

BOARD OF WATER SUPPLY of the COUNTY OF KAUA'I

RULES COMMITTEE MEETING

Second Floor, Kaua'i County Department of Water
4398 Pua Loke Street, Lihu'e, Kaua'i, Hawai'i 96766

TUESDAY, OCTOBER 4, 2016

1:00 p.m.

or soon thereafter

AGENDA

1. **ROLL CALL**

2. **ACCEPTANCE OF AGENDA**

3. **MEETING MINUTES**
Review and approval of
Rules Committee Minutes – August 2, 2016

4. **OLD BUSINESS**
 1. Manager's Report No. 16-58 - Discussion and Receipt on Department of Water's Standard Operating Procedure relating to Providing Water Service Outside of the Water Zone (*Update*)

5. **ADJOURNMENT**

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NOTE: Special Accommodations for persons with disabilities are available upon request five (5) days prior to the meeting date. Please call the Department of Water, County of Kauai, at 245-5406 or drop by at 4398 Pua Loke Street, Lihue, Kauai. Our mailing address is PO Box 1706, Lihue, HI 96766.

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Draft Minutes

Rules Committee Meeting

August 2, 2016,
9:00 a.m.

Committee Members Present: Michael Dahilig, *Chair*, Sherman Shiraishi, Lyle Tabata

Staff Present: Manager Kirk Saiki, Eddie Doi, Mike Hinazumi, Dustin Moises, MJ Akuna, Deputy County Attorney, Mahealani Krafft

Chair Dahilig called the meeting to order at 9:05 a.m. and quorum was established with all committee members present and with no objections to the Agenda.

OLD BUSINESS

1. Manager's Report No. 16-58 - Discussion and Receipt on Department of Water's Standard Operating Procedure No. 64 relating to Providing Water Service Outside of the Water Zone

BACKGROUND:

Chief of Water Resources and Planning, Mr. Doi brought up the conflict in the SOP 64 and the items in the rules. The action item was to "define water service limits established by the Department in SOP 64." Service limits would not conflict in item No. 1 with Part 2, Rules and Regulations for Water Service Connection, Section II-General Conditions.

The Water Plan 2020 helped to define the water service area that would guide the Department of Water (DOW) for infrastructure improvements. By using the General Plan and existing facilities, the Department could plan growth in facilities. The Planning Department and the DOW would work together to anticipate future growth in facilities mapped in the water service area. The service water area includes large projects (Kukui'ula, Līhu'e/Puhi/Hanamā'ulu Master Plan).

DISCUSSION:

Mr. Dahilig made a formal suggestion on SOP 64, Page 2 No. 1, subsection c. Development of Affordable or Workforce Housing Projects that needs the entitlements (i.e., permits, zoning; land use designations and what is included in subsection b.).

This could go under No. 1, sub-section a. zoned but could have an affordable project. It could be in subsection b. with affordable entitlements. Mr. Dahilig asked was the intent in subsection c. meant to be only if there are entitlements or is it applicable to zoning under subsection a.? Is subsection c. to have subsection b.? Mr. Doi added subsection c. applies across – Development of Affordable or Workforce Housing Projects.

Mr. Dahilig suggested if the 2nd paragraph of subsection c. could be part of subsection b. (b. is the land owner). He pointed out the first bullet in subsection c. is the same language as subsection a. regarding reviewing adequacy of the source, storage and transmission. The carve out in subsection b. (in or out of the service area) is when you don't have entitlements you need to build the facilities yourself. If you have the entitlements, treatment is like everyone else. If you don't have the entitlements, both parties can compromise for a workable solution. This would be for the second paragraph in subsection c. If a person does not have the zoning, they would have to pay. If there is

no zoning, a water line is needed to be installed, and the Department still evaluates source, storage and transmission (in or out of the zone, affordable or not affordable).

Manager Saiki wanted to simplify the SOP to say “regardless of what the zoning is, the Department will evaluate source, storage and transmission. If outside the zone, the customer needs to build their own transmission.”

Mr. Doi added what triggered the SOP, A&B Properties had 75 acres and the Department directed them to do source, storage and transmission. Then A&B came back later and wanted to do 300 houses, but was out of the zone. The SOP allowed affordable homes for A&B and Lima Ola.

