

SB 2983

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of  
SUZANNE D. CASE  
Chairperson

Before the Senate Committee on  
WATER, LAND, AND AGRICULTURE

Wednesday, February 10, 2016  
3:30 P.M.  
State Capitol, Conference Room 224

In consideration of  
SENATE BILL 2983  
RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS  
FOR UKUMEHAME RESERVOIRS

Senate Bill 2983 proposes to authorize the issuance of special purpose revenue bonds to provide financing to assist West Maui Investors, LLC with two (2) Ukumehame reservoirs. **The Department of Land and Natural Resources (Department) supports this measure as it will assist the dam and reservoir owners by providing an economic means to bring their facilities up to current safety standards.**

Ukumehame Reservoir Numbers 2 & 3 are located at the downstream end of the Ukumehame Gulch watershed, approximately 8.5 miles southeast of Lahaina, on the Island of Maui. Ukumehame Reservoir Nos. 2 & 3 are earthen embankment dams constructed side-by-side along the bottom of the western slope of the Ukumehame Gulch and are regulated as one dam/reservoir facility by the Department. The reservoirs receive water from a small diversion off of the stream in the Ukumehame Gulch and which has historically been utilized for agricultural water in the nearby area.

Following the discovery of a major leak from Ukumehame Reservoir No.3 in 2008, the water level in both Reservoir Nos. 2 & 3 were drawn down to minimize the risk of failure. The owners modified portions of the water system to bypass Ukumehame Reservoirs Nos. 2 & 3, however, has yet to implement any remediation work that would address public safety.

The Department offers the following revision to the last sentence of SECTION 2:

*"The legislature hereby finds and determines that **Ukumehame Reservoir Numbers 2 and 3** ~~Kehalani offsite retention basin~~ constitutes a project..."*

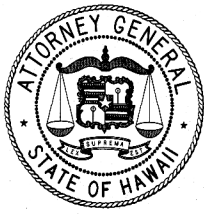
Thank you for the opportunity to testify on this measure.

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



## **TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016**

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### **ON THE FOLLOWING MEASURE:**

**S.B. NO. 2983, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR UKUMEHAME RESERVOIRS.**

### **BEFORE THE:**

**SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE**

**DATE:** Wednesday, February 10, 2016 **TIME:** 3:30 p.m.

**LOCATION:** State Capitol, Room 224

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Randall S. Nishiyama, Deputy Attorney General

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Chair Gabbard and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill proposes to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$850,285 to provide financing to assist West Maui Investors, LLC, for permits, testing, construction, and post-construction management for the Ukumehame reservoir numbers two and three.

We have two comments regarding this bill.

First, this bill references Act 147, Session Laws of Hawaii 2012 ("Act 147") (passed in 2012), as the statutory framework of a constitutional amendment ratified in 2014 to issue special purpose revenue bonds to assist dam and reservoir owners. We note that Act 147 was not codified in chapter 39A of the Hawaii Revised Statutes. Based on discussions with Hawkins, Delafield & Wood, the State's bond counsel, we and bond counsel do not see a legal impediment to the validity of Act 147 because Act 147 requires that it takes effect only upon the ratification of the constitutional amendment which occurred in 2014 and that nothing expressly requires that ratification occur in 2012.

Second, while the bill proposes to authorize the issuance of special purpose revenue bonds for the Ukumehame reservoirs numbers two and three, we note that section 2, page 1, lines 12-16, of the bill, makes a legislative finding regarding the Kehalani off site retention basin. The

bill as currently written does not make clear what the relationship is between the Ukumehama reservoir numbers two and three and the Kehalani off site retention basin.

Thank you for the opportunity to testify on this bill.

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE  
ON  
SENATE BILL NO. 2983

February 10, 2016  
3:30 P.M.

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR  
UKUMEHAME RESERVOIRS

Senate Bill No. 2983 authorizes the issuance of Special Purpose Revenue Bonds (SPRB) up to \$850,285 to provide financing to assist West Maui Investors, LLC, with two Ukumehame reservoirs pursuant to Act 147, Session Laws of Hawaii 2012.

The Department is providing comments only to advise the Legislature and prospective SPRB parties that should the legislation be approved, approval of SPRB issuance will require further discussion and satisfactory credit underwriting review of the financing components with respect to any proposed financing.

Thank you for the opportunity to provide testimony on this measure.