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

Gentlemen:

Water Use Permit Applications
Koolauloa Ground Water Management Area, Oahu

Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707

Amor Ikko (4157-09), Amor Pact 1 (4258-12), Amor Pact 2 (4258-13), Amor RCA 1 (4258-08), Amor RCA 2 (4258-14), Haw Mar Ent Clam (4157-10), Haw Mar Ent Ogo (4157-08), Kahuku Airbase (4158-12&13), Kawanakanoa (4056-01), Malaekahana (3956-01), Pacific Sea 2 (4257-01), Pacific Sea 3 (4257-02), Palmer Golf Course (4100-01), Pump 1 (4057-01), Pump 2 (4159-01), Pump 6 (3957-07), Pump 8 (4057-06), Pump 12 (4057-01), Pump 12-A (4057-10), Pump 15 (4157-04), Punamanao (4159-02), Sugar Mill Pump (4057-11), T. Astro (4258-05), USFW 1 (4157-05), USFW 2 (4157-06), USFW 3 (4157-07)

Honolulu Board of Water Supply
630 S. Beretania St.
Honolulu, HI 96843

Hauula (3655-01), Kahunua Battery (4057-15,16), Kaluanui (3554-04,05), Punaluu I (3553-02), Punaluu II (3553-03,04,06,07,08), Punaluu III (3453-06,07), Waialee I (4101-07), Waialee II (4101-08),

Hanohano Enterprises, Inc.
53-594 Kam Hwy.
Hauula, HI 96717
(Well No. 3553-01)

George N. Nihipali, Jr.
P.O. Box 217
Hauula, HI 96717
(Well No. 3855-12)

Jacob I. Kaio, Sr.
1519 Nehoa St. Apt. 105
Honolulu, HI 96822
(Well No. 3956-07)
Background

The Commission designated Windward Oahu and its corresponding aquifer systems as water management areas on May 5, 1992. All registered ground water users were notified of the official designation date of July 15, 1992, on which the Commission would begin to accept applications for existing water use permits. All water use permit applications in the Koolauloa Ground Water Management Area submitted to the Commission to date are shown in Exhibit 1. Existing water use permits in the management area are shown in Exhibit 2. Other specific information regarding the source, use, objections, and field investigation(s) are described in Attachment A and the other attached exhibits. Exhibit 5 shows well locations and reported pumpage information indexed by well number.

Analysis & Issues

Overall Koolauloa Ground Water Management Area Conditions

The major issue in the Koolauloa Ground Water Management Area is the appearance of an overallocation situation given the number of water use permit applications for existing uses (Exhibit 1). The sustainable yield of the Koolauloa Aquifer System is 35 million gallons per day (mgd) but as of November 29, 1993 Exhibit 1 shows a total demand of 67.433 mgd. However, of the total requested amount, 33.256 mgd is a more reasonable estimate of the requested existing demands on the aquifer and is calculated according to Table 1 as follows:

TABLE 1. Calculation for Reasonable Estimate of Existing Uses

<table>
<thead>
<tr>
<th>Quantity (mgd)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>67.433</td>
<td>Total applications submitted (Exhibit 1).</td>
</tr>
<tr>
<td>+0.323</td>
<td>Total existing water use permits (Exhibit 2).</td>
</tr>
<tr>
<td>-1.000</td>
<td>Future use for BWS Kipapau Well No. 3655-03.</td>
</tr>
<tr>
<td>-33.500</td>
<td>Applications for salt water wells (limited effect on aquifer).</td>
</tr>
<tr>
<td>33.256</td>
<td>Reasonable estimate of existing aquifer uses from applications</td>
</tr>
</tbody>
</table>

From this analysis, the overallocation situation does not appear to be factual. The 33.256 mgd estimate is within the area's estimated sustainable yield of 35 mgd. Additionally, the majority of applicants, Campbell Estate (CE) and Honolulu Board of Water Supply (BWS), have requested pump capacities rather than the actual 12 month moving average (12-MAV). The 1992 draft of the Oahu Water Management Plan (OWMP) estimated 1990 average actual use to be 13.6 mgd which would be well within the system's sustainable yield. Staff has updated this actual use estimate with the 12-month moving average, as of September 1993, at approximately 4 mgd based on water use reports submitted to the Commission. A significant amount of pumpage is not reported at this time, much of it salt water, but staff is making efforts to have all active well owners comply.

The Native Hawaiian Advisory Council (NHAC) has requested an extended review period for all applications in this water management area and other aquifer systems (see Attachment C). Subsequent to this request, NHAC has submitted objections and declared that they represent at least thirteen (13) individuals throughout the Windward Side of Oahu (See Attachment D). The objections relate to the overall procedures of regulating water use through the existing water use permit process specified under §13-171, HAR. While staff realizes that the rules and code can be interpreted in many ways it will continue to process
the applications in accordance with §13-171, HAR while being cognizant of general policies established through past Commission actions. NHAC has reserved the right to submit specific objections with the list of identified people NHAC represents at a later date. As such, no public hearing seems necessary at this time with regard to this objection.

Given the overall situation of the management area, staff sees no reason to delay action on the existing uses provides the following analysis for applications scheduled for action.

1. **CAMPBELL ESTATE (CE) EXISTING USES** - There are twenty-six (26) applications from CE in this management area for twenty-eight (28) wells. A number of different entities are using water but CE has come in as the applicant since they are the landowner. Wells which have been field verified as pumping salt water for various uses are listed in Table 2 as follows:

<table>
<thead>
<tr>
<th>Operator</th>
<th>Well No.</th>
<th>Requested mgd</th>
<th>Current 12-MAV mgd</th>
<th>Recommended Action+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaiian Marine Enterprises</td>
<td>4157-08</td>
<td>3.000</td>
<td>*0.433</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient Ikko</td>
<td>4157-09</td>
<td>7.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Hawaiian Marine Enterprises</td>
<td>4157-10</td>
<td>3.000</td>
<td>*0.144</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>Pacific Sea Farms</td>
<td>4257-01</td>
<td>5.200</td>
<td>No reports</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>Pacific Sea Farms</td>
<td>4257-02</td>
<td>3.700</td>
<td>No reports</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>T. Astro</td>
<td>4258-05</td>
<td>5.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient RCA 1</td>
<td>4258-08</td>
<td>0.300</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient PACT 1</td>
<td>4258-12</td>
<td>3.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient PACT 2</td>
<td>4258-13</td>
<td>3.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient RCA 1</td>
<td>4258-14</td>
<td>0.300</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
</tbody>
</table>

* Note: Only 1 month of data supplied to Commission but verified through field investigation.
+ Note: based on recommendations of Aquacultural Development Program

The major issue with the salt-water applications listed in Table 2 is that actual use data is effectively non-existent. The applicant has indicated that they are compiling historic pumpage information but has not submitted any to date which is understandable since none of the wells in Table 2 were found to have any flow meters. Although staff believes that the salt water wells have a very limited effect on the freshwater portions of the aquifer (otherwise they would be brackish) these uses need to be permitted. Although it may be of questionable value to measure seawater pumpage, staff feels that accurate data may prove beneficial in the future. During staff review it became evident that the standard listed in the OWMP for aquaculture (36,000 gpd/acre) would not be appropriate for the uses listed based on acreage, especially since these uses are large scale. Additionally, the concern of discharge of the effluent is under review, but is being monitored by the Department of Health (DOH). Staff has been consulting with the State Aquacultural Development Program (ADP) as they are more experienced with aquaculture of this magnitude. ADP will be making recommendations to staff prior to the Commission meeting about reasonable amounts of salt water needed for these applications and the necessary measures taken to manage effluent discharges.
Additionally, the Mayor commented that the well(s) for Hawaiian Marine Enterprises (4157-10) and Pacific Sea Farms (4257-01&02) have been determined to reside in Special Management Areas (SMA), which would require SMA permitting. The Mayor asked that these applications be deferred until a SMA determination from DLU is completed.

Field verified wells for CE pumping non-salt water for various uses are listed in Table 3 as follows:

<table>
<thead>
<tr>
<th>Operator</th>
<th>Well No.</th>
<th>Requested md</th>
<th>Current 12-MAV md</th>
<th>Recommended Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malaekahana Domestic System</td>
<td>3956-01</td>
<td>0.100</td>
<td>0.042</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Gunstock &amp; Puu Paina Ranch</td>
<td>3957-07</td>
<td>0.100</td>
<td>0.066</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Kawananako Ranch</td>
<td>4056-01</td>
<td>1.000</td>
<td>+ 0.576</td>
<td>Approve 400,000 gpd est.</td>
</tr>
<tr>
<td>Kahuku Farmers Assoc.</td>
<td>4057-01</td>
<td>1.500</td>
<td>0.307</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Turf Farm &amp; Kahuku School</td>
<td>4057-06</td>
<td>0.500</td>
<td>0.030</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Soukaseum &amp; Matsuda</td>
<td>4057-07</td>
<td>2.000</td>
<td>0.109</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Kahuku Prawn Farm</td>
<td>4057-10</td>
<td>1.500</td>
<td>+ + 0.900</td>
<td>Approve 900,000 gpd est.</td>
</tr>
<tr>
<td>Sugar Mill Pump</td>
<td>4057-11</td>
<td>0.500</td>
<td>0.028</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Palmer Golf Course</td>
<td>4100-01</td>
<td>0.800</td>
<td>0.206</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Amorent &amp; US Army</td>
<td>4157-04</td>
<td>1.530</td>
<td>+ 1.517</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-05</td>
<td>0.082</td>
<td>0.082</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-06</td>
<td>0.106</td>
<td>0.106</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-07</td>
<td>0.107</td>
<td>0.107</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Army, Airbase</td>
<td>4158-12&amp;13</td>
<td>0.500</td>
<td>0.103</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Vietnamese Farmers</td>
<td>4159-01</td>
<td>3.000</td>
<td>0.814</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Army</td>
<td>4159-02</td>
<td>1.500</td>
<td>0.001</td>
<td>Approve existing 12-MAV</td>
</tr>
</tbody>
</table>

+ Note: unmetered estimate by applicant.
++ Note: unmetered estimate by staff of existing use on 5/21/93.

The non-salt water requests and their specific issues are as follows (refer to Exhibit 5 for location and use information):

a. **Malaekahana Domestic System (Well No. 3956-01)** - The well site was inspected and verified on May 21, 1993. It is designated by the DOH as "Community Water System 316" and is monitored monthly for quality by DOH. The system services approximately 100 individuals; for the Malaekahana State Park 33 homes, and potable needs of Kawananaoko's Ranch.

   The first issue is that there are possibly six (6) active well users within a mile radius of this well. Only one (1) is downgradient and is also owned by the applicant, but no water use permit application has been submitted. The other five (5) have applied for water use permits and are pending in this submittal. Considering the applicant’s well has been in use
since 1975 and are so near to the ocean, any adverse impacts would already be in evidence. No downgradient user or other has filed an objection to this application.

The second issue is that the applicant’s request for 0.100 mgd is more than the existing use. The source is metered and the current 12-MAV is approximately 0.042 mgd based on almost two (2) years worth of data (See Exhibit 5). Additionally, 0.042 mgd seems rather high for the domestic needs based on county standards that 33 homes would require approximately 16,500 gpd plus the need of the transient people at the park and the ranchs potable needs. One explanation is that the transient number of people using the park varies greatly. Finally, the OWMP estimated 1990 average use at 0.50 mgd. Staff is unsure why this amount is so high compared to figures provided directly to the Commission but prefers to use the lower reported values.

b. GUNSTOCK AND PUU PA‘INA RANCHES (Well No. 3957-07) - The well site was inspected and verified on May 21 and October 28, 1993.

The first issue is that there are possibly three (3) active wells within a mile radius of this well. One is a privately owned source which has not come in for a water use permit and two (2) others are also owned by the applicant, both of which have water use permit applications pending in this submittal. Considering the applicant’s well has been in use since 1937 and the use is small (approximately 6,200 gpd), any adverse impacts would already be in evidence. No downgradient user has filed an objection to this application.

The second issue is that the applicant’s request for 0.100 mgd is more than the existing use. The source is metered and the current 12-MAV is approximately 6,200 gpd based on a year’s worth of data (See Exhibit 5). Apparently, this is enough to satisfy the applicant’s irrigation needs for 110 acres of pasture and about 240 head of livestock. From the OWMP, 110 acres of pasture would normally require an estimate of 0.044 mgd but the area is in a wet area of the island. The OWMP did not estimate the use from this well.

c. KAWANANAKOA RANCH (Well No. 4056-01) - The well site was inspected and verified on October 8, 1990. Telephone contact on October 5, 1993 verified that the only change in use was a decrease from 80 to 64 livestock.

The first issue is that there are possibly five (5) active wells users within a mile radius of this well. None of these wells are downgradient. Four (4) out of the five (5) wells have submitted water use permit applications which are pending and addressed in this submittal. The other well is a privately owned source which has not come in for a water use permit. Considering the applicant’s well is so close to the ocean, any adverse impacts would already be in evidence. No objections have been filed for this application.

The second issue is that the requested amount of 1.000 mgd is in excess of verified existing use. The field investigation verified use for 30-35 acres of pasture, 64 livestock, and 1/4 acre taro and watercress. Existing 12-MAV reported at 0.576 mgd but is not metered. The OWMP did not estimate use for this well. According to the OWMP the pasture and taro together would require approximately 0.141 mgd. Livestock and watercress are not mentioned in the OWMP but assuming 100 gpd/head of livestock and 1 mgd gpd/acre of watercress, this would boost the reasonable requirement to approximately 0.400 mgd. Considering that this is a wet area of the island, this estimated need should be more than adequate. The applicant has indicated that they will be increasing pasture acreage by 15 acres (0.060 mgd). The applicant may modify their permit when these additional fields are put into production.

d. PUMP 1 (Well No. 4057-01) - The well site was inspected and verified on October 8, 1990 and again on October 15, 1993. The first issue with this application is that neither the applicant nor staff can determine if the well is a single or battery of wells connected underground. Well nos. 4057-01, 02, 08, 13 & 14 have been registered by the Kahuku Farmers Association (KFA) but staff could not find any of them except this main source. It is suspected that the other wells are below the ground surface and may connect in battery the single well head found in the field. NHAC commented that these other wells in battery should be included in the application. Staff will continue to investigate the locations of the other wells under the registration program and amend the water use permit if necessary.
The second issue is that there are possibly five (5) active wells users within a mile radius of this well. None of these wells are downgradient. Four (4) out of the five (5) wells have submitted water use permit applications which are pending and addressed in this submittal. The other is a privately owned source which has not come in for a water use permit. Considering the applicant’s well is so close to the ocean and has been in use for some time, adverse impacts, if any, would already be in evidence. No objections have been filed for this application but NHAC has commented that the use affects Ki‘i National Wildlife Refuge, an unnamed stream, and water rights. This would be more appropriately addressed if future increases in use are requested since these may bring about new impacts.

The third issue is that the requested amount of 1.500 mgd is in excess of verified existing use. The field investigation verified well the is used by KFA. The Association consists of 8 farmers to irrigate 215 acres of bananas, papayas, corn, etc., which is basically diversified agriculture. According to the OWMP diversified agriculture for 215 acres would require approximately 1.700 mgd. However, the metered average use over the past two years has been consistent and the current 12-MAV is 0.307 mgd as of 9/93. Also, the OWMP estimated use from the KFA at 0.32 mgd in 1990. The mayor had commented that the existing use may be overstated and the actual metered use confirms this. NHAC commented that the applicant should also show infeasibility of using non-potable water sources. Although the Commission encourages the use of non-potable water for irrigation staff’s position is that this existing use is reasonable and within the area’s sustainable yield. Additionally, the type of non-potable water use over the basal source may put the potable quality of the area at risk.

A fourth issue is that a new State Ag Park use is not included in this figure but is a very near future use (early 1994). The State DOA is planning to open an additional 212 acres which will use an estimated 2 mgd for diversified agriculture. Pumps from the well to this project have already been tested but are not metered. Staff recommends that this future use come in with its own water use permit application.

e. **PUMP 8 (Well No. 4057-06)** - The well site was inspected on May 28, 1993.

The first issue is that there are possibly six (6) active wells within a mile radius of this well. Two (2) of the wells are offset but probably downgradient of well. Five (5) out of the six (6) wells have applied for water use permit. One is owned by a private individual who has not applied for water use permit. DAR had concerns about dewatering Malaekahana Stream with future increases but no objections were filed to this application.

The second issue is that the requested amount of 0.500 mgd is in excess of verified existing use. The Mayor commented that this application may be an overstated request. The field investigation found use by Southern Turf Nurseries for approximately 12 acres of turf. The source is metered and has a current 12-MAV of 0.030 mgd. The OWMP estimated 1990 use at 0.040 mgd and the OWMP estimates the need for 12 acres of turf to be 0.048 mgd. Therefore, actual metered use is lower than projected but reasonable considering use is on the wet windward side of the island.

The third issue is that Campbell Estate has an agreement with Kahuku High School to supply 0.100 mgd for irrigation. Currently, the State Department of Accounting and General Services (DAGS) is presently undergoing negotiations with CE for a water agreement. The well source is non-potable and the Kahuku Community Assoc. is having DAGs convert the high school irrigation to non-potable source. The school’s lawns have been irrigated by BWS service up to this point. The problem is that this use will increase pumpage from the aquifer, which qualifies it as a new use from the aquifer’s perspective. Given the concerns of DAR the Commission may wish to defer action on the future portion rather than deny this use at this time given the reasonableness of the new use for non-potable irrigation of a school lawn.

f. **PUMP 12 (Well No. 4057-07)** - The well site was inspected on March 15, 1991 and May 21, 1993.

The first issue is that there are possibly seven (7) active wells within a mile radius of this well. Five (5) out of the seven (7) have applied for a water use permit and one is a private owner who has not applied for a permit. The other is a well owned by the applicant. Four (4) of these wells are downgradient but all are owned by the applicant. No objections
by other ground water users have been filed. DAR had concerns about dewatering of Malaekahana Stream but no other comments.

The second issue is that the requested amount of 2.000 mgd is in excess of verified existing use. The Mayor commented that this application may be an overstated request. The inspection found two major users: 1) a co-op under Mr. U. Soukaseum which is 210 acres of bananas, papayas, beans, etc. and 2) 65 acres for Melvin Matsuda for watermelons. Metered 12-MAV as of September 1993 is 0.109 mgd. The OWMP estimated 1990 use at 0.040 mgd. According to the OWMP the specified uses should require about 1.4 mgd if fully developed. Therefore, the applicant’s request is too high.

The third issue is that NHAC commented that the applicant should show infeasibility of non-potable sources. Use will affect unnamed spring, unnamed stream, and water rights. Although the Commission encourages the use of non-potable water for irrigation, staff’s position is that this existing use is reasonable and within the area’s sustainable yield. Additionally, the type of non-potable water use over the basal source may be put the potable quality of the area at risk.

g. PUMP 12-A (Well No. 4057-10) - The well site was inspected on May 21, 1993. This well resides in the same location as Well No. 4057-07.

The first issue is that there are possibly seven (7) active wells within a mile radius of this well. Five (5) out of the seven (7) have applied for a water use permit, one is a private owner who has not applied for a permit, and the other is owned by the applicant. Four (4) of these wells are downgradient but all are owned by the applicant. No objections by other ground water users have been filed. DAR had concerns about dewatering of Malaekahana Stream but no other comments.

The second issue is that the requested amount of 1.500 mgd is may be in excess of the verified existing use. The Mayor commented that this application may be an overstated request. The field investigation found that the user, Kahuku Prawn Co., cultivates 25 acres of freshwater prawns and had recently signed a lease for an additional 23 acres. User was in the process of clearing the land for the future ponds. The well is not metered and reports are not submitted to the Commission. The applicant had indicated that they are asking the user to submit water use reports but they are not complying. The OWMP did not estimate 1990 use. According to the OWMP the existing 25 acres of aquaculture would require 0.900 mgd although staff would like to consider the input of ADP.

The third issue is that the user was actively doubling the existing use at the time of inspection. A total of 48 acres would require about 1.728 mgd for aquaculture. Given the facts that the user and applicant have known about the water reporting requirements, have chosen not to comply, and had actively pursued, by construction, increasing a significant portion of use during the establishment of existing uses, staff feels that this use should be considered a future use. As such, staff recommends the applicant submit another application for the 23 acres of aquaculture under future use.

h. SUGAR MILL PUMP (Well No. 4057-11) - The well site was inspected on May 21 & October 28, 1993.

The first issue with this application is that the well number assigned by the applicant is in error. There are five (5) wells within close proximity of each other and the original number assigned by the applicant was 4057-04. In staff’s judgement, the well identified by the applicant is 4057-11. Investigation verified 60 acres of truck farm use by Vietnamese tenants. Additionally, Well No. 4057-03 is used for 3 acres of turf irrigation and has not been applied for. The other three (3) wells in the area are not in use although one used to be for fire protection. NHAC commented that other wells in the sugar mill pump battery should be combined in application and put out for public notice. Staff’s field investigation shows that the applicants original application is only in well no. error and that the Well No. 4057-03 should also come in with a water use permit application separately or amend this original application.

The second issue is that there are possibly six (6) active wells users within a mile radius of this well. None of these wells are downgradient. Five (5) out of the six (6) wells have submitted water use permit applications which are pending and addressed in this submittal. The other well is a privately owned source which has not come in for a water use
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Commission on Water Resource Management  
December 8, 1993

permit. Considering the applicant's wells are close to the ocean, adverse impacts, if any, would already be in evidence. No objections have been filed for this application.

The third issue is that the requested amount is in excess of verified existing use. The Mayor commented that the application may be an overstated request. The current metered 12-MAV reported is 0.028 mgd. The OWMP did not estimate use for this well but the estimated demand for 60 acres of bananas would be 0.181 mgd. Actual usage is much less and may be explained by the higher rainfall on this windward area.

i. PALMER GOLF COURSE (Well No. 4100-01) - This existing source uses non-potable basal water for irrigation of 188 acres of Kuilima Golf Course. A field investigation on October 4, 1993 noted that only the front 9 holes of the 18-hole golf course is open to the public. Because of financial constraints, the other nine holes are being maintained at a minimal level. If all 18 holes were to be kept in premium condition, considerably more water than what is currently being used would be required.

The actual 12-month moving average withdrawal is 0.206 mgd as of September 1993. This is considerably less than the requested allocation of 0.800 mgd. Although monthly pumpage has varied, twelve-month moving average withdrawals have been steady at slightly over 0.200 mgd for the last ten months, although slightly declining from about 0.250 mgd as of December 1992. Because average use has been consistent for nearly a year, the current 12-month moving average withdrawal of 0.206 mgd seems to be a good estimate of the irrigation water requirement.

Although there are several other pumped wells within a mile of the well, none of these is located downgradient. The closest stream is Kawela Stream, which is located about half a mile from the well. Aquatic Resources commented that Kawela Stream is intermittent, generally dry, and does not support native freshwater species. Continued use should not result in unacceptable adverse impacts to other local wells, streams, and the aquifer.

The Office of the Mayor and BWS has commented that the amount of water requested may be overstated and should be adjusted based on actual use. These agencies also suggest that an alternative source of lesser quality should be used.

j. PUMP 15 (Well No. 4157-04) - The well site was inspected on April 1991, May 21 & September 1, 1993.

The first issue with this well is that there are possibly three (3) active wells within a mile of the well. Two (2) out of the three have applied for a water use permit. The other is a private owner who has not filed an application.

The second issue is that the requested amount of 1.5 mgd may exceed the actual pumpage. The Mayor commented that the application may be an overstated request. The inspection found that Amorient uses the well for 31 one-acre fresh water prawn ponds continuously supplied all day. Also, the US Army has an additional pump hooked-up to withdraw water for six (6) military offices. Amorient's use is not metered nor do they report. The Army does meter and report their use and their current 12-MAV is 0.017 mgd. Originally the application came in separately, 1.5 mgd for Amorient and 0.030 mgd for the Army. Staff recommended that these applications be combined since CE is the applicant. The OWMP estimated use from this well at 1.80 mgd in 1990. The OWMP estimates a reasonable use of about 1.120 mgd although staff would like to consider comments from ADP on the reasonableness of the use. Amorient estimates they use 1.5 mgd.

A third issue is that NHAC commented that the existing use will affect Ki'i National Wildlife Refuge and water rights. Since the use has been in place for several years impacts have probably already been felt. This should be more appropriately addressed if future increases in use are requested since these may bring about new impacts. Additionally, The Office of Hawaiian Affairs warned of a potential overuse situation in the aquifer system. This has been explained to them as was done at the beginning of this submittal.

k. US FISH & WILDLIFE SERVICE (Well Nos. 4157-05 to 07) - Three separate permit applications were submitted for three existing artesian sources drilled within about a 70-foot radius. The wells, which are located about half a mile inland near Kahuku, use water for habitat maintenance in a designated National Wildlife Refuge for endangered water birds.
A field investigation on August 27, 1993, verified the applicant's existing use. It was also confirmed that the acreage listed on the permit applications is incorrect; total acreage is 101.936, not 101,936.

The wells flow by artesian flow into a central sump area by opening a valve, no meters or pumps are installed. Water use is estimated using the volumetric method. Use is seasonal, with more water being used during the winter months. Water availability is dependent on the height of the water table.

The total request for the three wells is 294,773 gpd. Monthly water use reports have not been submitted, and there is no means by which to verify the applicant's estimated water needs. Another issue is that there are over thirty (30) wells within a mile of these wells, although no wells are located downgradient. However, the request is for a relatively small amount of water for a use that has been in existence for a number of years. Issuance of an interim water use permit requires that monthly water use be reported, and the allocation is subject to review and refinement based on these data. Also, because the wells are not pumped, other local wells should not be affected. Impacts to surface waters and the aquifer are not anticipated.

1. US ARMY (Well Nos. 4158-12 & 13) - The applicant submitted one permit application requesting use of 0.500 mgd of potable water from these two sources. From the field investigation on May 21, 1993, it was determined that one of these wells, Well No. 4158-13, is capped and is no longer in use. The requested quantity of 500,000 gpd is approximately the capacity of the pump installed in Well No. 4158-12.

The domestic water system, which uses water from the active source, has been in operation since 1941. The source supplies 15 service connections (mixed commercial and domestic users) and serves an estimated population of 75. Water is used for troop's drinking water during maneuvers and domestic use in Kuleana homes. Small amounts of water are used by several aquacultural facilities, and the well also provides one water trough for 65 cattle (the rest of the animals' drinking water needs is supplied by Well No. 4159-01, which has a pending permit application that includes this use).

Water use is metered and is reported on a monthly basis. Reported actual use indicates a 12-month moving average withdrawal of 0.103 mgd as of October 1993. Actual water use is therefore considerably less than the requested quantity of 0.500 mgd. Twelve-month moving average withdrawals have been steady at about 103,000 gpd for the previous five months. Therefore, an allocation of 0.103 mgd appears to be a reasonable amount to satisfy the applicant's existing needs.

Both NHAC and the Office of Hawaiian Affairs (OHA) have commented that Campbell Estate use of water appears excessive. OHA also urges the Commission to halt Campbell's water permits until rules and regulations for water permits are clearly spelled out in the upcoming State Water Code Review.

m. PUMP 2, FARMERS (Well No. 4159-01) - Field investigations conducted on May 21, 1993 and September 1, 1993 verified that non-potable water from this existing artesian source is currently being used by truck farms for drip and sprinkler irrigation of approximately 250 acres of bananas, papayas, and various vegetable crops. Some water is also used to supply drinking water for approximately 65 head of cattle and horses. The pasture in which the animals graze is not irrigated

One issue concerning this application is the quantity of water to be allocated. The request is for 3 mgd for agricultural irrigation of 250 acres. Reported monthly water use has varied in the last 18 months from an average of 0.185 mgd to 1.269 mgd. The highest monthly water use reported during this period is less than half of the amount requested. Further, at full capacity, the pumps can only withdraw a maximum of 1.857 mgd. Therefore, it appears that the applicant's request is too high. The 12-month moving average withdrawal is estimated to be about 0.814 mgd. This appears to be a more reasonable estimate of actual existing use. The Oahu Water Requirements Forecast for 250 acres of papaya is 1,250,000 gpd, while the forecast for the same number of acres in banana is about 0.750 mgd. The twelve-month moving average withdrawal falls within this range.

A second issue is the presence of springs and other pumped wells in the vicinity of the source; some of these are located downgradient. However, pumpage has decreased from
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1992 levels; for the period January 1, 1992 through September 30, 1992, withdrawals averaged 1.84 mgd. Current pumpage is less than half of this. Therefore, interim instream flow standards, effective as of May 4, 1992, should not be affected by current rates of withdrawals. Unacceptable adverse impacts to other local wells and the aquifer are not anticipated. No specific objections have been filed for this application.

n. US ARMY (Well No. 4159-02) - A field investigation, conducted on September 1, 1993, verified that the only existing use of potable water from this existing source is for the domestic needs of two Kuleana homes. The application states that water is requested for use by two administrative facilities at the Puna Mano Air Force Station and for irrigation of 75 acres of pasture; however, it has been determined that this facility has been abandoned by the Air Force (although water had been used there up until last year). The field investigation also verified that no water is currently being used for irrigation purposes.

The requested amount, 1.5 mgd, greatly exceeds verified existing use. Although water use is not metered, the Army Dept. of Public Works, which operates this source, estimates that average use is about 1,200 gpd. This estimate is in line with the County Domestic Consumption Guidelines, which indicate an average daily demand of 500 gallons per single family residential unit on Oahu. Due to the aridity of the area, actual water use may be slightly higher than that suggested by the guidelines. Therefore, the estimate of 1,200 gpd is considered reasonable. Since this use is so small the applicant can be exempted from reporting month in accordance with the Commission’s September 16, 1992 action.

There are several springs in the vicinity of the source, one of which appears to be downgradient. There are also several wells located nearby. Six (6) of these wells are currently being used. However, because the quantity of water currently being used is very small, and pumpage has decreased in the last few years due to the closing of the air force facility, impacts to surface waters, other wells, and the aquifer are not anticipated.

The Office of the Mayor and the Board of Water Supply have commented that the amount requested in this application may be overstated and should be adjusted based on actual use.

NHAC has expressed their concern over the possible effects on interim instream flow standards and potential impacts on other existing legal uses of water. However, if a permit is granted for only the existing verified use, no impact is anticipated.

2. **BWS EXISTING USES** - The BWS has nine (9) applications for seventeen (17) wells in the Koolauloa Ground Water Management Area which have existing use. Generally, staff is recommending approval of current reported 12-MAV for each application, as summarized under Table 4. One issue regarding all BWS applications is the NHAC comments listed in Attachments C & D. The NHAC commented that all county zoning for end uses should be described and overall statistics for the windward system should be given. This would be a monumental task for both the applicant and staff to review. Instead, staff proposes that all municipal uses are reasonable and the current and existing 12-MAV for the BWS sources should cover existing municipal uses at this time. Future uses would require project information such as zoning and 4-year commitment to initiate and justify future use requests from BWS. This would be consistent with what has been done in other water management areas including the Pearl Harbor reallocation efforts.
TABLE 4.
BWS Existing Water Wells

<table>
<thead>
<tr>
<th>Well No.</th>
<th>Requested mgd</th>
<th>9/93 12-MAV mgd</th>
<th>Field Checked</th>
<th>Recommended Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>3453-06 &amp; 07</td>
<td>1.250</td>
<td>1.339</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>3553-02</td>
<td>0.350</td>
<td></td>
<td>No</td>
<td>Defer until field checked</td>
</tr>
<tr>
<td>3553-03,04 to 08</td>
<td>6.000</td>
<td>4.618</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>3554-03</td>
<td>*6.000</td>
<td>*4.618</td>
<td>No</td>
<td>Defer until field checked</td>
</tr>
<tr>
<td>3554-04 &amp; 05</td>
<td>1.500</td>
<td>1.093</td>
<td>No</td>
<td>Defer until field checked</td>
</tr>
<tr>
<td>3655-01</td>
<td>0.250</td>
<td>0.191</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>4057-15 &amp; 16</td>
<td>1.000</td>
<td>0.546</td>
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</tr>
<tr>
<td>4101-07</td>
<td>0.500</td>
<td>0.339</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>4101-08</td>
<td>0.750</td>
<td>0.411</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
</tbody>
</table>

* In same battery of Punaluu III in row directly above.