Mr. Dahilig suggested a flow chart if you are in or out of the water service area which will require a yes or no questions. If you are in zone, 1) the Department will review source, storage and transmission and 2) provide the requirement to obtain water service OR if you are out of the zone, you are responsible for any land use changes. He also asked what if you are in the service area but there is no water? The developer would need to build and improve the system which should be added in the SOP (to be added in No. 1).

Mr. Doi said there is a distinction of a water system with the pipe, tank & pumps that are physically identified and the water service area that encompasses planned development. If outside of the service area and takes everything on the inside, this would not help the people who the Department planned for.

Mr. Tabata commented for clarification, if capital was collected from the Facility Reserve Charge (FRC), you would not charge someone if they are inside a service area if there is no water. Mr. Doi explained the FRC collected is to provide for more facilities. Manager Saiki gave the example if Kaua'i Lagoons being outside the zone; they could do a master plan with a hydraulic analysis with the possible outcome on their own capacity.

Mr. Dahilig asked is an SOP that addresses the analysis of how to make the capital investment without the run of the bank and cost burden because nobody is drawing on the system? What if there is no water? An SOP is to encompass everything or is a guide for flexibility.

The direction of the SOP is going back to how the Department did evaluations before SOP 64 was written. Manager Saiki explained if you are out of the zone, you need to do a master plan, what improvements are needed for the system (was the old way). Should this process be written down? Mr. Shiraishi said if the Department is following the old way, why is the SOP needed?

Mr. Tabata commented that the Department was obligated to provide service to “X” number of connections because FRC was collected. The system was designed to accommodate the connections. If something outside the zone takes up capacity, then some homes could not be built.

Water service area was established in Water Plan 2020. The intent was to utilize knowledge from the General Plan and big projects such as Lima Ola. Before Lima Ola was in the zone, they didn't have infrastructure. Kukui'ula was required to do source, storage and transmission.

Mr. Dahilig said in terms of an operating procedure, it did not mesh if you have water or you don't, which the rule says (do not change) but could be tied back to the rule.

Mr. Shiraishi had a concern on the rules Section 2, 1a. - In the event the service limits are established by the Department, the premises are within these limits.

At 9:47 a.m., Mr. Dahilig exited the meeting.

Mr. Doi added currently no service area limits are established. At a certain time, the Department could set service area limits. Habitat for Humanity did not violate 1a. but is outside the service area (which is not defined in the rules). Possibly the Deputy County Attorney could get the definition of what the Department can by law do or cannot do.

At 9:48 a.m., Mr. Dahilig re-entered the meeting.

Here are more suggestions the committee discussed:

- If 1a. is deleted, the other parts of the rule would protect the Department. (SS)
- The phrase “service area” has a geographic reference which are not in the rules. (MD)
- Define and revise the rule 1a (i.e., water service areas are establishes by the Department, or within these areas and to define water service that are serviced by other water service facilities to confirm with the General Plan. Build in the flexibility to the rule. (SS)
- Revisions will be provided to the rule to give the Department flexibility. (SS)

At 9:55 a.m., Mr. Tabata exited the meeting.

- Add a line “... that is geographically reasonable ...” to solve the rule portion. (MD)
- Insert the “... Department or Board can define the limits by resolution.” (KS)

Mr. Dahilig recommended to defer Manager’s Report No. 16-58 - Discussion and Receipt on Department of Water’s Standard Operating Procedure No. 64 relating to Providing Water Service Outside of the Water Zone in two (2) months, until time is set with no objections.

Mr. Dahilig adjourned the meeting at 10:00 a.m. with no objections.

ein

Old Business

DEPARTMENT OF WATER

County of Kaua'i

"Water has no Substitute – Conserve It!"

MANAGER'S REPORT No. 16-58

October 4, 2016

Re: Discussion and Receipt on the Department of Water's Standard Operating Procedure relating to Providing Water Service Outside of the Water Zone (*Update*)

RECOMMENDATION:

It is recommended that the Board discuss and possibly act on the Department's proposed SOP which identifies how the Department will address water service requests that are located inside and outside of the Department's water service area administratively and the proposed Part 2 Rules and Regulations for Water Service Connections, Section II General Conditions, subsection 1. Rule amendment.

FUNDING: N/A.

