing methods, by the year 2013. The specific purpose of this project is to create a cooperative regional model which organizes existing resources and develops the infrastructure for growth. This model would be reproducible throughout the state of Hawaii, thus promoting regional self sufficiency and reduced import dependence.

Approaches:

North Kohala district, not unlike many other districts in Hawaii, enjoyed a thriving sugar plantation economy for many decades before the ‘70s. Many of the elements necessary for food sustainability and a local economy are already in place. What is needed is organizing the existing human and food resources and then “growing them” into a system that perpetuates itself for the common good of the people and the land.

Community meetings for becoming more self-sufficient for food and energy needs in the Kohala District are already underway. Additionally, in October of 2007 the first “Food Summit” in Hawaii was held on this island and addressed this very issue. It is evident that the Big Island, and particularly this community, which is small, capable, and interested, is ripe for this endeavor.

In order to accomplish the objectives of this project, an agricultural cooperative would be created. Most of Hawaii’s farms are small and the cooperative would allow for lower costs of production, processing, transportation, marketing and help to achieve economies of scale. The cooperative will be designed to be all inclusive, from the farmer to the consumer, thus engaging the entire community in the project of growing food, be it for market or for their own household. This approach also provides economic opportunity to under-represented producers.

To ensure steady product supply, a core group of employees to tend to row crops and processing will be necessary. Our intent at Kohala Medicinal Herb Farm is to start small with 2-3 part-time farm laborers per quarter acre, depending on what is grown. The cooperative model makes farm workers stakeholders in the cooperative with voting power and a fair share in the profits.

Kohala Medicinal Herb Farm intends to expand its production of culinary and medicinal herbs, and focus on native Hawaiian crops such as taro, sweet potato, palms, and breadfruit. Other crops of interest are tomatoes and mushrooms. Livestock including cattle, poultry, sheep, goats, and rabbits add to the local food supply and provide manure for the composting operation which is central to the success of any organic small farm, especially in Hawaii where the cost of soil amendments is exorbitant due to freight charges.
Objectives:

A principal income stream is a value added product line of locally grown and processed organic foods grown on small farms. To accomplish this, the Kohala community needs a central processing area with a certified community kitchen, food dehydrator, oil press, storage facility, and transport hub. The value added products, as well as produce, fish, meat, dairy, and eggs, will be sold at farmers’ markets, local grocers and restaurants, and the luxury resorts and restaurants of the Kohala Coast. A network of Community Supported Agriculture (CSA) will provide reasonably priced organic food to residents and further augment income to the small farms. This economic model will be reproducible in any district in the state of Hawaii.

A well developed educational program, both didactic and hands on, is central to the success of this project. Topics such as nutrition, operation of the processing facility, composting, community and backyard “victory gardens,” making herbal preparations, and understanding the cooperative model, all geared toward specific audiences, would help ensure the long term success of this venture.

Kohala Medicinal Herb Farm will become Kohala’s first demonstration farm for these objectives and others would inevitably follow as the model is designed to reflect each district’s unique local flavor, yet still be reproducible throughout the state. Such farms will enhance Hawaii’s growing demand for agricultural and health tourism, thus preserving the agricultural resources and rural beauty of the islands.
COMMISSION ON WATER RESOURCE MANAGEMENT
ROUTE SLIP FOR NEW APPLICATIONS

FROM: RYAN
DATE: 12-Jun-08
SUSPENSE DATE: 19-Jun-08

TO: CHING, F.

KUNIMURA, I.
NAKAMA, L.

OHYE, M.
SAKODA, E.
SWANSON, S.
UYENO, D.
YODA, K.
YOSHINAGA, M.

INIT: K
FOR: 1 Approval

1 Review & Comment
3 Signature
4 Information

PLEASE:

1 See Me
2 Review & Comment
3 Take Action
4 Type Draft acknowledge letter
5 Type Final, label file folder, update People.db

5 File
Xerox copies

WELL NUMBER: 7448-07
WELL NAME: Honopueo
WUP Number:

ATTACHMENTS FOR APPLICATION PROCESSING - Both applicant & staff generated
1 TRANS. LETTER
2 PERMIT PROCESS TABLE
3 CWRM MAP
4 APPL. FORM (11 COPIES)
5 USGS MAPS (11 COPIES)
6 TAX MAPS (11 COPIES)
7 PARCEL OWNER VERIF.
8 CONTRACTOR VERIF.
9 ALL INFO FILLED IN
10 BACKGROUND CHECK
11 $25 FEE DEPOSIT SLIP
12 DHCP/CDUP/SMA pre-screen

MLS PRINTOUT
DCCA LICENSE SCREEN PRINTOUT

Not in SMA or CD
(SMA map printout: http://gis.hicentral.com/website/parcelzoning/viewer.htm, or INGRID'S SMA/CD Map
(LUC map printout: http://luc.state.hi.us/luc_maps.htm, or INGRID'S SMA/CD Map)

FOLDER:
1 MADE NEW FILE FOLDER, ATTACHED
2 FILE FOLDER ALREADY MADE, IN FILE CABINET

INCOMPLETE ACTION DATES:

DATE ACTION

interesting sequence of events
We should ask for an opinion if Emergency
applies now that "public funds expended, though
I don't see how these homesteaders should
benefit from movie set aiding for emergency
relief to existing a current (contingent birth).

3/30/08 - submission of transfer but
4/27/09. submission of add. pump

Acc. date (1/14/09)

How will we react? 90-day deadline?

(2/26/09)

dated? Yes? Subtotal due 7/1

comment deadline?
June 9, 2009

Ms. Kathie Pomeroy
P.O. Box 1556
Kapaau, HI 96755

Dear Ms. Pomeroy:

**After-The-Fact Pump Installation Permit Application for Well No. 7448-07**

We acknowledge receipt, on April 27, 2009, of your completed After-The-Fact Pump Installation permit application and filing fee for the Honopueo Well (Well No. 7448-07). You can expect your application to be processed within ninety (90) days from this date.

Because this is an After-the-Fact permit application, we plan on taking this issue to the Commission for action. We will inform you when we confirm the date of the Commission meeting.

By this acceptance letter, we are also notifying the well operator/landowner that water may not be pumped for purposes other than testing until the certificate of well construction/pump installation completion letter is issued to the well operator and landowner. Additionally, the permitted pump capacity described on the pump installation permit may be reduced in the event that the pump test does not support the capacity. No certificate of pump installation will be issued until the Commission has determined that the pump capacity will not have adverse effects on the aquifer, other nearby wells, or streams. In other words, you may need to remove the pump and install a smaller pump at the Commission's discretion before you can withdraw water for purposes other than testing.

If you have any questions about your permit application, please contact Ryan Imata of the Commission staff at 587-0255 or toll-free at 974-4000 (Hawaii), 274-3141 (Kauai), 984-2400 (Maui), or 1-800-468-4644 (Lanai & Molokai), extension 70255.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director

RI:ss
Attachment
June 9, 2009

TO: Honorable Chiyome L. Fukino, M.D., Director
Department of Health
Attention: Tomas See, Chief, Wastewater Branch
Stuart Yamada, Chief, Safe Drinking Water Branch
Alec Wong, Chief, Clean Water Branch
Dr. Keith Kawaoka, Office of Hazard Evaluation and Emergency Respons

FROM: Laura H. Thielen, Chairperson
Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
Honopueo Well (Well No. 7448-07)

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

We would appreciate your comments on the captioned application for any conflicts or inconsistencies with the programs, plans, and objectives specific to your department. Please respond, returning this cover memo form by June 29, 2009. If we do not receive comments or a request for additional review time by this date, we will assume that you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this permit application, request additional information, or request additional review time, please contact R. Imata of the Commission staff at 587-0255.

