



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

SENATE COMMITTEE ON WATER, LAND, AND HOUSING

April 5, 2012, 1:25 p.m.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO GM 755 (TED YAMAMURA)

Aloha Chair Dela Cruz and Members of the Committee:

The Sierra Club, Hawaii Chapter, with 10,000 dues paying members and supporters statewide, *opposes* the appointment of Ted Yamamura to the Commission on Water Resource Management (GM 755). It is difficult to come forward and state opposition to an appointment because the appearance of a personal assailing is inevitable. We want to be completely clear that our objection to this appointment has absolutely nothing to do with the personal integrity or character of Mr Yamamura. This opposition is based solely on whether Mr. Yamamura meets the qualifications necessary to serve on the water commission.

Mr. Yamamura's background as a land appraiser -- while a valuable skill -- does not appear to met the high standard required to serve on the water commission. The State Water Code specifically requires appointees to have "substantial experience in the area of water resource management." Haw. Rev. Stat. § 174C-7(b). There is no evidence to establish Mr. Yamamura meets the bar of "substantial experience," much less any experience in "water resource management."

A background in appraising land or, possibly, the value of water is not the same as knowing how to manage water resources for future generations as required under Hawai'i's constitution.

While the Governor retains the capacity to nominate appointees, it is up to the Senate to advise and consent as to whether these individuals meet the constitutional and statutory requirements. Given the important mandate of the water commission to safeguard Hawaii's water resources, having balanced, knowledgeable administrators is critical. The Senate should respectfully require the executive branch to nominate someone that has a background in planning, conservation, or water management that meets the statutory prerequisite.

Mahalo for the opportunity to testify.

Twenty-Sixth Legislature
Regular Session of 2012

THE SENATE

Committee on Water, Land, and Housing
Senator Donovan M. Dela Cruz, Chair
Senator Malama Solomon, Vice Chair
State Capitol, Conference Room 225
Thursday, April 5, 2012; 1:25 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON G.M. 755
TED YAMAMURA
FOR THE COMMISSION ON WATER RESOURCE MANAGEMENT**

The ILWU Local 142 supports the confirmation of Ted Yamamura to serve on the Commission on Water Resource Management.

Mr. Yamamura is Executive Vice President and Senior Appraiser for ACM Consultants, Inc., a real estate valuation and advisory group. He has 32 years of experience in land issues and land valuation. He has served the community as an officer or board member of a number of organizations and public boards, including the Board of Water Supply for the County of Maui.

We believe that Mr. Yamamura is well qualified and will bring to the Commission his integrity and ability to be fair and impartial in his deliberations. As a real estate appraiser, Mr. Yamamura must consider the facts before him in assessing the value of a piece of property. He will do the same as a member of the Water Commission, making his decisions based on the facts.

Mr. Yamamura is familiar with water issues and, through his career and experience in the community, has developed the necessary skills to make reasoned decisions. His critics may argue that he lacks legal, technical and specific knowledge of water resource issues, but Mr. Yamamura was not selected to serve on the Commission as a technical expert. Instead, he is being asked to represent the public's interests, to make decisions based on sound evaluation of the facts, and to consider all factors in protecting water resources for the public in general. Setting the criteria to serve unreasonably high would virtually eliminate citizen participation on the Commission on Water Resource Management.

There are clearly many who are firmly of one opinion or another with regard to water resource management. None of them, regardless of their technical expertise or experience, should be considered for the Commission. The Senate should confirm someone who has not prejudged the issue or comes with an "agenda" or has already made a decision before being presented with the facts. The Senate should confirm someone like Ted Yamamura who will consider the facts in an unbiased manner and make a decision that will, rather than polarize the community, strike a necessary balance that will help to bring the community together.

The ILWU urges the confirmation of Ted Yamamura for the Commission on Water Resource Management. Thank you for considering our views.

Testimony to the Senate Committee on Water, Land and Housing
Thursday, April 5, 2012
1:25 pm
State Capitol - Conference Room 225

Subject: **GM 755 NOMINEE, TED YAMAMURA FOR COMMISSION ON WATER RESOURCE MANAGEMENT ----- SUPPORT**

Chair Dela Cruz and Vice Chair Solomon, and members of the committee:

My name is Ricky Tamashiro and I am the President of Local #1 of Hawaii (International Union of Bricklayers and Allied Craftworkers) and of Local #630 (Operative Plasterers & Cement Masons International Association). I support the nomination and confirmation of Mr. Yamamura to the Commission on Water Resource Management.

Mr. Yamamura's experience on the Board of Land and Natural Resources as well as the Maui County Board of Water surely qualifies him for the Commission. He shows a commitment to conserving Hawaii's natural resources. I am sure that his dedication as well as experience would make him a definite asset to the Commission on Water Resource Management.

Thank you for this opportunity expressing support of Ted Yamamura's appointment.

Respectfully,

Ricky Tamashiro

President

Testimony of Maurice Morita
Assistant Director
Hawaii LECET
1617 Palama Street
Honolulu, HI 96817

SENATE COMMITTEE ON WATER, LAND, AND HOUSING
Thursday, April 05, 2012
1:25 p.m., Conference Room 225

GM 755 - RELATING TO GUBERNATORIAL NOMINEE TED YAMAMURA

Aloha Chair Dela Cruz, Vice Chair Solomon, and Members of the Committee:

My name is Maurice Morita and I am the assistant director of Hawaii LECET (Laborers-Employers Cooperation and Education Trust). Hawaii LECET is a partnership between the Hawaii Laborers' Union, Local 368 and our union contractors.

The Hawaii LECET is in **"strong support"** of Ted Yamamura, Gubernatorial Nominee to the Commission on Water Resource Management, term to expire 6-30-2016.

I have known Ted Yamamura for many years on the island of Maui and feel the nominee will be a great asset to the Commission on Water Resource Management.

Thank you for the opportunity to submit this testimony.

The Senate
Committee on Water, Land and Housing
April 4, 2012
1:25 p.m., Room 225

Statement of the Hawaii Carpenters Union on GM 755
Confirmation of the Appointment of Ted Yamamura to the Commission
On Water Resource Management

The Hawaii Carpenters Union strongly supports the nomination of Mr. Ted Yamamura to the Commission on Water Resource Management. As a statewide organization, our union attests to Mr. Yamamura's knowledge, fairness, honesty and experience.

His experience on the Board of Land and Natural Resources (BLNR), and the County of Maui Board of Water Supply, equips him to contribute greatly to the perspective of the Commission. The BLNR deals with water issues. The Maui Board of Water Supply has had to work with diverse water systems, including areas under the jurisdiction of the State Water Commission, often facing challenging situations.

In both his public service and his profession, Mr. Yamamura has been required to know and to work within the relevant laws and various levels of government plans. He will be well equipped to evaluate proposals and claims by both private and public sector entities.

Thank you for your consideration of our testimony urging confirmation of Ted Yamamura to the Commission on Water Resource Management.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

April 5, 2012

TO: HONORABLE DELA CRUZ, CHAIR, MALAMA SOLOMON, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WATER, LAND AND HOUSING

SUBJECT: **Governor's Message 755: Consideration and Confirmation of Ted Yamamura to the Commission on Water Resource Management**

HEARING

DATE: Thursday, April 5, 2012
TIME: 1:25 p.m.
PLACE: Conference Room 225

Dear Chair Dela Cruz, Vice Chair Solomon and Members of the Committee:

My name is Sherman Wong and I serve as the Chair of the General Contractors Association of Hawaii's (GCA) Legislative Committee. The GCA is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. GCA is submitting testimony in support of Governor's Message 755, Ted Yamamura's nomination to serve on the Commission on Water Resource Management (Commission).