Other issues regarding each source are as follows (refer to Exhibit 5 for location and use information):

a. PUNALUU III (Well Nos. 3453-06 & 07) - The wells sites were inspected and verified on October 19, 1993.

The first issue is that there are two (2) active wells within a mile radius of these wells. One is for domestic use only and the other was granted a water use permit on September 1, 1993. Considering the applicant's wells have been in use since 1974, adverse impacts have already been made. Neither downgradient user has filed an objection to this application.

The second issue is that the wells may have some impacts on Punaluu Stream. The Division of Aquatic Resources (DAR) did not make any comments on this application, but they did make comments on BWS's Punaluu II well field located further away from the stream. DAR commented that the Punaluu II battery of wells is located between two of the most valuable stream habitats for native biota, Punaluu and Kaluanui Streams. Since wells have been in place since 1969 then impacts have already occurred. Any applications for new wells (or pumpage) in this area should seriously address this issue. Staff is assuming that these comments would also, apply to Punaluu III.

The third issue with this application is that the BWS request for 1.250 mgd seems low compared to the current actual use. The 12-MAV (See Exhibit 5) for the past two (2) years shows that the request would be for the minimum 12-MAV. The current 12-MAV as of September 1993 is 1.339 mgd. This would appear closer to the maximum 12-MAV over the past 2 years for these wells. Also, compared to the OWMP figure of 1.000 mgd, the current 12-MAV seems reasonable.

b. PUNALUU I (Well No. 3553-02) - The well was not field verified. Wrong keys obtained to access.

c. PUNALUU II (Well Nos. 3553-03,04, 06 to 08 & 3554-03) - This major source of wells was investigated and verified on October 19, 1993 with the exception of Well No. 3554-03 (wrong keys to access).

The first issue is there is one major user directly downgradient who has applied for a water use permit (Hanohano Enterprises, Inc.). Another user with an existing water use
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permit (see Exhibit 2) is within a mile of the well field. Since these BWS wells have been used since 1967 negative impacts would have been felt by these users. No objections from either user have been filed with the Commission.

The second issue is that these wells may have some impacts on Punalu'u and Kaluanui Streams. DAR commented that the Punalu'u II battery of wells is located between two of the most valuable stream habitats for native biota, Punalu'u and Kaluanui Streams. Since wells have been in place since 1969, impacts have already occurred. Any applications for new wells (or pumpage) in this area should seriously address this issue.

The third issue is that the BWS request for 6,000 mgd for these wells seems high compared to the current actual use. The 12-MAV (See Exhibit 5) since July 1992 shows that the request would be for the maximum 12-MAV for the past 16 months. The current 12-MAV as of September 1993 is 4,618 mgd. This is also in relative agreement with the OWMP 1990 estimate of 4.51 mgd. Therefore, the current 12-MAV seems reasonable for existing use from this well.

d. KALUANUI (Well Nos. 3554-04 & 05) - The wells were not field verified. Wrong keys obtained to access.

e. HAUULA (Well No. 3655-01) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are three (3) active wells within a mile radius of the well. No objections have been filed by these well owners and one, the most southern, received a water use permit in September 1993. Since the well is so close to the ocean, adverse affects to other wells and streams in the area should be minimal as aquifer leakage into the ocean is primarily affected.

The second issue is that the current 12-MAV deviates significantly from the rather constant trend prior to the summer of 1992 (see Exhibit 5). Also, the OWMP identifies this source as a producer of 0.25 mgd, which is the applicant’s request. Staff has requested reasons for this and BWS may explain reasons for this at the Commission meeting.

f. KAHUKU BATTERY (Well Nos. 4057-15 & 16) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are possibly seven (7) active wells within a mile radius of the wells. Six (6) of these active wells have been filed by Campbell Estate for water use permits and one is to a private individual who has not filed for a water use permit. Since applicant’s wells have been active for over a decade, adverse impacts have already occurred. No objections to this application have been filed by the other well owners.

The second issue is that the BWS request for 1,000 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant since 1990 at roughly 0.55 mgd, which was the estimated use in the OWMP. The current 12-MAV is 0.546 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well.

g. WAIALEE I (Well No. 4101-07) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are possibly two (2) other active wells owned by private individuals within a mile radius of the well. Neither has submitted applications nor objections to this application. One is downgradient of the applicant’s well but since the applicant’s well is near the ocean and has been in use since 1945, adverse impacts have already been felt. The other well has reported use in the OWMP but, again, has not submitted an application. Staff will be following up on this matter.

The second issue is that the BWS request for 0.500 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant only varying between 0.30 and 0.37 mgd since 1988. The OWMP estimated 1990 pumpage as 0.33 mgd and the current 12-MAV is 0.339 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well.
h. **WAIALEE II** (Well No. 4101-08) - The well site was inspected and verified on October 19, 1993.

The first issue is the same as the first issue of the previous application since these wells are in close proximity.

The second issue is that the BWS request for 0.750 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant only varying between 0.40 and 0.47 mgd since 1988. The OWMP estimated 1990 pumpage at 0.46 mgd and the current 12-MAV is 0.411 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well although it is unusual that the use is at a low point even though should be near a peak since September is the end of the summer period of weather.

3. **HANOHANO ENTERPRISES** (Well No. 3553-01) - This application was filed verified on October 4, 1993. No significant changes from the original registration field investigation on October 18, 1990 were found.

The first issue with this application is that the existing end use is less than that specified in the application. The application requested both existing and future use for 70 acres of aquaculture and 250 units of future elderly housing. The applicant currently has a total of about 12 acres of active aquaculture; 11.5 acres in aquaculture for mullet and tilapia; and less than 0.5 acres for live food and tropical fish cultivation. Actual use has not been reported to the Commission. Based on the Oahu Water Management Plan 12 acres of aquaculture would use approximately 0.432 mgd. The OWMP estimated the use at 0.70 mgd in 1990. Staff would like to consider comments from ADP in addition to the OWMP to make a better assessment of actual need of the aquaculture. Additionally, the BWS has commented that the requested amount may be in excess of the aquifer's sustainable yield and that water should be recycled through ponds for more efficient use.

The second issue is that of effects on Punaluu Stream. Discharge from this use flows into Papakoko-Haleaha Stream and since this use has been ongoing for the last 10 years, the impacts have already been felt. DAR has commented that Punaluu Stream is one of the highest quality habitats for native species on Oahu. If requests are for future increases in pumpage then DAR has requested confirmation that flows into Punaluu Stream will not be impacted.

The third and hardest issue to resolve is the future use requested for the 250 unit elderly housing development. Such a development would reasonably require about 0.100 mgd according to county standards (250 x 400 gpd for multi-family low-rise). However, there is no zoning for this project. The applicant has been working with the State Department of Health (DOH) and the County Department of Housing and Community Development (DHCD) in obtaining a 201E exemption to normal zoning requirements for affordable housing. However, the applicant is caught in a catch-22 situation whereby the county has required the applicant to provide evidence that water will be available for this project yet the Commission will not approve future projects without appropriate county zoning. Staff has informed the county of the overall situation of the Koolauloa Aquifer System and that it appears water may be available as early as January 1994 if other existing uses are established by the Commission. The applicant has indicated that they are willing to cutback on their existing aquaculture water use to make water available for their project, if necessary. Since the project is for the beneficial use of affordable housing, the applicant is seeking a special 201E exemption from zoning requirements, comments from DAR and BWS, and the existing use impacts are probably established in the area, staff does not foresee a problem allowing this special case to use a future use within the existing use limits. However, staff also realizes that if the Commission were to approve a permit allowing future use in this manner it may be construed as "water-banking" the ground water by a private entity.

4. **NIHIPALI** (Well No. 3855-12) - This application requires a field investigation.

5. **KAIO** (Well No. 3956-07) - This application was originally verified from a field investigation on October 10, 1990. No significant changes in the existing portion of the request were found. However, the applicant does include a future use request.
The first issue with this applicant is that the requested amount of water for the existing use is high. The field investigation found water consumption on a total of 0.5 acre for taro, banana, and ti leaf, livestock, and one (1) tank of tilapia. No reports of water use have been made by the applicant making it difficult to estimate actual use and need. However, the 1990 field investigation measured flow from the artesian source at 12 gpm or 17,280 gpd. Assuming taro to be the most water intensive cultivation, the Oahu Water Management Plan for 0.5 acres of taro would require 3,000 gpd. Additionally, the field investigation found that the tank with talapia required an additional 3,000 gpd. Assuming the needs of the few livestock does not exceed 1,000 gpd, the justified need under existing conditions would be about 7,000 gpd.

The second issue is that part of the request is for future uses for Kaio Flowers I & II. The total acreage of these future uses will be about another 0.5 acre for various floriculture. Under the Oahu Water Management Plan this future need would require an additional 3,700 gpd. Since this is such a small use, staff does not see a reason to deny the applicant’s request but rather suggests deferral on the future use portion until existing uses are established in the area.

**RECOMMENDATION**

Staff recommends:

1. For all approved water use permits, that the Commission add the special condition that the applicants may continue their existing use of ground water within the limits approved by the Commission, and the actual issuance for the interim permit shall not be a reason to interrupt their existing uses.

2. That the Commission approve the issuance of interim water use permits to the Estate of James Campbell for the reasonable and beneficial existing salt water aquacultural needs according to Table 2 and their corresponding described uses subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of interim water use permits to the Estate of James Campbell for the reasonable and beneficial existing needs according to Table 3 and their corresponding described uses subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of interim water use permits to the Honolulu Board of Water Supply for the reasonable and beneficial existing municipal uses according to Table 4, 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 Hanohano Enterprises, Inc. for the reasonable and beneficial use of 432,000 gallons per day of potable water for aquaculture over 12 acres from the Hanohano Well (Well No. 3553-01), subject to the standard water use permit conditions listed in Attachment B and the following special condition:
   a. 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 2.
6. That the Commission defer action on the water use permit application for George N. Nihipali, Jr. for the Nihipali Well (Well No. 3855-12).

7. That the Commission approve the issuance of an interim water use permit to Jacob I. Kaio, Sr. for the reasonable and beneficial use of 7,000 gallons per day of potable water for agricultural irrigation from the Kaio Artesian Well (Well No. 3956-07), subject to the standard water use permit conditions listed in Attachment B and the following special condition:

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

Respectfully submitted,

RAE M. LOUI
Deputy Director

APPROVED FOR SUBMITTAL:

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

December 8, 1993

WATER USE PERMIT DETAILED INFORMATION

Source Information

AQUIFER:
Sustainable Yield:
Existing Water Use Permits:
Available Allocation:
Total of other pending allocations:

Koolauloa System, Windward Sector, Oahu
35 mgd
0.323 mgd
34.677 mgd
67.433 mgd

ATTACHMENT A
Use Information

See Exhibit 3 for individual applications use descriptions.

Nearby Surrounding Wells and Other Registered Ground Water Use

Information from the registration program indicates there are possibly 84 existing wells in the Koolauloa Aquifer System. Several of these wells have been initially field checked but many of the declarants, including the larger users, have not been completely field verified. Several are not in use or are rights claims. However, the Oahu Water Management Plan estimated that the existing withdrawals from the Koolauloa Aquifer System is 13.6 mgd as of 1990.

See attached exhibits as referenced from following table.

Public Notice

See Exhibit 1.

Objections

Specific objections or comments are identified under analysis and issues portion of this submittal. 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 according to Exhibit 1.

General objections from the Native Hawaiian Advisory Council are listed in Attachment C.

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. No briefs in support were filed with the Commission.

The following briefs in support are summarized as follows:

Field Investigation

See Exhibit 4.
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 December 8, 1993 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.

ATTACHMENT B
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) 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 monthly 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 Koolauloa 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 Koolauloa 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
MEMORANDUM

TO: Rae M. Loui, Deputy Director
FROM: David L. Martin, Water Project Manager
Native Hawaiian Advisory Council


DATE: November 26, 1993

NHAC hereby requests additional information from COWRM and the Board of Water Supply (BWS) explaining various sections of the Board's water use permit applications. These sections include 1(b) Landowner, 8 Quantity of Water Requested, and 15(a) Impact on sustainable yield.

1(b) LANDOWNER - Please provide a list of subject BWS well sites which were obtained from State lands via executive orders including the title status of those State lands.

8 QUANTITY OF WATER REQUESTED - Please provide information showing the amount of water quantity requested in relation to the 12 month moving average and the 5 year average use.

15(a) IMPACT ON SUSTAINABLE YIELD - Please provide information comparing the total existing, planned and proposed uses of water with the sustainable yield of each aquifer.

Please note that I have attached all memoranda forms dated October 27, 1993 covering BWS's permit applications. At this point, I am unable to complete a review of these applications without additional information, therefore I am requesting an extended review period. Your immediate attention with this matter is appreciated, I await your response.

ATTACHMENT C
1993 November 26

TO: State of Hawaii Commission on Water Resource Management
SUBJECT: COMMENTS AND OBJECTIONS RE: WATER USE PERMIT APPLICATIONS WAIMANALO, KOOLAUPOKO, KAHANA, AND KOOLAULOA GROUND WATER MANAGEMENT AREAS
Public Notice Undated, Published November 3 & 10, 1993
Send written objections by November 26, 1993

I. COMMENTS

a. Hanohano Well No. 3553-01

4. SOURCE TYPE is not indicated.

10. PROPOSED USE: Irrigation is not indicated.

14. POTENTIAL RESTRICTIONS ON WATER USE:

(e) Other: Since COWRM may only allocate water to projects which have received the necessary land use, county, and community plan approvals, the application form should include a table allowing applicants to illustrate their degree of compliance with these requirements.

15. REMARKS, EXPLANATIONS: A table illustrating the estimated breakdown between quantities of existing and new water use among agriculture, aquaculture, and domestic should be provided.

TABLE 1. MULTIPLE TMKs TO USE REQUESTED WATER

The final column, "% OF TOTAL TO BE USED OVER NEXT 4 YEARS," should be revised for accuracy.

b. BWS Applications

7.(c) County Zoning is not described.

10. QUALITY OF WATER REQUESTED: Potable is not indicated on some applications.

11. PROPOSED USE: Municipal is not indicated.

12. NUMBER AND TYPE OF UNITS TO BE SERVED: Statistics for the Windward Oahu System should be given.

ATTACHMENT D
II. OBJECTIONS

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water uses. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process. Under the public trust doctrine imposed upon Hawaii water law by the State Constitution, common law, and judicial precedent, water resources are owned by the public. Thus all people have property interests in all water sources and may be admitted to any and all proceedings involving their disposition, regulation, and management.

a. The following table identifies selected NHAC clients with property and other interests (distinct from those of the general public) in the subject water management areas on whose behalf subsequent general and specific objections are filed. NHAC reserves the rights to amend this table to later include other affected clients.

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Kaopua, Ida 4-7-0015-008 Koolaupoko stream Irrigation
Hall, Rachel 4-9-006-013 Koolaupoko stream Irrigation
Aea, Samuel 4-7-033-010 Koolauloa dike-confined Irrigation
Roberts, Albertina 5-5-008-047 Koolauloa well, spring Irrigation
Trevenen, Glennon 5-3-011-006 Koolauloa stream Irrigation

b. General Objections to All Permit Applications

(1) Property or Other Interest in the Matter
Refer to Table in II.a. above.

(2) Questions to which Objections are Taken

(a) Questions of Procedure

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each permit application with regard to competing applications for existing and new uses; reserved, declared, and certified water uses; instream flow standards; water rights; and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the frameworks of the "reasonable and beneficial" standard, "Public interest," and other legally-imposed constraints.

In response to COWRM's letter of November 17, 1992, we further studied Hawaii Administrative Rules (HAR) Title 13, Chapter 171 and still find no explicit or implicit language supporting your contention that processing water use permits as we suggest is inconsistent with these rules or would require rulemaking. NHAC attended "... numerous Commission presentations and workshops on existing WMAs and the newly designated WMAs at which we [COWRM]
presented and provided various handouts which show the WUPA processing procedure" (emphasis added). To our knowledge COWRM never formally adopted as policy any of the various procedures it now employs in water use permit application processing. The rules are vague, ambiguous, and incomplete - in this context it seems that COWRM creation of different policies for different WMAs is inappropriate. It seems that hearings are required to discuss clarification and of the rules and unification of the policies.

Two distinct classes of WMAs will emerge if COWRM proceeds on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. In the first case, determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis circumvents a number of the conditions for Water Use Permit issuance, particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM records over the last six years shows that "action" includes deferral of decision making until information needs are met, as well as categorization of applications to facilitate future decision making.

(b) Questions of Fact

The permit application information distributed by COWRM for comment should also include the results of COWRM's field verification of declared water uses and should compare the quantity of water requested with the current 12 month moving average and the post-Water Code long-term (about 6 year) average water use. It should also show how total applicant existing, planned, and proposed water uses in the subject WMA compare with overall WMA totals and with sustainable yield. This factual information is critical in comprehensively evaluating reasonable and beneficial use and public interest in the WMA. This information, which is usually not presented by COWRM until the decision-making stage of the process, must be available earlier so that public comment and objection can take it into account.

(c) Questions of Law

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to
Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

In a previous response to this objection, COWRM (March 3, 1993) stated that "... allocations granted to the county water systems generally allow the county departments of water supply to distribute water within their system and within the limits imposed by allocation. This does not imply that the Commission will or must determine the final and gross water amounts to be allocated to the county water supplies." This reasoning seems confused - if COWRM is the agency responsible for "the limits imposed by allocation," then it should "determine the final and gross water amounts to be allocated to county water supplies."

Further analysis of HAR 13-171 reveals that:

1. Permit applications for existing uses only compete with other permit applications for existing uses [HAR 13-171-14(c)].

2. Competition between permit applications for existing uses is subject to public hearing requirements [HAR 13-171-14(c)], while competition between permit applications for new uses is not (HAR 13-171-16). For existing uses, the allocation between competing applications is determined via the hearing, while for new uses the allocation seems to be subject to dispute resolution and public interest balancing tests. The rules are silent about competition between permit applications for existing uses, new uses, declared uses, certified uses, water reservations, and instream flows.

3. Existing uses are assumed reasonable if less than 25,000 gallons per month. If more than 25,000, it is still reasonable and beneficial if no objections are filed [HAR 13-171-14(b)], but is subject to public hearing if objections are raised. Reasonable and beneficial is only one of the 6 things the applicant must establish under HAR 13-171-13, which all apply equally to existing and new users.

4. There appear to be no guidelines for reasonable and beneficial determinations of new uses, no requirements for public hearing regarding same, and no vehicle for requesting such public hearing.

The existing rules do not appear to place any restrictions on simultaneous processing of applications for existing and new ground water uses, along with certification of declared surface water uses. They do not expressly disallow direct consideration of applications for existing ground water uses within the context of new ground water uses and declared surface water uses, even though some different procedures apply. The inclusion of "public interest" consistency requirements [HAR 13-171-13(4)] seems to give COWRM enough latitude for such processing, notwithstanding other intricacies of rule.

5
(d) Questions of Policy

1. Procedure

We have been repeatedly told by the Attorney General that water management area designation creates a "clean slate" and a "level playing field." As such, from the moment of designation we cannot consider any existing water use to be reasonable and beneficial or in the public interest until such determinations are formally made by the Water Commission.

The procedure being followed in Windward Oahu and Molokai WMA is inconsistent with that employed in Pearl Harbor WMA. This is confirmed in COWRM's letter of March 3, 1993 which explains that "In its February 17, 1993 decision regarding Molokai and Windward water use applications, the Commission on Water Resource Management will defer action on all new water use permit applications until July 1993" (implying that applications for existing uses will be processed first and separately). "In the Pearl Harbor area, the Commission is reviewing all currently filed requests together: existing, planned, and proposed uses." COWRM has not explained why the policies are different in different WMA.

Given the vagueness of the administrative rules governing the process, COWRM should provide a clear explanation for these differing policies. Also note that neither of the two procedures described above considers other issues water rights, water reservation, instream flow, and certification of declared surface water uses discussed on our objections. COWRM has not explained why these issues should not be comprehensively considered in ground water use permit application processing.

On March 3, 1993 COWRM also wrote that "... a survey of all water rights and reservation issues cannot be settled fairly or adequately within such a short time period. Because of this, the Commission plans to include conditions in water use permits which will expressly allow for quantity reduction in permits if and when it may be required."

The resolution of water rights and reservations and other issues must not be held hostage to a perceived need to issue permits for existing water uses. Now is the proper stage in the process for examining trade-offs between existing ground water uses, water rights, water reservations, surface water uses, instream flows, and streamflow restoration. To further postpone such examination merely continues the entrenched water allocation policies that the Water Code seeks to avoid, and unnecessarily multiplies the number of proceedings which must be held in the future to deliberate downsizing of existing uses to accommodate new uses.
2. Public Notice

We question if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

In previously responding to similar concerns, Rae M. Loui wrote on August 12, 1993 that "The Nakata subcommittee did not recommend notices be sent to all nearby declarants." We recall that the subcommittee did recommend that registries of declarants placed in various categories be maintained, and reason that a logical cause of the need for such maintenance is to allow the Commission to easily identify declarants using and/or claiming interests in various water sources. Once declarants are identified, it is only fair that they be directly notified of proposed actions potentially affecting their interests.

Mrs. Loui also wrote that "... given the 200+ permits we have pending and the lack of computer programming to easily identify nearby declarants, it would be unmanageable." "These are my thoughts only and do not represent the policy of the Commission."

With regard to the 200+ permits, in many cases numerous permit applications have been filed by a single applicant in a single water management area, so that individual notices for each of these numerous applications could be combined into a single notice. Also, if COWRM would adopt our recommendation for a finite, repeating application window, notification tasks would be more easily accomplished.

COWRM's existing WATRDAT database has the capability to be programmed to easily identify nearby declarants. The major task remaining is to allow sorting and cross-indexing (ground & surface water) of records by water source rather than by declarant name or TMK number. NHAC rejects COWRM arguments that the notification requirements we recommend are "unmanageable," and suggest that COWRM place a high priority on implementing the necessary computer programming, preferably of a type which allows integration with the State GIS framework. NHAC is available to assist with this work.
3. Public Comment and Objection

There are persistent ambiguities and inconsistencies concerning the procedures and deadlines for filing comments on and objections to water use permit applications which must be resolved in order to institute a clear and fair process.

a. HAR 13-171-18

   (a) "Within ten working days after the last public notice of the pending permit application, a party may file with the commission, written objections to the proposed permit and a brief in support of such objections."

   This implies that in order to be valid, objections must be received at COWRM on or before the tenth working day after the last public notice.

   "Such party shall serve copies of the objections and brief upon the applicant."

   This does not specify when the applicant must be served.

   (d) "The support brief shall:
       (1) Answer specifically the points of procedure, fact, law, or policy to which objections were taken; and
       (2) State the facts and reasons why the permit should be approved."

   This conflicts with (a), which implies that briefs are to be written in support of objections, not in support of applications [as suggested in (d)].

b. Public Notice

   The standard Public Notice of water use permit applications directs that interested persons "Send written objections by" a specific date (the tenth day after the last public notice) to COWRM and the applicant. This implies that objections should exhibit a postmark or other evidence of being "sent" on or before that date.

c. COWRM Review and Comment Solicitation

   The standard memorandum circulated by COWRM with water use permit applications requests ("please") that a form indicating the level of review of the application be returned by a specific date (ten working days after the last public notice), implying that the form should be received at the COWRM office on or before that date. While the form has a space for indicating "no objections," it has no space for indicating "Objections attached."
This form does not appear to be the subject of any rule, nor does it appear to establish a strict deadline for returning the form. In particular, it allows a reviewer to request additional information and an extended review period for a particular water use permit application. In practice, COWRM could receive a form requesting additional information and an extended review period on the same day that the Public Notice established as the deadline for sending (evidenced by postmark or other evidence of initiating transmittal) objections and that HAR established as the deadline for filing objections at COWRM (evidenced by receipt at COWRM). Yet there appear to be no COWRM procedures for responding to requests for extended review, much less for notifying applicants and other interested parties if these requests are indeed granted.

3. Regulatory and Management Coordination

We are increasingly concerned about the lack of clear guidelines for timing, sequencing, and coordinating COWRM permitting processes with environmental review processes conducted under other authorities (including HRS 343, BLNR Conservation District Use permitting, DOH 401 and NPDES, and County grading and drainage ordinances).

(3) Grounds for Objections to Proposed Permits

As evidenced by the above discussions, proposed permits should be deferred until the conclusion of public hearings because:

1. COWRM procedure for processing the permit applications is not in compliance with the Water Code and its Administrative Rules.

2. COWRM has not provided adequate factual background for public review of, comment upon, and objection to the proposed permits.

3. Laws governing permit application processing are vague, contradictory, and incomplete.

4. COWRM policy governing permit application processing is vague, contradictory, inconsistent, incomplete, and excessively informal.

5. Current COWRM policy and procedure does not promote or allow for comprehensive, conjunctive, and concurrent processing of water use permit applications, water use declarations, instream flow standard and sustainable yield concerns, and water rights and water reservation issues.
c. General Objections to BWS Permit Applications

(1) Property or Other Interest in the Matter
Refer to Table in II.a. above.

(2) Questions to which Objections are Taken

(a) Questions of Procedure
Refer to b.(2)(a) above.

The procedure employed in processing this batch of BWS permit applications is inexplicably different from that previously employed in Pearl Harbor GWMA. COWRM has a duty to coordinate ground water use permitting with surface water use certification, instream flow standard and sustainable yield reevaluation, and water rights and water reservation determinations.

(b) Questions of Fact
Refer to b.(2)(b) above.

Permit application line 1.(b) consistently indicates BWS as "LANDOWNER OF SOURCE." It has been common procedure for BWS to acquire well sites through set aside of State lands by executive order. NHAC has requested in a separate letter that additional information on the title history of each well site be provided so that we can determine which well sites occupy ceded lands.

(c) Questions of Law
Refer to b.(2)(c) above.

NHAC alleges that the practice of transferring ceded lands to BWS by executive order subverts and circumvents the water licensing requirements of HRS, in some cases avoiding necessary compensation to the Hawaiian Homes Commission and Office of Hawaiian Affairs for use of ceded lands trust resources.

(d) Questions of Policy
Refer to b.(2)(d) and c.(2)(b) above.

(3) Grounds for Objections to Proposed Permits

1. All of the subject BWS applications indicate on line 15(c) that applicant does not know if its existing uses affect Hawaiian Home Lands uses. Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(5) and will not affect Hawaiian Home Lands uses.
Thus COWRM may not issue permits until public hearings are held to determine what portion, if any, of existing BWS uses should be abandoned in favor of Hawaiian Home Lands uses.

2. All of the subject BWS applications fail to describe potential restrictions on use arising from effects on future legal uses such as planned agricultural uses and activation of uses guaranteed by appurtenant, riparian, and correlative water rights. Therefore applicant has not established that these proposed uses of water conform with HAR 13-171-13 (1), (2), and (4)-(6), and COWRM may not issue permits until public hearings are held to determine what portion, if any, of existing BWS uses should be abandoned in favor of future legal uses.

3. All of the subject BWS applications indicate on Line 15.(a) that "Impact on Sustainable yield" is that of an "Existing use." Existing uses do impact sustainable yield characteristics, notably the lowering of equilibrium head arising from increased sustainable yield. Because of the "clean slate" and "level playing field" effect of designation, COWRM may not issue water use permits until public hearings are held to assess the impacts of changes in sustainable yield upon equilibrium heads and localized water levels, and to determine what portion, if any, of existing BWS uses should be abandoned in favor of lowering sustainable yields.

4. Any number of the subject BWS applications may involve water sources sited on ceded lands that were transferred by executive order from the State to BWS. Wherever this is the case, COWRM may not issue water use permits until public hearings are held concerning the avoidance of water licensing requirements and lack of County compensation to the Hawaiian Homes Commission and OHA for its use and extraction of ceded lands trust resources.

5. None of the subject BWS applications indicate how total existing, planned, and proposed BWS uses compare with other existing, planned, and proposed uses and sustainable yields. Such information is critical to complete and fair assessment of compliance with water use permit conditions set forth in HAR 13-171-13. Thus COWRM may not issue permits until hearings are held to determine the overall water use permit application and planning situation for each aquifer, and to assess what shares of their sustainable yields could be allocated to BWS and other major water users.

d. Specific Objections to Specific Applications

(1) Property or Other Interest in the Matter

Refer to Table in II.a. above.
(2) Questions to which Objections are Taken

(a) Questions of Procedure
Refer to b. and c.(2)(a) above.

(b) Questions of Fact
Refer to b. and c.(2)(b) above.

WAIMANALO TUNNELS

We believe that portions of the tunnels may be situated on and/or underly Hawaiian Home Lands. We are not aware of any agreements between BWS and HHC governing BWS use of the sites and resources.

WAIMEE WELLS

Line 16 of the application states that the well "Has not operated since court mandated flow of 2.7 MGC in Waihee Stream under appeal." This contradicts Line 15(a) of the application and the Public Notice which indicate existing use. When exactly did use of this source cease?

(c) Questions of Law
Refer to b. and c.(2)(c) above.

(d) Questions of Policy
Refer to b. and c.(2)(d) above.

(3) Grounds for Objections to Proposed Permits

1. In Ko'olaupoko GWMA, the following BWS applications indicate on line 15.(b) that BWS existing uses affect instream flow standards:

Luluku Tunnel, Haiku Tunnel, Haiku Well, Kahaluu Tunnel, Waihee Tunnel, Waihee Inclined Wells, Waihee Wells.

Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(4), and COWRM may not issue water use permits until public hearings are held to determine what portions, if any, of existing BWS uses should be restored to instream flows.
2. In Ko'olaupoko GWMA, the following BWS applications indicate on line 15.(d) that BWS existing uses affect other existing legal uses:

Haiku Tunnel, Waihee Tunnel, Waihee Inclined Wells, Waihee Wells.

The following BWS applications indicate on line 15.(d) that applicant does not know if BWS existing uses affect other existing legal uses:

Luluku Tunnel.

Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(4), and COWRM may not issue water use permits until public hearings are held to determine what portions, if any, of existing BWS uses should be abandoned in favor of other existing legal uses.

3. If portions of the Waimanalo tunnels are sited on or underlay Hawaiian Home Lands, and no agreements exist between BWS and HHL concerning site use and resource extraction, then a water use permit should not issued until public hearings are held and the land use situation is resolved.

4. If Waihee Wells has not been used since the 1989 deadline for filing declarations of water use, a water use permit may not be issued until the application has been reprocessed as an application for a new use.

III. SUMMARY

While COWRM, staff, and the public have participated in discussions about water use permit application processing, there have been no formal declarations of COWRM permit application processing policy, and different procedures are being applied in different WMAs. It appears that COWRM staff and NHAC are advocating different interpretations of the Administrative Rules governing the water use permitting process, and that public hearings are needed to help the Commissioners decide what kind of interpretation best serves the purposes of the Water Code and the public interest.

We therefore state our overall objection to current COWRM procedures and policies regarding water use permit issuance, in a large part because they do not yet exist. We reserve the right to submit additional specific objections to specific permit applications at later dates, since present information about the overall water management context of such permit applications is insufficient for allowing comprehensive, fair assessments.
NHAC requests that COWRM postpone decision-making on all water use permit applications for the subject Water Management Areas until:

1) public hearings about COWRM procedure and policy in processing water use permit applications are concluded and administrative rules governing these processes are revised;

2) necessary assessments of water rights, reserved water uses, surface water uses, and instream flow standards have been completed;

3) these assessments, issuance of water use permits, and certification of declared water uses are woven into an integrated water management decision-making process.

We must implement water use permit application processing methodologies that avoid the continuation of first-come, first-serve permitting. First-come, first-serve water use permit processing contradicts the very heart of the intent of water management area designation. It negates COWRM's effort to involve the community in the water allocation process because it diffuses rather than concentrates the arena of public participation. We cannot have comprehensive water resource management without comprehensive evaluation of water use scenarios.

A finite repeating application period for water management area allocations should be established, after which all applications received in each period can be comprehensively reviewed by a Windward Working Group and COWRM staff for processing recommendations.