RI: ss
Attachment(s)

RESPONSE:

[ ] This well qualifies as a source which will serve as a source of potable water to a public water system (defined as serving 25 or more people at least days per year or has 15 or more service connections) and must receive Director of Health approval prior to its use to comply with Hawaii Administrative Rules (HAR), Title 11, Chapter 20, Rules Relating to Potable Water Systems, §11-20-29.

[ ] This well does not qualify as a source serving a public water system (serves less than 25 people or more people at least 60 days per year or 15 service connections) and if the well water is used for drinking, the private owner should test for bacteriological and chemical presence before initiating its use and routinely monitor the water quality thereafter. However, if future plans use this source increases to meet the public water system demand then Director of Health approval is required prior to implementation.

[ ] If the well is used to supply both potable and non-potable purposes in a single system, the user shall eliminate cross-connections and backflow connections by physically separating potable and non-potable systems by an air gap or an approved backflow preventer, and by clearly labeling all potable spigots with warning signs to prevent inadvertent consumption of non-potable water. Backflow prevention devices should be routinely inspected and tested.

[ ] It does not appear that this well will be used for consumptive purposes and is not subject to Safe Drinking Water Regulations.

[ ] For the applicant's information, a source of possible wastewater contamination [ ] is [ ] is located near the proposed well site (information attached).

[ ] An NPDES permit is required.

[ ] Other relevant DOH rules/regulations, information, or recommendations are attached.

[ ] In the event that the location of the well changes but it is still within the parcel described on this application, our division considers the comments applicable, and we do not need to review the new location.

[ ] No comments/objections

Contact Person: ___________________________ Phone: _______________
Signed: ___________________________ Date: _______________
June 9, 2009

TO: Morris Atta, Administrator  
   Land Division

FROM: Ken C. Kawahara, P.E., Deputy Director  
   Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application  
   Honopueo Well (Well No. 7448-07) TMK 5-4-009:024

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

We would appreciate your comments on the captioned application with regard to the programs, plans, and objectives specific to your division. Please respond by returning this cover memo form on June 29, 2009. If we do not receive comments or a request for additional review time by this date, we will assume you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this permit application, request additional information, or request additional review time, please contact Ry Imata of the Commission staff at 587-0255.

RI:ss
Attachment(s)

RESPONSE:
[ ] A water lease/permit is required of this applicant and an application for such will be requested by our division.

[ ] A water lease/permit is not required of this applicant.

[ ] A water lease/permit has been obtained by the applicant through lease no. ____________________________

[ ] Other relevant Land Division rules/regulations, information, or recommendations are attached.

[ ] No objections

[ ] Other comments:

Contact Person: ____________________________ Phone: ____________________________

Signed: ____________________________ Date: ____________________________
June 9, 2009

TO: Dr. Puaalaokalani Aiu, Administrator
    Historic Preservation

Morgan Davis
    Historic Preservation

FROM: Ken C. Kawahara, P.E., Deputy Director
      Commission on Water Resource Management

SUBJECT: After-The-Fact Pump Installation Permit Application
         Honopueo Well (Well No. 7448-07) TMK: 5-4-009-024

Transmitted for your review and comment is a copy of the captioned After-The-Fact Pump Installation permit application.

We would appreciate your comments on the captioned application with regard to the programs, plans, and objectives specific to your division. Please respond by returning this cover memo form by June 29, 2009. If we do not receive comments or a request for additional review time by this date, we will assume you have no comments.

Please find the attached maps to locate the proposed well. If you have any questions about this permit application or request additional review time, please contact Ryan Imata of the Commission staff at 587-0255. If you require additional information regarding specific information that can be provided to the applicant, please contact the applicant directly at the contact information provided on the application form.

RI:ss
Attachment(s)

RESPONSE:

[ ] This is a [ ] public (county or state) project [ ] private project and [ ] will [ ] may disturb historic sites.

[ ] We concur that the work described under this permit will not disturb historic sites.

[ ] We do not concur that the work described under this permit will not disturb historic sites. We require the following:

our concurrence:

Contact Person:               Phone:   

Signed:                      Date:   

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**TOTAL**: $75.00
Karl Toubman and Kathie Pomeroy  
P.O. Box 1556  
Kapaau, Hawaii 96755

Commission on Water Resource Management  
R.O. Box 621  
Honolulu, Hawaii 96809

June 9, 2008

Dear Water Commission members,

Please find enclosed the two forms requested by Mr. Ryan Imata:

1) Application for Well Pump Installation Permit with attachments (10 copies)  
2) Well Completion Report, Part 2 (1 copy)  
3) We have also made 10 copies of this cover letter with attachments.

Mr. Imata asked us to explain why we installed a pump without a permit. It was due to our own misunderstanding of the requirement. We'll tell you our story about what has taken place, and hope that the Commission will be able to take these circumstances into account when deciding whether or not to process our pump permit after the fact. Please bear with our cumbersome paperwork here. We want you and Gordon Tribble (Director, USGS Pacific Island Water Science Center) to see documentation of our track record so far, rather than relying solely on our word or future intentions. In requesting that this permit be accepted and processed, if it is of any benefit for our particular case, we want to demonstrate to you that the water resource has been and will be used for the public good.

The pump was installed on January 11, 2008 by Karl Toubman with the help of two other men. We see on the Pump Permit that a licensed pump installer was required and we did not have one (although, in retrospect, we must have consulted with at least three of them, not realizing at the time that it was a licensed profession). One man who helped us had installed two pumps before in a ranch well in California. The other man has a business installing irrigation systems and helped to complete the ditch water irrigation system for our community association which serves 12 lots and about 600 acres (no ditch water now, however). Karl Toubman, who has a business installing solar and wind power systems, installed the solar panels and did the wiring for the pump. Utmost care has always been taken not to contaminate the wells. Our far is organic and no poisons that could mire the water table are used. In fact, we were the ones who told Gordon Tribble in 2003 that the well covers were open and rusted through. In response to this update, he immediately had all the well covers in Kohala replaced and locked.

To give you an example of community benefit, Kathie Pomeroy secured a USDA grant ($10,000) for the solar/wind powered pump. The grant was from the 2006 Hawaii Agriculture Development Program (HADP) via the Big Island Resource, Conservation, and Development Council to interface with Ka Hana Noe‘au, a youth program (see enclosed letter from Mr. Fuertes to Mr. Skipper, dated 6/6/06). Karl and Kathie’s farm, Kohala Medicinal Herb Farm,
was honored to be awarded this grant for two consecutive years, which is very unusual (three HADP award letters enclosed.). The grant, awarded before the 10/15/06, earthquake, was to be used for other purposes, including completion of irrigation laterals for ditch water. Altering the grant budget to install the pump was allowed by the USDA inspector because, as he judged it, having ag water was more important than completing the irrigation system. (As you know, the Kohala ditch water system was destroyed by the earthquake.) The grant did not involve submitting permits and we were still under the apparently mistaken impression we that didn’t need one.

