

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
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
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
AND
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

Wednesday, February 7, 2024
3:00 PM
State Capitol, Conference Room 225 & Videoconference

In consideration of
SENATE BILL 3327
RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Senate Bill 3327 establishes a public trust purpose for the Commission on Water Resource (Commission) management. This bill authorizes the Commission to declare an emergency under certain conditions. This bill repeals the First Deputy to the Chairperson of the Commission and establishes the Executive Director of the Commission. This bill administratively attaches the Commission to the Department of Land and Natural Resources (**Department**) and authorizes members of the Commission to be eligible to serve as chairperson. Requires the Chairperson of the Board of Land and Natural Resources and Director of Health to serve as ex officio voting members ineligible to serve as chairperson. Authorizes entities to whom an emergency order is directed to challenge the order under certain conditions. Clarifies the notification requirements and contents of declarations of water shortages. Establishes fines. Makes conforming amendments. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. **The Department is providing testimony organized by each section of this measure indicating our support, opposition, or comments, respectively.**

SECTION 2 adds a new section to the State Water Code, Chapter 174C, Hawai'i Revised Statutes (HRS), requiring the Commission to prioritize action on water use applications for existing and new public trust purposes of water over other existing and new uses of water in designated water management areas. **The Commission opposes the addition of this new section because it may too narrowly prescribe how the Commission processes water use permits in recognition of public**

trust purposes. In its decision making the Commission prioritizes public trust purposes of water while trying to balance and accommodate other legal uses of water in a designated water management area.

SECTION 3 amends Subsection 28-8.3(a), HRS, to add the Commission to the list of agencies that are allowed to employ or retain any attorney for purposes indicated in subsection (a), and amends Subsection 28-8.3(c) to include the Commission among agencies that may employ attorneys who are not a deputy attorney general. **The Department opposes these amendments since the Commission believes that its assigned Deputy Attorneys General already provide sound and timely legal services in the best interests of the Commission and that there is no need for employing attorneys directly. The Department of the Attorney General is well-versed in a broad array of matters and is best suited to provide legal advice and service to the Commission.**

SECTION 4 amends Subsection 84-14(e) by changing the title of “First Deputy to the Chairperson” to “Executive Director” of the Commission on Water Resource Management in the list of State employees who have restrictions on post-employment activities. **The Department supports this amendment.**

SECTION 5 amends Section 174C-3, HRS, by adding the new definition of “Public trust purpose.” **The Department opposes the addition of the definition of public trust purpose since we do not support prioritizing actions on water use applications for existing and new public trust purposes of water over other existing and new uses of water in designated water management areas, as proposed in SECTION 2 of this measure.**

SECTION 6 amends Section 174C-5, HRS, by adding a new Paragraph 10, to allow the appointment and dismissal of attorneys. **The Department opposes this amendment for the reasons given in our position on SECTION 3 of this measure.**

SECTION 6 also amends Section 174C-5, HRS, by adding a new Paragraph 17, allowing the Commission to declare an emergency after consultation with the Governor, the counties, and the Department of Health, that there is an absence of sufficient quantity and quality of water that threatens public health, safety, and welfare, and to take certain actions to address the emergency. **The Department supports this amendment since it allows the Commission to take timely action to address water emergencies after consulting with the Governor and relevant government agencies.**

SECTION 7 amends Section 174C-6, HRS, by replacing the Deputy to the Chairperson of the Commission on Water Resource Management with an Executive Director. **The Department supports this amendment.**

SECTION 8 amends Section 174C-7, HRS, to clarify that the Commission shall be attached to the Department for administrative purposes only. **The Department supports this amendment.**

SECTION 8 also amends Section 174C-7, HRS, to allow any Commission member to be elected to serve as the Chairperson of the Commission, except that the Chairperson of the Board of Land and Natural Resources (BLNR) and the Director of Health or their designee would be ineligible to serve as the Chairperson of the Commission. **The Department supports this amendment.**

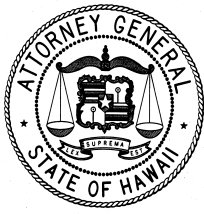
SECTION 9 amends Section 174C-9, HRS, to allow for any party to whom an emergency order is directed to challenge the order while immediately complying with the order, with the Commission giving precedence to a hearing on the challenge. **The Department supports this amendment since this complements the amendment in SECTION 6 giving the Commission authority to declare an emergency, with this amendment providing an opportunity and due process to anyone receiving an emergency order to challenge this order.**

SECTION 10 amends Section 174C-15, HRS, expanding the scope of violations to include violation of any orders of the Commission, failure to obtain required permits, failure to comply with permit conditions, and failure to comply with water audit requirements. The amendments also increase the maximum allowable fines from \$5,000 per day to \$60,000 per day and specifies the factors that the Commission shall consider when imposing fines. **The Department supports these amendments.**

SECTION 11 amends Section 174C-62, HRS, adding clarifying language for the declaration of water shortage and deleting language authorizing the Commission to issue orders reciting the existence of a water emergency. **The Department supports these amendments.**

SECTION 13 appropriates and unspecified amount of general revenues of the state for the hiring of independent counsel. **The Department opposes this appropriation since we oppose employing attorneys directly as proposed in SECTION 3 of this measure.**

Mahalo for the opportunity to comment on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 3327, RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

BEFORE THE:

SENATE COMMITTEES ON WATER AND LAND AND ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Wednesday, February 7, 2024 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Miranda C. Steed, Deputy Attorney General

Chairs Inouye and Wakai and Members of the Committees:

The Department of the Attorney General strongly opposes this bill as currently drafted.

The purpose of this bill is to make the Commission on Water Resource Management (CWRM) an administratively attached agency to the Department of Land and Natural Resources (DLNR) instead of an executive commission within the DLNR. In doing so, this bill replaces the First Deputy to the Chairperson of CWRM with an Executive Officer, makes the Chairperson of the Board of Land and Natural Resources (BLNR) an ex officio member of the CWRM, expands the jurisdiction of the CWRM, and allows the CWRM to hire its own attorneys, as needed, without the approval or participation of the Attorney General or the Governor.

The Department opposes this bill for several reasons, including but not limited to the expansion of the CWRM's jurisdiction potentially beyond constitutional limits, the provision providing the CWRM with authority to hire its own legal counsel, and administratively attaching the CWRM to DLNR without appropriating funds.

First, the bill allows the CWRM to permit water use outside of the public trust, which may be subject to challenge for violating article XI, sections 1 and 7 of the Hawai'i Constitution. On page 3, section 2, the bill adds to chapter 174C, Hawaii Revised Statutes (HRS), a new section titled "Public trust purpose" in which the CWRM will be

required to issue water use permits first to existing and new public trust purposes, then to other existing and new uses. This provision suggests that the CWRM would be able to issue water use permits for non-public trust purposes. This would be subject to challenge.

Article XI, section 1 of the Hawai'i Constitution makes clear that any water permits granted by the State must be consistent with the public trust: "All public natural resources are held in trust by the State for the benefit of the people." Article XI, section 7 of the Hawai'i Constitution further provides that the State must "protect, control and regulate the use of Hawaii's resources for the benefit of its people." Allowing any use not consistent with the public trust would be subject to challenge under both article XI, section 1 and article XI, section 7 of the Hawai'i Constitution.

Moreover, the bill could be construed as limiting which uses comport with the public trust. Section 5 of the bill, at page 10, lines 15-20, adds to section 174C-3 a new definition, "Public trust purpose," which does not include water for such purposes as commercial agriculture (potentially violating article XI, section 3), including commercial kalo cultivation. The Hawai'i Supreme Court, however, has held that it is "neither feasible nor prudent to designate absolute priorities between broad categories of uses under the water resources trust." In re Water Use Permit Applications, 94 Hawai'i 97, 142 (2000) ("Waiāhole I"). While statutes may provide guidance (i.e., prohibiting certain specific uses), the CWRM has the duty of "weigh[ing] competing public and private water uses on a case-by-case basis[.]" Id. And while the definition of "public trust purpose" identifies its genesis as "the Hawaii supreme court," the judiciary has made clear that the constitution places within the agency the discretion and duty to balance competing trust interests under the reasonable beneficial analysis. Waiāhole I, 94 Hawai'i at 142.

Second, the bill allows the CWRM to hire its own attorneys. The Department of the Attorney General strongly opposes this.

The Attorney General is the chief legal officer under the Hawai'i Constitution, serves as legal counsel to the State of Hawai'i, and has statutory legal obligations including providing legal advice to state agencies. Because it has been called the largest "law firm" in Hawai'i, with diverse subject-matter divisions, the Department of the

Attorney General is best suited to provide legal advice to its state clients on a broad array of matters, and therefore, as a general matter, state agencies are best served by deputy attorneys general. By utilizing deputy attorneys general, state agencies benefit from the wide range of experience and expertise in a cost-effective and conflict-free manner. Attorneys retained by the CWRM would not possess the breadth of knowledge and experience available within the Department of the Attorney General. Additionally, because state agencies are regulated by a variety of laws not applicable in private practice—including the Procurement Code, the Sunshine Law, and the Uniform Information Practices Act—the Department’s expertise representing state agencies in these areas would be difficult for private attorneys to duplicate, and certainly not without additional expense. Because deputy attorneys general are separate and apart from the agencies they represent, they are insulated from political issues within the client agency. This insulation permits the Department of the Attorney General to provide objective and high-quality legal counsel.

The Department of the Attorney General is also unique in its ability under the law to undertake concurrent representation of multiple state agencies or parties that may have conflicting interests, something that private attorneys are not able to do under the Hawaii Rules of Professional Conduct, the rules governing lawyers. In State v. Klattenhoff, 71 Hawai’i 598, 604 (1990), the Hawai’i Supreme Court recognized that the Department of the Attorney General can concurrently represent conflicting interests when the Department can ensure independent representation for the competing parties. The Department of the Attorney General has done this in past cases to ensure that all client agencies are vigorously represented without conflict. We have provided, and will continue to provide, vigorous and objective legal representation to the CWRM.

Notwithstanding the prohibition against employing or retaining private attorneys, state agencies may submit a waiver request to the Attorney General pursuant to section 28-8.3(a)(22), HRS. Under this provision, the Attorney General may determine that circumstances exist whereby representation by private attorneys is appropriate. In such circumstances, an agency may retain or employ its own attorney, provided that the Governor also waives the provision of section 28-8.3, HRS. Indeed, this avenue has been exercised by other agencies in the past.

Third, the bill contains other issues, such as:

- The bill provides that the CWRM shall be "attached to the [DLNR] for administrative purposes only." Page 18, lines 11-12. Article V, section 6 of the Hawai'i Constitution requires agencies to be placed within a principal department. Consequently, we believe that the wording on page 18, lines 11-12, should be deleted and the words "for administrative purposes only" should be added to page 18, line 6, to provide "There is established within the department for administrative purposes only a commission on water resources management. . . ."
- The only appropriations for the CWRM are for independent legal counsel. If placed within DLNR for administrative purposes only, the CWRM needs its own operational appropriations.
- The bill references both the CWRM and the "board" throughout. Section 174C-3, HRS, defines the "board" as the BLNR. The bill delegates certain authorities, such as setting the new executive officer's salary, to the BLNR. It is unclear if the bill's intent is to delegate certain decisions to the BLNR despite making the CWRM functionally independent of DLNR, or if this an error.

We respectfully request that this bill be held in committee. Thank you for the opportunity to testify.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

February 5, 2024

TESTIMONY OF KEITH K. OKAMOTO, MANAGER-CHIEF ENGINEER
DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAII

HEARING BEFORE THE SENATE COMMITTEE ON WATER AND LAND; AND COMMITTEE ON
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Wednesday, February 7, 2024
TIME: 3:00 p.m.
PLACE: Conference Room 225 & Videoconference

SB 3327 - RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Honorable Chairs Inouye and Wakai, Vice-Chair Elefante, and committee members,

The County of Hawaii, Department of Water Supply (DWS) submits this letter to respectfully express its concerns regarding Senate Bill (SB) 3327.

The proposed language under Section 10 proposes to enable the Department of Land and Natural Resources (DLNR) and the Commission on Water Resource Management (Commission) to increase the water code's penalties, from a minimum of \$50 to a maximum of \$60,000, to serve as a deterrence to violators of the State Water Code in section 174C-15, HRS. The proposed language could be used capriciously to assess and impose penalties by the Commission. The lack of form and procedures to determine penalties could lead to arbitrary and inconsistent applications; and could result in disagreements, litigation, associated delays to resolve the imposed penalty, and divert resources away from the greater community benefit of providing safe drinking water.

We thank you for your attention to this matter, and for your dedication and commitment to serving our State.

Please feel free to contact me at (808) 961-8050 or via email at dws@hawaiidws.org with any questions you may have regarding DWS' comments. Thank you for your time and consideration of our testimony on SB 3327.

...Water, Our Most Precious Resource...Ka Wai A Kāne...

The Department of Water Supply is an Equal Opportunity provider and employer.

DEPARTMENT OF WATER

COUNTY OF KAUAI

4398 PUA LOKE STREET LIHUE, HAWAII 96766

WWW.KAUAIWATER.ORG (808) 245-5400 BUSINESS (808) 245-5813 FAX



JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

MICHAEL K. HINAZUMI, P.E.
DEPUTY MANAGER-ENGINEER

February 6, 2024

The Honorable Lorraine Inouye, Chair
and Committee Members
Senate Committee on Water and Land

The Honorable Glenn Wakai, Chair
Senate Committee on Public Safety and
Intergovernmental and Military Affairs
and Committee Members

Hawaii State Capitol, Room 225
415 S. Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Inouye, Chair Wakai, and Committee Members:

Subject: SB 3327 – Relating to The Commission on Water Resource Management

The County of Kauai, Department of Water (DOW) submits this letter to respectfully express its deep concerns regarding Senate Bill (SB) 3327.

The DOW has reviewed the proposed amendments outlined in (SB) 3327 and is especially concerned with Section 10, which proposes to enable the Department of Land and Natural Resources (DLNR) and the Commission on Water Resource Management (CWRM or Commission) to increase the water code's penalties and fines, from a minimum of \$50 to a maximum of \$60,000, to serve as a deterrence to violators of the State Water Code in section 174C-15, Hawai'i Revised Statutes (HRS). Without established processes and procedures to determine penalties, its enforcement could lead to arbitrary and inconsistent application by the Commission; and could result in disagreements, litigation, and associated delays to resolve any imposed penalty, diverting already limited resources away from the greater community benefit of providing safe drinking water, affordable housing, medical and other services.

Thank you for your attention to this matter, and for your dedication and commitment you have shown in serving our State. We remain hopeful that you will carefully weigh the concerns raised by the DOW and others.

Please feel free to contact me at (808) 245-5403 or via email at jtait@kauaiwater.org with any questions you may have regarding DOW's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Tait". The signature is stylized with a large, sweeping initial "J" and a cursive "Tait".

Joseph E. Tait
Manager and Chief Engineer

cc: Michael Hinazumi

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843
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LATE

RICK BLANGIARDI
MAYOR
MEIA

ERNEST Y. W. LAU, P.E.
MANAGER AND CHIEF ENGINEER
MANAKIA A ME KAHU WILIKI

ERWIN KAWATA
DEPUTY MANAGER
HOPE MANAKIA



NĀ'ĀLEHU ANTHONY, Chair
KAPUA SPROAT, Vice Chair
BRYAN P. ANDAYA
JONATHAN KANESHIRO
EDWIN H. SNIFFEN, Ex-Officio
GENE C. ALBANO, P.E., Ex-Officio

February 7, 2024

The Honorable Glenn Wakai, Chair
and Members
Committee on Public Safety and
Intergovernmental and Military Affairs

The Honorable Lorraine R. Inouye, Chair
and Members
Committee on Water and Land
Hawaii State Capitol, Room 225
Honolulu, Hawaii 96813

Dear Chairs and Members:

Subject: Senate Bill 3327: Relating to the Commission on Water Resource Management

The Honolulu Board of Water Supply (BWS) has concerns regarding Senate Bill (SB) 3327, relating to the Commission on Water Resource Management (Commission). BWS has reviewed the provisions outlined in SB3327 and would like to highlight its key concerns and suggested amendments as bulleted to the language as follows:

- In Section 5 of the Bill adds a new definition "Public trust purpose"

BWS is concerned about referencing the Hawai'i Supreme Court for this definition, as the Court's primary function is to interpret laws, not to create them. **BWS therefore proposes the following change to the proposed definition:**

"Public trust purpose" means, ~~[as recognized by the Hawaii supreme court]~~ in accordance with the principles outlined in Articles XI and XII of the Hawaii State Constitution, the maintenance of waters in its natural state, the exercise of Native Hawaiian traditional and customary practices, including appurtenant rights, domestic water uses as defined in this section, and the reservations and homestead use of water for the department of Hawaiian home lands."

This revised definition grounds the concept in the state constitution, providing a stable and enduring foundation for the interpretation of "public trust purpose".

- In Section 6 of the Bill §174C-5 General powers and duties

Section 6 adds a new subsection (17) to the Bill which gives the Commission the power to declare an emergency. This subsection (17) is not necessary as Section 174C-62 (g) addresses declaration of water shortage and emergency conditions.

Section 174C-62 (g) should remain unchanged from the existing statute. BWS believes that the existing code provisions provide sufficient tools and checks and balances to protect the State's water resources during an emergency. Specifically, BWS notes that one of the initial requirements of the 1987 Water Code was that CWRM "formulate a plan for implementation during periods of water shortage. See HRS § 174C-62(a). Indeed, CWRM's formulation of a water shortage plan is long overdue, and its adoption would *obviate* the need for any substantive amendments to HRS chapter 174C regarding the Commission's emergency powers. Presumably, the Commissions' water shortage plan would also address drought and wildfire impacts from climate change and the impacts of water quality contamination reducing water quantity.

Correspondingly, the Bill's proposed amendment in Section 11 to strike language in 174C-62(g) would relieve CWRM of its responsibilities to perform its due diligence and make findings, before imposing restrictions on permittees. By removing the criteria, there is no basis to define the threat to public health, safety, and welfare, or the health of animals, fish or aquatic life, or reasonable-beneficial use as defined in § 174C-3. These definitions are intrinsically linked to the existing language in subsection (g), which establishes a basis or causal effect for the Commission to determine the impact a water shortage may have on the community. Removing these determinants and criteria would authorize the Commission to define a water shortage or even an emergency with no framework or guidelines; it would be open-ended. Stakeholders would have no say in the matter or ability to question the Commission's authority.

If Hawai'i were to experience another contaminant release similar to the Red Hill Bulk Fuel Storage Facility events in November 2021 and December 2022, then the Governor or Director of the State Department of Health would be the lead agency to determine that an imminent peril to human health and safety or the environment exist pursuant to HRS§ 342L-9. BWS does not believe that amending HRS § 174C-62 is the appropriate approach, and is very concerned that it could result in unintended consequences. The declaration of an emergency is already codified in HRS 127A-14 (c), whereby the governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable.

- Section 9 and 10 of the Bill §174C-9 and §174C-15 Proceedings and Penalties

BWS has concerns about the propriety of raising the penalty ceiling for violations of the State Water Code, as determined by the Commission, from \$5,000 to \$60,000 per violation, which is far in excess of (1) DLNR's January 31, 2023 testimony requesting that the penalty be raised to \$25,000, and (2) the rate of inflation, as measured by the Consumer Price Index.

