

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 & HAWAIIAN AFFAIRS**

**Wednesday, March 11, 2020
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 2828, SENATE DRAFT 1
RELATING TO WATER**

Senate Bill 2828, Senate Draft 1 proposes to specify that fire safety use is a beneficial use of water and require the Department of Land and Natural Resources (Department) to work with the county governments, Hawaii emergency management agency and owners to use reservoir water for fire safety. **The Department supports this measure as amended in Senate Draft 1.**

This measure proposes to amend the declaration of policy in the State Water Code, Section 174C-2, Hawaii Revised Statutes, to include the benefit to public health, safety, and welfare by maintaining available fresh water for fire safety purposes. The Department concurs that fire safety is a legitimate beneficial use of water.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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



SB2828 SD1
RELATING TO WATER
House Committee on Water, Land, & Hawaiian Affairs

March 11, 2020

9:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2828 SD1, which would amend the state water code to prioritize “fire safety” as a beneficial use of state public trust water resources, for the stated purpose of refilling and maintaining currently unfilled reservoirs. **OHA is concerned that this measure would encourage and promote corporate and private water banking, in contravention to the public trust doctrine, in a manner that may compromise the integrity and function of our watersheds, without questionable benefits to the overall safety of the public.**

As an initial matter, OHA recognizes and appreciates concerns regarding the need for fire fighting resources, and has itself committed funds to assist affected beneficiaries in their recovery from the recent and tragic fires in West Maui. However, a statutory amendment as proposed is not necessary for the state to recognize and allocate water for fire safety uses as a reasonable beneficial use in appropriate circumstances. Additionally, there is no indication that a codified state policy that prioritizes the refilling and maintenance of currently defunct reservoirs will provide any significant benefit to the fire suppression and response needs of the state or its counties. **On the other hand, the proposed statutory amendment to HRS § 174C-2 may promote the continued or renewed diversion of streams to fill continuously leaking and potentially dangerous reservoirs,ⁱ while impairing the aquifer recharge and climate resiliency functions of our native watersheds, including through the proliferation of invasive species that increase the risk of fires and other climate change-associated threats.**

OHA further notes that in many instances, there may be alternative sources of water that are already available and/or much better suited for fire suppression and fighting activities, including, for example, the 3 to 5 million gallons of water per day produced by the Lahaina Wastewater Reclamation Facility, currently disposed of via groundwater injection wells.ⁱⁱ **A public trust analysis under the existing state water code would enable the state to consider an analysis of such alternatives, prior to determining whether and to what extent the refilling and maintenance of potentially dangerous reservoirs for “fire safety” may be considered a “beneficial” use. The proposed statutory amendment would limit such an analysis, while unintentionally encouraging and legitimizing water banking to the detriment of the public trust.**

OHA notes that private “water banking,” or the reservation and sequestration of water for private purposes, is inapposite to the public trust doctrine, the state constitution, and the state water code, which require the state to ensure the actual use and development of our limited water resources for the public benefit.ⁱⁱⁱ **Allowing private entities to “bank” or reserve water for hypothetical future uses precludes such water from serving public trust purposes and reasonable beneficial uses prioritized under the water code and public trust doctrine, and may lead to the significant and substantial waste of our islands’ most precious and important resource.** By characterizing the refilling and maintenance of large and notoriously leaky reservoirs,^{iv} including privately held reservoirs, as a “beneficial” use of water, this measure may unintentionally promote and justify private water banking, helping private landowners and developers gain the significant financial benefit of a private water source, to the detriment of the native watersheds, ecosystems, cultural practices, domestic and agricultural uses, and other public purposes and uses that would otherwise rely on water banked in such a manner.

Notably, the diversion of surface waters to maintain large reservoirs of questionable integrity may compromise the climate resiliency, water security, and overall public safety of our islands. Native forested watersheds serve critical functions including aquifer recharge, and may play a key role in our islands’ climate resiliency, including in climate change-related disaster mitigation.^v Diversions can significantly impair native watersheds and ecosystems,^{vi} and may lead to the proliferation of invasive species that severely reduce aquifer recharge and water availability rates,^{vii} and that can significantly increase the risk of wildfires.^{viii} The dams and reservoirs that would be considered “beneficial” for fire safety purposes under this measure may in themselves also pose a significant risk to public safety, with **“virtually every one of Hawai’i’s 130 state-regulated dams [] considered high hazard . . . Of those, 59 are considered to be in poor or unsatisfactory condition.”**^{ix} Accordingly, any purported fire safety benefits of this measure, which may facilitate the continued or increased diversion of streams and surface waters to maintain reservoirs, may be significantly outweighed by associated water security, climate resiliency, and public safety concerns.