How did we get this impression? It goes back to just after the earthquake. Please find enclosed the December 11, 2006 letter from Gordon Tribble to Larry Konda of Hawaii State Civil Defense which authorizes us to use the well temporarily. This letter is not the reason for our confusion, rather, it was the scramble to garner funds to pump well 7448-07 and two others (owned by Surety Kohala Corp.) in this district to supply emergency water. We were a humble “tag along” contingent of an emergency effort by hydrologists, Surety, FEMA, and county and state civil defense to get water back into the ditch. The money (over $180,000 as we recall) was being channeled from a Dept. of Defense fund on Oahu via the Hawaii Economic Development Agency. We were to get $60,000 to pump the well on our property to the 600 surrounding acres of ag land since the transfer pipes were already installed. We were to get a 25 horsepower pump and 45 hp generator, or really any pump and generator civil defense could come up with (they had none). In the end, only $30,000 would be available to us from the fund. We formally declined the $30,000 because it would mean our neighbors would have to supply the matching $30,000. We could not see organizing the community association for such money, even if anyone had it, as the well use was authorized only temporarily by Gordon Tribble and title to the well is still unclear. An alternate source of water became available and we were able to use $5,000 of that fund to install a pipe to get water for the community association. Unfortunately, nothing was in writing (from Surety) and that was discontinued not long after the pipe was installed. It is unlikely that ditch water will return to much of Kohala because two of the three lateral feeder pipes are old and need replacing, at an estimated cost of $800,000 for the pipe to our area. People are looking for alternatives, and we are lucky to have the wells on our proper so we used one as soon as we were able, which was when we got the HADP grant budget changed to buy the necessary equipment.

Because of these events after the earthquake, everything was geared toward supplying water any way possible. Civil defense inspected the well and its access to see how they could bring equipment in. An “inner circle” of well connected experts were finding money for us pump well 7448-07. It was as if we were swept up in some wave to provide water because it simply didn’t occur to us that paperwork was needed, and no one else ever mentioned it. The only paperwork ever requested by these authorities was the letter enclosed from Mr. Tribble to Mr. Konda. We thought any permits had been waived. In fact, the members of our community association, who had been waiting three years for the DWS to supply us with water (meters and transfer pipes already paid for), was able to finally get county water one months after the earthquake. An additional year’s worth of steps and paperwork were waivered by the DWS. So we simply had a mindset that overlooked this important detail of getting th
United States Department of the Interior
U. S. GEOLOGICAL SURVEY
Pacific Islands Water Science Center
677 Ala Moana Blvd #415
Honolulu, HI 96813
808-587-2405

To:       Mr. Larry Konda, Hawaii State Civil Defense
From:    Gordon Tribble, Director, USGS Pacific Islands Water Science Center

December 11, 2006

Larry,

To follow up on our telephone conversation, I am providing the following information about the well at Kapa'au (State well number 7448-07) on property owned by Karl Toubman and Kathie Pomeroy.

1) USGS is currently the legal owner of the well. The USGS is planning to transfer ownership of the well to Toubman and Pomeroy, pending an agreement between Toubman/Pomeroy and Hawaii DWS.

2) Toubman and Pomeroy are authorized to use this well as an emergency water source because of earthquake damage to the Kohala Ditch system. This authorization will continue until the Ditch system is restored or emergency situation no longer exists.

3) The well was drilled by the USGS in 1989 to study ground water resources in the area. The well is currently not used, but is not considered abandoned.

I hope this information is helpful. Please feel free to contact me if you have any questions.

Cc: Karl Toubman
Big Island Resource Conservation & Development

September 21, 2006

Ms. Kathie Pomeroy
Kohala Medicinal Herb Farm
P.O. Box 1556
Kapa‘au, Hi 96755

Dear Ms. Pomeroy,

You have been awarded an additional $1,000.00 for your project with the Hawaii Agricultural Development Program. These funds must be spent by December 31, 2006.

Please submit a budget to our office as to how the funds will be expended as soon as possible.

If you have any questions, please call the office at 933-6996.

Sincerely,

[Signature]

Larry M. Komata
President

The Big Island Resource Conservation and Development Council is a non-profit, tax exempt 501(c) 3 corporation organized to assist communities of promote the conservation of natural resources, support economic development and enhance our environment and standard of living, with community building. The Big Island Resource Conservation and Development Council is an Equal Opportunity Provider and Employer.
August 30, 2006

Ms. Kathie Pomeroy
Kohala Medicinal Herb Farm
P.O. Box 1556
Kapa‘au, Hi 96755

Dear Kathie,

The Big Island Resource Conservation and Development Council, Inc. is pleased to announce that you have been awarded $15,000.00 through the FY2006 Hawaii Agricultural Development Program. Your cost share is $1500.00.

You will not receive funding from Fiscal Year 06 until your current project is completed and funds exhausted and a final report submitted to the project manager.

A meeting is scheduled for September 8, 2006 at 9:30am in our office located at the Hilo Lagoon Centre, 101 Aupuni Street, Suite 229A. This meeting is to explain the Hawaii Agricultural Development Program and awardees’ responsibilities. If you have any questions, please feel free to call 933-6996.

Mahalo,

Larry M. Komata
President

The Big Island Resource Conservation and Development Council is a non-profit, tax exempt 501(c) 3 corporation organized to assist communities or promote the conservation of natural resources, support economic development and enhance our environment and standard of living, with community building. The Big Island Resource Conservation and Development Council is an Equal Opportunity Provider and Employer.
July 15, 2005

Ms. Christine Richardson  
Ms. Kathie Pomeroy  
North Kohala Community Resource Center  
P.O. Box 2  
Hawi, Hawaii  96719

Aloha,

The Big Island Resource Conservation and Development Council is pleased to announce that you have been awarded $10,000.00 through the FY2004 Hawaii Agricultural Development Program. A meeting is scheduled for July 25, 2005 at 1:30pm in the RC&D Conference Room to inform you of the requirements of this program. Please call the office at 933-6996 to let us know you will be attending.

Mahalo,

Larry M. Komara  
President
Karl Toubman

From: "kathie pomeroy" <kathiepomeroy@gmail.com>
To: "karl toubman" <karltoub@hawaiiantel.net>
Sent: Sunday, June 08, 2008 8:03 AM
Attach: LOI MS word.docx; WC cover letter 2.wps.docx
Subject: Fwd: Re-start 08 Community Food Projects Competition

---------- Forwarded message ----------
From: Tuckerman, Elizabeth <ETUCKERMANTY@csrees.usda.gov>
Date: Thursday, June 05, 2008 4:37 AM
Subject: Re-start 08 Community Food Projects Competition
To: "Tuckerman, Elizabeth" <ETUCKERMANTY@csrees.usda.gov>

Applicants:

You are receiving this email because your Letter of Intent was accepted for the Community Competition for fiscal year 08. Please proceed with your project development, based on your accepted letter of intent.

The Farm Bill has passed into law as of May 22, 2008. The CFP did receive funding.

The Community Food Projects Competitive Grant Program is re-opened immediately.

