

**BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT
OF THE STATE OF HAWAII**

**In the Matter of Waiahole)
Ditch Water Releases, Oahu)
)
)
_____)**

Docket Number: C-OA94-22B

DECISION AND ORDER

The Commission on Water Resource Management, State of Hawaii ("the Commission") finds that nearly all of the mediation participants (hereafter, "parties") involved in the above matter have signed a Mediation Agreement, a copy of which is attached hereto as Exhibit "A", as an interim resolution of the Waiahole Ditch Water Releases. In the interests of avoiding the time, expense and delay of adversarial administrative proceedings, and in lieu of proceeding with the contested case hearing scheduled for December 20, 1994, the Commission finds as follows:

1. As of the effective date of this Order, and for a period of six months following this order, Waiahole Irrigation Company shall continue to provide a consistent flow of eight million gallons per day ("mgd") to the Waiahole Ditch as measured at the North Portal, and shall release the surplus of this amount into Waiahole Stream initially (and into other Windward streams as can be reasonably accommodated pursuant to further agreement among the parties, as approved by the Commission Chair).

2. Waiahole Irrigation Company shall notify the Commission's staff of any temporary modification of the flow needed for normal ditch maintenance.

3. The parties' agreement and concurrence with (1) and (2) above shall not be construed to constitute an admission to or waiver of any party's right to later contest the statements contained in the November 16, 1994 "Staff Petition to the Commission on Proposed Operational Release Order of Waiahole Ditch Water and Commencement of

Contested Case Proceedings on Operational Releases from Waiahole Ditch." Some parties have raised objections to the timing and appropriateness of certain statements, and all parties agree that the subject matter of these statements will be the subject of future proceedings. The Commission and the parties to this agreement recognize that the releases made pursuant to this order shall not constitute an allocation upon which any claims can be made.

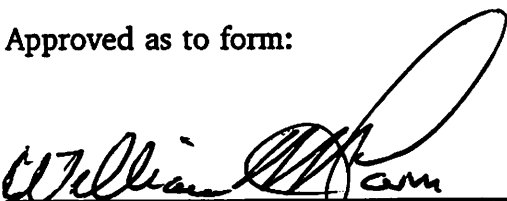
4. The Commission shall revisit this Order within six months of the effective date of this Order.

DATED: Honolulu, Hawaii, this 19th day of December, 1994
ON BEHALF OF THE COMMISSION ON WATER RESOURCE MANAGEMENT



KEITH W. AHUE, Chairperson

Approved as to form:



Deputy Attorney General