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

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

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

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

**Friday, January 31, 2020
1:45 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 2111
RELATING TO THE CHAIRPERSON OF THE HAWAIIAN HOMES COMMISSION**

Senate Bill 2111 proposes to amend Section 174C-7, Hawaii Revised Statutes (HRS), to add an eighth member, the Chairperson of the Hawaiian Homes Commission or the Chairperson's designee, to serve as an ex-officio voting member on the Commission on Water Resource Management (Commission) of the Department of Land and Natural Resources (Department). **The Department offers the following comments.**

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

Towards that end, the Commission has approved 26 reservations thus far for DHHL for both ground and surface waters across the six major Hawaiian islands totaling over 28 million gallons per day (mgd):

Island	Hydrologic Unit*	Reservation Amounts (million gallons per day)	Effective Date
Kaua‘i	Wailua GWHU	0.708	9/18/18
	Anahola GWHU	1.470	9/18/18
	Kekaha GWHU	0.336	9/18/18
	Makaweli GWHU	0.405	9/18/18
	Waimea SWHU	6.903	6/20/17
	Wailua SWHU	0.513	10/16/18
O‘ahu	Waipahu-Waiawa GWHU	1.724	2/18/94
	Waimānalo GWHU	0.124	2/18/94
Lāna‘i	Leeward GWHU	0.067	9/18/18
Molokai	Kualapu‘u GWHU	2.905	6/10/95
Maui	Honokōwai GWHU	0.770	9/18/18
	Kama‘ole GWHU	2.547	9/18/18
	Ke‘anae GWHU	0.003	9/18/18
	Kawaipapa GWHU	0.118	9/18/18
	Luala‘iula GWHU	0.063	9/18/18
Hawai‘i	Keauhou GWHU	3.398	8/17/15
	Hawi GWHU	0.148	9/18/18
	Māhukona GWHU	3.014	9/18/18
	Honoka‘a GWHU	0.396	9/18/18
	Hakalau GWHU	0.083	9/18/18
	Onomea GWHU	0.250	9/18/18
	Hilo GWHU	0.492	9/18/18
	Kea‘au GWHU	1.336	9/18/18
	‘Ōla‘a GWHU	0.025	9/18/18
	Nā‘ālehu GWHU	0.185	9/18/18
Pāhoa GWHU	0.660	9/18/18	

* GWHU= Ground Water Hydrologic Unit; SWHU = Surface Water Hydrologic Unit

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

All Commission members have constitutional and statutory responsibilities to protect and preserve the rights of DHHL. Adding a member for this specific interest may create a perception that the other Commissioners have no obligation to consider these important rights. The Hawaii Supreme Court has made it clear that in the context of water, the entire Commission has a responsibility to respect and protect native Hawaiian rights, including those of DHHL, and to carry out the State's public trust duties. This responsibility does not rest on a single member.

Thank you for the opportunity to comment on this measure.



SB2111
RELATING TO THE CHAIRPERSON OF THE HAWAIIAN HOMES COMMISSION
Senate Committee on Water and Land
Senate Committee on Hawaiian Affairs

January 31, 2020

1:45 p.m.

Conference Room 229

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** SB2111, which would add the chairperson of the Hawaiian Homes Commission (HHC) or the chairperson's designee to the Commission on Water Resources Management (CWRM).

Designating a seat on CWRM for the HHC chairperson or their designee will better ensure that the unique rights and needs of the Department of Hawaiian Home Lands (DHHL) and its beneficiaries are understood and considered, in the administration and allocation of our public trust water resources. Both the constitution and the state water code provide DHHL and its beneficiaries with unique rights to our public trust water resources. These rights may be essential to fulfilling the State's and DHHL's critical responsibilities, to serve the beneficiaries and manage the assets of the Hawaiian Home Lands Trust; such rights, for example, include the right to reserve water for future DHHL needs, as well as the right to enjoy a priority for water use in designated water management areas, among others.

OHA notes that there have been longstanding concerns involving the actual enforcement and practical implementation of DHHL's water rights, which may be often overlooked in CWRM's current decision-making process. For example, while DHHL may apply for and receive reservations for water, CWRM has in the past failed to ensure that new private wells do not impair DHHL's future ability to actually use such reservations. Similarly, CWRM decisionmaking on whether or not to designate water management areas may not necessarily reflect a full consideration of how designation can better protect DHHL's rights and interests, particularly in aquifer areas where substantial future development may be planned.