The deadline for

5:00 pm Eastern Time

A notice will go out from Grants.gov announcing Request for Applications (RFA) changes, how the only change is the re-establishment of a deadline date for proposals. There are no other chan

Please follow instructions within the RFA carefully (www.csrees.usda.gov under "funding Opportunities") and the CSREES Grants.gov Application Guide (http://www.csrees.usda.gov/funding/grant_forms/electronic_app_guide.pdf). Updated RFA and g information should be complete by the end of the day.
January 9, 2008

Project: Community Food Project
$100,000 per year for Three Years

Applicant: Big Island Resource, Conservation, and Development
Hilo Lagoon Center
101 Aupuni Street, Suite 229A
Hilo, Hawaii 96720

Title: Kohala Community Food Cooperative

Key Personnel: Project Director
Dr. Kathie Pomeroy, Naturopathic Physician
Kohala Medicinal Herb Farm

Project Location: District of North Kohala, Big Island (Island of Hawaii), Hawaii.
21 square miles, mainly agricultural land

Purpose:

Hawaii imports about 90% of its food supply. The general purpose of the Kohala Community Food Cooperative is for North Kohala to become 50% self-sufficient in its food supply, using only organic, non-GMO growing methods, by the year 2013. The specific purpose of this project is to create a cooperative regional model which organizes existing resources and develops the infrastructure for growth. This model would be reproducible throughout the state of Hawaii, thus promoting regional self-sufficiency and reduced import dependence.

Approaches:

North Kohala district, not unlike many other districts in Hawaii, enjoyed a thriving sugar plantation economy for many decades before the '70s. Many of the elements necessary for food sustainability and a local economy are already in place. What is needed is organizing the existing human and food resources and then "growing them" into a system that perpetuates itself for the common good of the people and the land.

Community meetings for becoming more self-sufficient for food and energy needs in the Kohala District are already underway. Additionally, in October of 2007 the first "Food Summit" in Hawaii was held on this island and addressed this very issue. It is evident that the Big Island, and particularly this community, which is small, capable, and interested, is ripe for this endeavor.

In order to accomplish the objectives of this project, an agricultural cooperative would be created. Most Hawaii’s farms are small and the cooperative would allow for lower costs of production, processing, transport, marketing and help to achieve economies of scale. The cooperative will be designed to be all inclusive, from the farmer to the consumer, thus engaging the entire community in the project of growing food, be it for market or their own household. This approach also provides economic opportunity to under-represented producers.

To ensure steady product supply, a core group of employees to tend to row crops and processing will necessary. Our intent at Kohala Medicinal Herb Farm is to start small with 2-3 part-time farm laborers per quarter acre, depending on what is grown. The cooperative model makes farm workers stakeholders in the cooperative voting power and a fair share in the profits.

Kohala Medicinal Herb Farm intends to expand its production of culinary and medicinal herbs, and on native Hawaiian crops such as taro, sweet potato, palms, and breadfruit. Other crops of interest are pomelos, pomegranates, and saffron. Livestock including cattle, poultry, sheep, goats, and rabbits add to the local food supply and provide manure for the composting operation which is central to the success of any organic small farm, especially where the cost of soil amendments is exorbitant due to freight charges.
Objectives:

A principal income stream is a value added product line of locally grown and processed organic foods grown on small farms. To accomplish this, the Kohala community needs a central processing area with a certified community kitchen, food dehydrator, oil press, storage facility, and transport hub. The value added products, as well as produce, fish, meat, dairy, and eggs, will be sold at farmers’ markets, local grocers and restaurants, and the luxury resorts and restaurants of the Kohala Coast. A network of Community Supported Agriculture (CSA) will provide reasonably priced organic food to residents and further augment income to the small farms. This economic model will be reproducible in any district in the state of Hawaii.

A well developed educational program, both didactic and hands on, is central to the success of this project. Topics such as nutrition, operation of the processing facility, composting, community and backyard “victory gardens,” making herbal preparations, and understanding the cooperative model, all geared toward specific audiences, would help ensure the long term success of this venture.

Kohala Medicinal Herb Farm will become Kohala’s first demonstration farm for these objectives and others would inevitably follow as the model is designed to reflect each district’s unique local flavor, yet still be reproducible throughout the state. Such farms will enhance Hawaii’s growing demand for agricultural and health tourism, thus preserving the agricultural resources and rural beauty of the islands.
June 6, 2006

Stephen Skipper
Big Island RC & D
101 Aupuni St. #229A
Hilo, Hi 96720-2461

Dear Sir:

Ka Hana No‘eau is a DOE grant funded mentorship program. It consists of 7 mentorship areas that focus on Hawaiian culture: Taro Growing, Hawaiian Plant Propagation, Biotechnology, Hula, Wildlife Conservation, Hawaiian Culinary Arts and Hawaiian Saddle Making. The purpose of the program is to support the community vision of health and wellness and to create positive programs for our youth to deter the substance abuse problem in the Kohala community. The Kohala Intergenerational Center (K.I.C) is a community facility with a certified kitchen and is funded by Ka Hana No‘eau. Ka Hana No‘eau and K.I.C are collaborating with Kohala Medicinal Herb Farm (KMHF) to create a youth program in entrepreneurial and self-development skills. KMHF can support our program by providing irrigate organic farm land conveniently located near our certified kitchen. In addition, Kathie, Karl, and their son, Jesse, will provide person power to facilitate the interface of the organizations. We think this will be beneficial to the Kohala community.

Sincerely,

[Signature]

David Fuentes
Chairman
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
APPLICATION FOR A WELL CONSTRUCTION /
PUMP INSTALLATION PERMIT

WELL LOCATION INFORMATION
1. STATE WELL NO. (If already assigned) 7448-07
2. WELL NAME Honopueo
3. ISLAND Hawaii
4. TMI 35 4 9 24

The following must be attached before this application is accepted as complete:
- Portion of 7.5-minute series USGS topographic map (scale: 1:24,000) with well location labeled and include the name of the quad map
- Property tax map, showing well location referenced to established property boundaries
- Photograph of the proposed well site
- A schematic diagram showing the well site, access road and proposed well infrastructure
- For dug wells, attach a grading plan with cross section profiles showing existing and final grades

5. WELL OPERATOR’S NAME/COMPANY Karl Toubman (808)891-5393
   P.O. Box 1536 Kapolei HI 96792
   Landowner’s Contact: Pomeroy 889-5393
   Landowner’s Mailing Address: same
   Landowner’s Phone: same
   Landowner’s Fax: same
   Landowner’s E-mail: karltoubman@hawaiiantel.net

PROPOSED WELL CONSTRUCTION
7. Proposed Work
   ☐ Construct New Well
   ☐ Modify Existing Well
   ☐ Abandon/Seal Well
   ☐ N/A

8. Construction Type
   ☐ Drilled
   ☐ Cased Drill
   ☐ Other
   ☐ N/A

10. Proposed Work
   ☐ Install New Pump
   ☐ Replace Pump

11. Proposed Pumping Rate, gpm
   2.3

12. Proposed Amount of Withdrawal, gpd (gallons per day)
   1440 (1.4 gpm)

13. Method of flow measurement
   ☐ Flowmeter
   ☐ Other
   ☐ No meter for 3 gpm
   ☐ Can put one on

14. Proposed Surveyor name and license number (a surveyor is required for all Well Construction Permits and may be required for some Pump Installation Permits)
   None. Pump installed by landowner (K. Toubman)

PROPOSED USE
☐ 15. Municipal (water systems serving greater than 25 individuals or 15 service connections)
   ☐ 16. Domestic
   ☐ 17. Industrial (describe)
   ☐ 18. Irrigation (describe crop and no. of acres)
   ☐ 19. Military (describe)
   ☐ 20. Other (describe)

