Mr. Darryl Yagodich, representing the DHHL, presented testimony supporting additional water reservation from the Kualapuu Aquifer System for uses on Hawaiian home lands (see file).

David Craddick of the Maui Department of Water Supply, Noelani Joy, DeGray Vanderbilt, William Kaleimomi, and Judy Caparida, all supported the reservation of water for DHHL homesteader use.

Mr. Duncan Annandale, Operations Director for Molokai Ranch, supported the water needs of DHHL "to the extent that it is determined that this petition is for water which is government-owned or surplus water from private sources as defined in Subsection 221(A) of the Hawaiian Homes Commission Act". Mr. Annandale added that the petition should be granted subject to the rights of all property owners to obtain their allocations of water from the Kualapuu Aquifer for reasonable future use (see file).

Ms. Toni Bissen of Native Hawaiian Advisory Council (NHAC) supported DHHL's petition but felt that the additional 2 mgd should come from within the 5 mgd planning figure (see file).

Mr. Cox commented that there is obvious need to coordinate the various water needs for Molokai - DHHL, agriculture, county, and economic development. Staff's public hearing process would resolve a lot of these questions.

Unanimously approved (Lewin/Ing).

ITEM 4
DAVID W. CURTIS, APPLICATION FOR A WATER USE PERMIT, KAMALO-C WELL (WELL NO. 0352-70), KAWELA GROUND WATER MANAGEMENT AREA, MOLOKAI

Unanimously approved (Ing/Cox).

ITEM 5
CIBA SEEDS, APPLICATION FOR A WATER USE PERMIT, NAIWA WELL (WELL NO. 0705-05), MANAWAINUI GROUND WATER MANAGEMENT AREA, MOLOKAI

Mr. Walter Ritte asked if there would be any impact on the Hoolehua/ Kalamaula area. Ms. Nakama stated that the long-term impact is not known, but that this rate of pumpage would not have a great impact on the aquifer.

Ms. Joy supported the use of brackish water for agriculture production as opposed to potable water and asked the Commission's support of the applicant's request.

Unanimously approved (Cox/Ing).

ITEM 6
KUKUI (MOLOKAI), INC., APPLICATION FOR A WATER USE PERMIT, NAIWA WELL (WELL NO. 0705-05), KUALAPUU GROUND WATER MANAGEMENT AREA, MOLOKAI

Ms. Nakama presented amended recommendations for Commission action. After discussions the following was recommended:
1. That the Commission find that there was just cause for the applicant's failure to file within the specified one-year period, and that this late filing of a water use permit application be allowed.

2. That the Commission approve the issuance of an interim water use permit to Kukui (Molokai), Inc. for the reasonable and beneficial use of 928,000 gallons per day of potable water for municipal, domestic, and irrigation uses at the Kaluakoi Resort Hotel, condominiums, residences, and golf course from Well #17 (Well No. 0901-01), subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

a. The applicant may continue this existing use within the levels approved by the Commission, and the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

b. The filing of an application for future uses in excess of 2.0 mgd shall be just cause for re-evaluation of this interim permit.

c. Upon completion of a new transmission line for the transport of the water used by Well #17, the permitted use of Well #17 shall be reduced by 10% to 918,800 gallons per day.

3. That the Commission defer action on the remaining observed usage of 240,200 gallons per day, for a period not to exceed 90 days, pending the following:

a. Justification for additional allocation for existing uses in excess of 918,800 gallons per day.

b. Development of a conservation plan or program that shall address, but not be limited to, the following:

   (1) Identifying and using efficient plants and drought tolerant plants for landscaping and quantifying their demands (xeriscape).

   (2) Use of efficiently designed landscaping and irrigation systems.

4. In the event that water conservation programs and plans are not complied with or that a waste of water is occurring, the Commission shall proceed with the necessary actions to revoke this permit.

5. Defer other requests for future uses.

Mr. Ron Hedani of Kukui (Molokai), Inc. presented testimony on their application for water use (see file). He explained that their current usage of 1.2 mgd is based on the currently depressed occupancy rates in the hotel and resort condominiums. Testimonies objecting to the application were filed by Kaiwi Naki, Sara Sykes, NHAC, Noelani Joy, Rachel Kamakana, DeGray Vanderbilt, and Judy Caparida (see file). Ms. Sykes asked that a public hearing be held. Mr. Matthew Adolpho requested a contested case hearing.

Chairperson Ahue stated that due to the request for a contested case, action was deferred to determine if Mr. Adolpho has standing. In the next ten days,
Mr. Adolpho must submit information to verify his standing for a contested case hearing. Ms. Sykes asked if her request for a public hearing still stands since Mr. Adolpho requested a contested case hearing. Chairperson Ahue suggested both could be looked at because the public hearing could resolve the issue and a contested case hearing may not be needed.

Additional testimonies were heard for informational purposes only.

Unanimously approved for deferral (Cox/Nakata).

**ITEM 7**

**APPLICATIONS FOR WATER USE PERMITS, KAWELA GROUND WATER MANAGEMENT AREA, MOLOKAI**

Mr. Ing suggested the following amendment be made to Condition 2:

"That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and any existing subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

Unanimously approved as amended (Ing/Lewin).

**ITEM 8**

**LOKO PA KALO AFTER-THE-FACT APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT, STREAM DIVERSION WORKS PERMIT, AND AMENDMENT TO THE INTERIM INSTREAM FLOW STANDARD, HONOLULUAI STREAM, MOLOKAI**

Mr. Higa recommended the following amendments to the Recommendations:

"The permit application and the staff submittal approved by the Commission at its meeting of [March 16] April 14, 1994 shall be incorporated herein by reference."

5. "[The applicant shall install an appropriate water meter subject to the approval of the Chairperson.] The applicant shall report monthly water usage for one year after the meter is installed, or as required by the Commission."

Also, Mr. Eddie Tanaka's name should be added to the list of corporate members.

The applicant indicated that the requirement for a water meter would cause an excessive financial burden since the project is not a large aquacultural farming operation. Staff understood that the cost of the water meter would be over $500 and did not object to the deletion of this condition provided there are no objections from other competing users.

Unanimously approved as amended (Nakata/Cox).
State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources
Honolulu, Hawaii

April 14, 1994

Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

Applications for Water Use Permits
Kawela Ground Water Management Area, Molokai

Applicant: Landowner:
1. (Well Nos. 0354-01,02,&04) T.T. Meyer, Inc. Same
   T.T. Meyer, Inc.
   P.O. Box 454
   Kaunakakai, HI 96748

2. (Well No. 0354-03) T.T. Meyer, Inc.
   Kanukuawa Ranch P.O. Box 454
   P.O. Box 707
   Kaunakakai, HI 96748

3. (Well No. 0354-05) Same
   Henry R. Meyer Estate
   P.O. Box 454
   Kaunakakai, HI 96748

Background

The applicants submitted completed water use permit applications to the Commission on the dates indicated in Exhibit 1. Specific information regarding the source, use, notification, objections, and field investigation(s) are described in Attachment A and the attached exhibits.

Analysis & Issues

1. These three existing sources use brackish water from the Kawela Aquifer System for various uses as follows:
   a. Meyer Inc. #1 (Well No. 0354-01) - Because the county water system has never been extended to service this area of Molokai, this dug well is the sole source of domestic water supply for five homes and serves a total of 13 members of the Meyer family. Eleven briefs in support of this application have been submitted. Although the application indicates that the well is also used for the irrigation of 15.5 acres of various fruit trees and vegetables, this use was not verified by the field investigation. The applicant has verbally stated that the irrigation use is sporadic and varies according to the nature of the rainfall. The produce is not marketed commercially at this time, but may be at some point in the future. Currently, the irrigated lands are used for subsistence farming.
   b. Meyer Inc. #2 (Well No. 0354-02) - This drilled well is used for dust control and rock and cinder quarry operations on 25 acres of leased land. The lease to Molokai Concrete and Construction expired in August 1993. The applicant has verbally stated that a new lease is currently being negotiated and that he considers the water needs of the quarry to be immediate. Four briefs in support of this application have been filed with the Commission.
   c. Meyer Inc. #4 (Well No. 0354-04) - This dug well is used for irrigation purposes. The application states that the water is used for the domestic needs of one home and for irrigation of 2.71 acres of coconut trees, heliconias, and ti leaf plants. However, the field investigation report states that the domestic water is derived from the Meyer Inc. #1 Well and that irrigation use is confined to 1/2 acres of lawn. The applicant has verbally stated

Agenda 1
ITEM 7
that the irrigation use varies with rainfall and, at present, no commercial agricultural operations exist.

2. **Well #3 (Well No. 0354-03)** - This existing source uses brackish water for the domestic needs of three homes and the irrigation of a 5-acre orchard of various fruit trees. A small portion of the water is used by 4 horses and 4 pigs for drinking and washing. At the time that the field investigation was conducted on November 23, 1992, two of the five acres were not being farmed.

3. **Henry's Well (Well No. 0354-05)** - From the field investigation conducted on November 23, 1992, this existing dug source was verified to have no existing use. It was determined that the well was not equipped with a pump or motor. Further, this well has not been registered under the well registration program. Staff finds that there is no justification for the issuance of a water use permit for this well and that this application should be denied, pursuant to §174C-83 and pending justification of an immediate need.

By the following analysis, staff finds that the following applications for permits to continue an existing water use meet the seven (7) criteria set forth in HRS 174-C(a)

### Conditions for a permit:

1. **Water availability** - Although pending applications for existing uses reflect a total draft rate of 1.72 million gallons per day (mgd), the latest 12-month moving average of actual recorded water usage suggests that existing withdrawals may be less than 0.6 mgd. Staff finds that this is a more reasonable estimate of existing uses in the aquifer. The satisfaction of all reasonable and beneficial existing uses is therefore expected to require less than 15% of the total sustainable yield. An increase of about 3-4% in use at the major developments is projected through the year 2010. By this analysis, over 80% of the system's sustainable yield remains available for other pending permits for continued existing uses and for new uses on lands that are currently undeveloped.

2. **Reasonable-beneficial** - The following proposed permits are deemed to be beneficial uses of the water resource. However, the quantities requested do not appear to be reasonable estimates for the proposed uses.

1a. **Meyer Inc. #1 (Well No. 0354-01)** - The applicant has not been reporting his water use on a regular basis, and the capacity of the pump could not be verified in the field. The well registration form lists the capacity at 20 gpm. It is assumed that the pump has not been replaced, since no application for a pump installation permit has been filed since the well was registered. Assuming that the pump is operated continuously at full capacity, the maximum possible yield from the well is 28,800 gallons per day. Based on the Maui County Domestic Consumption Guideline, a single family residential unit may use up to 3,000 gallons per acre of land. Given the large area used for subsistence farming (15.5 acres), it is conceivable that the maximum yield of the well may be required for domestic consumption and irrigation purposes. Staff finds that an allocation of 28,800 gallons per day is justified.

1b. **Meyer Inc. #2 (Well No. 0354-02)** - The Native Hawaiian Advisory Council (NHAC) has commented that, since the lease has expired, water should not be allocated until the future of the land use has been confirmed. However, the applicant has stated that his needs are immediate, as negotiations are underway. Given 1) the interim nature of the permit, 2) the ability of the Commission to revoke any portion, or all, of the permitted use following four continuous years of nonuse, 3) the availability of the water supply, and 4) the justification given for his need at this time, staff finds no compelling reason to deny the request for an allocation.

Water use data are not available to estimate existing needs, and the capacity of the pump could not be verified in the field, but the registration form lists the capacity at 56 gpm. The application states that the pump is run daily from 7 a.m. to 6 p.m. By this method, the estimated water use may be as much as 39,960 gpd. Staff feels that this is a liberal estimate. However, the issuance of an interim permit at this time will allow the Commission to further refine this estimate as water use data become available.
1c. Meyer Inc. #4 (Well No. 0354-04) - Water use data are not available, and the pump capacity is unknown. The type of plants being irrigated have relatively low water demands. Assuming a daily irrigation requirement of 1,700 gallons per acre (County guideline for park-like areas), about 4,600 gpd is required to irrigate 2.71 acres.

2. Well #3 (Well No. 0354-03) - The applicant's request appears to be low. Based on the county guidelines, three single family residences consume an average of 1,800 gpd, and 5 acres of fruit trees may require anywhere from 15,000 to 25,000 gpd. Staff finds that an allocation of 16,800 gpd is a reasonable estimate for these uses.

(3) Interference with other existing legal uses - There should be no affect on the interim instream flow standards, as these uses were in existence prior to the effective date of the standards for Molokai streams. Although Kapuaokoolau Gulch appears to have flow in its lower region, DAR has commented that, from the aquatic biological resources standpoint, there are no objections. Further, it is unlikely that the existing withdrawal will result in any measurable impacts. Excluding the wells owned by the Meyer family, there are two other wells within a mile of these wells, but the use of these wells could not be confirmed. However, it does not appear that any interference with other legal rights will result from continuation of the use, and no objections to these permit applications have been filed.

NHAC has raised concerns regarding the effect of runoff from the quarry operation (Well No. 0354-02) on nearshore waters and nearby fishponds. The Division of Aquatic Resources has noted the proximity of the quarry to the Pahioomu Fish Pond and has concluded that there is no potential for any impact on surface water habitat.

(4) Public interest - These proposed beneficial uses of water for domestic, agricultural irrigation, and industrial purposes do not appear to be in conflict with the various objectives declared to be in the public interest. Review of these applications by the various divisions of the Dept. of Land and Natural Resources, which serve to protect and promote the interests of the public, has not prompted any statements of objections or concerns.

(5) State & county general plans and land use designations - The Office of Conservation and Environmental Affairs and the Maui County Planning Department has reviewed these applications. No objections or concerns have been raised. These proposed uses have been shown to be consistent with the state and county general plans and land use designations.

(6) County land use plans and policies - These proposed uses have been shown to be consistent with the county land use plans policies.

(7) Interference with Hawaiian home lands rights - To meet the current and future needs of Hawaiian homesteaders, the Dept. of Hawaiian Home Lands (DHHL) has requested that water be reserved from the Kualapuu Aquifer System. This request has been granted, and currently, another request to reserve water from the Kualapuu Aquifer System is under consideration. Further, there are no lands in the Kawela Aquifer System that are under the administration of the Hawaiian Homes Commission. DHHL has reviewed these applications, and no objections have been raised.

The Molokai Working Group has made the following recommendations for the Southeast Sector, which encompasses the Kawela Aquifer System:

1. Limit groundwater withdrawal to 50% of its developable yield subject to verification of existing uses and water use permits.

2. Any withdrawals from this Sector should not diminish water supplies and supply availability for traditional uses, including taro patches and fishponds.

3. Development of additional water from the Southeast Sector should be reserved first for residences of this Sector who are not yet served.
Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry's Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

RAE M. LOUI
Deputy Director

APPROVED FOR SUBMITTAL:

KEITH W. AHUE, Chairperson
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

WATER USE PERMIT DETAILED INFORMATION

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<td><strong>AQUIFER:</strong></td>
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<td>Kawela System, Southeast Sector, Molokai</td>
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<td><strong>Existing Water Use Permits:</strong></td>
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<td><strong>Casing Diameter:</strong></td>
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ATTACHMENT A
Chairperson and Members
Commission on Water Resource Management

Water Level:
Ground:
Bottom of Solid Casing:
Bottom of Perforated:
Bottom of Open Hole:

Total Depth:
Grouted Annulus Depth:

Pump Capacity

3. WELL:
Location:
Year Drilled:
Casing Diameter:
Elevations (msl = 0 ft.)
Water Level:
Ground:
Bottom of Solid Casing:
Bottom of Perforated:
Bottom of Open Hole:

Total Depth:
Grouted Annulus Depth:

Pump Capacity

Henry's Well (Well No. 0354-05)
Kapuaokoolau, Molokai, TMK: 5-5-1:28

NA ft.
NA ft.
NA ft.
NA ft.

17 ft.
NA ft.

NA in.
NA ft.
NA ft.
NA ft.
NA ft.

5.5 ft.
NA ft.

NA gpm

Use Information

1a. Quantity Requested: 100,000 gallons per day.
Existing Type of Water Use: Domestic use for 5 residences and irrigation of 15.5 acres of various fruit trees
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11,12,28

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

1b. Quantity Requested: 200,000 gallons per day.
Existing Type of Water Use: Industrial use at rock and cinder quarry
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

1c. Quantity Requested: 10,000 gallons per day.
Existing Type of Water Use: Domestic use for 1 residences and irrigation of 2.71 acres of heliconias, coconut and ti

ATTACHMENT A
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April 14, 1994

Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

2. Quantity Requested: 5,000 gallons per day.
Existing Type of Water Use: Domestic use for 3 residences and irrigation of 5-acre tree orchard
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

3. Quantity Requested: 30,000 gallons per day.
Existing Type of Water Use: Domestic use for 1 residence and irrigation of 5.32 acre of various fruit trees
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:28

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

Kawela Aquifer System
Current 12-Month Moving Average Withdrawal: 0.594 gpd
(12% of SY)

Nearby Surrounding Wells and Other Registered Ground Water Use

There are 3 other wells within a mile of these wells (see Exhibit 2). Possibly all of these wells are currently in use. Information from the registration program indicates there are possibly 35 existing wells in the Kawela Aquifer System. The 1992 Draft of the Maui Water Use and Development Plan, Island of Molokai estimated that the existing withdrawals from the Kawela Aquifer System is 0.31 mgd as of 1990. The Final Report of the Molokai Working Group Estimated the actual use from the Kawela Aquifer System to be 0.76 mgd.

Public Notice

In accordance with HAR §13-171-17, a public notice was published in the Star-Bulletin on the dates indicated in Exhibit 1 and copies of the notice were sent to the Mayor’s office and the Board of Water Supply. Additional notice copies were sent to the County Council and Department of Water Supply. Copies of the completed application were sent to the Department of Health, Department of Hawaiian Home Lands, Office of Hawaiian Affairs, Aquatic Resources & Historic Preservation Divisions of the Department of Land and Natural Resources, and other interested parties for comments. Written comments and objections to the proposed permit were to be submitted to the Commission by the dates indicated on Exhibit 1.

Objections

The public notice specifies that an objector meet the following requirements: (1) state property or other interest in the matter; (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; (3) state all grounds for objections to the proposed permit(s), (4) provide a copy of the objection letter(s) to the applicant, and (5) submit objections meeting the previous requirements to the Commission by the dates indicated on Exhibit 1.

To the best of staff’s knowledge there are no objectors who have property interest within the Kawela Aquifer System or who will be directly and immediately affected by the proposed water use. All objections and/or comments to the application are summarized in the Analysis and Issues section:

ATTACHMENT A
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Commission on Water Resource Management  

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Briefs in Support

Responses to objections, or briefs in support, regarding the application are required to be filed with the Commission ten (10) days after an objection is filed and, presumably, copies are served to the applicant. Eleven briefs in support were filed with the Commission.

Field Investigation

The water sources and existing uses were investigated on the dates indicated on Exhibit 1. The investigation(s) verified the applicants existing sources and proposed use sites.
STANDARD WATER USE PERMIT CONDITIONS

1. The ground water described in the water use permit may only be taken from the location described, used for the reasonable-beneficial use described, and at the location described above and in the attachments. Reasonable-beneficial use means "the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is not wasteful and is both reasonable and consistent with the state and county land use plans and the public interest." (HAR §13-171-2).

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HAR §13-171-13 which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in section §13-171-2;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with state and county general plans and land use designations;
   f. Is consistent with county land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and 174C-101(a), HRS.

4. The ground water use approved must not interfere with surface or ground water rights or reservations.

5. The ground water use approved must not interfere with interim or permanent instream flow standards or policies as determined by the Commission. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be amended.

6. The water use permit is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.

7. The water use permit application and staff submittal approved by the Commission at its April 14, 1994 meeting are incorporated into the permit by reference.

8. Any modification of the permit terms, conditions, or uses can only be made with the express written consent of the Commission on Water Resource Management.

9. The water use permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
   a. Protect water sources in quantity, quality, or both;
   b. Meet other legal obligations including other correlative rights;
   c. Insure adequate conservation measures;
   d. Require efficiency of water uses;
   e. Reserve water for future uses, provided that all legal existing uses of water as of June 1987, shall be protected;
   f. Meet legal obligations to the Department of Hawaiian Homes, if applicable; or
g. Carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

10. If the ground water source does not presently exist, the new well shall be completed, i.e. able to withdraw water for the proposed use on a regular basis, within twenty-four (24)
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

months from the date the water use permit is approved.

11. An approved flowmeter(s) must be installed to measure withdrawals and a monthly record of withdrawals, water-levels, salinity, and temperature must be kept and reported to the Commission on a yearly basis in accordance the Commission’s September 16, 1992 action on reporting requirements;

12. The water use permit shall be subject to the Commission’s periodic review of the applicable aquifer’s sustainable yield. The amount of ground water use authorized by the permit may be reduced by the Commission if the sustainable yield of the Kawela Aquifer System, or relevant modified aquifer, is reduced;

13. The water use permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HAR §13-171-25 and the requirements of Chapter 174C, the Commission has the authority to allow the transfer of the permit and the use rights granted by the permit in a manner consistent with HAR §13-171-25. Any such transfer shall only occur with the Commission’s prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

14. The use(s) authorized by law and by the water use permit do not constitute ownership rights.

15. The permittee shall comply with all applicable laws, rules, ordinances, and other agencies’ permits and conditions pertaining to water use or the water resource.

16. The permittee shall prepare and submit a water shortage plan within 30 days of issuance of the permit to assist the Commission in fulfilling HAR §13-171-42(c). The permittee’s water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Kawela Ground Water Management Area.

17. The water use permit granted shall be an interim water use permit, pursuant to HAR §13-171-21. The final determination of the water use quantity shall be made within five years of the filing of the application to continue the existing use.

18. The water use permit shall be issued only after AG review.

19. The water use permit shall be subject to the Commission’s establishment of instream standards and policies to Stream Protection and Management (SPAM), as well as legislative mandates to protect stream resources.

ATTACHMENT B
### Water Use Permit Application Notice Status Report 04/05/94

<table>
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<tr>
<th>WUPA NO</th>
<th>APPLICANT</th>
<th>WELL NO</th>
<th>WELL NAME</th>
<th>EXIST</th>
<th>PROPOSED</th>
<th>RECEIVED</th>
<th>ACKNOWGD</th>
<th>ACCEPTED</th>
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<th>PUBLIC 2 NOTICE</th>
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<th>SUSPENSE</th>
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<td>WELL #3</td>
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**Total Applications:** 5

**Molokai Has:** 5 Applications Totaling 0.345

**Statewide There Are:** 5 Applications Totaling 0.345

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**EXHIBIT 1**
Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry's Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

RAE M. LOUI
Deputy Director

APPROVED FOR SUBMITTAL:

KEITH W. AHUE, Chairperson
Mr. L. West
Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748

Dear Mr. West:

Commission Submittal for your Water Use Permit
Kawela Ground Water Management Area, Molokai

The Commission on Water Resource Management will be acting on your water use permit application for your Well #3 (Well No. 0354-03) at its April 14, 1994 meeting at 10:30 a.m. at the Mitchell Pauole Center on Molokai.

A copy of the submittal for action on your water use applications is enclosed for your information and review. You may wish to attend the meeting in case the Commissioners have questions regarding your application. Otherwise, we will notify you of the Commission’s decision soon thereafter.

If you have any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

RAE M. LOUI
Deputy Director

LN:fc

Attach.
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI 96748

Dear Mr. West:

Notice of Comments to Your Water Use Permit Application  
Kawela Ground Water Management Area, Molokai

We have received the attached comment to your pending water use permit application for Well #3 (Well No. 0354-03).

Please contact the Land Use Commission at 587-3822 for a boundary interpretation and inform our office in writing of the determination by the Land Use Commission. Should your well be located in a Conservation District, you will need to contact the Office of Conservation and Environmental Affairs regarding a Conservation District Use Permit for this source.

Your water use permit application will be rescheduled for Commission action pending receipt of the requested information. If you have any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

[Signature]

RAE M. LOUI  
Deputy Director

LN:ky  
Attachment
MEMORANDUM

TO:       Aquatic Resources  
           Forestry and Wildlife/Natural Area Reserve System  
           Historic Preservation  
           Land Management  
           Office of Conservation and Environmental Affairs  
           State Parks  
           Water and Land Development  
           Other Interested Parties

FROM:     Rae M. Loui, Deputy Director

SUBJECT:  Request for Comments  
           Water Use Permit Application  
           Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response: Contact person: ________________________ Phone: ________________________

(✓) We have no comments
(✓) We have no objections
(✓) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: ________________________ Date: JAN 26 1994
DEC 20 1993

MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife/Natural Area Reserve System
Historic Preservation
Land Management
Office of Conservation and Environmental Affairs
State Parks
Water and Land Development
Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
Water Use Permit Application
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person:  Phone: __________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed:  Date: 1/14/94

THE SUBJECT WELL SITE DOES NOT APPEAR TO BE WITHIN THE BOUNDARIES OF THE CONSERVATION DISTRICT. HOWEVER, THIS SHOULD BE VERIFIED W/ THE STATE LAND USE COMMISSION.
DEC 20 1993

MEMORANDUM

TO: Aquatic Resources  
    Forestry and Wildlife/Natural Area Reserve System  
    Historic Preservation  
    Land Management  
    Office of Conservation and Environmental Affairs  
    State Parks  
    Water and Land Development  
    Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments  
    Water Use Permit Application  
    Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky

Attachments

Response: Contact person: [NAME]  

☐ We have no comments  
☐ We have no objections  
☐ Comments attached  
☐ Additional information requested  
☐ Extended review period requested

Signed: [NAME]  

Date: 1/7/94
January 10, 1994

MEMORANDUM

TO: Rae M. Loui, Deputy Director
Commission on Water Resource Management

FROM: Don Hibbard, Administrator
State Historic Preservation Division

SUBJECT: Historic Preservation Review of an Application for Water Use Permit for Kanukuawa Ranch for Well No. 0354-03
Kapuaokoolau, Molokai
TMK: 5-5-01: 12

There are no known historic sites on this parcel, which has been under residential use. Since this is an existing well facility, we believe that its use for domestic and irrigation of existing orchard will have "no effect" on historic sites.

Please contact Annie Griffin at 587-0013 if you have any questions.

AG:jcn
MEMORANDUM

TO:  Aquatic Resources
     Forestry and Wildlife/Natural Area Reserve System
     Historic Preservation
     Land Management
     Office of Conservation and Environmental Affairs
     State Parks
     Water and Land Development
     Other Interested Parties

FROM:  Rae M. Loui, Deputy Director

SUBJECT:  Request for Comments
           Water Use Permit Application
           Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response:  Contact person:  Brian Miske
           Phone:
           (X) We have no comments
           ( ) We have no objections
           ( ) Comments attached
           ( ) Additional information requested
           ( ) Extended review period requested

Signed:  Date: 1/3/94
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
Department of Hawaiian Home Lands
Dr. John C. Lewin, M.D., Director
Department of Health
Mr. Clayton H. W. Hee, Chairperson
Office of Hawaiian Affairs
Mr. Goro Hokama, Chair
County Council
County of Maui
Mr. Byron S. Walters, Chair
Board of Water Supply
County of Maui

FROM: Keith W. Ahue, Chairperson
Commission on Water Resource Management

SUBJECT: Water Use Permit Application
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: Luis A. M. Anrique Phone: 587-3860

(✔) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: Date: 12/29/93
December 22, 1993

Mr. Keith W. Ahue, Chairperson  
State of Hawaii  
Department of Land and Natural Resources  
Commission on Water Resource Management  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Ahue:

RE: Application for Water Use Permit for Wells 0354-03 and 0705-05

We have reviewed the applications and have no objections to the issuance of Water Use Permits for these two existing applications.

Sincerely,  

LINDA CROCKETT LINGLE  
Mayor, County of Maui

NP:jso  
c:\letter\884
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
   Department of Hawaiian Home Lands

   Dr. John C. Lewin, M.D., Director
   Department of Health

   Mr. Clayton H. W. Hee, Chairperson
   Office of Hawaiian Affairs

   Mr. Goro Hokama, Chair
   County Council
   County of Maui

   Mr. Byron S. Walters, Chair
   Board of Water Supply
   County of Maui

FROM: Keith W. Ahue, Chairperson
   Commission on Water Resource Management

SUBJECT: Water Use Permit Application
   Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: Ben Henderson, Administrator
   Planning Office
   Phone: 587-836

   ( ) We have no comments
   ( ) We have no objections
   ( ) Comments attached
   ( ) Additional information requested
   ( ) Extended review period requested

Signed: Ben Henderson       Date: 1/16/94

Attorney: CJ Fujisaki       Date: 2/20/94

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Commission on Water Resource Management  
Honolulu, Hawaii

DEC 20 1993

MEMORANDUM

TO:  

Aquatic Resources  
Forestry and Wildlife/Natural Area Reserve System  
Historic Preservation  
Land Management  
Office of Conservation and Environmental Affairs  
State Parks  
Water and Land Development  
Other Interested Parties

FROM:  
Rae M. Loui, Deputy Director

SUBJECT:  
Request for Comments  
Water Use Permit Application  
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response:  
Contact person:  
Phone: 587-0290

\( \checkmark \) We have no comments
\( () \) We have no objections
\( () \) Comments attached
\( () \) Additional information requested
\( () \) Extended review period requested

Signed:  
Date: 12/21/93

LN: ky  
Attachments
DECEMBER 20, 1993

MEMORANDUM

TO: Aquatic Resources
   Forestry and Wildlife/Natural Area Reserve System
   Historic Preservation
   Land Management
   Office of Conservation and Environmental Affairs
   State Parks
   Water and Land Development
   Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
   Water Use Permit Application
   Kanukuawa Ranch, Well No. 0354-03
   Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person: Phone:

- [ ] We have no comments
- [x] We have no objections
- [ ] Comments attached
- [ ] Additional information requested
- [ ] Extended review period requested

Signed: Date: 12/21/93
MEMORANDUM

To: Rae M. Loui, Deputy Director
   Commission on Water Resource Management

From: Henry Sakuda, Administrator
       Division of Aquatic Resources

Subject: Comments on Water Use Permit Application for Ciba Seeds for
         Well No. 0354-03 in the Manawainui Ground Water Management
         Area, Molokai

The application is for an existing well at approximately 240 feet in
elevation above Palaaau to pump approximately 105,000 gallons per day of fresh
water for seed corn irrigation. No reduction of instream flows or surface water
habitats is expected. We have no objections from the aquatic biological
resources standpoint.
Mr. L. West  
Kanukuawa Ranch  
P.O. Box 707  
Kaunakakai, HI  96748

Dear Mr. West:

Enclosed is a copy of the public notice for your water use permit application for Well No. 0354-03 which will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

Please be aware that there may be objections to your application. If objections are made, the objector is required to file such objections with the Commission and is also required to send you a copy of the objections.

You, or any other party, may respond to objections by filing a brief in support of your application with the Commission within ten (10) days of the filing of an objection. You, or the other party, must also send a copy of the response to the objector.

If you have any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

RAE M. LOUI
Deputy Director

LN:ky
Encl.
PUBLIC NOTICE

Applications for Water Use Permit
Ground Water Management Areas

Applications for the following water use permits have been received and are hereby made public in accordance with Department of Land and Natural Resources Administrative Rules 13-171, "Designation and Regulation of Water Management Areas."

Well #3 (Well No. 0354-03)
Applicant: Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748
Date Completed Application Received: December 3, 1993
Aquifer: Kawela System, Southeast Sector, Molokai
Well Source: Well #3 Well, Well No. 0354-03, at Kapuaokoolau, Molokai at Tax Map Key: 5-5-1:12
Quantity Requested: 5,000 gallons per day.
Existing Water Use: Domestic supply for 7 residences and irrigation of 30 acres of orchard
Place of Water Use: Kapuaokoolau, Molokai at Tax Map Key: 5-5-1:12

Naiwa (Well No. 0705-05)
Applicant: Ciba Seeds
P.O. Box 830
Kaunakakai, HI 96748
Date Completed Application Received: December 3, 1993
Aquifer: Manawainui System, Central Sector, Molokai
Well Source: Naiwa Well, Well No. 0705-05, at Naiwa, Molokai at Tax Map Key: 5-2-11:7
Quantity Requested: 105,000 gallons per day.
Existing Water Use: Irrigation of 75 acres of seed corn
Place of Water Use: Naiwa, Molokai at Tax Map Key: 5-2-11:7

Written objections or comments on the applications for water use permits may be filed by any person who has property interest in any land within the hydrologic unit of the source of water supply, any person who will be directly and immediately affected by the proposed water use, or any other interested person. Written objections shall: (1) state property or other interest in the matter (provide TMK information); (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; and (3) state all grounds for objections to the proposed permits. Send written objections by January 14, 1994 to 1) the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809 and 2) a copy of the objection letter(s) to the applicant at the above address.

COMMISSION ON WATER RESOURCE MANAGEMENT

KEITH W. AHUE
Chairperson

Dated: DEC 17 1993

MEMORANDUM

TO: Aquatic Resources  
Forestry and Wildlife/Natural Area Reserve System  
Historic Preservation  
Land Management  
Office of Conservation and Environmental Affairs  
State Parks  
Water and Land Development  
Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments  
Water Use Permit Application  
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response: Contact person: ____________________________ Phone: _________

( ) We have no comments  
( ) We have no objections  
( ) Comments attached  
( ) Additional information requested  
( ) Extended review period requested

Signed: ____________________________ Date: _______________
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
Department of Hawaiian Home Lands

Dr. John C. Lewin, M.D., Director
Department of Health

Mr. Clayton H. W. Hee, Chairperson
Office of Hawaiian Affairs

Mr. Goro Hokama, Chair
County Council
County of Maui

Mr. Byron S. Walters, Chair
Board of Water Supply
County of Maui

FROM: Keith W. Ahue, Chairperson
Commission on Water Resource Management

SUBJECT: Water Use Permit Application
Kawela Ground Water Management Area, Molokai

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We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: __________________________ Phone: _________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: __________________________ Date: ___________
Honorable Linda Crockett Lingle, Mayor  
County of Maui  
200 South High Street  
Wailuku, HI 96793

Dear Mayor Lingle:

Notice of an Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai

In accordance with the Department of Land and Natural Resources Administrative Rules, Section 13-171-17(a), we are sending you a copy of the public notice for the water use permit application for the Kanukuawa Ranch for Well No. 0354-03, which will be published in the Honolulu Star Bulletin.