By adding the HHC chairperson or their designee to CWRM, this measure may allow CWRM to more fully understand DHHL's unique water rights and needs, and better ensure that CWRM decisionmaking properly considers DHHL's historical and practical challenges and concerns relating to its water rights.

Accordingly, OHA urges the Committees to **PASS** SB2111. Mahalo for the opportunity to testify on this measure.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON WATER AND LAND;
AND SENATE COMMITTEE ON HAWAIIAN AFFAIRS

For hearing Friday January 31, 2020

Re: SB 2111 RELATING TO THE CHAIRPERSON OF THE HAWAIIAN HOMES COMMISSION.

Adds the chairperson of the Hawaiian Homes Commission or the chairperson's designee to serve as an ex officio, voting member of the Commission on Water Resource Management.

TESTIMONY IN OPPOSITION

"The purpose of this Act is to add the chairperson of the Hawaiian homes commission or the chairperson's designee as an ex officio, voting member of the commission on water resource management."

The commission on water resource management currently has seven members, and this bill proposes to add an eighth. Five members are appointed by the Governor. Three of them are identified by their fields of expertise, regardless of race: "at least one member shall have

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. The chairperson of the board of land and natural resources shall be the chairperson of the commission. The director of health or the director's designee shall serve as an ex officio voting member."

This bill would add a new interlocking director ex-officio from a different board, who must also satisfy a racial requirement. "The chairperson of the Hawaiian homes commission or the chairperson's designee shall serve as an ex officio, voting member." Both the requirement for shared directorate, and the racial requirement implied by specifying the chairperson of the Hawaiian homes commission, should be rejected.

If there is any reason for an interlocking directorate, then the Department of Commerce and Consumer Affairs would be a far more valuable partner than DHHL, because all of the commerce and consumer activity of the entire population of Hawaii is dependent on good management of water resources. In fact a subsidiary of DCCA, the Condominium Association, has larger membership and greater specialized needs than DHHL.

Some general issues regarding interlocking directorates, with particular focus on identity politics and racial favoritism

When a corporation has one or more members of its board of directors who serve(s) also as a board member of one or more other corporation(s), such a situation is described by saying that the corporations have interlocking directorates. The shared director(s) help each corporation know the plans and activities of the other(s), enabling them to cooperate both in business and in political activity to lobby for laws and government policies that are mutually beneficial. An example of a good interlocking directorate would be if the state

highway department had an institutional relationship with the county board of water supply and the private Hawaiian Electric Company, so that we would not have highways being newly repaved only to be dug up soon afterward to replace water pipes or electric poles or buried lines.

However, if two companies are major competitors against each other (Ford and General Motors, for example) it would violate anti-trust laws for them to have interlocking directorates who could use shared knowledge to "fix" prices or establish duopolies to drive out competitors.

In his farewell speech at the end of his second term, President Eisenhower warned about the dangers of the "military-industrial complex." He knew from experience that large corporations lobby politicians to get the government to spend money on purchases of billions of dollars of military supplies and equipment from their companies, even when military officers say those items are outdated or unneeded. Bribery, nepotism and corruption run rampant.

Interlocking directorates are a fact of life in the corporate world. But they can be problematic in the relations government agencies have with each other and with corporate suppliers of goods and services.

It is especially troubling when racial favoritism is a frequent component of decision-making in government; for example, if a Department of Education is predominantly ethnic Japanese in its leadership and staffing while it usually chooses ethnic Japanese companies as suppliers or contractors and usually favors Japanese cultural activities in its curriculum.

Over the years OHA has successfully pushed through the Legislature numerous bills which require that various government agencies, boards, and commissions must have one or more voting members who are appointed by OHA, or appointed from a list approved by OHA; i.e., they must be ethnic Hawaiian or strongly committed to OHA's agenda of

racial entitlements. The agency members appointed by OHA are essentially spies and lobbyists who report on the internal deliberations of those agencies and attempt to shape policy-making in accord with OHA's agendas. Consider this: How would OHA like it if the legislature passed bills allowing other government agencies (like the Attorney General or state Auditor) to appoint ex-officio members to OHA's board?