OTHER LEGAL REQUIREMENTS
☐ 21. Conservation District Use Permit (CDUP)
   ☐ Required
   ☐ Not Required
   ☐ Date approved
   ☐ N/A
   ☐ Not SMA
   ☐ N/A
   ☐ N/A
   ☐ N/A
   ☐ N/A
   ☐ N/A

☐ 22. Special Management Area Permit (SMAP)
   ☐ Required
   ☐ Not Required
   ☐ Date approved
   ☐ N/A
   ☐ Not SMA
   ☐ N/A

☐ 23. Historic Preservation Division (HPD)
   ☐ I have consulted with the HPD regarding potential impacts of well construction activities on historic sites.
   ☐ I have not consulted with the HPD regarding potential impacts of well construction activities on historic sites.
   ☐ Date approved
   ☐ N/A
   ☐ N/A

☐ 24. Landowner's signature
   ☐ Karl Toubman
   ☐ Print
   ☐ Date
   ☐ Not licensed installer
   ☐ C-57 License No.

See cover letter.

NOTE: Signing below indicates that the signatories understand and agree that the information provided is accurate and true to the best of their knowledge.
Further, the signatories understand that upon permit approval:
1. The proposed work is to be completed within 60 days after the completion date of the permitted work.
2. The contractor shall submit a well completion/abandonment report within 5 days after the completion date of the permitted work.
3. The event that the application is not completed correctly, any permit may be suspended until the item is brought in to compliance, and any work done while the permit is in suspension may result in fines of up to $2000.

25. PUMP INSTALLER
   ☐ Must be filed out if application is for Pump Installation
   ☐ Not licensed installer
   ☐ C-57/C-57A License No.
   ☐ Karl Toubman
   ☐ Print
   ☐ Date
State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources
WELL COMPLETION REPORT - PART II
Pump Installation

Instructions: Please print in ink or type and send completed report (with attachments, if applicable) to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. The Commission may not accept incomplete reports. This form shall be submitted within 60 days of the completion of work. For assistance, please consult the Hawaii Well Construction and Pump Installation Standards or call the Regulation Branch at 587-0225. For updates to this form or additional information, please visit our website at http://www.hawaii.gov/dlnr/cwrm/

1. State Well No.: 7448-07  Well Name: Hopopua  Island: Hawaii
2. Address: 54-3871 Pratt Rd, Kapaa  Tax Map Key: 345-4-9-24
3. Pump Installation Company:
4. Date Pump Installed: Jan 11, 2008
5. PERMANENT PUMP INFORMATION
   Pump Type, Make, Serial No.: Grundfos, model # SQSF-2
   Rated Capacity: 3 gpm gpm at head of: 890 ft.
   Motor Type, H.P., Voltage, rpm: helical rotor, voltage 30-300 VDC
   Pump type (check one): [ ] Deep Well Turbine  [X] Rotary [ ] Submersible  [ ] Propeller
   [ ] Rotary-Displacement  [ ] Reciprocating  [ ] Rotary-Gear  [ ] Impulse

   Centrifugal

6. Method of flow measurement:
   [ ] Flowmeter w/ totalizer  Manufacturer [ ] Model no. [ ] Size
   [X] Other, explain and attach schematic
due to low gpm (3), we have not a flow meter on. We easily do so if require

7. Fill in the as-built section on the other side of this sheet.
8. Attach the rating curve for the installed pump.
9. Attach photograph of well clearly showing the benchmark on the concrete pad, the well head, and the method of flow measurement.

10. Well Owner under question
    Company [ ] USGS and/or [ ] Contact G. Tribble and [ ] Toubman/Pomeroy
        Address [ ] 677 Ala Moana Blvd. #105  Ph: 587-3405
        Phone [ ] Toubman/Pomeroy

11. Land Owner
    Company [ ] Toubman/Pomeroy  Contact [ ]
        Address [ ] P.O. Box 1556, Kapaa  HI 96756
        Phone (808) 539-5393  Fax same

12. Remarks see cover letter regarding well owner que

Pump Installation Contractor (print), not licensed
Landowner, installed by [ ] Signature [ ] C-57/C-57a/A Lic. No. 06/5/08

WCR2 Form 02/26/07 Pe
7. AS-BUILT PUMP SECTION  
(Please attach as-built if different from diagram provided below)

Bench mark elevation
surveyed to nearest 0.01 ft. = 411.62 ft. mean sea level

Elevation of top of chase tube
— ft. mean sea level
N/A

Pump intake depth = 425 ft.
(referenced to bench mark)

Chase tube depth = — ft.
(referenced to bench mark)  N/A

If airline installed, N/A
bottom of airline elevation = — ft. mean sea level
Performance curves

3 SQF-2

Q [US GPM]
0.00 0.20 0.40 0.60 0.80 1.00 1.20 1.40 1.60 1.80 2.00 2.20 2.40 2.50
0 20 40 60 80 100 120 140 160 180 200 220 240 260 280 300 320 340 360 P1 [W]

3 SQF-3

Q [US GPM]
0.00 0.20 0.40 0.60 0.80 1.00 1.20 1.40 1.60 1.80 2.00 2.20 2.40 2.50
0 20 40 60 80 100 120 140 160 180 200 220 240 260 280 300 320 340 360 P1 [W]
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4/27/2009 ADDITION TO PUMP INSTALLATION PERMIT APPLICATION
SUBMITTED ON 6/5/08

State Well 7446-07

Owners: Karl Toubman and Kathie Pomeroy
P.O. Box 1556
Kapa‘au, HI 96755
home: (808) 889-5393

Pump Installer: Diamond Drilling will be consulted.

Pump: Grunfos 25 S50-26, 5 hp, single phase, 230 volts

Gallons/minute: 30 gal/min
Interesting — federal funds paid to drill a new private well. Is the 6/10/08 WCP/IPA now complete and accurate? Also, isn’t this an ATF as drilled by USGS — they never got a permit for the original well construction in 1989 with the pump installed.
Well Transfer Agreement

The U.S. Geological Survey (USGS) agrees to transfer ownership of the observation well(s), hereinafter referred to as "the well," or "wells" located at Lat. 20 deg 15 min Long. 155 deg 48 min, and/or

Hawaii State Well 8-7448-07, Honopueo Test Well

(Provide other location description and/or attach map, plat, drawings, photographs, or other descriptive information.)

to Karl J. Toubman & Katherine D. Pomeroy (married), hereinafter referred to
(Name of Landowner)

as "Landowner," giving the Landowner all ownership rights to the wells.

Landowner agrees to assume responsibility for the noted wells(s). Landowner agrees to accept the well(s) "as is" and to not hold USGS or the U.S. Government responsible in any way for any construction deficiencies or repairs that may be needed to make the well to meet any safety, government, or other standards. Landowner agrees to: (a) accept responsibility for any liability, such as liens, fines, damages, penalties, forfeitures or judgments arising from the continued use of existence of the well(s); (b) release the USGS and the U.S. Government for liability for any injuries or damage to persons and/or property of any kind arising out of the continued use of existence of the well(s); and (c) indemnify the USGS and the U.S. Government from any claims arising out of the use of existence of the well(s). If Landowner chooses or is forced to abandon a well, Landowner agrees to assume full responsibility for its disposition in compliance with applicable federal, state, and local laws,

The transfer of the noted well(s) is effective on the date this agreement is fully executed.