While OHA appreciates the intent of the amendments made to Section 3 of this bill, requiring OHA consultation in the development of protocols and agreements for the use of reservoir water for fire safety purposes. However, OHA notes that such consultation does not necessarily address the above public trust and public safety concerns, regarding whether any particular reservoir or dam should be restored or maintained in the first place. Such concerns would be best addressed by removing the amendments made in Section 2 of this measure, specifically to HRS §174C-2.

Accordingly, OHA respectfully urges the Committee to **HOLD** this measure. Mahalo nui loa for the opportunity to testify.

ⁱ Even currently working reservoirs have extremely high water loss rates from both seepage and evapotranspiration, as admitted to even by those who own them; water loss may even be higher for defunct and non-working reservoirs. See, e.g., Staff Submittal, Agenda Item C-1, Commission on Water Resource

Management, May 25, 2010 (“Of these 36 reservoirs, 31 are unlined. HC&S was unable to provide current studies documenting system loss from the reservoirs. However, they did provide data from seepage runs conducted in the 1960s which estimated loss at **23 to 31 [million gallons per day]**” (emphasis added));

Colleen Uechi, *Hui files complaint over water levels from Waihee River*, Maui News, Sept. 25, 2019, <https://www.mauinews.com/news/local-news/2019/09/hui-files-complaint-over-water-levels-from-waihee-river/> (“...Waiale Reservoir can lose 6 to 8 [million gallons per day], which HC&S was candid about.”).

ⁱⁱ *US Supreme Court Grants Petition in West Maui Injection Well Case*, MAUI NEWS, February 20, 2019.

ⁱⁱⁱ See *Kaua’i Springs, Inc. v. Planning Commission of Kaua’i*, 133 Hawai’i 141 (2014) (citing *In re Water Use Permit Applications*, 94 Hawai’i 97 (2000)).

^{iv} OHA is aware of arguments put forth by certain water banking proponents that leaking reservoirs may contribute to aquifer recharge and, by extension, future water availability. However, neither such arguments nor this measure indicates whether aquifers recharged by reservoirs are, in fact, necessarily used or usable for agriculture or public consumption, or whether the benefits of such future water availability outweigh the immediate loss of benefits to native watersheds and the aquifers they already serve. See e.g.; *Pineapple’s Lasting Legacy: The Poisoned Wells of Maui*, ENVIRONMENT HAWAII’I, June 1996.,

^v See, e.g., State of Hawai’i Dashboard: Watershed Forest Area,

<https://dashboard.hawaii.gov/en/stat/goals/5xhf-begg/4s33-f5iv/wtjm-96jt> (last accessed Feb. 2, 2020)

(“Native forests play a critical role to provide our statewide freshwater supply by acting like a ‘sponge’ and absorbing rainfall and cloud moisture. When a native forest is damaged, so is its ability to capture water.”); DEPARTMENT OF LAND AND NATURAL RESOURCES, *THE RAIN FOLLOWS THE FOREST: HAHAI NO KA UA I KA ULULĀ’AU 8* (2011) (“Protecting forests alleviates a wide range of threats from climate change predicted to cause hotter and drier conditions, and rising sea levels that infiltrate freshwater systems”).

^{vi} See HAWAII’I COMPREHENSIVE WILDLIFE CONSERVATION STRATEGY 4-2 (2005) (“...Alteration of hydrology, which includes watershed development, stream diversions, channelizations, and excessive water withdrawals that lower the aquifer, degrades or destroys habitat used by native fishes and invertebrates. Such activities indirectly affect terrestrial wildlife where these changes alter plant communities or the availability of drinking water.”)

^{vii} See HAWAII’I STATE DASHBOARD, *supra*. (“For example, widespread strawberry guava demands 27% - 53% times more water than native forests, causing extensive water loss across landscapes. In East Hawaii [sic], invasive plants have reduced estimated groundwater recharge by 85 million gallons per day. . . . Native Hawaiian plants are not adapted to wildfire, and after they are burned they are typically replaced by weeds that are more prone to re-burn. This creates a cycle of wildfires.”); Hawai’i Freshwater Initiative, *A Blueprint for Action: Water Security for an Uncertain Future* 13 (“...[W]ater loss via evapotranspiration may rise with the continued invasion of non-native plants.”). DEPARTMENT OF LAND AND NATURAL RESOURCES, *THE RAIN FOLLOWS THE FOREST: HAHAI NO KA UA I KA ULULĀ’AU 3* (2011).