BACKGROUND:

Standard Operating Procedures (SOPs) are drafted and established within the DOW to help carry out routine operations to achieve efficiency and uniformity when executing a task. SOPs may be modified and updated to conform to the DOW's Rules and Regulations established by the Board.

The SOP, "Water Service Request In and Out of the Water Service Area" has been brought before the Board of Water Supply, County of Kaua'i to satisfy the Board's suggestion during its Regular Board meeting held on December 18, 2014 to provide a written policy regarding water demands outside the service area. This suggestion was made during discussions held when Manager Kirk Saiki provided the affordable housing update on County of Kaua'i, Housing Agency's Lima Ola project. The Department's proposed SOP will provide a written guidance on how water service requests inside and outside of the DOW's water system water service area are addressed.

During the June 30, 2016 Regular Board meeting, Board member Shiraishi recommended for the Department to make the necessary revisions to the proposed SOP to conform to the DOW's rules and regulations. With follow-up discussions and meetings, the DOW has found that it is necessary to review and refine Part 2, Section II of the DOW's rules and regulations.

The Department has revised the SOP based on recommendations by the Rules Committee meeting during the August 2, 2016 meeting and worked on refining Part 2 Rules and Regulations for Water Service Connections, Section II General Conditions, subsection 1. for the committee's review.

OPTIONS:

Option 1: Receive the SOP as recommended and forward rule recommendation to Regular Board Meeting.

Pro: The Department will have the Board's acknowledgement of the proposed SOP and has satisfied the Board's request to establish a written policy regarding water demands outside the service area will be satisfied. In addition, Part 2, Section II, subsection 1. will clearly define "Water Service Area."

Con: None.

Option 2: Receive the SOP and recommend changes to the proposed rule and/or SOP.

Pro: The Department will continue to work with the committee to address recommendations to the SOP and the proposed rule amendment.

Con: No SOP will be established for the Department.

Respectfully submitted,



Edward Doi, P.E.
Chief of Water Resources and Planning

CONCURRED:



Kirk Saiki, P.E.
Manager and Chief Engineer

mja/ein

Attachment: SOP Water Service Request In and Out of the Water Service Area
Part 2 Rules and Regulations for Water Service Connections, Section II General Conditions, subsection 1. Rule amendment

Mgrrp/October 2016/16-58/Discussion and Possible Action on Department of Water's Standard Operating Procedures (SOP) regarding Providing Water Service Outside of the Water Zone (*Update*) (RBM 6-30-16, Rules 10-4-16):ein

STANDARD OPERATING PROCEDURE		S.O.P. No.	XX
		Supersedes S.O.P. No.	N/A
DEPARTMENT OF WATER COUNTY OF KAUAI		Date Effective:	Immediately
		Date First Issued:	
Applicable to:	WATER RESOURCES AND PLANNING DIVISION	Introduced By:	Edward Doi
		Page No.	1 of 2
		Revised By:	N/A
		Subject: Water Service Request In and Out of the Water Service Area	

PURPOSE: This SOP has been prepared to define the Department’s practices relative reviewing water service request made for development located inside and outside of the water service area.

As used herein, the following shall mean,

Department of Water’s Water Plan 2020 – A 20 year plan that was completed by the Kauai Department of Water and members of the Water Board in March 2001. It is a comprehensive, long range planning effort, to ensure that the DOW continues to provide safe, affordable, and sufficient drinking water in the 21st century for our community.

Water Service Area – An area that is serviced by the existing water system and is defined by Water Plan 2020 which normally incorporates the County’s General Plan. The water service area is generally limited to the areas that have appropriate planning and zoning approvals in place. The water service area normally is within the service limits as used in the Rules and Regulations of the Department of Water.

Water System – Mains, valves, hydrants, laterals, pumps, tanks, reservoirs, and all appurtenances necessary to provide water.

Affordable or Workforce Housing Projects – Any project confirmed or sponsored by the County Housing Agency as a residential development where majority of housing lots, single family dwelling units, or multiple-family units are affordable housing or workforce housing as defined in Chapter 7A of the Kauai County Code 1987, as amended.

- I. For all water service requests the DOW will review the adequacy of the DOW’s existing source, storage, and transmission mains to ensure adequate domestic and fire flow demands can be provided.
- II. For water service requests located within the water service area and the DOW determines the domestic and fire flow demands cannot be met, the applicant will be required to construct water system improvements to provide adequate source, storage, and transmission mains for the proposed development.
- III. For water service requests located outside the water service area and the DOW determines the domestic and fire flow demands cannot be met, the applicant will be required to construct

water system improvements to provide adequate source, storage, and transmission mains for the proposed development.