U.S. GEOLOGICAL SURVEY
By

[Signature]
Michael Shutters
Date: 3/25/2009

Transferee
By

[Signature]
Karl Toubman & Katherine Pomeroy
Date: 3/28/09

Notary Seal:
OFFICE OF THE GOVERNOR
STATE OF HAWAII

PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

WHEREAS, an earthquake measuring 6.5 on the Richter scale occurred on October 15, 2006 with an epicenter located near Pauanahulu in the county of Hawaii, was felt throughout the state and has caused damage to structures, private and public, and public roads and highways in the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu, State of Hawaii; and

WHEREAS, this occurrence of a severe, sudden, and extraordinary event has caused damages, losses, and suffering of such character and magnitude to have affected the health, welfare, and living conditions of a substantial number of persons, and to have affected the economy of the State, and is of such a nature as to warrant rehabilitative assistance from the State; and

WHEREAS, the Legislature of the State of Hawaii has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the disaster; and

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee, federal, state, or county for the most expeditious and efficient relief of the conditions created by the disaster; and

WHEREAS, pursuant to section 127-11, Hawaii Revised Statutes, the Governor is authorized to determine whether a major disaster has occurred and authorize the expenditure of funds thereunder; and
WHEREAS, pursuant to section 121-30, Hawaii Revised Statutes, the Governor may order the Hawaii National Guard, or any part thereof, into active service for assistance to civil authorities in disaster relief, civil defense, averting any imminent public danger and threat, and to insure the compliance with the civil laws of the State of Hawaii; and

WHEREAS, pursuant to section 209-2, Hawaii Revised Statutes, the Governor is authorized to make a determination whether a disaster has occurred, thereby making available housing relief, under part II of chapter 209, Hawaii Revised Statutes, and commercial and personal loans under part III of chapter 209, Hawaii Revised Statutes, for disaster relief and rehabilitation; and

WHEREAS, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes are not in effect, the Governor may exercise any and all powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief and that all provisions of the law provided in chapter 128, Hawaii Revised Statutes, during such period are made applicable to other disaster relief, including without limitation, provisions making or authorizing appropriations or expenditures; and

WHEREAS, pursuant to Act 35, Regular Session Laws of Hawaii 1961, sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended and are not in effect, the provisions of Chapter 128, Hawaii Revised Statutes, are applicable to other disaster relief; and

WHEREAS, pursuant to section 127-10, Hawaii Revised Statutes, other disaster relief includes, but is not limited to the preparation for and the carrying out of all functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes and major disasters caused by acts of man, including but not limited to, massive oil spills, nuclear accidents, airplane crashes and civil disturbances; and

WHEREAS, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is
authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflict with, disaster relief or other emergency functions; and

WHEREAS, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

WHEREAS, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

WHEREAS, pursuant to section 128-10(5), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

WHEREAS, pursuant to section 128-10(11), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency disaster relief functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any
political subdivision, or among any agencies or departments of the State; and

WHEREAS, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 128 and to provide for civil defense and other emergency functions; and

NOW, THEREFORE, I LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, have occurred on the above dates and in the above areas in the State of Hawaii, and do hereby proclaim these areas to be disaster areas for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster, and hereby authorize and invoke the following measures under the Hawaii Revised Statutes:

1. Section 127-11, major disaster fund.
2. Part II of chapter 209, housing relief.
3. Part III of chapter 209, commercial and personal loans.
4. Sections 128-8(4), 128-9(8), and 128-10(10), and in order to provide emergency disaster relief and, to the extent necessary to repair, restore, rebuild, with any necessary improvements, any public structures, roadways or bridges damaged by the earthquake, I hereby suspend as allowed by federal law, the following statutes:
   a. Chapter 6E, historic preservation except for those provisions relating to burial sites.
   b. Chapter 89, collective bargaining in public employment.
   c. Chapter 89C, public officers and employees excluded from collective bargaining.
   d. Section 102-2, contracts for concessions in government buildings; bid requirements.
   e. Section 103-50, building design to consider needs of persons with disabilities.
   f. Section 103-53, contracts with the State or counties; tax clearances,
assignments.
g. Section 103-55, wages, hours, and working conditions of employees of contractors performing services.
h. Chapter 103D, procurement code.
i. Sections 105-1 to 105-10, use of government vehicles, limitations.
j. Sections 142-2 to 142-12, as these sections may apply to the arrival of dogs used by search and rescue teams approved by the State of Hawaii, Department of Defense.
k. Chapter 171, public lands, management and disposition of.
l. Chapter 174C, state water code.
m. Chapter 180, soil and water conservation districts.
.n. Chapter 180C, soil erosion and sediment control.
o. Chapter 183, forest reserves, water development, zoning.
p. Chapter 183D, wildlife.
q. Chapter 184, state parks and recreation areas.
r. Chapter 195, natural areas reserves system.
s. Chapter 195D, conservation of aquatic life, wildlife, and land plants.
t. Chapter 198D, Hawaii statewide trail and access system.
u. Chapter 205, land use commission.
v. Chapter 205A, coastal zone management.
w. Chapter 264, highways.
x. Chapter 269, public utilities commission.
y. Chapter 286, highway safety.
z. Chapter 341, environmental quality control.
aa. Chapter 342B, air pollution.
ab. Chapter 342D, water pollution.
ac. Chapter 342E, non-point source pollution management and control.
ad. Chapter 342F, noise pollution.
ae. Chapter 343, environmental impact statements.
af. Chapter 343D, environmental disclosure.
ag. Chapter 344, state environmental policy.
Section 464-4, public works required to be supervised by certain professionals.

Section 121-30, Hawaii Revised Statutes, active service of the National Guard; and I hereby order the National Guard into active service effective immediately, and the Adjutant General of the Hawaii National Guard is DIRECTED AND AUTHORIZED to activate such units of the Hawaii National Guard as may be necessary to assist and aid civilian authorities in disaster relief and in averting any imminent public danger and threat and to insure the compliance with the civil laws of the State of Hawaii.

Section 128-10(5), Hawaii Revised Statutes, and in order to provide emergency disaster relief, I hereby direct all state and county agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger.

I FURTHER DECLARE that a disaster emergency relief period shall commence October 15, 2006 and continue until such an appropriate time for termination, as I will determine. I will set a date after which no further applications for assistance under the law shall be accepted, which date I may extend for a reasonable time for good cause.

Done at the State Capitol State of Hawaii, this 15th day of October, 2006.

LINDA LINGLE
Governor of Hawaii

APPROVED:

MARK J. BENNETT
Attorney General
State of Hawaii
I think you have to be real careful about #1 - the well has to qualify as a "public structure" and they are only allowed to repair, restore or rebuild the structure. Arguably the well has to belong to the State and be on land on which the State has an interest (i.e. lease, permit, etc.).

As for #2 - You are not "allowing" the private well activity to go on. They are illegally constructing the well and installing a pump. CWRM is just going to end up doing after the fact enforcement. If you know about it and you don't think it is covered by the Proclamation, you should send out the same enforcement letter/warning that you would to any other illegal driller/pump installer.

