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Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Friday, March 14, 2025
1:00 PM
State Capitol, Conference Room 229

In consideration of
HOUSE BILL 1359 HOUSE DRAFT 1
RELATING TO FLOOD MITIGATION

House Bill 1359 House Draft 1 (HB1359 HD1) proposes to address flooding in residential areas, including on private roads, by requiring the Board of Land and Natural Resources to establish a grant program to improve drainage systems, support mitigation measures, and provide resources for local communities and homeowners. This bill also appropriates funds. **The Department of Land and Natural Resources (Department) recognizes the intent of this measure and offers the following comments.**

This measure provides for the use of public funds to benefit private landowners, many of whom are already responsible for drainage maintenance under current law. Pursuant to Hawaii Revised Statutes (HRS) §46-11.5, each county shall provide for the maintenance of channels, streambeds, streambanks and drainageways, unless they are privately owned or owned by the State. This existing law also enables the counties to enforce against a noncompliant private party, by issuing a civil penalty not to exceed \$500 for each day the violation continues. The law ensures that government entities and private property owners both share a duty and responsibility to maintain the foregoing drainage components. In contrast, HB1359 HD1 would shift this private responsibility to the State of Hawai'i taxpayer, raising concerns regarding the use of public funds for private purposes.

To aid residents' ability to fund these maintenance efforts in private, gated communities, the Department supports the provisions of Act 42, SLH 2015, which amended HRS §46-1.5 by authorizing individual counties to establish and charge a user fee to create and maintain any stormwater management system or infrastructure. This allows the counties to aid these communities in permitting, developing, and maintaining these systems, and complements the counties' existing authorities (HRS §46-11.5) to

enforce maintenance of these drainage improvements. Additionally, the Department supports existing county stormwater outreach programs such as the City and County of Honolulu's clean water program (www.cleanwaterhonolulu.com). These programs outline properly designed drainage connections vs. illegal drainage stormwater connections. As the entities permitting and regulating these types of improvements, the Department believes each county, not the state, should be the authority in preparing educational outreach materials.

In summary, the counties have existing authorities to manage drainage in their respective jurisdictions, and mechanisms to fund drainage development and maintenance programs; most counties already provide stormwater outreach programs to their constituents. If this committee elects to move forward with administration of the grant program in HB1359 HD1, the Department would need significant resources to undertake this responsibility. The Department requests several years' operational funding (estimate \$750,000/year for 3 years) to develop program guidelines, rulemaking, and stormwater guidelines; these would need to be compatible with existing county stormwater guidelines and ordinances. Further, once the program is established, we would anticipate significant permanent staffing of engineers, accountants, inspectors, and clerks to support potentially thousands of permit applications and legal support to draft and review the related grant agreements and waivers. We estimate the annual operating costs for this program administration to be approximately \$1,500,000. The Department would also recommend that a dedicated special fund be established for the grant program with a recurring annual appropriation of \$1,000,000 for grants, and that additional allowance for insurance be included to help shield the State from any potential adverse consequences these drainage improvements may have on the surrounding community. Taken together, these factors represent a significant financial undertaking for a grant program that would largely duplicate the current efforts and responsibilities of the individual counties and private residents.

Mahalo for the opportunity to provide testimony on this measure.