Mr. Yamamura's experience in the private and public sectors include serving in various executive and leadership positions statewide. Mr. Yamamura's commitment to public service is evidenced by his participation as a member of the State Board of Land & Natural Resources from 2001-2006, the County of Maui Board of Water Supply in 2008, and the United States Air Force. Mr. Yamamura's knowledge of issues related to land use, land valuation, appraisal expertise and commitment to public service further qualifies him to serve on the Commission.

The Commission was established in 1987 when the Hawaii State Legislature enacted the State Water Code, Chapter 174C of the Hawaii Revised Statutes. The Commission plays an important role in the management of Hawaii's water resources and the protection of such natural resources.

Mr. Yamamura's level of competency, management expertise and dedication to public service collectively validates his nomination. For these reasons, the GCA supports the appointment and confirmation of Mr. Yamamura to serve on the Commission on Water Resource Management and we respectfully request your favorable consideration.

Very truly yours,

Sherman Wong, Chair
Legislative Committee

The Twenty-Sixth Legislature

Regular Session of 2012

THE SENATE

Committee on Water, Land and Housing

Senator Donovan M. Dela Cruz, Chair

Senator Malama Solomon, Vice Chair

State Capitol, Conference Room 225

Thursday, April 5, 2012; 1:25p.m.

**STATEMENT OF KELLY RUIDAS ON G.M. 755
TED YAMAMURA
FOR COMMISSION ON WATER RESOURCE MANAGEMENT**

Chair Dela Cruz, Vice Chair Solomon and members of the committee:

My name is Kelly Ruidas and I am testifying as an individual in **support** of the Governor's nominee, **Ted Yamamura** to the Commission on Water Resource Management.

I am a member of the ILWU Local 142 and also an employee of HC&S, Hawaiian Commercial & Sugar on the island of Maui. After experiencing the deliberations and decisions made by this Commission in recent years, it became clear to me that it is imperative to have Commissioners who are mindful of the needs of all competing water users when managing this finite resource.

I believe Mr. Yamamura will be a great asset to this Commission. Having served on the State Land Board, and currently on the Maui County Board of Water Supply, he is no stranger to making tough, informative decisions. In addition, Ted knows the value of service. He is a Vietnam Veteran who has served his country, community and will no doubt continue to do so.

Lastly, as part of my testimony, I have included a petition signed by 104 Maui and Oahu residents who are confident in Ted's ability to make wise and fair choices that will benefit Hawaii's people.

For these reasons, I strongly support the confirmation of Ted Yamamura to the Commission on Water Resource Management. Thank you for this opportunity to share my views.

Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 05, 2012 8:01 AM
To: WLH Testimony
Cc: PSGMikilua@aol.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Support
Testifier will be present: No
Submitted by: Phyllis Shimabukuro-Geiser
Organization: Mikilua Farm Bureau Center
E-mail: PSGMikilua@aol.com
Submitted on: 4/5/2012

Comments:

We support Ted Yamamura as a nominee to the Water Commission. He is well qualified to serve as a commissioner.



From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 05, 2012 9:38 AM
To: WLH Testimony
Cc: shigemotoat1@hawaiiantel.net
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Support
Testifier will be present: No
Submitted by: Tom H. Shigemoto
Organization: Individual
E-mail: shigemotoat1@hawaiiantel.net
Submitted on: 4/5/2012

Comments:

Please accept my apology for this late submittal and thank you for your consideration of Mr. Yamamura for the Commission on Water Resources Management. Aloha.

~~Date: Wed Apr 4 11:19 PM~~

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 11:19 PM
To: WLH Testimony
Cc: kdruidas@gmail.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Support
Testifier will be present: Yes
Submitted by: Kelly Ruidas
Organization: Individual
E-mail: kdruidas@gmail.com
Submitted on: 4/4/2012

Comments:

Please accept my testimony as submitted. Also, will send a petition (part of testimony) following this message. Thanks, Kelly

Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 9:12 PM
To: WLH Testimony
Cc: wmitno@hawaii.rr.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Support
Testifier will be present: No
Submitted by: Wesley Nohara
Organization: Individual
E-mail: wmitno@hawaii.rr.com
Submitted on: 4/4/2012

Comments:

Jane Wicker

From: Cheryl Obatake [kuhiau@hotmail.com]
Sent: Wednesday, April 04, 2012 5:37 PM
To: WLH Testimony
Subject: Opposition

Please do not confirm Mr. Yamamura to CWRM as he is not knowledgeable about Native Hawaiian water resource management and traditional usage.

Cheryl Lovell-Obatake
Nawiliwili, Puna, Kaua'i

Dane Weber

From: amelia gora [hawaiianhistory@yahoo.com]
Sent: Wednesday, April 04, 2012 11:53 PM
To: WLH Testimony
Subject: GM755 Testimony Opposing the Appointment of Ted Yamamura from Amelia Gora

To: WLHtestimony@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 9:54 AM
Subject: OPPOSITON TO GM 755 - TED YAMAMURA

GM 755

TESTIMONY OPPOSING THE APPOINTMENT OF

TED YAMAMURA

BEFORE THE COMMITTEE ON LAND, WATER & HOUSING

Thursday, April 5, 2012 1:25 p.m. Conf. Rm. 225

I oppose the appointment of Ted Yamamura to the Commission on Water Resources Management because the law provides for an individual with substantial experience or expertise in traditional Hawaiian resource management techniques and usage and in the 25 years since the law was passed, a native Hawaiian practitioner who meets these qualifications has never been appointed.

Hawaii law, HRS sec. 174C-7(b) states:

Five members shall be appointed by the governor subject to confirmation by the senate, ... provided that **at least one member shall have substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage ...**

But instead, CWRM has been stacked with Maui Commissioners, opponents of Native Hawaiian water rights, specifically friends and allies of Alexander & Baldwin, and its subsidiary East Maui Irrigation. Every single CWRM decision denying Native Hawaiians has been overturned by appellate courts. These opponents of Native Hawaiians have been making bad decisions and forcing parties into decades' long costly litigation to appeal their decisions. After 25 years of ignoring Native Hawaiians, it's time to stop the collusion between A&B, EMI and the state. Please do not confirm Mr. Yamamura to CWRM as he is not knowledgable about Native Hawaiian water resource management and traditional usage.

From: Amelia Gora

e-mail: hawaiianhistory@yahoo.com or theiolani@gmail.com

P.O. Box 861781

Wahiawa, Hawaii 96786

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Harold Vidinha and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

I am a US military veteran and my family has lived here on Kaua'i for many generations. We hunt, we fish, we farm kalo. Our lives are interdependent with the water of our river, the ocean and streams.

Our Hawaiian community understands fully that water is a public trust. Ahupua'a principles do not allow for the privatization of water or the idea of water as a commodity to be bought and sold for money. Water sustains us. It is the basic component to all life now and always.

I believe very deeply that our state leadership on water rights must be strong, qualified, and committed to defending the public trust doctrine for Hawaii's water.

Your nominee, Mr. Yamamura, fails to meet the standard of an acceptable nominee to the Water Commission. The nomination is especially troubling because others who are more qualified have been passed over. Mr. Yamamura's expertise is in real estate and land valuation, with 30 years as a monetary appraiser of land. Yet, according to the Hawaii Revised Statutes, substantial experience in the area of water resource management is required in order to make sound judgments as a steward of this valued resource.

