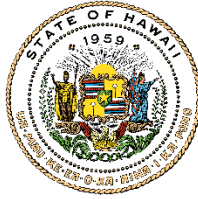


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
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FIRST DEPUTY

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Monday, February 3, 2025
1:06 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 386
RELATING TO WATER SYSTEMS

Senate Bill 386 proposes to require the Department of Land and Natural Resources (Department) to acquire all West Maui water systems by eminent domain and hold the water systems in trust for the County of Maui to manage. **The Department respectfully opposes this measure as drafted.**

While the Department supports public ownership and management of water systems, it opposes the mandate that it exercise eminent domain over West Maui water systems and assume fiduciary responsibilities without adequate resources, experience, or expertise.

The Department's core mission is the management and protection of Hawai'i's natural, cultural, historical and recreational resources. The management and operation of water delivery infrastructure fall outside the Department's statutory responsibilities and expertise. If required to hold the water systems in trust, the Department may become the default operator in the event the County of Maui is unable to fulfill its obligations. This would impose a substantial, unfunded burden on the Department. Furthermore, mandating the Department undertake all system acquisitions will incur significant financial and legal burdens, including due diligence costs such as title review, appraisal, land survey, environmental hazard and contamination studies, engineering studies and assessments and compliance with Chapter 343, Hawaii Revised Statutes.

The Department recommends measure be amended to authorize the County of Maui to acquire the water systems directly, as well as provide the County of Maui with funding to both acquire and manage the water systems, including due diligence costs.

Thank you for the opportunity to testify on this measure.



HAWAII WATER SERVICE

P.O. Box 384809

Waikoloa, HI 96738 **Tel:** (877) 886-7784 toll-free

Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair
Committee on Water and Land

Monday, February 3, 2025; 1:06 p.m.
Conference room 229 & Videoconference

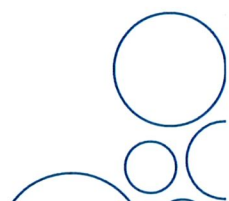
RE: SB 386 Relating to Water Systems – In Opposition

Aloha Chair Inouye, Vice Chair Elefante and members of the committee:

Thank you for the opportunity to submit testimony in opposition to SB 386, which requires the Department of Land and Natural Resources to acquire all West Maui water systems by eminent domain and hold the water systems in trust for the County of Maui to manage. Unfortunately, as currently drafted, the legislation would ensnare all water suppliers in West Maui, regardless of whether they are established to serve private interests or the public at large, as is Hawaii Water Service.

By way of background, Hawaii Water Service provides safe, high-quality water utility service to more than 6,500 customers on Maui, Hawaii Island, Kauai, and Oahu. We are regulated by the Hawaii Public Utilities Commission, as well as the Department of Health and Commission on Water Resource Management. Unlike other private interests that supply water in Maui, Hawaii Water Service is a public utility established for the purpose of serving the public.

We appreciate the concerns that have been raised regarding drought, climate change, increased water demand, and the 2023 Maui wildfires. Unfortunately, as currently drafted, SB 386 would be counterproductive as it would require the Department of Land and Natural Resources to exercise its power of eminent domain to condemn Hawaii Water Service's operations in Maui, snuffing out an important partner for the County in terms of water and land management, emergency response, and adaptation to climate change.





HAWAII WATER SERVICE

Over the last ten years, we have invested more than \$70 million in water and wastewater infrastructure in Hawaii. These include everything from upgrades to treatment plants to provide substantial environmental benefits to adding emergency power generators at our facilities to help us maintain service during emergencies. In addition to our commitment to reduce Scope 1 and 2 greenhouse gas emissions company-wide by 63% by 2035, we are in the process of expanding our water conservation programs and increasing the use of recycled water to minimize demand for potable water supplies.

These investments – all of which are overseen by the Public Utilities Commission and serve to benefit the public – are only possible as a result of our decades of experience and strong financial position. In short, the significant benefits we provide would be lost – harming our customers, the public, and the environment - if SB 386 is adopted as currently drafted.

For these reasons, we ask the committee to defer this bill.

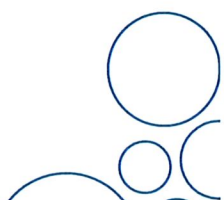
However, if the committee is inclined to move it forward, we respectfully request that the bill be amended to make it only applicable to those water suppliers not regulated by the Hawaii Public Utilities Commission.

Thank you for your consideration. We look forward to working with you on these important matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Geoff Fulks", is written over a faint, larger version of the same signature.

Geoff Fulks
General Manager



Testimony by Dr. Clay Trauernicht IN SUPPORT of SB 386, Relating to Water Systems.
For the hearing on February 3rd, 2025; Conference Room 229

To Senators Lorraine R. Inouye and Brandon J. Elefante, Chair and Vice Chair, respectively, of the Committee on Water and Land and to the Committee Members,

I am submitting testimony in support of SB 386. I have been working at the University of Hawai'i at Mānoa in the field of wildfire science and management since 2013. However, I am submitting this testimony as a private citizen and not as an official University of Hawai'i spokesperson.

Control of water resources played a central role in the Lahaina disaster but not in the context of short-term emergency response, as the land companies which have privatized 80% of West Maui's water resources would have us believe. Rather, the high risk conditions above and surrounding Lahaina were due in large part to the long-term diversion of water away from these lands and instead towards private homes and resorts.

Right now, farmers, community groups, and other interested parties are re-thinking and re-envisioning what should be done on those fallow, former plantation lands to keep their community safe and thriving – lo'i kalo, farming, grazing, reforestation, stream restoration, etc – practices which contribute to what fire scientists call “fire-resilient landscapes”. Since water is the number one limiting factor to achieving these goals, restricting water access through privatization is in direct conflict with public safety.

Beyond this fundamental ethical concern, the current private control of water on West Maui violates the constitutional designation of water as a public trust. I hope that you take advantage of this opportunity to ensure open and public control of water resources to support the best interests of the people of West Maui and their efforts to create a thriving community and prevent future disasters.

LATE

SB-386

Submitted on: 2/2/2025 2:41:37 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Karen J Comcowich	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

Thank you for introducing SB386. As we know, Hawai'i follows the public trust doctrine for water, prioritizing the public good when it comes to the use of water. However, it is difficult to prioritize the public good when a resource is controlled by private interests. We see this in times of drought when West Maui neighborhoods from Lahaina to Napili are on water restrictions with dry yards, while the homes and hotels on private water systems remain lush and green with no suggestion to restrict water use. Although there are different straws, we are all drinking from the same well.

Please continue to support SB386 to ensure public control of our public trust resource.

Mahalo for your time,

Karen Comcowich

Lahaina, HI