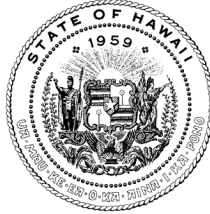


DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
HAWAIIAN AFFAIRS**

**Friday, February 4, 2022
1:00 PM**

State Capitol, Conference Room 229 & Videoconference

**In consideration of
SENATE BILL 872
RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT**

Senate Bill 872 proposes to amend Section 174C-7, Hawaii Revised Statutes (HRS), to add an eighth member, the Chairperson of the Hawaiian Homes Commission or the Chairperson's designee, to serve as an ex-officio voting member on the Commission on Water Resource Management (Commission) of the Department of Land and Natural Resources (Department). **The Department offers the following comments.**

The Commission is committed to fulfill its mandate to incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in Section 221 of the Hawaiian Homes Commission Act, as provided in the State Water Code, Section 174C-101, HRS. The Commission's 2019 Water Resource Protection Plan includes a priority task (Task 2.3.4) to establish additional water reservations for the Department of Hawaiian Home Lands (DHHL).

Towards that end, the Commission has approved 28 reservations thus far for DHHL for both ground and surface waters across the six major Hawaiian islands totaling over 32 million gallons per day (mgd):

Island	Hydrologic Unit*	Reservation Amounts MGD	Effective Date
Kaua‘i	Wailua GWHU	0.708	9/18/18
	Anahola GWHU	1.470	9/18/18
	Kekaha GWHU	0.336	9/18/18
	Makaweli GWHU	0.405	9/18/18
	Waimea SWHU	6.903	6/20/17
	Wailua SWHU	0.513	10/16/18
O‘ahu	Waipahu-Waiawa GWHU	1.724	2/18/94
	Waimānalo GWHU	0.124	2/18/94
Lāna‘i	Leeward GWHU	0.067	9/18/18
Molokai	Kualapu‘u GWHU	2.905	6/10/95
Maui	Honokōwai GWHU	0.770	9/18/18
	Kama‘ole GWHU	2.547	9/18/18
	Ke‘anae GWHU	0.003	9/18/18
	Kawaipapa GWHU	0.118	9/18/18
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	Honokōhau SWHU	2.000	5/18/21
Hawai‘i	Keauhou GWHU	3.398	8/17/15
	Hawi GWHU	0.148	9/18/18
	Māhukona GWHU	3.014	9/18/18
	Honoka‘a GWHU	0.396	9/18/18
	Hakalau GWHU	0.083	9/18/18
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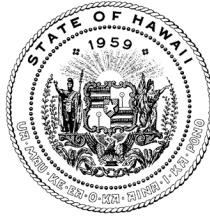
* GWHU= Ground Water Hydrologic Unit; SWHU = Surface Water Hydrologic Unit

To date, the Commission has not reserved water for any other entity except DHHL. All reservations made since 2017 are based on the State Water Projects Plan, updated in 2017, which focuses exclusively on the water needs for DHHL. Reservations are currently in place for DHHL’s potable water needs from ground water sources. Additional surface water reservations for DHHL’s non-potable needs are being made in conjunction with the Commission’s establishment of measurable interim instream flow standards across the State, as that process provides the necessary streamflow information (currently lacking for many streams) as well as information on existing offstream uses and other public trust uses against which DHHL needs must be balanced. Moreover, the Commission has also acted on and approved all DHHL well permit or water use permit applications.

All Commission members have constitutional and statutory responsibilities to protect and preserve the rights of DHHL. The Hawaii Supreme Court has made it clear that in the context of water, the entire Commission has a responsibility to respect and protect native Hawaiian rights, including those of DHHL, and to carry out the State’s public trust duties. This responsibility does not rest on a single member.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
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WATER AND LAND
and
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**Friday, February 4, 2022
1:00 PM**

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All Commission members have constitutional and statutory responsibilities to protect and preserve the rights of DHHL. The Hawaii Supreme Court has made it clear that in the context of water, the entire Commission has a responsibility to respect and protect native Hawaiian rights, including those of DHHL, and to carry out the State’s public trust duties. This responsibility does not rest on a single member.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

**TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON WATER AND LAND
AND HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 4, 2022 AT 1:00PM VIA VIDEOCONFERENCE
IN SUPPORT OF**

**SB 872, RELATING TO THE COMMISSION ON WATER RESOURCE
MANAGEMENT**

February 4, 2022

Aloha Chair Inouye, Chair Shimabukuro and members of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports this bill that adds the Chairperson of the Hawaiian Homes Commission (HHC) or the Chairperson's designee to serve as an ex officio, voting member on the Commission on Water Resource Management (CWRM).

The HHC approved a proposal to add the Chairman of the Hawaiian Homes Commission or the Chairman's designee to the CWRM. Additionally, the HHC approved a Water Policy Plan in 2014 which includes the goal to "aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL and the HHC to water before all relevant agencies and entities." While DHHL has been working closely with CWRM, this bill would allow for greater advocacy for beneficiaries.