In addition, Section 13-171-13(b) of our Administrative Rules states:

"Within sixty days after receipt of notice of a permit application, the county shall inform the commission if the proposed use is inconsistent with the county land use plans and policies."

We have attached a copy of the application for your review and would appreciate receiving your comments, within the next sixty (60) days, on whether this water use is consistent with county plans and policies.

Very truly yours,

[Signature]
KEITH W. AHUE

Enc.
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI 96748-0707

Dear Mr. West:

Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai

We acknowledge receipt, on July 16, 1993, of your water use permit application for the T.T. Meyer Inc. #3 Well (Well No. 0354-01).

However, the signature of the landowner is required before the application may be considered complete and accepted for processing by the Commission. Please obtain the signature of the landowner and resubmit your application.

Upon receipt of the completed application, we will be sending you a copy of the public notice for your application and any further information regarding the status of your application. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.

Your application indicates that a total of seven (7) residences are to be served. If the use of the water for the residences is for individual domestic consumption, and you are not charging the residences for the use of the water, then no permit is required for this quantity of water. Also, your request for an allocation of 5,000 gallons per day to irrigate a 30-acre orchard seems rather low. Guidelines for water requirements for selected crops indicate that bananas, for example, generally require about 3,019 gallons per acre per day, while papayas may require up to 5,000 gallons per acre per day. Although these guidelines were developed for the island of Oahu, and your orchard may have different water requirements, these may be used as a surrogate to estimate your daily water needs.

If you have any questions, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.

Sincerely,

RAE M. LOUI
Deputy Director
APPLICATION FOR WATER USE PERMITS

In accordance with the Water Resource Management Act of Hawaii, application must be accompanied by 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 857-0225 (neighbor islands, 1-800-468-4544).
16. REMARKS, EXPLANATIONS (cont'd):

TABLE 1. MULTIPLE TMKs TO USE REQUESTED WATER

<table>
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<tr>
<th>PROJECT NAME</th>
<th>TMK</th>
<th>CURRENT COUNTY ZONING CODE</th>
<th>UNITS or NET ACRES</th>
<th>GPD/UNIT or GPD/acre</th>
<th>TOTAL GPD</th>
<th>% OF TOTAL TO BE USED OVER NEXT 4 YEARS</th>
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MEMORANDUM

TO: Mr. Johnson H. Wong, Supervisor
Division of Land/Transportation
Office of the Attorney General

ATTN: Mr. William Tam, Deputy Attorney General

FROM: Rae M. Loui, Deputy Director

SUBJECT: Application to be a Party in a Contested Case Hearing

Attached is an application to be a party in a contested case hearing for all water use permit applications in the Kawela Ground Water Management Area, Molokai.

We request that a determination be made concerning the validity of the request and, if valid, whether the applicant does indeed have standing. At the September 15, 1993 Commission meeting on Molokai, the applicant requested a contested case if any of the water use permit applications in the Kawela Ground Water Management Area were approved. As you know, the Commission deferred action to go to public hearing.

We believe that the contested case request is premature. However, an application to be a party was filed but we do not know its legal implications. We believe that Mrs. Grambusch has the right and can request a contested case hearing at the public hearing or at a Commission meeting where action on the individual applications in the Kawela area are to be acted upon.

RH:ko
Attach.
APPLICATION TO BE A PARTY IN A CONTESTED CASE HEARING
BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN
10 DAYS OF PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST
FOR A CONTESTED CASE HEARING IS MADE.

IF MAILED, SEND TO:  Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Please provide the following information:

1. NAME: Wilma Kamakana Grambusch  PHONE: 553-5557

2. ADDRESS:  P.O. Box 614
              Kaunakakai, HI 96748

3. ATTORNEY (IF ANY): Williamson B. C. Chang, Esq.

4. ATTORNEY ADDRESS:  969 Ahuwale Place
                        Honolulu, HI 96821
                        PHONE: (808) 377-1205

5. SUBJECT MATTER: Objection to water permit applications

6. DATE OF PUBLIC HEARING/COMMISSION MEETING:  September 15, 1993

7. LEGAL AUTHORITY: Intervention pursuant to Water Code
section 174C-60 (contested Cases). Petitioner Grambusch has a
property interest in the area in which permits are sought.

8. WHAT STATUTORY OR OTHER RIGHT OF YOURS IS BEING AFFECTED?
Applicant's use will interfere with standard water use permit
conditions 3(c) and 3(g) "existing legal right" to use water by
members of the Kalamaula Homestead Association, including petitioner.
(see Petition for Contested Proceeding 9/15/93 and letter of 9/13/93)

8. SPECIFIC LEGAL ISSUE: The Commission must protect Native Tenancy and
Native Tenant's rights under the Water Code. Applicants have not
shown a need for amounts requested and the Commission must protect
the right of those who have not yet applied for water from the aquifer.

9. PROVIDE YOUR TAX MAP KEY AND THE TAX MAP KEY OF THE PROPERTY
CONSIDERED IN THIS ISSUE. ARE YOU AN ADJACENT OR NEIGHBORING PROPERTY OWNER? DESCRIBE THE NATURE AND EXTENT OF YOUR INTEREST IN THIS MATTER.

Petitioner is adjacent to some of the properties in question and draws from the same aquifer as all of the applicants seeking permits. See tax map keys attached.

10. WHAT IS YOUR SPECIFIC DISAGREEMENT REGARDING THIS ISSUE?
As outlined in petition to intervene/petition for Contested Proceeding of 9/15/93, Petitioner's right to develop her property for agriculture as well as the right's of those Homestead Association members she represents will be threatened by the "water banking" which applicants seek via the permits in question. As a native tenant, her water rights supercede those of surrounding landowners.

11. OUTLINE THE SPECIFIC ISSUES. 1. Can the Commission permit the use of a substantial portion of an aquifer (36%) without a comprehensive plan to protect those who have not yet applied? 2. The Commission must limit any permit to an amount the applicant can prove a need for to limit "water banking". 3. The Commission must protect the rights of native tenants who have a superior claim to the water. (for individual permit objections see attached Petition)

12. OUTLINE OF THE BASIC FACTS: Applicants have sought a combined 36% share of the Kavela aquifer. This threatens the water interests off all landowners over the aquifer. Water must be given out fairly, equitably and a primary right must rest with the native tenants.

13. WHAT RELIEF OR REMEDY DO YOU SEEK: Petitioner seeks denial of the permits, or in the alternative, a reduction in the amount to that which can be proved is necessary. Further, petitioner seeks a showing by the Commission that Native Rights are being protected. (see attached)

If there is not sufficient space to fully answer any of the items noted above, please use additional sheets of paper).

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Mrs. Wilma Kamakana Shambuch
Petitioner

Dated: [Signature]
TAX MAP KEYS

Kawela Plantation

5-4-01-29  1/2 owner
5-4-01-94
5-4-01-63
5-4-01-41  1/2 owner
5-4-01-65  1/2 owner

Iaea and Granger

as above plus

5-4-01-18  1/2 owner
5-4-01-15  1/2 owner
5-4-01-14  1/2 owner

Curtis and Hawaiian Research

all Keys referenced above
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT  
STATE OF HAWAII

In the Matter of the  
Application of  
Use Permits for  
David Curtis, R.M.  
Granger, Kawela Plantation  
Homeowners Association, John  
Wm. Iaea, Sr., and Maui Water  
Department of Water Supply  
for Water Use Permits,  
Kawela Ground Water Management  
Area, Molokai  

Petition for Contested Proceeding on Applicants' Request for Water Permits Certificate of Service

PETITION TO INTERVENE  
AND  
CERTIFICATE OF SERVICE

WILLIAMSON B.C. CHANG, ESQ. 1696-0  
MICHAEL FOULKES  
969 AHUWALE PLACE  
HONOLULU, HAWAII 96821  
TEL: 808-377-1205  
ON BEHALF OF INTERVENOR  
MRS. WILMA KAMAKANA GRAMBUSCH
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT

STATE OF HAWAII

In the Matter of the Application of Use Permits for David Curtis, R.M. Granger, Kawela Plantation Homeowners Association, John Wm. Iaea, Sr., and Maui Water Department of Water Supply for Water Use Permits, Kawela Ground Water Management Area, Molokai ) ) ) ) ) ) ) ) ) } Petition for Contested Proceeding on Applicants' Request for Water Permits Certificate of Service

PETITION TO INTERVENE

INTERVENOR, MRS. WILMA GRAMBUSCH, RESIDENT OF KAWELA, MOLOKAI, STATE OF HAWAII, an individual and Native Hawaiian tenant residing within the Ahupua'a bequeathed to her by her ancestors, petitions for unrestricted status as an intervenor in this proceeding. ON BEHALF OF HERSELF AND HER LEGAL HEIRS objects to the application of the above noted applicant

I. NATURE OF PETITIONERS STANDING AND STATUTORY OR OTHER RIGHT

Petitioner seeks to intervene pursuant to the right to a contested case hearing under section 174C-60 [contested Cases] as set forth in the state water code. Petitioner Grambusch has a property interest in the area in which applicant seeks a permit and thus has statutory power to petition and seek a contested case proceeding under the water code. In addition petitioner Grambusch possesses appurtenant water rights, which, pursuant to the common law of Hawaii, have priority over applicant's claims to correlative water rights, whether or not petitioner Grambusch's property is overlying the aquifer or is riparian to the water source.

II. REASONS FOR REJECTION OF PETITIONER'S REQUEST

2
1. **THE NUMBER OF APPLICATIONS FOR GROUNDWATER FOR THE KAWELA AQUIFER REQUIRE DEFERRING THE ISSUANCE OF ANY PERMITS UNTIL ALL INFORMATION CAN BE OBTAINED.**

   In the "background" section of the submittal, the staff reports indicates that a total of 23 applications for permits have been submitted for the Kawela aquifer system. This application seeks 5 permits. The purpose of the water code was to provide all parties with legal rights to an aquifer a fair right to their appropriate share of water. The issuance of permits herein would prejudice other applicants, including those who plan to file in the near future. Moreover, the water code requires that no permit be issued in contravention of the common law of the state of Hawaii. Since the groundwater law of the state is that of correlative rights and such correlative uses are protected under the statute constitution, all overlying landowners, pursuant to the City Mill decision, have a right to a share of water. The issuance of the permits sought herein would prejudice overlying landowners such as intervenor Grambusch.

2. **COMMISSION ACTION AT THIS TIME WOULD BE INCONSISTENT WITH ITS PROPOSED FUTURE ACTIONS**

   It would clearly be premature to grant these permits since the staff report admits that so far, only one permit, for 2,000 gpd has been granted. It is admitted that nine permits require action, eight are scheduled to be heard on November 11, and five are incomplete pending further augmentation of their application. Intervenor Grambusch asserts that as the possessor of appurtenant water rights, a matter which she can prove to the commission, the constitution of the state of Hawaii, and the water code, give her a priority as to the appropriate quantity of water due to appurtenant right holders.

   In this situation, the water code clearly contemplated a aquifer-wide adjudication of all rights at once. Indeed, the doctrine of correlative water rights is derived from mutual respect for the rights of all landowners with property near or overlying an aquifer. The large volume of potential withdrawal from this aquifer [31 mgd] constitutes a strong rationale for preventing parties from "gun-jumping" in an attempt to secure water permits ahead of other rightful claimants.

3. **APPLICANT CURTIS SHOULD BE DENIED A PERMIT BASED ON FAILURE TO COMPLY WITH THE REQUIREMENTS FOR A PUMP INSTALLATION PERMIT**

   Petitioner Curtis is seeking a water use permit although he
has failed to comply with the legal requirements that called for an earlier application for a pump installation permit. In light of the above general reasons for denying all permits at this time, Mr. Curtis appears before the Commission with "unclean hands" and should not be allowed a permit as if his prior flouting of commission rules has no consequence. Apparently the Staff and the MWG feel that since the amount requested is small, no penalty should be levied for his prior wrongful acts. There is no relationship between violation of the code and the present size of the application. To award a permit would be tantamount to sanctioning disregard of Commission rules that have been applied with vigor to other parties. The applicant can face a variety of penalties for the knowing failure to apply for the pump installation permit. Clearly, the applicant sought to grandfather a questionable existing use by pumping without application for a pump installation permit on the eve of designation. This is exactly the kind of conduct that constitutes the worst exploitation of the designation process and was raised during testimony during designation. It appears that the staff is confused in its own reasoning when it refers to the applicant's use as "genuine" albeit conduct clearly designed to avoid the appropriate regulations. Applicant should be facing enforcement of penalties rather than the possible award of a permit.

4. APPLICANT GRANGER HAS FAILED TO PROVIDE THE COMMISSION WITH HONEST AND RELIABLE INFORMATION AS TO INTENDED USES AND BE DENIED A PERMIT.

The applicant is clearly seeking to bootstrap a small use into a much larger use where there is strong likelihood that the applicant intends to improperly change the nature of the water received under a permit. He presently admits only a 3,700 gpd use and has applied for a 25,000 gpd. There is no verification as to what crops he intends to plant, and the fact that he has not begun such planting nor disclosed the nature of a plant which requires 16,000 gpd undermines the credibility of applicant's request which is limited to four acres. The staff has placed no limitation on applicant preventing him from transferring water to other plots, or from using the water for other large scale uses. The staff recommendation allows a margin of error of 600 per cent. It appears that the applicant will not be using the water for corn, nor is he willing to disclose his intended plans. The staff’s failure to require further details violates the letter and spirit of the water code and the state water plan.

5. APPLICANT KAWELE PLANTATION MISREPRESENTS THE INTENDED PURPOSE OF ITS APPLICATION AND ITS APPLICATION SHOULD BE DENIED
The Staff recommends that the objector, Mrs. Grambusch be allowed a public hearing on this applicant's request. Hence, Intervenor is agreement with the staff recommendation. Kawela Plantation is clearly seeking a much larger amount of water than its present needs indicate and furthermore, is seeking water for irrigation purposes. A site visit of the applicant would show that the applicant clearly intends to develop housing and other urban uses and that the irrigation quantification is an erroneous factor to be used.

6. APPLICANT IAEA'S APPLICATION SHOULD BE DENIED AS INCOMPLETE:

The applicant has failed to supply sufficient data for the Commission to make a proper ruling. The staff has made an error in concluding that 1) since applicant has failed to supply information 2) his request fall below the threshold of concern of the Commission and 3) therefore it should be granted. Any code exemption for small users is predicated on the users proof of that small usage. Until applicant provides sufficient information his application should be denied.

7. APPLICANT MAUI DWS SHOULD BE DENIED ITS REQUEST FOR .432 MGD SINCE THE APPLICANT HAS NOT CONCURRENTLY APPLIED FOR A PUMP INSTALLATION PERMIT, PROVEN THAT ITS WITHDRAWAL WILL NOT DETRIMENTALLY AFFECT THE INTERVENOR AND HAS FAILED TO SHOW THAT ITS WITHDRAWAL IS CONSISTENT WITH THE MOLOKAI GENERAL PLAN.

Moreover, Intervenor Grambusch wishes to prove at trial that DWS will interfere with intervenor’s exercise of appurtenant water rights which protected by the state constitution and the water code.

II. PETITIONER GRAMBUCH'S INTEREST WILL NOT BE REPRESENTED BY OTHER PARTIES

In addition to objecting to the application on the above grounds, Intervenor requests a contested case proceeding if any adverse actions are taken. No other party present before the commission can adequately represent her interest as she is asserting her rights as native Hawaiian tenant with appurtenant water rights who can demonstrate a continuity of title from the Mahele.

III. NONE OF THE ABOVE APPLICATION SHOULD BE GRANTED SINCE THE STAFF RECOMMENDS THAT A PUBLIC HEARING ON INTERVENOR'S INTERESTS
SHOULD BE HELD

Intervenor contends that all applicants are, under the common law of the state of Hawaii, hold correlative water rights, and as such, no party can be awarded a right to water until the full extent of the rights of all parties are adjudicated in an aquifer-wide proceeding. This is required under the City Mill decision which is still in effect as part of the common law. The issuance of permits to some but not all applicants would violate the water code’s assurance that present legal rights not be violated by the issuance of permits.

IV. INTERVENOR’S REQUEST WILL ASSIST IN THE DEVELOPMENT OF A COMPLETE RECORD, AND SERVE THE PUBLIC INTEREST

This request for a contested case proceeding is the first of its kind as a designated groundwater area. It will assist the commission in developing a process for implementing a basin-wide adjudication in keeping with the law of correlative water rights. In this sense, intervenor appears before this body in a respectful, relevant and timely manner. This petition is filed before the date of the scheduled hearing of September 15, and in any event is filed in advance of staff’s recommendation for a November hearing. It is thus timely. Intervenor asserts that law and logic require that all parties seeking claims to the Kawela aquifer necessarily participate in the proposed November hearing.

VII. PRAYER FOR RELIEF

In the event that the Commission seeks to issue permits to
any of the contested applicants, intervenor seeks a contested case, under HRS Chapter 91, as referenced in the state water code, with full review before the Hawaii Supreme Court [as provided in the state water code.]

Dated: Molokai, Hawaii, September 14, 1993

[Signature]

Williamson Chang, Esq and Michael Foulkes [admission to the California Bar pending] on behalf of Intervenor Mrs. Wilma Grambusch
CERTIFICATE OF SERVICE

I hereby certify that on September 15, 1993, I served a copy of the foregoing petition to Intervene and Certificate of Service by hand delivery or certified mail to the following and at the following addresses:

Commission on Water Resources Management
Kalanimoku Building
Honolulu, Hawaii [fifteen copies plus original]

David W. Curtis
P.O. Box 1829
Kaunkakai, Hi 96748

R.M. Granger
P.O. Box 371
Kaunkakai, Hi 96748

Kawela Plantation Homeowners Assn
P.O. Box 698
Kaunkakai, Hi 96748

John Wm Iaea
P.O. Box 405
Kaunkakai Hi 96748

Maui Department of Water Supply
P.O. Box 1109
Wailuku, Maui HI 96793

Dated: September 15, 1993, Kaunkakai, Hi,

Michael Poulkes, for the Intervenor
Mrs. Wilma Grambusch
Counsel for Kalamaula Homestead Association, an Unincorporated Association, Mrs. Wilma Grambusch, President

September 13, 1993

Commission on Water Use Management
Mr. Keith Ahue, Chairperson
P.O. Box 621
Honolulu, Hi 968020

Re: Matters raised at Meetings on Molokai, September 15th, 1:30 at Mitchel Pauoli Center and at 6:00 at Molokai High School

I. Request for Deferral of Several Matters scheduled for 1:30 until 6:00

On behalf of the Kalamaula Homestead Association, I wish to request deferral of decision-making on items 7-13 of the agenda for the Meeting of COWRM scheduled for 1:30 on September 15. Unfortunately, many of the members of the association, including myself, acting as counsel for the association have work commitments which prevent us from attending the 1:30 meeting. We request that you keep open the record on these items, defer decision making and allow us to testify at the 6:00 meeting. The Kalamaula Homestead Association, asserts that it has appropriate standing on all of these issues as its lands are sufficiently proximate to the applicants proposed use such that the association has an adequate property interest. The Association relies on the language of the HHCA, particularly section 221, which strongly states that the waters of Molokai, shall be first used to place homesteaders on the land.

II. Specific Objections to Applications:

a. Item 8 -- application of Curtis, et al, Kawela Plantation Homeowners Association. The Kalamaula Homeowners Association objects to the application of David Curtis et al on numerous grounds:
   1. The applicant’s use will interfere with the 3(c)
standard water use permit conditions] and 3(g) "existing legal right" to the use of water by members of the Kalamaula Homestead Association. The rights of Homesteaders are defined by both congressional and state law and the barrier to homesteading has been the inability to obtain water. The rights of the association extend island-wide and thus all uses other than those for homesteading are subordinate to the rights of homesteaders not able to live on their lands due to failure to supply water. The strength of this right is obvious, since it is repeated a number of times in different parts of the standard water use permit conditions, particularly in 9(g) and section 6. Any issuance of a water use permit on Molokai should be deferred until the public hearing on the proposed rule. Chronologically, only after the rule reserving waters is finalized, including the scope of aquifers which are affected, can water permits be issued on Molokai.

2. Request for Contested Case Proceeding: In the event that the Commission sees fit to proceed with the issuance of a water permit for the applicants in item 8, the Kalamaula Homestead Associations exercises its rights under Chapter 91 in seeking a contested case proceeding. The request for such a hearing requires the Commission to defer decision making.

b. Item 9 --

a. Request of DHHL for Water Use Permits: Kalamaula Homestead Association requests that this matter be consolidated with the proposed rule to be heard at 6:00 P.M. The reservation of amount sought by DHHL coheres with the amount proposed by the Molokai Working Group. Kalamaula Homestead Association asserts that the rights to water of Hawaiian Homesteaders is not subservient to the rulemaking authority of COWRM and that the amounts set forth are grossly inadequate to meet the needs of the Kalamaula Homestead Association and its future plans. Objector, Kalamaula Homestead Association protests the arrangements made by DHHL for sharing water with the Department of Water Supply and the complete failure of DHHL to act as a fiduciary representative of the native Hawaiian beneficiaries. The limitation stated on page 3 limiting the issuance of interim permits, which is to be temporary until the reservations are set by rule, is a limitation that should be placed on all permits on Molokai. Under the original version of the Hawaiian Homes Commission Act, all waters, for domestic or agricultural use, were to be first used for the benefit of Homesteaders.

b. The Kalamaula Homestead Association asserts that COWRM has no legal authority to issue interim permit subject to conditions that are based on federal restrictions.

c. In addition, the Kalamaula Homestead Association asserts that the Supremacy Clause of the United States Constitution nullifies the right of COWRM to set limitations on water use of

Item 10: Kalamaula Homestead Association, acting on behalf of Mr. Harry Aki, and other residents of Mauna Loa town, objects to applicant Molokai Ranch's request, and objects to the staff recommendation as to nos. 2 and 3, on the grounds that Molokai Ranch, under equitable doctrines of law, is acting with "unclean hands" in that it has failed to comply with the federal Safe Drinking Water Act in its delivery of water to Mauna Loa Town. Until this violation of federal standards is rectified, the applicant should not receive further sources of water.

Item 11: Kalamaula Homestead Association objects to the applicant, Maui Department of Water Supply to use 171,000 gallons for municipal use on the grounds that the Department of Water Supply has "unclean hands" in failing to enforce the intent of the consent decree[ between the state and Molokai Ranch] as to the quality of water delivered to Mauna Loa Town. Kalamaula Homestead Association is willing to put on evidence of the failure of DO and Maui County to meet the terms of the decree and the terms of the Safe Drinking Water Act. Moreover, Kalamaula Homestead Association objects to the issuance of a water use permit to the County when there is present evidence of the county's failure to fully comply with environmental laws in terms of the proper closing of the landfill and dumpsite that exists on Kalamaula Homestead Property. The County should not be rewarded with permits for more water when they have failed to meet the quality requirements as to existing uses.

Item 13-- Kalamaula Homestead Association objects to applicants proposal and agrees with the staff recommendation for a deferred public hearing on November 10. Objector asserts that the original purposes and terms of the Waikolu source have been violated to the benefit of the County and the detriment of Objector. Objector wishes to have the ability to prove its case at a later date.

Item 7 -- Objector, Kalamaula Homestead Association, opposes the staff recommendation on the grounds that the permit should be issued only after all needs of the native Hawaiian beneficiaries have been met. Moreover, it does not make any sense to grant such a permit prior to the full hearing and final determination of the rule to be heard on the reservation of homestead waters.
In conclusion, Objector seeks a consolidation of the 1:30 agenda with the 6:00 rule making agenda and finds that the attempt to proceed with permitting without a final rule as to reserved waters violates the intent of the state legislature. Objector thus reserves its right to seek judicial review, by way of a contested case proceeding, or otherwise as to all permits issued prior to finalizing the issues as to the rule reserving waters for Homesteaders.

DATED: September 13, 1993. Honolulu, Hawaii

Yours,

Williamson B.C. Chang
Counsel for Objector, Kalamauala Homestead Assn, Professor of Law, University of Hawaii
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI 96748-0707  

Dear Mr. West:  

Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai  

We acknowledge receipt, on July 16, 1993, of your water use permit application for the  
T.T. Meyer Inc. #3 Well (Well No. 0354-01).  

However, the signature of the landowner is required before the application may be  
considered complete and accepted for processing by the Commission. Please obtain the signature of the landowner and resubmit your application.  

Upon receipt of the completed application, we will be sending you a copy of the public notice for your application and any further information regarding the status of your application. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.  

Your application indicates that a total of seven (7) residences are to be served. If the use of the water for the residences is for individual domestic consumption, and you are not charging the residences for the use of the water, then no permit is required for this quantity of water. Also, your request for an allocation of 5,000 gallons per day to irrigate a 30-acre orchard seems rather low. Guidelines for water requirements for selected crops indicate that bananas, for example, generally require about 3,019 gallons per acre per day, while papayas may require up to 5,000 gallons per acre per day. Although these guidelines were developed for the island of Oahu, and your orchard may have different water requirements, these may be used as a surrogate to estimate your daily water needs.  

If you have any questions, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.  

Sincerely,  

RAE M. LOUI  
Deputy Director  

LN:fc  
attach.
APPLICATION FOR WATER USE PERMIT

State of Hawaii
COMMISSION ON WATER RESOURCE MANAGEMENT
Department of Land and Natural Resources

APPLICATION FOR WATER USE PERMIT

Permittee: KANUKIWA RANCH

Applicant: L. WEST

Contact: Ph. 553 5848

Address: P.O. BOX 707

KAUNAKAKAI, HI 96748

NOTE:

12. In all communications, use the name of the person who is authorized to act on behalf of the applicant.

13. In addition to the current applicable water regulations, the proposed use of water is subject to the following restrictions:

(a) Impact on Sustainable yield (7): NONE
(b) Instream Flow Standards affected (7): NONE
(c) Hawaiian Home Lands use affected (7): NONE
(d) Other existing legal uses affected (7): NONE
(e) Other (pending permits, EIS, etc.)(7): NONE

14. REMARKS, EXPLANATIONS:

NOTE: All correspondence must be addressed to the Commission on Water Resource Management, 500 Polihe Street, Honolulu, Hawaii 96817. Application must be accompanied by a non-refundable filing fee of $25.00 payable to the Dept. of Land and Natural Resources. The original application must be signed by the applicant or their authorized representative.

Applicant (print): KANUKIWA RANCH

Landowner (print): T. T. MEYER, INC.

Signature: L. WEST

Date: JULY 13, 1993

For Official Use Only:

Date Received

Hydrologi Unit No.

Diverison Works No.

State Well No.
WATER USE PERMIT NO. 338

This report has been prepared in accordance with 13-171-22(b) of the Hawaii Revised Statutes requiring a 20-year review of issued water use permits to determine permit compliance. Following is a summary of permit information, site characteristics, methodology, findings, and recommendations for this State permit file.

Permit Information

| Water User:            | Kanukuawa Ranch  |
|                       | 1331 Kamaile St. |
|                       | Honolulu, HI 96814 |
| Landowner of Source:  | Kanuukawa Ranch  |
|                       | 1331 Kamaile St. |
|                       | Honolulu, HI 96814 |
| Permitted Withdrawal Rate: | 0.017 mgd (Based upon a 12-month moving average) |
| Water Management Area: | Kawela |
| Island:               | Molokai |
| Aquifer Sector/System: | Southeast/Kawela |
| System Sustainable Yield: | 5 mgd |
| Water Type:           | Fresh |
| Original CWRM Date:   | April 14th, 1994 |
| Standard Conditions:  | 1-11, 13-14, 16-17, 20-23 |
| Special Conditions:   | 5 |

Water Source

| State Well Number(s): | 0354-03 |
| Well Name:            | Well #3 |
| Water Source TMK Number(s): | 2nd Division, 5-5-001:012 |
| State Land Use Classification(s): | Agriculture |
| County Zoning Classification(s): | Conservation |
| Geographical Coordinates: | N/A |

End Use

| End Use TMK Number(s): | 2nd Division, 5-5-001:012 |
| State Land Use Classification(s): | Agriculture |
| County Zoning Classification(s): | Conservation |
Beneficial Use Explanation: Use to supply 7 homes and irrigate 30 acres of orchard

Background Information

Water Use Permit 338 was approved during the April 14th, 1994 Commission on Water Resource Management meeting. There are no monthly water use reports or salinity records on file for State Well No. 0354-03. Standard conditions 1-11, 13-14, 16-17, & 20-23 and special condition 5 are the governing conditions for this water use permit. A complete list of all standard and special conditions is given in the permit file.

Field Investigation Information

No field investigation was conducted for Water Use Permit 338. Brown and Caldwell attempted to contact the permittee on three different occasions via standard mail. Cover letters accompanied by survey forms were sent out on November 21st, 2007, February 20th, 2008, and July 15th, 2008. The first two letters were sent to P.O. Box 707, Kaunakakai, HI 96748. Since no response was received after the first two attempts, the Commission obtained up-to-date land owner addresses for the TMK parcel given in the permit database. The third letter was sent to 1331 Kamaile Street, Honolulu, HI 96814. Since no response was received by the end of the field investigation phase of this project, Brown and Caldwell was not able to verify any of the information listed in this report. Reference the permit file for supporting documentation relevant to this contact process.

Summary of Findings for Water Use Permit No. 338

Although no field investigation was completed for this Water Use Permit, information pertinent to permit compliance was gathered during the research phase of this project.

The following are a list of standard condition(s) that the permittee is found to be in non-compliance with:

(10) An approved flowmeter must be installed to measure monthly withdrawals and a month record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis.

Since there are no monthly water use reports or salinity records being submitted for State Well No. 0354-03, the permittee is in violation of Standard Condition (10).
Recommendations

- Address the following discrepancies between the Commission’s electronic database and actual field investigation findings:
  - Permittee and landowner names and addresses
- Address violation of Standard Condition (10) regarding non-reporting of water use and salinity levels
- Address issue of lack of response in regards to the Commission’s attempt to contact the permittee during this permit review process.
Standard Conditions List

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means “the use of water in such a quantity as is necessary for economic and efficient utilization, which is both reasonable and consistent with State and County land use plans and the public interest.” (HRS § 174C-3)

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with State and County general plans and land use designations;
   f. Is consistent with County land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).

4. The ground-water use here must not interfere with surface or other ground-water rights or reservations.

5. The ground-water use here must not interfere with interim or permanent instream flow standards. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be amended.

6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.

7. The water use permit application and submittal, as amended, approved by the Commission at its <Insert Date> meeting are incorporated into this permit by reference.

8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.

Variations of Standard Condition (8) are as follows:
   i. Modification of any permit condition shall be approved by the Commission. Modification of any permit condition without notification may result in the revocation of the water use permit.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
   a. Protect the water sources (quantity or quality);
   b. Meet other legal obligations including other correlative rights;
   c. Insure adequate conservation measures;
   d. Require efficiency of water uses;
   e. Reserve water for future uses, provided that all legal existing uses of water as of June, 1987 shall be protected;
   f. Meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
   g. Carry out such other necessary and proper exercise of the State’s and the Commission’s police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard

10. An approved flowmeter(s) must be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis (attached).

Variations of Standard Condition (10) are as follows:
   i. The applicant shall keep monthly pumpage estimates to be submitted annually to the Commission.
   ii. An approved flowmeter(s) need not be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a yearly basis (attached).
   iii. An approved flowmeter(s) must be installed to measure withdrawals and a monthly record of withdrawals, water-levels, salinity, and temperature must be kept and reported to the Commission on a monthly basis in accordance with the Commission's September 16, 1992 action on reporting requirements.
   iv. Approved flowmeters must be installed to measure monthly withdrawals and a monthly record of withdrawals must be kept and reported to the Commission on Water Resource Management on a monthly basis.
   v. An approved flowmeter(s) must be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a quarterly/yearly basis (attached).
   vi. An approved flowmeter shall be installed to measure water withdrawals
   vii. An approved flowmeter(s) must be installed to measure withdrawals; and a record of the withdrawals must be kept and reported to the Department of
Land and Natural Resources, Division of Water and Land Development, P.O. Box 373, Honolulu, HI 96809, on a monthly basis.

<table>
<thead>
<tr>
<th>Number</th>
<th>Paragraph</th>
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<tbody>
<tr>
<td>viii.</td>
<td>Although not stated as a condition of the permit §13-168-7 HAR requires you to keep a record of your monthly total pumpage, water level, salinity, and water temperature. This information must be submitted to the Commission on a regular monthly basis using the enclosed water use report form.</td>
</tr>
<tr>
<td>ix.</td>
<td>An approved flowmeter shall be installed and the withdrawal from Well 1851-73 shall be recorded and reported to DLNR on a monthly basis by the owner and/or operator of the well.</td>
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<tr>
<td>x.</td>
<td>The withdrawals from these wells shall be recorded and reported to the DLNR on a monthly basis by the BWS.</td>
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<tr>
<td>xi.</td>
<td>The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting water usage on a monthly basis.</td>
</tr>
<tr>
<td>xii.</td>
<td>The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage. Water usage shall be measured on a monthly basis and reported to the Commission.</td>
</tr>
<tr>
<td>xiii.</td>
<td>The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage. Water usage shall be measured on a monthly basis and reported to the Commission along with water level and salinity measurements.</td>
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</table>

11. This permit shall be subject to the Commission's periodic review of the <Aquifer> Aquifer System's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the <Aquifer> Aquifer System, or relevant modified aquifer(s), is reduced.

12. A permit may be transferred, in whole or in part, from the permittee to another, if:
   a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of use, remain the same; and
   b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer, which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.

13. The uses(s) authorized by law and by this permit do not constitute ownership rights.

14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances that will affect the permittee's water use.

15. The permittee understands that under HRS § 174C-58(4), that partial or total nonuse, for reasons other than conservations, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter
into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period or forfeiture.

16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee’s water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the <Aquifer>Ground-Water Management Area.