The Honorable Glenn Wakai, Chair
The Honorable Lorraine R. Inouye, Chair
and Members
February 7, 2024
Page 3

On the issue of inflation adjustments, the United States Environmental Protection Agency (EPA) amended its civil penalty policies to account for inflation by using the increase established by the Consumer Price Index for all Urban Consumers (CPI-U),¹¹. Following EPA's methodology, the appropriate increase for updating Commission's \$5,000 penalty pursuant to HRS 174C-15, effective since June 2004, to account for inflation, is an increase to \$8,016.00. Any amount exceeding \$8,016.00 must be supported by a cost analysis and evaluation, should be consistent with EPA's amended civil penalty policies and must be supported by a cost analysis and evaluation, similar to the Commission's Staff Submittal relating to the Commission Administrative and Civil Penalty Guidelines (G14-01), dated October 1, 2014.

Stakeholder input is needed to determine if the increase in fines could potentially impose a financial burden. Exercising all due diligence and outreach to the general public for feedback would determine if the compounded increase per day per violation is an effective deterrent and if the penalty could negatively impact the agricultural industry, water utilities, individuals, and affordable housing projects.

Thank you for your consideration of our testimony in opposition to SB 3327.

Very truly yours,



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

Cc: Department of Water Supply, County of Hawaii
Department of Water Supply, County of Kauai
Department of Water Supply, County of Maui

¹ <https://www.epa.gov/system/files/documents/2024-01/amendmentstotheepacivilpenaltypolicyinflation011524.pdf>



Testimony of **Lahaina Strong**
Before the Senate Committees on
Water & Land
and
Public Safety and Intergovernmental and Military Affairs

In Consideration of Senate Bill No. 3327
RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

To Chair Inouye, Chair Wakai, Vice Chair Elefante, and the honorable members of the committees,

We are writing on behalf of Lahaina Strong, an organization that was initially formed in 2018 following the Hurricane Lane fire in Lahaina and re-energized last year after the devastating Lahaina fires on August 8. Our organization is the largest grassroots, Lahaina-based community organization, with over 20,000 supporters, engaged in providing support and assistance to the victims of these disasters.

Lahaina Strong stands in support of SB3327.

This bill represents a crucial step toward ensuring the independence and autonomy of the Water Commission, which is essential for effective water management and decision-making in the wake of recent challenges faced by our community.

The proposed changes, particularly the separation of the Water Commission Chair from the Board of Land and Natural Resources (BLNR), address concerns about undue influence over Commission actions, and provide a more objective decision-making process. We witnessed the challenges and implications of centralized decision-making in the aftermath of the devastating fires on August 8, 2023. Providing the Water Commission with greater autonomy will help prevent conflicts of interest and foster more informed, community-driven decisions.

Furthermore, Lahaina Strong recognizes the importance of implementing recommendations from the 1994 Review Commission report, which are long overdue. The proposed amendments align with the core principles of extending water management areas, establishing a hierarchy of water uses, and strengthening the implementation of Native Hawaiian water rights. These changes are essential for ensuring fair and equitable water distribution, particularly in regions like Maui Komohana.

We would like to highlight the positive impact this bill can have on expediting the processing of Maui Komohana Water Use Permit Applications (WUPAs). Prioritizing public trust purposes and streamlining the permitting process will significantly benefit our community members, aligning with Lahaina Strong's commitment to ensuring the well-being of Lahaina residents.

In conclusion, Lahaina Strong urges the committees to support SB3327, recognizing its importance in establishing a more robust, independent, and community-focused Water Commission.

Mahalo for your attention to this critical matter, and we appreciate your commitment to the well-being of Lahaina and a more resilient and sustainable future for its residents.

Sincerely,

Pa'ele Kiakona, Jordan Ruidas & Courtney Lazo

Lahaina Strong

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Makamae Alipio

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Mai ke ala ‘ana a‘e o Kanehoalani i ka Hikina a i kona hui pū ‘ana me Niolopua ma ke komohana.

Aloha mai e nā po‘o a me na Lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Makamae Alipio he kupa wau no Ka malu ‘ulu o Lele. ‘Umikuma‘ono o‘u makahiki a hele wau i Ke Kula Kaiapuni o Kekaulike. Ola i ka wai, water is life, water is the center of all living things. Without it we are nothing. Therefore, it should not be in the hands of the greedy. Maui Komohana was once known for its immense amount of water, its lush wetlands, and its abundance of lo‘i kalo, ‘ulu, mai‘a, and many important plant food sources for kānaka. How do we go from a lush green ‘āina to what we have to deal with today? This is the result of greed, mismanagement, and capitalism at its finest.

In the wake of the fires on August 8th, the hands of greed saw this disaster as an opportunity to gain power over our freshwater resources in Maui Komohana. Governor Josh Green suspended the Water Code, which led to private water purveyors hoarding more water than they are legally allowed in unlined reservoirs in the name of fire suppression while kānaka were left displaced.

When the plantation era came along 130 years ago, our most precious resource started to be abused for corporate greed. When the plantation era ended, it was replaced by greedy businesses who profit off of our ‘āina and off of our wai. We need to end the political corruption that helps line pockets instead of protecting our ‘āina and people. We must limit the influence of politics over our established experts like the Water Commission. The Water Commission should have an Executive Director that is chosen by the Water Commission and approved by the people.

Right now, 75% of Lahaina’s waters are privately controlled, which is criminal. This leaves only the remaining 25% to be used for the public. When we are on drought restriction, we are subject to fines for using too much water while swimming pools are full and golf courses are green. This bill will hopefully reduce political corruption and also enforce fines substantial enough to deter violations of the Water Code.

I ask that you prioritize restoring water for public trust purposes so that our kalo farmers no longer have to struggle and our 'āina no longer has to suffer. If you protect the public trust then maybe you can regain the public's trust. I also ask that you consider restoring Moku'ula and Mokuhinia as this wahipana continues to be one of the most sacred places of Hawai'i's Kingdom. We must restore and establish this piko for us to holomua and not repeat this devastation.

In conclusion, I strongly support the implementation of recommendations to improve the Water Code that have long been overdue, and urge the Committees to **PASS** SB3327. Mahalo for the opportunity to testify.

TO: Chair Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Bella Kuailani

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

‘Ano‘ai me ke aloha e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo:

‘O au ‘o Bella Kamakali‘ulani Kuailani. He 16 o‘u makahiki a he kupa au mai ka moku ‘o Wailuku a me Hāna ma Maui. Aia au ma ka papa 11 a he haumāna kaiapuni ha‘aheo nō au mai ke kula ‘o Kekaulike. Today, I am testifying in **STRONG SUPPORT of SB3327!**

“He nuku he wai ka ‘ai a ka lā‘au.” The Kumulipo, the genealogical chant of Hawai‘i’s birth, explains: Water is the element that gives life to all things. WATER IS LIFE! It feeds and nourishes us physically, mentally, emotionally, and spiritually. The protection and rightful usage of Hawai‘i’s water is at all costs important for our survival. However, exploitation, misuse and over-taxing of our water continues to be improperly managed by greedy capitalists, resulting in kanaka being ignored, and public rights being overpowered by politics.

Disentangling CWRM and BLNR creates true independence amongst these two organizations. This can result in better protection and management of water. Kanaka will be at ease rather than worrying about influencers who make decisions on our wai. Having an executive director can benefit the people and the public by ensuring that their mana‘o is being heard. I believe that the community’s mana‘o is most important, especially for those whose families have been on this ‘āina for generations contributing in ‘ike Hawai‘i. They know what is best. Again and again, we remind you that WATER IS A PUBLIC TRUST. The people should have every right to use the wai for cultural practices and not for big business pockets. LAWA! UA AO KĀKOU!

The WUPAs of the kanaka should be highly prioritized and not thrown to the side to wait or be lumped with non-public trust purpose applicants. We are done waiting! We should be the first to be considered!

Finally, the fines for the abuse of the Water Code should be raised way higher than what it is now. There should be more purposeful fines and violations to punish and deter businesses from taking more water than they should. If not, then this desecration will only continue. Our wai and ‘āina should have justice. As a member of the next generation, I want the mana of the people and the ‘āina to be restored so that those in the future do not need to bear this struggle over our wai.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements

of the Water Code that are long overdue. I urge the Committees to **PASS** SB3327. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

To- Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

From- J-lyn Ka‘iulani Paa

Re- SB3327

Hearing on February, 7, 2024

IN STRONG SUPPORT of SB3327

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Ka‘iulani Paa. 16 o‘u makahiki a hele au i Ke Kula Kaiapuni o Kekaulike. I am testifying in strong support of SB3327.

130 years ago, our ‘āina’s precious resources were stripped away from us little by little until we had little to no access and no regulation over our waters and how we use it. On August 8th, 2023, when the tragedy of Lahaina’s fire started, Governor Josh Green suspended the Water Code that later led to private water usage in luxury housing developments rather than for our ‘āina. I support SB3327 for the following reasons:

First, the establishment of an Executive Director of the Water Commission, and the removal of the Chair of DLNR as also the Chair of CWRM, is important to allow CWRM its own oversight in this specific area. Ignorance combined with power is bound for injustice.

Second, our fresh water springs and rivers are stewarded by nā kānaka Hawai‘i yet are used to make greedy people who call this place “paradise” rich and do not even mālama this ‘āina like we do. We need wai to restore life on our ‘āina, especially in Lahaina after the tragedy it has faced. Private purveyors have long been taking our wai without bounds or restrictions. Even when interim instream flow standards are established, the greed finds no limit and instead chooses to test the extent of regulations. Their criminal acts go without or very minimal punishment. This bill provides appropriate fines to deter repeat violations.

Third, I often learn what our kūpuna have done for us and this ‘āina but I rarely get the opportunity to live it. I see it slowly slipping away from our generation because things get more expensive and more difficult for us to live in a backwards economy. It was important to our kūpuna to make sure we have the right resources to be capable of keeping our cultural aspects known for our next generation and to be able to engage in our cultural practices. From lo‘i kalo to loko i‘a, to knowing what kind of native Hawaiian plants we have. Our kalo farmers, those who struggle to feed our lāhui ‘ai pono, should not have to be burdened with a long process of

water use permit applications. They should be prioritized before all other for-profit water uses and non-public trust purposes. SB3327 makes this prioritization law.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements of the Water Code that are long overdue. I urge the Committees to **PASS SB3327**. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Kaleimaile Garcia

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Aloha mai e nā Po‘o a me na Lālā o ka ‘Aha ‘Ōlelo,

‘O Kaleimaile Garcia ko‘u inoa. I am a Junior and haumāna ma Ke Kula Kaiapuni ‘o Kekaulike on Maui where we are taught about the importance of wai and how it is the center of all life. Our connection to the land and ocean runs deep and water is a very vital part of our cultural identity. It sustains us physically, spiritually, and emotionally. It is NOT just an asset to us. This is why I am testifying in **STRONG SUPPORT of SB3327**.

Many years ago, the land of Hawai‘i was lush with greenery and free-flowing water throughout all the islands. Our kūpuna lived with a deep knowledge and understanding of the connection between kanaka and ‘āina. Ola ka ‘āina iā kākou no kākou. Make ka ‘āina iā kākou no kākou. Life is full of gives and takes, but overall it always finds the balance. Acknowledging this ‘ike Hawai‘i has allowed our kūpuna to prosper for generations. We take what we need so the next person can also thrive off of the land. But, our ‘ike Hawai‘i has been ignored by the actions of greedy purveyors, real estate speculators, and the US Military.

Water makes up our whole existence. Everybody knows this. With no water, there is no life. So why is there so much politics involved in something that is a basic living necessity for all humans? Water shouldn’t be a luxury item. We shouldn’t have to fight for something that is a primary right to all. Everybody has a right to water. But there is a line where need becomes want. And these purveyors are constantly crossing the line of taking too much water. Streams are still being drained, our lo‘i are dry, and our people are exhausted. But SB3327 can be the start of a much-needed change for kānaka Hawai‘i and all people in Hawai‘i.

With the approval of this bill, kānaka can once again become the priority. Not tourists. Not money. Not corporations. People. The real people of Hawai‘i, the ones whose families have been here for generations. We have the right to use water for cultural practices. Our lo‘i need reviving and the only way that’s possible is with water. Through this bill, the process for approval of Water Use Permit Applications for kānaka and other constitutionally-protected public trust uses will be prioritized. We’re done waiting at the back of the line. It’s time for our rights to be acknowledged.

But this is not the only thing that needs to be changed. We need the water to be PROPERLY managed. By establishing an Executive Director of CWRM, we can ensure the voices of Hawai'i are being heard.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations to the improvements of the water code that have long been overdue, and we urge the Committees to PASS SB3327. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Kūpa‘a Lewis Mattos

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Mai ka mokupuni awāwa kaulana ‘o ‘Ihikapalaumaewa, mai ka mauna ki‘eki‘e ‘o Haleakalā me nā pali uliuli Ko‘olau a hiki i Kepaniwai o ‘Īao.

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

Eia nō au ‘o Kūpa‘a Lewis Mattos ke wehewehe nei iā ‘oukou. 17 o‘u mau makahiki a he haumāna papa 11 au ma Ke Kula Ki‘eki‘e ‘o Kekaulike. He kupa au no ka ‘āina kaulana ‘o Nā Wai ‘Ehā a me ka ‘ao‘ao hikina ho‘i o ka wai a Kāne Kanaloa ‘o Wailuanui.

Aloha my name is Kūpa‘a Lewis-Mattos, I am 17 years old and I am a junior at King Kekaulike High School. Aside from being a student at Kekaulike I am also a student of the lo‘i kalo, raised with my siblings in the mud. My family has been kalo farmers and water advocates, or kahuwai, for generations. I share today on behalf of myself, my ‘ohana, my community, and my lāhui. I am testifying in **STRONG SUPPORT of SB3327**.

The motto of CWRM is “Ke Kahuwai Pono,” kahu meaning caretaker or guardian, wai meaning water, and pono, fair or prosperous. To be a kahuwai is to commit to protect, to be a kahuwai is kuleana. SB3327 aligns with this motto and ensures pono in the decisions that CWRM makes.

For too long, the system of Hawai‘i has not shown beneficial and hopeful outcomes for the future generations. However, a positive change like this can provide a better opportunity and can allow me as well as all the youth of Hawai‘i to have a future in the right direction. There are three main reasons I support SB3327.

First, having distinct leadership for the Water Commission ensures that decisions are made with a diverse range of perspectives and prevents concentration of power. This helps to avoid potential biases. It also prevents the separation of power and independence between different agencies, which will increase pono decision making.

Next, SB3327 allows things to be put back into check and balance. It focuses on fairness and also provides the people with what we need. Also, it allows for diverse expertise. It helps better focus themselves on the field that they are in. CWRM will have better focus on only water resource management, and BLNR will have better focus on management of land and other natural resources, which can strengthen their expertise or knowledge in their field. Laulima in true form.

Lastly, this bill will help CWRM gain public trust and accountability. By making pono changes, the agency can gain the trust of the people.

Ho‘omoe wai kāhi ke kāo‘o
Let us all travel together like water flowing in one direction

Mahalo for your time.

TO: Chair Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Kamakanōweo Kekauoha-Schultz

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O Kamakanōweo Kekauoha-Schultz ko‘u inoa. He 16 o‘u mau makahiki, a hele au i Ke Kula Kaiapuni ‘o Kekaulike. Eia nō au ke kākau nei iā ‘oukou no ke kāko‘o ‘ana i ka pila ‘o SB3327. He noi ha‘aha‘a kēia no ka hō‘apono ‘ana i kēia pila. ‘O ia ka mea kūpono e hana ai. Inā he aloha kā ‘oukou ma loko ‘o kou pu‘uwai no Hawai‘i a me ka po‘e Hawai‘i, ‘o ia ka mea e hana ai. Ke ‘ike ‘oukou i ka makemake ‘o nā kānaka ‘ōiwi ‘o kēia ‘āina nei, e ‘ike ‘oukou i ka pono o ka ‘āina a me nā kumuwaiwai kūlohelohe. Ke makemake ‘oukou e mālama iā Hawai‘i no nā pua ‘o ka ‘āina e ulu mai nei, no mākou, nā keiki o ka ‘āina, ‘o ka hō‘apono wale ‘ia ‘ana o kēia pila ka mea e hana ai. I am testifying in STRONG SUPPORT of SB3327

First, the Water Commission is the expert concerning our wai and the Water Code. They are the kahuwai pono, and should have the final say on all decisions concerning our wai. A person chosen by the Commission and further supported by the people should ultimately be the one to execute the Water Code. Currently, the chair of BLNR, is not the expert in matters concerning water, but has a very general scope concerning all land and natural resources. Their kuleana as such should follow that scope and should not intervene in decisions in which they are not the experts. The separation of CWRM from BLNR oversight as drafted in this bill will put the power in the right hands.

Secondly, the increase of fines is needed to improve compliance with the rules, and proper management of our precious resources. The current fines are not strict enough, and allow the greedy capitalists to exploit the wai without regulations. Wai is the most important resource on this ‘āina, and without wai there is no life. We live in a capitalistic society that challenges our indigenous views and threatens our practices as Hawaiians. This continuous battle with wai is one of them. But the passing of SB3327 would change that. If not, the interim instream flow standards will continue to be violated with little to no penalty. The increase of these fines will deter violations, and finally give the proper respect towards our wai. This continual exploitation, as seen with the Kaua‘ula Stream ordeal, is not pono and must be regulated for the well-being of our ‘āina, kai, and kānaka.

Finally, our traditional and customary practices, the expression of our identity and way of life, needs to be upheld as a priority in access to wai. As a young mahi‘ai (farmer) myself, I am asking for your support because access to wai is vital for me to continue learning and growing in this way, and to cultivate a bountiful land for future generations. The health of our people is dependent on the health of our ‘āina. Proper management of our resources will ensure our wellness. Wai is our most valuable resource to sustain life. Water must go to the lo‘i before it goes to the pools of the hotels or the grass of the golf courses. If you care about Hawaiians and Hawai‘i as a whole, if you care to see us keiki and the future generations flourish in our identity as Hawaiians, if you care about fixing this corrupt system that we currently struggle with and have been struggling with since the establishment of the sugar plantations, then please pass this bill.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations to the improvements of the Water Code that have long been overdue. I urge the Committees to **PASS SB3327**. I thank Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land for taking the time to hear our voices.

E OLA I KA WAI!!!

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante,
and Members of the Senate Committees on Public Safety and Intergovernmental and
Military Affairs and Water and Land

FROM: Kehaulani Kealoha-Franco

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Aloha kākou, ‘o Kehaulani Kealoha-Franco ko‘u inoa. No Pā‘ia mai au i ka ua mumuku ma Hāmākuapoko, kahi kaulana i ka he‘enalu ‘ana o nā ali‘i no Lahaina, ‘o Kawao lāua ‘o Kelea ma ka ho‘oilu. He 17 o‘u makahiki a kūlike au i ko‘u mau kūpuna i ke kūpa‘a ‘ana i ka pono o kēia ‘āina nei.

Aloha, my name is Kehaulani Kealoha-Franco, I was born and raised on Maui, Hawai‘i. I am only 17 years old and I am here to stand for the pono of the wai just like how my kūpuna did long ago. I am devastated that this is still happening, devastated that our kanaka continue to struggle for water, for our ‘āina, to simply survive in our home.