Linda L.W. Chow
Deputy Attorney General
Land Transportation Division

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Thanks Linda,
Just to be clear then:
1. Public monies and lands involved with wells or actual public wells do not need any permits at any time per the proclamation.
2. Private well activities are not covered by the proclamation, but we can allow such wells to go ahead with emergency work and require ATF permits later so they can defend their "emergency" work before the CWRM.
3. In either case above we can invoke our police powers regarding construction standards later on if we can show a well poses a danger to the resource.

I think we can move on from here if the above is correct and I haven't missed anything.

Linda L Chow/AG/StateHiUS
10/27/2006 11:38 AM

To: Roy Hardy/DLNR/StateHiUS@StateHiUS
cc: Charley F Ice/DLNR/StateHiUS@StateHiUS, Dean A Nakano/DLNR/StateHiUS@StateHiUS, Lenore Y Nakama/DLNR/StateHiUS@StateHiUS, Randall K Ishikawa/AG/StateHiUS@StateHiUS, Ryan R Imata/DLNR/StateHiUS@StateHiUS
Subject: Re: Governor's Disaster Proclamation

Our take on emergency proclamations, especially regarding items #2 and #3, is that when there is a suspension of laws, including well construction standards under HRS ch. 174C, there is no requirement for compliance with permitting requirements, ever. That is not to say the agency waives all of its police powers. If, for instance, the well is constructed improperly and is subsequently found to pose a danger to the aquifer, we believe CWRM can go in and exercise its police powers either to make the well safe or close it. At that point, a well construction permit may be required. However, the requirement is based on other findings made by CWRM of impact to public health or safety, etc.

Linda L.W. Chow
Deputy Attorney General
Land Transportation Division

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Roy Hardy/DLNR/StateHiUS
10/27/2006 10:45 AM

To: Ryan R Imata/DLNR/StateHiUS@StateHiUS
cc: Charley F Ice/DLNR/StateHiUS@StateHiUS, Dean A Nakano/DLNR/StateHiUS@StateHiUS, Lenore Y Nakama/DLNR/StateHiUS@StateHiUS, Linda L Chow/AG/StateHiUS@StateHiUS, Randall K Ishikawa/AG/StateHiUS@StateHiUS
Subject: Re: Governor's Disaster Proclamation
Sorry to be a late commentator here but it seems the original inquiry seeks answers to three things:

1. Applicability of the "earthquake" proclamation to after-the-fact permitting requirements (either public or private activities) and
2. Requirement of construction to follow the well construction standards.
3. How Chapter 343 weighs in for public projects and wells

Easy one first (#3.). Our policy since Yvonne days is that 343 doesn't have any bearing on our well (or SW I believe) permitting anymore. 343 is not a prerequisite to issuing a permit like an SMA or CDUP.

Second (#1.). The case in question is a well on private land (Surety Kohala (?) formerly known as Chalon Hawaii) that was used as a USGS monitor well and may be using Federal monies to put a pump in it. Don't think this qualifies to be exempted by the proclamation notwithstanding the state involvement of spending Federal monies, which we have yet to verify. If this were clearly a public well (say like Hawaii Dept of Water Supply), then the proclamation would apply. That being said, in both cases I think we would like to have after-the-fact applications submitted (or at least completion reports required under 174C) submitted to keep the inventory of wells we are responsible for under 174C updated and accurate.

Third (#2). If a particular well construction does qualify (there is the Puukawo well owned by the state to help with the upper Hamakua Ditch problems I understand) must they adhere to the construction standards at some point in the future even if they apply for an after-the-fact but have substandard construction?

Ryan R Imata/DLNR/StateHiUS

To Linda L Chow/AG/StateHiUS@StateHiUS
cc Charley F Ice/DLNR/StateHiUS@StateHiUS, Dean A Nakano/DLNR/StateHiUS@StateHiUS, Lenore Y Nakama/DLNR/StateHiUS@StateHiUS, Randall K Ishikawa/AG/StateHiUS@StateHiUS, Roy Hardy/DLNR/StateHiUS@StateHiUS
Subject Re: Governor's Disaster Proclamation

Could one argue that the restoration of flow to the ditch might well construction / pump installation?

Linda L Chow/AG/StateHiUS

To Ryan R Imata/DLNR/StateHiUS@StateHiUS
cc Charley F Ice/DLNR/StateHiUS@StateHiUS, Dean A Nakano/DLNR/StateHiUS@StateHiUS, Lenore Y Nakama/DLNR/StateHiUS@StateHiUS, Randall K Ishikawa/AG/StateHiUS@StateHiUS
Subject Re: Governor's Disaster Proclamation

According to the proclamation, the suspension of laws is authorized "to the extent necessary to repair, restore, rebuild, with any necessary improvements, any public structures, roadways or bridges damaged by the earthquake". Drilling of wells does not appear to be covered by this Proclamation w/ regards to suspension of laws.
Whoops, sorry again for not stating which proclamation. Sometimes I get too involved and make assumptions that people know what I'm talking about!

I've attached the proclamation.

There was a recent pump installation done by a private organization to alleviate lack of irrigation water for the Kohala Ditch System. I believe they had federal money to do the installation, if that matters at all.

There's also discussion with State CD regarding well drilling for relief.

Thanks again.

[attachment "10-15-06_Disaster_Proclamation.pdf" deleted by Roy Hardy/DLNR/StateHiUS]

Hold on, I was not necessarily saying they comply with the Proclamation. I am not familiar with the proclamation relating to the earthquake, but I know the earlier proclamations for the Kaloko floods only applied to the government and agencies, not to private individuals. It was not clear from your e-mail who is to be drilling the wells. If it is private citizens (or companies, etc.) they may not be covered by the proclamation. Who is proposing to drill the wells and do you have a copy of the proclamation?
Thanks for your response Linda. Sorry for not clarifying this earlier, but yes, the wells are to be drilled (or in some cases pumps installed) to alleviate the lack of irrigation water attributed to earthquake damage to three ditch systems on the Big Island.

So I suppose they will never have to get permits in this instance. We can still ask them to submit well completion reports, which I'm sure they'll comply with.

Linda L Chow/AG/StateHiUS

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As stated in the first Proclamation, the authority for a disaster proclamation suspending laws is HRS 128-8(4). The section specifically provides:

The governor, in the event of a civil defense emergency period, may exercise the following additional powers pertaining to civil defense: (4) Suspend any law which impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, civil defense or other emergency functions, including without limitation, laws which by this chapter specifically are made applicable to civil defense personnel.

The other authority for suspension of law is HRS 128-9(8). Under this provision the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflict with, disaster relief or other emergency functions.

Under these 2 sections, the suspension of laws is only for limited purposes. Have you ascertained whether the well construction was part of a civil defense, disaster relief, or emergency function?
If the situation was covered by the Disaster Proclamation then arguably the requirements for the well
construction, etc. never have to be complied w/ as to those particular wells. If they are not covered by the
Disaster Proclamation, you may go after them like any other unauthorized well construction.

Linda L.W. Chow
Deputy Attorney General
Land Transportation Division

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Ryan R Imata/DLNR/StateHiUS
10/26/2006 02:57 PM

To   Linda L Chow/AG/StateHiUS@StateHiUS
cc  Dean A Nakano/DLNR/StateHiUS@StateHiUS, Lenore Y
     Nakama/DLNR/StateHiUS@StateHiUS, Charley F
     Ices/DLNR/StateHiUS@StateHiUS
Subject Governor’s Disaster Proclamation

Hey Linda!