17. The water use permit shall be subject to the Commission’s establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.

18. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.

19. Special conditions in the attached cover transmittal letter or attached exhibits are incorporated herein by reference.

20. If the ground-water source does not presently exist, the new well shall be completed, i.e. able to withdraw water for the proposed use on a regular basis, within twenty-four (24) months from the date the water use permit is approved.

Variations of Standard Condition (20) are as follows:
   i. The permit may be revoked if work is not started within six months of the date of issuance or if work is suspended or abandoned for six months. The work proposed in the permit application shall be completed within two years from the date of permit issuance.

21. This permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HRS § 174C-59 and the requirements of Chapter 174C, the Commission on Water Resource Management has the authority to allow the transfer of the permit and the use rights granted by this permit in a manner consistent with HRS § 174C-59. Any such transfer shall only occur with the Commission’s prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

22. The water use permit granted shall be an interim water use permit, pursuant to HRS § 174C-50. The final determination of the water use quantity shall be made within five (5) years of the filing of the application to continue the existing use.

23. The water use permit shall be issued only after agricultural review.

24. That scheduled adjustments to Oahu Sugar Co. permitted use shall be initiated upon discontinuance of agricultural uses.
25. The issuance of this permit was approved by the Commission on Water Resource Management at its meeting on <Insert Date>.

26. The permit shall be subject to the review by the Attorney General.

27. The permit holder may be required to relinquish this permit at any time or specified time after issuance to the Board of Land and Natural Resources in accordance with Chapter 166 of Title 13.

28. The applicant shall obtain the necessary land acquisition documents from the Hawaii Housing Authority.
Special Conditions List

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.

2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

3. The applicant shall contact the Environmental Management Division, State Department of Health, at 586-4304, concerning “GUIDELINES APPLICABLE TO GOLF COURSES IN HAWAII” date <Insert Date & Version #>.

4. Standard Condition 10 is emphasized, to report consumption on a regular basis.

5. The applicant may continue this existing use of ground water within the limits approved by the Commission, and the actual issuance of the interim permit shall not be a reason to interrupt this existing use.

6. This interim water use permit shall cease to become interim and shall be subject to HRS § 174C-55 upon administrative review of the quantity within five (5) years, provided that all conditions of the use (including the review of the quantity which shall not be greater than the amount initially granted) remain the same. Enforcement of the allocation limit shall be stayed pending staff’s review and issuance of a permanent water use permit.

7. As-built drawings of the well and pump, and a complete pumping test record shall be submitted within sixty (60) days.

8. In the event the pump tests show that aquifer boundary conditions do not support the requested withdrawals, the Commission reserves the right to amend this permit, after a hearing, to a level that is supported by the pump tests.

9. The existing use may be continued within the levels approved by the Commission, and the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

10. The filing of an application by Kukui, Inc. for a new or modified water use permit for the Kualapuu Aquifer in excess of 2.0 mgd (total system withdrawal) shall be just cause for re-consideration of this interim permit by the Commission.

11. Upon completion of a new transmission line for the transport of water use by Well #17, the permit shall be modified to reduce the allocation amount by the additional 79,220 gallons per day allocated for use of the Molokai Irrigation System.

12. Within six (6) months from the date of approval of a water use permit for the well, the applicant shall conduct a feasibility study and submit a report describing
alternative sources of nonpotable water for irrigation uses at the resort area. It is suggested that the developer consider use of dual lines in the subdivisions so that effluent may be used in the existing reuse system. Another consideration is the development of brackish water wells in the Kaluakoi Aquifer system for mixing with the effluent generated at the resort.

13. Within six (6) months from the date of approval of a water use permit for the well, the application shall evaluate the filter back discharges into Kakaako Gulch to determine if excessive preventable waste is occurring and identify possible measures to eliminate or reduce such waste. The evaluation shall be conducted in cooperation with the Commission staff and staff of the Department of Health’s Safe Drinking Water Branch, which regulates the drinking water system.

14. Within six (6) months from the date of approval of a water use permit for the well, the applicant shall 1) implement a leakage control and detection system and compete repairs to prevent such leakage and 2) implement use of xeriscaping and low-flow fixtures.

15. Action on the future use portion of the water use permit application for Well #17 (Well No. 0901-01) is deferred pending the establishment of existing uses in the aquifer. Kukui Inc.’s application for uses in excess of those uses existing on July 15, 1992 will be considered “new” uses and will be taken up by the Commission as soon as other existing use applications have been decided. In the interim,
   a. The Commission shall recognize that there is disagreement between the applicant’s staff calculations of reasonable-beneficial existing use
   b. The Applicant will have the burden of proof to show within six (6) months reasonable-beneficial existing use calculations that support the applicant’s request as opposed to staff’s calculations.
   c. The Commission’s enforcement of the approved existing use allocation will be suspended for six (6) months.

16. The permittee shall submit a notice of intent and written request to continue the use at least ninety (90) days prior to the expiration of the interim five-year permit.

17. The Commission shall delegate to Maui Department of Water Supply the authority to allocate the use of water for municipal purposes, as provided in §174C-48(b).

18. Maui Department of Water Supply shall be exempt from the requirements for permit modifications, as provided in §174C-57(c).

19. The permittee must meter water use and monitor chloride concentrations on a monthly basis and submit monthly reports of water use and chloride concentrations to the Commission.

20. Standard Condition 16 is waived for saltwater wells.

21. The permit will be revoked if (1) stream monitoring shows that pumping the well reduces stream flow, or (2) the electromagnetic resistivity survey indicates that the
well was drilled into a dike compartment, unless the applicant submits a petition for an amendment to the interim instream flow standard with the well completion report. However, no use of the water may be made without a Pump Installation Permit, which cannot be issued during consideration of the amendment of the interim instream flow standard.

22. The applicant shall present the results of the electromagnetic resistivity survey, pump tests, and stream monitoring to a community meeting as well as to the Commission.

23. A final determination of water use quantity shall be made within five (5) years of the filing date of the application (<Insert Date>) to continue existing use.

24. The applicant shall implement, by December 31, 1995, a biological and hydraulic monitoring program for a minimum 2-year period that: 1) documents the existing operating procedure, 2) seeks to identify the impacts of all operating alternatives on Waikolu Stream, and 3) seeks to identify the effectiveness of weir modifications (Dam No. 1). This program shall incorporate the three new wells, Wells #4-6 (Well Nos. 0855-06, -05, & -04, respectively), which may be pumped within the approved limits, for monitoring and testing purposes only. Further, semi-annual reports summarizing data and preliminary findings shall be submitted to the Commission. It is suggested that the Department of Agriculture work with the State Division of Aquatic Resources and other affected agencies to prepare the monitoring program in light of the difficult technical questions raised by this application. A particular concern is the coordination of this monitoring program with the ongoing National Park Service study by Anne Brasher. A draft of this plan shall be submitted to the Commission staff within ninety (90) days for technical review and comment. Results of the monitoring program shall be used to make recommendations to the Commission on any additional use of the wells, and shall be made readily available to all interested parties.

25. That the Commission approves the well construction permit for the Kamiloloa-Waiola Well (Well No. 0759-01), subject to the standard well construction conditions and the special conditions for the pumping well for the aquifer tests.

26. That the Commission authorizes the Chairperson to approve and issue a pump installation permit upon acceptance of adequate pump test result, subject to the standard pump installation conditions.

27. Should the well be used for back-up domestic supply, applicant is advised to contact DOH or otherwise ensure safe drinking water quality is maintained.

28. The applicant shall follow the agreed monitoring plan.

29. If pesticides used by the applicant are found in ground or surface water and can be traced to the applicant's use, the CWRM may revoke the permit immediately upon such finding.
30. Issuance of the interim permit shall be withheld until the reservation of water for DHHL is set by rule. Applicant may continue this existing use within the approved limits.

31. The applicant shall submit well modification and pump installation permit applications for administrative approval by chairperson prior to beginning any work required to complete well.

32. Should any stream flow impacts result from use, petition to amend interim instream flow standards shall be submitted.

33. Should any dewatering result from use, pumping shall cease immediately.

34. Shall submit accurate schematic diagram of distribution system for the battery of 5 wells.

35. Shall be subject to a 6-month independent audit & monitoring.

36. Final pump capacity shall be determined from pump test results & approved administratively by signature of chair.

37. The permittee shall seek and submit to the Commission within ninety (90) days written confirmation from the Department of Land Utilization of the non-conforming use.

38. Pumping shall cease immediately if the chloride reports show that the brackish water developed in the well exceeds 1,000 mg/l of chloride, unless a variance from the chloride limit has been granted. The authority to approve future variance requests is delegated to the chairperson.

39. The duration of the interim permit shall be:
   a. To July 1, 2006, or
   b. Until treated wastewater is available and acceptable for use, or
   c. Until such time that a significant change in permitted, actual, or projected uses or water supply occurs.

40. Action on any interim permit may be initiated by the Commission or any permittee upon letter request or pursuant to §174C-57 Haw. Rev. Stat. (Modification of permit terms).

41. This permit is approved under the assumption that wastewater will become available for reuse as an alternative supply source.

42. Require adherence to the chloride sampling protocol and the submittal of weekly chloride data. The authority to approve variances from the weekly reporting requirement is delegated to the Chairperson.

43. Require adherence to the Conservation Conditions.
44. In the event a water shortage is declared by the Commission, permittees in the <Insert Aquifer System> shall comply with the <Insert Aquifer System> water shortage plan adopted by the Commission.

45. The permittee shall contact the Department of Health, Clean Water Branch and obtain the necessary discharge permit(s).

46. Permit shall be interim and replaces existing WUP for 2051-07 & 11.

47. Applicant shall submit an acceptable archaeological inventory survey report to DHP. If historic sites affected, a plan to mitigate these effects must be accepted by DHP and completed by applicant.

48. Should the well be used for back-up domestic supply, applicant is advised to contact DOH or otherwise ensure safe drinking water quality is maintained.

49. (The permittee) may report monthly pumpage on yearly basis.

50. Prior to issuance of any permits, must submit filing fee for after-the-fact pump installation permit.

51. The term of this permit shall be twenty years from the date of issuance of the permit with a five-year Board review to determine compliance with the provisions of the permit.

52. The amount of water to be withdrawn under this permit shall be 0.19 mgd, averaged annually, for irrigation use. This permitted use of 0.19 mgd when added to a preserved use of 0.27 mgd amounts to a total of 0.46 mgd, averaged annually, which may be withdrawn from well 1646-01.

53. The use authorized by the permit must not interfered substantially and materially with existing individual household uses and existing uses.

54. The use of this well shall be subject to the shortage and emergency powers of the Board of Land and Natural Resources (BLNR).

55. This permit may be suspended or revoked, in accordance with Chapter 166.

56. The permit holder may be required to relinquish this permit to BLNR, in accordance with Chapter 166

57. The withdrawal from Well 1646-10 shall be recorded and reported to DLNR on a monthly basis by the permittee.

58. In the event that emergency water use occurs, the permittee shall notify the Commission in writing within one (1) day of pumping, to in form the Commission as to the nature of the emergency and the expected duration of the emergency. A water
use report shall also be filed pursuant to Standard Condition 10 and Administrative Rule 13-168-7.

59. Note DOH’s requirements related to non-potable water systems (attached to original permit).

60. Standard Condition 16 requiring the submittal of a water shortage plan is waived.

61. All non-potable spigots and piping shall be clearly labeled as “DO NOT DRINK, NON-POTABLE” to prevent direct human consumption.

62. Standard Condition 10 is modified. Due to the inability to take water level measurements, the requirement to measure monthly water levels is waived. In addition, as long as the U.S. Geological Survey is collecting and analyzing the chloride content of the well water, the requirement for the permittee to measure and report chlorides is also waived.

63. Well elevation components must be surveyed by a licensed surveyor and this information must be submitted to commission prior to issuance of permanent permit.

64. The permittee shall obtain approvals from the Department of Health and the U.S. Environmental Protection Agency prior to use of the water.

65. This water use permit, WUP No. <Insert #>, shall supersed WUP No. <Insert #>.

66. WUP No. <Insert #> is revoked

67. Standard Condition 17 is waived.

68. Standard Condition 22 for interim water use permits shall not apply.

69. To supplement our records, we request that you provide a map of the Galbraith Est. lands west of Wahiawa (2100 ac+) and the associated TMK’s for use area.

70. Deferred action on portion requested for golf course irrigation pending further refinement of irrigation requirement and a feasibility study for utilization of surface water sources, including Wahiawa Reservoir.

71. Written justification be provided for any 'cushion' of 0.5 mgd.

72. The water use permit shall be an interim permit. The duration of the interim permit shall be until treated wastewater is available and acceptable for use. The permittee shall continue discussions with Honolulu Board of Water Supply regarding the use of reclaimed water.

73. The permittee is put on notice that this is a qualified approval in that this permit may be modified or revoked prior to the expiration of the interim permit if the
Commission decides that the use of additional basal ground water for dust control and landscape irrigation is not reasonable-beneficial use.

74. The permittee encouraged to use drought-tolerant landscaping to conserve water.

75. Should the applicant provide written evidence that the county DHCD approves a 201E exemption for the elderly affordable housing project then the applicant may modify a corresponding portion of their existing aquacultural use to be used by the exemption approved project within the Commission approved water use permit limits under recommendation 5.

76. The applicant shall obtain a water lease/permit from Land Division prior to actual use of the well water.

77. Require the permittee to sign a contract by May 14, 1998 with the City Department of Wastewater Management to buy and use 0.400 mgd of R-1 water for a corresponding reduction in allocation for Well Nos. 1900-02, 17 to 20, and 1901-03.

78. Standard Condition 9 is waived.

79. Standard Condition 10 is modified to exempt the permittee from monthly measurements of salinity and temperature.

80. Standard Condition 10 is waived.

81. Applicant must seek a determination from BLNR and Land Mgt Div as to whether water license required. If required, license must be obtained prior to issuance of permit. If not, permit will be issued w/out further action.

82. Commission defers action on use in excess of 452,000 gpd pending additional info from BWS and further staff analysis.

83. The permit shall be subject to the Commission's sustainable yield review by December 1990.

84. The Commission shall delegate to the Honolulu Board of Water Supply the authority to allocate the use of water for municipal purposes, in accordance with §174C-48(b) HRS.

85. Honolulu Board of Water Supply shall be exempt from the requirements of permit modifications as provided in §174C-57.

86. BWS must participate in discussions, to be coordinated by Commission Staff, regarding a monitoring program to address impacts to Kaneohe Bay water quality, prior to any action on applications for future municipal uses.

87. A pump installation permit application must be made and approved prior to the installation of a permanent pump.
88. The water withdrawn shall be 0.7 mgd for municipal use.

89. The installed pump capacity of the well shall not be more than 700 gpm or 1.01 mgd.

90. The term of permit shall automatically expire twelve months from the date of issuance.

91. The Honolulu Board of Water Supply may continue to submit monthly water data on their own form, provided that the data are submitted in a format that is acceptable to the Commission staff.

92. Standard Condition 7 shall not apply.

93. Standard Condition 22 shall not apply.

94. Standard Condition 10 is modified to exempt the permittee from monthly measurements of salinity and temperature.

95. This permit shall be subject to conditions providing for stream restoration if the Commission determines that additional water should be returned to the streams.

96. HECO 1 mgd for industrial use

97. Campbell Estate 1 mgd for municipal use through BWS, by separate agreement with HECO

98. BWS 1 mgd for municipal use.

99. The permit shall be subject to the Commission's sustainable yield review by <Insert Date>.

100. The applicant shall obtain the current version of the Department of Health's Guidelines Applicable to Golf Courses in Hawaii. Where relevant and viable, items of the guidelines should be implemented and sustained appropriately. To obtain the current version, contact the Safe Drinking Water Branch, Environmental Management Division at 808-586-4258 (Honolulu).

101. The future use portion of the application shall be deferred until existing uses in the Koolauloa area are established.

102. The water to be withdrawn under this permit shall be a total of 0.03 mgd (0.02 mgd preserved plus an additional 0.01 mgd permitted use), averaged annually, for domestic and irrigation use.

103. Existing well 1851-09 shall be properly sealed by a licensed drilling contractor. A well modification permit application, enclosed, shall be submitted to the Department for approval of the well sealing. A filing fee for sealing the well will not be required.
104. The permittee is required to test the source using a certified private laboratory and submit the test results to the Commission within three (3) months. The Commission will then forward the results to the Department of Health for their review. The Department of Health recommends that the well be routinely tested for microbiological and chemical parameters thereafter.

105. The permittee is required to submit a completed Registration of Well and Declaration of Water use by <Insert Date>.

106. The permittee shall contact the Department of Health for a written determination on the status of their water system and comply with any Department of Health requirements for monitoring and testing.

107. In the event that the original spring source decontaminates, the new well authorized will be shut down.

108. That within each aquifer the total permitted use shall not exceed the sustainable yield.

109. That any water available for allocation shall be for in-district use.

110. That scheduled reductions to Oahu Sugar Co. permitted use shall be initiated upon final termination of an Osco lease or sub-lease, whichever occurs later.

111. That permits for water use issued in accordance with the proposed schedule shall be interim permits subject to review and adjustment by 1995.

112. That the permit shall be an interim permit for a new use which is afforded to existing users as specified in §13-171-20.

113. That the original allocation of 0.200 mgd shall be taken to hearing for possible revocation at a later date to complete the transfer of the water use permit entirely to Well No. 3407-02. This revocation would reduce the current allocation afforded to the Kunihiro Well (Well No. 3406-06) to zero.

114. This allocation incorporates the unspecified domestic needs of the applicant and therefore necessitates a single meter be installed at the well.

115. Should any impacts to nearby wells or streams be established by the use of this well, the applicant shall address these issues to the satisfaction of the Commission.

116. If an economically feasible nonpotable source is identified, the applicant shall convert to the alternative nonpotable source.

117. The permit shall be subject to the Chairperson's approval of a water use plan recommending possible measures to prevent or minimize saltwater contamination and establish courses of action to follow should the aquifer become to saline to use.
118. Permittee shall provide the necessary end-use information on the 10th residence to allow regulation of the use under Chapter 174C.

119. Standard Conditions 10 & 18 shall not apply.

120. Standard Condition 10 is modified to exempt the permittee from the requirement to install a flowmeter. Salt water withdrawals may instead be estimated based on pumping capacity and run time.

121. The applicant shall review the existing year long period of pumpage and streamflow data and provide analysis on ground and surface water interaction. Deadline is January 25, 1994.

122. The water use permit for Well Nos. 2301-27 to -32 for 0.75 mgd (WUP No. 419) shall be revoked upon issuance of a pump installation permit for the well.

123. The permittee shall use mulching to decrease evaporative losses and manage irrigation scheduling to minimize water demand.

124. The permittee shall submit a detailed agricultural plan to support any future water use permit application for increased agricultural use at this parcel.

125. If not already obtained, the permittee shall seek and obtain any necessary permits from the Department of Health for the proposed discharge to Malackahana Stream.

126. Standard Condition 10 is modified to waive the requirement for installing a water meter on Well Nos. 2358-21, 22, and 29. The permittee shall install a water meter on Well No. 2358-26 to measure total monthly flow through the discharge line. This quantity should then be assumed to be the rate of natural flow from the other three wells for monthly reporting purposes.

127. The permit shall be effective upon submittal of documentation by Navy that it has met the DOH requirements for a public system.

128. This WUP shall be subject to Army's application for a WUP to reduce the permitted use of the Army's Schofield Shaft (2901-02 to 04, 10) by 0.208 mgd to a new total of 5.648 mgd. The Army's application shall be submitted within 60 days after the approval of this WUP or this WUP shall be void. Approval of the modification request shall be obtained from the CWRM prior to use of Well No. 3100-02 and issuance of this WUP.

129. Navy shall submit an after-the-fact PIPA, and approval of the permit shall be obtained prior to use of the well.

130. The well shall not be used for drinking water purposes unless it is properly tested and treated.
131. This permit is approved subject to reclaimed water becoming a practical alternative and provided that the Department of Health approves the reuse application.

132. Should any opae ula be recovered in the well water, the permittee shall notify the Division of Aquatic Resources and provide specimens to the Division of Aquatic Resources for analysis.

133. If a single meter at the well is used, the Commission shall allow an additional 1,000 gallons per day to the water use permit amount for the domestic needs of two residences, although a permit for individual domestic consumption is not required. Otherwise, the applicant must provide a meter to separately measure the irrigation consumption.

134. This permit is approved under the requirement that conversion to either: 1) treated wastewater becoming available for reuse as an alternative supply source, provided that Department of Health concerns over the use of treated effluent over the potable water aquifer have been addressed; and/or 2) other nonpotable source becoming available will occur in a timely manner.

135. These permits shall be subject to a review of actual use within four years for possible modification of the permitted amount.

136. The permit shall be reviewed in two (2) years for possible additional revocation due to nonuse.

137. The allocation is based on the projects listed in Exhibit 5 (of Item 10 of the May 20, 1998 Staff Submittal), except for the Queen’s Beach GC (TMK 139-11-2,3), Lot 9 (TMK 139-17-51), and Varsity Place (TMK 128-24-35).

138. Kamehameha Schools Bishop Estate/Honolulu Board of Water Supply shall transfer the water use permit within ninety (90) days of the effective date of the transfer of the pump station to the Honolulu Board of Water Supply, pursuant to §174C-59 Hawaii Revised Statutes.

139. The permittee shall ensure that the water is recycled by either directing it into the Waiahole Ditch for use by downstream farmers (subject to the approval of the Agribusiness Development Corporation’s Board) or into Waieke Farm’s existing irrigation system.

140. The permittee shall file a completed application to modify WUP No. 758 to reduce the allocation by 0.100 mgd within 60 days. If a completed water use permit modification application is not received within 60 days from this submittal’s date, then the subject water use permit application (WUPA No. 767) shall be deemed denied without prejudice without the need for another hearing.

141. The water withdrawn shall be for municipal use. No improvements to the existing sources are required as the existing source capacities are greater than the increase.
142. Water license must be determined through LM.
143. Proposed other uses will be considered at a later date.
November 21st, 2007

WUP Holder
Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748

Subject: WUP 338

Water Use Permit Review

In accordance with 13-171-22(b) of the Hawaii Revised Statutes, the Commission on Water Resource Management is required to conduct a 20 year permit review of issued permits to determine permit compliance. As a permit holder, we are contacting you to conduct a review of your water use permit.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time within the time period given, and a representative from Brown and Caldwell will contact you to make further field visit arrangements.

We thank you for your cooperation in promoting beneficial and reasonable use of our ground water while protecting our limited natural supply.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director

RI:ss
February 20th, 2008

Water Use Permit Holder
Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748

Subject: WUP 338

Second Notice of Water Use Permit Review

In accordance with §174C-56 of the Hawaii Revised Statutes and 13-171-22(b), Hawaii Administrative Rules, the Commission on Water Resource Management is required to conduct a 20-year permit review of issued permits to determine permit compliance and prepare a formal report to legislature for public review. As a water use permit holder, we are notifying you of this statutory requirement and are asking for your help in the review of your water use permit.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time within the time period given, and return the form via mail to Brown and Caldwell. A representative from Brown and Caldwell will then contact you to make further field visit arrangements.

Please note that this is the second notice that we are sending to attempt to make contact with you. If we cannot conduct a field investigation to verify your water use, we may commence proceedings to revoke your permit. Once your permit is revoked, you will no longer be able to use ground water from your well. Upon revocation, any water use without a valid permit will be subject to fines of up to $5,000 per day. As such, it is in your best interest to return the form to Brown and Caldwell as soon as possible.

We thank you for your cooperation in promoting beneficial and reasonable use of our ground water while protecting our limited natural supply.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director
July 15, 2008

Kanukuawa Ranch
1331 Kamaile St
Honolulu, HI 96814

Dear Sir or Madam:

3rd Notice of Water Use Permit Permit Review

In accordance with §174C-56 of the Hawaii Revised Statutes and 13-171-22(b), Hawaii Administrative Rules, the Commission on Water Resource Management is required to conduct a 20-year permit review of issued water use permits to determine permit compliance and prepare a formal report to the 2009 legislature for public review. We are notifying you of this statutory requirement as you are a water use permit holder and are asking for your help in the review of your water use permit. For your reference, your Water Use Permit number is Water Use Permit No. 338 (Well No. 0354-03). This notice is our third attempt at contacting you for this statutory review, which must be completed soon to be ready for the beginning of the 2009 legislative session.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time your field investigation can be conducted, and return the form via mail to Brown and Caldwell no later than July 18th, 2008. A representative from Brown and Caldwell will then contact you to make field visit arrangements.

If we cannot conduct a field investigation to verify your water use, we may commence proceedings to revoke your permit. Once your permit is revoked, you will no longer be able to use ground water from your well without applying for and obtaining a new water use permit. Upon revocation, any water use without a valid permit will be subject to fines of up to $5,000 per day. As such, it is in your best interest to return the form to Brown and Caldwell as soon as possible.

We thank you for your cooperation in promoting reasonable and beneficial use and protection of our public trust ground water resources.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director

RI:ss
Enclosure
Water Use Permit Survey
(Please complete one survey form for each WUP)

WUP Number: ___________________________ Well Number(s): ___________________________

Contact Information (of the person who will be present at site visit):
Name: ________________________________________________________________
Phone (for phone interview): ___________________________ Fax: ___________________________
Email: ________________________________________________________________
Best time to reach for phone interview: ___________________________

Property Information (of the water use/well location):
Address: ________________________________________________________________
City: _______________ _______________ Zip: _______________
Well Location TMK (list all if multiple wells present): ___________________________
Water Use TMK (list all if used on multiple lots): ___________________________

Water Use/Well Information:
Is the water source currently in use? Yes ☐ No ☐
If no, please explain: ______________________________________________________
What are you currently using the water for? (example: “Use for 45 acres of diversified agriculture and 3 residences”):
________________________________________________________________________
Is a flow meter installed and working properly? Yes ☐ No ☐
If no, please explain: ______________________________________________________
Do you submit monthly water use reports to the State? Yes ☐ No ☐
If no, please explain: ______________________________________________________

Field Investigations:
A representative from Brown and Caldwell will be visiting wells in your area over the next two months between the times of 9:00 am and 5:00 pm. Each site investigation will take approximately 1-2 hours. Please indicate up to three potential days of the week and availability times for an on-site inspection of the well location and verification of water use compliance. The permit holder must provide Brown and Caldwell with at least five (5) working days notice of the need to reschedule.

Option #1  Date (M-F): _______________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐
Option #2  Date (M-F): _______________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐
Option #3  Date (M-F): _______________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐

Once this survey is returned, a Brown and Caldwell representative will be contacting you to conduct a phone interview and finalize the exact date and time of your field investigation. Please fax/mail completed surveys by July 18th, 2008 and direct any questions related to this survey to Mr. Milo Smith of Brown and Caldwell at:
1099 Alakea Street, Suite #2400
Honolulu, HI 96813
Tel: (808) 203-2661
Fax: (808) 533-0226
mcsmith@brwncald.com

For Official Use Only
Received: ___________________________ Information Updated: ___________________________
Phone Interview Complete: ___________________________ Notes/Comments: ___________________________
State of Hawaii  
COMMISSION ON WATER RESOURCE MANAGEMENT  
Department of Land and Natural Resources  
Honolulu, Hawaii 

April 14, 1994  

Chairperson and Members  
Commission on Water Resource Management  
State of Hawaii  
Honolulu, Hawaii  

Gentlemen:  

Applications for Water Use Permits  
Kawela Ground Water Management Area, Molokai  

Applicant: 
1. (Well Nos. 0354-01,02,&04)  
   T.T. Meyer, Inc.  
   P.O. Box 454  
   Kaunakakai, HI 96748  

2. (Well No. 0354-03)  
   Kanukuawa Ranch  
   P.O. Box 707  
   Kaunakakai, HI 96748  

3. (Well No. 0354-05)  
   Henry R. Meyer Estate  
   P.O. Box 454  
   Kaunakakai, HI 96748  

Landowner:  

Same  

T.T. Meyer, Inc.  

P.O. Box 454  

Kaunakakai, HI 96748  

Same  

Background  

The applicants submitted completed water use permit applications to the Commission on the dates indicated in Exhibit 1. Specific information regarding the source, use, notification, objections, and field investigation(s) are described in Attachment A and the attached exhibits.  

Analysis & Issues  

1. These three existing sources use brackish water from the Kawela Aquifer System for various uses as follows:  

   a. Meyer Inc. #1 (Well No. 0354-01) - Because the county water system has never been extended to service this area of Molokai, this dug well is the sole source of domestic water supply for five homes and serves a total of 13 members of the Meyer family. Eleven briefs in support of this application have been submitted. Although the application indicates that the well is also used for the irrigation of 15.5 acres of various fruit trees and vegetables, this use was not verified by the field investigation. The applicant has verbally stated that the irrigation use is sporadic and varies according to the nature of the rainfall. The produce is not marketed commercially at this time, but may be at some point in the future. Currently, the irrigated lands are used for subsistence farming.  

   b. Meyer Inc. #2 (Well No. 0354-02) - This drilled well is used for dust control and rock and cinder quarry operations on 25 acres of leased land. The lease to Molokai Concrete and Construction expires in August 1993. The applicant has verbally stated that a new lease is currently being negotiated and that he considers the water needs of the quarry to be immediate. Four briefs in support of this application have been filed with the Commission.  

   c. Meyer Inc. #4 (Well No. 0354-04) - This dug well is used for irrigation purposes. The application states that the water is used for the domestic needs of one home and for irrigation of 2.71 acres of coconut trees, heliconias, and ti leaf plants. However, the field investigation report states that the domestic water is derived from the Meyer Inc. #1 well and that irrigation use is confined to 1/2 acres of lawn. The applicant has verbally stated
That the irrigation use varies with rainfall and, at present, no commercial agricultural operations exist.

2. **Well #3** (Well No. 0354-03) - This existing source uses brackish water for the domestic needs of three homes and the irrigation of a 5-acre orchard of various fruit trees. A small portion of the water is used by 4 horses and 4 pigs for drinking and washing. At the time that the field investigation was conducted on November 23, 1992, two of the five acres were not being farmed.

3. **Henry’s Well** (Well No. 0354-05) - From the field investigation conducted on November 23, 1992, this existing dug source was verified to have no existing use. It was determined that the well was not equipped with a pump or motor. Further, this well has not been registered under the well registration program. Staff finds that there is no justification for the issuance of a water use permit for this well and that this application should be denied, pursuant to §174C-83 and pending justification of an immediate need.

By the following analysis, staff finds that the following applications for permits to continue an existing water use meet the seven (7) criteria set forth in HRS 174-C(a)

**Conditions for a permit:**

1. **Water availability** - Although pending applications for existing uses reflect a total draft rate of 1.72 million gallons per day (mgd), the latest 12-month moving average of actual recorded water usage suggests that existing withdrawals may be less than 0.6 mgd. Staff finds that this is a more reasonable estimate of existing uses in the aquifer. The satisfaction of all reasonable and beneficial existing uses is therefore expected to require less than 15% of the total sustainable yield. An increase of about 3-4% in use at the major developments is projected through the year 2010. By this analysis, over 80% of the system’s sustainable yield remains available for other pending permits for continued existing uses and for new uses on lands that are currently undeveloped.

2. **Reasonable-beneficial** - The following proposed permits are deemed to be beneficial uses of the water resource. However, the quantities requested do not appear to be reasonable estimates for the proposed uses.

1a. **Meyer Inc. #1** (Well No. 0354-01) - The applicant has not been reporting his water use on a regular basis, and the capacity of the pump could not be verified in the field. The well registration form lists the capacity at 20 gpm. It is assumed that the pump has not been replaced, since no application for a pump installation permit has been filed since the well was registered. Assuming that the pump is operated continuously at full capacity, the maximum possible yield from the well is 28,800 gallons per day. Based on the Maui County Domestic Consumption Guideline, a single family residential unit may use up to 3,000 gallons per acre of land. Given the large area used for subsistence farming (15.5 acres), it is conceivable that the maximum yield of the well may be required for domestic consumption and irrigation purposes. Staff finds that an allocation of 28,800 gallons per day is justified.

1b. **Meyer Inc. #2** (Well No. 0354-02) - The Native Hawaiian Advisory Council (NHAC) has commented that, since the lease has expired, water should not be allocated until the future of the land use has been confirmed. However, the applicant has stated that his needs are immediate, as negotiations are underway. Given 1) the interim nature of the permit, 2) the ability of the Commission to revoke any portion, or all, of the permitted use following four continuous years of nonuse, 3) the availability of the water supply, and 4) the justification given for his need at this time, staff finds no compelling reason to deny the request for an allocation.

Water use data are not available to estimate existing needs, and the capacity of the pump could not be verified in the field, but the registration form lists the capacity at 56 gpm. The application states that the pump is run daily from 7 a.m. to 6 p.m. By this method, the estimated water use may be as much as 39,960 gpd. Staff feels that this is a liberal estimate. However, the issuance of an interim permit at this time will allow the Commission to further refine this estimate as water use data become available.
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

1c. Meyer Inc. #4 (Well No. 0354-04) - Water use data are not available, and the pump capacity is unknown. The type of plants being irrigated have relatively low water demands. Assuming a daily irrigation requirement of 1,700 gallons per acre (County guideline for park-like areas), about 4,600 gpd is required to irrigate 2.71 acres.

2. Well #3 (Well No. 0354-03) - The applicant's request appears to be low. Based on the county guidelines, three single family residences consume an average of 1,800 gpd, and 5 acres of fruit trees may require anywhere from 15,000 to 25,000 gpd. Staff finds that an allocation of 16,800 gpd is a reasonable estimate for these uses.

(3) *Interference with other existing legal uses* - There should be no affect on the interim instream flow standards, as these uses were in existence prior to the effective date of the standards for Molokai streams. Although Kapuaokoolau Gulch appears to have flow in its lower region, DAR has commented that, from the aquatic biological resources standpoint, there are no objections. Further, it is unlikely that the existing withdrawal will result in any measurable impacts. Excluding the wells owned by the Meyer family, there are two other wells within a mile of these wells, but the use of these wells could not be confirmed. However, it does not appear that any interference with other legal rights will result from continuation of the use, and no objections to these permit applications have been filed.