In the past we have seen poorly-made decisions affecting Hawaiian waters in the case of private sector-sponsored "experts." (See testimony GM543_WTL_03-24-08_Late_.pdf) In such cases, taro farmers and others who derive their sustenance from the land and water are often given the burden to demonstrate their need for water, contrary to the fundamental legal burden on all diverters to justify the taking of water for their off stream use.

Substantial experience and expertise in traditional Hawaiian water resource management techniques and traditional Hawaiian riparian usage are required capabilities of the Water Commission. Mr. Yamamura does not seem to have such expertise.

Political nominations like these make the people lose hope that government is there to

serve the people's interest. It causes frustration, anger, and lack of faith in the democratic process. That should not be the legacy of your Committee – by moving forward with this nomination, you will have taken one more step for having made Hawaii's people less hopeful, less protected, in the name of private sector interests.

The water rights of Hawaiians occupy too high a priority to simply confirm this appointment without greater consideration of alternative candidates.

I ask that you consider water rights expert representation for our island as well. Kaua'i has good advocates that can defend the public trust doctrine both on our island as well as across the state, and they should also be considered in this nomination process.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,

Harold Vidinha

~~Dane Wicker~~

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 05, 2012 1:24 AM
To: WLH Testimony
Cc: bdshafer@gmail.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: Benjamin Shafer
Organization: Individual
E-mail: bdshafer@gmail.com
Submitted on: 4/5/2012

Comments:

PAMELA W. BUNN
41-027 Hilu Street
Waimanalo, HI 96795
April 4, 2012

SENATE COMMITTEE ON WATER, LAND, & HOUSING
ATTN: CHAIR DONOVAN M. DELA CRUZ
VICE-CHAIR MALAMA SOLOMON

Re: **Testimony in Opposition to GM 755:** Nomination of Ted Yamamura to the
Commission on Water Resource Management; April 5, 2012, 1:25 p.m.;
Conference Room 225

Aloha Chair Dela Cruz, Vice Chair Solomon, and Committee Members:

I write to strongly oppose the appointment of Ted Yamamura to the Commission on Water Resource Management ("Commission"). I do not know Mr. Yamamura, and my opposition to his nomination is not personal. My opposition is based on the integrity of the nomination process, the over-representation of Maui on the Commission, and the rejection of applicants who are unquestionably qualified to guide Hawai'i's water future in favor of an applicant who does not appear to have even the minimum statutory qualifications. Hawai'i's fragile water resources are simply too critical to select those who serve as trustees based purely on political considerations, without regard to expertise. Indeed, given the decline in rainfall over the past decade, and the prospect of further decline due to climate change, the role of the Commission is even more important today than it was a quarter of a century ago when the legislature determined that a Commissioner must have "substantial experience in the area of water resource management." HRS § 174C-7(b).

The seat Mr. Yamamura was nominated to fill has been vacant since June 30, 2011, when Commissioner Kiyosake completed her term. Anticipating the vacancy, the Commission staff began soliciting applications for her replacement in October 2010. It is far from obvious why it has taken well over a year to fill this seat, the only thing that is abundantly clear is that the delay was **not** caused by an extended search to find the most qualified person. Indeed, just days before Mr. Yamamura's nomination was announced, Glenn Hong, the prior nominee, stepped down after candidly admitting that he did not possess the statutory qualifications to serve on the Commission. Moreover, unlike Mr. Hong, and now Mr. Yamamura, several of the applicants not only had substantial experience and expertise in managing water resources, but also a demonstrated and long-standing commitment to preserving these resources for future generations.

Moreover, if the two pending nominees are confirmed, a majority of the Commission, i.e., four out of seven (and four out of the five appointed Commissioners), will be from Maui. The only justification that has been provided for this extreme imbalance is that there are major pending water disputes on Maui. While that is certainly the case, it is not a reason to stack the Commission with Maui residents to the exclusion

of any other Neighbor Islanders. Indeed, quite the opposite is true. The enactment of the Water Code was mandated by the 1978 amendments to the Hawai`i constitution, in which the people of Hawai`i decided that our water resources were too crucial to continue being managed strictly on a local level. Thus, the constitution was amended to provide, among other things, that "[t]he State has an obligation to protect, control and regulate the use of Hawai`i's water resources for the benefit of its people." Article XI, section 7. Appointing Commissioners based on their residence in an area where there are pending water disputes, rather than on their experience and expertise in water management, harkens back to a pre-1978 mentality and is antithetical to the central tenet of Article XI, section 7, that water is a public trust resource and the **State** is the trustee of the water resources trust.


Finally, not only was Mr. Yamamura not the most qualified applicant, it is not at all clear that he even meets the statutory qualification. Mr. Yamamura has spent his career as an appraiser, which has nothing to do with water resource management. The only qualifications made public are his service on the Maui County Board of Water Supply, which is an advisory board that does not manage water resources and does require that its members have any particular qualifications, and his work on an appraisal of the East Maui irrigation system while on the Board of Land and Natural Resources, which also does not manage water resources. However, while it may be true, as Mr. Yamamura apparently claimed in a recent newspaper article, that water is often a critical factor in determining land values, the Hawai`i Supreme Court pointed out in its seminal *Waiāhole* decision that financial valuation of water "is inapposite to any analysis under either the police power or the public trust." 94 Hawai`i 97, 180 n.96, 9 P.3d 409, 492, n.96 (2000). While Mr. Yamamura may be an excellent appraiser, that experience simply does not qualify him to manage Hawai`i's precious water resources, particularly if his perspective on those resources is focused solely on the monetary value that water adds to land.

I am thankful that this Committee has requested a briefing on the process that has taken well over a year only to produce two unqualified nominees (one admittedly so), while allowing a seat on the Commission to remain vacant since June. While I hope that the briefing will shed light on why unquestionably qualified candidates were overlooked, I suspect it will instead confirm that this nomination was simply made with no regard whatsoever for the "level of openness, diligence, and foresight commensurate with the high priority these [public trust] rights command under the laws of our state." *Waiāhole*, 94 Hawai`i at 143, 9 P.3d at 445.

Thank you for this opportunity to testify, and please vote to **not** to confirm Mr. Yamamura.

Sincerely,

/s/ Pamela W. Bunn


From: Lorna Poe [LPoe@hhsc.org]
Sent: Thursday, April 05, 2012 7:10 AM
To: WLH Testimony
Subject: GM755 Testimony

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING

ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755:

Yamamura's Nomination to the Water Commission

April 5, 2012, 1:15 p.m.

Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Lorna Leinani Poe and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

My family has lived on Kaua'i for many generations. We hunt, we fish, we farm kalo, and we develop cultural enrichment programs for Ohana and Opio. Educating our communities to preserve water systems that feed our lo'i, and assist us in the development and preservation of our fish ponds is of extreme importance. Our lives are interdependent with the water of our river, the ocean and streams.

Our Hawaiian community understands fully that water is a public trust. Ahupua'a principles do not allow for the privatization of water or the idea of water as a commodity to be bought and sold for money. Water sustains us. It is the basic component to all life now and always.

I believe very deeply that our state leadership on water rights must be strong, qualified, and committed to defending the public trust doctrine for Hawaii's water.

Your nominee, Mr. Yamamura, fails to meet the standard of an acceptable nominee to the Water Commission. The nomination is especially troubling because others who are more qualified have been passed over.