Does "suspension" under the Governor's Disaster Proclamation mean that an entity would never have to
get a permit or is the requirement for a permit suspended? Specifically with respect to 174C, the State
Water Code, can we require that the applicant apply for an after-the-fact Well Construction and Pump
Installation Permit?

Also, if the suspension is temporary would the entity then have to satisfy Chapter 343, which is a
prerequisite of our Well Construction and Pump Installation Permits?

We are concerned about the potential for wells to be constructed incorrectly and therefore potentially
provide a conduit for groundwater contamination. Or also for the capacity of the wells to have negative
impacts on other wells or streams.

Thanks,

Ryan
This needs to go through. Why do you need approval? What's the hurry? I need time to answer.

Ah, I see. Never mind. I'll answer later.
TO: Honorable Mark Bennett, Attorney General  
State of Hawaii

FROM: Laura H. Thielen, Chairperson  
Commission on Water Resource Management

SUBJECT: Request for Legal Opinion on Emergency Proclamation

LEGAL PROBLEM:

We request a legal opinion on the applicability of the Governor's October 15, 2006 Proclamation, on the installation of a pump by a private landowner in an existing well.

CHRONOLOGY OF FACTS:

In 1989, the U.S. Department of the Interior’s United States Geological Survey (USGS) drilled a well (designated as Well 7448-07) on the property now owned by Karl Toubman.

Prior to the earthquake in 2006, Kathie Pomeroy applied for and secured a grant for agricultural improvements unrelated to the well from the Hawaii Agricultural Development Program via the Big Island.

On October 15, 2006 the Big Island experienced an earthquake which damaged the Kohala Ditch.

On October 15, 2006, the Governor issued a proclamation suspending (among others) Section 174C, "to the extent necessary to repair, restore, rebuild, with any necessary improvements, any public structures, roadways or bridges damaged by the earthquake". (attached)

On December 11, 2006, Gordon Tribble of the USGS wrote a letter to Larry Konda of the Hawaii State Civil Defense (CD), authorizing the use of Well 7448-07 until Kohala Ditch is restored or the emergency condition no longer exists (refer to attached letter). However, the intent of this letter was to provide clarification which would then allow $30,000 in matching funds from the Department of Defense to be used for this well to provide agricultural water. This money was declined because the additional $30,000 would have to have been provided by the end users, who would only have been allowed to use the well for the duration of the emergency.
On January 11, 2008, Karl Toubman (not a licensed pump installer) installed a pump in well 7448-07. The pump installed is 2 to 3 gallons per minute.


DISCUSSION OF THE PROBLEM:

Basically, CWRM is requesting the Attorney General office's opinion regarding whether or not the Governor's proclamation applies to the work performed on this undamaged well.

Staff has communicated previously with the AG's office (refer to attached e-mail).

If the Governor's proclamation is applicable in this case, the applicant will not need a pump installation permit and the application as submitted can be returned "for now."

However, if the proclamation is deemed to not be applicable, Commission staff will likely accept the application and make a recommendation to the Commission to deny the after-the-fact permit application because the pump installer was not licensed.

ADMINISTRATIVE INTERPRETATIONS:

We do not believe the proclamation is applicable in this case for several reasons. As stated in the proclamation, the suspension of the sections of HAR were made "to the extent necessary to repair, restore, rebuild, with any necessary improvements, any public structures, roadways or bridges damaged by the earthquake."

First of all, the earthquake damaged the Kohala Ditch but not well 7448-07. Nothing in the application directly addresses damage to the Kohala Ditch, just that the pump installation was made to alleviate lack of water attributed to the damaged Kohala Ditch.

Second, the concept of "public structure" as it pertains to the well is questionable. While the USGS drilled the well and uses it to collect data, the nature of the "public structure" is for data collection, not the provision of agricultural water. Also, because the well is drilled on private land, it would appear the well can't be considered a public structure because there is no particular easement to the USGS.

Finally, it appears that the end use of the well is for private and individual use, not for the community as a whole.

If you have any questions, please have your staff contact Ken C. Kawahara, Deputy Director, at 587-0214.

Attachments

Part of the problem is that a similar case has passed forward with work without permits from the owner for work on a private ditch, surface water diversion under the proclamation. The Kohala Ditch is undamaged.
military relief for the damaged Leven Armada. It was deemed inappropriate to grant relief under the proclamation, as funds were earmarked for the Crown. Similarly, Civil Defence monies were not used for aid as well.

...
TO: Honorable Mark Bennett, Attorney General  
State of Hawaii

FROM: Laura H. Thielen, Chairperson  
Commission on Water Resource Management

SUBJECT: Request for Legal Opinion on Emergency Proclamation

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On October 15, 2006 the Big Island experienced an earthquake which damaged the Kohala Ditch.

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Honorable Mark Bennett, Attorney General
Page 2
August 26, 2008

On January 11, 2008, Karl Toubman (not a licensed pump installer) installed a pump in well 7448-07. The pump installed is 2 to 3 gallons per minute.


DISCUSSION OF THE PROBLEM:

Basically, CWRM is requesting the Attorney General office’s opinion regarding whether or not the Governor’s proclamation applies to the work performed on this undamaged well.

Staff has communicated previously with the AG’s office (refer to attached e-mail).

If the Governor’s proclamation is applicable in this case, the applicant will not need a pump installation permit until the proclamation is rescinded and the application as submitted can be returned for now.

However, if the proclamation is deemed to not be applicable, Commission staff will likely accept the application and make a recommendation to the Commission to deny the after-the-fact permit application because the pump installer was not licensed.

ADMINISTRATIVE INTERPRETATIONS:

We do not believe the proclamation is applicable in this case for several reasons. As stated in the proclamation, the suspension of the sections of HAR were made “to the extent necessary to repair, restore, rebuild, with any necessary improvements, any public structures, roadways or bridges damaged by the earthquake.”

First of all, the earthquake damaged the Kohala Ditch but not well 7448-07. Nothing in the application directly addresses damage to the Kohala Ditch, just that the pump installation was made to alleviate lack of water attributed to the damaged Kohala Ditch.

Second, the concept of “public structure” as it pertains to the well is questionable. While the USGS drilled the well and uses it to collect data, the nature of the “public structure” is for data collection, not the provision of agricultural water. Also, because the well is drilled on private land, it would appear the well can’t be considered a public structure because there is no particular easement to the USGS.

Finally, it appears that the end use of the well is for private and individual use, not for the community as a whole.

Part of our problem is that a similar case has moved forward with work without permits from the CWRM for work on undamaged private surface water diversion under the proclamation. The Lalakea Ditch is providing alternative relief for the damaged Lower Hamakua Ditch. Since Department of Agriculture funds were involved with moving this privately owned alternative forward it was deemed appropriate to qualify under the proclamation. Similarly, Civil Defense monies were used for this well informed by the AG office.
Honorable Mark Bennett, Attorney General
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August 26, 2008

though it is the only one, the private well owner is benefiting rather than numerous private farmers served by the Lower Hamakua Ditch. The pump size is very small at 4 gallons per minute.

If you have any questions, please have your staff contact Ken C. Kawahara, Deputy Director, at 587-0214.

Attachments

or approximately 5,800 gallons per day, which would serve approximately 14 homes or 1 to 3 acres of agriculture.
ID copies

1. Cover letter
2. Pump app.