NHAC requests that a Windward Working Group be formed similar to the Molokai Working Group in order to recommend reforms to the current piece-meal process of establishing reasonable and beneficial use and resolutions of public interest balancing tests for Windward water.

When existing surface water users have not even been afforded the opportunity to obtain certification, it is extremely unfair for new and existing groundwater uses to have permit applications processed and permits issued (permits which are solid allocations of water and recognition of rights to use that water) when people who have surface and instream uses aren't under designation, are not field verified (so the Commission has no baseline data on what these uses and instream flows might be that they're supposed to protect), and there is no certificate of "reasonable and beneficial" water use. A declaration of water use is an application for certification. One should be able to obtain and use certification in playing off against water use permit applications for groundwater because it is acknowledged in the Code that a certificate does have some meaning and it is something that one should be presenting when getting into a dispute or even a legal battle over water.
At the very least there needs to be some kind of concurrent processing of water use permit applications and declared uses of surface waters. It should be done in a comprehensive way so that everything is on the table at once, even though the specific processes, approvals, and permits are different.

NHAC also supports and concurs with objections filed by Charles Reppun and windward Neighborhood Boards.

Mahalo,

David L. Martin, Water Claims Manager

pc: Honolulu Board of Water Supply
    Kahana Valley State Park
    Kualoa Ranch, Inc.
    Hanohano Enterprises, Inc.
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**ISLAND OF OAHU**

Aquifer System: KOLUMULOA

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**EXHIBIT 1**
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67 Applications totaling 67.429 m3

Page No. 2
## WATER USE PERMIT INDEX REPORT 11/29/93

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Aquifer System: Koolaulea  
Sustainable Yield = 35 mgd

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4 Permits Totaling 0.323  
Available Allocation = 34.677

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**Exhibit 2**
+

WATER USE PERMIT APPLICATION USE STATUS REPORT
WUPA
NO

APPLICANT

ISLAND OF OAHU

WELL NO

-

USE IS
EXIST PROPOSED

DESCRIPTION OF USE

12/01/93

TMK

ZONING

SUSPENSE

WUPA
mgd

AGENDA

Aquifer System: KOOLAULOA

m

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VJ

WALT KAMALOLO
HELEN ALVARADO
HONOLULU BWS
HONOLULU BWS
GALE L. & KATHLEEN WARD
HANOHANO ENTERPRISES, INC
HONOLULU BWS
HONOLULU BWS
HONOLULU BWS
HONOLULU BWS
HONOLULU BWS
HONOLULU BWS
ZIONS SECURITIES CORP.
ZIONS SECURITIES CORP.
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ZIONS SECURITIES CORP.
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ZIONS SECURITIES CORP.
ZIONS SECURITIES CORP.
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LAIE WATER CO., INC.
LAIE WATER CO., INC.
POLYNESIAN CULTURAL CEN.
GEORGE N. NIHIPALI, JR.
ZIONS SECURITIES CORP.
ZIONS SECURITIES CORP.
PUU PAINA RANCH
CAMPBELL ESTATE
LAIE WATER CO., INC.
ALBERTINA K. ROBERTS
ZIONS SECURITIES CORP.
JACOB I. KAIO, SR.
CAMPBELL ESTATE
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HONOLULU BWS
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HONOLULU BWS
CAMPBELL ESTATE

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Y

IRRIGATE 2 ACRES OF BANANA, PAPAYA SUPPLY 1 HOME
SUPPLY 1 HOME, IRRIGATE 8.5 ACRES FLOWERS, FRUITS
MUNICIPAL USE
MUNICIPAL USE
1 HOME & IRRIGATION OF 2.514 ACRES OF FRUIT & NURS
AQUACULTURE OVER 70 ACRES & DOMESTIC FOR 250 UNITS
MUNICIPAL USE
MUNICIPAL USE
MUNICIPAL USE
MUNICIPAL USE
MUNICIPAL USE
MUNICIPAL USE
IRRIGATE 33 ACRES BANANAS, PAPAYAS, GARDEN CROPS
IRRIGATE 33 ACRES BANANAS, PAPAYAS, GARDEN CROPS
WINDWARD MUNICIPAL USE
WINDWARD MUNICIPAL USE
WINDWARD MUNICIPAL USE
IRRIGATE 33 ACRES BANANAS, PAPAYAS, GARDEN CROPS
WINDWARD MUNICIPAL USE
MUNICIPAL USE IN BOARD OF WATER SUPPLY SYSTEM
SUPPLY FOR LIVESTOCK
IRRIGATE 51 ACRES OF GRASS
IRRIGATE 39 ACRES BANANAS, PAPAYAS, GRASS
MUNICIPAL FOR 607 RES,BYUH,COMMERCIAL,LAIE SCHOOL
MUNICIPAL FOR 607 RES,BYUH,COMMERCIAL,LAIE SCHOOL
MUNICIPAL FOR 607 RES,BYUH,COMMERCIAL,LAIE SCHOOL
SUPPLY LAGOON'S AQUATfC LIFE, PROVIDE CIRCULATION
SUPPLY 1 HOME, IRRIGATE 3.5 ACRE BANANA
IRRIGATION FOR 51 ACRES BANANAS, PAPAYAS, GRASS
SUPPLY 103 ACRES OF PRAWNS
LIVESTOCK
DOMESTIC SERVICE TO 33 HOMES,MALAE. PARK,AND RANCH
MUNICIPAL FOR 607 RES,BYUH,COMMERCIAL,LAIE SCHOOL
IRRIGATE 2.2 ACRES BANANA, PAPAYA, LANDSCAPE, FISH
SUPPLY CHICKEN AND EGG FARM NEEDS
IRRIGATE 3 ACRES OF TARO, ON CHOI, OTHER
IRRIGATION FOR 110 ACRES PASTURE AND 240 LIVESTOC
DOMESTIC & IRR FOR 135 ACRES OF RANCHLAND & CATTLE
DOMESTIC & IRR OF 215 AC OF VARIOUS CROPS
SERVICE TO KAHUKU HIGH SCH AND TURF FARM (12 AC)
DOMESTIC & IRRIGATION FOR 275 ACRES OF VAR CROP
AQUACULTURE FOR 48 ACRES PRAWNS
DOMESTIC & IRR OF 40 AC VARIOUS CROPS
WINDWARD MUNICIPAL USE
WINDWARD MUNICIPAL USE
IRRIGATION FOR 160 ACRES OF A.PALMER GOLF COURSE
WINDWARD OAHU MUNICIPAL USE
MUNICIPAL USE
DOMESTIC SERVICE TO 6 MILITARY ADMIN FACILITIES

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### WATER USE PERMIT APPLICATION USE STATUS REPORT 12/01/93

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**Applications Totaling 67.429**
# PENDING WATER USE PERMIT APPLICATIONS FIELD INVESTIGATION STATUS REPORT 12/01/93

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<td>5-6-3:26</td>
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<td>4258-13</td>
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<td>4159-11</td>
<td>KAWAII AIRBASE P</td>
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<td>Y</td>
<td>5-6-3:7</td>
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<td>674-3229 DONNA GOTH</td>
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<tr>
<td>4159-13</td>
<td>KAWAII AIRBASE P</td>
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<td>5-6-6:18</td>
<td>1001 KAMOKILA BLVD.</td>
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<td>4057-06</td>
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<td>Y</td>
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<td>3956-01</td>
<td>MALAEKAHANA</td>
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<td>5-6-9:3</td>
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<td>4100-01</td>
<td>PALMER G.C.</td>
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<td>30 10/19/93</td>
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BWS PUMPAGE - PUNALUU WELLS III
WELL NOS. 3453-06,07

MONTHLY VALUES
12-MAV
REQUESTED AMOUNT

MONTH (Latest Data 9/93)
Well No. 3553-03,04,06 to 08
BWS PUMPAGE - HAUULA WELL
Well No. 3655-01

MONTHLY VALUES  12-MAV  REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUMP 6 (Well No. 3957-07)

MONTHLY VALUES

- 12-MAV

REQUESTED AMOUNT

Month (Latest Data 10/93)
CAMPBELL ESTATE PUMPAGE
KAWANANAKOA (Well No. 4056-01)

Pumpage (mgd)

Month (Latest Data 8/93)

-- MONTHLY VALUES  --- REQUESTED AMOUNT
Well No. 4057-01
CAMPBELL ESTATE PUMPAGE
PUMP 1 (Well No. 4057-01)

Month (Latest Data 10/93)

Pumpage (mgd)

- MONTHLY VALUES
- 12-MAV
- REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUMP 12 (Well No. 4057-07)

MONTHLY VALUES  12-MAV  REQUESTED AMOUNT

Month (Latest Data 8/93)
BWS PUMPAGE - KAHUKU WELLS
Well Nos. 4057-15, 16

![Graph showing pumpage over time for Well Nos. 4057-15, 16 from January 1988 to January 1993. The graph displays monthly values, a 12-month moving average, and the requested amount.](image-url)
CAMPBELL ESTATE PUMPAGE
PALMER G.C. WELL (Well No. 4100-01)

MONTHLY VALUES
12-MAV
REQUESTED AMOUNT

Pumpage (mgd)

JAN 92
JAN 93

Month (Latest Data 10/93)
BWS PUMPAGE - WAIALEE WELL I
Well No. 4101-07

Month (Latest Data 9/93)

- MONTHLY VALUES
- 12-MAV
- REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUMP 15 ARMY (Well No. 4157-04)

MONTHLY VALUES  12-MAV  REQUESTED AMOUNT

Month (Latest Data 9/93)
CAMPBELL ESTATE PUMPAGE
KAHUKU AIRBASE WELL (Well No. 4158-12)

Month (Latest Data 10/93)

Pumage (mgd)

0.5
0.45
0.4
0.35
0.3
0.25
0.2
0.15
0.1
0.05
0
JAN 92 JAN 93

MONTHLY VALUES  12-MAV  REQUEST AMOUNT
CAMPBELL ESTATE PUMPAGE
PUNAMANO ARMY (Well No. 4159-02)

MONTHLY VALUES 12-MAV REQUESTED AMOUNT

Month (Latest Data 9/93)
MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

LN:ko
Attachment(s)

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: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

Response: Contact person: William Devick Phone: 587-0110

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

Signed: WILLIAM DEVICK, Acting Administrator

Date: 9/20/93
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 Campbell Estate for Well No. 4157-05 in the Koolauloa Ground Water Management Area, Oahu

The application is for an existing artesian well at low elevation near the sewage treatment plant in the Kahuku National Wildlife Refuge. Approximately 101,936 gallons of fresh basal water will be released daily for the maintenance of habitat for endangered water birds. Given the location of the well and the water source, there is little likelihood that it will reduce surface water habitat for native aquatic species. We have no objections from the aquatic biological resources standpoint.
1993 September 29

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

OBJECTIONS AND COMMENTS ON APPLICATIONS FOR WATER USE PERMITS
Public Notice dated August 30, 1993
Send written objections by September 29, 1993

NHAC represents water source registrants, water use declarants, water use permit applicants, and others with property interest in land within the hydrologic unit of the source of water supply, as well as persons with non-property interests, all of who would be directly and immediately affected by the proposed water use.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, 6/22/93, & 7/8/93).

Campbell Estate proposes to continue a total of 23.225 mgd of existing uses, 7.0 of which involve seawater. This leaves 16.225 mgd of use from the basal aquifer, yet the May 1992 review draft of the Oahu Water Management Plan (p. 14) reports 1990 groundwater use of only 13.6 mgd. The 16.225 mgd of proposed use is about 46% of the 1992 revised sustainable yield of 35 mgd for the Koolauloa aquifer. Without better knowledge of existing, foreseeable, and potential competing applications for this yield, it is difficult to assess the propriety of allocating almost 50% of aquifer yield to a single applicant.

Many of the applications are for combined domestic and agricultural use. Quantification of the breakdown between these uses is essential at this stage of the permit review process so that existing acreage under cultivation, existing agricultural water use, crop water requirements, and future water allocations can be coherently analyzed.
SPECIFIC OBJECTIONS

Well 4057-01

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for pasture irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-04

While the public notice only lists Well 4057-01 as the well source, the application identifies 4 other wells that serve as sources for the Pump 1 battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-02, -08, -13, and -14 are also part of the application.

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.
The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

**Well 4057-06**

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and other uses only, not for domestic uses. Which is correct?

**Well 4057-07**

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

**Well 4057-10**

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

**Well 4100-02**

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The apparent proximity of the well to a perennial Kawela stream tributary may indicate a potential restriction on use not identified in the application, including possible effects on interim instream flow standards, existing legal uses of the stream, and inchoate legal uses of the stream as authorized by Native Hawaiian custom and tradition.

**Well 4157-04**

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed
water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-05 to -07

Potential restrictions on the proposed water use not identified in the application include possible effects on existing legal uses of all refuge waters and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-09

While we have no specific objections to the extraction of salt water for aquacultural use, we are concerned about the potential impacts of wastewater effluent discharge upon water sources and water uses in the area. These water quality concerns should be listed in the applications as potential restrictions on use.

Wells 4158-01 through -11

The well sites appear to be upgradient from and close to the Ki'i National Wildlife Refuge, Punamano spring, and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuges and for Punamano spring, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4158-14

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4159-01

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
Well 4159-02

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and military uses only, not for domestic uses. Which is correct? Note that the application for adjacent Well 4159-01 is for irrigation use of non-potable water.

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4258-04

The well site appears to be upgradient from and close to Punahoolapa and Punamano springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa and Punamano springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Mahalo,

David L. Martin, Water Claims Manager

pc: Campbell Estate
   Kuilima Resort Co.
NATIVE HAWAIIAN ADVISORY COUNCIL
A Nonprofit Corporation
1000 Bishop Street, Suite 1204, Honolulu, Hawaii 96813
Telephone (808) 523-1445
Facsimile (808) 599-4300

1992 October 12
Hand-Delivered

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

COMMENTS ON APPLICATIONS FOR WATER USE
1. HAWAIIAN ELECTRIC COMPANY WAI'AAU TUNNEL
2. KAIPAPA'U WELL
3. ALL SUBSEQUENT WATER USE APPLICATIONS FOR PEARL HARBOR WATER MANAGEMENT AREA, WINDWARD OAHU WATER MANAGEMENT AREA, AND MOLOKAI WATER MANAGEMENT AREA

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC strongly objects to the wording of the legal notices you have published with respect to who may file written objections or comments. One does not have to prove they will be "immediately affected" by a potentially adverse action in order to meet standing requirements. Therefore, the language of the legal notices is misleading and will have an unwarranted chilling effect on public response and participation in the water use permitting proceedings.

Neither the Water Code nor its rules specifically address the question of standing for filing written objections or comments on applications for water use. Under the Administrative Procedure Act (HAPA) standing has been interpreted very broadly. Furthermore, COWRM has not yet finalized its procedures for processing water use permits in newly designated water management areas. NHAC is quite concerned that COWRM appears to be establishing narrow parameters for standing, as evidenced by these legal notices. This arguably constitutes rulemaking which has not been duly undertaken according to procedures required under HRS 91.

Because water resources have been defined as being owned by the people of the State of Hawai'i in McBryde and Reppuhn all people have property interests in the water supply and may be admitted to any and all proceedings involving its disposition, regulation, and management. NHAC requests that you modify all future legal notices
on water use permit applications to reflect this concern.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-serve basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one-year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-serve processing of applications can equitable resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHAC requests that COWRM postpone decision-making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin, Vice-President
Native Hawaiian Advisory Council
A Nonprofit Corporation
1008 Bishop Street, Suite 1204, Honolulu, Hawaii 96813
Telephone (808) 523-1445
Facsimile (808) 599-4300

1992 October 21
Hand-Delivered

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

COMMENTS ON APPLICATIONS FOR WATER USE--WAHIAWA WATER MANAGEMENT AREA

1. DPW, USASCH Well Nos. 2901-02 and/or 04
2. All (Future/Subsequent) Applications for Waiahawa GWMA

Dear Commissioners:

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC requests clarification of COWRM's referencing the applications listed above as being within the Waiahawa Ground Water Management Area, Oahu. This is the first time we have seen such a reference. Has there been a decision to break the Pearl Harbor Water Management area into sectors? This will have broad implications which merit public discussion and which must meet other rule-making requirements.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during finite application periods. Then after each application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a
process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-served processing of applications can equitably resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part, because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHAC requests that COWRM postpone decision making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin, Vice-President

DLM/DCP: tr
1992 December 1

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

Attn: Rae M. Loui
Deputy Director

Re: OBJECTIONS TO WATER USE PERMIT APPLICATIONS ALL GROUND WATER MANAGEMENT AREAS STATEWIDE AND RESPONSE TO PUBLIC NOTICES AND TO COWRM LETTER OF NOVEMBER 17, 1992

Dear Ms. Loui:

In studying Hawaii Administrative Rules (HAR) Title 13, Chapter 171, we find no explicit or implicit language supporting your contention that processing water use permits as NHAC previously suggested is inconsistent with these rules or would require rulemaking. We would appreciate some clarification on this point as it seems inconsistent with the fact the Pearl Harbor WMA is now being handled in a manner similar to our suggestions.

Two distinct classes of WMAs will emerge if you proceed on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. Then the determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis will circumvent a number of the conditions for a Water Use Permit particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM
records over the last 5.5 years shows that "action" includes
deferral of decision making until information needs are met, as
well as categorization of applications to facilitate future
decision making.

While COWRM, staff, and the public have participated in discussions
about water use permit application processing, there have been no
formal declarations of COWRM permit application processing policy.
It appears that COWRM staff and NHAC are advocating different
interpretations of the Administrative Rules governing the water use
permitting process, and that perhaps public hearings are needed to
help the Commissioners decide what kind of interpretation best
serves the purposes of the Water Code and the public interest.

Native Hawaiian Advisory Council (NHAC) requests COWRM defer
decision making on water use permit applications until the
following issues are resolved:


2. Allocation of water to county municipal purposes.

3. Implementation of water use permit application processing
   methodologies that avoid the continuation of first-come, first-
   serve permitting. First-come, first-serve water use permit
   processing contradicts the very heart of the intent of water
   management area designation. We cannot have comprehensive water
   resource management without comprehensive evaluation of Water Use
   scenarios.

Sincerely,

/5/

David L. Martin

DLM:cln
pc: Water Commissioners
   Department of Hawaiian Home Lands
   County Boards of Water Supply
   Office of Hawaiian Affairs
   Ka Lahui Hawai‘i
   Native Hawaiian Legal Corp.
1993 June 22

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

OBJECTIONS TO AND COMMENTS ON WATER USE PERMIT APPLICATIONS
RESPONSE TO PUBLIC NOTICES DATED MAY 24 AND JUNE 27, 1993

These objections incorporate our previously submitted general objections to water use permit application processing (letters of October 12 & 21 and December 1, 1992).

We would like to ask if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

NHAC specifically objects to the permit application filed by Grace Pacific Corp. We contend that use of 170,000 gpd of potable water for industrial washing and dust control is not a reasonable and beneficial use of water, and expect that the applicant will provide further information about the availability or nonavailability of nonpotable water and/or further details about the necessity of potable water use. We further request that this available water resource be placed in reserve for Hawaiian Home Lands since no water from this aquifer was allocated to DHHL in the Water Commission's June 2 reservation decision.

Mahalo,

David L. Martin, Water Claims Manager
pc w/enc: Mahealani Ranch
Ellen M. Osborne
Thomas N. Matayoshi
Honolulu Board of Water Supply
The Oceanic Institute
Kamehameha Schools
Grace-Pacific, Inc.
Chairperson Hoaliku Drake, DHHL

enc: Letters of October 12 & 21 and December 1, 1992 from NHAC to COWRM
1993 July 8

TO: State of Hawaii Commission on Water Resource Management

SUBJECT: Comments on Water Use Permit Applications
Kawela Plantation Wells (various numbers)
Honolulu Board of Water Supply Kuou III Well No.
2348-06
DLNR DOWALD Waiawa 1-6 Wells (various numbers)

and any other water use permit applications with comments due July 8 and 9, 1993.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, & 6/22/93).

In addition, we are increasingly concerned about the lack of clear guidelines for timing, sequencing, and coordinating COWRM permitting processes with environmental review processes conducted under other authorities (including HRS 343, BLNR Conservation District Use permitting, DOH 401 and NPDES, and County grading and drainage ordinances). This is discussed more fully within the context of specific objections to the Kuou Well III application below.

SPECIFIC OBJECTIONS

1. Kawela Plantation Wells (All)

The permit application information distributed by COWRM for comment should also include the results of COWRM's field verification of declared water uses and should summarize the monthly water use reports submitted over the last six years for comparison of existing uses with quantities of water requested.

2. Kawela Plantation Breadfruit Well No. 0456-04
   Kawela Plantation Ag Well No. 0457-04

NHAC objects to the proposed use of potable water for landscape irrigation. Applicant should provide assessments of alternative water source availability and plans for minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed
water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

The Ag Well (No. 0457-04) is not listed in the July 14, 1992 COWRM Ground Water Index and Summary, but does appear to be a declared use in COWRM Circular C-123 of September 1992 (listing 5 wells for Kawela Plantation).

When was the declaration of water use filed for Well No. 0457-04? If the declared use began after the implementation of the State Water Code, when were well construction and pump installation permits issued?

3. Honolulu Board of Water Supply Kuuol Well j No. 2348-06

NHAC objects to further processing of this permit application until the Environmental Assessment (EA) process for the proposed project is completed. Today is the deadline for submitting comments on the Draft EA (DEA) for the exploratory well, after which the Final EA must be published with a subsequent waiting period of thirty days during which the Final EA may be contested.

BWS states in that DEA that "Production well development will be subject to the environmental review process as stipulated in Chapters 343, Hawaii Revised Statutes, and Chapter 200 of the State Department of Health Regulations." In response to this, we wrote:

Does BWS intend to prepare another EA for its Production Well at Kuuol Well Site III? Will this EA address a broad range of environmental impacts stemming from both the general allocation of water to BWS from the Koolaupoko Ground Water Management Area and the specifics of extracting that allocation from the aquifer at the proposed site? Since BWS already applied to the Commission on Water Resource Management (COWRM) for a Water Use Permit, we objected to that application on the grounds that the environmental review process for the allocation has not been completed. We object to this DEA because it fails to address the allocation and extraction impacts in the comprehensive manner required to inform COWRM water use permit decisionmaking. Also note that COWRM has recently taken a position that permit applications are not complete and cannot be taken up for decisionmaking until environmental review processes are completed.

There is huge confusion and problems with the current timing, sequence, and coordination of environmental review processes for both exploratory and production wells (including HRS 343 processes, Conservation district use permitting, and DOH processes) and COWRM permitting processes (water use, well construction, and pump installation). The DEA should explain the BWS view and those of other agencies concerning the timing, sequence, and coordination of these processes. This
would provide a starting point for working with all parties to integrate the processes for the greatest mutual benefit.

Similarly, we now ask COWRM to explain its view and how it perceives that of other agencies with regard to these same issues.

NHAC also objects to further processing of this application until water reservations to Hawaiian Home Lands from the designated windward aquifers are completed. We recommend that this application be consolidated with other BWS applications so that the bulk allocation requested by BWS from Koolauopoko and BWS plans for distributing that allocation are more clearly understood.

4. DLNR DOWALD Waiawa Wells 1-6 (All)

NHAC requests additional information and extended review for these proposed uses. We have not yet received the permit applications and other supporting documentation needed to sort out the following issues:

a. COWRM minutes of June 2, 1993 meeting are confusing, and the presently remaining available allocation in the Waipahu-Waiawa system is unclear. Allocation of 2.0127 mgd to BWS on behalf of HFDC was approved (page 9). Was the 5.093 mgd allocation to BWS recommended in the staff submittal (page 4 number 4.) also approved? If so, does the 5.093 mgd allocation include the 2.0127 for HFDC?

b. We need more information and more time to research the land ownership and water rights issues raised by the Federal transfer to the State of the Waiawa lands where the proposed sources are located.

c. We need assurances that DLNR Plans to operate these systems as State water systems and does not plan to dedicate them to BWS.

d. We need to know how DOWALD has responded to COWRM concerns about the specifications for the proposed wells and their potential impact upon aquifer dynamics and existing groundwater uses.

e. We need to know how COWRM plans to integrate environmental review processes under other authorities with its own permitting processes (see above discussion of Kuou Well III application).

Based on the information now available, NHAC raises the following specific objections to the applications, and reserves the right to file additional specific objections as information becomes available:

a. Many of the State projects listed (Exhibit 6 of COWRM submittal of 6/2/92) propose using potable water for landscape irrigation of public facilities. Applicant should provide assessments of alternative water source availability and plans for
minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

b. There may be insufficient available allocation to meet DOWALD's quantity of use requested.

c. DOWALD's requested uses compete with other requested uses, thus it seems that public hearings are required.

d. Most of the State projects listed in the previous COWRM submittal are not listed in the current version of the State Water Projects Plan.

ADDITIONAL INFORMATION/EXTENDED REVIEW REQUESTED

NHAC has not yet received copies of the permit applications filed for DLNR DOWALD Waiawa 1-6 Wells. We request that this information be sent and the review period extended so that we can more closely analyze these extremely significant applications.

In our review of the Star-Bulletin for June 18, 1993, we did not find public notice of the Honolulu Board of Water Supply water use permit application for Kuou III in the legal notice section or elsewhere. Thus we are unable to ascertain whether or not any other water use permit applications were publicly noticed at that time. If so, we request that you transmit copies of these applications and extend the associated review period.
Mahalo

David L. Martin

David L. Martin, Water Claims Manager

c: Kawela Plantation Homeowner's Association
Molokai Working Group for COWRM
Honolulu Board of Water Supply
DLNR DOWALD
Water Commissioners
Water Code Review Commission and Commissioners
Ka Lahui Hawai‘i
Hawaiian Homes Commission
Office of Hawaiian Affairs
Native Hawaiian Legal Corp.
October 14, 1993

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

Dear Mr. Ahue:

Withdrawal of Objections

The Department of Hawaiian Home Lands has been in a position to raise objections to various applications for water use permits, particularly in Windward O‘ahu, on the basis that water reservations were yet required to meet statutory obligations to Hawaiian home lands.

Please be advised that as the proposed water reservations in O‘ahu and Moloka‘i water management areas are finalized, our objections for this reason are thereby withdrawn.

Warmest aloha,

Hoaliku L. Drake, Chairman  
Hawaiian Homes Commission

HLD:BH:ci/1608L.77
FROM:     Neal  
DATE:     04/19/93  
FILE IN:   4157-05  

TO:       INIT:  

G. Matsumoto  
F. Ching  
E. Hirano  
L. Mizuno  
G. Bauer  
P. Haraguchi  
N. Fujii  
K. Yoda  
R. LOUI  
S. Kokubun  
E. SAKODA  
Y. SHIROMA  

PLEASE:    

See Me  
Call  
Review & Comment  
Take Action  
Investigate & Report  
Draft Reply  
Acknowledge Receipt  
Type Draft  
Type Final  
Xerox ______ copies  

FOR YOUR:  

Approval  
Signature  
Information  

Copies for files  
I think original has been filed
The Estate of James Campbell

September 22, 1993

Mr. Neal Fujii
State of Hawaii
Department of Land and Natural Resources
Commission on Water Resource Management
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Fujii:

Water Use Permit Applications For
Wells Listed Below and Status

1. Well 3957-03, Pump 3A

This well is one of six wells located at the old plantation Battery No. 3. Well has not been in use for years, but will be rehabilitated for aquaculture operation to commence in next three to six months.

2. Well 4100-02, Kawela

This well has not operated for a number of years. This well is in the Waialee Aquifer. We plan to rehabilitate this well sometime in 1994 for agriculture operations.

3. Well 4157-04, Pump 15

This well services the Air Force and Amorien Aquaculture prawn ponds. Water use is 1,100,000 gallons per day. Amorien may not have filed reports for last 12 months.

4. Well 4157-05, USFW 1
Well 4157-06, USFW 2
Well 4157-07, USFW 3

These wells are operated by U. S. Fish & Wildlife Service for the wildlife refuge at Kahuku. We understand they were filing monthly water use reports.
5. Well 4157-09, IKKO (Lot J)

This well is the primary source for salt water for all of Amorient Aquafarms shrimp ponds makai of Kamehameha Highway at Kahuku. Daily production is 5,000,000 gallons per day. We understood Amorient was filing monthly water use reports on this well.

6. Well 4157-11, Pacific Sea Farms

This well is not in use due to the financial difficulties of Pacific Sea Farms. The well may be rehabilitated if a new aquaculture tenant takes over this operation.

7. Wells 4158-01 to 11, Pump 5

This old plantation pump station has been abandoned for years. The state is taking over this area as part of a condemnation procedure.

8. Well 4159-02, Punamano Pump 2

This is the Air Force operated well using about 1,250 gallon per day. We understood the Air Force was making monthly water use reports.

9. Well 4257-01, Pacific Sea Farms

Well 4257-02, Pacific Sea Farms

These are the main supply wells for what was the Pacific Sea Farms shrimp operation. Well 4257-01 supplied about 5,000,000 gallons per day and Well 4257-02 is a back-up well. We understood Pacific Sea Farms was making monthly water use reports.

10. Well 4258-04, RCA Building

This well supplies salt water to the Amorient hatchery at the RCA Building at Kahuku. Well is used only when hatchery is in operation and supplies about 130,000 gallons per day at those times. Again we understand monthly water use reports were being made.
11. Well 4258-09, Pacific Sea Farms

This well has not been in use by Pacific Sea Farms. A new aquaculture tenant may want to rehabilitate this well for future aquaculture operations.

Please give me a call if you have any questions at 674-3145.

Sincerely,

James E. Menor
Administrator,
Natural Resources
The Honorable Keith W. Ahue, Chairperson  
Commission on Water Resource Management  
Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Ahue:

Water Use Permits

Thank you for the opportunity to respond to applications for water use at the following Kahuku-Campbell Wells:

- 4056-01
- 4056-01,04,06,07,10
- 4100-01
- 4157-04,05,06,07,09
- 4158 01 thru 11
- 4159-01,02
- 4258-04

and the Kahuku-Kuilima Well (4158-14).

We have no objections to these applications.

Warmest aloha,

Hoaliku L. Drake, Chairman  
Hawaiian Homes Commission
1993 September 29

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

OBJECTIONS AND COMMENTS ON APPLICATIONS FOR WATER USE PERMITS
Public Notice dated August 30, 1993
Send written objections by September 29, 1993

NHAC represents water source registrants, water use declarants, water use permit applicants, and others with property interest in land within the hydrologic unit of the source of water supply, as well as persons with non-property interests, all of who would be directly and immediately affected by the proposed water use.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, 6/22/93, & 7/8/93).

Campbell Estate proposes to continue a total of 23.225 mgd of existing uses, 7.0 of which involve seawater. This leaves 16.225 mgd of use from the basal aquifer, yet the May 1992 review draft of the Oahu Water Management Plan (p. 14) reports 1990 groundwater use of only 13.6 mgd. The 16.225 mgd of proposed use is about 46% of the 1992 revised sustainable yield of 35 mgd for the Koolaua aquifer. Without better knowledge of existing, foreseeable, and potential competing applications for this yield, it is difficult to assess the propriety of allocating almost 50% of aquifer yield to a single applicant.

Many of the applications are for combined domestic and agricultural use. Quantification of the breakdown between these uses is essential at this stage of the permit review process so that existing acreage under cultivation, existing agricultural water use, crop water requirements, and future water allocations can be coherently analyzed.
SPECIFIC OBJECTIONS

Well 4057-01

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for pasture irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-01

While the public notice only lists Well 4057-01 as the well source, the application identifies 4 other wells that serve as sources for the Pump 1 battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-02, -08, -13, and -14 are also part of the application.

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-04

While the public notice only lists Well 4057-04 as the well source, the application identifies 3 other wells that serve as sources for the Sugar Mill Pump battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-09, -11, and -12 are also part of the application.

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

Well 4057-06

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and other uses only, not for domestic uses. Which is correct?

Well 4057-07

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4057-10

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4100-02

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The apparent proximity of the well to a perennial Kawela stream tributary may indicate a potential restriction on use not identified in the application, including possible effects on interim instream flow standards, existing legal uses of the stream, and inchoate legal uses of the stream as authorized by Native Hawaiian custom and tradition.