Political nominations like these make the people lose hope that government is there to serve the people's interest. It causes frustration, anger, and lack of faith in the democratic process. That should not be the legacy of your Committee – by moving forward with this nomination, you will have taken one more step for having made Hawaii's people less hopeful, less protected, in the name of private sector interests.

I ask that you consider water rights expert representation for our island as well. Kaua'i has good advocates that can defend the public trust doctrine both on our island as well as across the state, and they should also be considered in this nomination process.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

O 'wau iho no,

Lorna L. Poe

Hanapepe, Kaua'i

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Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 05, 2012 7:56 AM
To: WLH Testimony
Cc: phylfrus@gmail.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: Phyllis Frus
Organization: Individual
E-mail: phylfrus@gmail.com
Submitted on: 4/5/2012

Comments:

I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission. Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura fails to meet this basic prerequisite. The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise. Moreover, many actually qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration. In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well. Please vote to deny Mr. Yamamura's nomination. Mahalo for the opportunity to testify on this important issue.

Phyllis Frus, Honolulu

PAMELA W. BUNN
41-027 Hilu Street
Waimanalo, HI 96795
April 5, 2012

SENATE COMMITTEE ON WATER, LAND, & HOUSING
ATTN: CHAIR DONOVAN M. DELA CRUZ
VICE-CHAIR MALAMA SOLOMON

Re: Testimony **in Opposition to GM 755:** Nomination of Ted Yamamura to the
Commission on Water Resource Management; April 5, 2012, 1:25 p.m.;
Conference Room 225

Aloha Chair Dela Cruz, Vice Chair Solomon, and Committee Members:

I write to strongly oppose the appointment of Ted Yamamura to the Commission on Water Resource Management ("Commission"). I do not know Mr. Yamamura, and my opposition to his nomination is not personal. My opposition is based on the integrity of the nomination process, the over-representation of Maui on the Commission, and the rejection of applicants who are unquestionably qualified to guide Hawai'i's water future in favor of an applicant who does not appear to have even the minimum statutory qualifications. Hawai'i's fragile water resources are simply too critical to select those who serve as trustees based purely on political considerations, without regard to expertise. Indeed, given the decline in rainfall over the past decade, and the prospect of further decline due to climate change, the role of the Commission is even more important today than it was a quarter of a century ago when the legislature determined that a Commissioner must have "substantial experience in the area of water resource management." HRS § 174C-7(b).

The seat Mr. Yamamura was nominated to fill has been vacant since June 30, 2011, when Commissioner Kiyosake completed her term. Anticipating the vacancy, the Commission staff began soliciting applications for her replacement in October 2010. It is far from obvious why it has taken well over a year to fill this seat, the only thing that is abundantly clear is that the delay was **not** caused by an extended search to find the most qualified person. Indeed, just days before Mr. Yamamura's nomination was announced, Glenn Hong, the prior nominee, stepped down after candidly admitting that he did not possess the statutory qualifications to serve on the Commission. Moreover, unlike Mr. Hong, and now Mr. Yamamura, several of the applicants not only had substantial experience and expertise in managing water resources, but also a demonstrated and long-standing commitment to preserving these resources for future generations.

Moreover, if the two pending nominees are confirmed, a majority of the Commission, i.e., four out of seven (and four out of the five appointed Commissioners), will be from Maui. The only justification that has been provided for this extreme imbalance is that there are major pending water disputes on Maui. While that is certainly the case, it is not a reason to stack the Commission with Maui residents to the exclusion

of any other Neighbor Islanders. Indeed, quite the opposite is true. The enactment of the Water Code was mandated by the 1978 amendments to the Hawai`i constitution, in which the people of Hawai`i decided that our water resources were too crucial to continue being managed strictly on a local level. Thus, the constitution was amended to provide, among other things, that "[t]he State has an obligation to protect, control and regulate the use of Hawai`i's water resources for the benefit of its people." Article XI, section 7. Appointing Commissioners based on their residence in an area where there are pending water disputes, rather than on their experience and expertise in water management, harkens back to a pre-1978 mentality and is antithetical to the central tenet of Article XI, section 7, that water is a public trust resource and the **State** is the trustee of the water resources trust.

Finally, not only was Mr. Yamamura not the most qualified applicant, it is not at all clear that he even meets the statutory qualification. Mr. Yamamura has spent his career as an appraiser, which has nothing to do with water resource management. The only qualifications made public are his service on the Maui County Board of Water Supply, which is an advisory board that does not manage water resources and does not require that its members have any particular qualifications, and his work on an appraisal of the East Maui irrigation system while on the Board of Land and Natural Resources, which also does not manage water resources. However, while it may be true, as Mr. Yamamura apparently claimed in a recent newspaper article, that water is often a critical factor in determining land values, the Hawai`i Supreme Court pointed out in its seminal *Waiāhole* decision that financial valuation of water "is inapposite to any analysis under either the police power or the public trust." 94 Hawai`i 97, 180 n.96, 9 P.3d 409, 492, n.96 (2000). While Mr. Yamamura may be an excellent appraiser, that experience simply does not qualify him to manage Hawai`i's precious water resources, particularly if his perspective on those resources is focused solely on the monetary value that water adds to land.

I am thankful that this Committee has requested a briefing on the process that has taken well over a year only to produce two unqualified nominees (one admittedly so), while allowing a seat on the Commission to remain vacant since June. While I hope that the briefing will shed light on why unquestionably qualified candidates were overlooked, I suspect it will instead confirm that this nomination was simply made with no regard whatsoever for the "level of openness, diligence, and foresight commensurate with the high priority these [public trust] rights command under the laws of our state." *Waiāhole*, 94 Hawai`i at 143, 9 P.3d at 445.

Thank you for this opportunity to testify, and please vote to **not** to confirm Mr. Yamamura.

Sincerely,

/s/ Pamela W. Bunn

~~Dane Wicker~~

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 05, 2012 10:32 AM
To: WLH Testimony
Cc: amybrinker@mac.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: Amy Brinker
Organization: Individual
E-mail: amybrinker@mac.com
Submitted on: 4/5/2012

Comments:

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755: Yamamura's Nomination to the Water Commission

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Penny Levin, I am a restoration ecologist/planner and grow wetland taro in Waihe'e, Maui. I am also a member of the Taro Security and Purity Task Force. I am not involved in the Na Wai Eha water case, although I have followed water law to some degree since the Waiahole Water Case. I am testifying as an individual today and I am in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

This year's legislative session has been one that has filled many of us in the public with disgust for the blatant disregard for the process and intent of the state's laws by our legislators and the Governor. The sudden and short-noticed nomination and consideration of appointment of Mr. Yamamura to the Water Commission is no different. It represents a failure of duty by the State to uphold transparency under the law and to understand Hawai'i's Water Code and water law, as well as the important duties of its Commissioners.

The Water Commission's public trust obligations extend throughout the state. As such other islands require representation. Including the pending nominees, four of the five appointed Water Commissioners will be from the island of Maui. Perhaps if this were a electoral body, I might be happy that Maui was well-represented; however, it is not. As a Maui water user, I do not support the make up of a Commission primarily of Maui members.

Further, the Water Code mandates, the Commission is supposed to be a panel of experts with a requirement of "*substantial experience in the area of water resource management.*" HRS § 174C-7(b).

Two nominees from past and present seats on the Maui County Board of Water Supply are before this Committee. Mr. Yamamura is senior member and vice-president for a company, ACM Appraisers that boasts "the oldest and largest real estate appraisal company on Maui."