I pray that you listen to me and my po‘e kānaka as we say our peace. Our water was taken by greedy developers and people trying to make money off of our resources, off of our culture, off of our dignity as kanaka. While we look at the instream flow standards, developers laugh at us as they continue to drill wells to suck our ‘āina dry all to support hotels and resorts. This is a crime and we need justice. They laugh at us as they escape these violations with small fines, if any. They should be appropriately fined so that they will not repeat any of these violations.

We need those waters for our lo‘i to feed our ‘ohana, for our trees to shade, and to feed our keiki, to feed our future. There is no future without water. There is no Hawai‘i without kanaka. There is no future for me in Hawai‘i if everything is so expensive, while we beg from tourists and the wealthy. Maui is my home. Water should be prioritized to keep all of us kanaka here, more than surviving, but thriving. There are so many things to fix, and we can fix it now. SB3327 will prioritize our traditional and cultural practices and award the water kanaka needed to continue these practices.

We are descendants of Papa and Wākea, of every manu, of every i‘a, of every kumu lā‘au, of every crawling creature, of every limu in our kai, of the very lepo that we stand on. I hope we all remember that as we stand here in Hawai‘i and use our voices. Our voices should have a place when choosing the positions of power. The separation of CWRM from the BLNR

chair and creating an executive director of CWRM allows the people some input as to who is chosen.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements of the Water Code that are long overdue. I urge the Committees to PASS SB3327. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Kaylen Lilinoe Pali

RE: SB3327
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Mai ka pi'i 'ana o ka lā i Haleakalā a i ka napo'ō 'ana o ka lā i Kahālāwai, mai ka moku nui 'o Keawe a i ka moku 'o Lehua. Aloha mai e nā po'ō a me nā lala o ka 'Aha 'Ōlelo,

'O au 'o Kaylen Lilinoe Pali a ke kākau nei au iā 'oukou e ha'i'ōlelo e pili ana i ka SB3327. Noho au ma ka mokupuni u'i loa 'o Maui ma ka moku 'o Honua'ula. He haumāna au no Ke kula kaiapuni 'o Kekaulike a he 16 o'u mau makahiki. He kupa au no Hawai'i nei. I am testifying in STRONG SUPPORT of SB3327

For many years locals have come second after tourists in Hawai'i and we are tired of it. The Hawaiian mindset is the only mindset we should consider. From Hāloanakalaukapalili, to Papa and Wākea, in school, we are taught that our history goes beyond us and starts with darkness, the Kumulipo. We should be allowed to have our cultural practices and we should be allowed to make that our priority. Water is a public trust, water is our right, and water is our source of life.

Politicians should have no say in our rights and we as kānaka Hawai'i deserve to have our water back. Tourists should not have more rights than the people you are obligated to serve. Passing this bill is one step closer to making sure the public trust is upheld. Having our Governor, who knows nothing about our wai, influence decisions on it makes no sense. Consider the bias he holds towards people and consider the certifications he has as well. Being Governor is one thing, picking someone to control our source of life with no knowledge is a whole other thing. Let's bring someone who knows about our wai and knows the importance it has to us.

Our history is important to us and it should be important to you. Kānaka 'ōiwi depend on water and we depend on you to do what is right.

In conclusion, I strongly support the implementation of recommendations to improve the Water Code that have long been overdue, and I urge the Committee to **PASS SB3327**. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

TO: Chair Glenn Wakai, Chair Lorraine R. Inouye, Vice Chair Brandon J.C. Elefante, and Members of the Senate Committees on Public Safety and Intergovernmental and Military Affairs and Water and Land

FROM: Ka‘iulani Verzosa

RE: **SB3327**
Hearing on February, 7, 2024
IN STRONG SUPPORT of SB3327

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Ka‘iulani Verzosa, ‘umikumaono o‘u makahiki a no Lahaina mai au. I am testifying in **STRONG SUPPORT of SB3327.**

E ola i ka wai, what does that mean? Water is life. In our mo‘olelo, our cosmological chants, water is our most important resource not only because we need it to live but because the land lives off it as well as Hawaiian people. We should be able to embrace our culture and that entails our land and its needs. For many years, water has been taken and made into profit. However, water is a public trust. That means it is managed by the government for the benefit of the public. Thus, we should be able to have a say in what happens with it and hold those accountable for stealing it. SB3327 would allow the public more input into the management of our wai by separating BLNR’s chair position from CWRM’s chair. This would remove the politics from water management and allow the Water Commission to focus on water.

In conclusion, I strongly support the establishment of an executive director of the commission on water resource management as well as the implementation of recommendations to improve the Water Code that have long been overdue. I urge the Committees to **PASS** SB3327. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!



Ko'olau Foundation

46-005 Kawa St., Ste. 104
P. O. Box 4749
Kane'ohe, HI 96744

February 6, 2024

To: Sen. Glenn Wakai, Chair
Sen. Brandon J.C. Elefante, Vice Chair
& Members, Committee on Public Safety
and Intergovernmental and Military Affairs

Sen. Lorraine R. Inouye, Chair
Sen. Brandon J.C. Elefante, Vice Chair
& Members, Committee on Water and Land

From: Mahealani Cypher
Ko'olau Foundation

Re: **S.B. 3327, Relating to the Commission on Water Resource Management**

Aloha, Chairs Wakai and Inouye, Vice Chair Elefante, and Committee Members:

The Ko'olau Foundation offers its support for Senate Bill 3327, which would establish greater autonomy in managing the state water commission by reorganizing the structure of the Department of Land and Natural Resources.

The Ko'olau Foundation is a cultural heritage preservation program. Our mission is to pursue and promote Hawaiian cultural and environmental practices, preservation of historic and cultural places, and education.

We believe that SB 3327 would give the Water Commission the administrative autonomy it needs to be able to more effectively carry out its mandate as *kia'i* (guardian) over Hawai'i's precious water resources for the benefit of all of Hawai'i's people.

The word, "wai", was among the most important in our Hawaiian language. Even our structure of laws was called the *kanawai*, the law of the land. To be *waiwai* was to be wealthy or to have abundant resources. Our first female judge, Emma Nakuina, was a recognized expert in Hawaiian water rights and water management, and exercised good judgment in disputes over water use between competing parties during the early 1900s. She was skilled at finding balance between competing needs, applying her decisions most effectively in this way.

What we are confronted with today is the possibility that we may have “lost our way” in terms of making sure that decisions on water management and use are made with a pono or balanced approach. Is it because political influences have impeded the work of the State Commission on Water Resource Management? Have we allowed politics to impede its ability to fulfill its designated purpose and public trust kuleana? Not only would passage of Senate Bill 3327 into law lift a heavy kuleana off the shoulders of our DLNR director, it would also support the Commission’s ability to fulfill its constitutional and statutory obligations to steward wai in four critical ways:

1. It restructures the leadership of the Water Commission to separate it from oversight or control by the Department of Land and Natural Resources, and converts the Water Commission deputy into an Executive Director who reports directly to the Water Commission. This would be needed to disentangle the Water Commission from BLNR control and insulate the Water Commission from any possible external influence or interference in the carrying out of its duties.
2. It strengthens penalties for violations of the State Water Code. Increasing penalties for violations of water use would not only improve compliance with the State Water Code, but it would also mean the Water Commission could begin to redress the harms caused by exploitation of this public trust resource and enable reallocation of water to local communities in desperate need of *wai*.
3. It allows the Water Commission to declare an emergency within the scope of its responsibilities. Authorizing the Water Commission to declare emergencies in any area experiencing water shortages that threaten public health, safety, and welfare, whether within or outside of a designated water management area, is crucial to the Water commission’s ability to take timely action in an emergency.
4. It underscores the Water Commission’s public trust kuleana, by reaffirming the Constitutionally protected priority uses of *wai*—rights that are far too often overlooked or overshadowed by corporate interests.

With Senate Bill 3327, this Legislature has the opportunity to shield our most valuable resource—*wai*—from external entities that might undermine the importance of safeguarding our state’s important water resources. Senate Bill 3327 gives the Water Commission the independence, autonomy, and tools needed to move swiftly to manage and protect our water resources for all of Hawai‘i’s people.

The Ko’olau Foundation urges the Senate Committee on Public Safety and Intergovernmental and Military Affairs and the Senate Committee on Water and Land to support real and proactive solutions for our community.

Mahalo for giving us this opportunity to offer our mana`o.

**Senate Committee on Public Safety and Intergovernmental and Military
Affairs; and
Senate Committee on Water and Land
Hearing: February 7, 2024 @ 3:00PM
State Capitol Conference Room 225 and Via Zoom
Strong Support for SB3327: Relating to the Water Commission**

Aloha e Chair Wakai, Chair Inouye, and Committee Members.

Nā Kia‘i Kai submits this testimony in strong support of SB3327. Nā Kia‘i Kai is a community-based organization established by West Kaua‘i residents, including Native Hawaiian fishers and cultural practitioners, to protect West Kaua‘i’s river and coastal waters, humans, and aquatic life. Waimea River is the lifeblood of our community and supports a host of protected instream public trust uses. A healthy river and nearshore ocean environment are essential for our hui to continue to engage in traditional and cultural practices and subsistence activities, and to pass on these traditions to the next generation.

No problem is more critical than the scarcity of water, and this is something especially felt by our West Kaua‘i community. According to state projections, our Waimea River watershed is expected to see far less rainfall in the coming years. As we prepare for life in our new climate reality, we believe that giving the Water Commission the tools and autonomy it needs to tackle Hawai‘i’s diminishing water supplies is a necessary first step. We have waited 30 plus years to see this recommendation from the Review Commission come to life and are grateful to your committees for hearing this bill.

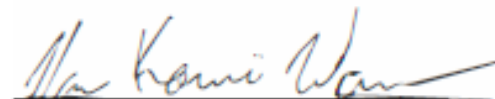
Our community knows first-hand how political interference and plantation politics can unduly influence decision-making regarding the use of ‘āina and wai. For decades, plantations and their corporate successors have hoarded Waimea River water, taking far more water than they could reasonably use, resulting in the outright dumping and waste of millions of gallons of water per day. Our community fought tirelessly to restore stream flow in Waimea River and end the wholesale diversion and waste of our precious water resources. Despite the implementation of minimum flow standards for Waimea River in 2017, these corporate diverters continue to divert streamflow in excess of what they are legally allowed to take and drag their feet to make any adjustments to their diversions, which allow only minimal diverted flows to be returned to the streams.

SB 3327 would enable CWRM to enforce the Water Code by imposing meaningful fines and penalties for violations. This would be especially useful to address the ongoing violations and noncompliance with interim instream flow standards occurring in Waimea River every day. Increasing penalties for violations would encourage diverters to come in compliance with the State Water Code, and it would allow CWRM to begin to redress the ongoing harm to public trust uses and reallocate water to local communities who rely on wai for their survival.

Nā Kia'i Kai further supports providing CWRM with the true independence it was intended to have when the Constitution was amended in 1978 and the Water Code was passed by this Legislature in 1987. We believe SB 3327 would enable the executive director to proactively focus on fulfilling CWRM's public trust kuleana, instead of being micromanaged by the Governor and BLNR's Chair. Administrative independence from the oversight and influence of elected and appointed officials will provide greater accountability and transparency, and result in greater protection of our precious water resources.

We are living in this climate emergency, and we are exhausted from having to constantly police the plantation water systems and the developers who currently operate them. We need this Legislature to support real and proactive solutions for our community, to prevent the water crisis from continuing to impact future generations to come. Please vote today to support SB 3327.

Mahalo for the opportunity to testify on this important bill.


Kawai Warren
Nā Kia'i Kai

SB-3327

Submitted on: 2/5/2024 2:44:41 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kupuna for the Mo'opuna	Testifying for Kupuna for the Mo'opuna	Support	Written Testimony Only

Comments:

Testimony in STRONG SUPPORT of SB 3327

SB 3327 is an important measure that will enable the Water Commission to

- 1.) hold water code violators accountable
- 2.) take timely, emergency action during water shortages
- 3.) allow Commission staff to implement the state Water Code, without fear of political retribution.

Please pass SB 3327.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Second Legislature, State of Hawaii
Senate
Committee on Public Safety and Intergovernmental and Military Affairs
Committee on Water & Land

Testimony by
Hawaii Government Employees Association

February 7, 2024

S.B.3327 – Relating to the Commission on Water Resource Management

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B.3327, which establishes a public trust purpose for the Commission on Water Resource Management. In summary, this measure authorizes the Commission on Water Resource Management to declare an emergency under certain conditions, administratively attaches the Commission to the Department of Land and Natural Resources, authorizes entities to whom an emergency order is directed to challenge the order under certain conditions, and clarifies the notification requirements and contents of declarations of water shortages.

Thank you for the opportunity to testify in support of S.B.3327.

Respectfully submitted,



Randy Perreira
Executive Director



House Committee on Water & Land / House Committee on Energy & Environmental Protection

Hawai'i Alliance for Progressive Action (HAPA) Supports: SB3327

Wednesday, February 7th, 2023 3:00 p.m. Conference Room 225

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

HAPA is writing in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media.¹ This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.²

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director.

SB 3327 very importantly disentangles CWRM from the BLNR so that it is no longer subject to the control of the chairperson of BLNR with regard to any of its functions, duties, and powers. This bill also provides CWRM with the true independence it was intended to have when it was established. This independence is necessary to oversee water management in a manner consistent with the Commission's constitutional and statutory purposes.

1

<https://www.hawaiipublicradio.org/local-news/2023-09-21/regaining-public-trust-could-be-an-uphill-battle-for-the-state-water-commission>

2

<https://www.theguardian.com/commentisfree/2023/aug/17/hawaii-fires-maui-water-rights-disaster-capitalism>

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.



Furthermore the increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers. This is particularly critical in communities such as west Maui where water resources are already severely constrained.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date. Contested case hearings can provide a check on potential abuses of this important authority.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick
Executive Director

Hawai'i State Senate Testimony
SB3327 – Relating to the Commission on Water Resource Management

RE: Strong support of SB3327

February 6, 2024

The Council for Native Hawaiian Advancement (CNHA) writes in **strong support of SB3327**. Since its creation, the mission of the Commission on Water Resource Management (CWRM) has been to protect and manage the waters of the State of Hawai'i for present and future generations. This bill creates the proper tools needed to fulfill CWRM's kuleana to mālama wai.

Since time immemorial, Native Hawaiians have understood the importance and precarity of water across our pae 'āina. For the land and its people to thrive, we must have access to safe and clean water. This has always been true, but has become even more critical in light of the August wildfires. CWRM's kuleana is not one to be taken lightly and should be treated with the utmost care and respect. Ola i ka wai, water is life, and it must be protected.

SB3327 provides the opportunity to strengthen CWRM by finally implementing amendments previously suggested in the 1994 Report by the Review Commission on the State Water Code. The state and all of its subdivisions, including CWRM, have an affirmative duty to protect and preserve our water resources for the benefit of future generations. This bill makes that duty clear by establishing an explicit public trust purpose. SB3327 is necessary for CWRM to be able to 'auamo this constitutional and statutory kuleana.

SB3327 also calls for the necessary disentanglement of CWRM from the Department of Land and Natural Resources to streamline its administrative duties and responsibilities. These amendments to the Commission's administrative structure will provide the autonomy it needs as kahuwai pono to protect and preserve Hawai'i's precious water resources for generations to come.

Since August, CNHA has been working diligently on recovery and rebuilding efforts in Maui. We have seen firsthand the need for increased protections for our water and natural resources. CNHA will continue to do our part to kako'o this incredible community, but it is critical that this Legislature also support the community through meaningful and long-term policy solutions like SB3327. For these reasons, we humbly ask that you **PASS SB3327** for the future of Lahaina and the future of wai.

Me ka ha'aha'a,


Kūhiō Lewis
Chief Executive Officer, CNHA



Hui o Nā Wai 'Ehā

Ola i ka wai WWW.HUIONAWAIEHA.ORG

Hui o Nā Wai 'Ehā
Board of Directors

February 5, 2024

Hökūao Pellegrino
(President)

**To: Senate Committee on Public Safety and Intergovernmental and Military Affairs;
and Senate Committee on Water and Land**

Koa Hewahewa
(Vice President)

Lani Eckart-Dodd
(Treasurer)

Hearing: February 7, 2024, 3:00 PM State Capitol Conference Room 225

Lucienne de Naie
(Secretary)

Re: Strong Support for SB3327: Relating to the Water Commission

Duke Sevila
(Founding Board
Member)

Aloha e Senate Chairs Wakai and Inouye and Honorable Committee Members,

Miki'ala Pua'a-
Freitas
(Board Member)

My name is Hōkūao Pellegrino, President of Hui o Nā Wai 'Ehā on the island of Maui. I'm testifying today in strong support of SB3327.

Ikaika Nakahashi
(Board Member)

Hui o Nā Wai 'Ehā was established in 2003. Our mission is to advocate for the restoration and stewardship of mauka to makai streamflow in Waikapū, Wailuku, Waiehu, Waihe'e Streams on Maui, to protect the natural and cultural resources relate to traditional and customary practices of Native Hawaiian kuleana kalo farmers, and to engage the Maui community through outreach education programs and initiatives focused on water resources management. Our organization's core value is centered around "Ola i ka wai", which speaks to the importance of protecting one of our most important natural resources, the life giving waters of Kāne. Hui o Nā Wai 'Ehā strongly believes in and adheres to the Hawai'i State Water Code 174c as well as the need for balance decision making between instream and offstream uses of wai.

Kōnane Awo
DelaNux
(Board Member)

Mariana Löwy-
Gerstmar
(Board Member)

Ka'apuni Aiwahi
(Board Member)

Kamalani Uehara
(Board Member)

Kaulu Lu'uwai
(Board Member)

Sesame Shim
(Board Member)

**Maui Tomorrow
(Collaborator)**

Albert Perez
(Executive Director)



Legal Counsel

Isaac Moriwake
(Earthjustice)

Hui o Nā Wai 'Ehā has an active community membership base of over 800 members and a following of over 10,000 throughout our social media outlets, many who are kuleana kalo and diversified farmers, educators, scientists, environmentalists, and concerned Maui and Hawai'i residents who share similar beliefs and practices in water resource management. We are an organization that has a watchful eye not only over water issues in Nā Wai 'Ehā but all across Maui, while engaging and educating members on their role in community-based water resource management.

Our organization strongly supports SB3327 because we feel it will finally implement decades-long recommendations to try to minimize the political influences on our Water Commission. It will also enable the Commissioners and their staff to focus on the resources and do their jobs instead of playing politics.

Hui o Nā Wai 'Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793

(808) 430-4534 • Huionawai4@gmail.com • www.huionawaieha.org •  

The Mission of Hui o Nā Wai 'Ehā is to advocate for the restoration and stewardship of mauka to makai streamflow in Waikapū, Wailuku, Waiehu, Waihe'e Streams (Nā Wai 'Ehā), to protect cultural and natural resources pertaining to traditional and customary practices of Native Hawaiian kuleana kalo farmers and to conduct water resource management education outreach programs for the Maui community.