NHAC has raised concerns regarding the effect of runoff from the quarry operation (Well No. 0354-02) on nearshore waters and nearby fishponds. The Division of Aquatic Resources has noted the proximity of the quarry to the Pahiomu Fish Pond and has concluded that there is no potential for any impact on surface water habitat.

(4) *Public interest* - These proposed beneficial uses of water for domestic, agricultural irrigation, and industrial purposes do not appear to be in conflict with the various objectives declared to be in the public interest. Review of these applications by the various divisions of the Dept. of Land and Natural Resources, which serve to protect and promote the interests of the public, has not prompted any statements of objections or concerns.

(5) *State & county general plans and land use designations* - The Office of Conservation and Environmental Affairs and the Maui County Planning Department has reviewed these applications. No objections or concerns have been raised. These proposed uses have been shown to be consistent with the state and county general plans and land use designations.

(6) *County land use plans and policies* - These proposed uses have been shown to be consistent with the county land use plans policies.

(7) *Interference with Hawaiian home lands rights* - To meet the current and future needs of Hawaiian homesteaders, the Dept. of Hawaiian Home Lands (DHHL) has requested that water be reserved from the Kualapuu Aquifer System. This request has been granted, and currently, another request to reserve water from the Kualapuu Aquifer System is under consideration. Further, there are no lands in the Kawela Aquifer System that are under the administration of the Hawaiian Homes Commission. DHHL has reviewed these applications, and no objections have been raised.

The Molokai Working Group has made the following recommendations for the Southeast Sector, which encompasses the Kawela Aquifer System:

1. Limit groundwater withdrawal to 50% of its developable yield subject to verification of existing users and water use permits.
2. Any withdrawals from this Sector should not diminish water supplies and supply availability for traditional uses, including taro patches and fishponds.
3. Development of additional water from the Southeast Sector should be reserved first for residences of this Sector who are not yet served.
Chairperson and Members
Commission on Water Resource Management

April 14, 1994

Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use. [Attachment A]

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry’s Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

Edwin T. Kekona
Deputy Director

APPROVED FOR SUBMITTAL:

KEITH W. AHUE, Chairperson
## WATER USE PERMIT DETAILED INFORMATION

### Source Information

**AQUIFER:** Kawela System, Southeast Sector, Molokai
- **Sustainable Yield:** 5 mgd
- **Existing Water Use Permits:** 0.002 mgd
- **Available Allocation:** 1.278 mgd
- **Total of other pending allocations:** 4.998 mgd

### WELL: Meyer, Inc. #1 Well (Well No. 0354-01)

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<th>Kapuaokoolau, Molokai, TMK:5-5-1:11</th>
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### WELL: Meyer, Inc. #4 Well (Well No. 0354-04)

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### WELL: Well #3 (Well No. 0354-03)

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</tr>
<tr>
<td>Total Depth:</td>
<td>NA ft.</td>
</tr>
<tr>
<td>Grouted Annulus Depth:</td>
<td>NA ft.</td>
</tr>
<tr>
<td>Pump Capacity:</td>
<td>NA gpm</td>
</tr>
</tbody>
</table>

**ATTACHMENT A**
Chairperson and Members
Commission on Water Resource Management

Water Level:
Ground: NA ft.
Bottom of Solid Casing: NA ft.
Bottom of Perforated: NA ft.
Bottom of Open Hole: -4 ft.

Total Depth: 17 ft.
Grouted Annulus Depth: NA ft.

Pump Capacity

3. WELL:
Location: Henry's Well (Well No. 0354-05)
Year Drilled: Kapuaokoolau, Molokai, TMK:5-5-1:28
Casing Diameter: NA in.
Elevations (msl = 0 ft.)
Water Level: NA ft.
Ground: NA ft.
Bottom of Solid Casing: NA ft.
Bottom of Perforated: NA ft.
Bottom of Open Hole: NA ft.

Total Depth: 5.5 ft.
Grouted Annulus Depth: NA ft.

Pump Capacity NA gpm

Use Information

1a. Quantity Requested: 100,000 gallons per day.
Existing Type of Water Use: Domestic use for 5 residences and irrigation of 15.5 acres of various fruit trees
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11,12,28
Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

1b. Quantity Requested: 200,000 gallons per day.
Existing Type of Water Use: Industrial use at rock and cinder quarry
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11
Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

1c. Quantity Requested: 10,000 gallons per day.
Existing Type of Water Use: Domestic use for 1 residences and irrigation of 2.71 acres of heliconias, coconut and ti

ATTACHMENT A
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

2. Quantity Requested: 5,000 gallons per day.
   Existing Type of Water Use: Domestic use for 3 residences and irrigation of 5-acre tree orchard
   Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12
   Reported Water Usage: NA gpd
   Nearby Similar Water Usage: NA gpd

3. Quantity Requested: 30,000 gallons per day.
   Existing Type of Water Use: Domestic use for 1 residence and irrigation of 5.32 acre of various fruit trees
   Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:28
   Reported Water Usage: NA gpd
   Nearby Similar Water Usage: NA gpd

Kawela Aquifer System
Current 12-Month Moving Average Withdrawal: 0.594 gpd
(12% of SY)

Nearby Surrounding Wells and Other Registered Ground Water Use

There are 3 other wells within a mile of these wells (see Exhibit 2). Possibly all of these wells are currently in use. Information from the registration program indicates there are possibly 35 existing wells in the Kawela Aquifer System. The 1992 Draft of the Maui Water Use and Development Plan, Island of Molokai estimated that the existing withdrawals from the Kawela Aquifer System is 0.31 mgd as of 1990. The Final Report of the Molokai Working Group Estimated the actual use from the Kawela Aquifer System to be 0.76 mgd.

Public Notice

In accordance with HAR §13-171-17, a public notice was published in the Star-Bulletin on the dates indicated in Exhibit 1 and copies of the notice were sent to the Mayor's office and the Board of Water Supply. Additional notice copies were sent to the County Council and Department of Water Supply. Copies of the completed application were sent to the Department of Health, Department of Hawaiian Home Lands, Office of Hawaiian Affairs, Aquatic Resources & Historic Preservation Divisions of the Department of Land and Natural Resources, and other interested parties for comments. Written comments and objections to the proposed permit were to be submitted to the Commission by the dates indicated on Exhibit 1.

Objections

The public notice specifies that an objector meet the following requirements: (1) state property or other interest in the matter; (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; (3) state all grounds for objections to the proposed permits, (4) provide a copy of the objection letter(s) to the applicant, and (5) submit objections meeting the previous requirements to the Commission by the dates indicated on Exhibit 1.

To the best of staff's knowledge there are no objectors who have property interest within the Kawela Aquifer System or who will be directly and immediately affected by the proposed water use. All objections and/or comments to the application are summarized in the Analysis and Issues section:

ATTACHMENT A
Chairperson and Members
Commission on Water Resource Management

April 14, 1994

Briefs in Support

Responses to objections, or briefs in support, regarding the application are required to be filed with the Commission ten (10) days after an objection is filed and, presumably, copies are served to the applicant. Eleven briefs in support were filed with the Commission.

Field Investigation

The water sources and existing uses were investigated on the dates indicated on Exhibit 1. The investigation(s) verified the applicants existing sources and proposed use sites.
STANDARD WATER USE PERMIT CONDITIONS

1. The ground water described in the water use permit may only be taken from the location described, used for the reasonable-beneficial use described, and at the location described above and in the attachments. Reasonable-beneficial use means "the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is not wasteful and is both reasonable and consistent with the state and county land use plans and the public interest." (HAR §13-171-2).

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HAR §13-171-13 which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in section §13-171-2;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with state and county general plans and land use designations;
   f. Is consistent with county land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and 174C-101(a), HRS.

4. The ground water use approved must not interfere with surface or ground water rights or reservations.

5. The ground water use approved must not interfere with interim or permanent instream flow standards or policies as determined by the Commission. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be amended.

6. The water use permit is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.

7. The water use permit application and staff submittal approved by the Commission at its April 14, 1994 meeting are incorporated into the permit by reference.

8. Any modification of the permit terms, conditions, or uses can only be made with the express written consent of the Commission on Water Resource Management.

9. The water use permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
   a. Protect water sources in quantity, quality, or both;
   b. Meet other legal obligations including other correlative rights;
   c. Insure adequate conservation measures;
   d. Require efficiency of water uses;
   e. Reserve water for future uses, provided that all legal existing uses of water as of June 1987, shall be protected;
   f. Meet legal obligations to the Department of Hawaiian Homes, if applicable; or
   g. Carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

10. If the ground water source does not presently exist, the new well shall be completed, i.e. able to withdraw water for the proposed use on a regular basis, within twenty-four (24)
11. An approved flowmeter(s) must be installed to measure withdrawals and a monthly record of withdrawals, water-levels, salinity, and temperature must be kept and reported to the Commission on a yearly basis in accordance the Commission’s September 16, 1992 action on reporting requirements;

12. The water use permit shall be subject to the Commission’s periodic review of the applicable aquifer’s sustainable yield. The amount of ground water use authorized by the permit may be reduced by the Commission if the sustainable yield of the Kawela Aquifer System, or relevant modified aquifer, is reduced;

13. The water use permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HAR §13-171-25 and the requirements of Chapter 174C, the Commission has the authority to allow the transfer of the permit and the use rights granted by the permit in a manner consistent with HAR §13-171-25. Any such transfer shall only occur with the Commission’s prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

14. The use(s) authorized by law and by the water use permit do not constitute ownership rights.

15. The permittee shall comply with all applicable laws, rules, ordinances, and other agencies’ permits and conditions pertaining to water use or the water resource.

16. The permittee shall prepare and submit a water shortage plan within 30 days of issuance of the permit to assist the Commission in fulfilling HAR §13-171-42(c). The permittee’s water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Kawela Ground Water Management Area.

17. The water use permit granted shall be an interim water use permit, pursuant to HAR §13-171-21. The final determination of the water use quantity shall be made within five years of the filing of the application to continue the existing use.

18. The water use permit shall be issued only after AG review.

19. The water use permit shall be subject to the Commission’s establishment of instream standards and policies to Stream Protection and Management (SPAM), as well as legislative mandates to protect stream resources.
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<tr>
<th>MOAPA NO</th>
<th>APPLICANT</th>
<th>WELL NO</th>
<th>WELL NAME</th>
<th>EXIST</th>
<th>PROPOSED</th>
<th>RECEIVED</th>
<th>ACKNOWLEDGED</th>
<th>ACCEPTED</th>
<th>PUBLIC 1 NOTICE</th>
<th>RECEIVED</th>
<th>PUBLIC 2 NOTICE</th>
<th>RECEIVED</th>
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<td>0354-03</td>
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5 Applications Totaling 0.345

MOLOKAI HAS 5 Applications Totaling 0.345

STATEWIDE THERE ARE 5 APPLICATIONS TOTALING 0.345


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<th>INIT:</th>
<th>PLEASE:</th>
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<tr>
<td></td>
<td></td>
<td>See Me</td>
<td>Contacted by phone 12/6/93</td>
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<tr>
<td></td>
<td></td>
<td>Call</td>
<td>- 7 residences are not char for water. Exempt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Review &amp; Comment</td>
<td>- Orchard consists of various fruit trees and is only 10 acres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Take Action</td>
<td>- 15 acres are in pasture and are irrigated occasionally</td>
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<tr>
<td></td>
<td></td>
<td>Invest: &amp; Report</td>
<td>- Well # should be 0354-007, not 0354-01. No has another record</td>
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<td></td>
<td>Draft Reply</td>
<td>- Both State &amp; County Conservation</td>
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<td>Acknowledge Receipt</td>
<td>- Drill in 1947.</td>
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FOR YOUR:  

|       |       | Approval |  |
|       |       | Signature |  |
|       |       | Information |  |

Note: Please check to see if Henry's well 0354-03 is same need a new well too. Has Well No. 0354-05
State of Hawai‘i-DLNR
Commission on Water Resource Management
ATTN: Keith Ahue
P.O. Box 621
Honolulu, Hawai‘i 96809

November 24, 1993

Dear Mr. Ahue,

My name is Wayne Meyer, and I’m the president of T.T. Meyer, Inc. (I’m the same Wayne Meyer who sits on the Molokai Working Group on Water, convened by the Commission on Water Resource Management). I have lived on Molokai all my life, except for four years away at Kamehameha Schools and three years in Vietnam with the U.S. Army.

T.T. Meyer, Inc. was formed in 1970. The corporation’s approximately 600 acres were used to raise cattle.

Theodore Thomas Meyer served as County Supervisor and dug his own well in the early 1900’s. This is the Number 1 Well. It serves five homes. Edith B. Meyer wanted to give their thirteen grandchildren each a half-acre lot. But, because there are no county or state water lines, the subdivision could not be approved. Without county water lines it is impossible to get building permits. (I heard people complaining at the November 17th CWRM meeting here on Molokai that they didn’t have enough water. We at T.T. Meyer, Inc. have a worse complaint: we are Hawaiian people with land and can’t do anything with it because we have no water lines.)

In 1972, T.T. Meyer, Inc. opened a 25-acre cinder and rock quarry with Vernon Funn. Well Number 2 was drilled by Red Sam Drilling Company for the sole purpose of obtaining water for dust control and the quarry operations.

T.T. Meyer Well Number 3 is used by Lloyd West for the tree orchard he has planted. I had given Lloyd the papers to file to sign up, declare, his water use.

Well Number 4 is on T.T. Meyer, Inc. land leased by myself and my wife, Lorraine for a small 2.709 acre parcel for trees and heliconia flowers.

(con’d.)
All our life we have lived on Molokai pumping water from wells; first powered with windmills, then with gas pumps, finally with electricity. Our pump at Well Number 1 is running 24-hours-a-day, 365-days-a-year. We're among the very few on Molokai who can say that and prove it.

I simply ask the Commission to consider our difficult situation and treat it differently than they would address the issue for more fortunate Molokai residents who at least have the capability of obtaining water from alternative government-provided wells and lines. Please approve our requested uses.

Thank you for your attention to these concerns.

Sincerely,

D. Wayne Meyer, Sr.
State of Hawai‘i-DLNR  
Commission on Water Resource Management  
ATTN: Keith Ahue  
P.O. Box 621  
Honolulu, Hawai‘i  96809

Dear Mr. Ahue,

This letter is in support of the Commission's favorable action on the application for water use from Henry's Well.

This well provides water for a small farm consisting of 5.34 acres. At present, there are some fruit trees including citrus, mango, guava, there's a coconut grove as well as breadfruit trees, ti leaf plants and noni (used for medicinal purposes). Henry also planted taro, sweet potato, watercress, un choy and bananas. He also raised chickens, pigs, goats, and cattle for home consumption.

Henry's property is not served by the Maui County Water System. There is a gap in the pipeline from Kawela to Kamalo.

As in the situation with T.T. Meyer, Inc. Wells applications, I ask the Commission to consider our difficult situation and treat it differently than they would address the issue for more fortunate Molokai residents who at least have the capability of obtaining water from alternative government-provided wells and lines. We are Hawaiians who need the water in order to live on the property left to us by our grandparents. Please approve our requested uses.

Thank you for your attention to these concerns.

Sincerely,

D. Wayne Meyer, Sr.
State of Hawaii  
Department of Land & Natural Resources  
Commission on Water Resource Management  
P. O. Box 621  
Honolulu, Hawai'i  96809  

ATTN: Rae Loui and Keith Ahu'e  

Dear Sirs:  

In view of what transpired at the last meeting held on Moloka'i on November 17, 1993, I would like to point out that we have no other source of water except our well at Kapua'okoolau, Molokai.  

Although the County of Maui have pipelines on the east and west of us, no pipelines were installed in our area of four (4) miles. It seems that the 4-mile strip between the pipelines simply do no exist, and therefore we had no other alternative but to pump and supply our own water.  

My grandfather Theodore T. Meyer, Sr. was a Supervisor for the County of Maui many years ago and I've lived here all of my life--and we never had the luxury of county water.  

Those individuals in Kawela are fortunate to have both county water and well water available to them. Are we to be penalized just because they may be denied the use of their well water? Are we to be denied the use of our well when we have no other water source available? I hope not!  

We are a Kama'aina family...and Hawaiian at that too! It is my right to use this water to exist! I pay taxes like everyone else and if we are to be denied the right to use our well water, then are you, the Department, or the State of Hawai'i willing and financially able to truck water to us daily?  

I hope that the Commission collectively will be able to come to an intelligent and satisfactory decision on this matter. I not, then we will proceed through legal channels.  

Sincerely,  

Jeanette Meyer Silva  

cc: File  
   Attorney
November 24, 1993

Mr. Rae Loui
State of Hawaii - DLNR
Commission on Water Resource Management
P. O. Box 21
Honolulu, Hawaii 96809

Dear Mr. Loui:

As a lifelong resident of Kapuaokoolau, Molokai, I am writing to you in reference to the wells situated on T.T. Meyer, Inc. property.

Many years ago, my grandfather dug a well and used the water for family consumption, bathing, and laundering needs. The water was also used for farming requirements. As the years went by, a request was made to the County of Maui to connect Kawela pipelines to Kamalo pipelines (which come from Ualapue) in which case residents between these areas would have had water from the county. The county responded unfavorably, stating that we run the pipelines to connect the two areas and afterwards dedicate this to the county. Needless to mention, the cost factor was outrageous and residents definitely could not afford such a request. However, over the years the feeling of being discriminated against never left our minds as we felt, and still feel, that as tax payers, citizens, kamaaina to Molokai, we rightfully deserved the same benefits others are receiving.

My point, we need our wells because we have no other means of water being supplied to us. This well has, over the years, given "life" to other family members who built in this little "ohana" community. Family members will be returning to Kapuaokoolau in the very near future and, again, I emphasize we need to continue the use of our wells.

Won't you please consider this request?

Sincerely,

Haunani Meyer

c: Keith Ahue
Ms. Rae Loui  
State of Hawaii, DLNR  
Commission on Water Resource Mgmt.  
P.O. Box 21  
Honolulu, HI 96809

Dear Ms. Loui:

I am writing regarding the water wells on the T.T. Meyer property at Kapuaokoolau, Molokai.

The first water well was dug by my grandfather, Theodore T. Meyer, in 1928. This well became the only source of water for his property. It was the sole source of water for the family home. This well provided water for drinking, bathing, washing, irrigation and provided water to his livestock. It was necessary to have this well since the County of Maui did not provide any water to this area.

In 1941, my father Otto S. Meyer, was given a portion of the family land where he built our family home. The same well supplied water to our home for drinking, bathing, washing, irrigation and also provided water to our livestock.

Today, this same well is used by five households since Maui County still does not provide water to the area between Kawela and Kamalo.

A second well was dug about ten years ago to provide water for a Cinder Quarry on our property. The water from this well is used to control dust pollution, watering of plants for landscaping and supplies water to the wash plant for the gravel that is mined.

More than forty years ago, our family requested that Maui County consider providing our family with County water. The County water source stops approximately 2 1/2 miles west of our property and 2 1/2 miles east of our property. Maui County's response to our request was that if the Meyer family could put up $60,000 to lay the pipe line, the County would
provide the water. Upon completion of this project, the Meyer Family would then have to dedicate the water line to Maui County. This meant that whoever built or became owners of property within this five-mile range could hook up to the water line and would be required only to pay the normal charges. The Meyer family could not come up with this amount of money nor would we agree to such an unfair request.

As the population of Molokai grows, so does the use of water grow. I personally feel that if this five miles of land without county water could somehow be hooked together it would benefit not only the T.T. Meyer family, but other Molokai residents. If the Ualapue pump were to become dysfunctional, the Kawela pump could provide water to the residents that draw water from the Ualapue pump. And therefore, the same would go for the Kawela pump.

I will retire in three years from the State of Hawaii and will make Molokai my home once again. My parents are both in ailing health and I plan to reside in Kapuaokoolau. Many of my family members would also like to someday return to Kapuaokoolau. If Maui County cannot provide water to this area then we most certainly need our family wells.

The Meyer family are all United State citizens who pay taxes like every other U.S. citizen. We are also residents of Hawaii and of Hawaiian blood. I do feel that if Maui County will not provide water to this area then why should we be denied the use of water from the wells on our own property?

Please take my letter into consideration when your department acts on water rights in Kapuaokoolau, Molokai.

Thank you for your time and I hope your decision will be based on fairness to our family who has been drawing water from this source for more than 60 years.

Sincerely,

[Signature]

(Mrs.) Ottina Meyer Paoa

cc: Keith Ahue
P.O. Box 35
Kaunakakai, Molokai
Nov. 19, 1993

State of Hawaii
Dept. of Land and Natural Resources
Commission on Water Resource Management
P.O. Box 21
Honolulu, Hawaii 96809

Gentlemen:

My name is Otto S. Meyer a life-long resident of Molokai. My letter is in regards to the water wells on our property in Kapuaokoolau, Molokai. I am one of the surviving children of Theodore and Edith Meyer original owners of this property.

My father purchased this property more than 60 years ago and established his family residence and ranch. My father had to dig a water well so that water could be provided for family use in our daily needs. He also needed water to irrigate his crops and to provide water to his livestock. His livestock and crops was his source of income to support his family.

He petitioned the County of Maui for water to his property but was denied several times. When his children married and started to raise their own families, property was given to them to build homes on. Again, the county was asked to provide water to our properties and we were denied.

My brother Henry and I then became the spokesmen for our families, attending numerous water board meetings, writing numerous letters and speaking on our behalf to many Maui County officials. This was all in vain, as here it is 1993 and we still do not have county water.

When we first started seeking county water for our property, we were told to pay forth $60,000 for the pipes and the county would then give us the water. However, once we did this, the county requested that we dedicate this same water line which we paid $60,000 back to Maui County. We could not and would not raise this kind of money as we are citizens and residents who have paid more than our share of taxes into this government.
Our family property now has a Cinder Quarry and a second well was dug by the Contractor to provide water for the wash plant, dust control and irrigation of vegetation.

My brother Henry and I raised our children in Kapuaokoolau as did my sister Hannah. Our parents' wish was to provide a parcel of property for their 13 grandchildren so that each could someday return to Kapuaokoolau, set up residency and carry on their legacy.

I am now 82 years old and although I may never live to see County Water provided to our family property, I would like to leave this world knowing that my children, grandchildren and great grandchildren can return to Kapuaokoolau someday and continue my father's legacy and my own personal dreams. If our water wells are ordered closed, my efforts would have all been in vain.

I have always done my share as a citizen and resident of Molokai. During my time, I got involved with many community activities and I feel have done my Island community well. After all these years, I cannot see or understand why we may be denied water from our own property.

Thank you for your time.

Otto S. Meyer
Landowner
P.O. Box 35
Kaunakakai, Molokai
Nov. 19, 1993

State of Hawaii
Dept. of Land and
Natural Resources
Commission on Water Resource
Management
P.O. Box 21
Honolulu, Hawaii 96809

Gentlemen:

My name is Otto S. Meyer a life-long resident of Molokai. My letter is in regards to the water wells on our property in Kapuaokoolau, Molokai. I am one of the surviving children of Theodore and Edith Meyer original owners of this property.

My father purchased this property more than 60 years ago and established his family residence and ranch. My father had to dig a water well so that water could be provided for family use in our daily needs. He also needed water to irrigate his crops and to provide water to his livestock. His livestock and crops was his source of income to support his family.

He petitioned the County of Maui for water to his property but was denied several times. When his children married and started to raise their own families, property was given to them to build homes on. Again, the county was asked to provide water to our properties and we were denied.

My brother Henry and I then became the spokesmen for our families, attending numerous water board meetings, writing numerous letters and speaking on our behalf to many Maui County Officials. This was all in vain, as here it is 1993 and we still do not have county water.

When we first started seeking county water for our property, we were told to pay forth $60,000 for the pipes and the county would then give us the water. However, once we did this, the county requested that we dedicate this same water line which we paid $60,000 back to Maui County. We could not and would not raise this kind of money as we are citizens and residents who have paid more than our share of taxes into this government.
Our family property now has a Cinder Quarry and a second well was dug by the Contractor to provide water for the wash plant, dust control and irrigation of vegetation.

My brother Henry and I raised our children in Kapuaokoolau as did my sister Hannah. Our parents' wish was to provide a parcel of property for their 13 grandchildren so that each could someday return to Kapuaokoolau, set up residency and carry on their legacy.

I am now 82 years old and although I may never live to see County Water provided to our family property, I would like to leave this world knowing that my children, grandchildren and great grandchildren can return to Kapuaokoolau someday and continue my father's legacy and my own personal dreams. If our water wells are ordered closed, my efforts would have all been in vain.

I have always done my share as a citizen and resident of Molokai. During my time, I got involved with many community activities and I feel have done my Island community well. After all these years, I cannot see or understand why we may be denied water from our own property.

Thank you for your time.

Otto S. Meyer
Landowner
1. **Source:** A dug well with a rectangular cross section 8 feet by 14 feet. Total depth 17 feet with 14 feet of water. Water is withdrawn using a 2 hp electric motor with a 1-1/2 inch diameter PVC inlet and outlet pipe. The capacity of the pump could not be verified in the field.

2. **Use:** The water is used to provide domestic water for one home, with a total of 3 people; irrigation of 3 acres of fruit trees and ornamentals; and water for 4 horses and 4 pigs.. There is no county water in this portion of the island.

3. **Quantity:** The quantity used is not being measured.

4. **Location:** Source and use, TMK: 5-5-1:12

   Using the GPS: latitude = 21 deg 03 min 37.5 sec N
   (Source location) longitude = 156 deg 54 min 36.0 sec W

5. **Ownership:** Land owned by declarant, T.T. Meyer, Inc. and leased to Mr. Lloyd West.

6. **This well will be assigned well index number 0354-03 (Kamalo-TT Meyer #3).**

7. **Chloride Concentration:** 465 ppm chlorides for a water sample taken from a hose bibb.

8. **Mr. West requested that a copy of the field report be sent to:**

   Mr. Lloyd West
   P.O. Box 707
   Kaunakakai, Hawaii 96748
PART I: USE OF WATER

1. Tax Map Key where the water is used: 5.5.1.12. Does the declarant own this land? Yes If not, who does?

2. What is the water used for? Domestic and Irrigation Use If for irrigation, how many acres are being irrigated by crop type? 3 acres of fruit trees and olives If for livestock, how many and what kind? 4 horses and 4 pigs If for drinking, at how many houses? 1 home by how many people? 3 people

3. Is the quantity of water use being measured? No If yes, document the location of the measurement point and method of measurement; also get use records if these were not submitted previously.

4. If this person takes from a multi-user pipe or ditch system: How is the water taken from the system? ____________________________ What is the capacity for taking (gpm)? ____________________________ How often is it taken (used)? (New)

PART II: WATER SOURCE

Source #: 0354-03 Name: KAMPNO-77

1. Where does the water come from / what kind of source is this? Dug well. 8 Types of sources include: 1½" 10 PVC Inlet/Outlet 1) Wells (drilled, dug, tunnel) 2) Diversion (ditch, pipe, pump, or livestock from a stream, spring, swamp, pond) 3) Multi-source systems. (Declared use cannot be traced to a single well or diversion) NOTE: If a multi-user system: take from pipe or ditch (need to determine whether is a multi-source or single-source system before the data can be input to the comp) 4) Instream (i.e., crops planted along water edge)

2. Show the source location on maps, determine latitude and longitude, and document nature of source development by measurements, sketches, and photographs. How water taken? GPM: LRT - 21' 02" 37.5" W, HGN - 153 54' 36.9" W What is the capacity for taking (gpm)? Unknown Capacity, 2 HP Electric How often is it taken (used)? Daily

3. Tax Map Key at the source: 5.5.1.12. Determine declarant’s relationship to source. Does the declarant: 1) Operate and maintain the source? No If not, who does? Lloyd West 2) Own the land at the source? Yes If not, who does? 3) Use the water from this source? No If not, who does? Lewis 4) Own the land where the water is being used? Yes 5) None of the above? _____ If so, why did they file? 

4. Does any one else also use water from this source? No If yes, is their use in this user’s declaration? _____ Who are the other users? Did they file? 

VERIFIED BY: Sterling GMT DATE: 11-25

* MR. WEST REQUEST COPY OF FIELD REPORT
* WATERS: S
** INFORMA
P.O. BOX 707
KAUNAKAKI, HI 96748
Mr. Darryl Yagodich, representing the DHHL, presented testimony supporting additional water reservation from the Kualapuu Aquifer System for uses on Hawaiian home lands (see file).

David Craddick of the Maui Department of Water Supply, Noelani Joy, DeGray Vanderbilt, William Kaleimomi, and Judy Caparida, all supported the reservation of water for DHHL/homesteader use.

Mr. Duncan Annandale, Operations Director for Molokai Ranch, supported the water needs of DHHL "to the extent that it is determined that this petition is for water which is government-owned or surplus water from private sources as defined in Subsection 221(A) of the Hawaiian Homes Commission Act". Mr. Annandale added that the petition should be granted subject to the rights of all property owners to obtain their allocations of water from the Kualapuu Aquifer for reasonable future use (see file).

Ms. Toni Bissen of Native Hawaiian Advisory Council (NHAC) supported DHHL's petition but felt that the additional 2 mgd should come from within the 5 mgd planning figure (see file).

Mr. Cox commented that there is obvious need to coordinate the various water needs for Molokai - DHHL, agriculture, county, and economic development. Staff's public hearing process would resolve a lot of these questions.

Unanimously approved (Lewin/Ing).

**ITEM 4**

**DAVID W. CURTIS, APPLICATION FOR A WATER USE PERMIT, KAMALO-C WELL (WELL NO. 035270), KAWELA GROUND WATER MANAGEMENT AREA, MOLOKAI**

Unanimously approved (Ing/Cox).

**ITEM 5**

**CIBA SEEDS, APPLICATION FOR A WATER USE PERMIT, NAIWA WELL (WELL NO. 0706-05), MANAWAINUI GROUND WATER MANAGEMENT AREA, MOLOKAI**

Mr. Walter Ritte asked if there would be any impact on the Hoolehua/Kalamaula area. Ms. Nakama stated that the long-term impact is not known, but that this rate of pumpage would not have a great impact on the aquifer.

Ms. Joy supported the use of brackish water for agriculture production as opposed to potable water and asked the Commission's support of the applicant's request.

Unanimously approved (Cox/Ing).

**ITEM 6**

**KUKUI (MOLOKAI), INC. APPLICATION FOR A WATER USE PERMIT, NAIWA WELL (WELL NO. 0705-05), KUALAPUU GROUND WATER MANAGEMENT AREA, MOLOKAI**

Ms. Nakama presented amended recommendations for Commission action. After discussions the following was recommended:
Chairperson and Members
Commission on Water Resource Management

April 14, 1994

1. That the Commission find that there was just cause for the applicant's failure to file within the specified one-year period, and that this late filing of a water use permit application be allowed.

2. That the Commission approve the issuance of an interim water use permit to Kukui (Molokai), Inc. for the reasonable and beneficial use of 928,000 gallons per day of potable water for municipal, domestic, and irrigation uses at the Kaluakoi Resort Hotel, condominiums, residences, and golf course from Well #17 (Well No. 0901-01), subject to the standard water use permit conditions listed in Attachment B and the following special conditions:
   
a. The applicant may continue this existing use within the levels approved by the Commission, and the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.
   
b. The filing of an application for future uses in excess of 2.0 mgd shall be just cause for re-evaluation of this interim permit.
   
c. Upon completion of a new transmission line for the transport of the water used by Well #17, the permitted use of Well #17 shall be reduced by 10% to 918,800 gallons per day.

3. That the Commission defer action on the remaining observed usage of 240,200 gallons per day, for a period not to exceed 90 days, pending the following:
   
a. Justification for additional allocation for existing uses in excess of 918,800 gallons per day.
   
b. Development of a conservation plan or program that shall address, but not be limited to, the following:
      
      (1) Identifying and using efficient plants and drought tolerant plants for landscaping and quantifying their demands (xeriscape).
      
      (2) Use of efficiently designed landscaping and irrigation systems.

4. In the event that water conservation programs and plans are not complied with or that a waste of water is occurring, the Commission shall proceed with the necessary actions to revoke this permit.

5. Defer other requests for future uses.

Mr. Ron Hedani of Kukui (Molokai), Inc. presented testimony on their application for water use (see file). He explained that their current usage of 1.2 mgd is based on the currently depressed occupancy rates in the hotel and resort condominiums. Testimonies objecting to the application were filed by Kaiwi Naki, Sara Sykes, NHAC, Noelani Joy, Rachel Kamakana, DeGray Vanderbilt, and Judy Caparida (see file). Ms. Sykes asked that a public hearing be held. Mr. Matthew Adolpho requested a contested case hearing.

Chairperson Ahue stated that due to the request for a contested case, action was deferred to determine if Mr. Adolpho has standing. In the next ten days,
Mr. Adolpho must submit information to verify his standing for a contested case hearing. Ms. Sykes asked if her request for a public hearing still stands since Mr. Adolpho requested a contested case hearing. Chairperson Ahue suggested both could be looked at because the public hearing could resolve the issue and a contested case hearing may not be needed.

Additional testimonies were heard for informational purposes only.

Unanimously approved for deferral (Cox/Nakata).

**ITEM 7**

APPLICATIONS FOR WATER USE PERMITS, KAWELA GROUND WATER MANAGEMENT AREA, MOLOKAI

Mr. Ing suggested the following amendment be made to Condition 2:

"That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and any existing subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B."

Unanimously approved as amended (Ing/Lewin).

**ITEM 8**

LOKO'I'A KALO AFTER-THE-FACT APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT, STREAM DIVERSION WORKS PERMIT, AND AMENDMENT TO THE INTERIM INSTREAM FLOW STANDARD, HONOLULUWAI STREAM, MOLOKAI

Mr. Higa recommended the following amendments to the Recommendations:

"The permit application and the staff submittal approved by the Commission at its meeting of [March 16] April 14, 1994 shall be incorporated herein by reference."

5. "[The applicant shall install an appropriate water meter subject to the approval of the Chairperson.] The applicant shall report monthly water usage for one year after the meter is installed, or as required by the Commission."

Also, Mr. Eddie Tanaka's name should be added to the list of corporate members.

