

Statement on the
Appointment of Beth Tokioka to the Water Board
by JoAnn A. Yukimura
July 26, 2016

I am writing to explain my recent vote on the confirmation of Beth Tokioka's appointment to the Water Board. Many of you expressed deep concern, and it was not an easy vote for me.

Mahalo to those of you who reached out to inquire as to the rationale behind my vote. You trusted and respected me enough to ask about my reasoning and engage with me as we listened and responded to each other. Even though we may still disagree, I hope it is as friends who give each other the freedom to hold a position different from one's own because we trust in each other's sincerity and integrity.

The 600+ form letters opposing Beth's appointment cited that fact that Syngenta was suing the county. This was not persuasive to me. I question many things that Syngenta does, but I cannot fault Syngenta for asserting its legal rights. I supported Tim Bynum in asserting his rights by suing the county. The fact that Tim sued the county should not disqualify him in my mind from an appointment to the Parks Advisory Committee where he would be a fabulous addition. Furthermore, Syngenta's lawsuit got us into court where, I said from the beginning, we would have to go if we wanted to overcome the preemption obstacle and make Bill 2491 effective.

Proper questions for the Council to ask of an appointee are: 1. Is the person qualified to be a board member? 2. Are there possible conflicts of interest and is the appointee willing to recuse him or herself in those cases? (Recusal means a person refrains from discussing or voting on a matter, usually applied where there is a conflict of interest.) 3. Are the conflicts so pervasive that the person should not be appointed or confirmed because he or she would not be able to do the job.

I know Beth Tokioka professionally. I believe in her honesty, intelligence and management expertise. I have seen her produce programs, facilitate difficult community decisions, and work with people of all backgrounds and beliefs to produce results of great benefit to our community. The Council received many letters of support to that effect from many credible community members of all backgrounds. Beth and I have not always agreed on the issues, but I don't believe that disagreement on one or more issues is a legitimate reason for denying confirmation unless Beth's positions have to do with potable water issues in a way that would be against the public interest.

Contrary to Council Chair Rapozo's assertion that the only issue was Beth's personal qualifications and qualities, I agree with those opposing her appointment that the main issue is Beth's employment with Syngenta. Many people cannot see how she could act as an

independent agent. If she was not employed with Syngenta, most people would have no problem with her appointment. That is why I cast a silent “yes,” by which I acknowledged the concern.

However, the power of the council to confirm is not the same as the power of the mayor to appoint. There may be many others whom we think are far more qualified who do not have the conflict of interest, but it would not be appropriate for me as a councilmember to refuse to confirm an apparently qualified appointee unless there was evidence that the mayor was refusing to appoint qualified persons who had volunteered to sit on the Water Board or that his appointee had a pervasive conflict that couldn't be addressed by case-by-case recusal.

I asked the Water Department about the frequency of board decisions relating to pesticides, since Syngenta manufactures pesticides. Approval of routine water testing as part of the Water Department Budget was the one board decision identified by the Water Department where pesticides were an issue. Beth indicated that she saw no reason for reducing funding, but it is possible that by ruling of the Ethics Board she would not be able to vote on it anyway.

A non-recurring issue from the past was the Board's acceptance several years ago of the settlement proposed by Syngenta to the nationwide class action lawsuit brought against Syngenta for polluting public waterways with atrazine. I am certain that in such a case Beth would recuse herself on her own initiative; and if not, the Board of Ethics would surely find a conflict of interest.

Many of you are concerned about pesticide pollution of waterways and the ocean. It is important to know that the Water Board does not regulate surface water--i.e. rivers and streams; it only regulates potable water.

Beth also said she would not allow her integrity to be compromised by her employer and that she would recuse herself wherever there was a potential conflict of interest. For those who don't know Beth, who see her as a stereotype, these statements may seem to be empty promises, but for those of us who know Beth, they are not.

Circling back to the questions posed in the beginning, these are my conclusions: 1. Is Beth qualified? Yes. 2. Are there potential conflicts of interest and is she willing to recuse herself? Yes. Yes. 3. Are the potential conflict of interests so pervasive that Beth would not be able to do the job? No--not in my assessment.

Good hearted, reasonable people may disagree in answering the previous questions, meaning there are no absolutely correct answers. I hope my explanation shows that I have conscientiously and thoroughly examined the issue and come to a conclusion that is based on what I believe is in the best interest of the people of Kaua'i.