In June 2022, Hawai‘i’s Water Commission unanimously designated Maui Komohana as ground and surface water management areas. In good faith, many of us on Maui invested the better part of a year putting together water use permit applications with the hope that our water rights would finally be recognized. We submitted those applications on August 7, 2023, a day before the wildfires ravaged Lahaina. While we grieved and struggled to recover, the Governor suspended the Water Code and Chair Chang “reassigned” Deputy Director Manuel. Chaos ensued as diverters filled their pools and reservoirs and our streams ran dry. An investigation was undertaken and Deputy Manuel was reinstated, although he later resigned without explanation.

Our Water Commission cannot function with this kind of politicking. And we cannot focus on rebuilding our homes and communities if we are constantly trying to get this Commission to do its job; or, its chair to let the staff do their jobs. This bill is unfortunately necessary to both minimize the Governor’s political influence, and to provide other tools for proactive management and enforcement. For example, increasing potential fines will help to encourage compliance and the shortage provisions will be useful in the event of an emergency.

We humbly ask for your support in passing SB3327 to help us get our water management back on track.

Ola i ka wai!

Hōkūāo Pellegrino

Hōkūāo Pellegrino (Board President)

Nā Alakaʻi o ʻAhahui o Hawaiʻi

Advocates for Native Hawaiian Justice

William S. Richardson School of Law | University of Hawaiʻi at Mānoa



ʻAHAHUI
O HAWAII
Advocates for Native Hawaiian Justice

Testimony of Nā Alakaʻi o ʻAhahui o Hawaiʻi

Before the Senate Commission on Water and Land and the Senate Committee on Public Safety and Intergovernmental and Military Affairs

Wednesday, February 7, 2024, 3:00 p.m.
State Capitol, Conference Room 225
415 South Beretania Street
Honolulu, HI 96813

Re: Support for SB 3327 Relating to the Commission on Water Resource Management

Aloha e Chair Inouye, Chair Wakai, and committee members,

We are the alakaʻi of ʻAhahui o Hawaiʻi (“the Hui”), an organization of student advocates at the William S. Richardson School of Law. For the last 50 years, the Hui has advocated for Native Hawaiian justice in all areas of law, especially those affecting Native Hawaiian communities, traditional and customary practices, resource management, and environmental protection. Today we submit this **testimony in strong support of SB 3327**.

Over the last year, members of our organization have supported the Maui Komohana community in their efforts to ensure the equitable distribution of water, restore streamflow, and uphold the public trust. We have witnessed firsthand the harms inflicted on the ʻāina by private water purveyors who flaunt instream flow standards and continue to illegally divert and hoard water with impunity. And in the immediate aftermath of the fires that devastated Lahaina last August, we watched as these same purveyors engaged in a naked water grab to wrest control of even more of Maui Komohana’s water. Most disappointing throughout this process has been the Commission on Water Resource Management’s (“CWRM”) inability or unwillingness to step in and act on its constitutional and statutory obligation to protect and manage our water resources. In a time when the Commission’s leadership and decisive action is needed more than ever, CWRM has been hamstrung by political interference from the Governor, the Department of Land and Natural Resources (“DLNR”), and large economic interests.

This bill would remove the politics from our water policy by granting CWRM independence from DLNR. The proposed amendments are not new or radical ideas, but instead are based on recommendations made in a 1994 Report by the Review Commission on the State Water Code. The report suggested a restructuring of CWRM to afford the Commission the autonomy needed to effectively protect and preserve Hawaiʻi’s precious freshwater resources. As this past year has shown, reorganization is necessary to keep the politics out of our waters. The provisions in this bill would

Nā Alakaʻi o ʻAhahui o Hawaiʻi

Advocates for Native Hawaiian Justice

William S. Richardson School of Law | University of Hawaiʻi at Mānoa



ʻAHAHUI
O HAWAII
Advocates for Native Hawaiian Justice

allow CWRM to focus on its constitutional mandate and, importantly, allow the Lahaina community to focus on recovery.

Chief Justice Richardson, the namesake of our law school, set the foundation for modern water law and the public trust doctrine that we have today. His court set the precedent that water must be held in trust for the common good and cannot be privately owned or sold. As he would say, when it comes to water, “think of the little guy downstream.” We honor that legacy today by voicing our **support for SB 3327**, a bill that protects the Commission from political interference and protects the “little guys” from commercial interests and plantation water policies that have plagued Hawaiʻi’s wai and its people for over a century.

Please vote today in support of SB3327 to free the Commission and free our streams.

Mahalo for the opportunity to provide this testimony.

E ola i ka wai!

Nā Alakaʻi o ʻAhahui o Hawaiʻi

Nā Alakaʻi:

Dru Hara (ʻ24)

Kawaiuluhonua Scanlan (ʻ24)

B. Oriana McCallum (ʻ25)

Andrea C. Leialoha Swain (ʻ25)

Kyle K. Moriguchi (ʻ26)



Native Hawaiian LEGAL CORPORATION

1164 Bishop Street, Suite 1205 • Honolulu, Hawai'i 96813
Phone (808) 521-2302 • www.nativehawaiianlegalcorp.org



SB3327

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND
MILITARY AFFAIRS & COMMITTEE ON WATER AND LAND

February 7, 2024

3:00 p.m.

Conf. Rm. 225 & Videoconference

Aloha e Chairs Wakai and Inouye, Vice Chair Elefante, and Members of the Committees,

The Native Hawaiian Legal Corporation¹ offers the following testimony in STRONG SUPPORT of SB3327, which proposes changes to the law to better ensure that the state, through the Commission on Water Resource Management, fulfills its important constitutional and statutory kuleana to wai.

Our state constitution recognizes the importance of water in Hawai'i. Article XI, § 1 provides that "all public natural resources are held in trust by the State for the benefit of the people."² CWRM is the state agency with the specific duty "to protect, control and regulate the use of Hawaii's water resources for the benefit of its people[.]" Haw. Const. Art. XI, § 7, and to implement the State Water Code.³ As trustee, it has an "affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." *Waiāhole I*, 94 Hawai'i at 141, 9 P.3d at 453.

The state must do more to fulfill its constitutional and statutory duties. The need for improvement was studied decades ago in the 1994 report referenced in SB3327, which reviewed the effectiveness of CWRM and Water Code and provided recommendations for improvement. SB332 incorporates many of them, including changes that empower CWRM to:

- Execute its kuleana with less interference by other agencies and state officials;
- Impose meaningful penalties and fines for violations of the water code;
- Declare emergencies in any area experiencing water shortages that threaten public health, safety, and welfare; and

¹ NHLC is a non-profit, public interest law firm committed to the protection and advancement of Native Hawaiian identity and culture, including the protection of Hawai'i waters and other aspects of the natural environment upon which Native Hawaiian well-being and culture depend.

² See *In re Waiāhole Combined Contested Case Hearing*, 94 Hawai'i 97, 132, 9 P.3d 409, 444 (2000) ("Article XI, [§] 1 and article XI, [§] 7 adopt the public trust doctrine as a fundamental principle of constitutional law in Hawai'i.").

³ CWRM is mandated to "set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawaii's water resources." Haw. Const. Art. XI § 7.

- Prioritize public trust purposes in water management areas.

As the 1994 report concluded, adopting these recommendations would help the state uphold its trust duties and constitutional mandate to protect water. Indeed, the disadvantages and challenges of the current law and structure of CWRM have been demonstrated many times since 1994, not the least of which by the events immediately following the tragic Lahaina wildfires last year.

First, SB3327 gives CWRM more autonomy to do its job. Removing the Department of Land and Natural Resources' substantive oversight over the agency, allowing it to hire independent counsel, and converting the deputy position into an executive director appointed and evaluated by CWRM allows the agency to operate independently with less outside influence. Conflicts of priorities or interests should not encumber or inhibit CWRM from fulfilling its water management duties.

Second, SB3327 gives CWRM more authority to ensure that water is properly managed. The ability to impose meaningful fines based on violators' current and past conduct could deter improper, illegal, and harmful actions that might otherwise continue without consequence. Additionally, the ability to declare emergencies in any area experiencing water shortages allows CWRM, as the state agency with specific expertise on water, to take prompt action in serious situations that affect the resource, which would have been critical during both the Red Hill and Maui wildfire crises.

Third, SB3327 explicitly defines (consistent with the definition set forth by the Hawai'i Supreme Court⁴) and prioritizes public trust purposes over other uses in water management areas in water use permitting decisions. This is especially significant as the west Maui community recovers from the wildfires and seeks access to water for kalo cultivation and other traditional Native Hawaiian practices, appurtenant rights, and domestic water uses.

Given the decades of community-policing-turned-litigation based on the state's failures to meet its kuleana and this critical juncture of disaster recovery and climate change, it is high time to address the shortcomings of the current management structure and set the state up for success. SB3327 is necessary to provide greater accountability and protection of the state's water and, ultimately, ensure that our water laws function as intended. As such, NHLC **SUPPORTS** the passage of **SB3327**.

Mahalo for the opportunity to testify.



Ashley K. Obrey
Senior Staff Attorney
Native Hawaiian Legal Corporation

⁴ See *Kauai Springs, Inc. v. Planning Comm'n of the Cnty. of Kaua'i*, 133 Hawai'i 141, 172, 324 P.3d 951, 982 (2014) (recognizing public trust uses as waters in their natural state, domestic water use, Native Hawaiian tradition and customary rights, and the reservation of water for the Department of Hawaiian Home Lands).



OPERATING ENGINEERS LOCAL UNION No. 3

2181 LAUWILIWILI STREET, KAPOLEI, HI 96707 • (808) 845-7871 • FAX (808) 682-0906
Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

February 6, 2024

Honorable, Glenn Wakai, Senate Committee on Public Safety and Intergovernmental and Military Affairs, Chair

Honorable, Lorraine R. Inouye, Senate Committee on Water and Land, Chair

Honorable Members of the Senate Committee on Public Safety and Intergovernmental and Military Affairs members and the Senate Committee on Water and Land members

RE: SB 3327- RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Chair Wakai and Chair Inouye,

Operating Engineers Local 3 supports the purpose and intent of SB 3327, which establishes a public trust purpose for the Commission on Water and Resource Management. In summary, this measure authorizes the Commission on Water and Resource Management to declare an emergency under certain conditions, administratively attaches the Commission to the Department of Land and Natural Resources, authorizes entities to whom an emergency order is directed to challenge the order under certain conditions, and clarifies the notification requirements and contents of declarations of water shortages.

We humbly ask for your support and approval of SB 3327.

PROTECT KAHO‘OLAWE ‘OHANA
1733 Wili Pa Loop, B-1
Wailuku, Hawai‘i 96793



February 6, 2024

Strong Support for SB3327: Relating to the Water Commission

Aloha Chairs Wakai and Inouye and Honorable Committee Members,

My name is Dr. Davianna Pōmaika‘i McGregor and I am testifying today on behalf of the Protect Kaho‘olawe ‘Ohana in strong support of SB3327.

SB3327, if passed, will implement decades-long recommendations to try to have the Water Commission be free from the variable influence of changes in gubernatorial politics. The proposed changes will enable the Commissioners and their staff to better focus on protecting our state’s water resources and fulfilling their kuleana.

The proposal to have the CWRM deputy position be an Executive Director who reports directly to the Water Resource Management Commission, is a positive structural change, similar to the structure of the Kaho‘olawe Island Reserve Commission (KIRC). This structure has been effective for the KIRC. Having the BLNR chair serve a member of the commission, instead of the chair has also been effective for the KIRC. Instead on the KIRC, the commissioners take a poll on who should serve as chair and forwards their recommendation to the Governor.

The bill would also increase fines for violations of rules. We support this. Again, for Kaho‘olawe, substantial fines have served to have the rules that effectively protect the island's marine resources

Mahalo nui loa for your consideration of this testimony. Respectfully, I urge your committees to pass SB 3327.

Ola i ka wai!

Mahalo
Davianna Pōmaika‘i McGregor
Protect Kaho‘olawe ‘Ohana

LATE

SB-3327

Submitted on: 2/6/2024 5:39:51 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kawika Aspili	Testifying for La'i Hauola	Support	Written Testimony Only

Comments:

Senate Committee on Public Safety and Intergovernmental and Military Affairs; and

Senate Committee on Water and Land

Hearing: February 7, 2024, 3:00 PM

State Capitol Conference Room 225

Testimony in Strong Support for SB3327: Relating to the Commission on Water Resource Management

Mahalo Chair Wakai and Members of the Committee on Public Safety and Intergovernmental and Military Affairs, and Chair Inouye and Members of the Committee on Water and Land for holding this hearing. I would also like to thank you, Senator Inouye, for introducing one of the most critical environmental protection bills in recent history. I am in strong support of SB3327.

My name is Kāwika Aspili, I am a 7th generation descendant from Lahaina, Maui. I was recently appointed as President of La'i Hauola, a Maui Komohana-based nonprofit. Our board is composed of majority residents and lineal descendants of Lahaina. Our mission is to ensure that as our beloved town of Lahaina is rebuilt, it is done with the guidance and input of the community at every step. La'i Hauola has begun the process to develop a truly community-driven and comprehensive development plan for Lahaina. We stand behind the voices of Lahaina that have time and again spoken up to protect the waters of Maui Komohana when designating the Lahaina aquifer as a water management area, establishing IIFSs, and in the wake of the fires, demanding the reinstatement of Deputy Director Kaleo Manuel and the Water Code.

La'i Hauola supports this bill because it implements the true intent of the Water Code when the legislature established the Water Commission 45 years ago. SB3327 would remove politics from interfering with the pono management of our wai as we saw following the August 2023 fires.

Especially as our community looks to the future and how we can remedy the development mistakes that contributed to the fires, we need to ensure that the Water Commission is able to

make pono decisions for the Lahaina community, not the people that profit from draining our streams.

Mahalo for this opportunity to testify in strong support of SB3327. I urge you to pass this bill in the name of Kaleo Manuel and the people of Lahaina.

LATE

SB-3327

Submitted on: 2/6/2024 6:34:42 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

www.WeAreOne.cc



SIERRA CLUB OF HAWAI'I

LATE

**SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND
MILITARY AFFAIRS**

February 7, 2023

3:00 PM

Conference Room 225

**In SUPPORT of SB3327: RELATING TO THE COMMISSION ON WATER RESOURCES
MANAGEMENT**

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS SB3327**, which would allow the Water Commission to take emergency and timely action during water shortages caused by prolonged droughts, aquifer contamination, rising chloride levels, or other unforeseen events; hold water code violators accountable with meaningful fines; and protect Water Commission members and staff from the influence of opportunistic and politically connected corporate interests, allowing them to implement the state Water Code in the public's interest, and without fear of political retribution.

First, this bill would enable the Commission on Water Resource Management to better ensure public needs are prioritized during a water emergency, such as the one that the Red Hill crisis continues to threaten. Currently, the Water Commission must undergo time consuming, months-long planning and rulemaking processes and exhaust its water shortage authorities before taking action to preserve fresh drinking water supplies in a water emergency. This bill would allow the Water Commission to instead take immediate action to protect our water and priority water needs in the event of water emergencies, in real time.

Second, this bill would authorize the Water Commission to impose meaningful fines against those who could otherwise over pump our aquifers and drain our streams dry with impunity - notwithstanding the law or the needs of the community. The current \$5,000 daily fine the Commission is authorized to levy is wholly insufficient to hold multinational corporations - or the Department of Defense - accountable, if and when their water code violations impact priority public needs, including for affordable housing. Without the increased fines authorized under this measure, millions of gallons of water per day could be illegally monopolized by deep pocket entities for a fraction of a cent per gallon in penalties, harming our precious water resources, and the houses, schools, farms, small businesses, and others that rely on them.

Finally, this bill would address political vulnerabilities that could allow powerful corporate interests to unduly influence the important work of the Water Commission.



SIERRA CLUB OF HAWAI'I

Currently, the Commission's Chair is a member of the Governor's cabinet, as is its legal counsel, the Attorney General. Both individuals have considerable power over the Water Commission and its staff, and both answer directly to the Governor. Accordingly, powerful interests who have the Governor's ear could substantially interfere with the Commission's implementation of the Water Code, and the Public Trust Doctrine.

This bill would instead allow Commission members to decide amongst themselves who among their volunteers should serve as their Chair, and would further allow the entire Commission to choose an "executive director" as the lead Commission staff person. Annual performance reviews for the executive director would ensure that any employment decisions are based on a documented and objective assessment of their performance, rather than political opportunism or retribution. Finally, the Commission would be able to hire their own legal counsel, rather than rely on the Governor-serving Attorney General. These provisions are critical to ensuring that the Water Commission can do its important work in the rightful protection and distribution of our most precious resource.

Accordingly, the Sierra Club of Hawai'i urges the Committees to **PASS** SB3327. Mahalo nui for the opportunity to testify.

Support for SB3327

To Chair Ichiyama, Chair Wakai, Vice Chair Elefante and the honorable members of the committee,

I am writing as a concerned member of the Lahaina community to express my **strong support for SB3327**, which addresses ensuring the independence and autonomy of the Water Commission. Separating the Water Commission Chair from the Board of Land and Natural Resources will shield the Water Commission's staff and volunteer board from the influences of interests unrelated to upholding the public trust doctrine. It will help prevent conflicts of interest and hopefully allow more community minded decisions, not those of which private water purveyors, real estate speculators, and the US military are normally invested in.

As the Lahaina fire has highlighted the long-standing need for such separation is ever more present. These changes are necessary to ensure the protection of water management areas, and in strengthening the implementation of Native Hawaiian water rights. It is also a huge step for Maui Komohana in bringing back our water to Lahaina, and hopefully the control of water in public trust in the future.

In conclusion, I support SB3327 and the importance of creating a more community-focused Water Commission.

Mahalo for your commitment to creating a more resilient and sustainable future for our residents.

Sincerely,

Katie Austin

SB-3327

Submitted on: 2/6/2024 10:33:06 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sam Peck	Individual	Support	In Person

Comments:

I support this measure as an important step in taking politics out of our water management. Today's status quo of exploitation of freshwater resources for mansions on ag land and destructive agricultural practices must end. The waters must be returned to the people and the streams if Hawai'i is to survive.

**Senate Committee on Public Safety and Intergovernmental and Military Affairs; and
Senate Committee on Water and Land
Hearing: February 7, 2024, 3:00PM
State Capitol Conference Room 225
Strong Support for SB3327: Relating to the Water Commission**

Aloha Chair Wakai, Vice Chair Elefante, and Members of the Senate Committee On Public Safety And Intergovernmental And Military Affairs, and Chair Inouye, Vice Chair Elefante, and Members of the Senate Committee on Water and Land:

My name is Victoria Holt Takamine. I wear many hats in our kaiāulu: I am a Kumu Hula of Pua Ali'i 'Ilima having graduated through the 'uniki rituals of hula from Maiki Aiu Lake. I am also active with a myriad of organizations dedicated to protecting Native Hawaiian culture, customs, resources, and people. As one example, I am a founding member of 'Ilio'ulaokalani, a coalition of traditional practitioners who rallied to protect our Native Hawaiian customs and traditions from legislative action over twenty years ago.

I am here today in strong support of SB3327. This bill takes politics out of our water management by separating the Commission on Water Resource Management (Water Commission) from the Board of Land and Natural Resources (BLNR), and removing the Department of Land and Natural Resources (DLNR) oversight of Water Commission staff. If my recent experience is any indicator, this bill is unfortunately necessary now more than ever.