Unfortunately, the term "land management" has come to mean "assets management" (economic value) and not stewardship for many within state government and business; a stockbroker-like way of thinking. *Water management* is not about managing a portfolio of "assets." Just as with land, it *is and must be unequivocally about care* (stewardship) if we are to have a bright future for water resources. One of the intents of the Public Trust

Doctrine established during the Waiahole Water Case was to make certain this aspect of water management was included in decision-making. This necessitates an understanding of island ecology, hydrology, concepts of carrying capacity, and traditional and customary practice and rights, as well as an upholding of water law, among Commission members.

The ability to conduct land appraisals is neither a fundamental, nor suitable qualification for water resources management. In fact, it runs counter to the laws purpose. In the Waiahole Water Case, the Supreme Court ruled that any financial value of water for eminent domain purposes “is inapposite to any analysis under either the police power or the public trust.” Moreover, Mr. Yamamura’s comment to Civil Beat (2/22/2012) that his value to the purely ministerial Maui Board of Water Supply was in recognizing that water is connected to land values indicates clearly that he does not understand the role of the Commission. The requirement of “*substantial experience*” is vital to ensure that the trustees of one of Hawai’i’s most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura does not meet this basic prerequisite under Hawai’i’s Water Code.

But, let us consider further whether the skills of a land appraiser may be brought to bear on water management in some useful measure? Two critical questions must be asked. First, what is the basis of knowledge for a land appraiser? And second, what is the necessary basis of knowledge for determining the true (holistic) value of land or water (the underlying premise of the Code)? The former requires study in real estate valuation, markets and real estate law which informs only decisions regarding the trading or sale of assets. The latter requires study in a broad range of subjects, including ecology and systems modeling, as well as indepth review of environmental economics and may be used to inform some aspects of long term water allocation. Both however, stem from an exercise in financial valuation, which as stated above, is an inappropriate position of analysis of public trust resources. More so, expertise in the valuation of water resources vs land resources (or the two together) is complicated further by the understanding that ground, surface and air water cycles are connected and touch every biotic (living; ie. plants, animals) and abiotic (soils, rocks etc) part of island ecology and human survival. To date, peer-reviewed literature clearly indicates that natural resource economists struggle to accurately value public trust resources because of the complex environmental services they provide and incomplete knowledge of what repercussions occur when elements in the system are diminished or go missing. If such expertise is needed to inform Commission decisions, it should be sought through outside advisory *by qualified, rigorous, independent research experts* or groups of experts such as UHERO at the University of Hawai’i. Mr. Yamamura does not meet these qualifications.

Additionally, because the Commission has been consistently dominated by the largest agricultural water diverters, the Code was amended in 2003 to reserve a seat for someone with “*substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage* such as those preserved by section 174C-101.” HRS § 174C-7(b). Since 2003, not one single person has been nominated or made it through the selection process of the Water Commission

who has held such first-hand expertise, despite consistent application of highly qualified practitioners of traditional Hawaiian water resource management, including in this year. No Native Hawaiian practitioners have been nominated or appointed.

The nomination of Mr. Yamamura has the appearance that the Water Code's qualifications were given insufficient consideration and that far more qualified applicants were passed over for this seat. This action also calls into question the transparency of the selection and nomination process. Despite this and many other concerns, it appears that the Committee on Water, Land and Housing may be poised to confirm Mr. Yamamura without time for a thorough consideration of his qualifications. I would ask that the Committee reschedule the confirmation hearing until after the public has had adequate opportunity to review and respond to the informational briefing scheduled just ten minutes prior to the hearing.


The management of water resources goes far beyond the valuation of land or even water connected with land. As a restoration ecologist who works with severely degraded landscapes, I can speak from experience that it is far more difficult to recover degraded natural resources than to protect and manage wisely what we still have. This is doubly true of water resources as they depend on an extended and connected array of conditions and actions, including the far reaching decisions of the Water Commission.

How we manage water resources now will seal the fate of our grandchildren's children – and these islands - for a better or worse future. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

[by email]
Penny Levin
Wailuku, Maui



From: Diana Dahl [melofarm@hawaii.rr.com]
Sent: Wednesday, April 04, 2012 5:24 PM
To: WLH Testimony
Subject: Testimony Opposing GM 755: Yamamura's Nomination to the Water Commission

House Committee on Water, Land, and Housing
Att'n: Chair Donovan Dela Cruz

Aloha Chair Dela Cruz and Members of the Committee:

My name is Diana L. Dahl, and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura fails to meet this basic prerequisite.

The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Moreover, many actually qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well.

Please vote to deny Mr. Yamamura's nomination. Mahalo for the opportunity to testify on this important issue.

~~Date: [redacted]~~

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 6:43 PM
To: WLH Testimony
Cc: alohaxtc@hawaii.rr.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: **Oppose**
Testifier will be present: No
Submitted by: Harvey Arkin
Organization: Individual
E-mail: alohaxtc@hawaii.rr.com
Submitted on: 4/4/2012

Comments:

Aloha Chair Dela Cruz and Members of the Committee:

My name is Harvey Arkin and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura fails to meet this basic prerequisite.

The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Moreover, many actually qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well.

Please vote to deny Mr. Yamamura's nomination. Mahalo for the opportunity to testify on this important issue.

Dane Wicker

From: nunyabus [inunyabus@gmail.com]
Sent: Wednesday, April 04, 2012 7:08 PM
To: WLH Testimony
Subject: Opposition Testimony-GM 755

Elaine Dunbar

Testimony in Opposition to GM 755, nominating Ted Yamamura.

Aloha Chair Dela Cruz and Members of the Committee:

Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. **Mr. Yamamura fails to meet this basic prerequisite.**

Dane Wickham

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 7:20 PM
To: WLH Testimony
Cc: anthuriumz@hotmail.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: Wynnie Hee
Organization: Individual
E-mail: anthuriumz@hotmail.com
Submitted on: 4/4/2012

Comments:

Please do NOT confirm Ted Yamamura to the State Water Commission. He does NOT meet the qualifications. He is a land appraiser but lacking "substantial experience in the area of water resource management." Any commercial valuation of water that may occur in land appraising has nothing to do with managing water resources as a public trust.

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Clifford Apo and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

My family has lived here on Kaua'i for many generations. We hunt, we fish, we farm kalo. Our lives are interdependent with the water of our river, the ocean and streams.

Our Hawaiian community understands fully that water is a public trust. Ahupua'a principles do not allow for the privatization of water or the idea of water as a commodity to be bought and sold for money. Water sustains us. It is the basic component to all life now and always.

I believe very deeply that our state leadership on water rights must be strong, qualified, and committed to defending the public trust doctrine for Hawaii's water.

Your nominee, Mr. Yamamura, fails to meet the standard of an acceptable nominee to the Water Commission. The nomination is especially troubling because others who are more qualified have been passed over.

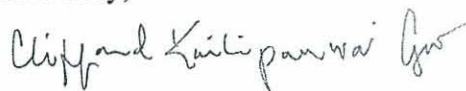
Political nominations like these make the people lose hope that government is there to serve the people's interest. It causes frustration, anger, and lack of faith in the democratic process. That should not be the legacy of your Committee – by moving forward with this nomination, you will have taken one more step for having made Hawaii's people less hopeful, less protected, in the name of private sector interests.

I ask that you consider water rights expert representation for our island as well. Kaua'i has good advocates that can defend the public trust doctrine both on our island as well as across the state, and they should also be considered in this nomination process.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Clifford Kaitiparawai Apo". The signature is written in a cursive style.

