

Proposed DRAFT amendment to Chapter 43-171 / Water Commission

Subchapter 6

Reservation of Water

§13-171-60 Reservations of water. (a) As provided in HRS §174C-49(d), the commission, by rule, may reserve water in such locations and quantities and for such seasons of the year as in its judgment may be necessary.

(b) The commission shall adopt within this subchapter specific reservations of water in water management areas in such quantities as are deemed necessary\*for purposes which are consistent with the public interest, including the provision of water for current and foreseeable development and use of Hawaiian home lands pursuant to section 221 of the Hawaiian Homes Commission Act and HRS §174C-101(a).

(c) All reservations shall be subject to periodic review and revision in light of changed conditions. [Eff. ] (Auth: HRS §§174C-49(d), 174C-101(a)) (Imp: HRS §§174C-49(d), 174C-101(a))

§13-171-61 Department of Hawaiian home lands reservation for Honolulu and Leeward Oahu. To the extent that the same may be necessary from time to time for the satisfaction of its water needs for domestic, aquaculture, livestock, and agriculture purposes, the Hawaiian homes commission, for and on behalf of its lessees, shall at all times\*upon actual need therefor being shown to the water commission have a prior right over any other user of water from state lands to 1.724 million gallons per day of ground water in the Waipahu-Waiawa aquifer system for use in the Papakolea, Nanakuli, and Waianae-Lualualei Hawaiian homestead areas. This amount shall be in excess of the existing uses of water on Hawaiian home lands as of the effective date of this rule. [Eff. ] (Auth: HRS §§174C-49(d), 174C-101(a)) (Imp: HRS §§174C-49(d), 174C-101(a), HHCA §221)

§13-171-62 Department of Hawaiian home lands reservation for Windward Oahu. To the extent that the same may be necessary from time to time for the satisfaction of its water needs for domestic, aquaculture, livestock, and agriculture purposes, the Hawaiian homes commission, for and on behalf of its lessees, shall at all times\*upon actual need therefor being shown to the water commission have a prior right over any other user of water from state lands to 0.124 million gallons per day of ground water in the Waimanalo aquifer system for use in the Waimanalo Hawaiian homestead area. This amount shall be in excess of the existing uses of water on Hawaiian home lands as of the effective date of this rule. [Eff. ] (Auth: HRS §§174C-49(d), 174C-101(a)) (Imp: HRS §§174C-49(d), 174C-101(a), HHCA §221)

\* Important to note  
Underlined by NHAC

# Draft Proposed NHAC amendment to Chapter 13-171

## §13-171-60 Reservation by commission.

- (a) In its decisions concerning the planning, regulation, management and conservation of water resources in the State, the commission on water resource management shall incorporate and protect adequate water reserves for current and foreseeable development and use on Hawaiian home lands.
- (1) All permits issued and actions taken by the commission shall be subject to the rights of the department of Hawaiian home lands as provided in section 221 of the Hawaiian Homes Commission Act, to use, free of all charge, government-owned water to supply tracts.
  - (2) Nothing in the rules and regulations shall be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, and by §174C-101 and § 174C-49(e).
  - (3) Any reservation shall be based upon prior consultation with and the informed consent of affected native Hawaiian beneficiaries and shall be subject to periodic review and revision by rule amendment in light of changed conditions. [Eff.           ] (Auth: HRS §§174C-49(d), 174C-49 (e), 174C-101(a), HHCA §221)
  - (4) Periodic review of any reservation shall be initiated upon request of the Department of Hawaiian Homelands, any Hawaiian Homestead association or upon petition of 100 or more native Hawaiians.
  - (5) Procedures by which Hawaiian home lands water reservations are established are specified in § 13-172-23.
- (b) The commission may reserve water in such locations and quantities and for such seasons of the year as in its judgment may be necessary. Such reservations shall be second in priority right to paragraph (a) Hawaiian home lands reservations for current and foreseeable future development and use. Such reservations shall be subject to periodic review and revision in the light of changed conditions. All presently existing legal uses of water shall be protected. [Eff.           ] (Auth: HRS § 174C-49(d) and (174C-101(a)) (Imp: HRS § 174C-49 (d))).

## § 13-171-61 Department of Hawaiian home lands reservation for Honolulu and Leeward Oahu.

# Draft NHAC amendment

- (a) [To the extent that the same may be necessary from time to time for the satisfaction of their water needs, for domestic, aquaculture, livestock, and agriculture purposes, the Hawaiian homes commission for and on behalf of its lessees, shall at all times, [upon actual need therefor being shown to the water commission,] have a prior right over any other user of water from state lands to] [\_\_\_\_\_] million gallons per day of ground water are reserved in the Waipahu-Waiawa aquifer system for use in the Papakolea, Nanakuli, and Waianae-Lualualei Hawaiian homestead areas.
- (b) This reservation shall be subject to periodic review based upon consultation with and the informed consent of affected native Hawaiian beneficiaries, and shall be subject to revision by rule amendment in light of changed conditions. Eff. \_\_\_\_\_ ] (Auth: HRS §§174C-49(d), 174C-101(a), HHCA §221)

## §13-171-62 Department of Hawaiian home lands reservation for Windward Oahu.

- (a) [To the extent that the same may be necessary from time to time for the satisfaction of their water needs, for domestic, aquaculture, livestock, and agriculture purposes, the Hawaiian homes commission for and on behalf of its lessees, shall at all times, upon actual need therefor being shown to the water commission, have a prior right over any other user of water from state lands to] [\_\_\_\_\_] million gallons per day of ground water in the Waimanalo Hawaiian homestead area.
- (b) This reservation shall be subject to periodic review based upon consultation with affected native Hawaiian beneficiaries, and shall be subject to revision by rule amendment in light of changed conditions. Eff. \_\_\_\_\_ ] (Auth: HRS §§174C-49(d), 174C-101(a), HHCA §221)