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LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the House Committee on
WATER & LAND**

**Thursday, February 6, 2025
9:00 AM**

State Capitol, Conference Room 411 & Videoconference

**In consideration of
HOUSE BILL 510
RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY**

House Bill 510 proposes to amend the conditions, manner, and areas in which the Commission on Water Resource Management can declare and provide notice of water shortages and emergencies. **The Department of Land and Natural Resources (Department) strongly supports this measure.**

Climate change and drought combined with increased population and aging water infrastructure can lead to water shortage situations in some areas of the state. The changing rainfall patterns in Hawai'i along with more prolonged and intense drought events are causing water demands to meet or exceed the available freshwater supplies in some areas. While the county water departments and private water utilities have the ability to restrict their customers' use of water, only the Commission on Water Resource Management (Commission) has authority over all the water resources in the state. Water shortages impact all water users in a region – and since the counties and private utilities can only restrict uses of water under their control, it is vital for the Commission to have expanded flexibility to respond to conditions anywhere in the state that threaten our water supplies when issuing water shortage declarations. Current language in HRS §174C-62, prevents the Commission from declaring a water shortage in non-designated water management areas, and requires the Commission to declare a water shortage by a lengthy administrative rulemaking process.

This measure proposes amendments to HRS §174C-62, which would:

- Increase public input to the Commission by requiring a rulemaking process under Chapter 91, HRS, when formulating water shortage plans, developing a reasonable system of permit classification in designated water management areas, and publishing a set of criteria for determining when a water shortage exists;

- Provide the Commission discretion and immediacy to declare water shortages statewide by adding areas outside of designated water management areas to be eligible for water shortage declaration and removing the requirement “by rule” to declare a water shortage;
- Expand the Commission’s authority to impose restrictions on well and stream diversion works owners and operators during a water shortage outside of designated water management areas; and
- Enhance the requirements of public notice and permit holder notification of a water shortage.

Current process under HRS §174C-62 compared with proposed amendments:

Action	Current Process	Proposed Amendments
Formulate plan for implementation during periods of water shortage HRS §174C-62(a)	Commission action	Administrative rulemaking
Adopt reasonable system of permit classification according to source of water, method of extraction/diversion, use of water, or a combination thereof HRS §174C-62(a)	Commission action	Administrative rulemaking
Declare water shortage HRS §174C-62(b)	Administrative rulemaking	Commission action
Publish a set of criteria for determining when a water shortage exists HRS §174C-62(b)	Commission action	Administrative rulemaking

The Commission supports this measure, which would allow the Commission to quickly declare a water shortage during a crisis anywhere in the state. This measure also provides for improved public input on establishing criteria for determining when a water shortage exists, formulating a water shortage plan, and developing a reasonable system of permit classification. If enacted, this measure would allow for the Commission to further protect water resources statewide, particularly as the impacts of climate change threaten the future of our wai.

Mahalo for the opportunity to testify in strong support of this measure.

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
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February 6, 2025

The Honorable Mark J. Hashem, Chair
and Members
Committee on Water and Land
House of Representatives
Hawai'i State Capitol, Room 411
Honolulu, Hawai'i 96813

Dear Chair Hashem, Vice Chair Lamosao and Members:

Subject: House Bill 510: Relating to Declaration of Water Shortage and
Emergency

The Honolulu Board of Water Supply (BWS) strongly support House Bill (HB) 510. The purpose of the bill is to amend the conditions, manner, and areas in which the Commission on Water Resource Management (Commission) can declare and provide notice of water shortages and emergencies pursuant to Hawai'i Revised Statutes (HRS) chapter 174C.

The BWS supports the proposed amendments, which requires the Commission, to adopt rules, formulate a plan for implementation, adopt a reasonable system of permit classification, and set criteria for determining when a water shortage exist. This provides more transparency to the public and allows ample notification that a water shortage exist.

Thank you for the opportunity to testify in strong support of HB 510.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ernest Y. W. Lau'. The signature is fluid and cursive, written over a white background.