Clifford Apo

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Kalani Kapuniai and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

My family has lived here on Kaua'i for many generations. We hunt, we fish, we farm kalo. Our lives are interdependent with the water of our river, the ocean and streams.

Our Hawaiian community understands fully that water is a public trust. Ahupua'a principles do not allow for the privatization of water or the idea of water as a commodity to be bought and sold for money. Water sustains us. It is the basic component to all life now and always.

I believe very deeply that our state leadership on water rights must be strong, qualified, and committed to defending the public trust doctrine for Hawaii's water.

Your nominee, Mr. Yamamura, fails to meet the standard of an acceptable nominee to the Water Commission. The nomination is especially troubling because others who are more qualified have been passed over.

Political nominations like these make the people lose hope that government is there to serve the people's interest. It causes frustration, anger, and lack of faith in the democratic process. That should not be the legacy of your Committee – by moving forward with this nomination, you will have taken one more step for having made Hawaii's people less hopeful, less protected, in the name of private sector interests.

I ask that you consider water rights expert representation for our island as well. Kaua'i has good advocates that can defend the public trust doctrine both on our island as well as across the state, and they should also be considered in this nomination process.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,



Kalani Kapuniai

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, April 04, 2012 10:29 PM
To: WLH Testimony
Cc: taylor021@hawaii.rr.com
Subject: Testimony for GM755 on 4/5/2012 1:25:00 PM

Testimony for WLH 4/5/2012 1:25:00 PM GM755

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ken Taylor
Organization: Individual
E-mail: taylor021@hawaii.rr.com
Submitted on: 4/4/2012

Comments:
HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ

Aloha Chair Dela Cruz and Members of the Committee:

My name is Ken Taylor and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura fails to meet this basic prerequisite.

The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Moreover, many actually qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well.

Please vote to deny Mr. Yamamura's nomination. Mahalo for the opportunity to testify on this important issue.

Kahului, April 4th, 2012

Aloha Chair Dela Cruz and Members of the Committee:

My name is Pedro Faingnaert and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Hawaii's Water Code mandates that any Commissioner have substantial experience in the area of water resource management. HRS174C-7(b). This requirement is vital to ensure that the trustees of one of Hawaii's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura fails to meet this basic prerequisite.

The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawaii Supreme Court explained, the duty of a trustee over water resources is much more than the role of a business manager, or a mere umpire calling balls and strikes. This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Moreover, many actually qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well.

Please vote to deny Mr. Yamamura's nomination.
Mahalo for the opportunity to testify on this important issue.

Pedro Faingnaert
111 Kahului Beach Road A-416
Kahului HI 96732

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Jim A'ana. I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Here on Kaua'i we are very concerned that our waters be protected for future generations as provided for under Hawaii water rights laws. The lo'i farming community here on Kaua'i is particularly concerned that state leadership be committed to defending the public trust doctrine for Hawaii's water.

As elected leaders to this Committee on Water, Land, and Housing, you must ensure that the trustees of our state's waters are qualified to serve in an expert, objective, and fiduciary roles. Your nominee, Mr. Yamamura, fails to meet this basic prerequisite.

This trustee role is too important to be handed to political appointees lacking the necessary expertise. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager." Anyone with a deep connection to the *aina* knows that water is a resource more valuable than money, in that it is lifegiving and ensures all life for future generations.

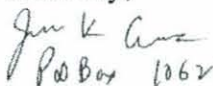
I have learned that many qualified applicants were passed over, raising serious questions about the integrity of this nomination process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and Kaua'i should also be represented.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,


PO Box 1062
Waimanalo HI 96796
Jim A'ana

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Kawai Warren and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

As an active community member in the native Hawaiian beneficiary community, I take my responsibility very seriously in defending this community's right to water under the public trust doctrine.

In 1978 the public water trust was created to protect the water rights for the people that live on each island. I am one beneficiary of thousands who has waited patiently for our agricultural and pastoral land awards. When these awards are made available to Hawaiians they will need access to water.

It is important that any nominee to the Water Commission have demonstrated experience in defending the public trust doctrine for water. That is not the case with your nominee, Mr. Yamamura. There are other candidates that are more suited to this position, and for some as of yet unexplained reason, such candidates have been passed over in your candidate review process.

Each island has its unique water requirements to keep our watershed healthy. Without having a representative from Kaua'i the Water Commission will not be able to make effective, informed decisions on Kaua'ians' behalf.

The Water Commission trustee role is too important to be handed to political appointees lacking the necessary expertise. If there is lack of integrity in this present process, it will shine a light on the inner workings and insider nature of Hawaii water politics. We on Kaua'i will be watching closely.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify.

Sincerely,



Kawai Warren

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755:

Yamamura's Nomination to the Water Commission

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Kekoa A'ana and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

I am a state DLNR DOFAW worker. As I do much of my work with the forests on Kaua'i, I see and the degenerating conditions of the ecosystem due to the lack of water and the presence of pests.

My family has also lived here on Kaua'i for many generations. We hunt, we fish, we farm kalo. Our lives are interdependent with the water of our river, the ocean and streams.

Our Hawaiian community understands fully that water is a public trust. Ahupua'a principles do not allow for the privatization of water or the idea of water as a commodity to be bought and sold for money. Water sustains us. It is the basic component to all life now and always. I believe very deeply that our state leadership on water rights must be strong, qualified, and committed to defending the public trust doctrine for Hawaii's water.

Your nominee, Mr. Yamamura, fails to meet the standard of an acceptable nominee to the Water Commission. The nomination is especially troubling because others who are more qualified have been passed over.

Political nominations like these make the people lose hope that government is there to serve the people's interest. It causes frustration, anger, and lack of faith in the democratic process. That should not be the legacy of your Committee – by moving forward with this nomination, you will have taken one more step for having made Hawaii's people less hopeful, less protected, in the name of private sector interests.

I would like someone from Kaua'i overseeing the decisions affecting Kaua'i. This is the most accountable way to manage our water and land. Kaua'i has good advocates that can defend the public trust doctrine both on our island as well as across the state, and they should also be considered in this nomination process.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,


Kekoa A'ana

From: Marilyn & Gilroy [lawaigf@hawaiiantel.net]
Sent: Wednesday, April 04, 2012 9:42 PM
To: WLH Testimony
Subject: Testimony Opposing GM 755

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING

ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755:

Yamamura's Nomination to the Water Commission

April 5, 2012, 1:25 p.m.

Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Marilyn M. Yamaguchi and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Hawaii's Water Code mandates that Commissioners have "substantial experience in the area of water resource management." Mr. Yamamura is a land appraiser and fails to meet the basic prerequisite for this very important position as a trustee of one of our most precious resources.

Please reschedule the confirmation to give the public more time to respond, give consideration to more qualified applicants to reduce the appearance of a "political appointment" and address the inequity of a commission composed of members primarily from one geographical area.

Please vote to deny Mr. Yamamura's nomination.

Dane Wicker

From: Janice Palma-Glennie [palmtree7@hawaiiantel.net]
Sent: Wednesday, April 04, 2012 9:40 PM
To: WLH Testimony
Subject: Oppose GM 755

Aloha Chair Dela Cruz and Members of the Committee:

I am testifying in opposition to GM 755 which nominates Ted Yamamura to the State Water Commission.

Hawai'i's Water Code mandates that any Commissioner have "substantial experience in the area of water resource management." HRS § 174C-7(b). This requirement is vital to ensure that the trustees of one of Hawai'i's most precious resources are qualified to serve in this expert, objective, and fiduciary role. Mr. Yamamura does not meet this basic prerequisite.