No other ethnic group has a government agency exclusively devoted to its own people, empowered to spend annually tens of millions of dollars from taxes and land lease revenues exclusively for its own racial group, or empowered to appoint or veto members of other government agencies. The entire purpose is racial -- to ensure that those other agencies will comply with OHA's views about what is "pono"; i.e., meets the needs or desires of ethnic Hawaiian "culture", Hawaiian language, and ethnic Hawaiian political power. The only other government agency that is explicitly race-focused is Department of Hawaiian Homelands. Recently DHHL has been lobbying for legislation to establish its own fiefdom of interlocking directorates. "Native Hawaiian" is the only racial group that has entire government agencies at its beck and call; or board positions racially and ideologically earmarked.

Let's remember that OHA has worked very hard for many years to create a racial separatist Hawaiian tribe and secure federal recognition for it. Other Hawaiian sovereignty activists are working at the international level to re-invent Hawaii as a totally independent nation. Both the racial separatists and the ethnic nationalists enthusiastically grab all the racial entitlements they can get from the federal and state governments; and they use resources and laws of "the system" to undermine the system.

Consider the cuckoo bird. It is famous for laying its eggs one by one in different nests of other birds. Whenever possible the cuckoo bird will go to the temporarily unattended nests where it laid its own egg and push some or all of the rightful eggs out of the nests so the cuckoo

egg gets more attention than it otherwise would. When the egg hatches, the birds who laid the rightful eggs end up feeding the cuckoo chick who has usurped the place of the rightful chicks. OHA is the cuckoo bird, laying its eggs in other agencies, where they will hatch and eat the resources there.

Readers might recall various examples where parasites use the body of a host as a source of food. This is not the gentle symbiosis of a cleaner wrasse and a reef fish, where the wrasse feeds itself by eating the parasites plaguing the reef fish, and thereby both the wrasse and the reef fish benefit. Perhaps the mildest example of a harmful parasite is the tapeworm which enters the human body through food or ingested dirt and then grows in the intestine to lengths of several feet, eating the food being digested in the intestine and thus sapping the person of strength and causing disease. The example of the tapeworm illustrates how OHA has been feeding itself off the body politic of Hawaii.

A more monstrous example is the parasitic wasp. The adult female wasp uses its ovipositor to puncture the skin of a caterpillar and deposit numerous fertilized eggs inside the caterpillar, where the baby wasps eat the caterpillar's insides until the full-grown wasps emerge and fly away as the caterpillar dies.

It's time to stop playing identity politics with Hawaii's government.

It is a fundamental principle of civil rights that all people should be treated equally under the law regardless of race. Equal treatment under the law means there should be no special rights or government entitlement programs for one race preferentially or exclusively. See the webpage "Four Fundamental Principles of Unity and Equality" at <https://tinyurl.com/yxg5plnb> and the version emailed to all legislators on January 6, 2020 preserved on Facebook at <https://tinyurl.com/yh32yex8>

SB-2111

Submitted on: 1/28/2020 7:14:24 PM

Testimony for WTL on 1/31/2020 1:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

SB-2111

Submitted on: 1/29/2020 5:25:57 PM

Testimony for WTL on 1/31/2020 1:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kama Hopkins	Individual	Support	No

Comments:

Council Chair
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January 29, 2020

TO: The Honorable Kaiali'i Kahele, Chair
Senate Committee on Water and Land
The Honorable Maile Shimabukuro, Chair
Senate Committee on Hawaiian Affairs

FROM: Tamara Paltin, Councilmember for West Maui
Maui County Council

SUBJECT: **HEARING OF JANUARY 31, 2020; SUPPORT OF SB 2111,
RELATING TO THE CHAIRPERSON OF THE HAWAIIAN HOMES
COMMISSION**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this bill adds the chairperson of the Hawaiian Homes Commission or the chairperson's designee to serve as an ex officio, voting member of the Commission on Water Resource Management.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this support in my capacity as an individual member of the Maui County Council.

Recognizing that water is a vital and precious resource necessary for the development of Hawaiian homesteads, therefore representation of the beneficiaries of the Hawaiian Homes Commission on the Commission on Water Resource Management (CWRM) is necessary. According to 174C-101(a), Hawaii Revised Statutes, CWRM is responsible for making decisions that protect adequate reserves of water for current and foreseeable development of Hawaiian Home Lands. In order to accomplish this, a designee from the Hawaiian Homes Commission should be a voting member of the commission.

Thank you, once again, for the opportunity to testify and for your consideration.