The applicant indicated that the requirement for a water meter would cause an excessive financial burden since the project is not a large aquacultural farming operation. Staff understood that the cost of the water meter would be over $500 and did not object to the deletion of this condition provided there are no objections from other competing users.

Unanimously approved as amended (Nakata/Cox).
Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

Applications for Water Use Permits
Kawela Ground Water Management Area, Molokai

Applicant: Landowner:

1. (Well Nos. 0354-01,02,&04)
   T.T. Meyer, Inc.
   P.O. Box 454
   Kaunakakai, HI 96748

   Same

2. (Well No. 0354-03)
   Kanukuawa Ranch
   P.O. Box 707
   Kaunakakai, HI 96748

   T.T. Meyer, Inc.
   P.O. Box 454
   Kaunakakai, HI 96748

3. (Well No. 0354-05)
   Henry R. Meyer Estate
   P.O. Box 454
   Kaunakakai, HI 96748

   Same

Background

The applicants submitted completed water use permit applications to the Commission on the dates indicated in Exhibit 1. Specific information regarding the source, use, notification, objections, and field investigation(s) are described in Attachment A and the attached exhibits.

Analysis & Issues

1. These three existing sources use brackish water from the Kawela Aquifer System for various uses as follows:

   a. Meyer Inc. #1 (Well No. 0354-01) - Because the county water system has never been extended to service this area of Molokai, this dug well is the sole source of domestic water supply for five homes and serves a total of 13 members of the Meyer family. Eleven briefs in support of this application have been submitted. Although the application indicates that the well is also used for the irrigation of 15.5 acres of various fruit trees and vegetables, this use was not verified by the field investigation. The applicant has verbally stated that the irrigation use is sporadic and varies according to the nature of the rainfall. The produce is not marketed commercially at this time, but may be at some point in the future. Currently, the irrigated lands are used for subsistence farming.

   b. Meyer Inc. #2 (Well No. 0354-02) - This drilled well is used for dust control and rock and cinder quarry operations on 25 acres of leased land. The lease to Molokai Concrete and Construction expired in August 1993. The applicant has verbally stated that a new lease is currently being negotiated and that he considers the water needs of the quarry to be immediate. Four briefs in support of this application have been filed with the Commission.

   c. Meyer Inc. #4 (Well No. 0354-04) - This dug well is used for irrigation purposes. The application states that the water is used for the domestic needs of one home and for irrigation of 2.71 acres of coconut trees, heliconias, and ti leaf plants. However, the field investigation report states that the domestic water is derived from the Meyer Inc. #1 Well and that irrigation use is confined to 1/2 acres of lawn. The applicant has verbally stated
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Commission on Water Resource Management  
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that the irrigation use varies with rainfall and, at present, no commercial agricultural operations exist.

2. Well #3 (Well No. 0354-03) - This existing source uses brackish water for the domestic needs of three homes and the irrigation of a 5-acre orchard of various fruit trees. A small portion of the water is used by 4 horses and 4 pigs for drinking and washing. At the time that the field investigation was conducted on November 23, 1992, two of the five acres were not being farmed.

3. Henry's Well (Well No. 0354-05) - From the field investigation conducted on November 23, 1992, this existing dug source was verified to have no existing use. It was determined that the well was not equipped with a pump or motor. Further, this well has not been registered under the well registration program. Staff finds that there is no justification for the issuance of a water use permit for this well and that this application should be denied, pursuant to §174C-83 and pending justification of an immediate need.

By the following analysis, staff finds that the following applications for permits to continue an existing water use meet the seven (7) criteria set forth in HRS 174-C(a)

**Conditions for a permit:**

1. **Water availability** - Although pending applications for existing uses reflect a total draft rate of 1.72 million gallons per day (mgd), the latest 12-month moving average of actual recorded water usage suggests that existing withdrawals may be less than 0.6 mgd. Staff finds that this is a more reasonable estimate of existing uses in the aquifer. The satisfaction of all reasonable and beneficial existing uses is therefore expected to require less than 15% of the total sustainable yield. An increase of about 3-4% in use at the major developments is projected through the year 2010. By this analysis, over 80% of the system's sustainable yield remains available for other pending permits for continued existing uses and for new uses on lands that are currently undeveloped.

2. **Reasonable-beneficial** - The following proposed permits are deemed to be beneficial uses of the water resource. However, the quantities requested do not appear to be reasonable estimates for the proposed uses.

1a. Meyer Inc. #1 (Well No. 0354-01) - The applicant has not been reporting his water use on a regular basis, and the capacity of the pump could not be verified in the field. The well registration form lists the capacity at 20 gpm. It is assumed that the pump has not been replaced, since no application for a pump installation permit has been filed since the well was registered. Assuming that the pump is operated continuously at full capacity, the maximum possible yield from the well is 28,800 gallons per day. Based on the Maui County Domestic Consumption Guideline, a single family residential unit may use up to 3,000 gallons per acre of land. Given the large area used for subsistence farming (15.5 acres), it is conceivable that the maximum yield of the well may be required for domestic consumption and irrigation purposes. Staff finds that an allocation of 28,800 gallons per day is justified.

1b. Meyer Inc. #2 (Well No. 0354-02) - The Native Hawaiian Advisory Council (NHAC) has commented that, since the lease has expired, water should not be allocated until the future of the land use has been confirmed. However, the applicant has stated that his needs are immediate, as negotiations are underway. Given 1) the interim nature of the permit, 2) the ability of the Commission to revoke any portion, or all, of the permitted use following four continuous years of nonuse, 3) the availability of the water supply, and 4) the justification given for his need at this time, staff finds no compelling reason to deny the request for an allocation.

Water use data are not available to estimate existing needs, and the capacity of the pump could not be verified in the field, but the registration form lists the capacity at 56 gpm. The application states that the pump is run daily from 7 a.m. to 6 p.m. By this method, the estimated water use may be as much as 39,960 gpd. Staff feels that this is a liberal estimate. However, the issuance of an interim permit at this time will allow the Commission to further refine this estimate as water use data become available.

2
1. Meyer Inc. #4 (Well No. 0354-04) - Water use data are not available, and the pump capacity is unknown. The type of plants being irrigated have relatively low water demands. Assuming a daily irrigation requirement of 1,700 gallons per acre (County guideline for park-like areas), about 4,600 gpd is required to irrigate 2.71 acres.

2. Well #3 (Well No. 0354-03) - The applicant’s request appears to be low. Based on the county guidelines, three single family residences consume an average of 1,800 gpd, and 5 acres of fruit trees may require anywhere from 15,000 to 25,000 gpd. Staff finds that an allocation of 16,800 gpd is a reasonable estimate for these uses.

3. Interference with other existing legal uses - There should be no affect on the interim instream flow standards, as these uses were in existence prior to the effective date of the standards for Molokai streams. Although Kapuaokoolau Gulch appears to have flow in its lower region, DAR has commented that, from the aquatic biological resources standpoint, there are no objections. Further, it is unlikely that the existing withdrawal will result in any measurable impacts. Excluding the wells owned by the Meyer family, there are two other wells within a mile of these wells, but the use of these wells could not be confirmed. However, it does not appear that any interference with other legal rights will result from continuation of the use, and no objections to these permit applications have been filed.

NHAC has raised concerns regarding the effect of runoff from the quarry operation (Well No. 0354-02) on nearshore waters and nearby fishponds. The Division of Aquatic Resources has noted the proximity of the quarry to the Pahiomu Fish Pond and has concluded that there is no potential for any impact on surface water habitat.

4. Public interest - These proposed beneficial uses of water for domestic, agricultural irrigation, and industrial purposes do not appear to be in conflict with the various objectives declared to be in the public interest. Review of these applications by the various divisions of the Dept. of Land and Natural Resources, which serve to protect and promote the interests of the public, has not prompted any statements of objections or concerns.

5. State & county general plans and land use designations - The Office of Conservation and Environmental Affairs and the Maui County Planning Department has reviewed these applications. No objections or concerns have been raised. These proposed uses have been shown to be consistent with the state and county general plans and land use designations.

6. County land use plans and policies - These proposed uses have been shown to be consistent with the county land use plans policies.

7. Interference with Hawaiian home lands rights - To meet the current and future needs of Hawaiian homesteaders, the Dept. of Hawaiian Home Lands (DHHL) has requested that water be reserved from the Kualapuu Aquifer System. This request has been granted, and currently, another request to reserve water from the Kualapuu Aquifer System is under consideration. Further, there are no lands in the Kawela Aquifer System that are under the administration of the Hawaiian Homes Commission. DHHL has reviewed these applications, and no objections have been raised.

The Molokai Working Group has made the following recommendations for the Southeast Sector, which encompasses the Kawela Aquifer System:

1. Limit groundwater withdrawal to 50% of its developable yield subject to verification of existing users and water use permits.

2. Any withdrawals from this Sector should not diminish water supplies and supply availability for traditional uses, including taro patches and fishponds.

3. Development of additional water from the Southeast Sector should be reserved first for residences of this Sector who are not yet served.
Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry’s Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

Edwin Garcia
Deputy Director

APPROVED FOR SUBMITTAL:

Keith W. Ahue, Chairperson
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

WATER USE PERMIT DETAILED INFORMATION

Source Information

AQUIFER: Kawela System, Southeast Sector, Molokai

Sustainable Yield: 5 mgd
Existing Water Use Permits: 0.002 mgd
Available Allocation: 4.998 mgd
Total of other pending allocations: 1.278 mgd

1a. WELL:
Location: Meyer, Inc. #1 Well (Well No. 0354-01)
Year Drilled: Kapuaokoolau, Molokai, TMK:5-5-1:11
Casing Diameter: NA
Elevations (msl = 0 ft.)
Water Level: NA ft.
Ground: 11 ft.
Bottom of Solid Casing: NA ft.
Bottom of Perforated: NA ft.
Bottom of Open Hole: -4 ft.

Total Depth: 15 ft.
Grouted Annulus Depth: NA ft.

Pump Capacity: 20 gpm

1b. WELL:
Location: Meyer, Inc. #2 Well (Well No. 0354-02)
Year Drilled: Kapuaokoolau, Molokai, TMK:5-5-1:11
Casing Diameter: 1975
Elevations (msl = 0 ft.)
Water Level: 4 in.
Ground: 2.7 ft.
Bottom of Solid Casing: 11 ft.
Bottom of Perforated: NA ft.
Bottom of Open Hole: -11 ft.

Total Depth: 16 ft.
Grouted Annulus Depth: NA ft.

Pump Capacity: NA gpm

1c. WELL:
Location: Meyer, Inc. #4 Well (Well No. 0354-04)
Year Drilled: Kapuaokoolau, Molokai, TMK:5-5-1:12
Casing Diameter: NA
Elevations (msl = 0 ft.)
Water Level: NA ft.
Ground: NA ft.
Bottom of Solid Casing: NA ft.
Bottom of Perforated: 6.5 ft.
Bottom of Open Hole: NA ft.

Total Depth: NA ft.
Grouted Annulus Depth: NA ft.

Pump Capacity: NA gpm

2. WELL:
Location: Well #3 (Well No. 0354-03)
Year Drilled: Kapuaokoolau, Molokai, TMK:5-5-1:12
Casing Diameter: NA
Elevations (msl = 0 ft.)

Total Depth: NA ft.
Grouted Annulus Depth: NA ft.

Pump Capacity: NA gpm

ATTACHMENT A
Chairperson and Members
Commission on Water Resource Management

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3. WELL:
   Location:
   Year Drilled:
   Casing Diameter:
   Elevations (msl = 0 ft.)
      Water Level:
      Ground:
      Bottom of Solid Casing:
      Bottom of Perforated:
      Bottom of Open Hole:

   Total Depth:
   Grouted Annulus Depth:

   Pump Capacity

   Henry’s Well (Well No. 0354-05)
   Kapuaokoolau, Molokai, TMK:5-5-1:28
   NA
   NA in.
   NA ft.
   NA ft.
   NA ft.
   NA ft.
   NA ft.
   NA ft.
   NA ft.
   NA ft.
   5.5 ft.
   NA ft.

   NA gpm

Use Information

1a. Quantity Requested: 100,000 gallons per day.
   Existing Type of Water Use: Domestic use for 5 residences and irrigation of 15.5 acres
   of various fruit trees
   Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11,12,28
   Reported Water Usage:
   Nearby Similar Water Usage:

1b. Quantity Requested: 200,000 gallons per day.
   Existing Type of Water Use: Industrial use at rock and cinder quarry
   Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11
   Reported Water Usage:
   Nearby Similar Water Usage:

1c. Quantity Requested: 10,000 gallons per day.
   Existing Type of Water Use: Domestic use for 1 residences and irrigation of 2.71 acres
   of heliconias, coconut and ti

ATTACHMENT A
Chairperson and Members
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Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

2. Quantity Requested: 5,000 gallons per day.
Existing Type of Water Use: Domestic use for 3 residences and irrigation of 5-acre tree orchard
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

3. Quantity Requested: 30,000 gallons per day.
Existing Type of Water Use: Domestic use for 1 residence and irrigation of 5.32 acre of various fruit trees
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:28

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

Kawela Aquifer System
Current 12-Month Moving Average Withdrawal: 0.594 gpd
(12% of SY)

Nearby Surrounding Wells and Other Registered Ground Water Use

There are 3 other wells within a mile of these wells (see Exhibit 2). Possibly all of these wells are currently in use. Information from the registration program indicates there are possibly 35 existing wells in the Kawela Aquifer System. The 1992 Draft of the Maui Water Use and Development Plan, Island of Molokai estimated that the existing withdrawals from the Kawela Aquifer System is 0.31 mgd as of 1990. The Final Report of the Molokai Working Group Estimated the actual use from the Kawela Aquifer System to be 0.76 mgd.

Public Notice

In accordance with HAR §13-171-17, a public notice was published in the Star-Bulletin on the dates indicated in Exhibit 1 and copies of the notice were sent to the Mayor’s office and the Board of Water Supply. Additional notice copies were sent to the County Council and Department of Water Supply. Copies of the completed application were sent to the Department of Health, Department of Hawaiian Home Lands, Office of Hawaiian Affairs, Aquatic Resources & Historic Preservation Divisions of the Department of Land and Natural Resources, and other interested parties for comments. Written comments and objections to the proposed permit were to be submitted to the Commission by the dates indicated on Exhibit 1.

Objections

The public notice specifies that an objector meet the following requirements: (1) state property or other interest in the matter; (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; (3) state all grounds for objections to the proposed permits, (4) provide a copy of the objection letter(s) to the applicant, and (5) submit objections meeting the previous requirements to the Commission by the dates indicated on Exhibit 1.

To the best of staff’s knowledge there are no objectors who have property interest within the Kawela Aquifer System or who will be directly and immediately affected by the proposed water use. All objections and/or comments to the application are summarized in the Analysis and Issues section:

ATTACHMENT A
Chairperson and Members  
Commission on Water Resource Management  

April 14, 1994

Briefs in Support

Responses to objections, or briefs in support, regarding the application are required to be filed with the Commission ten (10) days after an objection is filed and, presumably, copies are served to the applicant. Eleven briefs in support were filed with the Commission.

Field Investigation

The water sources and existing uses were investigated on the dates indicated on Exhibit 1. The investigation(s) verified the applicants existing sources and proposed use sites.

ATTACHMENT A
STANDARD WATER USE PERMIT CONDITIONS

1. The ground water described in the water use permit may only be taken from the location described, used for the reasonable-beneficial use described, and at the location described above and in the attachments. Reasonable-beneficial use means "the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is not wasteful and is both reasonable and consistent with the state and county land use plans and the public interest." (HAR §13-171-2).

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HAR §13-171-13 which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in section §13-171-2;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with state and county general plans and land use designations;
   f. Is consistent with county land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and 174C-101(a), HRS.

4. The ground water use approved must not interfere with surface or ground water rights or reservations.

5. The ground water use approved must not interfere with interim or permanent instream flow standards or policies as determined by the Commission. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case of an area is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be amended.

6. The water use permit is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.

7. The water use permit application and staff submittal approved by the Commission at its April 14, 1994 meeting are incorporated into the permit by reference.

8. Any modification of the permit terms, conditions, or uses can only be made with the express written consent of the Commission on Water Resource Management.

9. The water use permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
   a. Protect water sources in quantity, quality, or both;
   b. Meet other legal obligations including other correlative rights;
   c. Insure adequate conservation measures;
   d. Require efficiency of water uses;
   e. Reserve water for future uses, provided that all legal existing uses of water as of June 1987, shall be protected;
   f. Meet legal obligations to the Department of Hawaiian Homes, if applicable; or
   g. Carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

10. If the ground water source does not presently exist, the new well shall be completed, i.e. able to withdraw water for the proposed use on a regular basis, within twenty-four (24)

ATTACHMENT B
months from the date the water use permit is approved.

11. An approved flowmeter(s) must be installed to measure withdrawals and a monthly record of withdrawals, water-levels, salinity, and temperature must be kept and reported to the Commission on a yearly basis in accordance with the Commission's September 16, 1992 action on reporting requirements;

12. The water use permit shall be subject to the Commission's periodic review of the applicable aquifer's sustainable yield. The amount of ground water use authorized by the permit may be reduced by the Commission if the sustainable yield of the Kawela Aquifer System, or relevant modified aquifer, is reduced;

13. The water use permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HAR §13-171-25 and the requirements of Chapter 174C, the Commission has the authority to allow the transfer of the permit and the use rights granted by the permit in a manner consistent with HAR §13-171-23. Any such transfer shall only occur with the Commission's prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

14. The use(s) authorized by law and by the water use permit do not constitute ownership rights.

15. The permittee shall comply with all applicable laws, rules, ordinances, and other agencies' permits and conditions pertaining to water use or the water resource.

16. The permittee shall prepare and submit a water shortage plan within 30 days of issuance of the permit to assist the Commission in fulfilling HAR §13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Kawela Ground Water Management Area.

17. The water use permit granted shall be an interim water use permit, pursuant to HAR §13-171-21. The final determination of the water use quantity shall be made within five years of the filing of the application to continue the existing use.

18. The water use permit shall be issued only after AG review.

19. The water use permit shall be subject to the Commission's establishment of instream standards and policies to Stream Protection and Management (SPAM), as well as legislative mandates to protect stream resources.
|岛岸摩洛凯岛: KAWELA |
|---|---|---|---|---|---|---|---|---|---|---|---|
|T.T. MEYER, INC.| 0354-01 MEYER INC. #1 | Y | 07/16/93 | 08/30/93 | 08/18/93 | 08/27/93 | 09/03/93 | 09/17/93 | 02/14/94 | -50 | 04/14/94 | 0.100 |
|T.T. MEYER, INC.| 0354-02 MEYER INC. #2 | Y | 07/16/93 | 08/30/93 | 07/16/93 | 08/27/93 | 09/03/93 | 09/17/93 | 01/12/94 | -78 | 04/14/94 | 0.200 |
|KANUKUAMA RANCH| 0354-03 WELL #3 | Y | 07/14/93 | 08/30/93 | 12/03/93 | 12/21/93 | 12/30/93 | 01/13/94 | 03/03/94 | -78 | 04/14/94 | 0.005 |
|T.T. MEYER, INC.| 0354-04 MEYER INC. #4 | Y | 07/16/93 | 08/30/93 | 07/16/93 | 08/27/93 | 09/03/93 | 09/17/93 | 01/12/94 | -78 | 04/14/94 | 0.010 |
|HENRY R. MEYER| 0354-05 HENRY'S | Y | 07/16/93 | 08/30/93 | 07/16/93 | 08/27/93 | 09/03/93 | 09/17/93 | 01/12/94 | -78 | 04/14/94 | 0.030 |

5 Applications Totaling 0.365

州范围内共有5份申请，总额为0.365

州范围内共有5份申请，总额为0.365
Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry's Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

Edwin T. Sakoda
Deputy Director

APPROVED FOR SUBMITTAL:

Keith W. Ahue, Chairperson
Mr. L. West  
Kanukuawa Ranch  
P.O. Box 707  
Kaunakakai, HI 96748  

Dear Mr. West:

Commission Submittal for your Water Use Permit  
Kawela Ground Water Management Area, Molokai  

The Commission on Water Resource Management will be acting on your water use permit application for your Well #3 (Well No. 0354-03) at its April 14, 1994 meeting at 10:30 a.m. at the Mitchell Pauole Center on Molokai.

A copy of the submittal for action on your water use applications is enclosed for your information and review. You may wish to attend the meeting in case the Commissioners have questions regarding your application. Otherwise, we will notify you of the Commission’s decision soon thereafter.

If you have any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

RAE M. LOUI  
Deputy Director

LN:fc  
Attach.
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI 96748  

Dear Mr. West:  

Notice of Comments to Your Water Use Permit Application  
Kawela Ground Water Management Area, Molokai  

We have received the attached comment to your pending water use permit application for Well #3 (Well No. 0354-03).  

Please contact the Land Use Commission at 587-3822 for a boundary interpretation and inform our office in writing of the determination by the Land Use Commission. Should your well be located in a Conservation District, you will need to contact the Office of Conservation and Environmental Affairs regarding a Conservation District Use Permit for this source.  

Your water use permit application will be rescheduled for Commission action pending receipt of the requested information. If you have any questions, please contact Lenore Nakama at 587-0218.  

Sincerely,  

[Signature]  

RAE M. LOUI  
Deputy Director  

LN:ky  
Attachment
MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife/Natural Area Reserve System
    Historic Preservation
    Land Management
    Office of Conservation and Environmental Affairs
    State Parks
    Water and Land Development
    Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
          Water Use Permit Application
          Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response: Contact person: __________________________ Phone: __________________________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: __________________________ Date: JAN 26 1994
MEMORANDUM

TO:       Aquatic Resources
          Forestry and Wildlife/Natural Area Reserve System
          Historic Preservation
          Land Management
          Office of Conservation and Environmental Affairs
          State Parks
          Water and Land Development
          Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
         Water Use Permit Application
         Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person: Phone:________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: ___________________________ Date: ____________

THE SUBJECT WELL SITE DOES NOT APPEAR TO BE WITHIN THE BOUNDARIES OF THE CONSERVATION DISTRICT. HOWEVER, THIS SHOULD BE VERIFIED WITH THE STATE LAND USE COMMISSION.
MEMORANDUM

TO: Aquatic Resources
     Forestry and Wildlife/Natural Area Reserve System
     Historic Preservation
     Land Management
     Office of Conservation and Environmental Affairs
     State Parks
     Water and Land Development
     Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
         Water Use Permit Application
         Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person: Philip Ohita

(✓) We have no comments
(✓) We have no objections
() Comments attached
() Additional information requested
() Extended review period requested

Signed: [Signature]

Date: 1/7/94
January 10, 1994

MEMORANDUM

TO: Rae M. Loui, Deputy Director
Commission on Water Resource Management

FROM: Don Hibbard, Administrator
State Historic Preservation Division

SUBJECT: Historic Preservation Review of an Application for Water Use Permit for Kanukuawa Ranch for Well No. 0354-03
Kapuaokoolau, Molokai
TMK: 5-5-01: 12

There are no known historic sites on this parcel, which has been under residential use. Since this is an existing well facility, we believe that its use for domestic and irrigation of existing orchard will have "no effect" on historic sites.

Please contact Annie Griffin at 587-0013 if you have any questions.

AG:jen
MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife/Natural Area Reserve System
    Historic Preservation
    Land Management
    Office of Conservation and Environmental Affairs
    State Parks
    Water and Land Development
    Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
    Water Use Permit Application
    Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Response: Contact person: Brian Miske

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: [Signature]

Date: 10/24/93

Attachments
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
    Department of Hawaiian Home Lands

Dr. John C. Lewin, M.D., Director
    Department of Health

Mr. Clayton H. W. Hee, Chairperson
    Office of Hawaiian Affairs

Mr. Goro Hokama, Chair
    County Council
    County of Maui

Mr. Byron S. Walters, Chair
    Board of Water Supply
    County of Maui

FROM: Keith W. Ahue, Chairperson
    Commission on Water Resource Management

SUBJECT: Water Use Permit Application
    Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: Luis A. Manrique Phone: 587-3860

We have no comments
We have no objections
Comments attached
Additional information requested
Extended review period requested

Signed: [Signature] Date: 12/29/93
Mr. Keith W. Ahue, Chairperson  
State of Hawaii  
Department of Land and Natural Resources  
Commission on Water Resource Management  
P. O. Box 621  
Honolulu, Hawaii 96809  

Dear Mr. Ahue:

RE: Application for Water Use Permit for Wells 0354-03 and 0705-05

We have reviewed the applications and have no objections to the issuance of Water Use Permits for these two existing applications.

Sincerely,

LINDA CROCKETT LINGLE  
Mayor, County of Maui  

NP:js0  
c:\letter\884
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
   Department of Hawaiian Home Lands

   Dr. John C. Lewin, M.D., Director
   Department of Health

   Mr. Clayton H. W. Hee, Chairperson
   Office of Hawaiian Affairs

   Mr. Goro Hokama, Chair
   County Council
   County of Maui

   Mr. Byron S. Walters, Chair
   Board of Water Supply
   County of Maui

FROM: Keith W. Ahue, Chairperson
Commission on Water Resource Management

SUBJECT: Water Use Permit Application
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: Ben Henderson, Administrator
Planning Office

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: Ben Henderson  Date: 12/6/93

Original: Date: 2/7/93
State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Commission on Water Resource Management  
Honolulu, Hawaii

DECEMBER 20 1993

MEMORANDUM

TO: Administrator  
Asset Admin.  
Dev Br.  
Plan Br.  
Res Mgt Br.  
Proj Control  
SW Reg Plan.  
Clerical Staff  
Admin Asst.  
Interp Br.  

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments  
Water Use Permit Application  
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky  
Attachments

Response: Contact person:  
We have no comments  
We have no objections  
Comments attached  
Additional information requested  
Extended review period requested

Signed: [Signature]  
Date: [Signature]
MEMORANDUM

TO: Forest and Wildlife/Natural Area Reserve System
    Historic Preservation
    Land Management
    Office of Conservation and Environmental Affairs
    State Parks
    Water and Land Development
    Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
Water Use Permit Application
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person: ________________ Phone: ________________

( ) We have no comments
X We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: ____________________________ Date: 12/20/93
State of Hawaii
Department of Land and Natural Resources
DIVISION OF AQUATIC RESOURCES

December 21, 1993

MEMORANDUM

To: Rae M. Loui, Deputy Director
   Commission on Water Resource Management

From: Henry Sakuda, Administrator
      Division of Aquatic Resources

Subject: Comments on Water Use Permit Application for Ciba Seeds for
         Well No. 0354-03 in the Manawainui Ground Water Management
         Area, Molokai

The application is for an existing well at approximately 240 feet in
elevation above Palaa to pump approximately 105,000 gallons per day of fresh
water for seed corn irrigation. No reduction of instream flows or surface water
habitats is expected. We have no objections from the aquatic biological
resources standpoint.
Mr. L. West  
Kanukuawa Ranch  
P.O. Box 707  
Kaunakakai, HI 96748  

Dear Mr. West:

Enclosed is a copy of the public notice for your water use permit application for Well No. 0354-03 which will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

Please be aware that there may be objections to your application. If objections are made, the objector is required to file such objections with the Commission and is also required to send you a copy of the objections.

You, or any other party, may respond to objections by filing a brief in support of your application with the Commission within ten (10) days of the filing of an objection. You, or the other party, must also send a copy of the response to the objector.

If you have any questions, please contact Lenore Nakama at 587-0218.

Sincerely,

[Signature]

RAE M. LOUI  
Deputy Director

LN:ky  
Encl.
PUBLIC NOTICE

Applications for Water Use Permit
Ground Water Management Areas

Applications for the following water use permits have been received and are hereby made public in accordance with Department of Land and Natural Resources Administrative Rules 13-171, "Designation and Regulation of Water Management Areas."

Well #3 (Well No. 0354-03)
Applicant: Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748
Date Completed Application Received: December 3, 1993
Aquifer: Kawela System, Southeast Sector, Molokai
Well Source: Well #3 Well, Well No. 0354-03, at Kapuaokoolau, Molokai at Tax Map Key: 5-5-1:12
Quantity Requested: 5,000 gallons per day.
Existing Water Use: Domestic supply for 7 residences and irrigation of 30 acres of orchard
Place of Water Use: Kapuaokoolau, Molokai at Tax Map Key: 5-5-1:12

Naiwa (Well No. 0705-05)
Applicant: Ciba Seeds
P.O. Box 830
Kaunakakai, HI 96748
Date Completed Application Received: December 3, 1993
Aquifer: Manawai'ui System Central Sector, Molokai
Well Source: Naiwa Well, Well No. 0705-05, at Naiwa, Molokai at Tax Map Key: 5-2-11:7
Quantity Requested: 105,000 gallons per day.
Existing Water Use: Irrigation of 75 acres of seed corn
Place of Water Use: Naiwa, Molokai at Tax Map Key: 5-2-11:7

Written objections or comments on the applications for water use permits may be filed by any person who has property interest in any land within the hydrologic unit of the source of water supply, any person who will be directly and immediately affected by the proposed water use, or any other interested person. Written objections shall: (1) state property or other interest in the matter (provide TMK information); (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; and (3) state all grounds for objections to the proposed permits. Send written objections by January 14, 1994 to 1) the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809 and 2) a copy of the objection letter(s) to the applicant at the above address.

COMMISSION ON WATER RESOURCE MANAGEMENT

KEITH W. AHUE
Chairperson

Dated: DEC 17 1993

DEC 20 1993

MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife/Natural Area Reserve System
Historic Preservation
Land Management
Office of Conservation and Environmental Affairs
State Parks
Water and Land Development
Other Interested Parties

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments
Water Use Permit Application
Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993. We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

LN:ky
Attachments

Response: Contact person: ___________________________ Phone: ____________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: ___________________________ Date: ____________
MEMORANDUM

TO: Mrs. Hoaliku L. Drake, Director
   Department of Hawaiian Home Lands
   Dr. John C. Lewin, M.D., Director
   Department of Health
   Mr. Clayton H. W. Hee, Chairperson
   Office of Hawaiian Affairs
   Mr. Goro Hokama, Chair
   County Council
   County of Maui
   Mr. Byron S. Walters, Chair
   Board of Water Supply
   County of Maui

FROM: Keith W. Ahue, Chairperson
   Commission on Water Resource Management

SUBJECT: Water Use Permit Application
   Kawela Ground Water Management Area, Molokai

Transmitted for your review and comment is a copy of a water use permit application for Kanukuawa Ranch for Well No. 0354-03. Public notice of this application will be published in the Honolulu Star Bulletin issues of December 23, 1993 and December 30, 1993.

We would appreciate your review of the attached application and please return this cover memo form by January 14, 1994.

If you have any questions regarding this application, please contact Lenore Nakama at 587-0218.

Attachments

Response: Contact person: ____________________________ Phone: __________

( ) We have no comments
( ) We have no objections
( ) Comments attached
( ) Additional information requested
( ) Extended review period requested

Signed: ____________________________ Date: __________
Honorable Linda Crockett Lingle, Mayor  
County of Maui  
200 South High Street  
Wailuku, HI 96793

Dear Mayor Lingle:

Notice of an Application for a Water Use Permit  
*Kawela Ground Water Management Area, Molokai*

In accordance with the Department of Land and Natural Resources Administrative Rules, Section 13-171-17(a), we are sending you a copy of the public notice for the water use permit application for the Kanukuawa Ranch for Well No. 0354-03, which will be published in the Honolulu Star Bulletin.

In addition, Section 13-171-13(b) of our Administrative Rules states:

"Within sixty days after receipt of notice of a permit application, the county shall inform the commission if the proposed use is inconsistent with the county land use plans and policies."

We have attached a copy of the application for your review and would appreciate receiving your comments, within the next sixty (60) days, on whether this water use is consistent with county plans and policies.

Very truly yours,

[Signature]

KEITH W. AHUE  
Chairperson
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI 96748-0707

Dear Mr. West:

Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai

We acknowledge receipt, on July 16, 1993, of your water use permit application for the T.T. Meyer Inc. #3 Well (Well No. 0354-01).

However, the signature of the landowner is required before the application may be considered complete and accepted for processing by the Commission. Please obtain the signature of the landowner and resubmit your application.

Upon receipt of the completed application, we will be sending you a copy of the public notice for your application and any further information regarding the status of your application. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.

Your application indicates that a total of seven (7) residences are to be served. If the use of the water for the residences is for individual domestic consumption, and you are not charging the residences for the use of the water, then no permit is required for this quantity of water. Also, your request for an allocation of 5,000 gallons per day to irrigate a 30-acre orchard seems rather low. Guidelines for water requirements for selected crops indicate that bananas, for example, generally require about 3,019 gallons per acre per day, while papayas may require up to 5,000 gallons per acre per day. Although these guidelines were developed for the island of Oahu, and your orchard may have different water requirements, these may be used as a surrogate to estimate your daily water needs.

If you have any questions, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.