After wildfires devastated Lahaina in August 2023, influential landowners wasted no time grabbing Maui's water resources... and they didn't stop there. After private companies falsely accused Water Commission Deputy Kaleo Manuel of failing to let firefighters access stream water to battle the fires, they appealed to DLNR's Chair for immediate action. She relented and removed the Deputy without consulting the rest of the Water Commission.

This unilateral decision was strongly opposed, both by those in Lahaina and by community members across Hawai'i, including me. Hundreds of people supported Kaleo's reinstatement, and a Water Commission meeting held on September 19, 2023 lasted for nearly 12 hours, with a constant stream of testifiers asking the Commission to reinstate Kaleo. I believe I testified about nine hours after the meeting started. This meeting ended with DLNR's Chair claiming that it was her call, not the Commission's, to reassign the Deputy Director.

This unilateral "re-deployment" eviscerated the public's trust in Chair Chang and the Green Administration, and undermined years of progress and good governance by the Water Commission. The public was left wondering whether decision makers were honoring the law or bowing to political pressure? Dawn Chang's treatment of Deputy Director Kaleo Manuel is an unfortunate case in point regarding why this bill is necessary to renew the public's faith in the Commission and remove politics from the governance of Hawai'i's water resources.

Please pass SB3327 today. Mahalo for the opportunity to testify.

To: Senate Committee on Public Safety and Intergovernmental and Military Affairs; and
Senate Committee on Water and Land
RE: Testimony in support of SB3327: Relating to the Water Commission
Date: February 7, 2024, 3:00PM

Aloha Chairs Wakai and Inouye and Committee Members,

My name is Candace Fujikane, and I live in Kāneʻohe. I'm testifying in strong support of SB3327. I am an English professor at the University of Hawai'i where I teach my students about struggles to protect lands and waters in Hawai'i, and in my ENG 388 "Literature and the Environment" course, we are closely following the movement of SB3327. Many of my students are interested in law and will go on to work in legal arenas involving environmental justice.

I urge you to support SB3327, which will implement measures recommended by the 1994 Review on the Commission on Water Resources Management.

**The Review Commission's recommendations for improving the Code emphasized:
1. Reorganizing the administrative structure of the Commission on Water Resource Management to ensure independence from the Department of Land and Natural Resources**

CWRM was established under Article XI, section 7 of the Hawaii State Constitution within the Department of Land and Natural Resources (DLNR). The Review Commission found that CWRM required increased independence from DLNR to protect and manage water for the use of all residents of Hawai'i.

Why has this recommendation not been implemented?

I was one of the hundreds of people who gave testimony for twelve hours at the September 19, 2023 CWRM meeting demanding the reinstatement of Deputy Director Kaleo Manuel, who had been wrongly accused of denying the people of Lahaina water they needed for the August wildfires, and was "redeployed" without an investigation. The public is well aware of the political nature of that "redeployment" of Manuel by the Chair of BLNR. The public learned about the corporate attempts of West Maui Land Company to take down newly established June 2022 Water Management Area protections for Maui Komohana by suggesting that kuleana land holders and Water Commission Deputy Director Kaleo Manuel were at fault for preventing water from being used to fight the fire. The public now knows that this is false. Kaleo Manuel was targeted by developers precisely because of his pono leadership. During the fires, water diverters in multi-million dollar homes filled their pools, and reservoirs and the streams ran dry, leaving kuleana landholders vulnerable to the fires.

When the DLNR Director "redeployed" Manuel, the public immediately saw the political nature of that decision, and it underscores the need for CWRM to have its own Executive Director with greater autonomy. In that moment, DLNR lost the public trust, and we see how vulnerable CWRM is to political interests of the wealthy.

Our Water Commission should not be hindered or influenced by this kind of politicking. The people of Maui Komohana cannot focus the water issues that directly affect their communities if CWRM is under constant threat by the BLNR chairperson and the influence of the governor. As the system is set up now, the Governor appoints the Board of Land and Natural Resources Chairperson who chairs the Water Commission. In addition, the Attorney General who provides legal advice to the Water Commission is also a Governor appointee. As we have seen, those with influence over the Governor, including corporations who engage in water banking, have obstructed the work of the Commission.

SB3327 will do the right thing by enabling the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel. This measure will ensure that the CWRM Director can make decisions that will benefit all people in Hawai'i without fear of political retribution.

I urge you to support SB3327.

Candace Fujikane
Professor of English
University of Hawai'i

SB-3327

Submitted on: 2/6/2024 2:58:30 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dr. Jonathan Likeke Scheuer	Individual	Support	In Person

Comments:

Chair Inouye, Vice Chair Elefante, and Members:

SB 3327 may be one of the most important bills of this entire legislative session and I strongly urge you to pass this bill.

While I realize it is at the risk of sounding boastful, I am compelled to account how there are number of ways in which my professional experience as a scholar, practitioner before CWRM, and policy maker informs my strong support for this bill.

As a scholar, my doctoral dissertation focused on the ways in which the Commission on Water Resources Management (CWRM) failed to follow the best scientific information, and failed to protect native Hawaiian, rural and working class interests in water in the landmark Waiāhole Water Case. I subsequently co-authored a book that looks similarly at CWRM failures in Maui Komohana, Water and Power in West Maui, published in 2021 by the University of Hawai`i Press.

As a policy consultant and advocate appearing before CWRM for over two decades, I am very familiar with their workings – and continued and often unsuccessful efforts to fulfill their constitutional mandates. This work has been for both private water users and Hawaiian agencies and trusts.

I also have had the opportunity to serve on the state Land Use Commission for eight full years, four years as chair. At that commission I was served by an Executive Director, hired by the commission. As Chair I was elected by my fellow members, and so I am also very familiar with the model that is being proposed for CWRM.

With that background in mind, I would like to speak to the necessity of these reforms.

- Clarifying the trust purpose of the CWRM would help implement one of the recommendations of the Review commission on the state water code, as stated in the preamble of the bill. For far too long, commissioners and even CWRM staff have questioned their duties to public trust purposes.
- Clarifying the emergency powers of the commission is critical, especially in light of climate change, which has quickly outstripped the commissions, ability to set appropriate sustainable yields and stream flow standards to protect water resources.

- Placing staff leadership of the commission under an Executive Director appointed by the commission will significantly insulate CWRM from inappropriate gubernatorial influence, as has been recently so clear and so detrimental. It is a model that has proved successful in the Land Use Commission and other critical state boards.
- Providing for independent legal counsel for the CWRM can avoid the awful conflicts of interest which were so clearly brought to light during the Waiāhole Case, where the Attorney General represented multiple adverse parties, including the Department of Land and Natural Resources. It also promises to improve on CWRM's abysmal record on appeal.

As an island people, we cannot continue to claim that we recognize that *ola i ka wai* – water is life; that water is one of our most important trust resources; and yet we continue to subject it to an outdated, underpowered, and politically manipulable structure. I urge you to pass this measure.

LATE

SB-3327

Submitted on: 2/7/2024 5:57:51 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tara Rojas	Individual	Support	In Person

Comments:

I FULLY SUPPORT THIS AS ENFORCEMENT OF UPHOLDING THE PUBLIC TRUST IS ESSENTIAL.

I was present for the CWRM Drought Presentation on Nov. 21, 2023 and have been bringing this information up to ALL the meetings that I go to and share the urgency of PROTECTING OUR WATER FOR THE PEOPLE > profit.

I gave this information to the CEO of Haseko at the Town Hall meeting on Monday 2/5/24; I gave this info. to HCDA in their meetings; I gave this info. to the 'Ewa Beach Neighborhood Board Meetings; etc. as this non-stop building and developing over and desecrating IWI, SACRED CULTURAL SITES AND ARTEFACTS, DESTROYING - CONTAMINATING - AND AFFECTING OUR FRESH WATER AS WELL AS OUR OCEAN WATER IN 'EWA BEACH-ONE'ULA-KALAELOA is unacceptable, unsustainable, detrimental, harmful to the community's well-being and NEEDS TO STOP IMMEDIATELY.

We know and see the current situation with our AQUIFER-WATER and know how precious and urgent it is to protect above everything = #1 Priority.

We know and see and have heard the current continued negative health effects of the still contaminated pipes and water lines of the Navy water system to Pearl Harbor Peninsula and Hickam housing...which means that Kapilina and everywhere connected to the Navy lines should also still be contaminated with residual fuel.

For these and many other reasons, I SUPPORT SB3327.

We need fresh, clean, abundant water to live. Please pass Bill 3327.

#OLAKAWAI

SB-3327

Submitted on: 2/4/2024 2:08:28 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kyle K Kajihiro	Individual	Support	Remotely Via Zoom

Comments:

The water commission should be guided by the best science, responsibilities to traditional and customary practices, and the public trust doctrine, not special interest groups with economic motives. This bill is an important step towards a more independent body that is not subject to the same degree of political pressure that exists under the current arrangement. Thank you for your consideration.

SB-3327

Submitted on: 2/4/2024 6:04:24 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
cheryl burghardt	Individual	Support	Written Testimony Only

Comments:

I SUPPORT SB 3327 for the following reasons:

It will separate CWRM from DLNR oversight and influence which we have seen was a huge issue after the fires on Maui.

It will bar the BLNR Chair from also chairing the CWRM providing the CWRM with the independence it needs to do its work.

It will convert the CWRM deputy into Executive Director, which reports directly to commission

It will improve compliance with water code with increased fines for violations. Fines are currently capped which allows those with \$\$ to skirt compliance.

Authorize CWRM to declare emergencies within the scope of its responsibility. They need the authority to take timely action.

I SUPPORT this bill SB 3327. It's past time to take our water policies from the influence of \$\$ and politics.

Testimony of Michael G. Buck
on
S.B. 3327
Relating to Commission on Water Resource Management
Senate Committees on Water and Land and
Public Safety and Intergovernmental and Military Affairs
Wednesday February 7, 2024
Conference Room 225

Thank you for the opportunity to submit testimony on SB 3327. I have been involved in freshwater security issues in Hawaii for over 30 years, serving over a decade as State Forester for DLNR and recently finished 8 years as a Water Commissioner. This comprehensive bill makes substantial changes to the Hawaii's Water Code. While the purpose of the bill is clearly stated, the rationale for the amendments and their desired outcomes are unclear. I urge the Committees to consider changes to the Water Code in a more comprehensive and integrated approach.

This bill does address some important aspects of Hawaii's Water Code (e.g. emergency authorization) that need to be strengthened but makes other changes that may hamper its implementation. For example, removing the DLNR Chairperson and the Water Deputy from their leadership roles could negatively impact the ability of the Commission to access the essential science and cooperation provided by the Commission staff and other divisions within the DLNR.

A robust discussion on the purpose and implementation of public trust is welcome. While Hawaii took a bold move in codifying water as a public trust, it never fully developed an economic framework to support it. The public trust is not free. Managing forest watersheds, monitoring water use, and maintaining stream health take dedicated funding from the public sector, more than the counties can raise through their water fees.

Water policy in Hawaii resolves itself in a mix of science, politics, economics, and values. The challenge is finding the right balance and developing a governance framework to monitor, assess, and adapt as needed. Hawaii's Water Code is one the world's most innovative and aspirational water policy frameworks. It has served us well, but the challenge now is to establish a more comprehensive and integrated approach, moving from less conflict to more cooperation.

Dedicated support for watershed management, water monitoring, infrastructure support for water conservation and reuse, upgrading dams and reservoirs, forest stewardship, private land assistance programs, and contested case reform are all areas of opportunity in a comprehensive approach to improving Hawaii's water policies. Thank you for the opportunity to testify.

Michael Buck



Restore the Commons

Wednesday, February 7, 2023, 3:00 pm

Senate Committees on Water and Land and on Public Safety and Intergovernmental Affairs
SENATE BILL 3327 – RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Position: Oppose

Me ke Aloha, Chairs Inouye and Wakai, Vice-Chair Elefante, and Members of the Committees on Water and Land and on Public Safety and Intergovernmental Affairs:

Amending the Water Code is fraught with limited perspectives. The original Water Code was drafted by a composite of different experts. It took ten whole years for competing perspectives to resolve a holistic view of water management issues. Since then, a number of contested cases have sharpened our view of how to use and interpret it. There is a risk of amending the Water Code as if it were solely a legal document (as opposed to encompassing ecological, hydrological, and cultural dimensions). A single profession sees only its own image, as a hammerer sees only nails.

One of the beauties of the Water Code experience to date, in view of the famous dictum “water is for fighting”, is that policy flexibility and programmatic, administrative flexibility have enabled the Water Commission to adapt to ripening understandings of the values, uses, protections, and priorities of water, and the appropriate means to adjudicate conflicts. The early Commissions, administrators, and staff were drawn from a wide variety of backgrounds, working in concert to produce progressive results, which of course have perpetually been dissatisfying to loud voices of opinion. As another saying has it, making every competing voice a little unhappy means you’re probably getting it right from an overall perspective.

Early Commissions, administrators, and staff have been rightfully wary of powerful, too-smart people from one field or another coming up with “brilliant” suggestions to “fix” the Water Code. The inevitably incomplete Code has provided for numerous contested cases to improve its application to water resource challenges, welcoming Supreme Court rulings that interpreted situations according to real life conditions rather than hypothetical or presumptuous judgment. It has been interesting to read critiques of this situation from different viewpoints as if the Commission has repeatedly failed, when in fact the opposite is true – flexibility and adaptability has been its strength.

SB3327 must be viewed through this lens. Beware of one who thinks its ox is being gored, who has an axe to grind, or who favors one range of solutions over another. Every perspective is tantalized by the prospect of tweaking the Code in their direction. Can wise heads prevail?

It seems sorely tempting to want the Code to be more definitive by one’s own lights, when its broadness has been a saving grace, allowing an evolving world of decision-makers to shape water policy according to unique conditions. Do we really want a more independent, authoritarian structure to narrow the Code’s flexibility and adaptability? Do we distrust the power of competing voices to accept an agreeable balance of science and culture?

SB3327 alters the organizational structure to create a more centralized authority where none has been needed over 30 years of competing interests wending through difficult processes to achieve better clarity, specificity, applicability, and management. Some must be getting impatient or pecunious.

“Efficiency” is an easily misguided term. Making the Code actually work in real life turns out to be an administrative chore, not simply a legal proposition. Purely legal council has ignored key issues in past disputes. Diverse staff should be incorporated into dispute proceedings to assure that complex scientific and administrative dimensions are addressed. As is becoming a familiar case, lack of adequate staffing is a matter of nickel-and-diming important issues to unsatisfactory *in*conclusion for all considered.

Adequate staffing, not just in numbers but in deep background and administrative experience, is the key to more efficient performance.

“Experienced leadership” is a loaded phrase. Over the years, the Commission has been blessed with experience of all kinds, reflecting and respecting different expertise and wisdom. Sometimes it seems that the impatient prefer “experienced manipulation”. Crises tend to bring out the worst in manipulative expedience when what it is truly needed is better listening and more humility. Competition ultimately needs to give way to collaboration, with earnest heads understanding the need for decisiveness amid inclusiveness. This kind of leadership seems harder to come by than flag-bearing “leaders” on a mission.

SB3327 desires statutory language on declaring emergencies, but the Water Code already has administrative rules for it, duly approved through a public process, in virtually the same language.

SB3327’s giving priority to resolution of matters affecting public trust uses of water seems misplaced. Requiring separate proceedings to interrupt the flow of work unnecessarily hinders timely action on simpler matters.

Many of us have been appropriately wary of messing with such a precariously balanced, determinative agency. SB3327 gives us pause.

Mahalo for the opportunity to address this issue,

/s/ Charley Ice, Hydrologist (retired), Commission on Water Resource Management (25 years)

SB-3327

Submitted on: 2/5/2024 11:33:28 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maryam Siddiqui	Individual	Support	Written Testimony Only

Comments:

I support this bill because it will protect Hawaii's natural water sources from exploitation and protects the water from being controlled by us military and others who are not the rightful owners of the water. This bill will help this water system stay protected

SB-3327

Submitted on: 2/5/2024 11:46:16 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keila Paahana	Individual	Support	Written Testimony Only

Comments:

I support this bill!

SB-3327

Submitted on: 2/5/2024 12:07:01 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joan Heartfield PhD	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Dr Joan Heartfield and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff

employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 12:08:09 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Mick	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Marilyn Mick and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai‘i’s freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

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Accordingly, I respectfully urge the Committees to **PASS** this measure.

Mahalo nui for the opportunity to testify.

Marilyn Mick, Honolulu

SB-3327

Submitted on: 2/5/2024 12:12:57 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shay Chan Hodges	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Shay Chan Hodges. I am a former member and former Chair of the Maui County Board of Water Supply and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

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statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

--Shay Chan Hodges

Haiku, Maui

SB-3327

Submitted on: 2/5/2024 12:17:34 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Greg Puppione and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

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*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 12:24:40 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bo Breda	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Bo Breda and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

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Accordingly, I respectfully urge the Committees to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327

Submitted on: 2/5/2024 12:27:44 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Support	Written Testimony Only

Comments:

As a resident of Maui and a farmer, I watched with disbelief the "reassignment" of Kaleo Manuel in the aftermath of the Lahaina, Kula and Olinda fires in August 2023. This bill will realign the Commission with its intentions and purposes and remove the political influences that allowed such a decision to be made. It will reaffirm the public trust protections of our water resources and allow the Commission to do the work it was intended to do. I strongly support SB3327!

Mahalo

Penny Levin

SB-3327

Submitted on: 2/5/2024 12:28:57 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter Wilson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Peter Wilson and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai‘i’s freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission’s current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

Accordingly, I respectfully urge the Committees to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327

Submitted on: 2/5/2024 12:40:23 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tarsis Rich	Individual	Support	Written Testimony Only

Comments:

Free the streams. Support SB3327.

SB-3327

Submitted on: 2/5/2024 12:46:52 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
jennifer valentine	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 1:00:13 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Vinayak	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Vinayak and I STRONGLY SUPPORT SB3327, to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including affordable housing, promptly.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep-pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who the Governor also appoints, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its executive director, and retain its legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions and a performance review process to ensure an objective, apolitical basis for staff employment decisions would allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Dr. Vinayak

SB-3327

Submitted on: 2/5/2024 1:04:00 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Antoinette Freitas	Individual	Support	Written Testimony Only

Comments:

Dear Senators,

I am in support of SB 3327. For too long powerful private and public entities have had political influence with Hawai'i's freshwater resources. The interests of private water purveyors, real estate speculators, and the US military dictate water policy behind the scenes. That is why many of our streams run dry, kalo farmers struggle, wildfires are rampant, and jet fuel lingers in the water. But today we have an opportunity to get the politics out of our water policy by supporting SB3327 that separates the Water Commission from the Department of Land and Natural Resources oversight and influence, converts CWRM deputy into an Executive Director that reports directly to the commission, no longer allows the BLNR Chair from Chairing the CWRM, improves water code compliance with increased fines, and authorize CWRM to declare emergencies within its scope of responsibilities.

Ola i ka wai!

Antoinette Freitas

SB-3327

Submitted on: 2/5/2024 1:11:22 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Isis Usborne	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and members of the committees,

I am a law student at William S. Richardson School of Law and I strongly support this bill to center the Commission on Water Resource Management on legitimate public trust issues. This vital commission should not be subject to the political whims of the state and its executives and associated agencies - instead, local people should have the biggest say in how their water is managed.