Well 4157-04

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed
water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-05 to 07

Potential restrictions on the proposed water use not identified in the application include possible effects on existing legal uses of all refuge waters and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-09

While we have no specific objections to the extraction of salt water for aquacultural use, we are concerned about the potential impacts of wastewater effluent discharge upon water sources and water uses in the area. These water quality concerns should be listed in the applications as potential restrictions on use.

Wells 4158-01 through -11

The well sites appear to be upgradient from and close to the Ki'i National Wildlife Refuge, Punamano spring, and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punamano spring, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4158-14

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4159-01

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
Well 4159-02

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and military uses only, not for domestic uses. Which is correct? Note that the application for adjacent Well 4159-01 is for irrigation use of non-potable water.

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4258-04

The well site appears to be upgradient from and close to Punahoolapa and Punamano springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa and Punamano springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Mahalo,

David L. Martin, Water Claims Manager

pc: Campbell Estate
Kuilima Resort Co.
1992 October 12

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

COMMENTS ON APPLICATIONS FOR WATER USE
1. HAWAIIAN ELECTRIC COMPANY WAIAU TUNNEL
2. KAIPAPAU WELL
3. ALL SUBSEQUENT WATER USE APPLICATIONS FOR PEARL HARBOR WATER MANAGEMENT AREA, WINDWARD OAHU WATER MANAGEMENT AREA, AND MOLOKAI WATER MANAGEMENT AREA

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC strongly objects to the wording of the legal notices you have published with respect to who may file written objections or comments. One does not have to prove they will be "immediately affected" by a potentially adverse action in order to meet standing requirements. Therefore, the language of the legal notices is misleading and will have an unwarranted chilling effect on public response and participation in the water use permitting proceedings.

Neither the Water Code nor its rules specifically address the question of standing for filing written objections or comments on applications for water use. Under the Administrative Procedure Act (HAPA) standing has been interpreted very broadly. Furthermore, COWRM has not yet finalized its procedures for processing water use permits in newly designated water management areas. NHAC is quite concerned that COWRM appears to be establishing narrow parameters for standing, as evidenced by these legal notices. This arguably constitutes rulemaking which has not been duly undertaken according to procedures required under HRS 91.

Because water resources have been defined as being owned by the people of the State of Hawai'i in McBryde and Repulun all people have property interests in the water supply and may be admitted to any and all proceedings involving its disposition, regulation, and management. NHAC requests that you modify all future legal notices
on water use permit applications to reflect this concern.

NIHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-serve basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one-year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-serve processing of applications can equitable resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NIHAC requests that COWRM postpone decision-making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin

David L. Martin, Vice-President
1992 October 21

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

COMMENTS ON APPLICATIONS FOR WATER USE--WAHIWA WATER MANAGEMENT AREA

1. DFW, USASCH Well Nos. 2901-02 and/or 04
2. All (Future/Subsequent) Applications for Wahiawa GWMA

Dear Commissioners:

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC requests clarification of COWRM's referencing the applications listed above as being within the Wahiawa Ground Water Management Area, Oahu. This is the first time we have seen such a reference. Has there been a decision to break the Pearl Harbor Water Management area into sectors? This will have broad implications which merit public discussion and which must meet other rule-making requirements.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during finite application periods. Then after each application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a
process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-served processing of applications can equitably resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part, because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHAC requests that COWRM postpone decision making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin, Vice-President

DLM/DCP:tr
1992 December 1

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

Attn: Rae M. Loui
Deputy Director

Re: OBJECTIONS TO WATER USE PERMIT APPLICATIONS ALL GROUND WATER MANAGEMENT AREAS STATEWIDE AND RESPONSE TO PUBLIC NOTICES AND TO COWRM LETTER OF NOVEMBER 17, 1992

Dear Ms. Loui:

In studying Hawaii Administrative Rules (HAR) Title 13, Chapter 171, we find no explicit or implicit language supporting your contention that processing water use permits as NHAC previously suggested is inconsistent with these rules or would require rulemaking. We would appreciate some clarification on this point as it seems inconsistent with the fact the Pearl Harbor WMA is now being handled in a manner similar to our suggestions.

Two distinct classes of WMAs will emerge if you proceed on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. Then the determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis will circumvent a number of the conditions for a Water Use Permit particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM
records over the last 5.5 years shows that "action" includes deferral of decision making until information needs are met, as well as categorization of applications to facilitate future decision making.

While COWRM, staff, and the public have participated in discussions about water use permit application processing, there have been no formal declarations of COWRM permit application processing policy. It appears that COWRM staff and NHAC are advocating different interpretations of the Administrative Rules governing the water use permitting process, and that perhaps public hearings are needed to help the Commissioners decide what kind of interpretation best serves the purposes of the Water Code and the public interest.

Native Hawaiian Advisory Council (NHAC) requests COWRM defer decision making on water use permit applications until the following issues are resolved:

2. Allocation of water to county municipal purposes.
3. Implementation of water use permit application processing methodologies that avoid the continuation of first-come, first-serve permitting. First-come, first-serve water use permit processing contradicts the very heart of the intent of water management area designation. We cannot have comprehensive water resource management without comprehensive evaluation of water use scenarios.

Sincerely,

/5/ 

David L. Martin

DLM:cln
pc: Water Commissioners
   Department of Hawaiian Home Lands
   County Boards of Water Supply
   Office of Hawaiian Affairs
   Ka Lahui Hawai'i
   Native Hawaiian Legal Corp.
1993 June 22

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

OBJECTS TO AND COMMENTS ON WATER USE PERMIT APPLICATIONS
RESPONSE TO PUBLIC NOTICES DATED MAY 24 AND JUNE 27, 1993

These objections incorporate our previously submitted general objections to water use permit application processing (letters of October 12 & 21 and December 1, 1992).

We would like to ask if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

NHAC specifically objects to the permit application filed by Grace Pacific Corp. We contend that use of 170,000 gpd of potable water for industrial washing and dust control is not a reasonable and beneficial use of water, and expect that the applicant will provide further information about the availability or nonavailability of nonpotable water and/or further details about the necessity of potable water use. We further request that this available water resource be placed in reserve for Hawaiian Home Lands since no water from this aquifer was allocated to DHHL in the Water Commission's June 2 reservation decision.

Mahalo,

David L. Martin, Water Claims Manager
State of Hawaii
Commission on Water Resource Management
1993 June 22
Page 2

pc w/enc: Mahealani Ranch
Ellen M. Osborne
Thomas N. Matayoshi
Honolulu Board of Water Supply
The Oceanic Institute
Kamehameha Schools
Grace-Pacific, Inc.
Chairperson Hoaliku Drake, DHHL

enc: Letters of October 12 & 21 and December 1, 1992 from
NHAC to COWRM
TO: State of Hawaii Commission on Water Resource Management

SUBJECT: Comments on Water Use Permit Applications

Kawela Plantation Wells (various numbers)
Honolulu Board of Water Supply Kuou III Well No. 2348-06
DLNR DOWALD Waiawa 1-6 Wells (various numbers)

and any other water use permit applications with comments due July 8 and 9, 1993.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, & 6/22/93).

In addition, we are increasingly concerned about the lack of clear guidelines for timing, sequencing, and coordinating COWRM permitting processes with environmental review processes conducted under other authorities (including HRS 343, BLNR Conservation District Use permitting, DOH 401 and NPDES, and County grading and drainage ordinances). This is discussed more fully within the context of specific objections to the Kuou Well III application below.

SPECIFIC OBJECTIONS

1. Kawela Plantation Wells (All)

The permit application information distributed by COWRM for comment should also include the results of COWRM's field verification of declared water uses and should summarize the monthly water use reports submitted over the last six years for comparison of existing uses with quantities of water requested.

2. Kawela Plantation Breadfruit Well No. 0456-04
   Kawela Plantation Ag Well No. 0457-04

NHAC objects to the proposed use of potable water for landscape irrigation. Applicant should provide assessments of alternative water source availability and plans for minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed
water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

The Ag Well (No. 0457-04) is not listed in the July 14, 1992 COWRM Ground Water Index and Summary, but does appear to be a declared use in COWRM Circular C-123 of September 1992 (listing 5 wells for Kawela Plantation).

When was the declaration of water use filed for Well No. 0457-04? If the declared use began after the implementation of the State Water Code, when were well construction and pump installation permits issued?

3. Honolulu Board of Water Supply Kuou Well J No. 2348-06

NHAC objects to further processing of this permit application until the Environmental Assessment (EA) process for the proposed project is completed. Today is the deadline for submitting comments on the Draft EA (DEA) for the exploratory well, after which the Final EA must be published with a subsequent waiting period of thirty days during which the Final EA may be contested.

BWS states in that DEA that "Production well development will be subject to the environmental review process as stipulated in Chapters 343, Hawaii Revised Statutes, and Chapter 200 of the State Department of Health Regulations." In response to this, we wrote:

Does BWS intend to prepare another EA for its Production Well at Kuou Well Site III? Will this EA address a broad range of environmental impacts stemming from both the general allocation of water to BWS from the Koolaupoko Ground Water Management Area and the specifics of extracting that allocation from the aquifer at the proposed site? Since BWS already applied to the Commission on Water Resource Management (COWRM) for a Water Use Permit, we objected to that application on the grounds that the environmental review process for the allocation has not been completed. We object to this DEA because it fails to address the allocation and extraction impacts in the comprehensive manner required to inform COWRM water use permit decisionmaking. Also note that COWRM has recently taken a position that permit applications are not complete and cannot be taken up for decisionmaking until environmental review processes are completed.

There is huge confusion and problems with the current timing, sequence, and coordination of environmental review processes for both exploratory and production wells (including HRS 343 processes, Conservation district use permitting, and DOH processes) and COWRM permitting processes (water use, well construction, and pump installation). The DEA should explain the BWS view and those of other agencies concerning the timing, sequence, and coordination of these processes. This
would provide a starting point for working with all parties to integrate the processes for the greatest mutual benefit.

Similarly, we now ask COWRM to explain its view and how it perceives that of other agencies with regard to these same issues.

NHAC also objects to further processing of this application until water reservations to Hawaiian Home Lands from the designated windward aquifers are completed. We recommend that this application be consolidated with other BWS applications so that the bulk allocation requested by BWS from Koolaupoko and BWS plans for distributing that allocation are more clearly understood.

4. DLNR DOWALD Waiawa Wells 1-6 (All)

NHAC requests additional information and extended review for these proposed uses. We have not yet received the permit applications and other supporting documentation needed to sort out the following issues:

   a. COWRM minutes of June 2, 1993 meeting are confusing, and the presently remaining available allocation in the Waipahu-Waiawa system is unclear. Allocation of 2.0127 mgd to BWS on behalf of HFDC was approved (page 9). Was the 5.093 mgd allocation to BWS recommended in the staff submittal (page 4 number 4.) also approved? If so, does the 5.093 mgd allocation include the 2.0127 for HFDC?

   b. We need more information and more time to research the land ownership and water rights issues raised by the Federal transfer to the State of the Waiawa lands where the proposed sources are located.

   c. We need assurances that DLNR Plans to operate these systems as State water systems and does not plan to dedicate them to BWS.

   d. We need to know how DOWALD has responded to COWRM concerns about the specifications for the proposed wells and their potential impact upon aquifer dynamics and existing groundwater uses.

   e. We need to know how COWRM plans to integrate environmental review processes under other authorities with its own permitting processes (see above discussion of Kuou Well III application).

Based on the information now available, NHAC raises the following specific objections to the applications, and reserves the right to file additional specific objections as information becomes available:

   a. Many of the State projects listed (Exhibit 6 of COWRM submittal of 6/2/92) propose using potable water for landscape irrigation of public facilities. Applicant should provide assessments of alternative water source availability and plans for
minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

b. There may be insufficient available allocation to meet DOWALD's quantity of use requested.

c. DOWALD's requested uses compete with other requested uses, thus it seems that public hearings are required.

d. Most of the State projects listed in the previous COWRM submittal are not listed in the current version of the State Water Projects Plan.

ADDITIONAL INFORMATION/EXTENDED REVIEW REQUESTED

NHAC has not yet received copies of the permit applications filed for DLNR DOWALD Waiawa 1-6 Wells. We request that this information be sent and the review period extended so that we can more closely analyze these extremely significant applications.

In our review of the Star-Bulletin for June 18, 1993, we did not find public notice of the Honolulu Board of Water Supply water use permit application for Kuou III in the legal notice section or elsewhere. Thus we are unable to ascertain whether or not any other water use permit applications were publicly noticed at that time. If so, we request that you transmit copies of these applications and extend the associated review period.
Mahalo

David L. Martin, Water Claims Manager

pc: Kawela Plantation Homeowner's Association
    Molokai Working Group for COWRM
    Honolulu Board of Water Supply
    DLNR DOWALD
    Water Commissioners
    Water Code Review Commission and Commissioners
    Ka Lahui Hawai‘i
    Hawaiian Homes Commission
    Office of Hawaiian Affairs
    Native Hawaiian Legal Corp.
Mr. Keith Ahue, Chairperson  
Commission on Water Resource Management  
Department of Land and Natural Resources  
State of Hawaii  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Ahue:

Subject: Your Letters of September 9, 1993 on Water Use Permits for Campbell Estate in the Koolauloa Groundwater Management Area, Windward Oahu: Well No. 4056-01; Well No. 4057-01; Well No. 4057-04; Well No. 4057-06; Well No. 4057-07; Well No. 4057-10; Well No. 4100-01; Well No. 4100-02; Well No. 4157-04; Well No. 4157-05; Well No. 4157-06; Well No. 4157-07; Well No. 4157-09; Well No. 4158-01 through 11; Well No. 4158-14; Well No. 4159-01; and Well No. 4159-02

Thank you for the opportunity to comment on these water use permits for Campbell Estate in the Kahuku area. We have no objections to issuance of permits for these existing uses. We feel, however, that the requested amounts of water for some wells are overstated and should be adjusted based on the actual amounts used and in accordance with the sustainable yield, especially when other well owners such as the Board of Water Supply are considered. The requested sum of 14.7+ mgd already exceeds the sustainable yield from the basal aquifer.

In the interests of preserving the best quality water for domestic consumption, however, the operators of the golf course using Well No. 4100-01 should use an alternative source of lesser quality water for irrigation. This action would be in accordance with the Board of Water Supply Rules and Regulations requiring golf courses to use nonpotable sources for irrigation where possible.

We return for your information the completed forms.

Very truly yours,

KAZU HAYASHIDA  
Manager and Chief Engineer

Attachment
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. Kazu Hayashida, Manager & Chief Engineer
          Honolulu Board of Water Supply

FROM:      Keith W. Ahue, Chairperson

SUBJECT:   Water Use Permit Application
          Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

Attachment(s)
Memorandum to:
Mrs. Hoaliku L. Drake
Dr. John C. Lewin
Mr. Clayton H.W. Hee
Mr. Kazu Hayashida

Page 2

Response: Contact person: Herbert H. Minakami Phone: 527-6183

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

Signed: Kazu Hayashida
Date: 9/23/93

KAZU HAYASHIDA
Manager and Chief Engineer
MEMORANDUM

TO:  
Aquatic Resources  
Forestry and Wildlife  
Historic Preservation  
Land Management  
Natural Area Reserve System  
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  
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

Response:  Contact person:  Steve Togawa  
Phone: 587-0385

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

Signed:  Date: 9/30/93

The subject well site is not located within the Conservation District.
September 23, 1993

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

Dear Mr. Ahue,

Subject: Your Letter of September 9, 1993 on Water Use Permits for Campbell Estate in the Koolauloa Groundwater Management Area, Windward Oahu: Well No. 4056-01; Well No. 4057-01; Well No. 4057-04; Well No. 4057-06; Well No. 4057-07; Well No. 4057-10; Well No. 4100-01; Well No. 4100-02; Well No. 4157-04; Well No. 4157-05; Well No. 4157-06; Well No. 4157-07; Well No. 4157-09; Well No. 4158-01 through 11; Well No. 4158-14; Well No. 4159-01; Well No. 4159-02; Well No. 4258-04

Thank you for the opportunity to comment on these water use permits. We have no objections to issuance of permits for these existing uses. However, the amounts of water requested, for some wells, are overstated and should be adjusted based on the actual amounts used and the applicable sustainable yields.

In the interest of preserving the best quality water for potable use, the operators of the golf course using Well No. 4100-01 should investigate the use of nonpotable water for irrigation. This action would be in accordance with the Board of Water Supply Rules and Regulations requiring golf courses to use nonpotable sources for irrigation where possible.

Warm personal regards.

Sincerely,

[Signature]

FFF:js

cc: Jeremy Harris, Managing Director
September 17, 1993

MEMORANDUM

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

FROM: Don Hibbard, Administrator
Historic Preservation Division

SUBJECT: Application for Water Use Permit, Ko'olauloa Ground Water Management Area, O'ahu
Campbell Estate for Well No. 4157-04 through 4157-07
Kahuku, Ko'olauloa, O'ahu
TMK 5-6-02:001

Thank you for the opportunity to review this project. The applicant proposes to use water from existing sources. Since an approved permit will not authorize any ground disturbing activities, we believe that there will be "no effect" on historic sites.

BJ:jt
MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife
    Historic Preservation
    Land Management
    Natural Area Reserve System
    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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at 587-0274 or 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

DOFAW HAS NO COMMENTS OR OBJECTIONS TO THE PROPOSED REQUEST.

Signed: ________________________ Date: ___________
MEMORANDUM

TO:

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments - Water Use Permit Application - Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

LN:ko
Attachment(s)

Response: Contact person: [signature] Phone: [number]

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

Signed: [signature] Date: [date]
MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

Response: Contact person: Gordon Akita Phone: 70227

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

Signed: MANABU TAGOMORI Date: 9/23
MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at 587-0274 or 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: 9/23/93
Oahu District Office has no objection provided that the applicant obtain the required Federal, State and County permits if required.

Should you have any questions, please call John Doooling at 7-0433.
MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

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

LN:ko
Attachment(s)

Response: Contact person: __________________________ Phone: ____________

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

Signed: __________________________ Date: ____________
Honorable Frank F. Fasi, Mayor
City & County of Honolulu
City Hall
Honolulu, HI 96813

Attn: Mr. Jeremy Harris

Dear Mayor Fasi:

Notice of an Application for a Water Use Permit
Koolauloa Ground Water Management Area, Oahu

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 Campbell Estate for Well No. 4157-05, 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

Attach.
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. Kazu Hayashida, Manager & Chief Engineer
   Honolulu Board of Water Supply

FROM: Keith W. Ahue, Chairperson

SUBJECT: Water Use Permit Application
         Koolauola Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.
Memorandum to:
Mrs. Hoaliku L. Drake
Dr. John C. Lewin
Mr. Clayton H.W. Hee
Mr. Kazu Hayashida

Response: Contact person: ____________________________ Phone: __________

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

Signed: ______________________________________ Date: __________
PUBLIC NOTICE

Applications for Water Use Permits
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 4056-01 (Well No. 4056-01)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well 4056-01, Kahuku, Oahu at Tax Map Key: 5-6-6:6
Quantity Requested: 1,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 135 acres of ranch lands for cattle
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:6

Pump 1 (Well No. 4057-01)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 19, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 1, Well No. 4057-01, Kahuku, Oahu at Tax Map Key: 5-6-6:19
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Domestic service and irrigation of 218 acres of various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:19

Sugar Mill Pump (Well No. 4057-04)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Sugar Mill Pump, Well No. 4057-04, Kahuku Sugar Mill, Oahu at Tax Map Key: 5-6-2:17
Quantity Requested: 500,000 gallons per day
Existing Water Use: Domestic service and irrigation of 40 acres various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-2:0

(more)
Pump 8 (Well No. 4057-06)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 8, Well No. 4057-06, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 500,000 gallons per day
Existing Water Use: Domestic service to Kahuku High School and 10-acre turf farm
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:18

Pump 12 (Well No. 4057-07)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 12, Well No. 4057-07, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 2,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 120 acres various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:18

Pump 12-A (Well No. 4057-10)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 12-A, Well No. 4057-10, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Aquaculture for 48 acres of prawns
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:6

Well No. 338 (Well No. 4100-01)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 338, Well No. 4100-01, Kahuku, Oahu at Tax Map Key: 5-7-1:21
Quantity Requested: 800,000 gallons per day
Existing Water Use: Serves 160-acre golf course
Place of Water Use: Kahuku at Tax Map Key: 5-7-1:22

(more)
Kawela Well (Well No. 4100-02)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Kawela Well, Well No. 4100-02, Kawela, Oahu at Tax Map Key: 5-7-1:21
Quantity Requested: 1,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 40 acres of various crops
Place of Water Use: Kawela at Tax Map Key: 5-7-1:21

Pump 15 (Well No. 4157-04)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 15, Well No. 4157-04, Kahuku Aquafarm - Kamehameha Hwy, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 30,000 gallons per day
Existing Water Use: Domestic service to 6 military administrative facilities
Place of Water Use: Kahuku Army training area at Tax Map Key: 5-6-8:2

Well No. 4157-05
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-05, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 82,410 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

Well No. 4157-06
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-06, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 105,572 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

(more)
Well No. 4157-07
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-07, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 106,791 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

Well No. 4157-09
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 23, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-09, Kahuku, Oahu at Tax Map Key: 5-6-2:7
Quantity Requested: 7,000,000 gallons per day
Existing Water Use: Aquaculture for 300 acres of shrimp
Place of Water Use: Kahuku at Tax Map Key: 5-6-2:1

Pump 5 (Well Nos. 4158-01 through -11)
Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 5, Well Nos. 4158-01 through -11, Kahuku, Oahu at Tax Map Key: 5-6-5:7
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Irrigation of 688 acres of various crops in State Agricultural Park
Place of Water Use: Kahuku at Tax Map Key: 5-6-5:7

Well No. 4158-14
Applicant: Kuilima Resort Co.
1204 Kapoilani Blvd.
Honolulu, HI 96814
Date Completed Application Received: July 12, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4158-14, Kahuku, Oahu at Tax Map Key: 5-6-3:44
Quantity Requested: 800,000 gallons per day
Existing Water Use: Service to 160-acre golf course
Place of Water Use: Kahuku at Tax Map Key: 5-6-3:40

(more)
Pump 2 (Well No. 4159-01)

Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 2, Well No. 4159-01, Kahuku, Oahu at Tax Map Key: 5-6-3:43
Quantity Requested: 3,000,000 gallons per day
Existing Water Use: Irrigation for over 250 acres of various crops
Place of Water Use: Kahuku at Tax Map Key: 5-7-1:21

Punamano Pump 2 (Well No. 4159-02)

Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Punamano Pump 2, Well No. 4159-02, Kahuku, Oahu at Tax Map Key: 5-6-3:43
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Domestic service to two military administrative facilities and irrigation of 75-acre pasture
Place of Water Use: Punamano Air Force Station and pasture at Tax Map Key: 5-6-5:0

Well No. 4258-04

Applicant: Campbell Estate
1001 Kamokila Blvd.
Kapolei, HI 96707

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4258-04, Kahuku-RCA Building, Oahu at Tax Map Key: 5-6-3:32
Quantity Requested: 300,000 gallons per day
Existing Water Use: Fish hatchery
Place of Water Use: Kahuku-RCA Building at Tax Map Key: 5-6-3:32

(more)
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; (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 September 29, 1993 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: AUG 30 1993

Publish in: Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993
Mr. Roy Hardy  
State of Hawaii  
Commission on Water Resource Management  
Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809  

Dear Mr. Hardy:  

Application for Water Use  
Permits - Non-Potable Water  

Enclosed are 11 applications for water use permits for the following wells, along with a $25 filing fee for each application.  

<table>
<thead>
<tr>
<th>Pump 2 - 4159-01</th>
<th>Well 338</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pump 2 - 4159-02</td>
<td>Well 4158-14</td>
</tr>
<tr>
<td>Pump 5</td>
<td>RCA 4258-04</td>
</tr>
<tr>
<td>Pump 6</td>
<td>Well 4157-05</td>
</tr>
<tr>
<td>Pump 8</td>
<td>Well 4157-06</td>
</tr>
<tr>
<td>Well 4157-07</td>
<td></td>
</tr>
</tbody>
</table>

If you need additional information, please give me a call at 544-3145.  

Sincerely,  

James E. Menor  
Administrator,  
Natural Resources  

Enclosures
FIELD INSPECTION CHECKLISTS FOR CAMPBELL ESTATE WELLS OPERATED OR USED BY AMORIENT AS OF JUNE, 1993

Note: Salt Water Wells on Amorient's leased land, Wells # 4258-12, 13, 14, 15, 16, 17 and 4157-09, have been recently added to the State Well map. Until a change in policy, salt water wells were not being recorded on the State well map and were not consistently being assigned state well numbers such as fresh water wells are numbered. The fact that not all wells in the area were clearly identified with well numbers may have contributed to the confusion of the situation when, in 1989, Amorient filed water use declarations and misidentified some of their wells. In essence, they filed for some of the wrong wells.

Dr. Linden Burzell, formerly of Amorient, is no longer with the company. Dr. Burzell assisted field personnel in an inspection in 4/91, but misidentified wells on the declarations and during the field inspections. This report supersedes any previous inspections.

Wells in use documented in this report: WELLS 4258-08 & 14, 4258-12 & 13, 4157-09 (IKKO Well), 4157-04 (PUMP 15) -- THOSE WELLS ARE CURRENTLY BEING USED BY AMORIENT. Also included in this report are Wells 4258-04, -15, -16, -17, 4157-03 (buried) which are located on property leased by Amorient but are not currently in use.

Of the above wells, Amorient filed water use declarations for the following: 4258-04, 4258-08, and pump 15 (4157-04). Amorient also filed for Wells 4258-05, 06 & 07 but I think that he just misidentified wells 4258-15, 16 & 17. When Dr. Burzell, in 1991, took staff to inspect the wells he was identifying as 4258-05, 06 & 07, they were shown 4258-15 and other wells.

Under the category "Wells Amorient filed declarations for, that are abandoned or buried" are the following:
1) a well buried under an access road, (4157-03), and 2) well "4157-05" which evidently was an abandoned salt water dug well, which no longer exists. The number was reassigned in 1987 to a new well drilled for the U.S. Fish & Wildlife.

NOT CONTAINED IN THIS REPORT: File Ref: CAMPBELL EST will contain individual reports on the following wells: (Campbell Estate is the operator of the following wells.)
1) the battery of six wells at Pump 3 (3957-01 to 06) -- no apparent relation with Amorient. This battery of wells has been documented in the File Ref: CAMPBELL EST.
2) Dr. Burzell filed a water use declaration for Pump 5, a battery of abandoned wells that Campbell owns. When Dr. Burzell took staff to inspect what he was calling Pump 5, he actually took them to the Kahuku Airbase Well (4158-12,13). He misidentified the well on the declaration and in person, and also didn't have access to a key to the pumphouse. Amorient's office in the RCA Building is a small end user of water from the Kahuku Airbase well. Campbell Estate operates Well 4158-12 & 13. The operation and use of water from the Kahuku Airbase well will be documented in the File Ref: CAMPBELL EST water use declaration file. Both Pump 5 and the Kahuku Airbase well are reported on under CAMPBELL EST.
3) Pump 2 (4159-01) at one time, was managed but not used by Amorient. Campbell Estate took over the operation of this well. It will be reported on in File Ref: CAMPBELL EST.
APPLICATION FOR WATER USE PERMIT

1. **(a) APPLICANT**
   - Firm/Name: The Estate of James Campbell
   - Contact Person: Donna Goth
   - Address: 828 Fort St., Ste. 500
   - Honolulu, Hawaii 96813

2. **(b) LANDOWNER**
   - Firm/Name: The Estate of James Campbell
   - Contact Person: Donna Goth
   - Address: 828 Fort St., Ste. 500
   - Honolulu, Hawaii 96813

3. **(a) EXISTING SOURCE NAME AND STATE NUMBER:**
   - Well No. 4157-05

4. **(b) PROPOSED (NEW) SOURCE NAME:**
   - Kahuku

5. **SOURCE LOCATION:**
   - Address: James C. Campbell NWR - Kiti Unit
   - Tax Map Key: 5-6-02

6. **SOURCE TYPE (check one):**
   - Stream
   - Dike-confined
   - Perched
   - Caprock

7. **LOCATION OF PROPOSED WATER USE:**
   - (If possible, show on same maps as source location. Otherwise, attach similar maps)
   - (a) Address: James C. Campbell NWR - Kiti Unit
   - Tax Map Key: 5-6-02

8. **QUANTITY OF WATER REQUESTED:**
   - 82,410 gallons per day

9. **METHOD OF MEASUREMENT:**
   - Flowmeter
   - Open-pipe
   - weir
   - orifice
   - Volume

10. **QUALITY OF WATER REQUESTED:**
    - Fresh
    - Brackish
    - Salt
    - Potable
    - Non-Potable

11. **PROPOSED USE:**
    - Municipal (including hotels, stores, etc.)
    - Domestic (individuals, noncommercial, etc.)
    - Irrigation
    - Industrial
    - Military
    - Other
    - Use of maintenance of habitat for endangered water birds.

12. **NUMBER AND TYPE OF UNITS TO BE SERVED (explain):**
    - Not applicable.

13. **TOTAL ACRES PROPOSED FOR IRRIGATION AND TYPE OF CROP:**
    - 101.936 (crop)

14. **PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION:**
    - 24 hours per day

15. **APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON USE:**
    - (a) Impact on Sustainable yield (?):
      - Unknown.
    - (b) Permanant or Interim
      - Instream Flow Standards affected (?):
        - None.
    - (c) Hawaiian Home Land uses affected (?):
      - None.
    - (d) Other existing legal uses affected (?):
      - None.

16. **REMARKS, EXPLANATIONS:**
    - There are three drilled artesian wells within about a 70-foot radius. Water from each well flows into a common sump and then is diverted by gravity flow into refuge pond pipe distribution system.

**NOTE:** Signing below indicates that the applicant understands that, if a water use permit is granted by the Commission on Water Resource Management, it is subject to prior existing 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, applicant understands that, upon permit approval, a water shortage plan must be submitted should the Commission require use.

**For Official Use Only:**
- Date Received
- Hydrologic Unit No.
- Date Approved
- Diversion Works No.
- State Well No.
- Notice Dates:
  - Public
  - Mayor
  - BWS
  - Mail List
  - Bulletin
  - Public Hearing

**Signature:** The Estate of James Campbell
**Date:** 6/3/92

**Signture:** The Estate of James Campbell
**Date:** 6/3/92
APPROXIMATE LOCATIONS OF GAGES AND WELLS

KII UNIT
JAMES CAMPBELL NATIONAL WILDLIFE REFUGE
Kahuku, Island of Oahu, Hawaii
TO THE ORDER OF

Department of Land & Natural Resources
Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96814

DATE
JUN 10, 93

CHECK NO.
91968

AMOUNT
$25.00

Twenty Five DOLLARS

PLEASE DETACH BEFORE DEPOSITING CHECK

MAIN OFFICE
BANK OF HAWAII
HONOLULU, HAWAII

VOID AFTER 90 DAYS

Given to Kay 6/24/93
Chairperson and Members
Commission on Water Resource Management
State of Hawaii
Honolulu, Hawaii

Gentlemen:

Water Use Permit Applications
Koolauloa Ground Water Management Area, Oahu

Applicant:
Campbell Estate

Landowner:
Same

Amor Ikko (4157-09), Amor Pact 1 (4258-12), Amor Pact 2 (4258-13), Amor RCA 1 (4258-08), Amor RCA 2 (4258-14), Haw Mar Ent Clam (4157-10), Haw Mar Ent Ogo (4157-08), Kahuku Airbase (4158-12&13), Kawanakaoa (4056-01), Malaekahana (3956-01), Pacific Sea 2 (4257-01), Pacific Sea 3 (4257-02), Palmer Golf Course (4100-01), Pump 1 (4057-01), Pump 2 (4159-01), Pump 6 (3957-07), Pump 8 (4057-06), Pump 12 (4057-01), Pump 12-A (4057-10), Pump 15 (4157-04), Punamanao (4159-02), Sugar Mill Pump (4057-11), T. Astro (4258-05), USFW 1 (4157-05), USFW 2 (4157-06), USFW 3 (4157-07)

Honolulu Board of Water Supply

Same

Hauula (3655-01), Kahukua Battery (4057-15,16), Kaluanui (3554-04,05), Punaluu I (3553-02), Punaluu II (3553-03,04,06,07,08), Punaluu III (3453-06,07), Waialee I (4101-07), Waialee II (4101-08),

Hanohano Enterprises, Inc.

