

Water Commission, Despite Itself, Approves Kamehameha Schools' Offer to Restore Streams

Hiyilawe and Hakalaoa falls, the legendary pair of nosebleed-high cascades in Waipiʻo Valley, should be restored to full glory by the end of July, thanks to a sudden turnabout by Kamehameha Schools that caught the state Water Commission off guard. Representatives of Kamehameha Schools, the largest private landowner in the state, announced their intention to abandon a diversion and restore the flow to the three redirected streams above Waipiʻo Valley...

...And, as Marjorie Ziegler, natural resource analyst with Earthjustice Legal Defense Fund, pointed out the commission, "We are all participating in something that's really exciting – the first full restoration of streams under the state Water Code." ...

... "We have before you today," Tagomori said, "testimony that ... departs from all our actions that we have done up to date." ...

...Then came the shocker: "Kamehameha Schools will abandon its use of Lalakea Ditch diversions immediately. KS will file an application for 'Stream Diversion Works Abandonment' permit after consultation with the Commission staff on filing procedure." The statement concluded by saying the decision was based "upon Kamehameha Schools new vision, mission, guiding principles, goals and priorities of Kamehameha Schools Strategic Plan, 2000-2015. Among several goals and priorities, the Plan clearly emphasizes the practice of ethical, prudent and culturally appropriate stewardship of lands and resources. Based on this new direction, Kamehameha Schools has re-evaluated its programmatic direction of the Lalakea Ditch System and concluded that from the economic, education, cultural, environmental, and community perspective, the closure of the Lalakea Ditch System best serves the long-term interest of Kamehameha Schools." ...

...One goal is to malama i kaʻāina (husband the earth). This came from our stakeholders. What it means to them, and to us, is we need to target seeking a balance of return – involving environmental, cultural, economic and community considerations – that goes beyond the point of one-dimensional analysis, or what gets us the most money...

...“And those are mythological falls. They're very important in our culture. Our desire to see those falls running again, flowing again, is in keeping with our culture and the cultural practices that occur in the valley. And environmentally, we had to acknowledge that we're talking about exotic species, catfish and trout. And while we've heard again and gain by everybody who's brought and invasive species to Hawai'i that they could control it, we have to look with some amount of honesty at the result. Time and time again, notwithstanding controls, exotic species have escaped into other parts of the environment where they became very invasive and destructive. Earthjustice was saying that. And we had to say, while we could put in netting, spillways, and so forth, the fact is, we're at a high elevation, which creates and opportunity for fish to do damage to

native streams if they should escape. At a lower elevation, we haven't given up on catfish and trout. There's a far lower level of risk, because of the presence of saltwater. Finally, there was the community issue. You can't run an organization like this on the basis of popularity. But we don't operate in a vacuum either. Frankly, the community – this is probably the most split issue for us. Many want the streams to flow. Others have reservations – maybe they're agricultural users who are served by the ditch, or they're Waipi'ō users worried about higher volume of flow in the valley that could create flooding. The community issue is somewhat split, but the other issues weighed heavily toward making the decision we made."...

...In a nutshell, when Hamakua Sugar Company went bankrupt, the Lalakea Reservoir, fed by the diversions on three streams, was no longer being used to irrigate fields. Kamehameha Schools/Bishop Estate purchased the assets of Hamakua Sugar in 1994, thereby acquiring the Lalakea System and other properties. In 1995, Chris Rathbun, a resident of Waipi'ō Valley, filed a formal complaint with the commission alleging waste of water diverted into the Lalakea Reservoir...

...the commission ignored Rathbun's complaint – indeed, it wasn't even mentioned in the staff's chronology submitted to commission. In 1998, Earthjustice filed a water-wasting complaint on behalf of Rathbun and the Waipi'ō Valley Community Association...

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