Sincerely,

[Signature]

RAE M. LOUI
Deputy Director
APPLICATION FOR WATER USE PERMIT

Ground Water or Surface Water

PERMITTEE INFORMATION

1. (a) APPLICANT
   Firm/Name: KANUKUWA RANCH
   Contact Person: L. WEST
   Address: P.O. BOX 707, KAUNAKAKAI, HI 96748

2. (b) LANDOWNER OF SOURCE
   Firm/Name: T.T. MEYER, INC.
   Contact Person: WAYNE MEYER
   Address: P.O. BOX 156, KAUNAKAKAI, HI 96748

SOURCE INFORMATION

3. (a) EXISTING WELL/DIVERSION NAME AND STATE NUMBER: KAWA
   (b) PROPOSED (NEW) WELL/DIVERSION NAME: KAPUAOKOOLAU
   (c) LOCATION: Address: KAPUAOKOOLAU, MOLOKAI
   Tax Map Key: 5-5-01:
   (Attach a USGS map, scale 1" = 2000", and a property tax map showing source location referenced to established property boundary)

USE INFORMATION

4. SOURCE TYPE (check one): Stream
   5. METHOD OF TAKING WATER (check one): Artesian

6. LOCATION OF PROPOSED WATER USE: (If possible, show on same maps as source location. Otherwise, attach similar maps)
   (a) Proposed use of water is:
   (b) Tax Map Key: 5-5-01: 12. If location of use is on multiple TMKs, please complete Table 1 on back of application
   (c) Address:
   (d) Current Land Use District: Urban
   (e) Current Zoning Code: (SELECT)

7. QUANTITY OF WATER REQUESTED: 5,000 gallons per day (averaged over 1 yr)

8. METHOD OF MEASUREMENT:
   Flowmeter

9. QUALITY OF WATER REQUESTED:
   Fresh

10. PROPOSED USE:
    (a) Municipal (including hotels, stores, etc.)
    (b) Industrial
    (c) Irrigation

   For questions 12 & 13: If multiple TMKs are involved, please complete Table 1 on back of application

11. TOTAL NUMBER OF RESIDENCES TO BE SERVED: 3

12. TOTAL ACRES TO BE IRRIGATED AND TYPE OF CROP:
    WINTER 6/1/93

13. PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION:
    Daytime hours of operation, ex. 7 a.m. to 2 p.m.

14. APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON WATER USE:
   (a) Impact on Sustainable yield (1): NONE
   (b) Instream Flow Standards affected (1): NONE
   (c) Hawaiian Home Lands use affected (1): NONE
   (d) Other existing legal uses affected (1): NONE
   (e) Other (pending permits, EIS, etc.)(1): NONE

15. REMARKS, EXPLANATIONS:

   (If more space is needed, continue on back side)

NOTE: Signing below indicates that the applicant understands that, if a water use permit is granted by the Commission on Water Resource Management, a permit is subject to
permitted uses, changes in sustainable yields and instream flow standards, reserved uses as defined by the Commission, and Hawaiian Home Lands future uses. In addition
understands that, upon permit approval, a water shortage plan must be submitted should the Commission decide one.

Applicant (print): KANUKUWA RANCH

Signature: L. WEST

Date: JULY 13, 1993

Landowner (print): T.T. MEYER, INC.

Signature: WAYNE MEYER

Date: 7-26-93

For Official Use Only:

Hydrologic Unit No.

Date Accepted: 7/6/93

State Well No.: 5/19/93
### TABLE 1. MULTIPLE TMKs TO USE REQUESTED WATER

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<th>PROJECT NAME</th>
<th>TMK</th>
<th>CURRENT COUNTY ZONING CODE</th>
<th>UNITS OF NET ACRES</th>
<th>GPD/UNIT OF GPD/ACRE</th>
<th>TOTAL GPD</th>
<th>% OF TOTAL TO BE USED OVER NEXT 4 YEARS</th>
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MEMORANDUM

TO: Mr. Johnson H. Wong, Supervisor
   Division of Land/Transportation
   Office of the Attorney General

ATTN: Mr. William Tam, Deputy Attorney General

FROM: Rae M. Loui, Deputy Director

SUBJECT: Application to be a Party in a Contested Case Hearing

Attached is an application to be a party in a contested case hearing for all water use permit applications in the Kawela Ground Water Management Area, Molokai.

We request that a determination be made concerning the validity of the request and, if valid, whether the applicant does indeed have standing. At the September 15, 1993 Commission meeting on Molokai, the applicant requested a contested case if any of the water use permit applications in the Kawela Ground Water Management Area were approved. As you know, the Commission deferred action to go to public hearing.

We believe that the contested case request is premature. However, an application to be a party was filed but we do not know its legal implications. We believe that Mrs. Grambusch has the right and can request a contested case hearing at the public hearing or at a Commission meeting where action on the individual applications in the Kawela area are to be acted upon.

RH:ko
Attach.
APPLICATION TO BE A PARTY IN A CONTESTED CASE HEARING
BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN
10 DAYS OF PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST
FOR A CONTESTED CASE HEARING IS MADE.

IF MAILED, SEND TO:
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Please provide the following information:

1. NAME: Wilma Kamakana Grambusch PHONE: 553-5557

2. ADDRESS: P.O. Box 614,
Kaunakakai, HI 96748

3. ATTORNEY (IF ANY): Williamson B. C. Chang, Esq.

4. ATTORNEY ADDRESS: 969 Ahuwale Place
Honolulu, HI 96821
PHONE: (808) 377-1205

5. SUBJECT MATTER: Objection to water permit applications

6. DATE OF PUBLIC HEARING/COMMISSION MEETING: September 15, 1993

7. LEGAL AUTHORITY: Intervention pursuant to Water Code
section 174C-60 (contested Cases). Petitioner Grambusch has a
property interest in the area in which permits are sought.

8. WHAT STATUTORY OR OTHER RIGHT OF YOURS IS BEING AFFECTED?
Applicant's use will interfere with standard water use permit
conditions 3(c) and 3(g) "existing legal right" to use water by
members of the Kalamaula Homestead Association, including petitioner.
(see Petition for Contested Proceeding 9/15/93 and letter of 9/13/93)

8. SPECIFIC LEGAL ISSUE: The Commission must protect Native Tenancy and
Native Tenant's rights under the Water Code. Applicants have not
shown a need for amounts requested and the Commission must protect
the right of those who have not yet applied for water from the aquifer.

9. PROVIDE YOUR TAX MAP KEY AND THE TAX MAP KEY OF THE PROPERTY
CONSIDERED IN THIS ISSUE. ARE YOU AN ADJACENT OR NEIGHBORING PROPERTY OWNER? DESCRIBE THE NATURE AND EXTENT OF YOUR INTEREST IN THIS MATTER. Petitioner is adjacent to some of the properties in question and draws from the same aquifer as all of the applicants seeking permits. See tax map keys attached.

10. WHAT IS YOUR SPECIFIC DISAGREEMENT REGARDING THIS ISSUE? As outlined in petition to intervene/petition for Contested Proceeding of 9/15/93, Petitioner's right to develop her property for agriculture as well as the rights of those Homestead Association members she represents will be threatened by the "water banking" which applicants seek via the permits in question. As a native tenant, her water rights supercede those of surrounding landowners.

11. OUTLINE THE SPECIFIC ISSUES. 1. Can the Commission permit the use of a substantial portion of an aquifer (36%) without a comprehensive plan to protect those who have not yet applied? 2. The Commission must limit any permit to an amount the applicant can prove a need for to limit "water banking". 3. The Commission must protect the rights of native tenants who have a superior claim to the water. (for individual permit objections see attached Petition)

12. OUTLINE OF THE BASIC FACTS: Applicants have sought a combined 36% share of the Kawela aquifer. This threatens the water interests of all landowners over the aquifer. Water must be given out fairly, equitably and a primary right must rest with the native tenants.

13. WHAT RELIEF OR REMEDY DO YOU SEEK? Petitioner seeks denial of the permits, or in the alternative, a reduction in the amount to that which can be proved is necessary. Further, petitioner seeks a showing by the Commission that Native Rights are being protected. (see attached)

If there is not sufficient space to fully answer any of the items noted above, please use additional sheets of paper).

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Mrs. Wilma Kanekana Hanabusa
Petitioner

DATE: ____________________________

Petitioner
TAX MAP KEYS

Kawela Plantation
5-4-01-29  1/2 owner
5-4-01-94
5-4-01-63
5-4-01-41  1/2 owner
5-4-01-65  1/2 owner

Iaea and Granger
as above plus
5-4-01-18  1/2 owner
5-4-01-15  1/2 owner
5-4-01-14  1/2 owner

Curtis and Hawaiian Research
all Keys referenced above
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT
STATE OF HAWAII

In the Matter of the Application of Use Permits for
David Curtis, R.M. Granger, Kawela Plantation Homeowners Association, John Wm. Iaea, Sr., and Maui Water Department of Water Supply for Water Use Permits, Kawela Ground Water Management Area, Molokai

Petition for Contested Proceeding on Applicants' Request for Water Permits Certificate of Service

PETITION TO INTERVENE AND
CERTIFICATE OF SERVICE

WILLIAMSON B.C. CHANG, ESQ. 1696-0
MICHAEL FOULKES
969 AHUWALE PLACE
HONOLULU, HAWAII 96821
TEL: 808-377-1205
ON BEHALF OF INTERVENOR
MRS. WILMA KAMAKANA GRAMBUSCH
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT

STATE OF HAWAII

In the Matter of the Application of

Use Permits for
David Curtis, R.M.
Granger, Kawela Plantation
Homeowners Association, John
Wm. Iaea, Sr., and Maui Water
Department of Water Supply
for Water Use Permits,
Kawela Ground Water Management
Area, Molokai

Petition for Contested Proceeding on Applicants’ Request for Water Permits
Certificate of Service

PETITION TO INTERVENE

INTERVENOR, MRS. WILMA GRAMBUSCH, RESIDENT OF KAWELA, MOLOKAI, STATE OF HAWAII, an individual and Native Hawaiian tenant residing within the Ahupua‘a bequeathed to her by her ancestors, petitions for unrestricted status as an intervenor in this proceeding. ON BEHALF OF HERSELF AND HER LEGAL HEIRS objects to the application of the above noted applicant

I. NATURE OF PETITIONERS STANDING AND STATUTORY OR OTHER RIGHT

Petitioner seeks to intervene pursuant to the right to a contested case hearing under section 174C-60 [contested Cases] as set forth in the state water code. Petitioner Grambusch has a property interest in the area in which applicant seeks a permit and thus has statutory power to petition and seek a contested case proceeding under the water code. In addition petitioner Grambusch possesses appurtenant water rights, which, pursuant to the common law of Hawaii, have priority over applicant’s claims to correlative water rights, whether or not petitioner Grambusch’s property is overlying the aquifer or is riparian to the water source.

II. REASONS FOR REJECTION OF PETITIONER’S REQUEST

2
1. THE NUMBER OF APPLICATIONS FOR GROUNDWATER FOR THE KAWELA AQUIFER REQUIRE DEFERRING THE ISSUANCE OF ANY PERMITS UNTIL ALL INFORMATION CAN BE OBTAINED.

In the "background" section of the submittal, the staff reports indicates that a total of 23 applications for permits have been submitted for the Kawela aquifer system. This application seeks 5 permits. The purpose of the water code was to provide all parties with legal rights to an aquifer a fair right to their appropriate share of water. The issuance of permits herein would prejudice other applicants, including those who plan to file in the near future. Moreover, the water code requires that no permit be issued in contravention of the common law of the state of Hawaii. Since the groundwater law of the state is that of correlative rights and such correlative uses are protected under the statute constitution, all overlying landowners, pursuant to the City Mill decision, have a right to a share of water. The issuance of the permits sought herein would prejudice overlying landowners such as intervenor Grambusch.

2. COMMISSION ACTION AT THIS TIME WOULD BE INCONSISTENT WITH ITS PROPOSED FUTURE ACTIONS

It would clearly be premature to grant these permits since the staff report admits that so far, only one permit, for 2,000 gpd has been granted. It is admitted that nine permits require action, eight are scheduled to be heard on November 11, and five are incomplete pending further augmentation of their application. Intervenor Grambusch asserts that as the possessor of appurtenant water rights, a matter which she can prove to the commission, the constitution of the state of Hawaii, and the water code, give her a priority as to the appropriate quantity of water due to appurtenant right holders.

In this situation, the water code clearly contemplated an aquifer-wide adjudication of all rights at once. Indeed, the doctrine of correlative water rights is derived from mutual respect for the rights of all landowners with property near or overlying an aquifer. The large volume of potential withdrawal from this aquifer (.31 mgd) constitutes a strong rationale for preventing parties from "gun-jumping" in an attempt to secure water permits ahead of other rightful claimants.

3. APPLICANT CURTIS SHOULD BE DENIED A PERMIT BASED ON FAILURE TO COMPLY WITH THE REQUIREMENTS FOR A PUMP INSTALLATION PERMIT

Petitioner Curtis is seeking a water use permit although he
has failed to comply with the legal requirements that called for
an earlier application for a pump installation permit. In light
of the above general reasons for denying all permits at this time,
Mr. Curtis appears before the Commission with "unclean hands" and
should not be allowed a permit as if his prior flouting of
commission rules has no consequence. Apparently the Staff and the
MWG feel that since the amount requested is small, no penalty
should be levied for his prior wrongful acts. There is no
relationship between violation of the code and the present size of
the application. To award a permit would be tantamount to
sanctioning disregard of Commission rules that have been applied
with vigor to other parties. The applicant can face a variety of
penalties for the knowing failure to apply for the pump
installation permit. Clearly, the applicant sought to grandfather
a questionable existing use by pumping without application for a
pump installation permit on the eve of designation. This is
exactly the kind of conduct that constitutes the worst
exploitation of the designation process and was raised during
testimony during designation. It appears that the staff is
confused in its own reasoning when it refers to the applicant's
use as "genuine" albeit conduct clearly designed to avoid the
appropriate regulations. Applicant should be facing enforcement
of penalties rather than the possible award of a permit.

4. APPLICANT GRANGER HAS FAILED TO PROVIDE THE COMMISSION
WITH HONEST AND RELIABLE INFORMATION AS TO INTENDED USES AND
BE DENIED A PERMIT.

The applicant is clearly seeking to bootstrap a small use
into a much larger use where there is strong likelihood that the
applicant intends to improperly change the nature of the water
received under a permit. He presently admits only a 3,700 gpd use
and has applied for a 25,000 gpd. There is no verification as to
what crops he intends to plant, and the fact that he has not begun
such planting nor disclosed the nature of a plant which requires
16,000 gpd undermines the credibility of applicant's request which
is limited to four acres. The staff has placed no limitation on
applicant preventing him from transferring water to other plots,
or from using the water for other large scale uses. The staff
recommendation allows a margin of error of 600 per cent. It
appears that the applicant will not be using the water for corn,
nor is he willing to disclose his intended plans. The staff's
failure to require further details violates the letter and spirit
of the water code and the state water plan.

5. APPLICANT KAMELA PLANTATION MISREPRESENTS THE INTENDED
PURPOSE OF ITS APPLICATION AND ITS APPLICATION SHOULD BE
DENIED
The Staff recommends that the objector, Mrs. Grambusch be allowed a public hearing on this applicant's request. Hence, Intervenor is agreement with the staff recommendation. Kawela Plantation is clearly seeking a much larger amount of water than its present needs indicate and furthermore, is seeking water for irrigation purposes. A site visit of the applicant would show that the applicant clearly intends to develop housing and other urban uses and that the irrigation quantification is an erroneous factor to be used.

6. APPLICANT IAEA'S APPLICATION SHOULD BE DENIED AS INCOMPLETE:

The applicant has failed to supply sufficient data for the Commission to make a proper ruling. The staff has made an error in concluding that 1) since applicant has failed to supply information 2) his request fall below the threshold of concern of the Commission and 3) therefore it should be granted. Any code exemption for small users is predicated on the users proof of that small usage. Until applicant provides sufficient information his application should be denied.

7. APPLICANT MAUI DWS SHOULD BE DENIED ITS REQUEST FOR .432 MGD SINCE THE APPLICANT HAS NOT CONCURRENTLY APPLIED FOR A PUMP INSTALLATION PERMIT, PROVEN THAT ITS WITHDRAWAL WILL NOT DETRIMENTALLY AFFECT THE INTERVENOR AND HAS FAILED TO SHOW THAT ITS WITHDRAWAL IS CONSISTENT WITH THE MOLOKAI GENERAL PLAN.

Moreover, Intervenor Grambusch wishes to prove at trial that DWS will interfere with intervenor's exercise of appurtenant water rights which protected by the state constitution and the water code.

II. PETITIONER GRAMBUCH'S INTEREST WILL NOT BE REPRESENTED BY OTHER PARTIES

In addition to objecting to the application on the above grounds, Intervenor requests a contested case proceeding if any adverse actions are taken. No other party present before the commission can adequately represent her interest as she is asserting her rights as native Hawaiian tenant with appurtenant water rights who can demonstrate a continuity of title from the Mahele.

III. NONE OF THE ABOVE APPLICATION SHOULD BE GRANTED SINCE THE STAFF RECOMMENDS THAT A PUBLIC HEARING ON INTERVENOR'S INTERESTS
Intervenor contends that all applicants are, under the common law of the state of Hawaii, hold correlative water rights, and as such, no party can be awarded a right to water until the full extent of the rights of all parties are adjudicated in an aquifer-wide proceeding. This is required under the City Mill decision which is still in effect as part of the common law. The issuance of permits to some but not all applicants would violate the water code's assurance that present legal rights not be violated by the issuance of permits.

IV. INTERVENOR'S REQUEST WILL ASSIST IN THE DEVELOPMENT OF A COMPLETE RECORD, AND SERVE THE PUBLIC INTEREST

This request for a contested case proceeding is the first of its kind as a designated groundwater area. It will assist the commission in developing a process for implementing a basin-wide adjudication in keeping with the law of correlative water rights. In this sense, intervenor appears before this body in a respectful, relevant and timely manner. This petition is filed before the date of the scheduled hearing of September 15, and in any event is filed in advance of staff's recommendation for a November hearing. It is thus timely. Intervenor asserts that law and logic require that all parties seeking claims to the Kawela aquifer necessarily participate in the proposed November hearing.

VII. PRAYER FOR RELIEF

In the event that the Commission seeks to issue permits to
any of the contested applicants, intervenor seeks a contested case, under HRS Chapter 91, as referenced in the state water code, with full review before the Hawaii Supreme Court [as provided in the state water code.]

Dated: Molokai, Hawaii, September 14, 1993

Williamson Chang, Esq and Michael Foulkes [admission to the California Bar pending] on behalf of Intervenor Mrs. Wilma Grambusch
CERTIFICATE OF SERVICE

I hereby certify that on September 15, 1993, I served a copy of the foregoing petition to Intervene and Certificate of Service by hand delivery or certified mail to the following and at the following addresses:

Commission on Water Resources Management
Kalanikuku Building
Honolulu, Hawaii [fifteen copies plus original]

David W. Curtis
P.O. Box 1829
Kaunakakai, Hi 96748

R.M. Granger
P.O. Box 371
Kaunakakai, Hi 96748

Kawela Plantation Homeowners Assn
P.O. Box 698
Kaunakakai, Hi 96748

John Wm Iaea
P.O. Box 405
Kaunakakai Hi 96748

Maui Department of Water Supply
P.O. Box 1109
Wailuku, Maui HI 96793

Dated: September 15, 1993, Kaunakakai, Hi,

Michael Foulkes, for the Intervenor
Mrs. Wilma Grambusch
Counsel for Kalamaula Homestead Association, an Unincorporated Association, Mrs. Wilma Grambusch, President

September 13, 1993

Commission on Water Use Management
Mr. Keith Ahue, Chairperson
P.O. Box 621
Honolulu, Hi 968020

Re: Matters raised at Meetings on Molokai, September 15th, 1:30 at Mitchel Pauoli Center and at 6:00 at Molokai High School

I. Request for Deferral of Several Matters scheduled for 1:30 until 6:00

On behalf of the Kalamaula Homestead Association, I wish to request deferral of decision-making on items 7-13 of the agenda for the Meeting of COWRM scheduled for 1:30 on September 15. Unfortunately, many of the members of the association, including myself, acting as counsel for the association have work commitments which prevent us from attending the 1:30 meeting. We request that you keep open the record on these items, defer decision making and allow us to testify at the 6:00 meeting. The Kalamaula Homestead Association, asserts that it has appropriate standing on all of these issues as its lands are sufficiently proximate to the applicants proposed use such that the association has an adequate property interest. The Association relies on the language of the HHCA, particularly section 221, which strongly states that the waters of Molokai, shall be first used to place homesteaders on the land.

II. Specific Objections to Applications:

a. Item 8 -- application of Curtis, et al, Kawela Plantation Homeowners Association. The Kalamaula Homeowners Association objects to the application of David Curtis et al on numerous grounds:

1. The applicant’s use will interfere with the 3(c)[see
standard water use permit conditions] and 3(g) "existing legal right" to the use of water by members of the Kalamaula Homestead Association. The rights of Homesteaders are defined by both congressional and state law and the barrier to homesteading has been the inability to obtain water. The rights of the association extend island-wide and thus all uses other than those for homesteading are subordinate to the rights of homesteaders not able to live on their lands due to failure to supply water. The strength of this right is obvious, since it is repeated a number of times in different parts of the standard water use permit conditions, particularly in 9(g) and section 6. Any issuance of a water use permit on Molokai should be deferred until the public hearing on the proposed rule. Chronologically, only after the rule reserving waters is finalized, including the scope of aquifers which are affected, can water permits be issued on Molokai.

2. Request for Contested Case Proceeding: In the event that the Commission sees fit to proceed with the issuance of a water permit for the applicants in item 8, the Kalamaula Homestead Associations exercises its rights under Chapter 91 in seeking a contested case proceeding. The request for such a hearing requires the Commission to defer decision making.

b. Item 9 --

a. Request of DHHL for Water Use Permits: Kalamaula Homestead Association requests that this matter be consolidated with the proposed rule to be heard at 6:00 P.M. The reservation of amount sought by DHHL coheres with the amount proposed by the Molokai Working Group. Kalamaula Homestead Association asserts that the rights to water of Hawaiian Homesteaders is not subservient to the rulemaking authority of COWRM and that the amounts set forth are grossly inadequate to meet the needs of the Kalamaula Homestead Association and its future plans. Objector, Kalamaula Homestead Association protests the arrangements made by DHHL for sharing water with the Department of Water Supply and the complete failure of DHHL to act as a fiduciary representative of the native Hawaiian beneficiaries. The limitation stated on page 3 limiting the issuance of interim permits, which is to be temporary until the reservations are set by rule, is a limitation that should be placed on all permits on Molokai. Under the original version of the Hawaiian Homes Commission Act, all waters, for domestic or agricultural use, were to be first used for the benefit of Homesteaders.

b. The Kalamaula Homestead Association asserts that COWRM has no legal authority to issue interim permit subject to conditions that are based on federal restrictions.

c. In addition, the Kalamaula Homestead Association asserts that the Supremacy Clause of the United States Constitution nullifies the right of COWRM to set limitations on water use of

Item 10: Kalamaula Homestead Association, acting on behalf of Mr. Harry Aki, and other residents of Mauna Loa town, objects to applicant Molokai Ranch's request, and objects to the staff recommendation as to nos. 2 and 3, on the grounds that Molokai Ranch, under equitable doctrines of law, is acting with "unclean hands" in that it has failed to comply with the federal Safe Drinking Water Act in its delivery of water to Mauna Loa Town. Until this violation of federal standards is rectified, the applicant should not receive further sources of water.

Item 11: Kalamaula Homestead Association objects to the applicant, Maui Department of Water Supply to use 171,000 gallons for municipal use on the grounds that the Department of Water Supply has "unclean hands" in failing to enforce the intent of the consent decree[ between the state and Molokai Ranch] as to the quality of water delivered to Mauna Loa Town. Kalamaula Homestead Association is willing to put on evidence of the failure of DO and Maui County to meet the terms of the decree and the terms of the Safe Drinking Water Act. Moreover, Kalamaula Homestead Association objects to the issuance of a water use permit to the County when there is present evidence of the county's failure to fully comply with environmental laws in terms of the proper closing of the landfill and dumpsite that exists on Kalamaula Homestead Property. The County should not be rewarded with permits for more water when they have failed to meet the quality requirements as to existing uses.

Item 13-- Kalamaula Homestead Association objects to applicants proposal and agrees with the staff recommendation for a deferred public hearing on November 10. Objector asserts that the original purposes and terms of the Waikolu source have been violated to the benefit of the County and the detriment of Objector. Objector wishes to have the ability to prove its case at a later date.

Item 7 -- Objector, Kalamaula Homestead Association, opposes the staff recommendation on the grounds that the permit should be issued only after all needs of the native Hawaiian beneficiaries have been met. Moreover, it does not make any sense to grant such a permit prior to the full hearing and final determination of the rule to be heard on the reservation of homestead waters.
In conclusion, Objector seeks a consolidation of the 1:30 agenda with the 6:00 rule making agenda and finds that the attempt to proceed with permitting without a final rule as to reserved waters violates the intent of the state legislature. Objector thus reserves its right to seek judicial review, by way of a contested case proceeding, or otherwise as to all permits issued prior to finalizing the issues as to the rule reserving waters for Homesteaders.

DATED: September 13, 1993. Honolulu, Hawaii

Yours,

Williamson B.C. Chang
Counsel for Objector, Kalamaula Homestead Assn, Professor of Law,
University of Hawaii
Mr. Lloyd West  
P.O. Box 707  
Kaunakakai, HI  96748-0707  

Dear Mr. West:

Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai

We acknowledge receipt, on July 16, 1993, of your water use permit application for the  
T.T. Meyer Inc. #3 Well (Well No. 0354-01).

However, the signature of the landowner is required before the application may be  
considered complete and accepted for processing by the Commission. Please obtain the signature  
of the landowner and resubmit your application.

Upon receipt of the completed application, we will be sending you a copy of the public notice for your application and any further information regarding the status of your application. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.

Your application indicates that a total of seven (7) residences are to be served. If the use of the water for the residences is for individual domestic consumption, and you are not charging the residences for the use of the water, then no permit is required for this quantity of water. Also, your request for an allocation of 5,000 gallons per day to irrigate a 30-acre orchard seems rather low. Guidelines for water requirements for selected crops indicate that bananas, for example, generally require about 3,019 gallons per acre per day, while papayas may require up to 5,000 gallons per acre per day. Although these guidelines were developed for the island of Oahu, and your orchard may have different water requirements, these may be used as a surrogate to estimate your daily water needs.

If you have any questions, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.

Sincerely,

[Signature]

RAE M. LOUI  
Deputy Director

LN:fc  
attach.
APPLICATION FOR WATER USE PERMIT

Instructions: Please print in ink or type and send completed application with attachments to the Commission on Water Resource Management, P.O. Box 62, Honolulu, HI 96809. Application must be accompanied by 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 587-0225 (neighbor islands), 1-800-400-4064.

PERMIT INFORMATION

1. (a) APPLICANT: KANUKUWA RANCH  
   Firm/Name: 
   Contact Person: L. WEST  
   Phone: 523-5848  
   Address: P.O. BOX 707  
   KAPUAOKOOLAU, HI 96748-0707

(b) LANDOWNER OF SOURCE: T. T. MEYER, INC.
   Firm/Name: 
   Contact Person: WAYNE MEYER  
   Phone: 
   Address: P.O. BOX 156  
   KAPUAOKAili, HI 96748

SOURCE INFORMATION

2. WATER MANAGEMENT AREA: KANELA
   ISLAND: MOLOKAI
   SOURCE:
   PROPOSED WELL/DIVERSION NAME:

3. (a) EXISTING WELL/DIVERSION NAME AND STATE NUMBER: T. T. MEYER, INC. #3 0554-
   (b) PROPOSED (NEW) WELL/DIVERSION NAME:
   (c) LOCATION: Address KAPUAOKOOLAU, MOLOKAI
      (Attach a USGS map, scale 1" = 2000", and a property tax map showing source location referenced to established property boundar)

4. SOURCE TYPE (check one): Stream  
   Wastewater  
   Dike-confined  
   Perched  
   Caprock  
   Artesian  
   Well & Pump  
   Diverted Surface  
   Other (exp)

5. METHOD OF TAKING WATER (check one):  
   (a) Proposed use of water is: Existing  
   New  
   Both existing & new uses
   (b) Tax Map Key: 5-5-01: 12
   (c) Address: KAPUAOKOOLAU, MOLOKAI
   (d) Current Land Use District: Urban  
   Agriculture  
   Conservation  
   Rural
   (e) Current County Zoning Code:

6. QUANTITY OF WATER REQUESTED: 5,000 gallons per day (averaged over 1 yr)
   METHOD OF MEASUREMENT: Flowmeter  
   Open-pipe  
   Rainfall  
   Others (exp)

7. QUALITY OF WATER REQUESTED: Fresh  
   Brackish  
   Salt  
   Potable  
   Non-Potable

8. PROPOSED USE: Municipal (including hotels, stores, etc.)  
   Individual Domestic  
   Irrigation  
   Industrial  
   Military  
   Other (exp)

   For questions 12 & 13: If multiple TMKs are involved, please complete Table 1 on back of application.

9. TOTAL NUMBER OF RESIDENCES TO BE SERVED: 7
   TOTAL ACRES TO BE IRRIGATED AND TYPE OF CROP: 30 ORCHARD

10. PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION: 24 HRS
     (daytime hours of operation, ex. 7 a.m. to 2 p.m)

11. APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON WATER USE:

   (a) Impact on Sustainable yield (?): NONE
   (b) Instream Flow Standards affected (?): NONE
   (c) Hawaiian Home Lands use affected (?): NONE
   (d) Other existing legal uses affected (?): NONE
   (e) Other (pending permits, EIS, etc.)(?): NONE

12. REMARKS, EXPLANATIONS:

   (If more space is needed, continue on back side)

NOTE: Signing below indicates that the applicant understands that, if a water use permit is granted by the Commission on Water Resource Management, a permit is subject to prior permitted uses, changes in sustainable yields and instream flow standards, reserved uses as defined by the Commission, and Hawaiian Home Lands future uses. In addition, a understanding that, upon permit approval, a water shortage plan must be submitted should the Commission so order.

Applicant (print) KANUKUWA RANCH  
Landowner (print): T. T. MEYER, INC.

Signature L. WEST  
Date JULY 13, 1993
WATER USE PERMIT NO. 338

This report has been prepared in accordance with 13-171-22(b) of the Hawaii Revised Statutes requiring a 20-year review of issued water use permits to determine permit compliance. Following is a summary of permit information, site characteristics, methodology, findings, and recommendations for this State permit file.

Permit Information

Water User: Kanukuawa Ranch
1331 Kamaile St.
Honolulu, HI 96814

Landowner of Source: Kanukuawa Ranch
1331 Kamaile St.
Honolulu, HI 96814

Permitted Withdrawal Rate: 0.017 mgd (Based upon a 12-month moving average)

Water Management Area: Kawela

Island: Molokai

Aquifer Sector/System: Southeast/Kawela

System Sustainable Yield: 5 mgd

Water Type: Fresh

Original CWRM Date: April 14th, 1994

Standard Conditions: 1-11, 13-14, 16-17, 20-23

Special Conditions: 5

Water Source

State Well Number(s): 0354-03

Well Name: Well #3

Water Source TMK Number(s): 2nd Division, 5-5-001:012

State Land Use Classification(s): Agriculture

County Zoning Classification(s): Conservation

Geographical Coordinates: N/A

End Use

End Use TMK Number(s): 2nd Division, 5-5-001:012

State Land Use Classification(s): Agriculture

County Zoning Classification(s): Conservation
Beneficial Use Explanation: Use to supply 7 homes and irrigate 30 acres of orchard

Background Information

Water Use Permit 338 was approved during the April 14th, 1994 Commission on Water Resource Management meeting. There are no monthly water use reports or salinity records on file for State Well No. 0354-03. Standard conditions 1-11, 13-14, 16-17, & 20-23 and special condition 5 are the governing conditions for this water use permit. A complete list of all standard and special conditions is given in the permit file.

Field Investigation Information

No field investigation was conducted for Water Use Permit 338. Brown and Caldwell attempted to contact the permittee on three different occasions via standard mail. Cover letters accompanied by survey forms were sent out on November 21st, 2007, February 20th, 2008, and July 15th, 2008. The first two letters were sent to P.O. Box 707, Kaunakakai, HI 96748. Since no response was received after the first two attempts, the Commission obtained up-to-date land owner addresses for the TMK parcel given in the permit database. The third letter was sent to 1331 Kamaile Street, Honolulu, HI 96814. Since no response was received by the end of the field investigation phase of this project, Brown and Caldwell was not able to verify any of the information listed in this report. Reference the permit file for supporting documentation relevant to this contact process.

Summary of Findings for Water Use Permit No. 338

Although no field investigation was completed for this Water Use Permit, information pertinent to permit compliance was gathered during the research phase of this project.

The following are a list of standard condition(s) that the permittee is found to be in non-compliance with:

(10) An approved flowmeter must be installed to measure monthly withdrawals and a month record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis.

Since there are no monthly water use reports or salinity records being submitted for State Well No. 0354-03, the permittee is in violation of Standard Condition (10).
**Recommendations**

- Address the following discrepancies between the Commission's electronic database and actual field investigation findings:
  - Permittee and landowner names and addresses
- Address violation of Standard Condition (10) regarding non-reporting of water use and salinity levels
- Address issue of lack of response in regards to the Commission's attempt to contact the permittee during this permit review process.
Standard Conditions List

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization, which is both reasonable and consistent with State and County land use plans and the public interest." (HRS § 174C-3)

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HRS § 174C-49(a), which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in HRS § 174C-3;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with State and County general plans and land use designations;
   f. Is consistent with County land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act and HRS § 174C-101(a).

4. The ground-water use here must not interfere with surface or other ground-water rights or reservations.

5. The ground-water use here must not interfere with interim or permanent instream flow standards. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be amended.

6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.

7. The water use permit application and submittal, as amended, approved by the Commission at its <Insert Date> meeting are incorporated into this permit by reference.

8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.

Variations of Standard Condition (8) are as follows:
   i. Modification of any permit condition shall be approved by the Commission. Modification of any permit condition without notification may result in the revocation of the water use permit.
9. This permit may be modified by the Commission and the amount of water initially
   granted to the permittee may be reduced if the Commission determines it is
   necessary to:
   a. Protect the water sources (quantity or quality);
   b. Meet other legal obligations including other correlative rights;
   c. Insure adequate conservation measures;
   d. Require efficiency of water uses;
   e. Reserve water for future uses, provided that all legal existing uses of water as
      of June, 1987 shall be protected;
   f. Meet legal obligations to the Department of Hawaiian Home Lands, if
      applicable; or
   g. Carry out such other necessary and proper exercise of the State’s and the
      Commission’s police powers under law as may be required.

   Prior to any reduction, the Commission shall give notice of its proposed action
   to the permittee and provide the permittee an opportunity to be heard

10. An approved flowmeter(s) must be installed to measure monthly withdrawals and a
    monthly record of withdrawals, salinity, temperature, and pumping times must be
    kept and reported to the Commission on Water Resource Management on forms
    provided by the Commission on a monthly basis (attached).