Same

(Well No. 3553-01)

George N. Nihipali, Jr.

Same

(Well No. 3855-12)

Jacob I. Kaio, Sr.

Same

(Well No. 3956-07)
Background

The Commission designated Windward Oahu and its corresponding aquifer systems as water management areas on May 5, 1992. All registered ground water users were notified of the official designation date of July 15, 1992, on which the Commission would begin to accept applications for existing water use permits. All water use permit applications in the Koolauloa Ground Water Management Area submitted to the Commission to date are shown in Exhibit 1. Existing water use permits in the management area are shown in Exhibit 2. Other specific information regarding the source, use, objections, and field investigation(s) are described in Attachment A and the other attached exhibits. Exhibit 5 shows well locations and reported pumpage information indexed by well number.

Analysis & Issues

Overall Koolauloa Ground Water Management Area Conditions

The major issue in the Koolauloa Ground Water Management Area is the appearance of an overallocation situation given the number of water use permit applications for existing uses (Exhibit 1). The sustainable yield of the Koolauloa Aquifer System is 35 million gallons per day (mgd) but as of November 29, 1993 Exhibit 1 shows a total demand of 67.433 mgd. However, of the total requested amount, 33.256 mgd is a more reasonable estimate of the requested existing demands on the aquifer and is calculated according to Table 1 as follows:

<table>
<thead>
<tr>
<th>TABLE 1. Calculation for Reasonable Estimate of Existing Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Quantity (mgd)</strong></td>
</tr>
<tr>
<td>:-------------------</td>
</tr>
<tr>
<td>67.433</td>
</tr>
<tr>
<td>+0.323</td>
</tr>
<tr>
<td>-1.000</td>
</tr>
<tr>
<td>-33.500</td>
</tr>
<tr>
<td>33.256</td>
</tr>
</tbody>
</table>

From this analysis, the overallocation situation does not appear to be factual. The 33.256 mgd estimate is within the area’s estimated sustainable yield of 35 mgd. Additionally, the majority of applicants, Campbell Estate (CE) and Honolulu Board of Water Supply (BWS), have requested pump capacities rather than the actual 12 month moving average (12-MAV). The 1992 draft of the Oahu Water Management Plan (OWMP) estimated 1990 average actual use to be 13.6 mgd which would be well within the system’s sustainable yield. Staff has updated this actual use estimate with the 12-month moving average, as of September 1993, at approximately 4 mgd based on water use reports submitted to the Commission. A significant amount of pumpage is not reported at this time, much of it salt water, but staff is making efforts to have all active well owners comply.

The Native Hawaiian Advisory Council (NHAC) has requested an extended review period for all applications in this water management area and other aquifer systems (see Attachment C). Subsequent to this request, NHAC has submitted objections and declared that they represent at least thirteen (13) individuals throughout the Windward Side of Oahu (See Attachment D). The objections relate to the overall procedures of regulating water use through the existing water use permit process specified under §13-171, HAR. While staff realizes that the rules and code can be interpreted in many ways it will continue to process
Given the overall situation of the management area, staff sees no reason to delay action on the existing uses provides the following analysis for applications scheduled for action.

1. **CAMPBELL ESTATE (CE) EXISTING USES** - There are twenty-six (26) applications from CE in this management area for twenty-eight (28) wells. A number of different entities are using water but CE has come in as the applicant since they are the landowner. Wells which have been field verified as pumping salt water for various uses are listed in Table 2 as follows:

<table>
<thead>
<tr>
<th>Operator</th>
<th>Well No.</th>
<th>Requested mgd</th>
<th>Current 12-MAV mgd</th>
<th>Recommended Action+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaiian Marine Enterprises</td>
<td>4157-08</td>
<td>3.000</td>
<td>*0.433</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient Ikko</td>
<td>4157-09</td>
<td>7.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Hawaiian Marine Enterprises</td>
<td>4157-10</td>
<td>3.000</td>
<td>*0.144</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>Pacific Sea Farms</td>
<td>4257-01</td>
<td>5.200</td>
<td>No reports</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>Pacific Sea Farms</td>
<td>4257-02</td>
<td>3.700</td>
<td>No reports</td>
<td>SMA deferral</td>
</tr>
<tr>
<td>T. Astro</td>
<td>4258-05</td>
<td>5.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient RCA 1</td>
<td>4258-08</td>
<td>0.300</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient PACT 1</td>
<td>4258-12</td>
<td>3.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient PACT 2</td>
<td>4258-13</td>
<td>3.000</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
<tr>
<td>Amorient RCA 1</td>
<td>4258-14</td>
<td>0.300</td>
<td>No reports</td>
<td>Approve existing needs</td>
</tr>
</tbody>
</table>

* Note: Only 1 month of data supplied to Commission but verified through field investigation.
+ Note: based on recommendations of Aquacultural Development Program

The major issue with the salt-water applications listed in Table 2 is that actual use data is effectively non-existent. The applicant has indicated that they are compiling historic pumpage information but has not submitted any to date which is understandable since none of the wells in Table 2 were found to have any flow meters. Although staff believes that the salt water wells have a very limited effect on the freshwater portions of the aquifer (otherwise they would be brackish) these uses need to be permitted. Although it may be of questionable value to measure seawater pumpage, staff feels that accurate data may prove beneficial in the future. During staff review it became evident that the standard listed in the OWMP for aquaculture (36,000 gpd/acre) would not be appropriate for the uses listed based on acreage, especially since these uses are large scale. Additionally, the concern of discharge of the effluent is under review, but is being monitored by the Department of Health (DOH). Staff has been consulting with the State Aquacultural Development Program (ADP) as they are more experienced with aquaculture of this magnitude. ADP will be making recommendations to staff prior to the Commission meeting about reasonable amounts of salt water needed for these applications and the necessary measures taken to manage effluent discharges.
Additionally, the Mayor commented that the well(s) for Hawaiian Marine Enterprises (4157-10) and Pacific Sea Farms (4257-01&02) have been determined to reside in Special Management Areas (SMA), which would require SMA permitting. The Mayor asked that these applications be deferred until a SMA determination from DLU is completed.

Field verified wells for CE pumping non-salt water for various uses are listed in Table 3 as follows:

**TABLE 3.**
Campbell Estate Existing Non-Salt Water Wells for Various Uses

<table>
<thead>
<tr>
<th>Operator</th>
<th>Well No.</th>
<th>Requested mgd</th>
<th>Current 12-MAV mgd</th>
<th>Recommended Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malaekahana Domestic System</td>
<td>3956-01</td>
<td>0.100</td>
<td>0.042</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Gunstock &amp; Puu Paina Ranch</td>
<td>3957-07</td>
<td>0.100</td>
<td>0.006</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Kawananakoa Ranch</td>
<td>4056-01</td>
<td>1.000</td>
<td>+ 0.576</td>
<td>Approve 400,000 gpd est.</td>
</tr>
<tr>
<td>Kahuku Farmers Assoc.</td>
<td>4057-01</td>
<td>1.500</td>
<td>0.307</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Turf Farm &amp; Kahuku School</td>
<td>4057-06</td>
<td>0.500</td>
<td>0.030</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Soukaseum &amp; Matsuda</td>
<td>4057-07</td>
<td>2.000</td>
<td>0.109</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Kahuku Prawn Farm</td>
<td>4057-10</td>
<td>1.500</td>
<td>+ + 0.900</td>
<td>Approve 900,000 gpd est.</td>
</tr>
<tr>
<td>Sugar Mill Pump</td>
<td>4057-11</td>
<td>0.500</td>
<td>0.028</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Palmer Golf Course</td>
<td>4100-01</td>
<td>0.800</td>
<td>0.206</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Amorient &amp; US Army</td>
<td>4157-04</td>
<td>1.530</td>
<td>+ 1.517</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-05</td>
<td>0.082</td>
<td>0.082</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-06</td>
<td>0.106</td>
<td>0.106</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Fish and Wildlife Serv.</td>
<td>4157-07</td>
<td>0.107</td>
<td>0.107</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Army, Airbase</td>
<td>4158-12&amp;13</td>
<td>0.500</td>
<td>0.103</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>Vietnamese Farmers</td>
<td>4159-01</td>
<td>3.000</td>
<td>0.814</td>
<td>Approve existing 12-MAV</td>
</tr>
<tr>
<td>US Army</td>
<td>4159-02</td>
<td>1.500</td>
<td>0.001</td>
<td>Approve existing 12-MAV</td>
</tr>
</tbody>
</table>

+ Note: unmetered estimate by applicant.
++ Note: unmetered estimate by staff of existing use on 5/21/93.

The non-salt water requests and their specific issues are as follows (refer to Exhibit 5 for location and use information):

a. **MALAEKAHANA DOMESTIC SYSTEM (Well No. 3956-01)** - The well site was inspected and verified on May 21, 1993. It is designated by the DOH as "Community Water System 316" and is monitored monthly for quality by DOH. The system services approximately 100 individuals; for the Malaekahana State Park 33 homes, and potable needs of Kawananakoa’s Ranch.

The first issue is that there are possibly six (6) active well users within a mile radius of this well. Only one (1) is downgradient and is also owned by the applicant, but no water use permit application has been submitted. The other five (5) have applied for water use permits and are pending in this submittal. Considering the applicant’s well has been in use
since 1975 and are so near to the ocean, any adverse impacts would already be in evidence.  
No downgradient user or other has filed an objection to this application.

The second issue is that the applicant's request for 0.100 mgd is more than the existing use.  The source is metered and the current 12-MAV is approximately 0.042 mgd based on almost two (2) years worth of data (See Exhibit 5).  Additionally, 0.042 mgd seems rather high for the domestic needs based on county standards that 33 homes would require approximately 16,500 gpd plus the need of the transient people at the park and the ranches potable needs.  One explanation is that the transient number of people using the park varies greatly.  Finally, the OWMP estimated 1990 average use at 0.50 mgd.  Staff is unsure why this amount is so high compared to figures provided directly to the Commission but prefers to use the lower reported values.

b. **GUNSTOCK AND PUU PA’INA RANCHES (Well No. 3957-07)** - The well site was inspected and verified on May 21 and October 28, 1993.

The first issue is that there are possibly three (3) active wells within a mile radius of this well.  One is a privately owned source which has not come in for a water use permit and two (2) others are also owned by the applicant, both of which have water use permit applications pending in this submittal.  Considering the applicant’s well has been in use since 1937 and the use is small (approximately 6,200 gpd), any adverse impacts would already be in evidence.  No downgradient user has filed an objection to this application.

The second issue is that the applicant’s request for 0.100 mgd is more than the existing use.  The source is metered and the current 12-MAV is approximately 6,200 gpd based on a year’s worth of data (See Exhibit 5).  Apparently, this is enough to satisfy the applicant’s irrigation needs for 110 acres of pasture and about 240 head of livestock.  From the OWMP, 110 acres of pasture would normally require an estimate of 0.044 mgd but the area is in a wet area of the island.  The OWMP did not estimate the use from this well.

c. **KAWANANAKOA RANCH (Well No. 4056-01)** - The well site was inspected and verified on October 8, 1990.  Telephone contact on October 5, 1993 verified that the only change in use was a decrease from 80 to 64 livestock.

The first issue is that there are possibly five (5) active wells users within a mile radius of this well.  None of these wells are downgradient.  Four (4) out of the five (5) wells have submitted water use permit applications which are pending and addressed in this submittal.  The other well is a privately owned source which has not come in for a water use permit.  Considering the applicant’s well is so close to the ocean, any adverse impacts would already be in evidence.  No objections have been filed for this application.

The second issue is that the requested amount of 1.000 mgd is in excess of verified existing use.  The field investigation verified use for 30-35 acres of pasture, 64 livestock, and 1/4 acre taro and watercress.  Existing 12-MAV reported at 0.576 mgd but is not metered.  The OWMP did not estimate use for this well.  According to the OWMP the pasture and taro together would require approximately 0.141 mgd.  Livestock and watercress are not mentioned in the OWMP but assuming 100 gpd/head of livestock and 1 mgd gpd/acre of watercress, this would boost the reasonable requirement to approximately 0.400 mgd.

Considering that this is a wet area of the island, this estimated need should be more than adequate.  The applicant has indicated that they will be increasing pasture acreage by 15 acres (0.060 mgd).  The applicant may modify their permit when these additional fields are put into production.

d. **PUMP 1 (Well No. 4057-01)** - The well site was inspected and verified on October 8, 1990 and again on October 15, 1993.  The first issue with this application is that neither the applicant nor staff can determine if the well is a single or battery of wells connected underground.  Well nos. 4057-01, 02, 08, 13 & 14 have been registered by the Kahuku Farmers Association (KFA) but staff could not find any of them except this main source.  It is suspected that the other wells are below the ground surface and may connect in battery the single well head found in the field.  NHAC commented that these other wells in battery should be included in the application.  Staff will continue to investigate the locations of the other wells under the registration program and amend the water use permit if necessary.
The second issue is that there are possibly five (5) active wells users within a mile radius of this well. None of these wells are downgradient. Four (4) out of the five (5) wells have submitted water use permit applications which are pending and addressed in this submittal. The other is a privately owned source which has not come in for a water use permit. Considering the applicant’s well is so close to the ocean and has been in use for some time, adverse impacts, if any, would already be in evidence. No objections have been filed for this application but NHAC has commented that the use affects Ki‘i National Wildlife Refuge, an unnamed stream, and water rights. This would be more appropriately addressed if future increases in use are requested since these may bring about new impacts.

The third issue is that the requested amount of 1.500 mgd is in excess of verified existing use. The field investigation verified well the is used by KFA. The Association consists of 8 farmers to irrigate 215 acres of bananas, papayas, corn, etc., which is basically diversified agriculture. According to the OWMP diversified agriculture for 215 acres would require approximately 1.700 mgd. However, the metered average use over the past two years has been consistent and the current 12-MAV is 0.307 mgd as of 9/93. Also, the OWMP estimated use from the KFA at 0.32 mgd in 1990. The mayor had commented that the existing use may be overstated and the actual metered use confirms this. NHAC commented that the applicant should also show infeasibility of using non-potable water sources. Although the Commission encourages the use of non-potable water for irrigation staff’s position is that this existing use is reasonable and within the area’s sustainable yield. Additionally, the type of non-potable water use over the basal source may put the potable quality of the area at risk.

A fourth issue is that a new State Ag Park use is not included in this figure but is a very near future use (early 1994). The State DOA is planning to open an additional 212 acres which will use an estimated 2 mgd for diversified agriculture. Pumps from the well to this project have already been tested but are not metered. Staff recommends that this future use come in with its own water use permit application.

e. PUMP 8 (Well No. 4057-06) - The well site was inspected on May 28, 1993.

The first issue is that there are possibly six (6) active wells within a mile radius of this well. Two (2) of the wells are offset but probably downgradient of well. Five (5) out of the six (6) wells have applied for water use permit. One is owned by a private individual who has not applied for water use permit. DAR had concerns about dewatering Malaekahana Stream with future increases but no objections were filed to this application.

The second issue is that the requested amount of 0.500 mgd is in excess of verified existing use. The Mayor commented that this application may be an overstated request. The field investigation found use by Southern Turf Nurseries for approximately 12 acres of turf. The source is metered and has a current 12-MAV of 0.030 mgd. The OWMP estimated 1990 use at 0.040 mgd and the OWMP estimates the need for 12 acres of turf to be 0.048 mgd. Therefore, actual metered use is lower than projected but reasonable considering use is on the wet windward side of the island.

The third issue is that Campbell Estate has an agreement with Kahuku High School to supply 0.100 mgd for irrigation. Currently, the State Department of Accounting and General Services (DAGS) is presently undergoing negotiations with CE for a water agreement. The well source is non-potable and the Kahuku Community Assoc. is having DAGs convert the high school irrigation to this non-potable source. The school’s lawns have been irrigated by BWS service up to this point. The problem is that this use will increase pumpage from the aquifer, which qualifies it as a new use from the aquifer’s perspective. Given the concerns of DAR the Commission may wish to defer action on the future portion rather than deny this use at this time given the reasonableness of the new use for non-potable irrigation of a school lawn.

f. PUMP 12 (Well No. 4057-07) - The well site was inspected on March 15, 1991 and May 21, 1993.

The first issue is that there are possibly seven (7) active wells within a mile radius of this well. Five (5) out of the seven (7) have applied for a water use permit and one is a private owner who has not applied for a permit. The other is a well owned by the applicant. Four (4) of these wells are downgradient but all are owned by the applicant. No objections
by other ground water users have been filed. DAR had concerns about dewatering of Malaekahana Stream but no other comments.

The second issue is that the requested amount of 2,000 mgd is in excess of verified existing use. The Mayor commented that this application may be an overstated request. The inspection found two major users: 1) a co-op under Mr. U. Soukaseum which is 210 acres of bananas, papayas, beans, etc. and 2) 65 acres for Melvin Matsuda for watermelons. Metered 12-MAV as of September 1993 is 0.109 mgd. The OWMP estimated 1990 use at 0.040 mgd. According to the OWMP the specified uses should require about 1.4 mgd if fully developed. Therefore, the applicant’s request is too high.

The third issue is that NHAC commented that the applicant should show infeasibility of non-potable sources. Use will affect unnamed spring, unnamed stream, and water rights. Although the Commission encourages the use of non-potable water for irrigation, staff’s position is that this existing use is reasonable and within the area’s sustainable yield. Additionally, the type of non-potable water use over the basal source may be put the potable quality of the area at risk.

g. PUMP 12-A (Well No. 4057-10) - The well site was inspected on May 21, 1993. This well resides in the same location as Well No. 4057-07.

The first issue is that there are possibly seven (7) active wells within a mile radius of this well. Five (5) out of the seven (7) have applied for a water use permit, one is a private owner who has not applied for a permit, and the other is owned by the applicant. Four (4) of these wells are downgradient but all are owned by the applicant. No objections by other ground water users have been filed. DAR had concerns about dewatering of Malaekahana Stream but no other comments.

The second issue is that the requested amount of 1,500 mgd is maybe in excess of the verified existing use. The Mayor commented that this application may be an overstated request. The field investigation found that the user, Kahuku Prawn Co., cultivates 25 acres of freshwater prawns and had recently signed a lease for an additional 23 acres. User was in the process of clearing the land for the future ponds. The well is not metered and reports are not submitted to the Commission. The applicant had indicated that they are asking the user to submit water use reports but they are not complying. The OWMP did not estimate 1990 use. According to the OWMP the existing 25 acres of aquaculture would require 0.900 mgd although staff would like to consider the input of ADP.

The third issue is that the user was actively doubling the existing use at the time of inspection. A total of 48 acres would require about 1.728 mgd for aquaculture. Given the facts that the user and applicant have known about the water reporting requirements, have chosen not to comply, and had actively pursued, by construction, increasing a significant portion of use during the establishment of existing uses, staff feels that this use should be considered a future use. As such, staff recommends the applicant submit another application for the 23 acres of aquaculture under future use.

h. SUGAR MILL PUMP (Well No. 4057-11) - The well site was inspected on May 21 & October 28, 1993.

The first issue with this application is that the well number assigned by the applicant is in error. There are five (5) wells within close proximity of each other and the original number assigned by the applicant was 4057-04. In staff’s judgement, the well identified by the applicant is 4057-11. Investigation verified 60 acres of truck farm use by Vietnamese tenants. Additionally, Well No. 4057-03 is used for 3 acres of turf irrigation and has not been applied for. The other three (3) wells in the area are not in use although one used to be for fire protection. NHAC commented that other wells in the sugar mill pump battery should be combined in application and put out for public notice. Staff’s field investigation shows that the applicants original application is only in well no. error and that the Well No. 4057-03 should also come in with a water use permit application separately or amend this original application.

The second issue is that there are possibly six (6) active wells users within a mile radius of this well. None of these wells are downgradient. Five (5) out of the six (6) wells have submitted water use permit applications which are pending and addressed in this submittal. The other well is a privately owned source which has not come in for a water use
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permit. Considering the applicant's wells are close to the ocean, adverse impacts, if any, would already be in evidence. No objections have been filed for this application.

The third issue is that the requested amount is in excess of verified existing use. The Mayor commented that the application may be an overstated request. The current metered 12-MAV reported is 0.028 mgd. The OWMP did not estimate use for this well but the estimated demand for 60 acres of bananas would be 0.181 mgd. Actual usage is much less and may be explained by the higher rainfall on this windward area.

i. PALMER GOLF COURSE (Well No. 4100-01) - This existing source uses non-potable basal water for irrigation of 188 acres of Kuilima Golf Course. The only real issue with this application is the amount of water to be allocated. A field investigation on October 4, 1993 noted that only the front 9 holes of the 18-hole golf course is open to the public. Because of financial constraints, the other nine holes are being maintained at a minimal level. If all 18 holes were to be kept in premium condition, considerably more water than what is currently being used would be required.

The actual 12-month moving average withdrawal is 0.206 mgd as of September 1993. This is considerably less than the requested allocation of 0.800 mgd. Although monthly pumpage has varied, twelve-month moving average withdrawals have been steady at slightly over 0.200 mgd for the last ten months, although slightly declining from about 0.250 mgd as of December 1992. Because average use has been consistent for nearly a year, the current 12-month moving average withdrawal of 0.206 mgd seems to be a good estimate of the irrigation water requirement.

Although there are several other pumped wells within a mile of the well, none of these is located downgradient. The closest stream is Kawela Stream, which is located about half a mile from the well. Aquatic Resources commented that Kawela Stream is intermittent, generally dry, and does not support native freshwater species. Continued use should not result in unacceptable adverse impacts to other local wells, streams, and the aquifer.

The Office of the Mayor and BWS has commented that the amount of water requested may be overstated and should be adjusted based on actual use. These agencies also suggest that an alternative source of lesser quality should be used.

j. PUMP 15 (Well No. 4157-04) - The well site was inspected on April 1991, May 21 & September 1, 1993.

The first issue with this well is that there are possibly three (3) active wells within a mile of the well. Two (2) out of the three have applied for a water use permit. The other is a private owner who has not filed an application.

The second issue is that the requested amount of 1.5 mgd may exceed the actual pumpage. The Mayor commented that the application may be an overstated request. The inspection found that Amorient uses the well for 31 one-acre fresh water prawn ponds continuously supplied all day. Also, the US Army has an additional pump hooked-up to withdraw water for six (6) military offices. Amorient's use is not metered nor do they report. The Army does meter and report their use and their current 12-MAV is 0.017 mgd. Originally the application came in separately, 1.5 mgd for Amorient and 0.030 mgd for the Army. Staff recommended that these applications be combined since CE is the applicant. The OWMP estimated use from this well at 1.80 mgd in 1990. The OWMP estimates a reasonable use of about 1.120 mgd although staff would like to consider comments from ADP on the reasonableness of the use. Amorient estimates they use 1.5 mgd.

A third issue is that NHAC commented that the existing use will affect Ki'i National Wildlife Refuge and water rights. Since the use has been in place for several years impacts have probably already been felt. This should be more appropriately addressed if future increases in use are requested since these may bring about new impacts. Additionally, The Office of Hawaiian Affairs warned of a potential overuse situation in the aquifer system. This has been explained to them as was done at the beginning of this submittal.

k. US FISH & WILDLIFE SERVICE (Well Nos. 4157-05 to 07) - Three separate permit applications were submitted for three existing artesian sources drilled within about a 70-foot radius. The wells, which are located about half a mile inland near Kahuku, use water for habitat maintenance in a designated National Wildlife Refuge for endangered water birds.
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A field investigation on August 27, 1993, verified the applicant’s existing use. It was also confirmed that the acreage listed on the permit applications is incorrect; total acreage is 101.936, not 101,936.

The wells flow by artesian flow into a central sump area by opening a valve, no meters or pumps are installed. Water use is estimated using the volumetric method. Use is seasonal, with more water being used during the winter months. Water availability is dependent on the height of the water table.

The total request for the three wells is 294,773 gpd. Monthly water use reports have not been submitted, and there is no means by which to verify the applicant’s estimated water needs. Another issue is that there are over thirty (30) wells within a mile of these wells, although no wells are located downgradient. However, the request is for a relatively small amount of water for a use that has been in existence for a number of years. Issuance of an interim water use permit requires that monthly water use be reported, and the allocation is subject to review and refinement based on these data. Also, because the wells are not pumped, other local wells should not be affected. Impacts to surface waters and the aquifer are not anticipated.

1. US ARMY (Well Nos. 4158-12 & 13) - The applicant submitted one permit application requesting use of 0.500 mgd of potable water from these two sources. From the field investigation on May 21, 1993, it was determined that one of these wells, Well No. 4158-13, is capped and is no longer in use. The requested quantity of 500,000 gpd is approximately the capacity of the pump installed in Well No. 4158-12.

The domestic water system, which uses water from the active source, has been in operation since 1941. The source supplies 15 service connections (mixed commercial and domestic users) and serves an estimated population of 75. Water is used for troop’s drinking water during maneuvers and domestic use in Kuleana homes. Small amounts of water are used by several aquacultural facilities, and the well also provides one water trough for 65 cattle (the rest of the animals’ drinking water needs is supplied by Well No. 4159-01, which has a pending permit application that includes this use).

Water use is metered and is reported on a monthly basis. Reported actual use indicates a 12-month moving average withdrawal of 0.103 mgd as of October 1993. Actual water use is therefore considerably less than the requested quantity of 0.500 mgd. Twelve-month moving average withdrawals have been steady at about 103,000 gpd for the previous five months. Therefore, an allocation of 0.103 mgd appears to be a reasonable amount to satisfy the applicant’s existing needs.

Both NHAC and the Office of Hawaiian Affairs (OHA) have commented that Campbell Estate use of water appears excessive. OHA also urges the Commission to halt Campbell’s water permits until rules and regulations for water permits are clearly spelled out in the upcoming State Water Code Review.

m. PUMP 2, FARMERS (Well No. 4159-01) - Field investigations conducted on May 21, 1993 and September 1, 1993 verified that non-potable water from this existing artesian source is currently being used by truck farms for drip and sprinkler irrigation of approximately 250 acres of bananas, papayas, and various vegetable crops. Some water is also used to supply drinking water for approximately 65 head of cattle and horses. The pasture in which the animals graze is not irrigated.

One issue concerning this application is the quantity of water to be allocated. The request is for 3 mgd for agricultural irrigation of 250 acres. Reported monthly water use has varied in the last 18 months from an average of 0.185 mgd to 1.269 mgd. The highest monthly water use reported during this period is less than half of the amount requested. Further, at full capacity, the pumps can only withdraw a maximum of 1.857 mgd. Therefore, it appears that the applicant’s request is too high. The 12-month moving average withdrawal is estimated to be about 0.814 mgd. This appears to be a more reasonable estimate of actual existing use. The Oahu Water Requirements Forecast for 250 acres of papaya is 1,250,000 gpd, while the forecast for the same number of acres in banana is about 0.750 mgd. The twelve-month moving average withdrawal falls within this range.

A second issue is the presence of springs and other pumped wells in the vicinity of the source; some of these are located downgradient. However, pumpage has decreased from
1992 levels; for the period January 1, 1992 through September 30, 1992, withdrawals averaged 1.84 mgd. Current pumpage is less than half of this. Therefore, interim instream flow standards, effective as of May 4, 1992, should not be affected by current rates of withdrawals. Unacceptable adverse impacts to other local wells and the aquifer are not anticipated. No specific objections have been filed for this application.

n. **US ARMY (Well No. 4159-02)** - A field investigation, conducted on September 1, 1993, verified that the only existing use of potable water from this existing source is for the domestic needs of two Kuleana homes. The application states that water is requested for use by two administrative facilities at the Punamano Air Force Station and for irrigation of 75 acres of pasture; however, it has been determined that this facility has been abandoned by the Air Force (although water had been used there up until last year). The field investigation also verified that no water is currently being used for irrigation purposes.

The requested amount, 1.5 mgd, greatly exceeds verified existing use. Although water use is not metered, the Army Dept. of Public Works, which operates this source, estimates that average use is about 1,200 gpd. This estimate is in line with the County Domestic Consumption Guidelines, which indicate an average daily demand of 500 gallons per single family residential unit on Oahu. Due to the aridity of the area, actual water use may be slightly higher than that suggested by the guidelines. Therefore, the estimate of 1,200 gpd is considered reasonable. Since this use is so small the applicant can be exempted from reporting month in accordance with the Commission's September 16, 1992 action.

There are several springs in the vicinity of the source, one of which appears to be downgradient. There are also several wells located nearby. Six (6) of these wells are currently being used. However, because the quantity of water currently being used is very small, and pumpage has decreased in the last few years due to the closing of the air force facility, impacts to surface waters, other wells, and the aquifer are not anticipated.

The Office of the Mayor and the Board of Water Supply have commented that the amount requested in this application may be overstated and should be adjusted based on actual use.

**NHAC** has expressed their concern over the possible effects on interim instream flow standards and potential impacts on other existing legal uses of water. However, if a permit is granted for only the existing verified use, no impact is anticipated.

2. **BWS EXISTING USES** - The BWS has nine (9) applications for seventeen (17) wells in the Koolauloa Ground Water Management Area which have existing use. Generally, staff is recommending approval of current reported 12-MAV for each application, as summarized under Table 4. One issue regarding all BWS applications is the NHAC comments listed in Attachments C & D. The NHAC commented that all county zoning for end uses should be described and overall statistics for the windward system should be given. This would be a monumental task for both the applicant and staff to review. Instead, staff proposes that all municipal uses are reasonable and the current and existing 12-MAV for the BWS sources should cover existing municipal uses at this time. Future uses would require project information such as zoning and 4-year commitment to initiate and justify future use requests from BWS. This would be consistent with what has been done in other water management areas including the Pearl Harbor reallocation efforts.
TABLE 4.
BWS Existing Water Wells

<table>
<thead>
<tr>
<th>Well No.</th>
<th>Requested mgd</th>
<th>9/93 12-MAV mgd</th>
<th>Field Checked</th>
<th>Recommended Action</th>
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<tr>
<td>3453-06 &amp; 07</td>
<td>1.250</td>
<td>1.339</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
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<td>3553-02</td>
<td>0.350</td>
<td></td>
<td>No</td>
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</tr>
<tr>
<td>3553-03,04 06 to 08</td>
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<td>4.618</td>
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<tr>
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<td>*4.618</td>
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</tr>
<tr>
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<tr>
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<td>0.411</td>
<td>Yes</td>
<td>Approve existing 12-MAV</td>
</tr>
</tbody>
</table>

* In same battery of Punaluu III in row directly above.

Other issues regarding each source are as follows (refer to Exhibit 5 for location and use information):

a. **PUNALUU III (Well Nos. 3453-06 & 07)** - The wells sites were inspected and verified on October 19, 1993.

The first issue is that there are two (2) active wells within a mile radius of these wells. One is for domestic use only and the other was granted a water use permit on September 1, 1993. Considering the applicant's wells have been in use since 1974, adverse impacts have already been made. Neither downgradient user has filed an objection to this application.

The second issue is that the wells may have some impacts on Punaluu Stream. The Division of Aquatic Resources (DAR) did not make any comments on this application, but they did make comments on BWS's Punaluu II well field located further away from the stream. DAR commented that the Punaluu II battery of wells is located between two of the most valuable stream habitats for native biota, Punaluu and Kaluanui Streams. Since wells have been in place since 1969 then impacts have already occurred. Any applications for new wells (or pump age) in this area should seriously address this issue. Staff is assuming that these comments would also, apply to Punaluu III.