We note that in the past the Department of Land and Natural Resources has consistently opposed similar measures, and have noted that "The Hawaii Supreme Court has made it clear that in the context of water, the entire Commission has a responsibility to respect and protect native Hawaiian rights, including those of DHHL, and to carry out the State's public trust duties. This responsibility does not rest on a single member." We note that the DLNR's testimony neglects to note that the Court has made this clear in cases where the CWRM failed to fulfill its duties to DHHL, and that the presence of the Chairman or representative would help fulfill CWRM's duties.

Thank you for your consideration of our testimony.



SENATE COMMITTEE ON WATER AND LAND
Chair Inouye, Vice Chair Keith-Agaran

SENATE COMMITTEE ON HAWAIIAN AFFAIRS
Chair Shimabukuro, Vice Chair Keohokalole

Friday, February 4, 2022, 1:00 pm, CR 229 and via videoconference

SB 872 - Relating to the Commission on Water Resource Management

TESTIMONY

Piilani Kaopuiki, League of Women Voters of Hawaii

Chairs Lorraine Inouye and Maile Shimabukuro, Vice Chairs Gilbert Keith-Agaran and Jarrett Keohokalole, and Committee Members:

The League of Women Voters of Hawaii supports SB 872 that will add the chairman of the Hawaiian Homes Commission or the chairman's designated representative as an ex officio, voting member to the Commission on Water Resource Management. As water is the lifeline of our society, both land managers have an interest in oversight of this resource. The presence on the commission of the Hawaiian Homes Commission is a laudable recognition of a huge segment of beneficiaries affected by the Commission on Water Resource Management. The Hawaiian Homes Commission will provide valuable insights and perspectives to water management in the islands.

Mahalo for the opportunity to submit testimony.

LATE



Environmental Caucus of The Democratic Party of Hawai'i

Thursday, February 3, 2022

To: Senate Committee on Water and Land
Hon. Lorraine R. Inouye, Chair
Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Senate Committee on Hawaiian Affairs
Hon. Maile S.L. Shimabukuro, Chair
Hon. Jarrett Keohokalole, Vice Chair

Re: SB 872 RELATING TO THE COMMISSION ON WATER RESOURCE
MANAGEMENT

Hearing: Friday, January 4, 2022, 1:00 p.m., Room 229 & videoconference

Position: Strong Support

Aloha, Chairs Inouye and Shimabukuro, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Committee on Water and Land and the Committee on Hawaiian Affairs:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 872. This measure would add the chairperson of the Hawaiian Homes Commission or the chairperson's designee to serve as an ex officio, voting member on the Commission of Water Resource Management.

We believe that while the Commission of Water Resource Management is under a legal obligation to incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands, to include the chairman of the Hawaiian homes commission or the chairman's designated representative as an ex officio, voting member to the commission on water resource management would directly advance and protect the interests of the beneficiaries of the Hawaiian Homes Commission Act.

In our view, this bill is highly beneficial; accordingly, we respectfully request that this bill be passed by your Committees.

Mahalo for the opportunity to testify,

Melodie Adajia

Co-Chair, Environmental Caucus of the
Democratic Party of Hawai'i

Email: legislativepriorities@gmail.com

SB-872

Submitted on: 2/1/2022 8:50:39 PM

Testimony for WTL on 2/4/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Barry	Individual	Support	No

Comments:

Aloha,

I support SB 872.

Mahalo,

Barbara Barry



Restore the Commons

Friday, February 4, 2022, 1:00 pm

Senate Committees on Water and Land and Hawaiian Affairs

SENATE BILL 872 – RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Position: Oppose

Me ke Aloha, Chairs Inouye and Shimaburo; Vice-Chairs Agaran and Keohokalole; and Members of the Committees on Water and Land and Hawaiian Affairs

The Commission already has a member chosen to represent Hawaiian water rights, and a federal statute accepted under the Hawaii Constitution which provides for water opportunities for homesteading. The Commissioners, from all of the islands, are sensitive to the development needs of native Hawaiians.

The Hawaiian Homes Commission Act of 1920 was enacted after much of the Hawaiian home lands had already been sold to immigrating settlers or taken up by vast sugar plantations. When sugar plantation ditches were completed, many villages dried up and blew away. The remnants remaining ("available lands" for 'āina ho'opulapula) are almost universally without access to water. The provisions of HHCA 1920 have always been subject to adequate funding by first, the Congress of the U.S., and then the Hawaii Legislature, a fact sorely constant throughout history. Particularly with the shift in economies, the very meaning of 'Āina Ho'opulapula has changed, and the Department of Hawaiian Home Lands still struggles with lands it cannot rehabilitate with people because the lands lack water.