The management of water resources goes far beyond the valuation of land or even water connected with land. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager," or a mere "umpire calling balls and strikes." This trustee role is too important to be handed to political appointees lacking the necessary expertise.

Many qualified applicants were passed over, raising serious questions about the integrity of this process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

Additionally, neighbor islands are under represented with all but one commissioner from Maui! The Water Commission's public trust obligations extend throughout the state, and other islands require representation as well.

Please deny Mr. Yamamura's nomination. Mahalo for consideration of my views on this important issue.

Sincerely,
Janice palma-glennie
Pobox 4849
Kailua-kona, HI 96745

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission

April 5, 2012, 1:25 p.m.
Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is John A'ana and I have been a taro farmer for 35 years. I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

Here on Kaua'i we are very concerned that our waters be protected for future generations as provided for under Hawaii water rights laws. The lo'i farming community here on Kaua'i is particularly concerned that state leadership be committed to defending the public trust doctrine for Hawaii's water.

As elected leaders to this Committee on Land, Water, and Housing, you must ensure that the trustees of our state's waters are qualified to serve in an expert, objective, and fiduciary roles. Your nominee, Mr. Yamamura, fails to meet this basic prerequisite.

This trustee role is too important to be handed to political appointees lacking the necessary expertise. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager." Anyone with a deep connection to the *aina* knows that water is a resource more valuable than money, in that it is lifegiving and ensures all life for future generations.

I have learned that many qualified applicants were passed over, raising serious questions about the integrity of this nomination process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and Kaua'i should also be represented.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,

John A'ana
TARO FARMER / 35 yrs.

John A'ana

**HOUSE COMMITTEE ON WATER, LAND, AND HOUSING
ATTN: CHAIR DONOVAN DELA CRUZ**

**Testimony Opposing GM 755:
Yamamura's Nomination to the Water Commission**

April 5, 2012, 1:25 p.m.
Conference Room 225

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As elected leaders to this Committee on Land, Water, and Housing, you must ensure that the trustees of our state's waters are qualified to serve in an expert, objective, and fiduciary roles. Your nominee, Mr. Yamamura, fails to meet this basic prerequisite.

This trustee role is too important to be handed to political appointees lacking the necessary expertise. As the Hawai'i Supreme Court explained, the duty of a trustee over water resources is much more than the role of a "business manager." Anyone with a deep connection to the *aina* knows that water is a resource more valuable than money, in that it is lifegiving and ensures all life for future generations.

I have learned that many qualified applicants were passed over, raising serious questions about the integrity of this nomination process. That also casts doubt on whether the Water Code's qualifications were given sufficient consideration.

In addition, more representation is needed from other islands. Including the pending nominees, four of the five appointed Water Commissioners will be from the single island of Maui. The Water Commission's public trust obligations extend throughout the state, and Kaua'i should also be represented.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify on this important issue.

Sincerely,

John A'ana
TARO FARMER / 35 YRS.

John A'ana

name Wicker

From: Gilroy Yorkman [gilroykhha@hotmail.com]
Sent: Wednesday, April 04, 2012 9:14 PM
To: WLH Testimony
Subject: Testimony Opposing GM 755

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING

ATTN: CHAIR DONOVAN DELA CRUZ

Testimony Opposing GM 755:

Yamamura's Nomination to the Water Commission

April 5, 2012, 1:25 p.m.

Conference Room 225

Aloha Chair Dela Cruz and Members of the Committee:

My name is Gilroy M. Yorkman and I am testifying in strong opposition to GM 755, nominating Ted Yamamura to the State Water Commission.

I am an active community member in the native Hawaiian beneficiary community, particularly with the Kekaha Hawaiian Homes Association. I take my responsibility very seriously in defending this community's right to water under the public trust doctrine.

It is important that the nominee to the Water Commission has demonstrated experience in defending the public trust doctrine for water. Your nominee, Mr. Yamamura has not demonstrated this quality. Other candidates that are more suited to this position have applied, and for some as of yet unexplained reason, these candidates have been passed over in your review process.

Water is life. As a child I swam and fished the oceans surrounding the island. The rivers and streams were my playground. My family utilized water resources to provide food through fishing, raising taro, and raising vegetables. I have sadly watched the deterioration and misuse of these valuable resources. We need a commissioner who has sufficient knowledge and expertise to make sound decisions about water. The Water Commission trustee role is too important to be given to political appointees who lack necessary expertise. If there is lack of integrity in this present process, it will shine a light on the inner workings and insider nature of Hawaii water politics. We on Kaua'i will be watching closely.

Please vote to deny Mr. Yamamura's nomination.

Mahalo for the opportunity to testify.

Sincerely,

Gilroy Yorkman,
PO Box 642
Lawai, HI 96765

We, the undersigned, strongly support Ted Yamamura's appointment as a commissioner on the State of Hawaii Commission on Water Resource Management. We believe that fairness and a sense of what water resource decisions are needed for the wellbeing of Hawaii's people are important characteristics for the new appointee. Mr. Yamamura's experience as a volunteer on non-profit and governmental boards, in the working environment as an employee and an employer and as an active community member makes him well qualified for the position.

Name KEITH A. GOTO
Keith A. Goto
Address 98-636 PUALIMA ST.
AIEA, HI 96701

Name Glenn Wilbourn
Glenn Wilbourn
Address P.O. Box 835
Puuuene, HI 96784


Name ANNA M. SKROBECKI
Anna M. Skrobecki
Address 47 KA DRIVE
KULA, HI
96790

Name Garret Hew
Garret Hew
Address 819 Polipoli Rd.
Kula, HI 96790

Name Daniel J. Ligienna
Daniel J. Ligienna
Address 355 Kainoa St.
Lahaina, HI 96761

Name Mike Jensen
Mike Jensen
Address P.O. Box 72
Kula, HI 96790

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Name		Address	072 Kohomua Street Wahiuku HI 96793
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Name	John E. Van	Address	2087 Lili'ko'i Road Hawke HI 96708
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Name	ATBrief	Address	29 KONO PLAGE KAHULUI 96732 HI.
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Name	Conrado Saathu	Address	1125 - Hemala St. Makawao, HI 96768
------	----------------	---------	--

Name	Simron Valdy	Address	448 Kamchanneke Kalu Maui HI. 96732
------	--------------	---------	--

Name		Address	851 Makawao Ave. Makawao HI 96768
------	---	---------	--------------------------------------

Name

Address

RANDY Ruiz

134 OPUKEA ST. KAILOA

Name

Address

Margaret D. Proff

7015 Omaha ST Waukegan

Name

Address

Randy

964 Akaka St. Haliimaile HI.

Name

Address

Stard Andres

2258 Ulika'i Rd. Haiku

Name

Address

Eulogio Mendoza

304 Huaka St

Name

Address

MICHELLE BUSTONIA

1822 PIIHANA Rd. WAILUKU

Name

Address

Richard Cabbat

305 Tini Way Makawao

Name

Address

Pedrito Mendoza

563 Kaiola St. Kihei

Name

Address

Roger Route

331 OHA A ST.

Name Rick W. Vowser Jr

Rick W. Vowser Jr

Address 2694 ILICANI WAY.
POKALANI, HI 96768

Name ROBNEY J. ONOU

Robney J. Onou

Address 950 MAKAHA DR.
HIKELU, HI 96798

Name Lee A. Jekoway

Lee A. Jekoway

Address 674 Leie Drive
Makawao, HI 96768

Name JEFFREY K. NOTCH

Jeffrey K. Notch

Address 120 IKEA PLACE
MAKAWAO, HI 96768

Name COREY MORIYAMA

Corey Moriyama

Address PO BOX 775
Puuuene HI 96784

Name

Address

Name

Address

Name

Address

Name

Address

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Name	Address
Heather Kikkawa	2441 S Kihū Rd. D208 Kihū, HI 96753