Variations of Standard Condition (10) are as follows:
   i. The applicant shall keep monthly pumpage estimates to be submitted
      annually to the Commission.
   ii. An approved flowmeter(s) need not be installed to measure monthly
       withdrawals and a monthly record of withdrawals, salinity, temperature, and
       pumping times must be kept and reported to the Commission on Water
       Resource Management on forms provided by the Commission on a yearly
       basis (attached).
   iii. An approved flowmeter(s) must be installed to measure withdrawals and a
        monthly record of withdrawals, water-levels, salinity, and temperature must
        be kept and reported to the Commission on a monthly basis in accordance
        with the Commission’s September 16, 1992 action on reporting
        requirements.
   iv. Approved flowmeters must be installed to measure monthly withdrawals
       and a monthly record of withdrawals must be kept and reported to the
       Commission on Water Resource Management on a monthly basis.
   v. An approved flowmeter(s) must be installed to measure monthly
       withdrawals and a monthly record of withdrawals, salinity, temperature, and
       pumping times must be kept and reported to the Commission on Water
       Resource Management on forms provided by the Commission on a
       quarterly/yearly basis (attached).
   vi. An approved flowmeter shall be installed to measure water withdrawals
   vii. An approved flowmeter(s) must be installed to measure withdrawals; and a
        record of the withdrawals must be kept and reported to the Department of
11. This permit shall be subject to the Commission’s periodic review of the <Aquifer> Aquifer System’s sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the <Aquifer> Aquifer System, or relevant modified aquifer(s), is reduced.

12. A permit may be transferred, in whole or in part, from the permittee to another, if:
   a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of use, remain the same; and
   b. The Commission is informed of the transfer within ninety days.

   Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer, which involves a change in any condition of the permit, including a change in use covered in HRS § 174C-57, is also invalid and constitutes a ground for revocation.

13. The uses(s) authorized by law and by this permit do not constitute ownership rights.

14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances that will affect the permittee’s water use.

15. The permittee understands that under HRS § 174C-58(4), that partial or total nonuse, for reasons other than conservations, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter

Land and Natural Resources, Division of Water and Land Development, P.O. Box 373, Honolulu, HI 96809, on a monthly basis.

Although not stated as a condition of the permit §13-168-7 HAR requires you to keep a record of your monthly total pumpage, water level, salinity, and water temperature. This information must be submitted to the Commission on a regular monthly basis using the enclosed water use report form.

An approved flowmeter shall be installed and the withdrawal from Well 1851-73 shall be recorded and reported to DLNR on a monthly basis by the owner and/or operator of the well.

The withdrawals from these wells shall be recorded and reported to the DLNR on a monthly basis by the BWS.

The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting water usage on a monthly basis.

The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage. Water usage shall be measured on a monthly basis and reported to the Commission.

The applicant shall provide and maintain an approved meter or other appropriate device or means for measuring and reporting total water usage. Water usage shall be measured on a monthly basis and reported to the Commission along with water level and salinity measurements.
into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section HRS § 174C-62 shall not apply towards the four-year period or forfeiture.

16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by HAR § 13-171-42(c). The permittee’s water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the <Aquifer>Ground-Water Management Area.

17. The water use permit shall be subject to the Commission’s establishment of instream standards and policies relating to the Stream Protection and Management (SPAM) program, as well as legislative mandates to protect stream resources.

18. The permittee understands that any willful violation of any of the above conditions or any provisions of HRS § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.

19. Special conditions in the attached cover transmittal letter or attached exhibits are incorporated herein by reference.

20. If the ground-water source does not presently exist, the new well shall be completed, i.e. able to withdraw water for the proposed use on a regular basis, within twenty-four (24) months from the date the water use permit is approved.

Variations of Standard Condition (20) are as follows:
   i. The permit may be revoked if work is not started within six months of the date of issuance or if work is suspended or abandoned for six months. The work proposed in the permit application shall be completed within two years from the date of permit issuance.

21. This permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HRS § 174C-59 and the requirements of Chapter 174C, the Commission on Water Resource Management has the authority to allow the transfer of the permit and the use rights granted by this permit in a manner consistent with HRS § 174C-59. Any such transfer shall only occur with the Commission’s prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

22. The water use permit granted shall be an interim water use permit, pursuant to HRS § 174C-50. The final determination of the water use quantity shall be made within five (5) years of the filing of the application to continue the existing use.

23. The water use permit shall be issued only after agricultural review.

24. That scheduled adjustments to Oahu Sugar Co. permitted use shall be initiated upon discontinuance of agricultural uses.
25. The issuance of this permit was approved by the Commission on Water Resource Management at its meeting on <Insert Date>.

26. The permit shall be subject to the review by the Attorney General.

27. The permit holder may be required to relinquish this permit at any time or specified time after issuance to the Board of Land and Natural Resources in accordance with Chapter 166 of Title 13.

28. The applicant shall obtain the necessary land acquisition documents from the Hawaii Housing Authority.


**Special Conditions List**

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.

2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

3. The applicant shall contact the Environmental Management Division, State Department of Health, at 586-4304, concerning “GUIDELINES APPLICABLE TO GOLF COURSES IN HAWAII” date <Insert Date & Version #>.

4. Standard Condition 10 is emphasized, to report consumption on a regular basis.

5. The applicant may continue this existing use of ground water within the limits approved by the Commission, and the actual issuance of the interim permit shall not be a reason to interrupt this existing use.

6. This interim water use permit shall cease to become interim and shall be subject to HRS § 174C-55 upon administrative review of the quantity within five (5) years, provided that all conditions of the use (including the review of the quantity which shall not be greater than the amount initially granted) remain the same. Enforcement of the allocation limit shall be stayed pending staff’s review and issuance of a permanent water use permit.

7. As-built drawings of the well and pump, and a complete pumping test record shall be submitted within sixty (60) days.

8. In the event the pump tests show that aquifer boundary conditions do not support the requested withdrawals, the Commission reserves the right to amend this permit, after a hearing, to a level that is supported by the pump tests.

9. The existing use may be continued within the levels approved by the Commission, and the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

10. The filing of an application by Kukui, Inc. for a new or modified water use permit for the Kualapuu Aquifer in excess of 2.0 mgd (total system withdrawal) shall be just cause for re-consideration of this interim permit by the Commission.

11. Upon completion of a new transmission line for the transport of water use by Well #17, the permit shall be modified to reduce the allocation amount by the additional 79,220 gallons per day allocated for use of the Molokai Irrigation System.

12. Within six (6) months from the date of approval of a water use permit for the well, the applicant shall conduct a feasibility study and submit a report describing
alternative sources of nonpotable water for irrigation uses at the resort area. It is suggested that the developer consider use of dual lines in the subdivisions so that effluent may be used in the existing reuse system. Another consideration is the development of brackish water wells in the Kaluakoi Aquifer system for mixing with the effluent generated at the resort.

13. Within six (6) months from the date of approval of a water use permit for the well, the application shall evaluate the filter back discharges into Kakaako Gulch to determine if excessive preventable waste is occurring and identify possible measures to eliminate or reduce such waste. The evaluation shall be conducted in cooperation with the Commission staff and staff of the Department of Health’s Safe Drinking Water Branch, which regulates the drinking water system.

14. Within six (6) months from the date of approval of a water use permit for the well, the applicant shall (1) implement a leakage control and detection system and compete repairs to prevent such leakage and (2) implement use of xeriscaping and low-flow fixtures.

15. Action on the future use portion of the water use permit application for Well #17 (Well No. 0901-01) is deferred pending the establishment of existing uses in the aquifer. Kukui Inc.'s application for uses in excess of those uses existing on July 15, 1992 will be considered “new” uses and will be taken up by the Commission as soon as other existing use applications have been decided. In the interim,
   a. The Commission shall recognize that there is disagreement between the applicant’s staff calculations of reasonable-beneficial existing use
   b. The Applicant will have the burden of proof to show within six (6) months reasonable-beneficial existing use calculations that support the applicant’s request as opposed to staff’s calculations.
   c. The Commission’s enforcement of the approved existing use allocation will be suspended for six (6) months.

16. The permittee shall submit a notice of intent and written request to continue the use at least ninety (90) days prior to the expiration of the interim five-year permit.

17. The Commission shall delegate to Maui Department of Water Supply the authority to allocate the use of water for municipal purposes, as provided in §174C-48(b).

18. Maui Department of Water Supply shall be exempt from the requirements for permit modifications, as provided in §174C-57(c).

19. The permittee must meter water use and monitor chloride concentrations on a monthly basis and submit monthly reports of water use and chloride concentrations to the Commission.

20. Standard Condition 16 is waived for saltwater wells.

21. The permit will be revoked if (1) stream monitoring shows that pumping the well reduces stream flow, or (2) the electromagnetic resistivity survey indicates that the
well was drilled into a dike compartment, unless the applicant submits a petition for an amendment to the interim instream flow standard with the well completion report. However, no use of the water may be made without a Pump Installation Permit, which cannot be issued during consideration of the amendment of the interim instream flow standard.

22. The applicant shall present the results of the electromagnetic resistivity survey, pump tests, and stream monitoring to a community meeting as well as to the Commission.

23. A final determination of water use quantity shall be made within five (5) years of the filing date of the application (<Insert Date>) to continue existing use.

24. The applicant shall implement, by December 31, 1995, a biological and hydraulic monitoring program for a minimum 2-year period that: 1) documents the existing operating procedure, 2) seeks to identify the impacts of all operating alternatives on Waikolu Stream, and 3) seeks to identify the effectiveness of weir modifications (Dam No. 1). This program shall incorporate the three new wells, Wells #4-6 (Well Nos. 0855-06, -05, &-04, respectively), which may be pumped within the approved limits, for monitoring and testing purposes only. Further, semi-annual reports summarizing data and preliminary findings shall be submitted to the Commission. It is suggested that the Department of Agriculture work with the State Division of Aquatic Resources and other affected agencies to prepare the monitoring program in light of the difficult technical questions raised by this application. A particular concern is the coordination of this monitoring program with the ongoing National Park Service study by Anne Brasher. A draft of this plan shall be submitted to the Commission staff within ninety (90) days for technical review and comment. Results of the monitoring program shall be used to make recommendations to the Commission on any additional use of the wells, and shall be made readily available to all interested parties.

25. That the Commission approves the well construction permit for the Kamiloloa-Waiola Well (Well No. 0759-01), subject to the standard well construction conditions and the special conditions for the pumping well for the aquifer tests.

26. That the Commission authorizes the Chairperson to approve and issue a pump installation permit upon acceptance of adequate pump test result, subject to the standard pump installation conditions.

27. Should the well be used for back-up domestic supply, applicant is advised to contact DOH or otherwise ensure safe drinking water quality is maintained.

28. The applicant shall follow the agreed monitoring plan.

29. If pesticides used by the applicant are found in ground or surface water and can be traced to the applicant's use, the CWRM may revoke the permit immediately upon such finding.
30. Issuance of the interim permit shall be withheld until the reservation of water for DHHL is set by rule. Applicant may continue this existing use within the approved limits.

31. The applicant shall submit well modification and pump installation permit applications for administrative approval by chairperson prior to beginning any work required to complete well.

32. Should any stream flow impacts result from use, petition to amend interim instream flow standards shall be submitted.

33. Should any dewatering result from use, pumping shall cease immediately.

34. Shall submit accurate schematic diagram of distribution system for the battery of 5 wells.

35. Shall be subject to a 6-month independent audit & monitoring.

36. Final pump capacity shall be determined from pump test results & approved administratively by signature of chair.

37. The permittee shall seek and submit to the Commission within ninety (90) days written confirmation from the Department of Land Utilization of the non-conforming use.

38. Pumping shall cease immediately if the chloride reports show that the brackish water developed in the well exceeds 1,000 mg/l of chloride, unless a variance from the chloride limit has been granted. The authority to approve future variance requests is delegated to the chairperson.

39. The duration of the interim permit shall be:
   a. To July 1, 2006, or
   b. Until treated wastewater is available and acceptable for use, or
   c. Until such time that a significant change in permitted, actual, or projected uses or water supply occurs.

40. Action on any interim permit may be initiated by the Commission or any permittee upon letter request or pursuant to §174C-57 Haw. Rev. Stat. (Modification of permit terms).

41. This permit is approved under the assumption that wastewater will become available for reuse as an alternative supply source.

42. Require adherence to the chloride sampling protocol and the submittal of weekly chloride data. The authority to approve variances from the weekly reporting requirement is delegated to the Chairperson.

43. Require adherence to the Conservation Conditions.
44. In the event a water shortage is declared by the Commission, permittees in the <Insert Aquifer System> shall comply with the <Insert Aquifer System> water shortage plan adopted by the Commission.

45. The permittee shall contact the Department of Health, Clean Water Branch and obtain the necessary discharge permit(s).

46. Permit shall be interim and replaces existing WUP for 2051-07 & 11.

47. Applicant shall submit an acceptable archaeological inventory survey report to DHP. If historic sites affected, a plan to mitigate these affects must be accepted by DHP and completed by applicant.

48. Should the well be used for back-up domestic supply, applicant is advised to contact DOH or otherwise ensure safe drinking water quality is maintained.

49. (The permittee) may report monthly pumpage on yearly basis.

50. Prior to issuance of any permits, must submit filing fee for after-the-fact pump installation permit.

51. The term of this permit shall be twenty years from the date of issuance of the permit with a five-year Board review to determine compliance with the provisions of the permit.

52. The amount of water to be withdrawn under this permit shall be 0.19 mgd, averaged annually, for irrigation use. This permitted use of 0.19 mgd when added to a preserved use of 0.27 mgd amounts to a total of 0.46 mgd, averaged annually, which may be withdrawn from well 1646-01.

53. The use authorized by the permit must not interfered substantially and materially with existing individual household uses and existing uses.

54. The use of this well shall be subject to the shortage and emergency powers of the Board of Land and Natural Resources (BLNR).

55. This permit may be suspended or revoked, in accordance with Chapter 166.

56. The permit holder may be required to relinquish this permit to BLNR, in accordance with Chapter 166.

57. The withdrawal from Well 1646-10 shall be recorded and reported to DLNR on a monthly basis by the permittee.

58. In the event that emergency water use occurs, the permittee shall notify the Commission in writing within one (1) day of pumping, to in form the Commission as to the nature of the emergency and the expected duration of the emergency. A water
use report shall also be filed pursuant to Standard Condition 10 and Administrative Rule 13-168-7.

59. Note DOH's requirements related to non-potable water systems (attached to original permit).

60. Standard Condition 16 requiring the submittal of a water shortage plan is waived.

61. All non-potable spigots and piping shall be clearly labeled as “DO NOT DRINK, NON-POTABLE” to prevent direct human consumption.

62. Standard Condition 10 is modified. Due to the inability to take water level measurements, the requirement to measure monthly water levels is waived. In addition, as long as the U.S. Geological Survey is collecting and analyzing the chloride content of the well water, the requirement for the permittee to measure and report chlorides is also waived.

63. Well elevation components must be surveyed by a licensed surveyor and this information must be submitted to commission prior to issuance of permanent permit.

64. The permittee shall obtain approvals from the Department of Health and the U.S. Environmental Protection Agency prior to use of the water.

65. This water use permit, WUP No. <Insert #>, shall supersede WUP No. <Insert #>.

66. WUP No. <Insert #> is revoked.

67. Standard Condition 17 is waived.

68. Standard Condition 22 for interim water use permits shall not apply.

69. To supplement our records, we request that you provide a map of the Galbraith Est. lands west of Wahiawa (2100 ac+) and the associated TMK's for use area.

70. Deferred action on portion requested for golf course irrigation pending further refinement of irrigation requirement and a feasibility study for utilization of surface water sources, including Wahiawa Reservoir.

71. Written justification be provided for any 'cushion' of 0.5 mgd.

72. The water use permit shall be an interim permit. The duration of the interim permit shall be until treated wastewater is available and acceptable for use. The permittee shall continue discussions with Honolulu Board of Water Supply regarding the use of reclaimed water.

73. The permittee is put on notice that this is a qualified approval in that this permit may be modified or revoked prior to the expiration of the interim permit if the
Commission decides that the use of additional basal ground water for dust control and landscape irrigation is not reasonable-beneficial use.

74. The permittee encouraged to use drought-tolerant landscaping to conserve water.

75. Should the applicant provide written evidence that the county DHCD approves a 201E exemption for the elderly affordable housing project then the applicant may modify a corresponding portion of their existing aquacultural use to be used by the exemption approved project within the Commission approved water use permit limits under recommendation 5.

76. The applicant shall obtain a water lease/permit from Land Division prior to actual use of the well water.

77. Require the permittee to sign a contract by May 14, 1998 with the City Department of Wastewater Management to buy and use 0.400 mgd of R-1 water for a corresponding reduction in allocation for Well Nos. 1900-02, 17 to 20, and 1901-03.

78. Standard Condition 9 is waived.

79. Standard Condition 10 is modified to exempt the permittee from monthly measurements of salinity and temperature.

80. Standard Condition 10 is waived.

81. Applicant must seek a determination from BLNR and Land Mgt Div as to whether water license required. If required, license must be obtained prior to issuance of permit. If not, permit will be issued w/out further action.

82. Commission defers action on use in excess of 452,000 gpd pending additional info from BWS and further staff analysis.

83. The permit shall be subject to the Commission’s sustainable yield review by December 1990.

84. The Commission shall delegate to the Honolulu Board of Water Supply the authority to allocate the use of water for municipal purposes, in accordance with §174C-48(b) HRS.

85. Honolulu Board of Water Supply shall be exempt from the requirements of permit modifications as provided in §174C-57.

86. BWS must participate in discussions, to be coordinated by Commission Staff, regarding a monitoring program to address impacts to Kaneohe Bay water quality, prior to any action on applications for future municipal uses.

87. A pump installation permit application must be made and approved prior to the installation of a permanent pump.
88. The water withdrawn shall be 0.7 mgd for municipal use.

89. The installed pump capacity of the well shall not be more than 700 gpm or 1.01 mgd.

90. The term of permit shall automatically expire twelve months from the date of issuance.

91. The Honolulu Board of Water Supply may continue to submit monthly water data on their own form, provided that the data are submitted in a format that is acceptable to the Commission staff.

92. Standard Condition 7 shall not apply.

93. Standard Condition 22 shall not apply.

94. Standard Condition 10 is modified to exempt the permittee from monthly measurements of salinity and temperature.

95. This permit shall be subject to conditions providing for stream restoration if the Commission determines that additional water should be returned to the streams.

96. HECO 1 mgd for industrial use

97. Campbell Estate 1 mgd for municipal use through BWS, by separate agreement with HECO

98. BWS 1 mgd for municipal use.

99. The permit shall be subject to the Commission's sustainable yield review by <Insert Date>.

100. The applicant shall obtain the current version of the Department of Health's Guidelines Applicable to Golf Courses in Hawaii. Where relevant and viable, items of the guidelines should be implemented and sustained appropriately. To obtain the current version, contact the Safe Drinking Water Branch, Environmental Management Division at 808-586-4258 (Honolulu).

101. The future use portion of the application shall be deferred until existing uses in the Koolauloa area are established.

102. The water to be withdrawn under this permit shall be a total of 0.03 mgd (0.02 mgd preserved plus an additional 0.01 mgd permitted use), averaged annually, for domestic and irrigation use.

103. Existing well 1851-09 shall be properly sealed by a licensed drilling contractor. A well modification permit application, enclosed, shall be submitted to the Department for approval of the well sealing. A filing fee for sealing the well will not be required.
104. The permittee is required to test the source using a certified private laboratory and submit the test results to the Commission within three (3) months. The Commission will then forward the results to the Department of Health for their review. The Department of Health recommends that the well be routinely tested for microbiological and chemical parameters thereafter.

105. The permittee is required to submit a completed Registration of Well and Declaration of Water use by <Insert Date>.

106. The permittee shall contact the Department of Health for a written determination on the status of their water system and comply with any Department of Health requirements for monitoring and testing.

107. In the event that the original spring source decontaminates, the new well authorized will be shut down.

108. That within each aquifer the total permitted use shall not exceed the sustainable yield.

109. That any water available for allocation shall be for in-district use.

110. That scheduled reductions to Oahu Sugar Co. permitted use shall be initiated upon final termination of an Osco lease or sub-lease, whichever occurs later.

111. That permits for water use issued in accordance with the proposed schedule shall be interim permits subject to review and adjustment by 1995.

112. That the permit shall be an interim permit for a new use which is afforded to existing users as specified in §13-171-20.

113. That the original allocation of 0.200 mgd shall be taken to hearing for possible revocation at a later date to complete the transfer of the water use permit entirely to Well No. 3407-02. This revocation would reduce the current allocation afforded to the Kunihiro Well (Well No. 3406-06) to zero.

114. This allocation incorporates the unspecified domestic needs of the applicant and therefore necessitates a single meter be installed at the well.

115. Should any impacts to nearby wells or streams be established by the use of this well, the applicant shall address these issues to the satisfaction of the Commission.

116. If an economically feasible nonpotable source is identified, the applicant shall convert to the alternative nonpotable source.

117. The permit shall be subject to the Chairperson’s approval of a water use plan recommending possible measures to prevent or minimize saltwater contamination and establish courses of action to follow should the aquifer become to saline to use.
118. Permittee shall provide the necessary end-use information on the 10th residence to allow regulation of the use under Chapter 174C.

119. Standard Conditions 10 & 18 shall not apply.

120. Standard Condition 10 is modified to exempt the permittee from the requirement to install a flowmeter. Salt water withdrawals may instead be estimated based on pumping capacity and run time.

121. The applicant shall review the existing year long period of pumpage and streamflow data and provide analysis on ground and surface water interaction. Deadline is January 25, 1994.

122. The water use permit for Well Nos. 2301-27 to -32 for 0.75 mgd (WUP No. 419) shall be revoked upon issuance of a pump installation permit for the well.

123. The permittee shall use mulching to decrease evaporative losses and manage irrigation scheduling to minimize water demand.

124. The permittee shall submit a detailed agricultural plan to support any future water use permit application for increased agricultural use at this parcel.

125. If not already obtained, the permittee shall seek and obtain any necessary permits from the Department of Health for the proposed discharge to Malackahana Stream.

126. Standard Condition 10 is modified to waive the requirement for installing a water meter on Well Nos. 2358-21, 22, and 29. The permittee shall install a water meter on Well No. 2358-26 to measure total monthly flow through the discharge line. This quantity should then be assumed to be the rate of natural flow from the other three wells for monthly reporting purposes.

127. The permit shall be effective upon submittal of documentation by Navy that it has met the DOH requirements for a public system.

128. This WUP shall be subject to Army's application for a WUP to reduce the permitted use of the Army's Schofield Shaft (2901-02 to 04, 10) by 0.208 mgd to a new total of 5.648 mgd. The Army's application shall be submitted within 60 days after the approval of this WUP or this WUP shall be void. Approval of the modification request shall be obtained from the CWRM prior to use of Well No. 3100-02 and issuance of this WUP.

129. Navy shall submit an after-the-fact PIPA, and approval of the permit shall be obtained prior to use of the well.

130. The well shall not be used for drinking water purposes unless it is properly tested and treated.
131. This permit is approved subject to reclaimed water becoming a practical alternative and provided that the Department of Health approves the reuse application.

132. Should any opae ula be recovered in the well water, the permittee shall notify the Division of Aquatic Resources and provide specimens to the Division of Aquatic Resources for analysis.

133. If a single meter at the well is used, the Commission shall allow an additional 1,000 gallons per day to the water use permit amount for the domestic needs of two residences, although a permit for individual domestic consumption is not required. Otherwise, the applicant must provide a meter to separately measure the irrigation consumption.

134. This permit is approved under the requirement that conversion to either: 1) treated wastewater becoming available for reuse as an alternative supply source, provided that Department of Health concerns over the use of treated effluent over the potable water aquifer have been addressed; and/or 2) other nonpotable source becoming available will occur in a timely manner.

135. These permits shall be subject to a review of actual use within four years for possible modification of the permitted amount.

136. The permit shall be reviewed in two (2) years for possible additional revocation due to nonuse.

137. The allocation is based on the projects listed in Exhibit 5 (of Item 10 of the May 20, 1998 Staff Submittal), except for the Queen’s Beach GC (TMK 139-11-2,3), Lot 9 (TMK 139-17-51), and Varsity Place (TMK 128-24-35).

138. Kamehameha Schools Bishop Estate/Honolulu Board of Water Supply shall transfer the water use permit within ninety (90) days of the effective date of the transfer of the pump station to the Honolulu Board of Water Supply, pursuant to §174C-59 Hawaii Revised Statutes.

139. The permittee shall ensure that the water is recycled by either directing it into the Waiahole Ditch for use by downstream farmers (subject to the approval of the Agribusiness Development Corporation’s Board) or into Waiekele Farm’s existing irrigation system.

140. The permittee shall file a completed application to modify WUP No. 758 to reduce the allocation by 0.100 mgd within 60 days. If a completed water use permit modification application is not received within 60 days from this submittal’s date, then the subject water use permit application (WUPA No. 767) shall be deemed denied without prejudice without the need for another hearing.

141. The water withdrawn shall be for municipal use. No improvements to the existing sources are required as the existing source capacities are greater than the increase.
142. Water license must be determined through L.M.

143. Proposed other uses will be considered at a later date.
November 21st, 2007

WUP Holder
Kanukuaw Ranch
P.O. Box 707
Kaunakakai, HI 96748

Subject: WUP 338

Water Use Permit Review

In accordance with 13-171-22(b) of the Hawaii Revised Statutes, the Commission on Water Resource Management is required to conduct a 20 year permit review of issued permits to determine permit compliance. As a permit holder, we are contacting you to conduct a review of your water use permit.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time within the time period given, and a representative from Brown and Caldwell will contact you to make further field visit arrangements.

We thank you for your cooperation in promoting beneficial and reasonable use of our ground water while protecting our limited natural supply.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director

RI:ss
February 20th, 2008

Water Use Permit Holder
Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748

Subject: WUP 338

Second Notice of Water Use Permit Review

In accordance with §174C-56 of the Hawaii Revised Statutes and 13-171-22(b), Hawaii Administrative Rules, the Commission on Water Resource Management is required to conduct a 20-year permit review of issued permits to determine permit compliance and prepare a formal report to legislature for public review. As a water use permit holder, we are notifying you of this statutory requirement and are asking for your help in the review of your water use permit.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time within the time period given, and return the form via mail to Brown and Caldwell. A representative from Brown and Caldwell will then contact you to make further field visit arrangements.

Please note that this is the second notice that we are sending to attempt to make contact with you. If we cannot conduct a field investigation to verify your water use, we may commence proceedings to revoke your permit. Once your permit is revoked, you will no longer be able to use ground water from your well. Upon revocation, any water use without a valid permit will be subject to fines of up to $5,000 per day. As such, it is in your best interest to return the form to Brown and Caldwell as soon as possible.

We thank you for your cooperation in promoting beneficial and reasonable use of our ground water while protecting our limited natural supply.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director
July 15, 2008

Kanukuawa Ranch
1331 Kamaile St
Honolulu, HI 96814

Dear Sir or Madam:

3rd Notice of Water Use Permit Permit Review

In accordance with §174C-56 of the Hawaii Revised Statutes and 13-171-22(b), Hawaii Administrative Rules, the Commission on Water Resource Management is required to conduct a 20-year permit review of issued water use permits to determine permit compliance and prepare a formal report to the 2009 legislature for public review. We are notifying you of this statutory requirement as you are a water use permit holder and are asking for your help in the review of your water use permit. For your reference, your Water Use Permit number is Water Use Permit No. 338 (Well No. 0354-03). This notice is our third attempt at contacting you for this statutory review, which must be completed soon to be ready for the beginning of the 2009 legislative session.

As part of the permit review, we must perform field investigations for verification purposes. We have contracted with Brown and Caldwell to conduct such field investigations. Please fill out the enclosed survey form, indicating the best date and time your field investigation can be conducted, and return the form via mail to Brown and Caldwell no later than July 18th, 2008. A representative from Brown and Caldwell will then contact you to make field visit arrangements.

If we cannot conduct a field investigation to verify your water use, we may commence proceedings to revoke your permit. Once your permit is revoked, you will no longer be able to use ground water from your well without applying for and obtaining a new water use permit. Upon revocation, any water use without a valid permit will be subject to fines of up to $5,000 per day. As such, it is in your best interest to return the form to Brown and Caldwell as soon as possible.

We thank you for your cooperation in promoting reasonable and beneficial use and protection of our public trust ground water resources.

Sincerely,

KEN C. KAWAHARA, P.E.
Deputy Director

RI:ss
Enclosure
Water Use Permit Survey
(Please complete one survey form for each WUP)

WUP Number: ___________________________ Well Number(s): ___________________________

Contact Information (of the person who will be present at site visit):
Name: ____________________________________________
Phone (for phone interview): __________________ Fax: __________________________
Email: ____________________________________________
Best time to reach for phone interview: ____________________________

Property Information (of the water use/well location):
Address: ____________________________________________
City: ____________________________ Zip: ____________________________
Well Location TMK (list all if multiple wells present): ____________________________
Water Use TMK (list all if used on multiple lots): ____________________________

Water Use/Well Information:
Is the water source currently in use? Yes ☐ No ☐
If no, please explain: ____________________________________________

What are you currently using the water for? (example: "Use for 45 acres of diversified agriculture and 3 residences"): ____________________________________________

Is a flow meter installed and working properly? Yes ☐ No ☐
If no, please explain: ____________________________________________

Do you submit monthly water use reports to the State? Yes ☐ No ☐
If no, please explain: ____________________________________________

Field Investigations:
A representative from Brown and Caldwell will be visiting wells in your area over the next two months between the times of 9:00 am and 5:00 pm. Each site investigation will take approximately 1-2 hours. Please indicate up to three potential days of the week and availability times for an on-site inspection of the well location and verification of water use compliance. The permit holder must provide Brown and Caldwell with at least five (5) working days notice of the need to reschedule.

Option #1 Date (M-F): ___________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐
Option #2 Date (M-F): ___________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐
Option #3 Date (M-F): ___________ Time: 9:00 am ☐ 12:00 pm ☐ 3:00 pm ☐

Once this survey is returned, a Brown and Caldwell representative will be contacting you to conduct a phone interview and finalize the exact date and time of your field investigation. Please fax/mail completed surveys by July 18th, 2008 and direct any questions related to this survey to Mr. Milo Smith of Brown and Caldwell at:
1099 Alakea Street, Suite #2400
Honolulu, HI 96813
Tel: (808) 203-2661
Fax: (808) 533-0226
mcsmith@brwncald.com

For Official Use Only
Received: ___________ Information Updated: ___________ Phone Interview Complete: ___________
Notes/Comments: ____________________________________________
Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

State Commission Chairperson
Honolulu, Kaunakakai, P.O. Box 454,
Kaunakakai, HI 96748

Applications for Water Use Permits
Kawela Ground Water Management Area, Molokai

Applicant: Landowner:
1. (Well Nos. 0354-01,02,&04) T.T. Meyer, Inc.
P.O. Box 454
Kaunakakai, HI 96748

2. (Well No. 0354-03) T.T. Meyer, Inc.
Kanukuawa Ranch
P.O. Box 707
Kaunakakai, HI 96748

3. (Well No. 0354-05) Same
Henry R. Meyer Estate
P.O. Box 454
Kaunakakai, HI 96748

Background

The applicants submitted completed water use permit applications to the
Commission on the dates indicated in Exhibit 1. Specific information regarding the
source, use, notification, objections, and field investigation(s) are described in Attachment
A and the attached exhibits.

Analysis & Issues

1. These three existing sources use brackish water from the Kawela Aquifer System for
various uses as follows:

a. Meyer Inc. #1 (Well No. 0354-01) - Because the county water system has never been
extended to service this area of Molokai, this dug well is the sole source of domestic
water supply for five homes and serves a total of 13 members of the Meyer family.

b. Meyer Inc. #2 (Well No. 0354-02) - This drilled well is used for dust control and rock
and cinder quarry operations on 25 acres of leased land. The lease to Molokai Concrete
and Construction expired in August 1993. The applicant has verbally stated that a new
lease is currently being negotiated and that he considers the water needs of the quarry to
be immediate. Four briefs in support of this application have been filed with the
Commission.

c. Meyer Inc. #4 (Well No. 0354-04) - This dug well is used for irrigation purposes.
The application states that the water is used for the domestic needs of one home and for
irrigation of 2.71 acres of coconut trees, heliconias, and ti leaf plants. However, the field
investigation report states that the domestic water is derived from the Meyer Inc. #1 Well
and that irrigation use is confined to 1/2 acres of lawn. The applicant has verbally stated

Agenda
ITEM 7
that the irrigation use varies with rainfall and, at present, no commercial agricultural operations exist.

2. Well #3 (Well No. 0354-03) - This existing source uses brackish water for the domestic needs of three homes and the irrigation of a 5-acre orchard of various fruit trees. A small portion of the water is used by 4 horses and 4 pigs for drinking and washing. At the time that the field investigation was conducted on November 23, 1992, two of the five acres were not being farmed.

3. Henry's Well (Well No. 0354-05) - From the field investigation conducted on November 23, 1992, this existing dug source was verified to have no existing use. It was determined that the well was not equipped with a pump or motor. Further, this well has not been registered under the well registration program. Staff finds that there is no justification for the issuance of a water use permit for this well and that this application should be denied, pursuant to §174C-83 and pending justification of an immediate need.

By the following analysis, staff finds that the following applications for permits to continue an existing water use meet the seven (7) criteria set forth in HRS 174-C(a) Conditions for a permit:

(1) Water availability - Although pending applications for existing uses reflect a total draft rate of 1.72 million gallons per day (mgd), the latest 12-month moving average of actual recorded water usage suggests that existing withdrawals may be less than 0.6 mgd. Staff finds that this is a more reasonable estimate of existing uses in the aquifer. The satisfaction of all reasonable and beneficial existing uses is therefore expected to require less than 15% of the total sustainable yield. An increase of about 3-4% in use at the major developments is projected through the year 2010. By this analysis, over 80% of the system's sustainable yield remains available for other pending permits for continued existing uses and for new uses on lands that are currently undeveloped.

(2) Reasonable-beneficial - The following proposed permits are deemed to be beneficial uses of the water resource. However, the quantities requested do not appear to be reasonable estimates for the proposed uses.