Some say the program was designed to fail, and as a ten-year veteran of the DHHL Planning Office and the initial developer of the water program under 'Ilima Pi'ianaia, my view is that the only reason there is anything done on Hawaiian home lands is through the persistence of the beneficiaries and the belief and dedication of the staff. It may be a shame that no more has been accomplished than what we see now, but I'm proud to be a colleague of those who have labored at it so long. It's not for lack of trying.

The Chair of DHHL has so much to deal with, I cannot imagine there being enough time to sit in lengthy meetings over an occasional item on the agenda. Placing the Chair on the Commission will not resolve the issues facing DHHL. The Water Commission record is to honor the needs of native Hawaiians and to accommodate the needs of providing water to those lands within the law of the State. Until the law and the funding are up to the task, we will continue to be challenged by 'āina ho'opulapula.

Rehabilitating the land with the tenure of the people seems still beyond the understanding of the general public. The voices of the ancestors continue to speak to those with ears to hear. Generations of kama'āina have slowly begin to understand the real meaning of mālama 'āina, tending the land to mutual benefit of the entire community.

Mahalo for the opportunity to address this issue,

Charley Ice, Hoa'āina; retired senior Hydrologist at the Commission on Water Resource Management (25 years), and formerly Planner at the Department of Hawaiian Home Lands (10 years); 40-year activist in the Democratic Party.

**Building the new normal with People and Land: Food Security Health Care Public Banking
Regenerating Soils Cutting Waste Eliminating GHG emissions**

SB-872

Submitted on: 2/3/2022 6:25:08 AM

Testimony for WTL on 2/4/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Edward Halealoha Ayau	Individual	Support	No

Comments:

I, Edward Halealoha Ayau, a lessee of the Department of Hawaiian Home Lands, supports testimony in support of SB 872 to give the Department of Hawaiian Home Lands a seat on the State Water Commission. Given the federal priority of water for the Hawaiian Homes Commission to carry out its mandates under the Hawaiian Homes Commission Act, this legislation is long in coming and therefore should be enacted by the Legislature, mahalo.

THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Maile S.L. Shimabukuro, Chair
Senator Jarrett Keohokalole, Vice Chair

NOTICE OF HEARING

DATE: Friday, February 4, 2022
TIME: 1:00 p.m.
PLACE: Conference Room 229 & Videoconference

I, Johnnie-Mae L. Perry and Nolan K. Perry, Sr. **SUPPORT SB 872.**

Sincerely,

Johnnie-Mae L. & Nolan K. Perry, Sr.

Resident of Waianae

DHHL Beneficiaries

Email: waianaenb569@gmail.com

February 4, 2022

House Committee On Water and Land
Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Aragan, Vice Chair

Senate Committee On Hawaiian Affairs
Senator Maile S.L. Shimabukuro, Chair
Senator Jarrett Keohokolole, Vice Chair

Testimony in Support of SB-872

Aloha Chairs Inouye and Shimabukuro, Vice Chairs Keith-Aragan and Keohokolole, and members of both Committees,

I'm Homelani Schaedel, a beneficiary residing in Malu'ōhai, a homestead leader in Kapolei, and an advocate for the Hawaiian Home Lands Trust.

Our kupuna understood wai as a symbol of life, abundance, prosperity for all, and an important resource to be protected and cared for. They respected the sanctity of wai with ancient laws and justice, severely punishing violators.

Section 220 of the Hawaiian Homes Commission Act, of 1920 (HHCA) Case Notes point out that the Commission on Water Resource Management violated its' public trust duty to protect the Department of Hawaiian Home Lands (DHHL), reservation rights under the HHCA, the State Water Code, the State Constitution, and the Public Trust doctrine in balancing the various competing interest in the state water resources trust. Landowners adjacent to DHHL lands continue to create challenges for DHHL, existing lessees, and development for future lessees.

This is the fourth (4th) year a form of this bill has been introduced for legislation. The Commission on Water Resource Management (CWRM) motto is "Ke Kahuwai Pono", which translates to "The trustee who oversees the rightful sharing of water". I take nothing away from current members on the CWRM, they all have impressive resumes. However, DHHL manages and operates four water systems in its exclusive control. These water service areas are located in Anahola, Kaua'i; Ho'olehua and Kalamaula, Moloka'i; Kawaihae, and Pu'ukapu, Hawaii. Is this not enough to qualify as a "trustee"? What are the qualifications to be a CWRM commissioner? Why is there resistance to making space for DHHL at the CWRM table?

A seat and a vote on the Commission on Water Resource Management for the Chairperson of the Hawaiian Homes Commission (HHC) will provide oversight for compliance with Section 221 (b) of the HHCA. I strongly urge passage of this bill, and ask for your support and commitment to assist DHHL in advancing its' mission in service to our beneficiaries.

Mahalo for your time and the space for me to present my testimony.

