



P.O. BOX 328 KĪLAUEA, KAUAʻI, HAWAII 96754

MEETING MINUTES
JUNE 6, 2023

Time: 7:00 PM

Location: Zoom (online)

KNA Directors Present: Yoshito L'Hote, Jake Bernard, Jeremy Burns, Gary Pacheco, Bill Chase, Stephenie Brown, Thomas Daubert, Mike Latif, Jill Lowry, Mike Lyons, Nathan Myers, Kalena Pacheco, Sarah Wright

Community Attendance: 60+ including Representative Nakamura, Councilwoman Cowden, and Councilman Bulosan.

Call to Order: Chair L'Hote called the meeting to order at 7:03 PM. There is a quorum.

COMMITTEE REPORTS:

Finance Committee: Gary "Mr. P" Pacheco reported we have \$5,538.13 in our checking account as of April 30. We just received another donation of \$100 also. Please send donations to PO Box 328 in Kilauea if anyone wants to contribute!

Planning Committee: Sarah Wright reported the committee is scheduling its next meeting.

Communications Committee: Please send any interest in signing up for the Kilauea Neighborhood Association announcements, questions or potential meeting topics to joekilauea@gmail.com. There is a bi-monthly email announcement letter provided to the community.

Fundraising Committee: Mike Latif suggested a blow up slides or zip lines or bounce houses event for Kilauea for the keiki. There are no summer programs for the kids in Kilauea.

NEW BUSINESS / GUEST PRESENTATIONS:

ToddStock – Michelle Rundgren: They will be hosting Todd's birthday party and a private event for 450 people in a curated private week-long event at Common Ground from June 17-24. There are shuttles available to transport people, and most come from Princeville. There are bands, musical education, yoga, food and drinks. The daily schedule is yoga at 8 am, then breakfast, then leave for island activities during the day, then 5 pm come back to Common Ground for dinner and music. In 2024 Todd will play for Kauai at a public festival (likely Kipu Ranch).

Kalihiwai Reservoir – Anthony Semedo: There is a report due on June 30th, and the owners have received a notice from DLNR that they have 6 months from receiving the final permits to either begin restoration or decommissioning, or face fines. If AHK is unable to raise funds by the deadline, then they will need to proceed with decommissioning. The cost of rehabilitation is estimated at \$10M. DLNR's number one concern is safety of those downstream of the dams. The likelihood of being able to influence the DLNR to reclassify the dam is very low. The cost to rehabilitate is prohibitive for 181 homeowners. End report.

Gary Smith shared some history – Stone Dam collects from 2 streams Pohakuhonu and Halaulani that converge above at Kahilihoho river and collects at Stone Dam. The other portion goes through a tunnel Kamo'okoa to service Kahilihoho. Originally all of Kalihiwai Reservoir's water went to Stone Dam first, then distributed out. In 1923 Charles Titcomb had the water rights and the plantation created a wood siphon that went down into Kalihiwai valley and back out the other side and to the back of Kalihiwai valley to the Hanalei side (it was called Hanalei ditch, even though it was through Kalihiwai) then through a red root 4' siphon down into the valley. At that time the reservoir had to be enlarged and strengthened so that much more water would inhabit the reservoir after 1923 than before. After the closure of the plantation and the siphon, the only water that goes into Kalihiwai Reservoir is runoff water down from the forests Kalihiwai mauka into that drainage basin. Kalihiwai and Ka Loko are two very different reservoirs, but the State sees Kalihiwai as a threat. Ka Loko was originally the largest deepest reservoir in Hawaii at over 40' deep, and the spillway went over the dam itself. Kalihiwai is relatively shallow at 16' and the spillway is off to the side of the dam on solid land that was not man-compacted. With the big rains and flood in April 2018, there was a danger of the reservoir overtopping because the small drainage gate had been plugged by surfboards and kayaks and all kinds of things in the reservoir, but it never happened because the managers noticed the issues and dug out the spillway as a preventative measure. Shifting gears to ownership and water rights – in 1863 Charles Titcomb also got the rights from Kamehameha IV to control the water rights from Kalihiwai Valley and the adjoining streams (Pohakuhonu and Halaulani). When Robert Willey of Princeville bought the rights to Hanalei Valley he had no interest in Kalihiwai water, so Titcomb got it and created the Titcomb ditch. Then the Hanalei group decided they needed to move up and farm Kalihikai and Kalihiwai, but there was no water. So they dug a ditch on the Hanalei side of the valley toward their plantation to service the fields on Kalihiwai mauka plateau. They had flat arable land on the Kilauea side so that ended up becoming the Kalihiwai Ag subdivision. Kilauea Sugar Company told them they had the water rights and so the land could not be developed, it went to court and KSC rights were upheld, then Princeville Sugar Company went out of business. So the water rights have transferred down to the successors of the KSC plantation.