1a. Meyer Inc. #1 (Well No. 0354-01) - The applicant has not been reporting his water use on a regular basis, and the capacity of the pump could not be verified in the field. The well registration form lists the capacity at 20 gpm. It is assumed that the pump has not been replaced, since no application for a pump installation permit has been filed since the well was registered. Assuming that the pump is operated continuously at full capacity, the maximum possible yield from the well is 28,800 gallons per day. Based on the Maui County Domestic Consumption Guideline, a single family residential unit may use up to 3,000 gallons per acre of land. Given the large area used for subsistence farming (15.5 acres), it is conceivable that the maximum yield of the well may be required for domestic consumption and irrigation purposes. Staff finds that an allocation of 28,800 gallons per day is justified.

1b. Meyer Inc. #2 (Well No. 0354-02) - The Native Hawaiian Advisory Council (NHAC) has commented that, since the lease has expired, water should not be allocated until the future of the land use has been confirmed. However, the applicant has stated that his needs are immediate, as negotiations are underway. Given 1) the interim nature of the permit, 2) the ability of the Commission to revoke any portion, or all, of the permitted use following four continuous years of nonuse, 3) the availability of the water supply, and 4) the justification given for his need at this time, staff finds no compelling reason to deny the request for an allocation.

Water use data are not available to estimate existing needs, and the capacity of the pump cannot be verified in the field, but the registration form lists the capacity at 56 gpm. The application states that the pump is run daily from 7 a.m. to 6 p.m. By this method, the estimated water use may be as much as 39,960 gpd. Staff feels that this is a liberal estimate. However, the issuance of an interim permit at this time will allow the Commission to further refine this estimate as water use data become available.
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

1c. Meyer Inc. #4 (Well No. 0354-04) - Water use data are not available, and the pump capacity is unknown. The type of plants being irrigated have relatively low water demands. Assuming a daily irrigation requirement of 1,700 gallons per acre (County guideline for park-like areas), about 4,600 gpd is required to irrigate 2.71 acres.

2. Well #3 (Well No. 0354-03) - The applicant's request appears to be low. Based on the county guidelines, three single family residences consume an average of 1,800 gpd, and 3 acres of fruit trees may require anywhere from 15,000 to 25,000 gpd. Staff finds that an allocation of 16,800 gpd is a reasonable estimate for these uses.

3. Interference with other existing legal uses - There should be no affect on the interim instream flow standards, as these uses were in existence prior to the effective date of the standards for Molokai streams. Although Kapuaokoolau Gulch appears to have flow in its lower region, DAR has commented that, from the aquatic biological resources standpoint, there are no objections. Further, it is unlikely that the existing withdrawal will result in any measurable impacts. Excluding the wells owned by the Meyer family, there are two other wells within a mile of these wells, but the use of these wells could not be confirmed. However, it does not appear that any interference with other legal rights will result from continuation of the use, and no objections to these permit applications have been filed.

NHAC has raised concerns regarding the effect of runoff from the quarry operation (Well No. 0354-02) on nearshore waters and nearby fishponds. The Division of Aquatic Resources has noted the proximity of the quarry to the Pahioumu Fish Pond and has concluded that there is no potential for any impact on surface water habitat.

4. Public interest - These proposed beneficial uses of water for domestic, agricultural irrigation, and industrial purposes do not appear to be in conflict with the various objectives declared to be in the public interest. Review of these applications by the various divisions of the Dept. of Land and Natural Resources, which serve to protect and promote the interests of the public, has not prompted any statements of objections or concerns.

5. State & county general plans and land use designations - The Office of Conservation and Environmental Affairs and the Maui County Planning Department has reviewed these applications. No objections or concerns have been raised. These proposed uses have been shown to be consistent with the state and county general plans and land use designations.

6. County land use plans and policies - These proposed uses have been shown to be consistent with the county land use plans policies.

7. Interference with Hawaiian home lands rights - To meet the current and future needs of Hawaiian homesteaders, the Dept. of Hawaiian Home Lands (DHHL) has requested that water be reserved from the Kualapuu Aquifer system. This request has been granted, and currently, another request to reserve water from the Kualapuu Aquifer System is under consideration. Further, there are no lands in the Kawela Aquifer System that are under the administration of the Hawaiian Homes Commission. DHHL has reviewed these applications, and no objections have been raised.

The Molokai Working Group has made the following recommendations for the Southeast Sector, which encompasses the Kawela Aquifer System:

1. Limit groundwater withdrawal to 50% of its developable yield subject to verification of existing users and water use permits.

2. Any withdrawals from this Sector should not diminish water supplies and supply availability for traditional uses, including taro patches and fishponds.

3. Development of additional water from the Southeast Sector should be reserved first for residences of this Sector who are not yet served.
Chairperson and Members
Commission on Water Resource Management

Staff finds that the proposed permits for existing uses should not violate any of these recommendations made by the Molokai Working Group. No objections have been filed with the Commission.

RECOMMENDATION

Staff recommends:

1. That, for any interim permits granted by the Commission for an existing use, the existing use may continue within the approved level of use, and any delay in the actual issuance of the permit document shall not be a reason to interrupt the approved level of use.

2. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 28,800 gallons per day of brackish water for the domestic needs of five residences and subsistence farming on 15.5 acres from the Meyer, Inc. #1 Well (Well No. 0354-01), subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 39,960 gallons per day of brackish water for industrial uses at a 25-acre quarry from the Meyer, Inc. #2 Well (Well No. 0354-02), subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of an interim water use permit to T.T. Meyer, Inc. for the reasonable and beneficial use of 4,600 gallons per day of brackish water for irrigation use on 2.71 acres from the Meyer, Inc. #4 Well (Well No. 0354-04), subject to the standard water use permit conditions listed in Attachment B.

5. That the Commission approve the issuance of an interim water use permit to the Kanukuawa Ranch for the reasonable and beneficial use of 16,800 gallons per day of brackish water for domestic use by three residences and agricultural irrigation use on 5 acres from the Well #3 (Well No. 0354-03), subject to the standard water use permit conditions listed in Attachment B.

6. That the Commission deny the issuance of a permit to Henry R. Meyer for use of Henry’s Well (Well No. 0354-05) pending the establishment of existing uses and further justification for the immediacy of his need.

Respectfully submitted,

Edwin T. Seoade
RAE M. LOUI
Deputy Director

APPROVED FOR SUBMITTAL:

KEITH W. AHUE, Chairperson
WATER USE PERMIT DETAILED INFORMATION

Source Information

AQUIFER: Kawela System, Southeast Sector, Molokai

- Sustainable Yield: 5 mgd
- Existing Water Use Permits: 0.002 mgd
- Available Allocation: 4.998 mgd
- Total of other pending allocations: 1.278 mgd

1a. WELL: Meyer, Inc. #1 Well (Well No. 0354-01) Kapuaokoolau, Molokai, TMK:5-5-1:11

- Location: NA
- Year Drilled: NA
- Casing Diameter: 4 in.
- Elevations (msl = 0 ft.)
  - Water Level: NA ft.
  - Ground: 11 ft.
  - Bottom of Solid Casing: NA ft.
  - Bottom of Perforated: NA ft.
  - Bottom of Open Hole: -4 ft.
- Total Depth: 15 ft.
- Grouted Annulus Depth: NA ft.
- Pump Capacity: 20 gpm

1b. WELL: Meyer, Inc. #2 Well (Well No. 0354-02) Kapuaokoolau, Molokai, TMK:5-5-1:11

- Location: NA
- Year Drilled: 1975
- Casing Diameter: 4 in.
- Elevations (msl = 0 ft.)
  - Water Level: 2.7 ft.
  - Ground: 11 ft.
  - Bottom of Solid Casing: NA ft.
  - Bottom of Perforated: -11 ft.
  - Bottom of Open Hole: -16 ft.
- Total Depth: 15 ft.
- Grouted Annulus Depth: NA ft.
- Pump Capacity: NA gpm

1c. WELL: Meyer, Inc. #4 Well (Well No. 0354-04) Kapuaokoolau, Molokai, TMK:5-5-1:12

- Location: NA
- Year Drilled: NA
- Casing Diameter: 4 in.
- Elevations (msl = 0 ft.)
  - Water Level: NA ft.
  - Ground: NA ft.
  - Bottom of Solid Casing: NA ft.
  - Bottom of Perforated: NA ft.
  - Bottom of Open Hole: 6.5 ft.
- Total Depth: NA ft.
- Grouted Annulus Depth: NA ft.
- Pump Capacity: NA gpm

2. WELL: Well #3 (Well No. 0354-03) Kapuaokoolau, Molokai, TMK:5-5-1:12

- Location: NA
- Year Drilled: NA
- Casing Diameter: NA in.
- Elevations (msl = 0 ft.)
  - Water Level: NA ft.
  - Ground: NA ft.
  - Bottom of Solid Casing: NA ft.
  - Bottom of Perforated: NA ft.
  - Bottom of Open Hole: NA ft.
- Total Depth: NA ft.
- Grouted Annulus Depth: NA ft.
- Pump Capacity: NA gpm

ATTACHMENT A
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Level:</td>
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<td>Bottom of Perforated:</td>
<td>NA ft.</td>
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<tr>
<td>Bottom of Open Hole:</td>
<td>-4 ft.</td>
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<tr>
<td>Total Depth:</td>
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<td>Grouted Annulus Depth:</td>
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</table>

Pump Capacity: NA gpm

3. WELL:  
Henry’s Well (Well No. 0354-05)  
Kapuaokoolau, Molokai, TMK:5-5-1:28  
NA  
NA in.

<table>
<thead>
<tr>
<th>Elevations (m.s.l = 0 ft.)</th>
<th>Value</th>
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<tbody>
<tr>
<td>Water Level:</td>
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<tr>
<td>Ground:</td>
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<tr>
<td>Total Depth:</td>
<td>5.5 ft.</td>
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<tr>
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</table>

Pump Capacity: NA gpm

Use Information

1a. Quantity Requested: 100,000 gallons per day.  
Existing Type of Water Use: Domestic use for 5 residences and irrigation of 15.5 acres of various fruit trees  
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11,12,28  
Reported Water Usage: NA gpd  
Nearby Similar Water Usage: NA gpd

1b. Quantity Requested: 200,000 gallons per day.  
Existing Type of Water Use: Industrial use at rock and cinder quarry  
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:11  
Reported Water Usage: NA gpd  
Nearby Similar Water Usage: NA gpd

1c. Quantity Requested: 10,000 gallons per day.  
Existing Type of Water Use: Domestic use for 1 residences and irrigation of 2.71 acres of heliconias, coconut and ti  
Reported Water Usage: NA gpd  
Nearby Similar Water Usage: NA gpd

ATTACHMENT A
Chairperson and Members
Commission on Water Resource Management

Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12

Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

2. Quantity Requested: 5,000 gallons per day.
Existing Type of Water Use: Domestic use for 3 residences and irrigation of 5-acre tree orchard
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:12
Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

3. Quantity Requested: 30,000 gallons per day.
Existing Type of Water Use: Domestic use for 1 residence and irrigation of 5.32 acre of various fruit trees
Place of Water Use: Kapuaokoolau, Molokai at TMK: 5-5-1:28
Reported Water Usage: NA gpd
Nearby Similar Water Usage: NA gpd

Kawela Aquifer System
Current 12-Month Moving Average Withdrawal: 0.594 gpd (12% of SY)

Nearby Surrounding Wells and Other Registered Ground Water Use

There are 3 other wells within a mile of these wells (see Exhibit 2). Possibly all of these wells are currently in use. Information from the registration program indicates there are possibly 35 existing wells in the Kawela Aquifer System. The 1992 Draft of the Maui Water Use and Development Plan, Island of Molokai estimated that the existing withdrawals from the Kawela Aquifer System is 0.31 mgd as of 1990. The Final Report of the Molokai Working Group Estimated the actual use from the Kawela Aquifer System to be 0.76 mgd.

Public Notice

In accordance with HAR §13-171-17, a public notice was published in the Star-Bulletin on the dates indicated in Exhibit 1 and copies of the notice were sent to the Mayor's office and the Board of Water Supply. Additional notice copies were sent to the County Council and Department of Water Supply. Copies of the completed application were sent to the Department of Health, Department of Hawaiian Home Lands, Office of Hawaiian Affairs, Aquatic Resources & Historic Preservation Divisions of the Department of Land and Natural Resources, and other interested parties for comments. Written comments and objections to the proposed permit were to be submitted to the Commission by the dates indicated on Exhibit 1.

Objections

The public notice specifies that an objector meet the following requirements: (1) state property or other interest in the matter; (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; (3) state all grounds for objections to the proposed permits, (4) provide a copy of the objection letter(s) to the applicant, and (5) submit objections meeting the previous requirements to the Commission by the dates indicated on Exhibit 1.

To the best of staff's knowledge there are no objectors who have property interest within the Kawela Aquifer System or who will be directly and immediately affected by the proposed water use. All objections and/or comments to the application are summarized in the Analysis and Issues section.

ATTACHMENT A
Chairperson and Members
Commission on Water Resource Management

April 14, 1994

Briefs in Support

Responses to objections, or briefs in support, regarding the application are required to be filed with the Commission ten (10) days after an objection is filed and, presumably, copies are served to the applicant. Eleven briefs in support were filed with the Commission.

Field Investigation

The water sources and existing uses were investigated on the dates indicated on Exhibit 1. The investigation(s) verified the applicants existing sources and proposed use sites.

ATTACHMENT A
STANDARD WATER USE PERMIT CONDITIONS

1. The ground water described in the water use permit may only be taken from the location
described, used for the reasonable-beneficial use described, and at the location described
above and in the attachments. Reasonable-beneficial use means "the use of water in such
a quantity as is necessary for economic and efficient utilization, for a purpose, and in a
manner which is not wasteful and is both reasonable and consistent with the state and
county land use plans and the public interest." (HAR §13-171-2).

2. The right to use ground water is a shared use right.

3. The water use must at all times meet the requirements set forth in HAR §13-171-13
which means that it:
   a. Can be accommodated with the available water source;
   b. Is a reasonable-beneficial use as defined in section §13-171-2;
   c. Will not interfere with any existing legal use of water;
   d. Is consistent with the public interest;
   e. Is consistent with state and county general plans and land use designations;
   f. Is consistent with county land use plans and policies; and
   g. Will not interfere with the rights of the Department of Hawaiian Home Lands as
      provided in section 221 of the Hawaiian Homes Commission Act and 174C-
      101(a), HRS.

4. The ground water use approved must not interfere with surface or ground water rights or
   reservations.

5. The ground water use approved must not interfere with interim or permanent instream
   flow standards or policies as determined by the Commission. If it does, then:
   a. A separate water use permit for surface water must be obtained in the case an area
      is also designated as a surface water management area;
   b. The interim or permanent instream flow standard, as applicable, must be
      amended.

6. The water use permit is subject to the requirements of the Hawaiian Homes Commission
   Act, as amended, if applicable.

7. The water use permit application and staff submittal approved by the Commission at its
   April 14, 1994 meeting are incorporated into the permit by reference.

8. Any modification of the permit terms, conditions, or uses can only be made with the
   express written consent of the Commission on Water Resource Management.

9. The water use permit may be modified by the Commission and the amount of water
   initially granted to the permittee may be reduced if the Commission determines it is
   necessary to:
      a. Protect water sources in quantity, quality, or both;
      b. Meet other legal obligations including other correlative rights;
      c. Insure adequate conservation measures;
      d. Require efficiency of water uses;
      e. Reserve water for future uses, provided that all legal existing uses of water as of
         June 1987, shall be protected;
      f. Meet legal obligations to the Department of Hawaiian Homes, if applicable; or
      g. Carry out such other necessary and proper exercise of the State's and the
         Commission's police powers under law as may be required.
      
      Prior to any reduction, the Commission shall give notice of its proposed action to
      the permittee and provide the permittee an opportunity to be heard.

10. If the ground water source does not presently exist, the new well shall be completed, i.e.
    able to withdraw water for the proposed use on a regular basis, within twenty-four (24)

ATTACHMENT B
Chairperson and Members  
Commission on Water Resource Management  
April 14, 1994

months from the date the water use permit is approved.

11. An approved flowmeter(s) must be installed to measure withdrawals and a monthly record of withdrawals, water-levels, salinity, and temperature must be kept and reported to the Commission on a yearly basis in accordance the Commission’s September 16, 1992 action on reporting requirements;

12. The water use permit shall be subject to the Commission’s periodic review of the applicable aquifer’s sustainable yield. The amount of ground water use authorized by the permit may be reduced by the Commission if the sustainable yield of the Kawela Aquifer System, or relevant modified aquifer, is reduced;

13. The water use permit may not be transferred or the use rights granted by this permit sold or in any other way alienated. Pursuant to HAR §13-171-25 and the requirements of Chapter 174C, the Commission has the authority to allow the transfer of the permit and the use rights granted by the permit in a manner consistent with HAR §13-171-25. Any such transfer shall only occur with the Commission’s prior express written approval. Any sale, assignment, lease, alienation, or other transfer of any interest in this permit shall be void.

14. The use(s) authorized by law and by the water use permit do not constitute ownership rights.

15. The permittee shall comply with all applicable laws, rules, ordinances, and other agencies’ permits and conditions pertaining to water use or the water resource.

16. The permittee shall prepare and submit a water shortage plan within 30 days of issuance of the permit to assist the Commission in fulfilling HAR §13-171-42(c). The permittee’s water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the Kawela Ground Water Management Area.

17. The water use permit granted shall be an interim water use permit, pursuant to HAR §13-171-21. The final determination of the water use quantity shall be made within five years of the filing of the application to continue the existing use.

18. The water use permit shall be issued only after AG review.

19. The water use permit shall be subject to the Commission’s establishment of instream standards and policies to Stream Protection and Management (SPAM), as well as legislative mandates to protect stream resources.

ATTACHMENT B
<table>
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<th>WAIPA NO</th>
<th>APPLICANT</th>
<th>WELL NO</th>
<th>WELL NAME</th>
<th>EXIST</th>
<th>PROPOSED</th>
<th>RECEIVED</th>
<th>ACKNOLEDGED</th>
<th>ACCEPTED</th>
<th>PUBLIC 1 NOTICE</th>
<th>PUBLIC 2 NOTICE</th>
<th>OBJECTION DEADLINE</th>
<th>SUSPENSE</th>
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<tr>
<td></td>
<td>ISLAND OF MOLOKAI</td>
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<td>Aquifer System: KAWELA</td>
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<td>5 Applications Totaling 0.345</td>
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MOLOKAI HAS 5 Applications Totaling 0.345

STATEWIDE THERE ARE 5 APPLICATIONS TOTALING 0.345
REGULATION
Commission on Water Resource Management

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<td></td>
<td>See Me</td>
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<td></td>
<td></td>
<td>Call</td>
<td>- 7 residences are not charged</td>
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<td>Review &amp; Comment</td>
<td>for water.  Is exempt</td>
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<td>Take Action</td>
<td>- Orchard consists of various</td>
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<td>Investigate &amp; Report</td>
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<td>Acknowledge Receipt</td>
<td>- 15 acres are in pastime</td>
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<td>Type Final</td>
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<tr>
<td>Approval</td>
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<tr>
<td>Signature</td>
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<td>Information</td>
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Note, please check to see if Henry's well 0354-03 is same as new well # too. Has well # 0354-05.
State of Hawai‘i-DLNR
Commission on Water Resource Management
ATTN: Keith Ahue
P.O. Box 621
Honolulu, Hawai‘i 96809

November 24, 1993

Dear Mr. Ahue,

My name is Wayne Meyer, and I’m the president of T.T. Meyer, Inc. (I’m the same Wayne Meyer who sits on the Molokai Working Group on Water, convened by the Commission on Water Resource Management). I have lived on Molokai all my life, except for four years away at Kamehameha Schools and three years in Vietnam with the U.S. Army.

T.T. Meyer, Inc. was formed in 1970. The corporation’s approximately 600 acres were used to raise cattle.

Theodore Thomas Meyer served as County Supervisor and dug his own well in the early 1900’s. This is the Number 1 Well. It serves five homes. Edith B. Meyer wanted to give their thirteen grandchildren each a half-acre lot. But, because there are no county or state water lines, the subdivision could not be approved. Without county water lines it is impossible to get building permits. (I heard people complaining at the November 17th CWRM meeting here on Molokai that they didn’t have enough water. We at T.T. Meyer, Inc. have a worse complaint: we are Hawaiian people with land and can’t do anything with it because we have no water lines.)

In 1972, T.T. Meyer, Inc. opened a 25-acre cinder and rock quarry with Vernon Funn. Well Number 2 was drilled by Red Sam Drilling Company for the sole purpose of obtaining water for dust control and the quarry operations.

T.T. Meyer Well Number 3 is used by Lloyd West for the tree orchard he has planted. I had given Lloyd the papers to file to sign up, declare, his water use.

Well Number 4 is on T.T. Meyer, Inc. land leased by myself and my wife, Lorraine for a small 2.709 acre parcel for trees and heliconia flowers.

(con’d.)
All our life we have lived on Molokai pumping water from wells; first powered with windmills, then with gas pumps, finally with electricity. Our pump at Well Number 1 is running 24-hours-a-day, 365-days-a-year. We’re among the very few on Molokai who can say that and prove it.

I simply ask the Commission to consider our difficult situation and treat it differently than they would address the issue for more fortunate Molokai residents who at least have the capability of obtaining water from alternative government-provided wells and lines. Please approve our requested uses.

Thank you for your attention to these concerns.

Sincerely,

D. Wayne Meyer, Sr.
State of Hawai‘i-DLNR
Commission on Water Resource Management
ATTN: Keith Ahue
P.O. Box 621
Honolulu, Hawai‘i 96809

November 24, 1993

Dear Mr. Ahue,

This letter is in support of the Commission's favorable action on the application for water use from Henry's Well.

This well provides water for a small farm consisting of 5.34 acres. At present, there are some fruit trees including citrus, mango, guava, there's a coconut grove as well as breadfruit trees, ti leaf plants and noni (used for medicinal purposes). Henry also planted taro, sweet potato, watercress, un choy and bananas. He also raised chickens, pigs, goats, and cattle for home consumption.

Henry's property is not served by the Maui County Water System. There is a gap in the pipeline from Kawela to Kamalo.

As in the situation with T.T. Meyer, Inc. Wells applications, I ask the Commission to consider our difficult situation and treat it differently than they would address the issue for more fortunate Molokai residents who at least have the capability of obtaining water from alternative government-provided wells and lines. We are Hawaiians who need the water in order to live on the property left to us by our grandparents. Please approve our requested uses.

Thank you for your attention to these concerns.

Sincerely,

D. Wayne Meyer, Sr.

D. Wayne Meyer, Sr.
State of Hawaii  
Department of Land & Natural Resources  
Commission on Water Resource Management  
P. O. Box 621  
Honolulu, Hawai'i 96809  

ATTN: Rae Loui and Keith Ahu'e  

Dear Sirs:  

In view of what transpired at the last meeting held on  
Moloka'i on November 17, 1993, I would like to point out that we  
have no other source of water except our well at Kapua'okoolau,  
Molokai.  

Although the County of Maui have pipelines on the east and  
west of us, no pipelines were installed in our area of four (4)  
miles. It seems that the 4-mile strip between the pipelines  
simply do no exist, and therefore we had no other alternative but  
to pump and supply our own water.  

My grandfather Theodore T. Meyer, Sr. was a Supervisor for  
the County of Maui many years ago and I've lived here all of my  
life--and we never had the luxury of county water.  

Those individuals in Kawela are fortunate to have both  
county water and well water available to them. Are we to be  
penalized just because they may be denied the use of their well  
water? Are we to be denied the use of our well when we have no  
other water source available? I hope not!  

We are a Kama'aina family...and Hawaiian at that too! It is  
my right to use this water to exist! I pay taxes like everyone  
else and if we are to be denied the right to use our well water,  
then are you, the Department, or the State of Hawai'i willing and  
financially able to truck water to us daily?  

I hope that the Commission collectively will be able to com-  
to an intelligent and satisfactory decision on this matter. I  
not, then we will proceed through legal channels.  

Sincerely,  

Jeanette Meyer Silva  

cc: File  
Attorney
P. O. Box 35
Kaunakakai, HI 96748

November 24, 1993

Mr. Rae Loui
State of Hawaii - DLNR
Commission on Water Resource Management
P. O. Box 21
Honolulu, Hawaii 96809

Dear Mr. Loui:

As a lifelong resident of Kapuaokoolau, Molokai, I am writing to you in reference to the wells situated on T.T. Meyer, Inc. property.

Many years ago, my grandfather dug a well and used the water for family consumption, bathing, and laundering needs. The water was also used for farming requirements. As the years went by, a request was made to the County of Maui to connect Kawela pipelines to Kamalo pipelines (which come from Ualapue) in which case residents between these areas would have had water from the county. The county responded unfavorably, stating that we run the pipelines to connect the two areas and afterwards dedicate this to the county. Needless to mention, the cost factor was outrageous and residents definitely could not afford such a request. However, over the years the feeling of being discriminated against never left our minds as we felt, and still feel, that as tax payers, citizens, kamaaina to Molokai, we rightfully deserved the same benefits others are receiving.

My point, we need our wells because we have no other means of water being supplied to us. This well has, over the years, given "life" to other family members who built in this little "ohana" community. Family members will be returning to Kapuaokoolau in the very near future and, again, I emphasize we need to continue the use of our wells.

Won't you please consider this request?

Sincerely,

Haunani Meyer

c: Keith Ahue
Ms. Rae Loui  
State of Hawaii, DLNR  
Commission on Water Resource Mgmt.  
P.O. Box 21  
Honolulu, HI 96809  

Dear Ms. Loui:  

I am writing regarding the water wells on the T.T. Meyer property at Kapuaokoolau, Molokai.

The first water well was dug by my grandfather, Theodore T. Meyer, in 1928. This well became the only source of water for his property. It was the sole source of water for the family home. This well provided water for drinking, bathing, washing, irrigation and provided water to his livestock. It was necessary to have this well since the County of Maui did not provide any water to this area.

In 1941, my father Otto S. Meyer, was given a portion of the family land where he built our family home. The same well supplied water to our home for drinking, bathing, washing, irrigation and also provided water to our livestock.

Today, this same well is used by five households since Maui County still does not provide water to the area between Kawela and Kamaʻo.

A second well was dug about ten years ago to provide water for a Cinder Quarry on our property. The water from this well is used to control dust pollution, watering of plants for landscaping and supplies water to the wash plant for the gravel that is mined.

More than forty years ago, our family requested that Maui County consider providing our family with County water. The County water source stops approximately 2 1/2 miles west of our property and 2 1/2 miles east of our property. Maui County's response to our request was that if the Meyer family could put up $60,000 to lay the pipe line, the County would
provide the water. Upon completion of this project, the Meyer Family would then have to dedicate the water line to Maui County. This meant that whoever built or became owners of property with in this five-mile range could hook up to the water line and would be required only to pay the normal charges. The Meyer family could not come up with this amount of money nor would we agree to such an unfair request.

As the population of Molokai grows, so does the use of water grow. I personally feel that if this five miles of land without county water could somehow be hooked together it would benefit not only the T.T. Meyer family, but other Molokai residents. If the Ualapue pump were to become disfunctional, the Kawela pump could provide water to the residents that draw water from the Ualapue pump. And therefore, the same would go for the Kawela pump.

I will retire in three years from the State of Hawaii and will make Molokai my home once again. My parents are both in ailing health and I plan to reside in Kapuaokoolau. Many of my family members would also like to someday return to Kapuaokoolau. If Maui County cannot provide water to this area then we most certainly need our family wells.

The Meyer family are all United State citizens who pay taxes like every other U.S. citizen. We are also residents of Hawaii and of Hawaiian blood. I do feel that if Maui County will not provide water to this area then why should we be denied the use of water from the wells on our own property?

Please take my letter into consideration when your department acts on water rights in Kapuaokoolau, Molokai.

Thank you for your time and I hope your decision will be based on fairness to our family who has been drawing water from this source for more than 60 years.

Sincerely,

[Signature]

(Mrs.) Ottina Meyer Paoa

cc: Keith Ahue
P.O. Box 35  
Kaunakakai, Molokai  
Nov. 19, 1993

State of Hawaii  
Dept. of Land and  
Natural Resources  
Commission on Water Resource Management  
P.O. Box 21  
Honolulu, Hawaii 96809

Gentlemen:

My name is Otto S. Meyer a life-long resident of Molokai. My letter is in regards to the water wells on our property in Kapuaokoolau, Molokai. I am one of the surviving children of Theodore and Edith Meyer original owners of this property.

My father purchased this property more than 60 years ago and established his family residence and ranch. My father had to dig a water well so that water could be provided for family use in our daily needs. He also needed water to irrigate his crops and to provide water to his livestock. His livestock and crops was his source of income to support his family.

He petitioned the County of Maui for water to his property but was denied several times. When his children married and started to raise their own families, property was given to them to build homes on. Again, the county was asked to provide water to our properties and we were denied.

My brother Henry and I then became the spokesmen for our families, attending numerous water board meetings, writing numerous letters and speaking on our behalf to many Maui County Officials. This was all in vain, as here it is 1993 and we still do not have county water.

When we first started seeking county water for our property, we were told to pay forth $60,000 for the pipes and the county would then give us the water. However, once we did this, the county requested that we dedicate this same water line which we paid $60,000 back to Maui County. We could not and would not raise this kind of money as we are citizens and residents who have paid more than our share of taxes into this government.
Our family property now has a Cinder Quarry and a second well was dug by the Contractor to provide water for the wash plant, dust control and irrigation of vegetation.

My brother Henry and I raised our children in Kapuaokoolau as did my sister Hannah. Our parents' wish was to provide a parcel of property for their 13 grandchildren so that each could someday return to Kapuaokoolau, set up residency and carry on their legacy.

I am now 82 years old and although I may never live to see County Water provided to our family property, I would like to leave this world knowing that my children, grandchildren and great grandchildren can return to Kapuaokoolau someday and continue my father's legacy and my own personal dreams. If our water wells are ordered closed, my efforts would have all been in vain.

I have always done my share as a citizen and resident of Molokai. During my time, I got involved with many community activities and I feel have done my Island community well. After all these years, I cannot see or understand why we may be denied water from our own property.

Thank you for your time.

Otto S. Meyer
Landowner
P.O. Box 35  
Kaunakakai, Molokai  
Nov. 19, 1993  

State of Hawaii  
Dept. of Land and  
Natural Resources  
Commission on Water Resource Management  
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Thank you for your time.

Otto S. Meyer
Landowner
Gave to Kay 8/18/93
(3) Well 0354-03 (Kamalo-TT Meyer #3):

1. **Source:** A dug well with a rectangular cross section 8 feet by 14 feet. Total depth 17 feet with 14 feet of water. Water is withdrawn using a 2 hp electric motor with a 1-1/2 inch diameter PVC inlet and outlet pipe. The capacity of the pump could not be verified in the field.

2. **Use:** The water is used to provide domestic water for one home, with a total of 3 people; irrigation of 3 acres of fruit trees and ornamentals; and water for 4 horses and 4 pigs. There is no county water in this portion of the island.

3. **Quantity:** The quantity used is not being measured.

4. **Location:** Source and use, TMK: 5-5-1:12

   Using the GPS: latitude = 21 deg 03 min 37.5 sec N
   (Source location) longitude = 156 deg 54 min 36.0 sec W

5. **Ownership:** Land owned by declarant, T.T. Meyer, Inc. and leased to Mr. Lloyd West.

6. This well will be assigned well index number 0354-03 (Kamalo-TT Meyer #3).

7. **Chloride Concentration:** 465 ppm chlorides for a water sample taken from a hose bibb.

8. Mr. West requested that a copy of the field report be sent to:
   
   Mr. Lloyd West
   P.O. Box 707
   Kaunakakai, Hawaii 96748
FIELD INSPECTION INFORMATION CHECK

PART I: USE OF WATER

1. Tax Map Key where the water is used: 5-5-1:12. Does the declarant own this land? Yes. If not, who does?

2. What is the water used for? Domestic and Irrigation Use
   If for irrigation, how many acres are being irrigated by crop type?
   Types of crops include: 1. Wheat, 2. Corn, 3. Soybeans, 4. Other. (Declarations cannot be traced to a single well or diversions)
   If for livestock, how many and what kind? 4 horses and 4 pigs
   If for drinking, at how many houses? 1 house by how many people?

3. Is the quantity of water use being measured? No. If yes, document the location of the measurement point and method of measurement; also get use records if these were not submitted previously.

4. If this person takes from a multi-user pipe or ditch system:
   How is the water taken from the system?
   What is the capacity for taking (gpm)?
   How often is it taken (used)? (New)

PART II: WATER SOURCE

Source #: 0354-03 Name: KEMP 10-11 M

1. Where does the water come from / what kind of source is this? Drill Well, 8 ft
   1) Wells (drilled, dug, tunnel)
   2) Diversions (ditch, pipe, pump, or livestock from a stream, spring, swamp, pond)
   3) Multi-source systems. (Declarations cannot be traced to a single well or diversions)
   4) Instream (i.e., crops planted along water edge)

2. Show the source location on maps, determine latitude and longitude, and document nature of source development by measurements, sketches, and photographs. How water taken? BP: LST-21°02'57.5"N, LON-107°54'32.0"W
   What is the capacity for taking (gpm)? 1,000,000 gallons, 1 HP Electric.
   How often is it taken (used)? Daily.

3. Tax Map Key at the source: 5-5-1:12. Determine declarant’s relationship to source. Does the declarant:
   1) Operate and maintain the source? No. If not, who does? Lloyd West
   2) Own the land at the source? Yes. If not, who does?
   3) Use the water from this source? Yes. If not, who does? Less
   4) Own the land where the water is being used? Yes
   5) None of the above? If so, why did they file?

4. Does any one else also use water from this source? No. If yes, is their in this user’s declaration? Who are the other users? Did they file?

VERIFIED BY: Sterling Chin DATE: 11-23

* MP. WEST REQUEST COPY OF FIELD REPORT
* WATER S.
* P.O. BOX 707
* 3017 N. 16TH
* KANSAS CITY, KS 66101
* 913-307-3548