The third issue with this application is that the BWS request for 1.250 mgd seems low compared to the current actual use. The 12-MAV (See Exhibit 5) for the past two (2) years shows that the request would be for the minimum 12-MAV. The current 12-MAV as of September 1993 is 1.339 mgd. This would appear closer to the maximum 12-MAV over the past 2 years for these wells. Also, compared to the OWMP figure of 1.000 mgd, the current 12-MAV seems reasonable.

b. **PUNALUU I (Well No. 3553-02)** - The well was not field verified. Wrong keys obtained to access.

c. **PUNALUU II (Well Nos. 3553-03,04, 06 to 08 & 3554-03)** - This major source of wells was investigated and verified on October 19, 1993 with the exception of Well No. 3554-03 (wrong keys to access).

The first issue is there is one major user directly downgradient who has applied for a water use permit (Hanohano Enterprises, Inc.). Another user with an existing water use
permit (see Exhibit 2) is within a mile of the well field. Since these BWS wells have been used since 1967 negative impacts would have been felt by these users. No objections from either user have been filed with the Commission.

The second issue is that these wells may have some impacts on Punaluu and Kaluanui Streams. DAR commented that the Punaluu II battery of wells is located between two of the most valuable stream habitats for native biota, Punaluu and Kaluanui Streams. Since wells have been in place since 1969, impacts have already occurred. Any applications for new wells (or pumpage) in this area should seriously address this issue.

The third issue is that the BWS request for 6,000 mgd for these wells seems high compared to the current actual use. The 12-MAV (See Exhibit 5) since July 1992 shows that the request would be for the maximum 12-MAV for the past 16 months. The current 12-MAV as of September 1993 is 4,618 mgd. This is also in relative agreement with the OWMP 1990 estimate of 4.51 mgd. Therefore, the current 12-MAV seems reasonable for existing use from this well.

d. KALUANUI (Well Nos. 3554-04 & 05) - The wells were not field verified. Wrong keys obtained to access.

e. HAUULA (Well No. 3655-01) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are three (3) active wells within a mile radius of the well. No objections have been filed by these well owners and one, the most southern, received a water use permit in September 1993. Since the well is so close to the ocean, adverse affects to other wells and streams in the area should be minimal as aquifer leakage into the ocean is primarily affected.

The second issue is that the current 12-MAV deviates significantly from the rather constant trend prior to the summer of 1992 (see Exhibit 5). Also, the OWMP identifies this source as a producer of 0.25 mgd, which is the applicant’s request. Staff has requested reasons for this and BWS may explain reasons for this at the Commission meeting.

f. KAHUKU BATTERY (Well Nos. 4057-15 & 16) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are possibly seven (7) active wells within a mile radius of the wells. Six (6) of these active wells have been filed by Campbell Estate for water use permits and one is to a private individual who has not filed for a water use permit. Since applicant’s wells have been active for over a decade, adverse impacts have already occurred. No objections to this application have been filed by the other well owners.

The second issue is that the BWS request for 1,000 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant since 1990 at roughly 0.55 mgd, which was the estimated use in the OWMP. The current 12-MAV is 0.546 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well.

g. WAI ALEE I (Well No. 4101-07) - The well site was inspected and verified on October 19, 1993.

The first issue is that there are possibly two (2) other active wells owned by private individuals within a mile radius of the well. Neither has submitted applications nor objections to this application. One is downgradient of the applicant’s well but since the applicant’s well is near the ocean and has been in use since 1945, adverse impacts have already been felt. The other well has reported use in the OWMP but, again, has not submitted an application. Staff will be following up on this matter.

The second issue is that the BWS request for 0.500 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant only varying between 0.30 and 0.37 mgd since 1988. The OWMP estimated 1990 pumpage as 0.33 mgd and the current 12-MAV is 0.339 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well.
h. WAIALEE II (Well No. 4101-08) - The well site was inspected and verified on October 19, 1993.

The first issue is the same as the first issue of the previous application since these wells are in close proximity.

The second issue is that the BWS request for 0.750 mgd for these wells seems high compared to the current actual use (see Exhibit 5). The general trend in pumpage has been relatively constant only varying between 0.40 and 0.47 mgd since 1988. The OWMP estimated 1990 pumpage at 0.46 mgd and the current 12-MAV is 0.411 mgd as of September 1993. Therefore, the current 12-MAV seems reasonable for existing use from this well although it is unusual that the use is at a low point even though should be near a peak since September is the end of the summer period of weather.

3. HANOHANO ENTERPRISES (Well No. 3553-01) - This application was field verified on October 4, 1993. No significant changes from the original registration field investigation on October 18, 1990 were found.

The first issue with this application is that the existing end use is less than that specified in the application. The application requested both existing and future use for 70 acres of aquaculture and 250 units of future elderly housing. The applicant currently has a total of about 12 acres of active aquaculture; 11.5 acres in aquaculture for mullet and tilapia; and less than 0.5 acres for live food and tropical fish cultivation. Actual use has not been reported to the Commission. Based on the Oahu Water Management Plan 12 acres of aquaculture would use approximately 0.432 mgd. The OWMP estimated the use at 0.70 mgd in 1990. Staff would like to consider comments from ADP in addition to the OWMP to make a better assessment of actual need of the aquaculture. Additionally, the BWS has commented that the requested amount may be in excess of the aquifer's sustainable yield and that water should be recycled through ponds for more efficient use.

The second issue is that of effects on Punaluu Stream. Discharge from this use flows into Papakoko-Haleaha Stream and since this use has been ongoing for the last 10 years, the impacts have already been felt. DAR has commented that Punaluu Stream is one of the highest quality habitats for native species on Oahu. If requests are for future increases in pumpage then DAR has requested confirmation that flows into Punaluu Stream will not be impacted.

The third and hardest issue to resolve is the future use requested for the 250 unit elderly housing development. Such a development would reasonably require about 0.100 mgd according to county standards (250 x 400 gpd for multi-family low-rise). However, there is no zoning for this project. The applicant has been working with the State Department of Health (DOH) and the County Department of Housing and Community Development (DHCD) in obtaining a 201E exemption to normal zoning requirements for affordable housing. However, the applicant is caught in a catch-22 situation whereby the county has required the applicant to provide evidence that water will be available for this project yet the Commission will not approve future projects without appropriate county zoning. Staff has informed the county of the overall situation of the Koolauloa Aquifer System and that it appears water may be available as early as January 1994 if other existing uses are established by the Commission. The applicant has indicated that they are willing to cutback on their existing aquaculture water use to make water available for their project, if necessary. Since the project is for the beneficial use of affordable housing, the applicant is seeking a special 201E exemption from zoning requirements, comments from DAR and BWS, and the existing use impacts are probably established in the area, staff does not foresee a problem allowing this special case to use a future use within the existing use limits. However, staff also realizes that if the Commission were to approve a permit allowing future use in this manner it may be construed as "water-banking" the ground water by a private entity.

4. NIHIPALI (Well No. 3855-12) - This application requires a field investigation.

5. KAIO (Well No. 3956-07) - This application was originally verified from a field investigation on October 10, 1990. No significant changes in the existing portion of the request were found. However, the applicant does include a future use request.
The first issue with this applicant is that the requested amount of water for the existing use is high. The field investigation found water consumption on a total of 0.5 acre for taro, banana, and ti leaf, livestock, and one (1) tank of tilapia. No reports of water use have been made by the applicant making it difficult to estimate actual use and need. However, the 1990 field investigation measured flow from the artesian source at 12 gpm or 17,280 gpd. Assuming taro to be the most water intensive cultivation, the Oahu Water Management Plan for 0.5 acres of taro would require 3,000 gpd. Additionally, the field investigation found that the tank with tilapia required an additional 3,000 gpd. Assuming the needs of the few livestock does not exceed 1,000 gpd, the justified need under existing conditions would be about 7,000 gpd.

The second issue is that part of the request is for future uses for Kaio Flowers I & II. The total acreage of these future uses will be about another 0.5 acre for various floriculture. Under the Oahu Water Management Plan this future need would require an additional 3,700 gpd. Since this is such a small use, staff does not see a reason to deny the applicant’s request but rather suggests deferral on the future use portion until existing uses are established in the area.

RECOMMENDATION

Staff recommends:

1. For all approved water use permits, that the Commission add the special condition that the applicants may continue their existing use of ground water within the limits approved by the Commission, and the actual issuance for the interim permit shall not be a reason to interrupt their existing uses.

2. That the Commission approve the issuance of interim water use permits to the Estate of James Campbell for the reasonable and beneficial existing salt water aquacultural needs according to Table 2 and their corresponding described uses subject to the standard water use permit conditions listed in Attachment B.

3. That the Commission approve the issuance of interim water use permits to the Estate of James Campbell for the reasonable and beneficial existing needs according to Table 3 and their corresponding described uses subject to the standard water use permit conditions listed in Attachment B.

4. That the Commission approve the issuance of interim water use permits to the Honolulu Board of Water Supply for the reasonable and beneficial existing municipal uses according to Table 4, 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 Hanohano Enterprises, Inc. for the reasonable and beneficial use of 432,000 gallons per day of potable water for aquaculture over 12 acres from the Hanohano Well (Well No. 3553-01), subject to the standard water use permit conditions listed in Attachment B and the following special condition:

   a. 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 2.

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Chairperson and Members
Commission on Water Resource Management

December 8, 1993

6. That the Commission defer action on the water use permit application for George N. Nihipali, Jr. for the Nihipali Well (Well No. 3855-12).

7. That the Commission approve the issuance of an interim water use permit to Jacob I. Kaio, Sr. for the reasonable and beneficial use of 7,000 gallons per day of potable water for agricultural irrigation from the Kaio Artesian Well (Well No. 3956-07), subject to the
standard water use permit conditions listed in Attachment B and the following special condition:

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

Respectfully submitted,

RAE M. LOUI
Deputy Director

Attach.

APPROVED FOR SUBMITTAL:

KEITH W. AHUE, Chairperson
WATER USE PERMIT DETAILED INFORMATION

Source Information

AQUIFER:
- Sustainable Yield: Koolauloa System, Windward Sector, Oahu
- Existing Water Use Permits: 35 mgd
- Available Allocation: 0.323 mgd
- Total of other pending allocations: 34.677 mgd

**+WELL INDEX INFORMATION**

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ATTACHMENT A
Chairperson and Members  
Commission on Water Resource Management  
December 8, 1993

Use Information

See Exhibit 3 for individual applications use descriptions.

Nearby Surrounding Wells and Other Registered Ground Water Use

Information from the registration program indicates there are possibly 84 existing wells in the Koolauloa Aquifer System. Several of these wells have been initially field checked but many of the declarants, including the larger users, have not been completely field verified. Several are not in use or are rights claims. However, the Oahu Water Management Plan estimated that the existing withdrawals from the Koolauloa Aquifer System is 13.6 mgd as of 1990.

See attached exhibits as referenced from following table.

Public Notice

See Exhibit 1.

Objections

Specific objections or comments are identified under analysis and issues portion of this submittal. 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 according to Exhibit 1. General objections from the Native Hawaiian Advisory Council are listed in Attachment C.

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. No briefs in support were filed with the Commission. The following briefs in support are summarized as follows:

Field Investigation

See Exhibit 4.

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 December 8, 1993 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) 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 monthly 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 Koolauloa 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 Koolauloa 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.
MEMORANDUM

TO: Rae M. Loui, Deputy Director
FROM: David L. Martin, Water Project Manager
Native Hawaiian Advisory Council


DATE: November 26, 1993

NHAC hereby requests additional information from COWRM and the Board of Water Supply (BWS) explaining various sections of the Board's water use permit applications. These sections include 1(b) Landowner, 8 Quantity of Water Requested, and 15(a) Impact on sustainable yield.

1(b) LANDOWNER - Please provide a list of subject BWS well sites which were obtained from State lands via executive orders including the title status of those State lands.

8 QUANTITY OF WATER REQUESTED - Please provide information showing the amount of water quantity requested in relation to the 12 month moving average and the 5 year average use.

15(a) IMPACT ON SUSTAINABLE YIELD - Please provide information comparing the total existing, planned and proposed uses of water with the sustainable yield of each aquifer.

Please note that I have attached all memoranda forms dated October 27, 1993 covering BWS's permit applications. At this point I am unable to complete a review of these applications without additional information, therefore I am requesting an extended review period. Your immediate attention with this matter is appreciated, I await your response.
1993 November 26

TO: State of Hawaii Commission on Water Resource Management
SUBJECT: COMMENTS AND OBJECTIONS RE: WATER USE PERMIT APPLICATIONS WAIMANALO, Koolaupoko, Kahana, AND Koolaualoa Ground Water Management Areas
Public Notice Undated, Published November 3 & 10, 1993
Send written objections by November 26, 1993

I. COMMENTS

a. Hanohano Well No. 3553-01

4. SOURCE TYPE is not indicated.

10. PROPOSED USE: Irrigation is not indicated.

14. POTENTIAL RESTRICTIONS ON WATER USE:

(e) Other: Since COWRM may only allocate water to projects which have received the necessary land use, county, and community plan approvals, the application form should include a table allowing applicants to illustrate their degree of compliance with these requirements.

15. REMARKS, EXPLANATIONS: A table illustrating the estimated breakdown between quantities of existing and new water use among agriculture, aquaculture, and domestic should be provided.

TABLE 1. MULTIPLE TMKs TO USE REQUESTED WATER

The final column, "% OF TOTAL TO BE USED OVER NEXT 4 YEARS," should be revised for accuracy.

b. BWS Applications

7.(c) County Zoning is not described.

10. QUALITY OF WATER REQUESTED: Potable is not indicated on some applications.

11. PROPOSED USE: Municipal is not indicated.

12. NUMBER AND TYPE OF UNITS TO BE SERVED: Statistics for the Windward Oahu System should be given.

ATTACHMENT D
II. OBJECTIONS

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water uses. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process. Under the public trust doctrine imposed upon Hawaii water law by the State Constitution, common law, and judicial precedent, water resources are owned by the public. Thus all people have property interests in all water sources and may be admitted to any and all proceedings involving their disposition, regulation, and management.

a. The following table identifies selected NHAC clients with property and other interests (distinct from those of the general public) in the subject water management areas on whose behalf subsequent general and specific objections are filed. NHAC reserves the rights to amend this table to later include other affected clients.

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b. General Objections to All Permit Applications

(1) Property or Other Interest in the Matter

Refer to Table in II.a. above.

(2) Questions to which Objections are Taken

(a) Questions of Procedure

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each permit application with regard to competing applications for existing and new uses; reserved, declared, and certified water uses; instream flow standards; water rights; and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the frameworks of the "reasonable and beneficial" standard, "Public interest," and other legally-imposed constraints.

In response to COWRM's letter of November 17, 1992, we further studied Hawaii Administrative Rules (HAR) Title 13, Chapter 171 and still find no explicit or implicit language supporting your contention that processing water use permits as we suggest is inconsistent with these rules or would require rulemaking. NHAC attended "... numerous Commission presentations and workshops on existing WMAs and the newly designated WMAs at which we [COWRM]
presented and provided various handouts which show the WUPA processing procedure" (emphasis added). To our knowledge COWRM never formally adopted as policy any of the various procedures it now employs in water use permit application processing. The rules are vague, ambiguous, and incomplete—in this context it seems that COWRM creation of different policies for different WMAs is inappropriate. It seems that hearings are required to discuss clarification and of the rules and unification of the policies.

Two distinct classes of WMAs will emerge if COWRM proceeds on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. In the first case, determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis circumvents a number of the conditions for Water Use Permit issuance, particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM records over the last six years shows that "action" includes deferral of decision making until information needs are met, as well as categorization of applications to facilitate future decision making.

(b) Questions of Fact

The permit application information distributed by COWRM for comment should also include the results of COWRM's field verification of declared water uses and should compare the quantity of water requested with the current 12 month moving average and the post-Water Code long-term (about 6 year) average water use. It should also show how total applicant existing, planned, and proposed water uses in the subject WMA compare with overall WMA totals and with sustainable yield. This factual information is critical in comprehensively evaluating reasonable and beneficial use and public interest in the WMA. This information, which is usually not presented by COWRM until the decision-making stage of the process, must be available earlier so that public comment and objection can take it into account.

(c) Questions of Law

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to
Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

In a previous response to this objection, COWRM (March 3, 1993) stated that "... allocations granted to the county water systems generally allow the county departments of water supply to distribute water within their system and within the limits imposed by allocation. This does not imply that the Commission will or must determine the final and gross water amounts to be allocated to the county water supplies." This reasoning seems confused - if COWRM is the agency responsible for "the limits imposed by allocation," then it should "determine the final and gross water amounts to be allocated to county water supplies."

Further analysis of HAR 13-171 reveals that:

1. Permit applications for existing uses only compete with other permit applications for existing uses [HAR 13-171-14(c)].

2. Competition between permit applications for existing uses is subject to public hearing requirements [HAR 13-171-14(c)], while competition between permit applications for new uses is not (HAR 13-171-16). For existing uses, the allocation between competing applications is determined via the hearing, while for new uses the allocation seems to be subject to dispute resolution and public interest balancing tests. The rules are silent about competition between permit applications for existing uses, new uses, declared uses, certified uses, water reservations, and instream flows.

3. Existing uses are assumed reasonable if less than 25,000 gallons per month. If more than 25,000, it is still reasonable and beneficial if no objections are filed [HAR 13-171-14(b)], but is subject to public hearing if objections are raised. Reasonable and beneficial is only one of the 6 things the applicant must establish under HAR 13-171-13, which all apply equally to existing and new users.

4. There appear to be no guidelines for reasonable and beneficial determinations of new uses, no requirements for public hearing regarding same, and no vehicle for requesting such public hearing.

The existing rules do not appear to place any restrictions on simultaneous processing of applications for existing and new ground water uses, along with certification of declared surface water uses. They do not expressly disallow direct consideration of applications for existing ground water uses within the context of new ground water uses and declared surface water uses, even though some different procedures apply. The inclusion of "public interest" consistency requirements [HAR 13-171-13(4)] seems to give COWRM enough latitude for such processing, notwithstanding other intricacies of rule.
(d) Questions of Policy

1. Procedure

We have been repeatedly told by the Attorney General that water management area designation creates a "clean slate" and a "level playing field." As such, from the moment of designation we cannot consider any existing water use to be reasonable and beneficial or in the public interest until such determinations are formally made by the Water Commission.

The procedure being followed in Windward Oahu and Molokai WMA is inconsistent with that employed in Pearl Harbor WMA. This is confirmed in COWRM's letter of March 3, 1993 which explains that "In its February 17, 1993 decision regarding Molokai and Windward water use applications, the Commission on Water Resource Management will defer action on all new water use permit applications until July 1993" (implying that applications for existing uses will be processed first and separately). "In the Pearl Harbor area, the Commission is reviewing all currently filed requests together: existing, planned, and proposed uses." COWRM has not explained why the policies are different in different WMA.

Given the vagueness of the administrative rules governing the process, COWRM should provide a clear explanation for these differing policies. Also note that neither of the two procedures described above considers other issues water rights, water reservation, instream flow, and certification of declared surface water uses discussed on our objections. COWRM has not explained why these issues should not be comprehensively considered in ground water use permit application processing.

On March 3, 1993 COWRM also wrote that "... a survey of all water rights and reservation issues cannot be settled fairly or adequately within such a short time period. Because of this, the Commission plans to include conditions in water use permits which will expressly allow for quantity reduction in permits if and when it may be required."

The resolution of water rights and reservations and other issues must not be held hostage to a perceived need to issue permits for existing water uses. Now is the proper stage in the process for examining trade-offs between existing ground water uses, water rights, water reservations, surface water uses, instream flows, and streamflow restoration. To further postpone such examination merely continues the entrenched water allocation policies that the Water Code seeks to avoid, and unnecessarily multiplies the number of proceedings which must be held in the future to deliberate downsizing of existing uses to accommodate new uses.
2. Public Notice

We question if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

In previously responding to similar concerns, Rae M. Loui wrote on August 12, 1993 that "The Nakata subcommittee did not recommend notices be sent to all nearby declarants." We recall that the subcommittee did recommend that registries of declarants placed in various categories be maintained, and reason that a logical cause of the need for such maintenance is to allow the Commission to easily identify declarants using and/or claiming interests in various water sources. Once declarants are identified, it is only fair that they be directly notified of proposed actions potentially affecting their interests.

Mrs. Loui also wrote that "... given the 200+ permits we have pending and the lack of computer programming to easily identify nearby declarants, it would be unmanageable." "These are my thoughts only and do not represent the policy of the Commission."

With regard to the 200+ permits, in many cases numerous permit applications have been filed by a single applicant in a single water management area, so that individual notices for each of these numerous applications could be combined into a single notice. Also, if COWRM would adopt our recommendation for a finite, repeating application window, notification tasks would be more easily accomplished.

COWRM's existing WATRDAT database has the capability to be programmed to easily identify nearby declarants. The major task remaining is to allow sorting and cross-indexing (ground & surface water) of records by water source rather than by declarant name or TMK number. NHAC rejects COWRM arguments that the notification requirements we recommend are "unmanageable," and suggest that COWRM place a high priority on implementing the necessary computer programming, preferably of a type which allows integration with the State GIS framework. NHAC is available to assist with this work.
3. Public Comment and Objection

There are persistent ambiguities and inconsistencies concerning the procedures and deadlines for filing comments on and objections to water use permit applications which must be resolved in order to institute a clear and fair process.

a. HAR 13-171-18

(a) "Within ten working days after the last public notice of the pending permit application, a party may file with the commission, written objections to the proposed permit and a brief in support of such objections."

This implies that in order to be valid, objections must be received at COWRM on or before the tenth working day after the last public notice.

"Such party shall serve copies of the objections and brief upon the applicant."

This does not specify when the applicant must be served.

(d) "The support brief shall:
(1) Answer specifically the points of procedure, fact, law, or policy to which objections were taken; and
(2) State the facts and reasons why the permit should be approved."

This conflicts with (a), which implies that briefs are to be written in support of objections, not in support of applications [as suggested in (d).]

b. Public Notice

The standard Public Notice of water use permit applications directs that interested persons "Send written objections by" a specific date (the tenth day after the last public notice) to COWRM and the applicant. This implies that objections should exhibit a postmark or other evidence of being "sent" on or before that date.

c. COWRM Review and Comment Solicitation

The standard memorandum circulated by COWRM with water use permit applications requests ("please") that a form indicating the level of review of the application be returned by a specific date (ten working days after the last public notice), implying that the form should be received at the COWRM office on or before that date. While the form has a space for indicating "no objections," it has no space for indicating "Objections attached."
This form does not appear to be the subject of any rule, nor does it appear to establish a strict deadline for returning the form. In particular, it allows a reviewer to request additional information and an extended review period for a particular water use permit application. In practice, COWRM could receive a form requesting additional information and an extended review period on the same day that the Public Notice established as the deadline for sending (evidenced by postmark or other evidence of initiating transmittal) objections and that HAR established as the deadline for filing objections at COWRM (evidenced by receipt at COWRM). Yet there appear to be no COWRM procedures for responding to requests for extended review, much less for notifying applicants and other interested parties if these requests are indeed granted.

3. Regulatory and Management Coordination

We are increasingly concerned about the lack of clear guidelines for timing, sequencing, and coordinating COWRM permitting processes with environmental review processes conducted under other authorities (including HRS 343, BLNR Conservation District Use permitting, DOH 401 and NPDES, and County grading and drainage ordinances).

(3) Grounds for Objections to Proposed Permits

As evidenced by the above discussions, proposed permits should be deferred until the conclusion of public hearings because:

1. COWRM procedure for processing the permit applications is not in compliance with the Water Code and its Administrative Rules.

2. COWRM has not provided adequate factual background for public review of, comment upon, and objection to the proposed permits.

3. Laws governing permit application processing are vague, contradictory, and incomplete.

4. COWRM policy governing permit application processing is vague, contradictory, inconsistent, incomplete, and excessively informal.

5. Current COWRM policy and procedure does not promote or allow for comprehensive, conjunctive, and concurrent processing of water use permit applications, water use declarations, instream flow standard and sustainable yield concerns, and water rights and water reservation issues.
c. General Objections to BWS Permit Applications

(1) Property or Other Interest in the Matter
Refer to Table in II.a. above.

(2) Questions to which Objections are Taken

(a) Questions of Procedure
Refer to b.(2)(a) above.

The procedure employed in processing this batch of BWS permit applications is inexplicably different from that previously employed in Pearl Harbor GWMA. COWRM has a duty to coordinate ground water use permitting with surface water use certification, instream flow standard and sustainable yield reevaluation, and water rights and water reservation determinations.

(b) Questions of Fact
Refer to b.(2)(b) above.

Permit application line 1.(b) consistently indicates BWS as "LANDOWNER OF SOURCE." It has been common procedure for BWS to acquire well sites through set aside of State lands by executive order. NHAC has requested in a separate letter that additional information on the title history of each well site be provided so that we can determine which well sites occupy ceded lands.

(c) Questions of Law
Refer to b.(2)(c) above.

NHAC alleges that the practice of transferring ceded lands to BWS by executive order subverts and circumvents the water licensing requirements of HRS, in some cases avoiding necessary compensation to the Hawaiian Homes Commission and Office of Hawaiian Affairs for use of ceded lands trust resources.

(d) Questions of Policy
Refer to b.(2)(d) and c.(2)(b) above.

(3) Grounds for Objections to Proposed Permits

1. All of the subject BWS applications indicate on line 15(c) that applicant does not know if its existing uses affect Hawaiian Home Lands uses. Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(5) and will not affect Hawaiian Home Lands uses.
Thus COWRM may not issue permits until public hearings are held to determine what portion, if any, of existing BWS uses should be abandoned in favor of Hawaiian Home Lands uses.

2. All of the subject BWS applications fail to describe potential restrictions on use arising from effects on future legal uses such as planned agricultural uses and activation of uses guaranteed by appurtenant, riparian, and correlative water rights. Therefore applicant has not established that these proposed uses of water conform with HAR 13-171-13 (1), (2), and (4)-(6), and COWRM may not issue permits until public hearings are held to determine what portion, if any, of existing BWS uses should be abandoned in favor of future legal uses.

3. All of the subject BWS applications indicate on Line 15.(a) that "Impact on Sustainable yield" is that of an "Existing use." Existing uses do impact sustainable yield characteristics, notably the lowering of equilibrium head arising from increased sustainable yield. Because of the "clean slate" and "level playing field" effect of designation, COWRM may not issue water use permits until public hearings are held to assess the impacts of changes in sustainable yield upon equilibrium heads and localized water levels, and to determine what portion, if any, of existing BWS uses should be abandoned in favor of lowering sustainable yields.

4. Any number of the subject BWS applications may involve water sources sited on ceded lands that were transferred by executive order from the State to BWS. Wherever this is the case, COWRM may not issue water use permits until public hearings are held concerning the avoidance of water licensing requirements and lack of County compensation to the Hawaiian Homes Commission and OHA for its use and extraction of ceded lands trust resources.

5. None of the subject BWS applications indicate how total existing, planned, and proposed BWS uses compare with other existing, planned, and proposed uses and sustainable yields. Such information is critical to complete and fair assessment of compliance with water use permit conditions set forth in HAR 13-171-13. Thus COWRM may not issue permits until hearings are held to determine the overall water use permit application and planning situation for each aquifer, and to assess what shares of their sustainable yields could be allocated to BWS and other major water users.

d. Specific Objections to Specific Applications

(1) Property or Other Interest in the Matter

Refer to Table in II.a. above.
(2) Questions to which Objections are Taken

(a) Questions of Procedure
Refer to b. and c.(2)(a) above.

(b) Questions of Fact
Refer to b. and c.(2)(b) above.

WAIMANALO TUNNELS
We believe that portions of the tunnels may be situated on or under Hawaiian Home Lands. We are not aware of any agreements between BWS and HHC governing BWS use of the sites and resources.

WAIHEE WELLS
Line 16 of the application states that the well "Has not operated since court mandated flow of 2.7 MGC in Waihee Stream under appeal." This contradicts Line 15(a) of the application and the Public Notice which indicate existing use. When exactly did use of this source cease?

(c) Questions of Law
Refer to b. and c.(2)(c) above.

(d) Questions of Policy
Refer to b. and c.(2)(d) above.

(3) Grounds for Objections to Proposed Permits

1. In Ko'olaupoko GWMA, the following BWS applications indicate on line 15.(b) that BWS existing uses affect instream flow standards:

Luluku Tunnel, Haiku Tunnel, Haiku Well, Kahaluu Tunnel, Waihee Tunnel, Waihee Inclined Wells, Waihee Wells.

Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(4), and COWRM may not issue water use permits until public hearings are held to determine what portions, if any, of existing BWS uses should be restored to instream flows.
2. In Koʻolaupoko GWMA, the following BWS applications indicate on line 15.(d) that BWS existing uses affect other existing legal uses:

Haiku Tunnel, Waihee Tunnel, Waihee Inclined Wells, Waihee Wells.

The following BWS applications indicate on line 15.(d) that applicant does not know if BWS existing uses affect other existing legal uses:

Luluku Tunnel.

Therefore applicant has not established that these proposed uses of water conform with the requirements of HAR 13-171-13 (1)-(4), and COWRM may not issue water use permits until public hearings are held to determine what portions, if any, of existing BWS uses should be abandoned in favor of other existing legal uses.

3. If portions of the Waimanalo tunnels are sited on or underlay Hawaiian Home Lands, and no agreements exist between BWS and HHL concerning site use and resource extraction, then a water use permit should not issued until public hearings are held and the land use situation is resolved.

4. If Waihee Wells has not been used since the 1989 deadline for filing declarations of water use, a water use permit may not be issued until the application has been reprocessed as an application for a new use.

III. SUMMARY

While COWRM, staff, and the public have participated in discussions about water use permit application processing, there have been no formal declarations of COWRM permit application processing policy, and different procedures are being applied in different WMAs. It appears that COWRM staff and NHAC are advocating different interpretations of the Administrative Rules governing the water use permitting process, and that public hearings are needed to help the Commissioners decide what kind of interpretation best serves the purposes of the Water Code and the public interest.

We therefore state our overall objection to current COWRM procedures and policies regarding water use permit issuance, in a large part because they do not yet exist. We reserve the right to submit additional specific objections to specific permit applications at later dates, since present information about the overall water management context of such permit applications is insufficient for allowing comprehensive, fair assessments.
NHAC requests that COWRM postpone decision-making on all water use permit applications for the subject Water Management Areas until:

1) public hearings about COWRM procedure and policy in processing water use permit applications are concluded and administrative rules governing these processes are revised;

2) necessary assessments of water rights, reserved water uses, surface water uses, and instream flow standards have been completed;

3) these assessments, issuance of water use permits, and certification of declared water uses are woven into an integrated water management decision-making process.

We must implement water use permit application processing methodologies that avoid the continuation of first-come, first-serve permitting. First-come, first-serve water use permit processing contradicts the very heart of the intent of water management area designation. It negates COWRM's effort to involve the community in the water allocation process because it diffuses rather than concentrates the arena of public participation. We cannot have comprehensive water resource management without comprehensive evaluation of water use scenarios.

A finite repeating application period for water management area allocations should be established, after which all applications received in each period can be comprehensively reviewed by a Windward Working Group and COWRM staff for processing recommendations.

When existing surface water users have not even been afforded the opportunity to obtain certification, it is extremely unfair for new and existing groundwater users to have permit applications processed and permits issued (permits which are solid allocations of water and recognition of rights to use that water) when people who have surface and instream uses aren't under designation, are not field verified (so the Commission has no baseline data on what these uses and instream flows might be that they're supposed to protect), and there is no certificate of "reasonable and beneficial" water use. A declaration of water use is an application for certification. One should be able to obtain and use certification in playing off against water use permit applications for groundwater because it is acknowledged in the Code that a certificate does have some meaning and it is something that one should be presenting when getting into a dispute or even a legal battle over water.
At the very least there needs to be some kind of concurrent processing of water use permit applications and declared uses of surface waters. It should be done in a comprehensive way so that everything is on the table at once, even though the specific processes, approvals, and permits are different.

NHAC also supports and concurs with objections filed by Charles Reppun and windward Neighborhood Boards.

