

Kauai Water Use & Development Plan Update
First Series of Public Meetings
October 29, 2015
Lihue Neighborhood Center
5PM to 6:45 PM

ATTENDANCE:

KDOW: Kirk Saiki (Manager and Chief Engineer), Edward Doi (Head of Water Resources & Planning Division, WR&P), Kim Tamaoka (Public Relations, PR), Jonell Kaohelaulii (PR)
Fukunaga & Associates, Inc. (Consultant): Jon Nishimura, Lynn Malinger, Amanda Tanaka, Amanda Kimi
CWRM: Lenore Ohye (Hydrologic Planning Program Manager)
Resolutions Hawaii (Facilitator): Dee Dee Letts

PURPOSE:

The purpose of this series of five (5) public meetings is to present the information that will be covered in the update, the sources for this information, how it will be presented, as well as any information that is available regarding the status of the resource on the Island. There will be a second series of public information meetings in about a year that will present all of the data gathered.

The intent of this series of meetings is to create an understanding of the purpose and intent of the Kauai Water Use & Development Plan Update and the context within which it is being developed. This series is to give the community an opportunity to express any concerns or voice any questions they may have about the process to be used to create the update. This will allow the consultant and the Department of Water to factor these into the planning process as the data is being collected and analyzed.

The meeting started with a presentation by Fukunaga & Associates. This presentation is posted on KauaiWater.org. There is a one page handout from the meetings that is also posted on the same website.

DISCUSSION:

These notes reflect the questions and concerns voiced by attendees at the Lihue meeting. (Q = question; A = answer; C = comment.)

- 1) Q: What is the difference between General Plan and Zoning?
A: The General Plan and Zoning full build-out analyses are completely separate island-wide assessments. General Plan is conceptual and is the County's vision for land use and Zoning is what is legally developable.
- 2) C: Moloa'a needs to be looked at.

- 3) C: Concern was expressed about using Important Agricultural Lands (IAL) and the County's IAL Study for analysis of agricultural water demand. An attendee was part of the Technical Advisory Committee for the IAL Study and expressed frustration with the document.
- 4) Q: Why are there only two rounds of public meetings? There is a lot of information that will be gathered and analyzed between the two rounds. There should be interim meetings so the amount of data presented at each meeting is not overwhelming.
A: Two rounds of public meetings [and two advisory group meetings] are planned.
- 5) C: It was suggested that, if frequent interim meetings are not feasible, a website be used to publish new information as it becomes available for the public to see.
- 6) C: The Sustainable Yield (SY) numbers are wrong. They are based on a 25 year old model that is obsolete.
A: CWRM is working on updating the SY numbers.
- 7) Q: The SY numbers are not sustainable at all because there is so much groundwater pumping that streams and rivers are drying up. The SY numbers are based on an inappropriate model. You have the accepted model [USGS model]; why won't you use the best information available?
A: We can look at other models, but ultimately, we need to use the numbers that are established and approved by CWRM. Determining the SY numbers is CWRM's responsibility. [CWRM generally relies on the USGS for recharge studies, which are the basis of the SY estimates.]
- 8) Q: Based on the SY & Pumping graph in the presentation, Wailua is currently pumping 0.5 MGD and the SY is 43 MGD. If there is so much groundwater available, why would you build a treatment plant for surface water? The law states to only use surface water if you cannot use groundwater. All natural resources, including fish and fauna, should be protected. We are in current violation of the State Code and Public Trust Doctrine.
A: [The Hawaii Supreme Court has identified four Public Trust purposes applicable to water resources that equally have priority: maintenance of water in its natural state; domestic use; traditional and customary rights; and Department of Hawaiian Home Lands reservations. Therefore, using surface water for domestic use, including for drinking water, is lawful.]
- 9) C: Water should guide land use, not the other way around. We should develop where there is available groundwater.
A: This WUDP update process helps the County do that.
- 10) Q: Regarding the SY & Pumping graph: is the blue part in the Hanamaulu graph the current pumpage? Is that what is being delivered? How much surface water are we using? Have

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we determined that this surface water is not in violation of the Public Trust? Based on the Kauai Springs case, every government entity has the duty to show that the Public Trust Doctrine is not being violated. You as individuals are liable.

A:

- The blue bars in the Hanamaulu graph represents groundwater pumpage.
- Approximately 2 MGD of surface water goes into the County water system.
- There is currently a lack of data. Setting instream flow standards is extremely complex. This is an issue state-wide. CWRM is now looking back at diversions that had been grandfathered to see if they violate the Public Trust Doctrine.