Mahalo nui,

- Isis Usborne

SB-3327

Submitted on: 2/5/2024 1:20:38 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Karyn Kanekoa	Individual	Support	Remotely Via Zoom

Comments:

I strongly support SB3327. Mahalo!

SB-3327

Submitted on: 2/5/2024 1:35:36 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Manu Akana	Individual	Support	Written Testimony Only

Comments:

Free the streams

SB-3327

Submitted on: 2/5/2024 1:50:37 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brandy Takiguchi	Individual	Support	Written Testimony Only

Comments:

I am in SUPPORT of SB3327.

Keep our most precious natural resources clean , safe, and out of politics.

By separating DLNR and the Water Commission, there can be more concentration on our fresh water and where it is going/how it is being used.

We need transparency in where the water from our streams is going, and how it is being used.

Instead of watering more golf courses, declaring a false drought so that RESIDENTS have to limit their water usage to give more to VISITORS, WASTING our most valuable resource, I would like to see MORE WATER IN THE STREAMS. I would like to see the return of freshwater flowing through every stream on this island, that flows down the mountains and into the ocean, following it's natural path.

I would like to see less corruption going on behind the scenes, more transparency, and proper management of our surface and groundwater - with priority to the FARMERS and RESIDENTS - all for the benefit of our community, and NOT for foreign business ideals and tourism.

PROTECT OUR WATER.

E OLA I KA WAI!!!!

SB-3327

Submitted on: 2/5/2024 1:52:41 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Harter	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Nancy Harter and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify. Nancy Harter*

Testimony instructions:

SB-3327

Submitted on: 2/5/2024 1:57:05 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cristina Bacchilega	Individual	Support	Written Testimony Only

Comments:

Ioha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Cristina Bacchilega and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

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*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 2:18:38 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shannon Maldonado	Individual	Support	Written Testimony Only

Comments:

I support bill 3327 SB to separate the water commission from the dept of land and natural resources

SB-3327

Submitted on: 2/5/2024 2:36:39 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carlos Lamas	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Carlos Lamas, a Lahaina resident. I stand firmly in support of SB3327. This Act reinforces the Commission on Water Resource Management's autonomy, shielding it from DLNR influence, and precludes the BLNR chair from concurrently chairing the CWRM, promoting unbiased oversight. By improving enforcement, converting the CWRM deputy to an Executive Director reporting directly to the commission, and enabling the CWRM to declare water emergencies, it empowers decisive action to safeguard our water resources. SB3327's passage is critical for ensuring our water is managed sustainably, reflecting the values of our community and the imperative to preserve our environment for the future.

Mahalo for reading my testimony in support of SB3327.

SB-3327

Submitted on: 2/5/2024 2:43:59 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michele Nihipali	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Michele Nihipali and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Thank you for your consideration,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

SB-3327

Submitted on: 2/5/2024 3:06:11 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Claud Sutcliffe	Individual	Support	Written Testimony Only

Comments:

Please pass SB3327.

Mni Wiconi/Water is Life!

Claud Sutcliffe, PhD

PO Box 143, Volcano, Hawai'i 96785

SB-3327

Submitted on: 2/5/2024 3:23:46 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leonard Nakoa III	Individual	Support	Remotely Via Zoom

Comments:

Brah I strongly support this bill. This is an avenue to get water right to da people of Hawaii

SB-3327

Submitted on: 2/5/2024 3:35:57 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zane Kekoa Schweitzer	Individual	Support	Written Testimony Only

Comments:

Aloha,

I believe that the CWRM should have full support for their ability and kuleana to Mālama our most primary natural resource being water.

It is also important to value our water and streams as they are natural barriers for fire, while keeping our ‘āina lush and giving our ocean ecosystem the important nutrients and benefits of fresh water.

Mahalo,

Zane Kekoa Schweitzer

SB-3327

Submitted on: 2/5/2024 3:53:25 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai‘i’s freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

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By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.

SB-3327

Submitted on: 2/5/2024 4:31:39 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mary True	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Mary True and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

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employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Mary True, Pepekeo, 96783

SB-3327

Submitted on: 2/5/2024 4:41:06 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lauren Palakiko	Individual	Support	Written Testimony Only

Comments:

Aloha e Chair Wakai and Members of the Committee on Public Safety and Intergovernmental and Military Affairs, and Chair Inouye and Members of the Committee on Water and Land,

My name is Lauren Palakiko and I am privileged to live in Kaua‘ula Valley on ‘āina kuleana. My husband is a kalo farmer and our entire ‘ohana has been deeply engaged in the battle over wai in Maui Komohana and Kaua‘ula Valley in particular. Mahalo for this opportunity to testify today in strong support of SB3327.

The events of the last six months have made it clear that politics is poisoning our water. Last August, when fires ripped through Maui Komohana and devoured Lahaina, the Governor’s first response was to suspend the Water Code, stripping away hard-won constitutional protections with the stroke of a pen. Then, the governor-appointed chair of BLNR removed CWRM’s deputy director without cause, leaving the Commission leaderless and impotent so that large private interests could tighten their grasp on our wai in Kaua‘ula in particular. Even after our ‘ohana and community stood up to get the Code reinstated and made our voices heard, CWRM has taken no action on our water use permit applications, meanwhile, the IIFS for Kaua‘ula Stream continues to be violated while other streams across Maui Komohana run dry.

When major landowners and private developers such as West Maui Land Company pick up the phone or send a letter, their demands are met overnight. Yet when our community and supporters from across ka pae ‘āina turn out in the hundreds to demand that CWRM fulfill its kuleana as ke kahuwai pono, the Commission drags its feet and refuses to act. This is hewa. SB3327 provides this legislature with an opportunity to liberate CWRM from DLNR and to get the politics out of our water policy. Under this bill, CWRM’s Executive Director would be insulated from corruption and political pressure, and empowered to deliver on the Commission’s constitutional and statutory obligations to protect and manage our wai for the benefit of all Hawai‘i’s people.

For too long, private purveyors have been allowed to illegally divert and hoard water with impunity. There is no better example of this than in Maui Komohana where private companies continue to control over 75% of our water. Their boundless greed has depleted our streams and endangered public safety. A \$5,000 fine, the current maximum allowed under the Water Code, is nothing more than a slap on the wrist to developers like West Maui Land Company who have made millions by exploiting a public trust resource when those with priority rights, such as other kuleana stewards in Kaua‘ula, lack water for basic household needs such as bathing their babies. I myself have had to bathe my son in a bucket when our water was cut off. Importantly, many ‘āina kuleana in Kaua‘ula rely on the stream for our domestic water needs. Higher fines are what is necessary to deter repeated violations. SB3327 will improve compliance with the Water Code by enabling CWRM to impose meaningful fines and penalties, especially for repeat offenders.

The reality is that we are living in a climate crisis. Extreme weather events are becoming more frequent each year, and the perpetuation of plantation water politics is only making our communities more vulnerable to disasters. Our hurt is not over. We need proactive solutions and a Commission that is empowered to take timely action in times of emergency. We ask that this legislature please vote today in support of SB3327. We have waited too long already. We implore you to take this necessary stand to protect our wai and to support our community so that we can actually focus on recovery.

Mahalo and ola i ka wai!

Lauren & Charlie Palakiko

SB-3327

Submitted on: 2/5/2024 5:02:49 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Uilani Naipo	Individual	Support	Written Testimony Only

Comments:

I strongly support this measure.

- U'ilani Naipo

SB-3327

Submitted on: 2/5/2024 5:11:26 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michelei Tancayo	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Michelei Tancayo and I STRONGLY SUPPORT SB3327,

And I strongly support this beautifully written statement which I wholeheartedly agree with. "SB3327, enables the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff

employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution."

Mahalo.

SB-3327

Submitted on: 2/5/2024 5:19:27 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Craig Tanaka	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Craig Tanaka and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 5:43:26 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
brandi corpuz	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support SB3327 to allow the water Commission to hold code violators accountable, take emergency and timely action during water shortages or other unforeseen events and to protect against the influence of politically connected corporate interest.

Our water has been abused and misused for far too long now. Its bad enough that individuals or corporations are allowed to own parts of our water supply but they also use and misuse our water with very little consequences for their actions.

This bill will help to stop the misuse of our water by holding people accountable. It may also stop the water wars that we have been seeing in recent years. I would like to see something in the future that prevents corporations and individuals from owning any part of our water supply but until then this bill is a step in the right direction.

Sincerely, Brandi Corpuz

SB-3327

Submitted on: 2/5/2024 6:38:45 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Arnold Kotler	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Arnold Kotler and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai‘i’s freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission’s current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

Accordingly, I respectfully urge the Committees to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327

Submitted on: 2/5/2024 6:49:53 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rhonda	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs and Committee Members,

I am in support of SB3327.

SB3327 will try to minimize the political influences on our Water Commission. It will enable the Commissioners and their staff to focus on the resources and do their jobs instead of playing politics.

Please pass SB3327.

Mahalo,

R.Vincent

SB-3327

Submitted on: 2/5/2024 7:27:59 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Free the water commission to hold water code violators accountable with meaningful fines, etc...

SB-3327

Submitted on: 2/5/2024 7:38:49 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mapuana Lukela	Individual	Support	Written Testimony Only

Comments:

My name is Pauline Mapuana Lukela, I live in the Waianae area; and I stand in **strong support** of SB 3327.

SB-3327

Submitted on: 2/5/2024 7:45:27 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica dos Santos	Individual	Support	Written Testimony Only

Comments:

Aloha Legislators,

My name is Jessica dos Santos, and I'm a concerned citizen deeply worried about the future of our islands' water resources. Like many of you, I believe water is not just a commodity, but a sacred trust we hold for future generations.

Recent events, particularly in Maui Komohana, have raised serious concerns about the potential for conflicting interests to influence water management decisions. While I understand the challenges of balancing diverse needs, I worry that the current system may not be adequately equipped to prioritize the long-term health of our water resources and the communities they sustain.

That's why I strongly urge you to pass SB3327. This bill offers a thoughtful step towards ensuring more transparent and effective water management by separating the Water Commission from the Department of Land and Natural Resources. This separation could help minimize potential conflicts of interest and streamline decision-making processes, ultimately leading to better outcomes for all stakeholders.

I don't believe anyone here wants to see our streams run dry, kalo farmers struggle, or communities face water insecurity. By providing the Water Commission with greater autonomy and resources, SB3327 can help ensure they have the tools needed to uphold the Public Trust Doctrine and manage our water resources fairly and sustainably.

This isn't a partisan issue; it's about protecting a resource vital to our way of life and our future. I urge you to carefully consider the potential benefits of SB3327 and, for the sake of our islands and their people, vote in favor of this important legislation.

Mahalo nui loa for your time and consideration.

Jessica dos Santos

SB-3327

Submitted on: 2/5/2024 8:02:02 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kayo Malik	Individual	Support	Written Testimony Only

Comments:

I support this bill, because water policies should be free from the corrupting influences of money and politics. It is necessary to separate Water Commission from the Department of Land and Natural Resources, so that freshwater resources will be shared more equitably.

For too long, water policy has been dictated by the interests of private water purveyors, real estate speculators and the US military, causing many of our streams to run dry, farmers to struggle and wildfires to run rampant. It's time to get the politics out of our water policy!

SB-3327

Submitted on: 2/5/2024 8:26:36 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chani Goering	Individual	Support	Written Testimony Only

Comments:

There is only one way to ensure the current domination and misuse of water resources by private corporations is stopped is to remove the management of said resources from the corrupt intuitions which have allowed this grossly imbalanced use of water to happen in the first place.

These islands are at risk of not being able to sustain life in the coming generation due to extraction for profit of a limited resource that the people have trusted the DLNR to manage. Unfortunately, it's succumbed to back door deals and private interests that are in direct contradiction to water in the State of Hawaii as a public trust.

Vote to put the water management into the hands of the publicly managed and overseen water commission.

SB-3327

Submitted on: 2/5/2024 9:46:56 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Machelle Forshee	Individual	Support	Written Testimony Only

Comments:

I support the passing of this bill.

Aloha e Chair Wakai and Members of the Committee on Public Safety and Intergovernmental and Military Affairs, and Chair Inouye and Members of the Committee on Water and Land,

My name is Charlie Palakiko and I am privileged to live in Kaua'ula Valley on 'āina kuleana. I am a kalo farmer and our entire 'ohana has been deeply engaged in the battle over wai in Maui Komohana and Kaua'ula Valley in particular. Mahalo for this opportunity to testify today in strong support of SB3327.

The events of the last six months have made it clear that politics is poisoning our water. Last August, when fires ripped through Maui Komohana and devoured Lahaina, the Governor's first response was to suspend the

Water Code, stripping away hard-won constitutional protections with the stroke of a pen. Then, the governor-appointed chair of BLNR removed CWRM's deputy director without cause, leaving the Commission leaderless and impotent so that large private interests could tighten their grasp on our wai in Kaua'ula in particular. Even after our 'ohana and community stood up to get the Code reinstated and made our voices heard, CWRM has taken no action on our water use permit applications, meanwhile, the IIFS for Kaua'ula Stream continues to be violated while other streams across Maui Komohana run dry.

When major landowners and private developers such as West Maui Land Company pick up the phone or send a letter, their demands are met overnight. Yet when our community and supporters from across ka pae 'āina turn out in the hundreds to

demand that CWRM fulfill its kuleana as ke kahuwai pono, the Commission drags its feet and refuses to act. This is hewa. SB3327 provides this legislature with an opportunity to liberate CWRM from DLNR and to get the politics out of our water policy. Under this bill, CWRM's Executive Director would be insulated from corruption and political pressure, and empowered to deliver on the Commission's constitutional and statutory obligations to protect and manage our wai for the benefit of all Hawai'i's people.

For too long, private purveyors have been allowed to illegally divert and hoard water with impunity. There is no better example of this than in Maui Komohana where private companies continue to control over 75% of our water. Their boundless greed has depleted our streams and endangered public safety. A \$5,000 fine, the current maximum

allowed under the Water Code, is nothing more than a slap on the wrist to developers like West Maui Land Company who have made millions by exploiting a public trust resource when those with priority rights, such as other kuleana stewards in Kaua'ula, lack water for basic household needs such as bathing their babies. I myself have had to bathe my son in a bucket when our water was cut off. Importantly, many 'āina kuleana in Kaua'ula rely on the stream for our domestic water needs. Higher fines are what is necessary to deter repeated violations. SB3327 will improve compliance with the Water Code by enabling CWRM to impose meaningful fines and penalties, especially for repeat offenders.

The reality is that we are living in a climate crisis. Extreme weather events are becoming more frequent each year, and the

perpetuation of plantation water politics is only making our communities more vulnerable to disasters. Our hurt is not over. We need proactive solutions and a Commission that is empowered to take timely action in times of emergency. We ask that this legislature please vote today in support of SB3327. We have waited too long already. We implore you to take this necessary stand to protect our wai and to support our community so that we can actually focus on recovery.

Mahalo and ola i ka wai!

Charlie & Lauren Palakiko

SB-3327

Submitted on: 2/5/2024 9:51:02 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Barbara Barry	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Barbara Barry from Maui and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure.
Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/5/2024 9:59:37 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tamara C Griffiths	Individual	Support	Written Testimony Only

Comments:

I support this bill. Keep the wai/water in separate trust and available. Water is a human right.

Respectfully,

Tamara Griffiths

SB-3327

Submitted on: 2/5/2024 10:23:01 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sierra Dew	Individual	Support	Written Testimony Only

Comments:

To Honorable Members of the Committee,

*I am writing to **support SB3327** which gives CWRM the independence necessary to protect, develop, and control in a manner consistent with the commission's constitutional and statutory purposes. Importantly, it will help CWRM carry out their duty to protect this public resource for public benefit.*

Mahalo,

Sierra Dew

VIA ELECTRONIC DELIVERY

February 5, 2024

Senate Committees on Public Safety and Intergovernmental and Military Affairs; and Water and Land

Hearing: February 7, 2024, 3:00 PM
State Capitol Conference Room 225

Re: Testimony in Strong Support of SB3327: Relating to the Commission on Water Resource Management

Aloha mai e Chairs Wakai a me Inouye, a me nā Members o ka Senate Committees on Public Safety and Intergovernmental and Military Affairs; and Water and Land,

My name is Karyn Kanekoa and I am a kupa of Honokōhau. I am also the kahu of Pūnana Leo o Lahaina, which, as many of you know, we lost in the fire. I also serve on several community boards all dedicated to the betterment of this ‘āina and its natural resources. Our ‘ohana also cultivates lo‘i kalo and stewards the ‘āina that continues to sustain us in Honokōhau. I mention all of these things not to uplift myself as an individual, but to illustrate that our community is filled with experts about this place and its resources. This is our home. Please work with us to restore our ‘āina and wai. The introduction of SB3327 and now this hearing, are both steps in the right direction. Mahalo for scheduling this important matter and for welcoming our mana‘o.

I write to you in strong support of SB3327 and ask that you pass it out of your committees today. I also ask you to “e ho‘i ka nani,” or return the glory to Maui Komohana! This bill would prioritize us, the kama‘āina and working class, who have generational ties to this place, over private purveyors. We are at a critical juncture in our history where you have the choice to chart a better path for our ‘āina and wai, or to continue to uphold the injustices that have been cemented in our streambeds.

E ho‘i ka nani means fundamentally re-examining the way wai has been managed in Maui Komohana for decades or even a century. It means restoring wai to our streams across Maui Komohana and holding large developers and water purveyors accountable for what they do. Too often, the kuleana to police these foreign entities falls upon us, the community. We have been fighting and advocating for pono use of wai for years. Take Honokōhau, for example. I am deeply concerned about Honokōhau Stream. Maui Land and Pine (MLP) has failed to fulfill its kuleana to implement ditch upgrades as required by the Water Commission. To date, we are not aware of the completion of any of the upgrades that they are required to do. We have also documented MLP illegally dumping unused Honokōhau wai without repercussions. Time and

time again, these private companies fail to do what the law and the Water Commission require. And then our community has to go back to the Commission to watchdog ongoing issues.

Separating the Water Commission from BLNR would allow the Commission and its staff to focus on executing its mission and purpose without being micromanaged by BLNR's Chair, a political appointee. The increase in fines and penalties would also put a rest to the rigamarole that has failed to deter violators like those in Honokōhau from abusing water that our 'ohana and others depend on to drink, shower, and grow our kalo.

Finally, this bill would prioritize the review of water use permit applications for public trust purposes. This is especially important for me as my 'ohana has a pending application before the Commission. Our community and our 'ohana worked so hard to complete the permitting process as outlined by the Commission. Our uses are constitutionally protected. We have waited many years for the day our water is no longer at the whim of private purveyors. Allowing the permits of the kupa to be heard first is the pono path, especially because we are not represented by private attorneys and cannot afford to be dragged into a protracted contested case hearing, which we understand happened to permit applicants like us in Nā Wai 'Ehā.

I want to thank Senator Inouye for introducing this bill. It feels like we are finally being heard and we are on the cusp of a meaningful and positive change to better manage our wai.

I urge you to pass SB3327. Mahalo for this opportunity to share.