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer



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February 6, 2025

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON HB 510
RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY

Conference Room 411 & Videoconference
9:00 AM

Aloha Chair Hashem, Vice-Chair Lamosao, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau respectfully opposes HB 510, which amends the conditions, manner, and areas in which the Commission on Water Resource Management (CWRM) can declare and provide notice of water shortages and emergencies. While responsible water management is critical, this bill raises concerns about overregulation, lack of clear criteria, and the potential for unnecessary permitting burdens on farmers and ranchers who rely on consistent access to water for irrigation.

When the State Water Code was enacted, it was designed to establish a program of comprehensive water resource planning to address both the supply and conservation of water. It is based on balancing both the use and protection of water and set up the Commission on Water Resource Management (CWRM) to function as a planning and data-collecting agency on water resource matters, a body of experts, while limiting its permitting role to areas identified as having water shortages or in need of protection.. CWRM was intended to focus on big-picture water resource management, including identifying available water resources, tracking usage, and advancing scientific knowledge about water in Hawai'i. Regulation was intentionally limited to designated Water Management Areas (WMAs), which are specific regions experiencing water shortages, competition, or other challenges, as determined through a clear statutory process. Once an area is designated as a WMA, CWRM is authorized to regulate water use through a defined permitting process that ensures fairness and transparency.

HB 510 attempts to circumvent this existing structure by giving CWRM broad authority to declare water shortages and emergencies without identifying clear criteria, creating a separate and unchecked regulatory system as it would be set up by rule, rather than being included in statute. This bill allows CWRM to impose water restrictions without requiring a formal WMA designation, meaning that water users, especially farmers and ranchers, could be subjected to sudden and arbitrary regulatory changes without legislative oversight or a clear statutory framework.

Key Concerns with HB 510

1. Potential Water Use Restrictions on Farmers

HB 510 gives broad discretionary power to CWRM to impose restrictions on water use, including those outside of designated WMAs. This could disproportionately impact farmers who depend on wells, stream diversions, and other natural water sources for irrigation, jeopardizing crop production and livestock operations.

2. Emergency Orders Could Disrupt Agriculture

The bill allows CWRM to apportion, rotate, limit, or prohibit water use during declared emergencies. However, the lack of clear prioritization for agricultural water use raises serious concerns. If agriculture is not recognized as an essential use, farms may experience severe water shortages, resulting in crop losses, reduced yields, and financial hardships.

3. Lack of Clear Permit Classification for Farmers

HB 510 mandates that CWRM establish a permit classification system but fails to outline how agricultural water users will be prioritized. If urban, residential, or industrial users receive higher priority, farmers will be left with inconsistent and unreliable water access, further exacerbating food security concerns in Hawai'i.

4. Impact of Climate Change Considerations

The bill references the climate crisis as a criterion for determining water shortages. While we acknowledge the realities of climate change, this provision could lead to frequent and unpredictable water shortage declarations. Farmers need long-term stability in water access to make necessary investments in irrigation and sustainable agricultural practices.

5. Burdensome Compliance and Notification Processes

HB 510 requires that water shortage notices be published online and in newspapers. However, this passive notification system places the burden on farmers to continuously monitor for restrictions. Additionally, compliance with new permit restrictions or reporting requirements may add unnecessary bureaucratic hurdles for already burdened small- and medium-sized farms.

6. Creates a Second, Duplicative Permitting System

CWRM already has an established process for regulating water through the WMA system, which includes statutory criteria and legislative oversight. HB 510 introduces a separate permitting process, adding uncertainty, confusion, and unnecessary bureaucracy for water users. There is no demonstrated need for an

additional permitting system, as the existing WMA framework provides CWRM with the necessary tools to regulate water use where appropriate.

7. Risk of Arbitrary Water Restrictions Without Stakeholder Input

HB 510 grants CWRM unchecked authority to declare water shortages and impose regulations without clear statutory guidance. The bill lacks mechanisms for public input or due process, potentially leading to arbitrary and inconsistent enforcement that disrupts Hawai'i's agricultural industry.

The State Water Code already provides a clear, balanced framework for managing water resources while allowing CWRM to step in when necessary through the WMA designation process. HB 510 sidesteps this framework, creating a regulatory loophole that could result in inconsistent water restrictions, unpredictable permitting requirements, and added burdens on Hawai'i's farmers and ranchers.

For these reasons, we urge the committee to hold HB 510. Thank you for the opportunity to testify on this measure.