Yosh commented that subsequently Brewer and Wai Koa/Common Ground got their rights and KRCA got their rights as it was transferred down. But in Hawaii, the State owns all water as part of a public trust, but in this case the private ownership of the water appears to be contradictory with the State's position on ownership of public trust water. What is the State's kuleana here?

Representative Nakamura was provided the floor as a State representative, she is here to listen and to see what they can do moving forward and may add some comments at the end.

We have 70+ attendees, speakers were advised to “Raise Hand” to be recognized.

Beryl Blach asked what’s the cost of decommissioning? Anthony Sameda said the rehabilitation is just an estimate and they can’t get real pricing until permitting is completed and the scope of work is finalized. The original estimate for decommissioning was about \$1.7-2M, so the best guess now is maybe \$2.5-3M to decommission, split 3 ways (Porter Irrigation, Common Ground, Kalihiwai Ridge Community Association).

Jake shared that he grew up reservoir fishing and doing many other recreational activities there. He feels preserving the reservoir for water use options is important.

Lorraine seconds that water is a very important resource and the key issue seems to be financially-based. Questions - where could the money come from to rehabilitate, and if it were rehabilitated what would the other implications be like management, liability, etc.?

Yosh conveyed the desire of the owners is to no longer have liability or ongoing costs / management as a burden, so there may be a pathway to transfer all the assets into a LLC with association with AHK so that it could communicate directly with DLNR and put everything under one roof to streamline the processes. As for raising the money, this may be a multi-faceted approach and is still being worked out. The 3 currently involved entities may put their decommissioning funds that would have to be paid anyway toward rehabilitation, lessening the total fundraising hurdle. There may also be significant neighbor donors or partnerships with the State to funnel federal funds toward the project. There is also a potential partnership with our Department of Water by providing surface water for ag, offsetting County potable water currently used for ag which could instead be used at higher residential rates and supply development in the area such as new housing west of town.

Follow up question, how much money or what percent would need to be raised, given the 6 months timeline from DLNR? Anthony said the DLNR has been clear that work must begin within 6 months or a \$20K fine would be assessed, which could be increased every 60-90 days with no movement. The permitting process length is unknown, and it is not done. If done quickly, then worst case would be around November. He is very concerned that a State agency has indicated they may decommission the Wailua dam because there is no funds for them to rehabilitate it themselves. This does not bode well for Kalihiwai or other dams without federal support influenced via our State Senators and Representatives.

Follow up question – is there a timeframe on completing the project? At this point there is not a deadline. The plan for either decommissioning or restoration should include a timeframe, which would likely lead to further deadlines. The focus is to provide safety to people downstream of the dams.

Yosh noted that DLNR is pushing this because of 16 years of noncompliance among many dam owners, but that Kalihiwai is the only one he knows of that has a deadline, with unknown reason.

David Dinner – do we have enough water in Kilauea now? The Department of Water has had to curtail development plans due to lack of water, with specific examples provided.

Follow up question – how can they build housing expansion west of town without water? They cannot, the plan is currently at least 10 years to build more housing there. The

affordable housing availability is intertwined with infrastructure and threatening to collapse the system and community.

Mike Latif was concerned that forcing this issue with Kalihiwai specifically seems a bit knee-jerk on the part of DLNR. Is there anything that can be done regarding the timing urgency? Representative Nakamura believes it is worth pursuing with DLNR to have more discussions about some of the assumptions and whether there is any room to allow for time for things to proceed. Anthony conveyed that he thought it was 1-3 people in the potential hazard pathway but there is new construction in the valley so things may have changed. KRCA spent a day with DLNR going through the risk assessment and floodplain simulation developed by Gannett Fleming which showed that there may be 1-3 foot intrusion on a couple of structures that they knew about historically, so this may have changed with new structures going up. Representative Nakamura commended Yosh's approach on talking to multiple stakeholders and substituting ag water for potable water is a great angle to consider. There is a State fund of \$10M for Senator Gil Algorod which is a general statewide bill that might be able to be applied to this issue.

Yosh commented that there was originally 1 person downstream, now there is 5. The projected impacts to that structure is yet to be identified.

