

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER & LAND

Monday, February 8, 2016
9:00 A.M.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2198
RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS
FOR UKUMEHAME RESERVOIRS

House Bill 2198 proposes to authorize the issuance of special purpose revenue bonds to provide financing to assist West Maui Investors, LLC with two (2) Ukumehame reservoirs. **The Department of Land and Natural Resources (Department) supports this measure as it will assist the dam and reservoir owners by providing an economic means to bring their facilities up to current safety standards and reduce the risk of a dam failure.**

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

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

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

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

Thank you for the opportunity to testify on this measure.

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

KEKOA KALUHIWA
FIRST DEPUTY

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

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

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON WATER & LAND
ON
HOUSE BILL NO. 2198

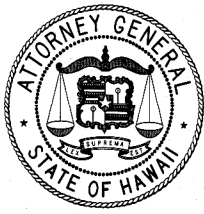
February 8, 2016
9:00 A.M.

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

House Bill No. 2198 authorizes the issuance of Special Purpose Revenue Bonds (SPRB) up to \$850,285 to provide financing to assist West Maui Investors, LLC, with two Ukumehame reservoirs pursuant to Act 147, Session Laws of Hawaii 2012.

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

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



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2198, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR UKUMEHAME RESERVOIRS.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Monday, February 8, 2016 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

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

Chair Yamane and Members of the Committee:

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

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

We have two comments regarding this bill.

First, this bill references Act 147, Session Laws of Hawaii 2012 ("Act 147"), as the enabling statutory language for chapter 39A, Hawaii Revised Statutes, to issue special purpose revenue bonds to assist dam and reservoir owners. However, while Act 147 was enacted in 2012, we believe that it is void because the corresponding implementing constitutional amendment failed to be ratified in 2012. While the Hawaii State Constitution was successfully amended in 2014 to authorize the issuance of special purpose revenue bonds to assist dam and reservoir owners, no enabling statutory language to permit the issuance of special purpose revenue bonds to assist dam and reservoir owners was passed by the Legislature in 2014 to implement this constitutional provision.

We note that H.B. No. 2058, Relating to Special Purpose Revenue Bonds, provides the enabling statutory language to issue special purpose revenue bonds to assist dam and reservoir owners under chapter 39A.

Because we consider Act 147 to be void because the corresponding implementing constitutional amendment failed to be ratified in 2012, we suggest that the following references to Act 147 be replaced with H.B. No. 2058:

1. Section 2, page 1, lines 5-6;
2. Section 2, page 1, lines 14-15; and
3. Section 3, page 2, lines 3-4.

Second, while the bill proposes to authorize the issuance of special purpose revenue bonds for the Ukumehame reservoirs numbers two and three, we note that section 2, page 1, lines 12-16, of the bill, makes a legislative finding regarding the Kehalani off site retention basin. It is not clear what the relationship is between the Ukumehama reservoir numbers two and three and the Kehalani off site retention basin.

Thank you for the opportunity to testify on this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 06, 2016 3:24 PM
To: waltestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2198 on Feb 8, 2016 09:00AM*

HB2198

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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