- IV. For water service requests located within the water service area and the DOW has determined adequate domestic and fire flow demands can be met, the applicant will be required to pay all applicable fees and complete other DOW requirements as necessary.
- V. For water service requests located outside the water service area and the DOW has determined adequate domestic and fire flow demands can be met where:
 - a. The water service request is for development of land presently zoned and/or the development is consistent with the existing Land Use designation, the DOW will issue requirements to obtain water service, including all water system standards.
 - b. The water service request is for the development of land that is not presently zoned and/or the development is not consistent with the existing Land Use designation, the DOW will require the applicant to provide all necessary source, storage, and transmission facilities required for the proposed development.
 - c. The water service request is for the development of Workforce Housing projects, the applicant shall provide the DOW with a written certification from the County Housing Agency that verifies the proposed project meets the requirements of a Workforce Housing project.
 - i. Upon receipt of the written certification, the DOW shall determine if the project will need to construct all necessary source, storage, and transmission facilities necessary to provide domestic and fire flow demands of the project.
 - d. The Land Use amendment application for the development has been approved, the DOW will review the Land Use amendment application and make recommendations thereon.
- VI. The Manager may grant exceptions to any of the above if the Manager finds all of the following:
 - a. Strict application of the SOP would cause an absurd, unfair, or unreasonably harsh result; and
 - b. The circumstance or condition is unique or exceptional; and
 - c. An exception thereof is reasonably necessary or expedient and not contrary to law or the intent and purposes of this SOP.
- VII. The Rules and Regulations of the Department of Water shall govern any discrepancy contained herein.

APPROVED:

Kirk Saiki, P.E.
Manager and Chief Engineer

Administrative rule material to be repealed is bracketed. New material is underscored. Deleted material is ~~stricken through~~ or [bracketed.] In printing this rule amendment, the brackets, bracketed material, underscoring, strikes need not be included

SECTION II - GENERAL CONDITIONS

1. Any prospective consumer may obtain water service provided all of the following conditions are met:

- a. In the event that Water Service limits Areas are established by the Department, that the premises are within ~~these limits~~ a Water Service Area.

A "Water Service Area" is defined as an area that is serviced by existing water system facilities. A Water Service Area is generally limited to areas that have appropriate planning and zoning approvals in place. Water service is generally available within a Water Service Area unless system infrastructure improvements are needed to provide adequate water supply without detrimentally affecting existing consumers. As identified in Water Plan 2020, water systems and the Water Service Area can be used for purposes of planning and can be applied to guide service and development of future water service.

Consistent with the Kaua'i General Plan and for the purposes of Water Plan 2020, the Department takes a conservation approach in defining service areas of the existing water systems, in effect, limited them to areas that have appropriate planning and zoning approvals in place. Land use policies area established and governed by the County. The Department seeks to coordinate developments effort with the County and private developers seeking to connect to Department operated water systems.

If the premises are not located within a Water Service Area, then the Department may grant an exemption to this section pursuant to procedures adopted by the Department and as long as the prospective consumer provides the necessary source, storage and transmission facilities required for the prospective consumer's anticipated use.

- b. The Department has a sufficient water system developed for domestic use and, if required by the Department, a sufficient water system for fire protection. In order to determine the sufficiency of the water system, the Department may require the prospective consumer to estimate the amount of water to be used.

- c. The consumer agrees to design, construct, and install any component of the water system required by the Department in compliance with (1) all applicable statutes, ordinances, rules, and regulations of the State of Hawai'i and the County of Kaua'i, and (2) the 2002 Water System Standards ("Standards") developed by Hawai'i's four county departments of water, ~~as amended by the Department's 2005 Amendments ("2005 Amendments") to the Standards~~ it may be subsequently amended. The Standards and the ~~2005 Amendments~~ (as amended) are hereby incorporated by reference into the Department's rules. The Manager and Chief Engineer may, for good cause shown, permit departure from the Standards ~~or 2005 Amendments, or both~~ (as amended).
- d. The consumer agrees to abide by these rules and regulations.
- e. All applicable charges have been paid.