Name	Address
Ruzeriminda R. Agmy	601 Kuhau St Koh. Maui Hawaii 96732

Name	Address
Ehira Magbual	601 Kuhau St. Koh. HI 96732

Name	Address
Christa Gungelista	PO BOX 1449 Pūhāne

Name	Address
ALEX DAVIS	P.O. - Box 1038 Pūhāne HI 96784

Name	Address

Jackie Thomas Jacki Thomas 1221 uluwa Kihai

Name

Address

Silfiani Pooah 7 Koki St. Kihai

Name

Address

Justin Lau 200 Keadalam St. Pukalani

Name

Address

Adel Youphane Jeldhan Honolulu

Name

Address

Marvin Revin 2698 Kaunohi St Kihai

Name

Address

Oluyahua 1959 LIKO Pl. Wailuku

Name

Address

Jon Dreyoshi 420 Halekani Pl Kihai

Name

Address

Wang 1 Kihai HI

Name

Address

Donald F. Santos 929 Maunaloa Wailuku

Name

Address

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Aloyd Jaquez 17 010 Place Wai'aleale
Name Address

Greg Wayne P.O. BOX 1591 Koh.
Name Address

D. Sandi 208 Hoe Street Kulu 9675.
Name Address

C. F. ... 2266 Liliko'i Road 96708
Name Address

Dominic E. Cabrer Jr. 94 Ani St. Kahului, HI 96732
Name Address

Alfredo Tanja 50-13 EAST WELAKAHAO RD. KITSET
Name Address

Teddy Fretalves 1102 S R R

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Mark Lopez

2247 Kaupohaka Rd Hanalei

Name

Address

Marcelino Pavin

2698 Kaunohi St Kihui

T Yamamura

2737 S. Kihui Rd Apt 104
Kihui HI 96753.

Name Donald Mahoe Jr.

Address

PO Box 731
Puunene, HI 96784

Name Lynn Tada Kumama

Address

Lada Kumama

Wailuku

Name

Address

Ramil E. Cabalal

34 MELI PL. KAHULUI

Name

Address

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Name *BENJAMIN GARCIA* Address *KAHULUI*

B Garcia

Name *Michael Pailagas* Address *Kahului*

M Pailagas

Name *RODANTE XOLUCUP* Address *KAHULUI*

Rodante Xolucup

Name *Eduardo Castillo* Address *KAHULUI*

Eduardo Castillo

Name *ERWIN ASUNCION* Address *KAHULUI*

E Asuncion

Name *MASKRO MENINZOR* Address *MAKAUAA*

M Maskro

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Name *Mely Dumaran* Address *Waialeale,*
520 AKOHA ST. J
M Dumaran

Name *Lambert Albert* Address *Makawao*
L Albert

Name *John Martin Ponce Jr* Address *Lilikoi Kokoalo*
John Martin Ponce Jr

Name *PETERILCO* Address *Kamuela*
Peterilco

Name *Ferdinando NATIVIDAD* Address *Kahului*
f. Natividad

Name *MARCE LIND OAPUR* Address *Kahului*
Marcelind Oapur

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Name *Harold Keyser*
Harold Keyser Address *68 Mano Dr.*
Kula, HI 96790

Name *Doug Mac Clure*
Doug Mac Clure Address *300 Hoopulu Dr*
Pukalani, HI
96768

Name *Wesley Nohara*
Wesley Nohara Address *PO Box 1904*
Wailuku HI 96793

Name *Raynette Inouye*
Raynette Inouye Address *P.O. Box 553*
Puuuene, HI 96784

Name *DAVID PULLO*
David Pullo Address *647 KAHUOPI*
KATUHI

Name *Chelci Nakayama*
Chelci Nakayama Address *P.O. Box 553*
Puuuene, HI 96784

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Name Ferdinand Mendez
Ferdinand Mendez
Address 674 Lalani Cudde Kahuaihi

Name BENJAMIN GARDUQUE JR
Benjamin Garduque
Address 204 W. PAPA AVE.
KAHULUI HI

Name Josefina Corpuz Ngayan
Josefina C. Ngayan
Address 251 Molokai Heima St.
Kahului HI.

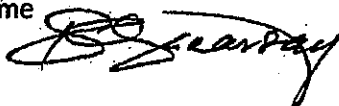
Name ROGER D. ECHIVERRI
R Echiverri
Address 2837 KOEA PL
MAKAWAO, PUKAANI
96748

Name Benjamin V. Balteteron Jr
B Balteteron Jr
Address 41 NAHO ST KAHULUI HI.
96732


Name YUKI THOMAS
Yuki Thomas
Address Fihei

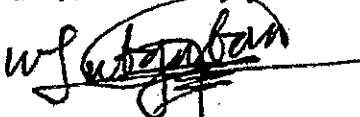
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Aureliano C. Lacomsay vs Hoomoku Loop Kahui HI. 96732


Name  Address

Name HERALD MANGANTUAD
 Address 307 OHA ST. KAHULUI

Name MIGUEL V. VILLA
 Address 75 ALEHELA ST.
KAHULUI HI. 96732

Name WARREN LUBGUBAN
 Address 230 W. KAUAI ST.
KAHULUI HI 96732

Name IGNACIO CORPUZ
Ignacio Corpuz Address 571 KALAKIA ST
KAHULUI, MAHI HI
96732

Name  Address KAHULUI

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Name *Ruben Galles*
R Galles Address *917 Hulan St, Makawao 96762*

Name *Dante Cruz*
Dante Cruz Address *558 S. Leleua St.*

Name *MARK Rapora* Address *P.O. Box 1017 pun*

MARK Rapora
Name *Michael Prais* Address *1397 Kawika St.*
Wailuku, Hi. 96793

Michael Prais
Name *ERICK JON RIVERA* Address *P.O. BOX 634*
ERICK JON RIVERA. *WAILUKU, HI, 96793*

Name *Trinidad Galapia* Address *806 So. Lono Ave.*
Kahului, Hi. 96732

Trinidad Galapia

Alice Ruchiradhaming PO Box 266, Puunene, HI 96784
Name Address

Myrna Osterlund Kahului, HI 96732
Name Address

Stann Annan-Strain Wailuku, HI 96793
Name Address

Russell Brown 1580 Wili Pl. Wailuku
Name Address

Felomena Valdez 116 Namauu Pl. Kihai
Name Address

Kimiko Tareka 47 S. Lacks Pl
Wailuku
Name Address

LB Thomas Kihai 96753
Name Address
Thm LB

Pichie Palafax 22 Wailuku Pl.
Kihai HI 96753.
Name Address
Bru Palafax

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Name *Valerio Pagobar*
of Agon Address *633 HIKUAUASE*
Kahului Maui HI

Name *Rosclinda O. Aganon*
R. Aganon Address *40 Puukani St.*
Kahului Maui HI.

Name *Manuel Cepas*
Manuel Cepas Address *Lehua St. Kahului*

Name *Virginia Domingo*
Virgen Domingo Address *Kahului*

Name *William Helgenberger*
William Helgenberger Address *Kahului*

Name **GUY YAMASHIRO**
Guy Yamashiro Address **201 ANI STREET**
KAHULUI, 96732