Mahalo,

David L. Martin, Water Claims Manager

pc: Honolulu Board of Water Supply
    Kahana Valley State Park
    Kualoa Ranch, Inc.
    Hanohano Enterprises, Inc.
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Aquifer System: KOOLAUOA

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## Water Use Permit Application Use Status Report - 12/01/93

### Island of Oahu

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**Exhibit 3**

Page No. 1
### WATER USE PERMIT APPLICATION USE STATUS REPORT 12/01/93

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**Aquifer System: KOOLAULOA**

- **CAMPBELL ESTATE**
  - 4157-04: Y
    - 6 MILITARY OFFICES; IRRIGATE 23 ACRES AQUACULTURE
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    - SUSPENSE: 10/16/93
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  - 4157-08: Y
    - AQUACULTURE FOR 12 ACRES OF OGO
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    - DOMESTIC 18 HOMES / AQUACULTURE OFFICE BUILDINGS
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  - 4159-01: Y
    - IRRIGATION FOR VARIOUS CROPS OVER 250 ACRES
    - THK: 5-6-1:21
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    - TWO MILITARY ADMIN FACILITIES; IRR OF 75 AC PASTURE
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67 Applications Totaling 67,429

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Exhibit 3
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**PENDING WATER USE PERMIT APPLICATIONS FIELD INVESTIGATION STATUS REPORT 12/01/93**

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**ZONE 5**

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**ISLAND OF OAHU**

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<td>4258-12</td>
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<td>4101-07</td>
<td>MAILEE L.</td>
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<td>12/08/93</td>
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<td>527-6180 KAZU HAYASHIDA</td>
<td>12/08/93</td>
<td>30 10/19/93</td>
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65 Applications
Well No. 3453-06, 07

Island of Oahu

Hydrologic Units

Project Area

Exhibit 5 (cont)
Well No. 3553-01

radius = 1 mile

ISLAND OF OAHU

PROJECT AREA
Well No. 3553-03,04,06 to 08

HAUULA DRANGLE
HAWAII-CITY AND COUNTY OF HONOLULU
ISLAND OF OAHU
7.5 MINUTE SERIES (TOPOGRAPHIC)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLIICAL SURVEY

OAHU HYDROLOGIC UNITS

PROJEC T AREA

ISLAND OF OAHU
HYDROLOGIC UNITS

HAUULA DRANGLE
HAWAII-CITY AND COUNTY OF HONOLULU
ISLAND OF OAHU
7.5 MINUTE SERIES (TOPOGRAPHIC)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLIICAL SURVEY
BWS PUMPAGE - PUNALUU WELLS II
WELL NOS. 3553-03 TO 08; 3554-03

MONTHLY VALUES | 12-MAV | REQUESTED AMOUNT

MONTH (Latest Data 9/93)
CAMPBELL ESTATE PUMPAGE
MALAEKAHANA WELL (Well No. 3956-01)

MONTHLY VALUES  12-MAV  REQUESTED AMOUNT
PROJECT AREA

ISLAND OF OAHU

HYDROLOGIC UNITS

Well No. 3956-07

radius = 1 mile
CAMPBELL ESTATE PUMPAGE
PUMP 6 (Well No. 3957-07)

Month (Latest Data 10/93)

Pumpage (mgd)

MONTHLY VALUES   12-MAV   REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUMP 1 (Well No. 4057-01)

MONTHLY VALUES

12-MAV

REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
SUGAR MILL PUMP (Well No. 4057-11)

MONTHLY VALUES
12-MAV
REQUESTED AMOUNT
Well No. 4057-15,16

ISLAND OF OAHU
HYDROLOGIC UNITS

PROJECT AREA
BWS PUMPAGE - KAHUKU WELLS
Well Nos. 4057-15, 16

- MONTHLY VALUES
- 12-MAV
- REQUESTED AMOUNT
BWS PUMPAGE - WAIALEE WELL I
Well No. 4101-07

Month (Latest Data 9/93)

Pumpage (mgd)

MONTHLY VALUES

12-MAV

REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUMP 15 ARMY (Well No. 4157-04)

MONTHLY VALUES
12-MAV
REQUESTED AMOUNT
CAMPBELL ESTATE PUMPAGE
PUNAMANO ARMY (Well No. 4159-02)

MONTHLY VALUES

12-MAV

REQUESTED AMOUNT

MONTH (Latest Data 9/93)

Pumpage (mgd)
MEMORANDUM

TO: Aquatic Resources  
Forestry and Wildlife  
Historic Preservation  
Land Management  
Natural Area Reserve System  
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 
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

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: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
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Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at [Phone number]

LN:ko
Attachment(s)

Response: Contact person: William Devick Phone: [Phone number]

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

Signed: WILLIAM DEVICK, Acting Administrator Date: 9/20/93
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 Campbell Estate for Well No. 4157-05 in the Koolauoa Ground Water Management Area, Oahu

The application is for an existing artesian well at low elevation near the sewage treatment plant in the Kahuku National Wildlife Refuge. Approximately 101,936 gallons of fresh basal water will be released daily for the maintenance of habitat for endangered water birds. Given the location of the well and the water source, there is little likelihood that it will reduce surface water habitat for native aquatic species. We have no objections from the aquatic biological resources standpoint.
1993 September 29

State of Hawaii
Commission on Water Resource Management

OBJECTIONS AND COMMENTS ON APPLICATIONS FOR WATER USE PERMITS
Public Notice dated August 30, 1993
Send written objections by September 29, 1993

NHAC represents water source registrants, water use declarants, water use permit applicants, and others with property interest in land within the hydrologic unit of the source of water supply, as well as persons with non-property interests, all of who would be directly and immediately affected by the proposed water use.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, 6/22/93, & 7/8/93).

Campbell Estate proposes to continue a total of 23.225 mgd of existing uses, 7.0 of which involve seawater. This leaves 16.225 mgd of use from the basal aquifer, yet the May 1992 review draft of the Oahu Water Management Plan (p. 14) reports 1990 groundwater use of only 13.6 mgd. The 16.225 mgd of proposed use is about 46% of the 1992 revised sustainable yield of 35 mgd for the Koolauloa aquifer. Without better knowledge of existing, foreseeable, and potential competing applications for this yield, it is difficult to assess the propriety of allocating almost 50% of aquifer yield to a single applicant.

Many of the applications are for combined domestic and agricultural use. Quantification of the breakdown between these uses is essential at this stage of the permit review process so that existing acreage under cultivation, existing agricultural water use, crop water requirements, and future water allocations can be coherently analyzed.
SPECIFIC OBJECTIONS

Well 4057-01

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for pasture irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-01

While the public notice only lists Well 4057-01 as the well source, the application identifies 4 other wells that serve as sources for the Pump 1 battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-02, -08, -13, and -14 are also part of the application.

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-04

While the public notice only lists Well 4057-04 as the well source, the application identifies 3 other wells that serve as sources for the Sugar Mill Pump battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-09, -11, and -12 are also part of the application.

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

Well 4057-06

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and other uses only, not for domestic uses. Which is correct?

Well 4057-07

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4057-10

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4100-02

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The apparent proximity of the well to a perennial Kawela stream tributary may indicate a potential restriction on use not identified in the application, including possible effects on interim instream flow standards, existing legal uses of the stream, and inchoate legal uses of the stream as authorized by Native Hawaiian custom and tradition.

Well 4157-04

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed
water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-05 to -07

Potential restrictions on the proposed water use not identified in the application include possible effects on existing legal uses of all refuge waters and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-09

While we have no specific objections to the extraction of salt water for aquacultural use, we are concerned about the potential impacts of wastewater effluent discharge upon water sources and water uses in the area. These water quality concerns should be listed in the applications as potential restrictions on use.

Wells 4158-01 through -11

The well sites appear to be upgradient from and close to the Ki'i National Wildlife Refuge, Punamano spring, and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuges and for Punamano spring, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4158-14

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4159-01

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
Well 4159-02

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and military uses only, not for domestic uses. Which is correct? Note that the application for adjacent Well 4159-01 is for irrigation use of non-potable water.

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4258-04

The well site appears to be upgradient from and close to Punahoolapa and Punamano springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Mahalo,

David L. Martin, Water Claims Manager

pc: Campbell Estate
   Kuilima Resort Co.
Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC strongly objects to the wording of the legal notices you have published with respect to who may file written objections or comments. One does not have to prove they will be "immediately affected" by a potentially adverse action in order to meet standing requirements. Therefore, the language of the legal notices is misleading and will have an unwarranted chilling effect on public response and participation in the water use permitting proceedings.

Neither the Water Code nor its rules specifically address the question of standing for filing written objections or comments on applications for water use. Under the Administrative Procedure Act (HAPA) standing has been interpreted very broadly. Furthermore, COWRM has not yet finalized its procedures for processing water use permits in newly designated water management areas. NHAC is quite concerned that COWRM appears to be establishing narrow parameters for standing, as evidenced by these legal notices. This arguably constitutes rulemaking which has not been duly undertaken according to procedures required under HRS 91.

Because water resources have been defined as being owned by the people of the State of Hawai'i in McBryde and Reppuhn all people have property interests in the water supply and may be admitted to any and all proceedings involving its disposition, regulation, and management. NHAC requests that you modify all future legal notices
on water use permit applications to reflect this concern.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-serve basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one-year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-serve processing of applications can equitable resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHAC requests that COWRM postpone decision-making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin, Vice-President
State of Hawaii
Commission on Water Resource Management

COMMENTS ON APPLICATIONS FOR WATER USE--WAHIAWA WATER MANAGEMENT AREA

1. DPW, USASCH Well Nos. 2901-02 and/or 04
2. All (Future/Subsequent) Applications for Wahiaawa GWMA

Dear Commissioners:

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC requests clarification of COWRM's referencing the applications listed above as being within the Wahiaawa Ground Water Management Area, Oahu. This is the first time we have seen such a reference. Has there been a decision to break the Pearl Harbor Water Management area into sectors? This will have broad implications which merit public discussion and which must meet other rule-making requirements.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during finite application periods. Then after each application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a
process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-served processing of applications can equitably resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part, because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHCAC requests that COWRM postpone decision making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

DAVID L. MARTIN
David L. Martin, Vice-President

DLM/DCP:tr
1992 December 1

State of Hawaii Commission on Water Resource Management

Attn: Rae M. Loui
Deputy Director

Re: OBJECTIONS TO WATER USE PERMIT APPLICATIONS ALL GROUND WATER MANAGEMENT AREAS STATEWIDE AND RESPONSE TO PUBLIC NOTICES AND TO COWRM LETTER OF NOVEMBER 17, 1992

Dear Ms. Loui:

In studying Hawaii Administrative Rules (HAR) Title 13, Chapter 171, we find no explicit or implicit language supporting your contention that processing water use permits as NHAC previously suggested is inconsistent with these rules or would require rulemaking. We would appreciate some clarification on this point as it seems inconsistent with the fact the Pearl Harbor WMA is now being handled in a manner similar to our suggestions.

Two distinct classes of WMAs will emerge if you proceed on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. Then the determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis will circumvent a number of the conditions for a Water Use Permit particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM
records over the last 5.5 years shows that "action" includes deferral of decision making until information needs are met, as well as categorization of applications to facilitate future decision making.

While COWRM, staff, and the public have participated in discussions about water use permit application processing, there have been no formal declarations of COWRM permit application processing policy. It appears that COWRM staff and NHAC are advocating different interpretations of the Administrative Rules governing the water use permitting process, and that perhaps public hearings are needed to help the Commissioners decide what kind of interpretation best serves the purposes of the Water Code and the public interest.

Native Hawaiian Advisory Council (NHAC) requests COWRM defer decision making on water use permit applications until the following issues are resolved:

2. Allocation of water to county municipal purposes.
3. Implementation of water use permit application processing methodologies that avoid the continuation of first-come, first-serve permitting. First-come, first-serve water use permit processing contradicts the very heart of the intent of water management area designation. We cannot have comprehensive water resource management without comprehensive evaluation of Water Use scenarios.

Sincerely,

/5/

David L. Martin

DLM:cln
pc: Water Commissioners
    Department of Hawaiian Home Lands
    County Boards of Water Supply
    Office of Hawaiian Affairs
    Ka Lahui Hawai'i
    Native Hawaiian Legal Corp.
1993 June 22

State of Hawaii
Commission on Water Resource Management

OBJECTIONS TO AND COMMENTS ON WATER USE PERMIT APPLICATIONS
RESPONSE TO PUBLIC NOTICES DATED MAY 24 AND JUNE 27, 1993

These objections incorporate our previously submitted general objections to water use permit application processing (letters of October 12 & 21 and December 1, 1992).

We would like to ask if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

NHAC specifically objects to the permit application filed by Grace Pacific Corp. We contend that use of 170,000 gpd of potable water for industrial washing and dust control is not a reasonable and beneficial use of water, and expect that the applicant will provide further information about the availability or nonavailability of nonpotable water and/or further details about the necessity of potable water use. We further request that this available water resource be placed in reserve for Hawaiian Home Lands since no water from this aquifer was allocated to DHHL in the Water Commission's June 2 reservation decision.

Mahalo,

David L. Martin, Water Claims Manager
State of Hawaii  
Commission on Water Resource Management  
1993 June 22  
Page 2

pc w/enc:  Mahealani Ranch  
Ellen M. Osborne  
Thomas N. Matayoshi  
Honolulu Board of Water Supply  
The Oceanic Institute  
Kamehameha Schools  
Grace-Pacific, Inc.  
Chairperson Hoaliku Drake, DHHL

enc:  Letters of October 12 & 21 and December 1, 1992 from NHAC to COWRM
TO: State of Hawaii Commission on Water Resource Management

SUBJECT: Comments on Water Use Permit Applications

Kawela Plantation Wells (various numbers)
Honolulu Board of Water Supply Kuou III Well No. 2348-06
DLNR DOWALD Waiawa 1-6 Wells (various numbers)

and any other water use permit applications with comments due July 8 and 9, 1993.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, & 6/22/93).

In addition, we are increasingly concerned about the lack of clear guidelines for timing, sequencing, and coordinating COWRM permitting processes with environmental review processes conducted under other authorities (including HRS 343, BLNR Conservation District Use permitting, DOH 401 and NPDES, and County grading and drainage ordinances). This is discussed more fully within the context of specific objections to the Kuou Well III application below.

SPECIFIC OBJECTIONS

1. Kawela Plantation Wells (All)

The permit application information distributed by COWRM for comment should also include the results of COWRM's field verification of declared water uses and should summarize the monthly water use reports submitted over the last six years for comparison of existing uses with quantities of water requested.

2. Kawela Plantation Breadfruit Well No. 0456-04
   Kawela Plantation Ag Well No. 0457-04

NHAC objects to the proposed use of potable water for landscape irrigation. Applicant should provide assessments of alternative water source availability and plans for minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed
water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

The Ag Well (No. 0457-04) is not listed in the July 14, 1992 COWRM Ground Water Index and Summary, but does appear to be a declared use in COWRM Circular C-123 of September 1992 (listing 5 wells for Kawela Plantation).

When was the declaration of water use filed for Well No. 0457-04? If the declared use began after the implementation of the State Water Code, when were well construction and pump installation permits issued?

3. Honolulu Board of Water Supply Kuou Well j No. 2348-06

NHAC objects to further processing of this permit application until the Environmental Assessment (EA) process for the proposed project is completed. Today is the deadline for submitting comments on the Draft EA (DEA) for the exploratory well, after which the Final EA must be published with a subsequent waiting period of thirty days during which the Final EA may be contested.

BWS states in that DEA that "Production well development will be subject to the environmental review process as stipulated in Chapters 343, Hawaii Revised Statutes, and Chapter 200 of the State Department of Health Regulations." In response to this, we wrote:

Does BWS intend to prepare another EA for its Production Well at Kuou Well Site III? Will this EA address a broad range of environmental impacts stemming from both the general allocation of water to BWS from the Koolaupoko Ground Water Management Area and the specifics of extracting that allocation from the aquifer at the proposed site? Since BWS already applied to the Commission on Water Resource Management (COWRM) for a Water Use Permit, we objected to that application on the grounds that the environmental review process for the allocation has not been completed. We object to this DEA because it fails to address the allocation and extraction impacts in the comprehensive manner required to inform COWRM water use permit decisionmaking. Also note that COWRM has recently taken a position that permit applications are not complete and cannot be taken up for decisionmaking until environmental review processes are completed.

There is huge confusion and problems with the current timing, sequence, and coordination of environmental review processes for both exploratory and production wells (including HRS 343 processes, Conservation district use permitting, and DOH processes) and COWRM permitting processes (water use, well construction, and pump installation). The DEA should explain the BWS view and those of other agencies concerning the timing, sequence, and coordination of these processes. This
would provide a starting point for working with all parties to integrate the processes for the greatest mutual benefit.

Similarly, we now ask COWRM to explain its view and how it perceives that of other agencies with regard to these same issues.

NHAC also objects to further processing of this application until water reservations to Hawaiian Home Lands from the designated windward aquifers are completed. We recommend that this application be consolidated with other BWS applications so that the bulk allocation requested by BWS from Koolaupoko and BWS plans for distributing that allocation are more clearly understood.

4. DLNR DOWALD Waiawa Wells 1-6 (All)

NHAC requests additional information and extended review for these proposed uses. We have not yet received the permit applications and other supporting documentation needed to sort out the following issues:

a. COWRM minutes of June 2, 1993 meeting are confusing, and the presently remaining available allocation in the Waipahu-Waiawa system is unclear. Allocation of 2.0127 mgd to BWS on behalf of HFDC was approved (page 9). Was the 5.093 mgd allocation to BWS recommended in the staff submittal (page 4 number 4.) also approved? If so, does the 5.093 mgd allocation include the 2.0127 for HFDC?

b. We need more information and more time to research the land ownership and water rights issues raised by the Federal transfer to the State of the Waiawa lands where the proposed sources are located.

c. We need assurances that DLNR Plans to operate these systems as State water systems and does not plan to dedicate them to BWS.

d. We need to know how DOWALD has responded to COWRM concerns about the specifications for the proposed wells and their potential impact upon aquifer dynamics and existing groundwater uses.

e. We need to know how COWRM plans to integrate environmental review processes under other authorities with its own permitting processes (see above discussion of Kuou Well III application).

Based on the information now available, NHAC raises the following specific objections to the applications, and reserves the right to file additional specific objections as information becomes available:

a. Many of the State projects listed (Exhibit 6 of COWRM submittal of 6/2/92) propose using potable water for landscape irrigation of public facilities. Applicant should provide assessments of alternative water source availability and plans for
minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

b. There may be insufficient available allocation to meet DOWALD's quantity of use requested.

c. DOWALD's requested uses compete with other requested uses, thus it seems that public hearings are required.

d. Most of the State projects listed in the previous COWRM submittal are not listed in the current version of the State Water Projects Plan.

ADDITIONAL INFORMATION/EXTENDED REVIEW REQUESTED

NHAC has not yet received copies of the permit applications filed for DLNR DOWALD Waiawa 1-6 Wells. We request that this information be sent and the review period extended so that we can more closely analyze these extremely significant applications.

In our review of the Star-Bulletin for June 18, 1993, we did not find public notice of the Honolulu Board of Water Supply water use permit application for Kuou III in the legal notice section or elsewhere. Thus we are unable to ascertain whether or not any other water use permit applications were publicly noticed at that time. If so, we request that you transmit copies of these applications and extend the associated review period.
Mahalo

David L. Martin
David L. Martin, Water Claims Manager

pc: Kawela Plantation Homeowner's Association
    Molokai Working Group for COWRM
    Honolulu Board of Water Supply
    DLNR DOWALD
    Water Commissioners
    Water Code Review Commission and Commissioners
    Ka Lahui Hawai’i
    Hawaiian Homes Commission
    Office of Hawaiian Affairs
    Native Hawaiian Legal Corp.
The Honorable Keith W. Ahue  
Chairperson  
Commission on Water Resource Management  
Department of Land and Natural Resources

Dear Mr. Ahue:  

Withdrawal of Objections  

The Department of Hawaiian Home Lands has been in a position to raise objections to various applications for water use permits, particularly in Windward O'ahu, on the basis that water reservations were yet required to meet statutory obligations to Hawaiian home lands.

Please be advised that as the proposed water reservations in O'ahu and Moloka‘i water management areas are finalized, our objections for this reason are thereby withdrawn.

Warmest aloha,

Hoaliku L. Drake, Chairman  
Hawaiian Homes Commission

HLD:BH:ci/1608L.77
FROM: Dell
DATE: 03/01/93
FILE IN: 415705

TO:
INIT:

G. Matsumoto
F. Ching
E. Hirano
L. Mizuno
G. Bauer
P. Haraguchi
N. Fujii
K. Yoda
R. Loui
S. Kokubun
E. Sakoda
Y. Shiroma

PLEASE:

See Me
Call
Review & Comment
Take Action
Investigate & Report
Draft Reply
Acknowledge Receipt
Type Draft
Type Final
Xerox copies

FOR YOUR:

Approval
Signature
Information

copies for file
I think original has been filed.
Dear Mr. Fujii:

Water Use Permit Applications For Wells Listed Below and Status

1. Well 3957-03, Pump 3A

This well is one of six wells located at the old plantation Battery No. 3. Well has not been in use for years, but will be rehabilitated for aquaculture operation to commence in next three to six months.

2. Well 4100-02, Kawela

This well has not operated for a number of years. This well is in the Waialee Aquifer. We plan to rehabilitate this well sometime in 1994 for agriculture operations.

3. Well 4157-04, Pump 15

This well services the Air Force and Amorent Aquaculture prawn ponds. Water use is 1,100,000 gallons per day. Amorent may not have filed reports for last 12 months.

4. Well 4157-05, USFW 1
   Well 4157-06, USFW 2
   Well 4157-07, USFW 3

These wells are operated by U. S. Fish & Wildlife Service for the wildlife refuge at Kahuku. We understand they were filing monthly water use reports.
5. Well 4157-09, IKKO (Lot J)

This well is the primary source for salt water for all of Amorient Aquafarms shrimp ponds makai of Kamehameha Highway at Kahuku. Daily production is 5,000,000 gallons per day. We understood Amorient was filing monthly water use reports on this well.

6. Well 4157-11, Pacific Sea Farms

This well is not in use due to the financial difficulties of Pacific Sea Farms. The well may be rehabilitated if a new aquaculture tenant takes over this operation.

7. Wells 4158-01 to 11, Pump 5

This old plantation pump station has been abandoned for years. The state is taking over this area as part of a condemnation procedure.

8. Well 4159-02, Punamano Pump 2

This is the Air Force operated well using about 1,250 gallon per day. We understood the Air Force was making monthly water use reports.

9. Well 4257-01, Pacific Sea Farms
Well 4257-02, Pacific Sea Farms

These are the main supply wells for what was the Pacific Sea Farms shrimp operation. Well 4257-01 supplied about 5,000,000 gallons per day and Well 4257-02 is a back-up well. We understood Pacific Sea Farms was making monthly water use reports.

10. Well 4258-04, RCA Building

This well supplies salt water to the Amorient hatchery at the RCA Building at Kahuku. Well is used only when hatchery is in operation and supplies about 130,000 gallons per day at those times. Again we understand monthly water use reports were being made.
11. Well 4258-09, Pacific Sea Farms

This well has not been in use by Pacific Sea Farms. A new aquaculture tenant may want to rehabilitate this well for future aquaculture operations.

Please give me a call if you have any questions at [redacted]

Sincerely,

[Signature]

James E. Menor
Administrator,
Natural Resources
October 4, 1993

The Honorable Keith W. Ahue, Chairperson
Commission on Water Resource Management
Department of Land and Natural Resources

Dear Mr. Ahue:

Water Use Permits

Thank you for the opportunity to respond to applications for water use at the following Kahuku-Campbell Wells:

4056-01
4056-01,04,06,07,10
4100-01
4157-04,05,06,07,09
4158-01 thru 11
4159-01,02
4258-04

and the Kahuku-Kuilima Well (4158-14).

We have no objections to these applications.

Warmest aloha,

Hoaliku L. Drake, Chairman
Hawaiian Homes Commission
1993 September 29

State of Hawaii
Commission on Water Resource Management

OBJECTIONS AND COMMENTS ON APPLICATIONS FOR WATER USE PERMITS
Public Notice dated August 30, 1993
Send written objections by September 29, 1993

NHAC represents water source registrants, water use declarants, water use permit applicants, and others with property interest in land within the hydrologic unit of the source of water supply, as well as persons with non-property interests, all of who would be directly and immediately affected by the proposed water use.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use permit application processing and decisionmaking practices as previously submitted on numerous occasions (10/12/92, 10/21/92, 12/1/92, 6/22/93, & 7/8/93).

Campbell Estate proposes to continue a total of 23.225 mgd of existing uses, 7.0 of which involve seawater. This leaves 16.225 mgd of use from the basal aquifer, yet the May 1992 review draft of the Oahu Water Management Plan (p. 14) reports 1990 groundwater use of only 13.6 mgd. The 16.225 mgd of proposed use is about 46% of the 1992 revised sustainable yield of 35 mgd for the Koolauloa aquifer. Without better knowledge of existing, foreseeable, and potential competing applications for this yield, it is difficult to assess the propriety of allocating almost 50% of aquifer yield to a single applicant.

Many of the applications are for combined domestic and agricultural use. Quantification of the breakdown between these uses is essential at this stage of the permit review process so that existing acreage under cultivation, existing agricultural water use, crop water requirements, and future water allocations can be coherently analyzed.
SPECIFIC OBJECTIONS

Well 4057-01

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for pasture irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-01

While the public notice only lists Well 4057-01 as the well source, the application identifies 4 other wells that serve as sources for the Pump 1 battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-02, -08, -13, and -14 are also part of the application.

The well site appears to be upgradient from and close to the Ki'ı National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasibility of using alternative non-potable water sources.

Well 4057-04

While the public notice only lists Well 4057-04 as the well source, the application identifies 3 other wells that serve as sources for the Sugar Mill Pump battery. In order to preserve due process of all parties, the public notice for this application should be revised and re-published with a new deadline for written objections to clearly indicate that Wells 4057-09, -11, and -12 are also part of the application.

The well site appears to be upgradient from and close to the Ki'ı National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

Well 4057-06

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and other uses only, not for domestic uses. Which is correct?

Well 4057-07

The proposed use of potable water for agricultural irrigation should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4057-10

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The well site appears to be upgradient from and close to an unnamed spring. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for the spring, existing legal uses of the spring, and inchoate legal uses of the spring as authorized by Native Hawaiian custom and tradition.

Well 4100-02

The proposed use of potable water for aquaculture should be questioned until applicant shows evidence of the infeasability of using alternative non-potable water sources.

The apparent proximity of the well to a perennial Kawela stream tributary may indicate a potential restriction on use not identified in the application, including possible effects on interim instream flow standards, existing legal uses of the stream, and inchoate legal uses of the stream as authorized by Native Hawaiian custom and tradition.

Well 4157-04

The well site appears to be upgradient from and close to the Ki'i National Wildlife Refuge. Potential restrictions on the proposed
water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge, existing legal uses of all refuge waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-05 to -07

Potential restrictions on the proposed water use not identified in the application include possible effects on existing legal uses of all refuge waters and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4157-09

While we have no specific objections to the extraction of salt water for aquacultural use, we are concerned about the potential impacts of wastewater effluent discharge upon water sources and water uses in the area. These water quality concerns should be listed in the applications as potential restrictions on use.

Wells 4158-01 through -11

The well sites appear to be upgradient from and close to the Ki'i National Wildlife Refuge, Punamano spring, and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuges and for Punamano spring, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4158-14

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4159-01

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.
Well 4159-02

While the public notice lists domestic service as an existing water use, the application shows that only water of non-potable quality is being requested for irrigation and military uses only, not for domestic uses. Which is correct? Note that the application for adjacent Well 4159-01 is for irrigation use of non-potable water.

The well site appears to be upgradient from and close to Punahoolapa springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Well 4258-04

The well site appears to be upgradient from and close to Punahoolapa and Punamano springs and Punamano National Wildlife Refuge. Potential restrictions on the proposed water use not identified in the application include possible effects on interim instream flow standards for any springs within the refuge and for Punahoolapa and Punamano springs, existing legal uses of all refuge and spring waters, and inchoate legal uses of these waters as authorized by Native Hawaiian custom and tradition.

Mahalo,

David L. Martin, Water Claims Manager

pc: Campbell Estate
Kuilima Resort Co.
1992 October 12

State of Hawaii Commission on Water Resource Management

COMMENTS ON APPLICATIONS FOR WATER USE
1. HAWAIIAN ELECTRIC COMPANY WAIAU TUNNEL
2. KAIPAPAU WELL
3. ALL SUBSEQUENT WATER USE APPLICATIONS FOR PEARL HARBOR WATER MANAGEMENT AREA, WINDWARD OAHU WATER MANAGEMENT AREA, AND MOLOKAI WATER MANAGEMENT AREA

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC strongly objects to the wording of the legal notices you have published with respect to who may file written objections or comments. One does not have to prove they will be "immediately affected" by a potentially adverse action in order to meet standing requirements. Therefore, the language of the legal notices is misleading and will have an unwarranted chilling effect on public response and participation in the water use permitting proceedings.

Neither the Water Code nor its rules specifically address the question of standing for filing written objections or comments on applications for water use. Under the Administrative Procedure Act (HAPA) standing has been interpreted very broadly. Furthermore, COWRM has not yet finalized its procedures for processing water use permits in newly designated water management areas. NHAC is quite concerned that COWRM appears to be establishing narrow parameters for standing, as evidenced by these legal notices. This arguably constitutes rulemaking which has not been duly undertaken according to procedures required under HRS 91.

Because water resources have been defined as being owned by the people of the State of Hawai'i in McBryde and Repuhn all people have property interests in the water supply and may be admitted to any and all proceedings involving its disposition, regulation, and management. NHAC requests that you modify all future legal notices...
on water use permit applications to reflect this concern.

NIAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-serve basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during the one-year post-designation application period. Then after the application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-serve processing of applications can equitable resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NIAC requests that COWRM postpone decision-making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin

David L. Martin, Vice-President
1992 October 21

State of Hawaii
Commission on Water Resource Management

COMMENTS ON APPLICATIONS FOR WATER USE—WAHIAWA WATER MANAGEMENT AREA

1. DFW, USASCH Well Nos. 2901-02 and/or 04
2. All (Future/Subsequent) Applications for Wahiawa GWMA

Dear Commissioners:

Native Hawaiian Advisory Council, Inc. (NHAC) represents persons with property interests in lands within the hydrologic units of the sources of water supply and/or who will be directly and immediately affected by the proposed water use. Furthermore, NHAC advocates the enforcement of constitutional, statutory, and common laws which require consideration and accommodation of various appurtenant, riparian, correlative, and Hawaiian water rights, as well as other Hawaiian rights, in the Water Commission's (COWRM) allocation process.

NHAC requests clarification of COWRM's referencing the applications listed above as being within the Wahiawa Ground Water Management Area, Oahu. This is the first time we have seen such a reference. Has there been a decision to break the Pearl Harbor Water Management area into sectors? This will have broad implications which merit public discussion and which must meet other rule-making requirements.

NHAC objects to COWRM's apparent plan to process water use permits applications on a first-come, first-served basis. In order to fulfill the legislative intent of water management area designation, a comprehensive view of existing, planned, and proposed water uses and water rights in each hydrologic unit is required. COWRM should merely collect applications during finite application periods. Then after each application period is closed, and surveys of water rights and reserved water uses are completed, COWRM can assess and evaluate each application with regard to competing applications, reserved water uses, water rights, and the overall water situation in each hydrologic unit. Without such a
process, COWRM will not be able to meet Water Code requirements for evaluating competing uses within the framework of the "reasonable and beneficial" standard and other legally-imposed constraints.

In the case of Pearl Harbor Water Management Area, COWRM has identified a new cushion of water which can be allocated. Staff has received over 80 applications for these approximately 10 mgd of allocations. There is no way that the current first-come, first-served processing of applications can equitably resolve this situation. A finite application period for these allocations should be established, after which all applications received can be comprehensively processed.

We, therefore, state our overall objection to current COWRM procedures and policies regarding water use permit application processing, in a large part, because they do not yet exist. We reserve the right to submit specific objections to proposed permits at later dates, since at present there is insufficient information about the overall context of such permits to allow a fair and informed assessment.

NHAC requests that COWRM postpone decision making on all water use permit applications for the above-discussed Water Management Areas until after the application period has closed and the necessary assessments of water rights and reserved water uses have been completed.