Gary Smith said we cannot overestimate the value of surface water and gravity flow of water. During hurricane Iwa, that's how they got their water. It was boiled, used for cooking, for gravity toilets, for 10 days. Most people in Kilauea knew to go to Common Ground off an old redwood pipe to get their water. Also Princeville had a diesel generator so they could then go to Anini to get water because the County was all electrified and took longer to get fixed. The needs of water have diminished because people have access to affordable County water for residential needs, but farmers cannot do that as they cannot afford it at the volumes that they need, it must be much much cheaper, and surface water fits that bill. The County only has one clarifying plant in Kalaheo mauka, while Kilauea has 2 tanks all up on the ridge both fed by only one aquifer supplying the area. This is why Maui has water rationing. We should be smart and split our water usage efficiently and make better use of surface water. Just prior to the pandemic he met with the DOW who was interested in an exploratory well right next to the highway, but afterward the head engineer left and the project disappeared off the DOW's radar and hasn't had the same vigor since.

Question on the prawn farm reservoirs (1 acre each, up the ridge), how do those get their water? Yosh said it's over-flow water from Kalihiwai as he understands it. Gary said KSC became Kilauea Agronomics and did prawn farms and guava. They got water from Kalihiwai Reservoir gravity fed, and also diesel pumped the water out of the ditch that came out of Stone Dam which was expensive.

Councilwoman Cowden is happy to make an appointment with our DOW head Joe Tait to review and discuss these issues around Kilauea.

Yosh commented that infrastructure and skill sets like these are important for self-sufficiency and resiliency in the face of systemic risks. We should engage with CWYRM or create a water district for the Kilauea area to manage this public trust item, and price accordingly.

Gary finds it ironic that we've seen the fall of Morita Reservoir and these places built by C. Brewer touting the rights of shoreline property and recreational uses, which was a badge of honor, but if the owners 40 years ago could look into the future they would never have agreed to privately own this resource. It is a public trust item and should be dealt with as such, passed to an entity who can steward it and capitalize it properly. It will depend on the State's resolve whether they are willing to have a body of water as a stopgap measure for emergency drinking, agriculture support, drought buffer and other potential future crisis to help mitigate things we may well face.

Bill Chase echoed that water is a public trust and the DLNR is in charge of protecting that public trust. What is the fiduciary responsibility to make that happen? Thank you to the participants working on ways to restructure this situation to protect it. Yosh said the DLNR believes reservoirs are not their kuleana and it should be Dept of Ag, but they are not in a position to do so and take on more kuleana. There needs to be a comprehensive picture of water sources and uses and which may be valuable in the future based on multiple stakeholders and risk management.

Bill Chase proposed a motion to support Yosh creating and leading a nonprofit to take the Kalihiwai Reservoir in trust.

Kapua'ala Sproat is a born & raised Kalihiwai resident, professionally working on natural & cultural resources including water. She understands the desire to maintain plantation infrastructure and DLNR taking more responsibility, and the State (current sovereign) public trust doctrine of which water is an important part. Kalihiwai is actually classified as a river due to the volume. The river has been vital to feed the nearshore area. The river is currently diverted by plantation agriculture and pre-plantation times they did not exist. We should look at what decommissioning really means and the ecological impacts – has there been any inflow studies done on how much water is needed? This is a very important legal and scientific issue and the owners should consider carefully what is pono and what diversions should be maintained or what flows should be restored. What studies are going to be done to determine what in-stream needs and uses are necessary which comes top priority over agriculture or other needs. Gary Smith followed up that he had explained the 2 diversions fed the reservoir owned by Charles Titcomb (Kilauea Sugar Company) from Kamehameha IV, which was contested by Princeville Plantation, which KSC won for water rights (the case was in 1870 or so). The Princeville ditch was dug around 1880 (the Hanalei ditch), then Princeville went out of business around 1923, so KSC restored the Princeville ditch and fed the reservoir for expansion. There are seepage streams that start just below Common Ground (Pu'ukumu stream) was caught by Pohakuhonu and then down to Stone Dam. If there is an intense drought, you will not have much water in Kalihiwai Reservoir because it is mostly fed by surface water and some slow seepage water (40 year flow path) and so would also diminish fairly quickly. The Kalihiwai Reservoir is one of the few reservoirs that doesn't divert natural water flows and their final ending place.

Sonrisa commented that we know the water cycle and an important part of that is to protect what we have and to keep our reservoirs open.

Question – is the Hanalei ditch still used or accessible today? No, it is no longer working per Yosh, Gary confirmed it is dismantled.

OLD BUSINESS:

None.