Me ka ha'aha'a,

Karyn Kanekoa

SB-3327

Submitted on: 2/5/2024 10:35:53 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kapulei Flores	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am writing in support of SB3327 that will give CWRM the independence necessary to protect and manage water in a manner consistent with the commissions consitutional and statutory purposes. This will also allow CWRM to declare emergencies in terms of water. Throughout these past few years we have seen what can happen when a water source is destroyed and we must do all we can to protect the waters that we still have.

Mahalo

SB-3327

Submitted on: 2/5/2024 10:44:55 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kimeona Kane	Individual	Support	Written Testimony Only

Comments:

Aloha,

Kimeona Kane of Waimānalo in strong support of this effort. I recognize fully how critical the conversations around wai are to us here in Hawai‘i. As a native hawaiian, I recognize the challenges that have been created through various paths in terms of regulating the wai in our communities and while I believe we are far from perfect, this effort can aid us in the direction needed to put wai at the forefront of our minds, as it should be. I look forward to a day when water resource management will be fully realized in support of culture and Hawai‘i.

Mahalo nui,

Kimeona Kane

SB-3327

Submitted on: 2/6/2024 12:37:59 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I urge the Committees to **PASS** this measure.

SB-3327

Submitted on: 2/6/2024 1:13:15 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
bronson ikaika bajo	Individual	Support	Written Testimony Only

Comments:

Water is LIFE. We need our rivers to flow, and we need our wetlands to be wet! These are natural and protective barriers for problems like wild fires. The returning of the waters can only be accomplished if we the people have better control over the water rights rather than military, corporate or foreign affairs involved in our water. The water is a vested right of our people of Hawai'i; and not for corporate gain.

I am in support in BILL SB3327 regarding water rights.

Mahalo,

Bronson Bajo

SB-3327

Submitted on: 2/6/2024 9:02:09 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheyenne kalama	Individual	Support	Written Testimony Only

Comments:

I Cheyenne kalama fully support sb3327.

mahalo

SB-3327

Submitted on: 2/6/2024 9:09:01 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello Chairs Inouye and Wakai and Honorable Committee Members,

I'm writing in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

I unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director.

SB 3327 very importantly disentangles CWRM from the BLNR so that it is no longer subject to the control of the chairperson of BLNR with regard to any of its functions, duties, and powers. This bill also provides CWRM with the true independence it was intended to have when it was established. This independence is necessary to oversee water management in a manner consistent with the Commission's constitutional and statutory purposes.

Furthermore the increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers. This is particularly

critical in communities such as west Maui where water resources are already severely constrained.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date. Contested case hearings can provide a check on potential abuses of this important authority.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

me ke aloha 'āina,

Nanea Lo, Mō'ili'ili, O'ahu

SB-3327

Submitted on: 2/6/2024 9:09:58 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dr. Cullen Hayashida	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Cullen Hayashida of the Moanalua Gardens Community. I am writing to STRONGLY SUPPORT SB3327 in order to enable the Water Commission to hold water code violators accountable, take timely, emergency action during water shortages, and allow Commission staff to implement the state Water Code without fear of political retribution. What happened with the Red Hill Fiasco was an inexcusable example of what happens when our water is poisoned and when it takes great effort to rectify the situation. It is ironic that they represent the Department of Defense.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools.

1. It would allow the Water Commission to take emergency action in the event of a water shortage and prioritize the most pressing public needs without undergoing a months- or possibly years-long process as currently required under statute.

2. It would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the Commission's and its staff's work. By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions and a performance review process to ensure an objective, apolitical basis for staff employment decisions would allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Cullen T. Hayashida

Moanalua Gardens Community

SB-3327

Submitted on: 2/6/2024 9:28:58 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lela Kalama	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Lela Kalama and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/6/2024 9:34:02 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Linda Lyerly	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution. It would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/6/2024 10:03:27 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rosalina Maders	Individual	Support	Written Testimony Only

Comments:

Aloha

I am in support of SB 3327. Our ohana's lo'i Kalo depend on these streams and have seen significant low flow in our auwai. Our lo'i sustains us and we need streams to flow into the Waikapu, Wailuku, Waiehu and Waihee districts.

Mahalo

SB-3327

Submitted on: 2/6/2024 10:19:25 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kaiea Medeiros	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I'm writing in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director.

SB 3327 very importantly disentangles CWRM from the BLNR so that it is no longer subject to the control of the chairperson of BLNR with regard to any of its functions, duties, and powers. This bill also provides CWRM with the true independence it was intended to have when it was established. This independence is necessary to oversee water management in a manner consistent with the Commission's constitutional and statutory purposes.

Furthermore the increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers. This is particularly critical in communities such as west Maui where water resources are already severely constrained.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date. Contested case hearings can provide a check on potential abuses of this important authority.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

SB-3327

Submitted on: 2/6/2024 10:43:53 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nathan Leo Braulick	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees:

My name is Nathan Leo Braulick and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai‘i’s freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission’s current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Nathan Leo Braulick

2333 Kapi 'olani Blvd

Honolulu, HI 96826

SB-3327

Submitted on: 2/6/2024 10:56:56 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sophia Daniel	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Wakai and Inouye along with Honorable Comittee Members,

Hope all is well and thank you for taking the time to consider this bill. I am Sophia Daniel, a student at the University of Hawai'i at Mānoa. I testify strongly today in support of SB3327. This bill will allow the implementation of crucial recommendations that can minimize political impacts on our Water Commission. In June of 2022, Mau'i Komohana was designated for ground and surface water management areas and applications were submitted to further prioritize water rights on August 7, 2023, the day before wildfires devastated Lāhainā and Kūla. Not long after the horrible tragedy, the Governor suspended the water code and reassigned Deputy Director Manuel, which resulted in an increase of depletion in freshwater, drying up reservoirs and streams.

Please consider passing SB3327, as homes, communities, and Hawai'i needs to thrive for future generations to come. We must enact essential management and enforcement strategies now!

Mahalo nui loa,

Sophia

SB-3327

Submitted on: 2/6/2024 11:33:58 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Holden Takahashi	Individual	Support	Remotely Via Zoom

Comments:

February 6, 2024

**Senate Committees on Public Safety and Intergovernmental and Military Affairs;
and Water and Land**

Hearing: February 7, 2024, 3:00 PM and Zoom

State Capitol Conference Room 225

Re: Testimony in Strong Support of SB3327: Relating to the Commission on Water Resource Management

Aloha mai e Chairs Wakai a me Inouye, a me nā Members o ka Senate Committees on Public Safety and Intergovernmental and Military Affairs; and Water and Land,

My name is Kalama‘ehu Takahashi and I am a kupa of Maui and Lahaina and Kā‘anapali Moku is my home. I am also an advocate and supporter of Ke Kula Kaiapuni o Lahaina and a parent with aloha for this ‘āina. I testify today in strong support of SB3327 to demand a future that puts the needs of kama‘āina, our ‘āina, and our resources first, above politics, private developers, purveyors, and resorts. This bill is a crucial first step in giving the Commission on Water Resource Management the independence they need to effectively administer the Water Code.

Maui Komohana has been ravaged by the effects of colonization for over a century. Sugar plantations, and more recently, tourism, luxury developments, and private utility corporations continue to abuse and steal our resources for economic gain. Tourists have flocked to Maui Komohana to enjoy a vacation while so many ‘ohana and our friends are still struggling to keep a roof over their heads and grieve what was lost. In the aftermath of the fires, we watched plantation disaster capitalism try to double down on its stronghold. Private corporations continue to give us the runaround and get away with it while we are just trying to do what our ancestors have done since time immemorial. Enough is enough! With the climate calamity upon us, and with the stakes higher than ever, it is time to put the needs of our ‘āina above the status quo and privateers who have personally benefited for far too long. We need our Water Commission to take bold action to prioritize our resources. This bill would give them the power to do that. It would shield them from the chaos of politics and significantly improve the implementation of Hawai‘i’s Water Code. We need this now!

Our State Water Commission has the power to create a safe and abundant future for our Maui Komohana communities – beyond colonial barriers that have disenfranchised ‘ohana and desolated our ‘āina for decades. The kalo farmers, working-class kama‘āina, and kupa are key to realizing this abundant future. The disproportionate amount of control of private purveyors have on a public trust resource is unsustainable, extractive, and highly inequitable for ‘ohana, the greatest stakeholders, and our resources.

We will continue to fight for the right to mālama our own ‘āina and resources and to do what is pono. Please do what is pono and pass SB3327 out of your committees today.

E ola i ka wai!

Kalama‘ehu Takahashi

VIA ELECTRONIC DELIVERY

February 6, 2024

Senate Committees on Public Safety and Intergovernmental and Military Affairs; and
Water and Land

Hearing: February 7, 2024, 3:00 PM and Zoom
State Capitol Conference Room 225

**Re: Testimony in Strong Support of SB3327: Relating to the Commission on Water
Resource Management**

Aloha mai e Chairs Wakai a me Inouye, a me nā Members o ka Senate Committees on Public
Safety and Intergovernmental and Military Affairs; and Water and Land,

My name is Kanoelani Steward and I am a kupa of Lahaina. Mahalo for the opportunity to testify
in strong support of SB3327. I am committed to the future of this ‘āina and its resources and
have appeared before the Commission on Water Resource Management for a number of years
advocating for pono water management in Maui Komohana.

My master’s thesis focused on wai in Maui Komohana paying attention to its place within the
history of water in Hawai‘i and the sugar plantation era in particular. I outlined historical
accounts from nūpepa that detailed Maui Komohana as an abundant ‘āina momona as well as
results suffered from the plantation era that continue to affect water usage and distribution today.
Because of that research, I am keenly aware of the consequences of these plantation systems and
the dire need to restructure the Water Commission to make much-needed progress – especially in
the wake of these fires. I strongly urge you to pass SB3327 out of your committees today.

Alongside various community groups, I have appeared before the Water Commission to restore
water to ‘āina and streams for the past few years. While we are grateful for the progress we have
made over the years in partnership with the Water Commission, it has also been discouraging to
witness private companies’ flagrant disregard of the Commission’s orders. In addition to
restoring our traditional and customary practices, we are also faced with having to monitor and
ensure compliance. This bill would be a step in the right direction and hold these companies
accountable through increased fines and penalties.

SB3327 would also prioritize public trust purposes in a meaningful way and separate the Water
Commission from politics. In the wake of the fires, our community spent so much time and
energy asking for transparency and for the Commission to uphold pono. We watched them battle
one another and unnamed forces. In a time when we should have been focusing on our families
and town, it was exhausting. And, there’s no guarantee that it won’t happen again. The

Commission needs to be able to do its job independently of any political chaos or powers that arise. The Water Commission, with kuleana over our most precious resources, *needs* to be independent to prioritize wai.

This bill has the potential to bring the law to life at a crucial point in our history and when Lahaina needs this the most. This bill would allow the Commission to focus on achieving its constitutional and statutory purposes.

I ask that you please pass SB3327 today.

Me ka ha‘aha‘a,

Kanoelani Steward

SB-3327

Submitted on: 2/6/2024 12:41:44 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Arika Hultquist	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am in support of this bill because our Hawaiian community has a right to continue to be caretakers of the lands that originally belonged to them. Everyone has a right to water from natural streams so that our environment can flourish. Stealing water for golf courses and pools is wrong. Why are locals to conserve water continuously when the hotels and million dollar homes with pools are not being fined for using too much water? This is wrong. Please do the right thing for our farmers and kuleana land owners.

SB-3327

Submitted on: 2/6/2024 12:58:17 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rhiannon Tereari'i Chandler-'Iao	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Wakai and Inouye and Honorable Committee Members,

My name is Tereari'i Chandler-'Īao, and I live in Kula, where I relocated after the Lahaina fire. I am testifying today in strong support of SB3327.

SB3327 is urgently needed to assist the Hawai'i Water Commission in its important work. Following the Commission's unanimous designation of Maui Komohana as ground and surface water management areas, community members on Maui worked hard for almost a year, investing significant amounts of time preparing and submitting water use permit applications with the hope that their water resources would be protected. Those applications were submitted on August 7, 2023, the day before the Lahaina fire. While we mourned our losses and struggled to recover in the aftermath of the fire, diverters with political support filled their pools and reservoirs and our streams ran dry.

The State's Water Commission cannot function with this kind of political interference. And we cannot focus on the work of restoring our communities if we are constantly spending time trying to get this Commission to 'auamo its kuleana and protect our most precious natural resource - water. This bill is necessary to provide the tools for proactive management and enforcement.

SB3327 would give life to recommendations made in the 1990s to improve the Water Commission's ability to operate and carry out the important work of water resources management without the threat of political influence or retaliation.

In this time of changing climate and unexpected and devastating challenges like the Lahaina fire, please help to ensure the most effective water management possible for Hawai'i and pass

SB3327 today. I am extremely grateful to your committee for this opportunity to share my support.

Mahalo,

R. Tereari'i Chandler-'Īao

SB-3327

Submitted on: 2/6/2024 3:04:00 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
tanya m naehu	Testifying for Hui o Kuapa	Support	Written Testimony Only

Comments:

Aloha,

I am in support of this bill.
mahalo

LATE

SB-3327

Submitted on: 2/6/2024 3:04:13 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Douglas	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

LATE

SB-3327

Submitted on: 2/6/2024 3:05:47 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stacey Alapai	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!
Stacey Alapai

Makawao, HI

LATE

SB-3327

Submitted on: 2/6/2024 3:05:51 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Judith A Mick	Individual	Support	Written Testimony Only

Comments:

This bill needs to be passed. The Waterr Commision must be protected. Mahalo

Judy Mick, Kailua

LATE

SB-3327

Submitted on: 2/6/2024 3:06:29 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Kuzmier	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration.

LATE

SB-3327

Submitted on: 2/6/2024 3:11:42 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
louise drayer	Individual	Support	Written Testimony Only

Comments:

autonomy is important for all entities that decide things for the public... it's LONG overdue that fines and other penalties are ENFORCED for all violators - water offenders being one of the most prolific.... here on Maui Launiupoko Irrigation Company is legend for it's disregard of legal actions and fines ... sadly they get away with it :(

LATE

SB-3327

Submitted on: 2/6/2024 3:11:46 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruta Jordans	Individual	Support	Written Testimony Only

Comments:

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

LATE

SB-3327

Submitted on: 2/6/2024 3:14:23 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary drayer	Individual	Support	Written Testimony Only

Comments:

please Free the Water Commission from the influence of those violators who avoid fines and penalties with bullying tactics and lies... Maui suffers from Launiupoko Irrigation Company owner Peter Martin..... and also Wailuku Water company and Avery Chumbley --- i don't understand how they OWN the water ???

LATE

SB-3327

Submitted on: 2/6/2024 3:24:30 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Dinner	Individual	Support	Written Testimony Only

Comments:

The use and misuse of our water seems a constat iirritation to our system and a dreadful strain on our already badly abused environment, not to mention the unfairness to those who need but are not receiving their share. This bill will help rein thid ageless issue. Please vote yes.

LATE

SB-3327

Submitted on: 2/6/2024 3:25:51 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha, allow the Water Commission to hold water code violators accountable with meaningful fines, and take emergency and timely action during water shortages caused by prolonged droughts, aquifer contamination, rising chloride levels, or other unforeseen events. Moreover, it would protect Water Commission members and staff from the influence of opportunistic and politically connected corporate interests, allowing them to implement the state Water Code in the public's interest, and without fear of political retribution.

**Senate Committee on Public Safety and Intergovernmental and Military Affairs;
and
Senate Committee on Water and Land Hearing**

February 7, 2024, 3:00 PM, Room 225

Strong Support for SB3327: Relating to the Water Commission

Aloha Chairs Wakai and Inouye and Committee Members,

My name is Kaiakahinali'i Ka'ōpua-Canonigo, and I live in Mānoa. I'm testifying today in **strong support of SB3327**.

SB3327 will finally implement decades-long recommendations to try to minimize the political influences on our Water Commission. It will also enable the Commissioners and their staff to focus on the resources and do their jobs instead of playing politics.

In June 2022, Hawai'i's Water Commission unanimously designated Maui Komohana as ground and surface water management areas. In good faith, many of us on Maui invested the better part of a year putting together water use permit applications with the hope that our water rights would finally be recognized. We submitted those applications on August 7, 2023, a day before the wildfires ravaged Lahaina. While we grieved and struggled to recover, the Governor suspended the Water Code and Chair Chang "reassigned" Deputy Director Manuel. Chaos ensued as diverters filled their pools and reservoirs and our streams ran dry. An investigation was undertaken and Deputy Manuel was reinstated, although he later resigned without explanation.

Our Water Commission cannot function with this kind of politicking. And we cannot focus on rebuilding our homes and communities if we are constantly trying to get this Commission to do its job; or, its chair to let the staff do their jobs. This bill is unfortunately necessary to both minimize the Governor's political influence, and to provide other tools for proactive management and enforcement. For example, increasing potential fines will help to encourage compliance and the shortage provisions will be useful in the event of an emergency.

Please help us get our water management back on track and pass SB3327 today.

Ola i ka wai!

Na'u nō me ka ha'aha'a,

Kaiakahinali'i Ka'ōpua-Canonigo

Senate Committee on Public Safety and Intergovernmental and Military Affairs

Senate Committee on Water and Land

Hearing: February 7, 2024, 3:00PM

Conference Room 225

Strong Support for SB 3327: Relating to the Water Commission

Aloha Chairs Wakai and Inouye and Committee Members:

I'm Ke'eaumoku Kapu, a kupa of Kaua'ula and a kia'i and kahu of Moku'ula and Mokuhinia. As you all know, wai is one of our most important resources. Many of us have been working on this for generations, but I feel like the eyes of the world are now on Maui and have focused on water because of all the action that has gone down since the August 2023 fires. To be honest, most of it hasn't been good. In fact, it's pretty pilau. The Water Code was suspended, Deputy Director Manuel was "redeployed," and water was taken from Kaua'ula Stream not to fight fires, but to fill swimming pools. No can this kine. We need to be able to count on our Water Commissioners to be pono. Their motto is: Ke Kahuwai Pono, and pono is the highest standard that we have as Kanaka.

I am testifying today in strong support of SB 3327. Because to be pono, the Water Commission needs kōkua, and this bill initiates some necessary changes. The political gamesmanship around our wai in Maui Komohana is hewa. It has forced our community and my 'ohana in particular to invest too much of our time and energy trying to get the Water Commission and Chair to do their jobs, instead of playing politics. Unfortunately, I have many examples – such as the failure to enforce the interim instream flow standard in Kaua'ula and allowing the reactivation of Pioneer Mill's skimming wells – that have undermined our faith that this Commission will be pono unless changes are made to its administrative structure. And we need the Water Commission to be pono because too much is at stake.

After the fires, Nā 'Aikāne o Maui filed a water use permit application for the restoration of Moku'ula Island and Loko o Mokuhinia. Words cannot explain how sacred and important these wahi pana are. They were the historic seat of power for our Hawaiian Kingdom, home of our revered mo'o Kihawahine, and where Maui's highest ranking ali'i were laid to rest. Like many of our sacred spaces they were drained dry when Pioneer Mill began taking water from area streams, including Kaua'ula, and pumping its skimming wells in particular. Today, Moku'ula and Mokuhinia are entombed by three feet of sediment and an abandoned baseball field within Malu'ulu o Lele Park.