Mahalo,

David L. Martin, Vice-President

DLM/DCP:tr
1992 December 1

State of Hawaii Commission on Water Resource Management

Attn: Rae M. Loui
Deputy Director

Re: OBJECTIONS TO WATER USE PERMIT APPLICATIONS ALL GROUND WATER MANAGEMENT AREAS STATEWIDE AND RESPONSE TO PUBLIC NOTICES AND TO COWRM LETTER OF NOVEMBER 17, 1992

Dear Ms. Loui:

In studying Hawaii Administrative Rules (HAR) Title 13, Chapter 171, we find no explicit or implicit language supporting your contention that processing water use permits as NHAC previously suggested is inconsistent with these rules or would require rulemaking. We would appreciate some clarification on this point as it seems inconsistent with the fact the Pearl Harbor WMA is now being handled in a manner similar to our suggestions.

Two distinct classes of WMAs will emerge if you proceed on a first-come, first-served basis in some WMAs and with a comprehensive management review of all uses and applications in other WMAs. Then the determination of whether competing WUPAs exceed the available supply becomes a second tier of the designation process. NHAC believes such a management regime requires rulemaking. Granting WUPAs on a first-come, first-served basis will circumvent a number of the conditions for a Water Use Permit particularly if specific reservations for Hawaiian Homelands beneficiaries are not previously implemented and allocations to county boards of water supply for municipal purposes are not established.

COWRM appears not to be in compliance with HAR 13-171-11(b), which implies that COWRM will determine water supply allocated to the county boards of water supply in each water management area. These gross allocations to the counties, as well as gross reservations to Hawaiian Home Lands (required under Act 325), must be defined prior to any new water use permitting to other parties.

While NHAC recognizes there is a rule that COWRM act upon permit applications within 90 or 180 days [HAR 13-171-19(c)] we do not see this as a constraint to the approach we are suggesting. COWRM
records over the last 5.5 years shows that "action" includes deferral of decision making until information needs are met, as well as categorization of applications to facilitate future decision making.

While COWRM, staff, and the public have participated in discussions about water use permit application processing, there have been no formal declarations of COWRM permit application processing policy. It appears that COWRM staff and NHAC are advocating different interpretations of the Administrative Rules governing the water use permitting process, and that perhaps public hearings are needed to help the Commissioners decide what kind of interpretation best serves the purposes of the Water Code and the public interest.

Native Hawaiian Advisory Council (NHAC) requests COWRM defers decision making on water use permit applications until the following issues are resolved:

1. Allocation of water to Hawaiian Homelands.
2. Allocation of water to county municipal purposes.
3. Implementation of water use permit application processing methodologies that avoid the continuation of first-come, first-serve permitting. First-come, first-serve water use permit processing contradicts the very heart of the intent of water management area designation. We cannot have comprehensive water resource management without comprehensive evaluation of water use scenarios.

Sincerely,

/\/

David L. Martin

DLM:cln
pc: Water Commissioners
Department of Hawaiian Home Lands
County Boards of Water Supply
Office of Hawaiian Affairs
Ka Lahui Hawai'i
Native Hawaiian Legal Corp.
1993 June 22

State of Hawaii
Commission on Water Resource Management

OBJECTIONS TO AND COMMENTS ON WATER USE PERMIT APPLICATIONS
RESPONSE TO PUBLIC NOTICES DATED MAY 24 AND JUNE 27, 1993

These objections incorporate our previously submitted general objections to water use permit application processing (letters of October 12 & 21 and December 1, 1992).

We would like to ask if all water use declarants, water source registrants, and water use permit applicants in the affected areas have been served direct notice of the pending applications and the deadline for filing objections? Without such notice, these persons cannot be expected to have timely knowledge of pending applications, much less file timely objections. The Water Commission, through its Nakata Subcommittee, has acknowledged this reality and recommended implementation of a process for direct notification of affected parties.

NHAC specifically objects to the permit application filed by Grace Pacific Corp. We contend that use of 170,000 gpd of potable water for industrial washing and dust control is not a reasonable and beneficial use of water, and expect that the applicant will provide further information about the availability or nonavailability of nonpotable water and/or further details about the necessity of potable water use. We further request that this available water resource be placed in reserve for Hawaiian Home Lands since no water from this aquifer was allocated to DHHL in the Water Commission's June 2 reservation decision.

Mahalo,

David L. Martin, Water Claims Manager
pc w/enc: Mahealani Ranch
Ellen M. Osborne
Thomas N. Matayoshi
Honolulu Board of Water Supply
The Oceanic Institute
Kamehameha Schools
Grace-Pacific, Inc.
Chairperson Hoaliku Drake, DHHL

enc: Letters of October 12 & 21 and December 1, 1992 from
NHAC to COWRM
1993 July 8

TO: State of Hawaii Commission on Water Resource Management

SUBJECT: Comments on Water Use Permit Applications
Kawela Plantation Wells (various numbers)
Honolulu Board of Water Supply Kuou III Well No.
2348-06
DLNR DOWARD Waiawa 1-6 Wells (various numbers)

and any other water use permit applications with comments due July
8 and 9, 1993.

GENERAL OBJECTIONS

We reiterate our general objections to current COWRM water use
permit application processing and decisionmaking practices as
previously submitted on numerous occasions (10/12/92, 10/21/92,
12/1/92, & 6/22/93).

In addition, we are increasingly concerned about the lack of clear
guidelines for timing, sequencing, and coordinating COWRM
permitting processes with environmental review processes conducted
under other authorities (including HRS 343, BLNR Conservation
District Use permitting, DOH 401 and NPDES, and County grading and
drainage ordinances). This is discussed more fully within the
context of specific objections to the Kuou Well III application
below.

SPECIFIC OBJECTIONS

1. Kawela Plantation Wells (All)

The permit application information distributed by COWRM for comment
should also include the results of COWRM's field verification of
declared water uses and should summarize the monthly water use
reports submitted over the last six years for comparison of
existing uses with quantities of water requested.

2. Kawela Plantation Breadfruit Well No. 0456-04
Kawela Plantation Ag Well No. 0457-04

NHAC objects to the proposed use of potable water for landscape
irrigation. Applicant should provide assessments of alternative
water source availability and plans for minimizing landscape
irrigation requirements before permit application processing
proceeds. The "reasonable and beneficial" nature of the proposed
water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

The Ag Well (No. 0457-04) is not listed in the July 14, 1992 COWRM Ground Water Index and Summary, but does appear to be a declared use in COWRM Circular C-123 of September 1992 (listing 5 wells for Kawela Plantation).

When was the declaration of water use filed for Well No. 0457-04? If the declared use began after the implementation of the State Water Code, when were well construction and pump installation permits issued?

3. Honolulu Board of Water Supply Kuuou Well 3 No. 2348-06

NHAC objects to further processing of this permit application until the Environmental Assessment (EA) process for the proposed project is completed. Today is the deadline for submitting comments on the Draft EA (DEA) for the exploratory well, after which the Final EA must be published with a subsequent waiting period of thirty days during which the Final EA may be contested.

BWS states in that DEA that "Production well development will be subject to the environmental review process as stipulated in Chapter 343, Hawaii Revised Statutes, and Chapter 200 of the State Department of Health Regulations." In response to this, we wrote:

Does BWS intend to prepare another EA for its Production Well at Kuuou Well Site III? Will this EA address a broad range of environmental impacts stemming from both the general allocation of water to BWS from the Koolaupoko Ground Water Management Area and the specifics of extracting that allocation from the aquifer at the proposed site? Since BWS already applied to the Commission on Water Resource Management (COWRM) for a Water Use Permit, we objected to that application on the grounds that the environmental review process for the allocation has not been completed. We object to this DEA because it fails to address the allocation and extraction impacts in the comprehensive manner required to inform COWRM water use permit decisionmaking. Also note that COWRM has recently taken a position that permit applications are not complete and cannot be taken up for decisionmaking until environmental review processes are completed.

There is huge confusion and problems with the current timing, sequence, and coordination of environmental review processes for both exploratory and production wells (including HRS 343 processes, Conservation district use permitting, and DOH processes) and COWRM permitting processes (water use, well construction, and pump installation). The DEA should explain the BWS view and those of other agencies concerning the timing, sequence, and coordination of these processes. This
would provide a starting point for working with all parties to integrate the processes for the greatest mutual benefit.

Similarly, we now ask COWRM to explain its view and how it perceives that of other agencies with regard to these same issues.

NHAC also objects to further processing of this application until water reservations to Hawaiian Home Lands from the designated windward aquifers are completed. We recommend that this application be consolidated with other BWS applications so that the bulk allocation requested by BWS from Koolaupoko and BWS plans for distributing that allocation are more clearly understood.

4. DLNR DOWALD Waiawa Wells 1-6 (All)

NHAC requests additional information and extended review for these proposed uses. We have not yet received the permit applications and other supporting documentation needed to sort out the following issues:

- a. COWRM minutes of June 2, 1993 meeting are confusing, and the presently remaining available allocation in the Waipahu-Waiawa system is unclear. Allocation of 2.0127 mgd to BWS on behalf of HFDC was approved (page 9). Was the 5.093 mgd allocation to BWS recommended in the staff submittal (page 4 number 4.) also approved? If so, does the 5.093 mgd allocation include the 2.0127 for HFDC?

- b. We need more information and more time to research the land ownership and water rights issues raised by the Federal transfer to the State of the Waiawa lands where the proposed sources are located.

- c. We need assurances that DLNR Plans to operate these systems as State water systems and does not plan to dedicate them to BWS.

- d. We need to know how DOWALD has responded to COWRM concerns about the specifications for the proposed wells and their potential impact upon aquifer dynamics and existing groundwater uses.

- e. We need to know how COWRM plans to integrate environmental review processes under other authorities with its own permitting processes (see above discussion of Kuou Well III application).

Based on the information now available, NHAC raises the following specific objections to the applications, and reserves the right to file additional specific objections as information becomes available:

- a. Many of the State projects listed (Exhibit 6 of COWRM submittal of 6/2/92) propose using potable water for landscape irrigation of public facilities. Applicant should provide assessments of alternative water source availability and plans for
minimizing landscape irrigation requirements before permit application processing proceeds. The "reasonable and beneficial" nature of the proposed water uses is suspect until these assessments and plans are reviewed and until the proposed water uses are evaluated within the context of all other existing, planned, proposed, and reserved water uses.

b. There may be insufficient available allocation to meet DOWALD's quantity of use requested.

c. DOWALD's requested uses compete with other requested uses, thus it seems that public hearings are required.

d. Most of the State projects listed in the previous COWRM submittal are not listed in the current version of the State Water Projects Plan.

ADDITIONAL INFORMATION/EXTENDED REVIEW REQUESTED

NHAC has not yet received copies of the permit applications filed for DLNR DOWALD Waiawa 1-6 Wells. We request that this information be sent and the review period extended so that we can more closely analyze these extremely significant applications.

In our review of the Star-Bulletin for June 18, 1993, we did not find public notice of the Honolulu Board of Water Supply water use permit application for Kuou III in the legal notice section or elsewhere. Thus we are unable to ascertain whether or not any other water use permit applications were publicly noticed at that time. If so, we request that you transmit copies of these applications and extend the associated review period.
Mahalo

David L. Martin, Water Claims Manager

pc: Kawela Plantation Homeowner's Association
    Molokai Working Group for COWRM
    Honolulu Board of Water Supply
    DLNR DOWALD
    Water Commissioners
    Water Code Review Commission and Commissioners
    Ka Lahui Hawai'i
    Hawaiian Homes Commission
    Office of Hawaiian Affairs
    Native Hawaiian Legal Corp.
September 22, 1993

Mr. Keith Ahue, Chairperson
Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawaii

Dear Mr. Ahue:

Subject: Your Letters of September 9, 1993 on Water Use Permits for Campbell Estate in the Koolauloa Groundwater Management Area, Windward Oahu: Well No. 4056-01; Well No. 4057-01; Well No. 4057-04; Well No. 4057-06; Well No. 4057-07; Well No. 4057-10; Well No. 4100-01; Well No. 4100-02; Well No. 4157-04; Well No. 4157-05; Well No. 4157-06; Well No. 4157-07; Well No. 4157-09; Well No. 4158-01 through 11; Well No. 4158-14; Well No. 4159-01; and Well No. 4159-02

Thank you for the opportunity to comment on these water use permits for Campbell Estate in the Kahuku area. We have no objections to issuance of permits for these existing uses. We feel, however, that the requested amounts of water for some wells are overstated and should be adjusted based on the actual amounts used and in accordance with the sustainable yield, especially when other well owners such as the Board of Water Supply are considered. The requested sum of 14.7+ mgd already exceeds the sustainable yield from the basal aquifer.

In the interests of preserving the best quality water for domestic consumption, however, the operators of the golf course using Well No. 4100-01 should use an alternative source of lesser quality water for irrigation. This action would be in accordance with the Board of Water Supply Rules and Regulations requiring golf courses to use nonpotable sources for irrigation where possible.

We return for your information the completed forms.

Very truly yours,

KAZU HAYASHIDA
Manager and Chief Engineer

Attachment
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. Kazu Hayashida, Manager & Chief Engineer
Honolulu Board of Water Supply

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

SUBJECT: Water Use Permit Application
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at [redacted]

Attachment(s)
Memorandum to:
Mrs. Hoaliku L. Drake
Dr. John C. Lewin
Mr. Clayton H.W. Hee
Mr. Kazu Hayashida

Page 2

Response: Contact person: Herbert H. Minakami Phone:

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

Signed: Kazu Hayashida Date: 9/23/93
KAZU HAYASHIDA
Manager and Chief Engineer
State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
Honolulu, Hawaii

SEP 2 1993

MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife
    Historic Preservation
    Land Management
    Natural Area Reserve System
    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
    Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

Response: Contact person: Steve Togawa Phone: [redacted]

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

Signed: [signature] Date: 9/30/93

The subject well site is not located within the Conservation District.
September 23, 1993

Mr. Keith Ahue, Chairperson
Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawaii

Subject: Your Letter of September 9, 1993 on Water Use Permits for Campbell Estate in the Koolauloa Groundwater Management Area, Windward Oahu: Well No. 4056-01; Well No. 4057-01; Well No. 4057-04; Well No. 4057-06; Well No. 4057-07; Well No. 4057-10; Well No. 4100-01; Well No. 4100-02; Well No. 4157-04; Well No. 4157-05; Well No. 4157-06; Well No. 4157-07; Well No. 4157-09; Well No. 4158-01 through 11; Well No. 4158-14; Well No. 4159-01; Well No. 4159-02; Well No. 4258-04

Thank you for the opportunity to comment on these water use permits. We have no objections to issuance of permits for these existing uses. However, the amounts of water requested, for some wells, are overstated and should be adjusted based on the actual amounts used and the applicable sustainable yields.

In the interest of preserving the best quality water for potable use, the operators of the golf course using Well No. 4100-01 should investigate the use of nonpotable water for irrigation. This action would be in accordance with the Board of Water Supply Rules and Regulations requiring golf courses to use nonpotable sources for irrigation where possible.

Warm personal regards.

Sincerely,

[Signature]

FFF:js
cc: Jeremy Harris, Managing Director
MEMORANDUM

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

FROM: Don Hibbard, Administrator
Historic Preservation Division

SUBJECT: Application for Water Use Permit, Ko'olauloa Ground Water Management Area, O'ahu
Campbell Estate for Well No. 4157-04 through 4157-07
Kahuku, Ko'olauloa, O'ahu
TMK 5-6-02:001

Thank you for the opportunity to review this project. The applicant proposes to use water from existing sources. Since an approved permit will not authorize any ground disturbing activities we believe that there will be "no effect" on historic sites.

EJ:jt
MEMORANDUM

TO: Aquatic Resources
Forestry and Wildlife
Historic Preservation
Land Management
Natural Area Reserve System
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
Koolauloa Ground Water Management Area, Oahu

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We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

LN:ko
Attachment(s)

Response: Contact person: _______________________________ Phone: ________________

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

DOFAW HAS NO COMMENTS OR OBJECTIONS TO THE PROPOSED REQUEST.

Signed: ____________________________ Date: ____________
MEMORANDUM

TO: ADMINISTRATOR
ASS'N.
DEV.
PLWR.
REG.
PD'ST.
STAFF
S.A.

FROM: Rae M. Loui, Deputy Director

SUBJECT: Request for Comments

Water Use Permit Application
Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

Response: Contact person:
We have no comments
We have no objections
Comments attached
Additional information requested
Extended review period requested

Signed: Date:
MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife
    Historic Preservation
    Land Management
    Natural Area Reserve System
    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
          Koolauloa Ground Water Management Area, Oahu

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1993.

We would appreciate your review of the attached application and please return this

If you have any questions regarding this application, please contact Roy Hardy at

LN:ko
Attachment(s)

Response: Contact person: Gordon Akita Phone:

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

Signed: MANABU TAGOMORI  Date: 9/23
MEMORANDUM

TO: Aquatic Resources
   Forestry and Wildlife
   Historic Preservation
   Natural Area Reserve System
   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
   Koolauloa Ground Water Management Area, Oahu

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We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

Response: Contact person: ______________________ Phone: __________

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

Signed: ______________________ Date: 9/22/93
Oahu District Office has no objection provided that the applicant obtain the required Federal, State and County permits if required.
Should you have any questions, please call John Dooling at 7 [redacted]
MEMORANDUM

TO: Aquatic Resources
    Forestry and Wildlife
    Historic Preservation
    Land Management
    Natural Area Reserve System
    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
          Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

LN:ko
Attachment(s)

Response: Contact person: ___________________________ Phone: __________

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

Signed: ___________________________ Date: __________
Honorable Frank F. Fasi, Mayor  
City & County of Honolulu  
City Hall  
Attn: Mr. Jeremy Harris  

Dear Mayor Fasi:  

Notice of an Application for a Water Use Permit  
Koolauloa Ground Water Management Area, Oahu  

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 Campbell Estate for Well No. 4157-05, 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,

Keith W. Ahue  
Chairperson  

KEITH W. AHUE  
CHAIRPERSON  

JOHN C. LEWIN, M.D.  
ROBERT S. NAKATA  
RICHARD H. COX, P.E.  
GUY K. FUJIMURA  
J. DOUGLAS ING, ESQ.  
RAE M. LOUI, P.E.  
DEPUTY  

Attach.
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. Kazu Hayashida, Manager & Chief Engineer
   Honolulu Board of Water Supply

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

SUBJECT: Water Use Permit Application
   Koolauloa Ground Water Management Area, Oahu

Transmitted for your review and comment is a copy of a water use permit application for Campbell Estate for Well No. 4157-05. Public notice of this application will be published in the Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993.

We would appreciate your review of the attached application and please return this form by September 29, 1993.

If you have any questions regarding this application, please contact Roy Hardy at

Attachment(s)
Memorandum to:
Mrs. Hoaliku L. Drake
Dr. John C. Lewin
Mr. Clayton H.W. Hee
Mr. Kazu Hayashida

Response: Contact person: ___________________________ Phone: ___________

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

Signed: ___________________________ Date: ___________
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 4056-01 (Well No. 4056-01)
Applicant: Campbell Estate
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well 4056-01, Kahuku, Oahu at Tax Map Key: 5-6-6:6
Quantity Requested: 1,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 135 acres of ranch lands for cattle
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:6

Pump 1 (Well No. 4057-01)
Applicant: Campbell Estate
Date Completed Application Received: June 19, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 1, Well No. 4057-01, Kahuku, Oahu at Tax Map Key: 5-6-6:19
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Domestic service and irrigation of 218 acres of various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:19

Sugar Mill Pump (Well No. 4057-04)
Applicant: Campbell Estate
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Sugar Mill Pump, Well No. 4057-04, Kahuku Sugar Mill, Oahu at Tax Map Key: 5-6-2:17
Quantity Requested: 500,000 gallons per day
Existing Water Use: Domestic service and irrigation of 40 acres various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-2:0

(more)
Pump 8 (Well No. 4057-06)
Applicant: Campbell Estate

Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 8, Well No. 4057-06, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 500,000 gallons per day
Existing Water Use: Domestic service to Kahuku High School and 10-acre turf farm
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:18

Pump 12 (Well No. 4057-07)
Applicant: Campbell Estate

Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 12, Well No. 4057-07, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 2,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 120 acres various crops
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:18

Pump 12-A (Well No. 4057-10)
Applicant: Campbell Estate

Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 12-A, Well No. 4057-10, Kahuku, Oahu at Tax Map Key: 5-6-6:18
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Aquaculture for 48 acres of prawns
Place of Water Use: Kahuku at Tax Map Key: 5-6-6:6

Well No. 338 (Well No. 4100-01)
Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 338, Well No. 4100-01, Kahuku, Oahu at Tax Map Key: 5-7-1:21
Quantity Requested: 800,000 gallons per day
Existing Water Use: Serves 160-acre golf course
Place of Water Use: Kahuku at Tax Map Key: 5-7-1:22

(more)
Kawela Well (Well No. 4100-02)
Applicant: Campbell Estate
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Kawela Well, Well No. 4100-02, Kawela, Oahu at Tax Map Key: 5-7-1:21
Quantity Requested: 1,000,000 gallons per day
Existing Water Use: Domestic service and irrigation of 40 acres of various crops
Place of Water Use: Kawela at Tax Map Key: 5-7-1:21

Pump 15 (Well No. 4157-04)
Applicant: Campbell Estate
Date Completed Application Received: June 16, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 15, Well No. 4157-04, Kahuku Aquafarm - Kamehameha Hwy, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 30,000 gallons per day
Existing Water Use: Domestic service to 6 military administrative facilities
Place of Water Use: Kahuku Army training area at Tax Map Key: 5-6-8:2

Well No. 4157-05
Applicant: Campbell Estate
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-05, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 82,410 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

Well No. 4157-06
Applicant: Campbell Estate
Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-06, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 105,572 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

(more)
Well No. 4157-07

Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-07, Kahuku, Oahu at Tax Map Key: 5-6-2:1
Quantity Requested: 106,791 gallons per day
Existing Water Use: Maintenance of habitat for endangered water birds
Place of Water Use: James C. Campbell NWR - Kii Unit at Tax Map Key: 5-6-2:0

Well No. 4157-09

Applicant: Campbell Estate

Date Completed Application Received: June 23, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4157-09, Kahuku, Oahu at Tax Map Key: 5-6-2:7
Quantity Requested: 7,000,000 gallons per day
Existing Water Use: Aquaculture for 300 acres of shrimp
Place of Water Use: Kahuku at Tax Map Key: 5-6-2:1

Pump 5 (Well Nos. 4158-01 through -11)

Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 5, Well Nos. 4158-01 through -11, Kahuku, Oahu at Tax Map Key: 5-6-5:7
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Irrigation of 688 acres of various crops in State Agricultural Park
Place of Water Use: Kahuku at Tax Map Key: 5-6-5:7

Well No. 4158-14

Applicant: Kuilima Resort Co.

Date Completed Application Received: July 12, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4158-14, Kahuku, Oahu at Tax Map Key: 5-6-3:44
Quantity Requested: 800,000 gallons per day
Existing Water Use: Service to 160-acre golf course
Place of Water Use: Kahuku at Tax Map Key: 5-6-3:40

(more)
Pump 2 (Well No. 4159-01)
Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Pump 2, Well No. 4159-01, Kahuku, Oahu at Tax Map Key: 5-6-3:43
Quantity Requested: 3,000,000 gallons per day
Existing Water Use: Irrigation for over 250 acres of various crops
Place of Water Use: Kahuku at Tax Map Key: 5-7-1:21

Punamano Pump 2 (Well No. 4159-02)
Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Punamano Pump 2, Well No. 4159-02, Kahuku, Oahu at Tax Map Key: 5-6-3:43
Quantity Requested: 1,500,000 gallons per day
Existing Water Use: Domestic service to two military administrative facilities and irrigation of 75-acre pasture
Place of Water Use: Punamano Air Force Station and pasture at Tax Map Key: 5-6-5:0

Well No. 4258-04
Applicant: Campbell Estate

Date Completed Application Received: June 17, 1993
Aquifer: Koolauloa System, Windward Sector, Oahu
Well Source: Well No. 4258-04, Kahuku-RCA Building, Oahu at Tax Map Key: 5-6-3:32
Quantity Requested: 300,000 gallons per day
Existing Water Use: Fish hatchery
Place of Water Use: Kahuku-RCA Building at Tax Map Key: 5-6-3:32
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; (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 September 29, 1993 to 1) the Commission on Water Resource Management, [address], and 2) a copy of the objection letter(s) to the applicant at the above address.

COMMISSION ON WATER RESOURCE MANAGEMENT

[Signature]
KEITH W. AHUE
Chairperson

Dated: AUG 30 1993

Publish in: Honolulu Star Bulletin issues of September 8, 1993 and September 15, 1993
Mr. Roy Hardy  
State of Hawaii 
Commission on Water Resource Management  
Department of Land and Natural Resources

Dear Mr. Hardy:

Application for Water Use
Permits - Non-Potable Water

Enclosed are 11 applications for water use permits for the following wells, along with a $25 filing fee for each application.

- Pump 2 - 4159-01
- Pump 2 - 4159-02
- Pump 5
- Pump 6
- Pump 8
- Well 338
- Well 4158-14
- RCA 4258-04
- Well 4157-05
- Well 4157-06
- Well 4157-07

If you need additional information, please give me a call at

Sincerely,

James E. Menor  
Administrator,  
Natural Resources
FIELD INSPECTION CHECKLISTS FOR CAMPBELL ESTATE WELLS OPERATED OR USED BY AMORIENT AS OF JUNE, 1993

Note: Salt Water Wells on Amorient's leased land, Wells # 4258-12, 13, 14, 15, 16, 17 and 4157-09 have been recently added to the State Well map. Until a change in policy, salt water wells were not being recorded on the State well map and were not consistently being assigned state well numbers such as fresh water wells are numbered. The fact that not all wells in the area were clearly identified with well numbers may have contributed to the confusion of the situation when, in 1989, Amorient filed water use declarations and misidentified some of their wells. In essence, they filed for some of the wrong wells.

Dr. Linden Burzell, formerly of Amorient, is no longer with the company. Dr. Burzell assisted field personnel in an inspection in 4/91, but misidentified wells on the declarations and during the field inspections. This report supersedes any previous inspections.

Wells in use documented in this report: WELLS 4258-08 & 14, 4258-12 & 13, 4157-09 (IKKO Well), 4157-04 (PUMP 15) -- THOSE WELLS ARE CURRENTLY BEING USED BY AMORIENT.
Also included in this report are Wells 4258-04, -15, -16, -17, 4157-03 (buried) which are located on property leased by Amorient but are not currently in use.

Of the above wells, Amorient filed water use declarations for the following: 4258-04, 4258-08, and pump 15 (4157-04). Amorient also filed for Wells 4258-05, 06 & 07 but I think that he just misidentified wells 4258-15, 16 & 17. When Dr. Burzell, in 1991, took staff to inspect the wells he was identifying as 4258-05, 06 & 07, they were shown 4258-15 and other wells.

Under the category "Wells Amorient filed declarations for, that are abandoned or buried" are the following:
1) a well buried under an access road, (4157-03),
and 2) well "4157-05" which evidently was an abandoned salt water dug well, which no longer exists. The number was reassigned in 1987 to a new well drilled for the U.S. Fish & Wildlife.

NOT CONTAINED IN THIS REPORT: File Ref: CAMPBELL EST will contain individual reports on the following wells: (Campbell Estate is the operator of the following wells.)
1) the battery of six wells at Pump 3 (3957-01 to 06) -- no apparent relation with Amorient. This battery of wells has been documented in the File Ref: CAMPBELL EST.
2) Dr. Burzell filed a water use declaration for Pump 5, a battery of abandoned wells that Campbell owns. When Dr. Burzell took staff to inspect what he was calling Pump 5, he actually took them to the Kahuku Airbase Well (4158-12,13). He misidentified the well on the declaration and in person, and also didn't have access to a key to the pumphouse. Amorient's office in the RCA Building is a small end user of water from the Kahuku Airbase well. Campbell Estate operates Well 4158-12 & 13. The operation and use of water from the Kahuku Airbase well will be documented in the File Ref: CAMPBELL EST water use declaration file. Both Pump 5 and the Kahuku Airbase well are reported on under CAMPBELL EST.
3) Pump 2 (4159-01) at one time, was managed but not used by Amorient. Campbell Estate took over the operation of this well. It will be reported on in File Ref: CAMPBELL EST.
# APPLICATION FOR WATER USE PERMIT

**Ground Water** or **Surface Water**

**Instructions**: Please print in ink or type and send completed application with attachments to the Commission on Water Resource Management, Department of Land and Natural Resources. The Commission may not accept incomplete applications. For assistance, call the Regulation Branch at 808-668-4030.

## 1. **APPLICANT**

<table>
<thead>
<tr>
<th>Firm/Name</th>
<th>The Estate of James Campbell</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person</td>
<td>Donna Goth</td>
</tr>
</tbody>
</table>

## 2. **WATER MANAGEMENT AREA**

<table>
<thead>
<tr>
<th>Area</th>
<th>Windward Oahu/Ko'olaau</th>
</tr>
</thead>
<tbody>
<tr>
<td>Island</td>
<td>Oahu</td>
</tr>
</tbody>
</table>

## 3. **EXISTING SOURCE NAME AND STATE NUMBER**

(a) Well No. 4157-05

## 4. **SOURCE LOCATION**

<table>
<thead>
<tr>
<th>Address</th>
<th>Kahuku</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Map Key</td>
<td>5-6-02</td>
</tr>
</tbody>
</table>

## 5. **SOURCE TYPE**

- Stream
- Dike-confined
- Perched
- Caprock

## 6. **METHOD OF TAKING WATER**

- Artesian Flow
- Well & Pump
- Diverted Surface Flow
- Other (explain)

## 7. **LOCATION OF PROPOSED WATER USE**

(a) Address: James L. Campbell NRZ - Kit Unit

(b) Land Use District: Urban

(c) County Zoning (describe): Preservation (P-2)

## 8. **QUANTITY OF WATER REQUESTED**

82,410 gallons per day

## 9. **METHOD OF MEASUREMENT**

- Flowmeter
- Open-pipe
- Weir
- Office
- Other (explain)

## 10. **QUALITY OF WATER REQUESTED**

- Fresh
- Brackish
- Salt
- Potable
- Non-Potable

## 11. **PROPOSED USE**

- Municipal (including hotels, stores, etc.)
- Domestic (individuals, noncommercial, etc.)
- Irrigation
- Industrial
- Military
- Other (explain)

Use of maintenance of habitat for endangered water birds.

Not applicable.

## 12. **NUMBER AND TYPE OF UNITS TO BE SERVED**

- 101.936 acres
- Habitat (crop)

## 13. **TOTAL ACRES PROPOSED FOR IRRIGATION AND TYPE OF CROP**

24 hours per day

## 14. **PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION**

- Unknown.

## 15. **APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON USE**

(a) Impact on Sustainable yield (?): None.

(b) Permanant or Interim Instream Flow Standards affected (?): None.

(c) Hawaiian Home Land uses affected (?): None.

(d) Other existing legal uses affected (?): None.

(e) Other: None.

## 16. **REMARKS, EXPLANATIONS**

There are three drilled artesian wells within about a 70-foot radius. Water from each well flows into a common sump and is diverted by gravity flow into refuge pond pipe distribution system.

(If more space is needed, continue on back side)

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**Applicant (print):** The Estate of James Campbell

**Landowner (print):** The Estate of James Campbell

**Date:** 6/3/75

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**For Official Use Only:**

- Date Received
- Hydrologic Unit No.
- Division Works No.
- State Well No.
- Notice Dates:
  - Public
  - Mayor
  - BWS
  - Mail List
  - Bulletin
  - Public Hearing

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8/24/82 WUPA Form
APPROXIMATE LOCATIONS OF GAGES AND WELLS
THE ESTATE OF JAMES CAMPBELL
HONOLULU, HAWAI'I

THE ESTATE OF JAMES CAMPBELL
JAMES CAMPBELL BUILDING • SUITE 500

DATE
JUN 10 93

TO THE ORDER OF

Department of Land & Natural Resources
Commission on Water Resource Management

VOID AFTER 90 DAYS

Paid to pay 6/24/93