11) C: We need to think about how to maintain the irrigation systems.

12) C: Sometimes surface water cannot be used because of the amount of nitrates.

13) C: An attendee gave testimony at a CWRM meeting on Kauai. He has all the data that supposedly doesn't exist. This is in violation of the Public Trust Doctrine and Federal Water Law. Groundwater should be reserved for potable drinking water as it is high quality water.

14) C: The sugar irrigation systems are what dried our streams.

15) C: A memorandum of understanding is needed between the Department of Aquatic Resources and CWRM.

16) Q: How can you move forward without SY and AWUDP numbers?

A: SY is available from the CWRM Water Resource Protection Plan. In the absence of AWUDP numbers, assumptions need to be made until the AWUDP becomes available.

17) C: More detail should be provided.

A: When we come back, we will have a breakdown of meter data.

18) C: Data on all water sources should be gathered. There are some sources that you do not have data for.

19) C: It was recommended that USGS data be used instead of CWRM data, when possible.

20) Q: There are a lot of wells that are pumping and not reporting. How is this being addressed?

A: CWRM is the only entity that has legal authority to collect the data. Regulating wells and diversions are CWRM's responsibility. CWRM recently updated their policy. Private individual domestic users are now required to report. CWRM is currently going after the larger users first. They are also working with the Department of Agriculture.

21) Q: The KWUDP is supposedly a living document, but are we anticipating it will take 10-20 years before it is updated again? When you update the plan, how much does it cost to update the plan? Why are we continuing to use outdated data? It is important to get it right now. The margin of error is too large to be acceptable.

A:

- Risk and risk tolerance needs to be considered. Things are always going to change. The County has to make decisions on where and how to grow. The County needs to look at all resources and water is one of them. Each island is different. Kauai's problem is trying to get the water out of the ground. We are looking at the worst case scenario in terms of demand. Even with the uncertainty of the sustainable yield values, if these conservatively derived (high) demand numbers are way below the SY, wouldn't that provide some comfort that the land planning policies are sustainable?
- Ultimately, we want the County to have the best information available to make decisions. [This KWUDP Update will provide the County with information on demand that will help them make land use decisions].

22) C: We should encourage water catchment and gray water use.

23) C: U.S. Fish and Wildlife Service altered the course of Hanalei River with a stream bank restoration project. The project restricts the stream from its natural evolution and meandering.

24) C: Watershed protection is important.

25) Q: How did we start down the road of taking surface water?

A:

- If there is an expansion of a diversion, an amendment is needed. This triggers CWRM to look at the existing diversion and its impacts.
- [Many factors contributed to the decision to use surface water to serve the Lihue area. The water table in the Lihue area has decreased over time, therefore, some of the existing wells have been taken offline. The closing of the plantation and cessation of related irrigation practices may have affected ground water recharge and contributed to the lowering of the water table. In addition, it has been difficult to develop high yielding wells in the Puhi/Hanamaulu area due to the geology and lava formation in the area. Economics and the availability of surface water are additional reasons DOW started to use surface water to meet the needs of the community.]

26) Q: Even if a diversion is grandfathered in, the water must be returned in the same condition. Who regulates that?

A:

- CWRM understands that grandfathered diversions are not necessarily right. CWRM is working to address diversions.
- Regarding wells, it was mentioned that there are well construction standards, pumping tests, and studies of drawdown before a well is allowed.

27) Q: What happens if the new SY numbers are exactly the same as or lower than the General Plan & Zoning full build-out numbers?

A: These areas would be considered sensitive and should be looked at more closely. [Also, it is anticipated and will be verified that under existing conditions, water consumption is within the SY, and there is time to make corrections in the implementation of the land use policies to stay within sustainable limits of the resources.]

28) C: It was proposed that the scope for the KWUDP Update be reduced to just the inventory portion instead of moving forward with the analyses based on outdated SY numbers and assumptions.

29) C: It was proposed that the efforts for the KWUDP Update be focused on collecting and developing all the necessary information instead of depending on other agencies, such as CWRM and DOA.

NEXT STEPS:

FAINC will continue to collect and analyze data and will explore the issues that were raised during the meeting. The findings will be presented at the next public information meeting. In the meantime, new and updated information will be posted on the DOW website periodically.