Since long before the August 2023 fires, our community has struggled to restore Moku'ula, Mokuhinia, and this traditional 'auwai system. The Pioneer Mill skimming wells that dried Mokuhinia were recently reactivated by Wainee Land and Homes LLC. We objected at every stage of the skimming wells' reactivation process and since, but nothing was done by the Water

Commission's groundwater branch. For example, we lodged objections with the Water Commission when the pump test for the shaft occurred because we saw an immediate impact on the flow of Pahumanamana 'Auwai. No response. In all the time that we have had kuleana toward this 'āina, this 'auwai held the last visible remaining wai on the surface of what was once an area of significant fresh water abundance and cultural mana. This summer, it was totally dry, although some flow returned after the fires while the skimming well was shut down. My point here is that we need the Water Commission to uphold the law and protect and restore our sacred spaces, but politics keep getting in the way.

To be Kahuwai Pono, the Water Commission must revitalize the glory and mana of this wahi pana that was once the political, religious, and cultural center of Maui and our pae 'āina. This is just one example of the fundamental re-examination of water distribution that is necessary in Maui Komohana that will help to support the continued exercise or reemergence of cultural practices. It would also put Kānaka Maoli with lineal ties to this 'āina at the forefront of reconstruction, and establish a foundation of cultural and environmental values on which to build back Lahaina from the devastation of the fires. E ho'i ka nani i Moku'ula!

Those of us who have been appearing before the Water Commission for years and even generations are not confident that this will happen unless changes are made. **Please pass SB 3327 to begin that process of healing and restoration. E ho'i ka nani!**

Ke Aloha 'Āina,

Ke'eaumoku Kapu

SB-3327

Submitted on: 2/6/2024 1:33:32 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Avalon Paradea	Individual	Support	Written Testimony Only

Comments:

I am in full support of SB 3327, which provides a greater structure overall to strengthening our Water Commission. This entity is ideally led by individuals with learned knowledge regarding our water resources and infrastructure. Giving this body greater authority over our precious wai will only serve to benefit our public and our 'āina.

Mahalo for your time,

Avalon Paradea

SB-3327

Submitted on: 2/6/2024 1:33:38 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erik Meade	Individual	Support	Remotely Via Zoom

Comments:

Mahalo Senator Inouye for introducing and hearing this bill and offering proactive solutions for the DLNR Chair and the Governor's blatant politicking. It's gone too far, they have derailed the career of a public servant who had the trust of the people. I will not mention the unspeakable things that were being suggested online to be done to him. We need to fix this. I have only one point to make in support of SB3327 and that is: had this already been in place, it would not have been possible for Chair Chang to break the law as the Chair admitted to at least twice at the September 19, 2023 Water Commission Meeting.

The law I am referring to is HRS §26-35(a)(4) which I read at the meeting at timestamp 10:11:37. Here, the all the links I provide includes the timestamps so one doesn't have to search through the nearly 12 hour long recording:

<https://www.youtube.com/live/i7cDjJD9gp0?si=EqTq5xZeTEBSYz-D&t=36698>

For convience, I will also include the text of the Hawai'i Revised Statutes here:

HRS §26-35(a)(4) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the board or commission shall be determined by the board or commission subject to the approval of the head of the department and to applicable personnel laws;

About 18 minutes later at timestamp 10:29:24, Chair Chang admits that this was not at the approval of the commission.

<https://www.youtube.com/live/i7cDjJD9gp0?si=gnrb1mt2bRdr4A8j&t=37764> Chair Chang said, "... this is not the commission's decision this is mine."

Then just over 5 minutes later at timestamp 10:34:38 Chair Chang admits this was not subject to the approval of the commission

again. <https://www.youtube.com/live/i7cDjJD9gp0?si=1DalpMfU-mBRNvuM&t=38078> "The Commission, they do not share my decision. They do not support the decision... These commissioners they are not in unison with the decision that I made."

Instead of investigating Deputy Director Manual, they should have investigated what the Chair and Governor were up to.

Please vote yes on SB3327 to help prevent the possiblity of this law being broken.

Erik Meade

SB-3327

Submitted on: 2/6/2024 1:53:12 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kawaiuluhonua Scanlan	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Wakai, Vice Chair Elefante, and Members of the Committees,

My name is Kawai Scanlan and I am from Pālolo, O‘ahu. I am currently a student at the University of Hawai‘i at Mānoa William S. Richardson School of Law. I am writing in **strong support of SB 3327** as it will take the politics out of our water by separating DLNR from the Commission on Water Resource Management (“CWRM”), and allowing them to declare emergencies in areas that are experiencing water shortages that threaten the health and safety of the public.

While at Richardson, I have decided to pursue a certificate in Native Hawaiian Law. Much of my coursework has been focused on traditional and customary practices, the public trust doctrine, and more recently water law in Hawai‘i. I was lucky enough to work closely with the Maui Komohana community on water issues they faced, both before and since the fires. What the people of Lahaina have gone through, particularly in the last six months, is absolutely unacceptable. The political nonsense that this administration has dragged them through, while they needed time to focus on recovery, is cruel. If we have learned anything since the fires, it is that the way CWRM is organized now allows the Governor to use the Chair as his puppet to push his own political agenda. I urge this committee to **pass SB 3327** to put an end to the political games and actually kōkua Lahaina.

As the impacts of the climate crisis intensify, CWRM needs to have the ability to declare emergencies in all areas, not just those that are designated. Climate change is not going to wait for all of the State’s waters to be regulated. The Commission needs to be able to act now in declaring water shortages and addressing the effects of climate change so that what happened in Lahaina doesn’t happen anywhere else. This bill will allow them to make the necessary decisions to restore stream flow and allocate water to areas that are facing droughts in order to prevent any more catastrophic fires.

The climate crisis is here and happening now. We need your help to ensure that CWRM can uphold their constitutional duty to take care of our waters, without interference by a power-hungry, pro-development Governor. Please **support SB 3327** so CWRM can do its job as kahuwai pono.

Mahalo for the opportunity to testify.

Aloha Chair Wakai and Members of the Committee on Public Safety and Intergovernmental and Military Affairs, and Chair Inouye and Members of the Committee on Water and Land. **Mahalo for the opportunity to testify today in strong support of SB3327, relating to the commission of water resource management.**

I am a third-year law student at the William S. Richardson School of Law. I STRONGLY SUPPORT the enforcement of higher fines against violators of our State's Water Code.

The Water Commission's authority to impose fines on violators is one of its most important enforcement mechanisms. When fines are too low, they lose their "teeth," or ability to deter bad actors from violating the law. This is especially dangerous when the benefit of violations outweighs the costs.

As it stands now, \$5000 fines have not dissuaded wealthy and powerful interests from trampling on the public's water rights. Instead, business owners and water hoarders have continued to treat these nominal fines as easily absorbed business expenses. Because the cost of a violation is only \$5000, and the benefits of violations promise tremendous capital gains off of the backs of the State's everyday, hard working constituents, it is crucial that this bill pass to ensure bad actors have less incentive to continue to exploit and hoard wai in Hawai'i.

As we all know, so much of Hawai'i's water resources have been destroyed by those who do not respect the law – from Red Hill to West Maui and beyond. In Maui Komohana, diversions and overpumping transformed what was historically a lush wetland into a parched desert. Community members fought tooth and nail to have the region designated as a Water Management Area in 2022. As a result, these same community members embarked on a difficult and extended permitting process. Why would an exhausted, depleted community willingly bring

this permitting process upon itself? It is because this permitting process offered the possibility of finally regulating wealthy plantation capitalists who refused to play by the rules.

Wai is a public trust resource—for Kanaka Maoli, *ola i ka wai*, water is life. A \$5000 price tag on this resource, that has the power to bring life or death to our communities and environment, is unconscionable. It is crucial that more severe fines be brought against any party who violates the Water Code, for the protection of the resource, the environment, the public, and our future.

For these reasons, I strongly support SB3327 and the imposition of higher fines for Water Code violators. Please pass this bill today.

Aloha Chair Wakai and Members of the Committee on Public Safety and Intergovernmental and Military Affairs, and Chair Inouye and Members of the Committee on Water and Land.

Mahalo nui for this opportunity to testify in **strong support** of SB3327, Relating to the Commission on Water Resource Management (CWRM). My name is Elena Chang, and I am a law student at the William S. Richardson School of Law. This is my last semester in law school and I often contemplate what it means to be a Richardson graduate. By far, the most important thing I have learned so far is that the essence of everything Chief Justice Richardson did, as a lawyer and a leader, came down to thinking of the little guy downstream.

A few of my classmates and I had the opportunity to do this last summer. We got to see HRS § 174C, Hawai'i's Water Code, in action on the ground as we provided legal support to kupa of Maui Komohana, many of whom live downstream of plantation legacy diverters. Many advocated tirelessly for designation of the Lahaina aquifer in 2022, despite the burden they knew it would place on them as water use permit applicants. Their applications were submitted the day before the fires ripped through Lahaina. It has been extremely concerning to see how, in the wake of disaster, the Lahaina community has been put on the backburner as politics continue to paralyze CWRM, preventing it from taking timely action or imposing any meaningful penalties on entities that repeatedly violate the Water Code.

SB3327 will provide CWRM with the independence it was intended to have when the Constitution was amended in 1978 and the Water Code was passed by this legislature in 1987. Separating CWRM from DLNR is a necessary first step to address diminishing water supplies across the pae 'āina. SB3327 would enable the executive director to proactively focus on fulfilling CWRM's public trust kuleana to present and future generations. These recommendations to improve the Water Code are long overdue.

“Whatever we do, there is someone downstream who will bear the consequences.” I urge the Committees to think of the little guy downstream. **Please vote today to support SB3327.** E OLA I KA WAI!

SB-3327

Submitted on: 2/6/2024 2:51:21 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lorraine Waianuhea	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Lorraine Waianuhea and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327

Submitted on: 2/6/2024 2:51:52 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nani	Individual	Support	Written Testimony Only

Comments:

Subject: Testimony in SUPPORT of SB3327

To: Senator Lorraine R. Inouye, Chair Senator Brandon J.C. Elefante, Vice Chair

Re:3327 SB RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

I am testifying on behalf of support of this bill. This might help the struggles of our Kama'aina who appreciate this vital resources of our lands. We need to find ways to separate out from the state and its profitability mentality and the corruption of accommodating developers instead of the livelihood of our people.

Sincerely,

Nani Be

SB-3327

Submitted on: 2/6/2024 2:59:11 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sven Sorge	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

SB-3327

Submitted on: 2/6/2024 3:00:26 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mira Gurung	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

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It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

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Mahalo for your consideration. Ola i ka wai!

Kencho Gurung, Kapa'au, Hawai'i Island

LATE

SB-3327

Submitted on: 2/6/2024 3:37:14 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alyssandra	Individual	Support	Written Testimony Only

Comments:

Empower CWRM to deal expeditiously with water emergencies and water code violators, and allow staff to focus on implementing the Water Code and public trust doctrine without fear of political retribution.

LATE

SB-3327

Submitted on: 2/6/2024 3:44:31 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Hansen	Individual	Support	Written Testimony Only

Comments:

Aloha

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration.

Elizabeth Hansen, Hakalau HI 96710

LATE

SB-3327

Submitted on: 2/6/2024 3:46:19 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Scott Kidd	Individual	Support	Written Testimony Only

Comments:

I support this measure. A non-partisan party who oversees the best use of water for the community is essential to remove political bias in water use and distribution.

LATE

SB-3327

Submitted on: 2/6/2024 3:50:28 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Perez	Individual	Support	Written Testimony Only

Comments:

Ola i ka wai!!

LATE

SB-3327

Submitted on: 2/6/2024 4:02:33 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ezgi Green	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in solid support of SB3327, which will finally implement decades-long recommendations to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their essential duties instead of responding to political maneuvering.

We, unfortunately, witnessed the worst kind of political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard-won Maui Komohana water management area, and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

After a massive outcry from a still grieving community, the administration walked back its suspension of the water code, threatened to undo the water management area, and reassigned former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limits provide the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which has not been the case to date.

Please support SB 3327. It is essential to restore trust in the State Commission on Water Resources and to ensure it can exercise its constitutional and statutory duties to uphold Hawai‘i’s water code and protect our precious public trust in water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Ezgi Green, Waialua

LATE

SB-3327

Submitted on: 2/6/2024 4:08:28 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
KEALA FUNG	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

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Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Keala Fung, Honolulu

LATE

SB-3327

Submitted on: 2/6/2024 4:27:53 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ken Hartsel	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

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Mahalo for your consideration. Ola i ka wai!

SB-3327

Submitted on: 2/6/2024 5:17:33 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Reanna Estrada	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Reanna Estrada, Kapolei

LATE

SB-3327

Submitted on: 2/6/2024 5:24:50 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mele Andrade	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I was born and raised in Hawaii and am a resident of Wailuku.

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Water is our most important resource, and we need to make sure it is managed appropriately, so that kama'aina can continue to live and thrive here!

Mahalo for your consideration. Ola i ka wai!

Mele Andrade

mpnandrade@gmail.com

LATE

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

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SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB 3327. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Robert H. Pahia
Maui, Hawaii

SB-3327

Submitted on: 2/6/2024 6:26:48 PM

Testimony for WTL on 2/7/2024 3:00:00 PM



Submitted By	Organization	Testifier Position	Testify
Georgia L Hoopes	Individual	Support	Written Testimony Only

Comments:

Aloha Senators. Our Water Commissioners must not be subjected to the political pressure of wealthy developers. I strongly support SB3327.

Mahalo

Georgia Hoopes, Kalaheo

LATE

SB-3327

Submitted on: 2/6/2024 7:58:31 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Diane Ware, Moku o Ka'u, and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

99-7815 Kapoha Place Volcano HI 96785

LATE

SB-3327

Submitted on: 2/6/2024 9:56:10 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marlies Lee	Individual	Support	Written Testimony Only

Comments:

I Support

protect our precious water

we can not build more hotels and invite more tourists to Maui. We have to make sure Lahaina will have again more water like it used to be many years ago.

protect our recourses and grow food instead of golf courses

SB-3327

Submitted on: 2/6/2024 10:24:43 PM

Testimony for WTL on 2/7/2024 3:00:00 PM



Submitted By	Organization	Testifier Position	Testify
Jendale Kahuanui	Individual	Support	Written Testimony Only

Comments:

I am in full support of this bill with the intention and hope that separation of these two will be the beginning of the process of rightful return of the waters and their past corruption politics will come to end. All water diversions put back in their rightful places and stop the greed of unlawful land owners who take all water for their developments, hotels & properties for profit. Unjust needs to end now.

LATE

SB-3327

Submitted on: 2/6/2024 10:41:49 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Debra M Javar	Individual	Support	Written Testimony Only

Comments:

I FULLY SUPPORT SB3327. Water is for everyone and no one (private) should own it. Water should NOT be for only the rich, look at what happened in Lahaina. Please support SB3327. Mahalo.

LATE

SB-3327

Submitted on: 2/6/2024 11:27:05 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Breanne Fong	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Breanne Fong, and I STRONGLY SUPPORT SB3327, to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

In addition to the above authorities, this bill would also address political vulnerabilities that may allow powerful corporate interests to unduly interfere with the work of the Commission and its staff. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Water Commission and dictates its agenda. In addition, the Attorney General, who is also appointed by the Governor, is the sole provider of legal advice to the Water Commission. Both of these appointees have considerable power over the Water Commission and its staff. Accordingly, those with influence over the Governor, including corporate water hoarders, could substantially interfere with the work of the Commission, through his political appointees.

By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.

Breanne Fong

LATE

SB-3327

Submitted on: 2/6/2024 11:59:26 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patrice Choy	Individual	Support	Written Testimony Only

Comments:

I **SUPPORT SB3327** in its entirety. This is a major opportunity to help get the politics out of our water policy by finally separating the Water Commission from the Department of Land and Natural Resources.

Thank you.

LATE

SB-3327

Submitted on: 2/7/2024 1:07:29 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ashley Galacgac	Individual	Support	Written Testimony Only

Comments:

Please support SB 3327. Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers. Taking care of ‘āina, wai, and people should always be over profit.

SB 3327 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai‘i’s water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Ashley Galacgac, Honolulu, 96916

LATE

Testimony in Support of SB 3327

Aloha Chairs Inouye, Vice Chair Wakai, and Honorable Committee Members,

I am writing to express my *strong support* for SB 3327, a crucial measure aimed at minimizing political influences on our Water Commission. SB 3327 seeks to rectify this by implementing long-overdue recommendations and empowering the Commission to fulfill its obligations without fear of political interference.

A key provision of SB 3327 is its ability to hold water code violators accountable through meaningful fines. By increasing the fine limit, the bill provides the Commission with the necessary authority to dissuade private interests from exploiting public water resources for personal gain. Additionally, SB 3327 enables the Commission to take swift and decisive action in response to emergencies such as prolonged droughts or aquifer contamination. This is crucial for safeguarding our precious water resources and ensuring the well-being of our communities.

In conclusion, SB 3327 is a vital measure that will begin to restore trust in the State Commission on Water Resources and allow it to fulfill its constitutional and statutory duties effectively. I urge you to support this bill for the betterment of our communities and the protection of our invaluable water resources.

Mahalo for your consideration and thank you for your hard work and service.

Laura Acasio, Hilo

LATE

SB-3327

Submitted on: 2/7/2024 7:41:36 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicole Nakata	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

I strongly support SB 3327, in order to enable the Water commission to hold water code violators accountable; take timely action in emergency situations and during water shortages; and allow the Commission staff to implement the state Water Code, without fear of political retribution. I urge the Committees to PASS this measure to protect Hawaii's future.

Mahalo for the opportunity to testify.

SB-3327

Submitted on: 2/7/2024 8:59:43 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

support

LATE

SB-3327

Submitted on: 2/7/2024 9:02:57 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Fallbeck	Individual	Support	Written Testimony Only

Comments:

Water issues are becoming more urgent than ever and require freedom to act quickly. The Commission should have more flexibility without losing accountability. This bill should achieve that.

LATE

SB-3327

Submitted on: 2/7/2024 9:38:48 AM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tim Hailey	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Wakai, Chair Inouye, Vice Chair Elefante, and Members of the Committees,

My name is Tim Hailey and I STRONGLY SUPPORT SB3327, in order to enable the Water Commission to hold water code violators accountable; take timely, emergency action during water shortages; and allow Commission staff to implement the state Water Code, without fear of political retribution.

The uniqueness of Hawai'i's freshwater landscape puts our islands at a higher risk of water shortages and emergencies. Coupled with the growing impacts of the climate crisis, our agencies must have the tools they need to respond to water crises and protect our water and priority water uses, including for affordable housing, in a timely manner.

This measure would provide the Water Commission with two such tools. First, it would allow the Water Commission to take emergency action in the event of a water shortage, and prioritize the most pressing public needs, without undergoing a months- or possibly years-long process as currently required under statute. Second, it would allow the Commission to impose much more meaningful fines for water code violations, based on a careful assessment of the circumstances of each case; such authority is critical to protecting the public interest from deep pocket water code violators who could easily shrug off the Commission's current maximum daily fine.

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By requiring the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel, this measure will provide important layers of political insulation and thereby help to rebuild public confidence in the work of the Commission. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without fear of political retribution.

*Accordingly, I respectfully urge the Committees to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Mahalo Nui Loa,

Tim Hailey