^{viii} UNITED STATES DEPARTMENT OF DEFENSE, *INVASIVE SPECIES CHALLENGES AND SOLUTIONS 7* (2017) (“Invasive plants . . . can make ecosystems more susceptible to wildfire. . . . For example, fountain grass is a fire-promoting invasive species that has made its way into formerly forested landscapes on the island of Hawai’i. . . This invasive grass species has increased the frequency and size of wildfires on the [Pōhakuloa] training area.”); Clay Trauernicht, et. al., *The Contemporary Scale and Context of Wildfire in Hawai’i*, 69 PACIFIC SCIENCE 427, 427-28 (2015) (“These nonnative species regularly encroach into Hawai’i’s native ecosystems . . . where they suppress native plant regeneration, increase ecosystem flammability and fire frequency, and accelerate rates of habitat loss.”).

^{ix} Caleb Jones, *Hawaii Officials Struggle to Keep Dams Safe*, U.S. NEWS, Nov. 10, 2019.



REP. RYAN I. YAMANE, CHAIR
REP. CHRIS TODD, VICE CHAIR
HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

TESTIMONY IN **OPPOSITION** TO SENATE BILL 2828, SD1

March 11, 2020, 9:00 a.m.
Conference Room 325
State Capitol
415 South Beretania Street

Aloha Chair Yamane, Vice-Chair Todd, and Members of the House Committee on Water, Land, and Hawaiian Affairs:

Earthjustice **opposes SB 2828 SD1 to the extent that it proposes to amend the State Water Code**, HRS § 174C (“Code”), to insert the maintenance of reservoir water for fire safety purposes as a specific beneficial use under the Code’s “Declaration of Policy,” HRS § 174C-2. In short, while fire safety is certainly in the general public interest, amending the Code to justify the banking of water in former plantation reservoirs specifically or solely for such potential use is neither advisable nor necessary. Earthjustice notes that it **does not oppose** SB 2828’s other proposed amendment to the Land Fire Protection Law, HRS ch. 185, to direct the Department of Land and Natural Resources to cooperate with relevant parties develop protocols and agreements for the use of reservoir water for fire safety. Earthjustice does, however, **strongly oppose and advise against the piecemeal amendment to the Code**, as SB 2828 proposes.

Earthjustice has decades of experience in Hawai’i water law, including the Code, and has been directly involved in the leading Hawai’i Supreme Court cases interpreting and implementing the Code, including the seminal *Waiāhole* case, 94 Hawai’i 97, 9 P.3d 409 (2000). As that case recognizes, the Code’s Declaration of Policy is the statutory expression of the public trust doctrine, which is more fundamentally a *constitutional* mandate. *See id.* at 145-46, 9 P.3d at 457-58. The Court found that the Code’s statutory public trust is “essentially identical” to the constitutional public trust. *See id.* This declaration of the public trust in the Code, which has remained the same since the Code was originally enacted more 30 years ago, is not the proper place for an ad hoc amendment to promote a specific use.

The proposed Code amendment is also questionable as a matter of prudent water policy. In its experience, Earthjustice is familiar with the widespread practice of successors to former plantations diverting flows from public rivers and streams in excess of actual needs and simply banking the diverted water in antiquated, unlined former plantation reservoirs, where the water is lost through seepage and evaporation, or is even dumped out of the reservoirs into

drainage ditches and gulches. SB 2828's Code amendment would appear to endorse such water banking and waste, for the purported potential contingency of fire safety.

To be clear, Earthjustice does not oppose the use of reservoir water for fire control as an *ancillary* use and benefit of a reservoir that otherwise supplies actual needs for reasonable-beneficial offstream uses such as bona fide agriculture. Declaring the diversion and maintenance of fresh water reservoirs for potential fire control as a categorical beneficial use *in itself*, however, requires an additional leap that currently lacks concrete, substantive support. Such a blanket policy declaration necessitates more thoughtful and holistic analysis of the actual need for such reservoir supplies (depending on region-specific considerations), the overall benefits and costs (economic, social, and environmental) of continually maintaining them, as well as alternatives (e.g., using ocean water) and mitigation (e.g., requirements to line ditches and reservoirs to minimize waste).

Finally, to the extent that a bona fide public interest and need for reservoir water for fire safety can be shown, nothing in the Code presently prevents the Commission from facilitating and permitting such uses. In other words, SB 2828's proposed Code amendment is a "solution without a problem." Moreover, as discussed above, the proposed "solution"—i.e., a piecemeal insertion in the Code's declaration of the public trust doctrine—will only raise more questions and problems.

For the foregoing reasons, Earthjustice opposes SB 2828 and respectfully requests that it be **held, or at least amended to delete the proposed amendment of the Code**. Mahalo nui for this opportunity to testify. Please do not hesitate to contact us with any further questions or for further information.

Isaac H. Moriwake



Attorney
Earthjustice



Native Hawaiian LEGAL CORPORATION

1164 Bishop Street, Suite 1205 • Honolulu, Hawai'i 96813 • www.nhlchi.org
Phone (808) 521-2302 • Fax (808) 537-4268



REP. RYAN I. YAMANE, CHAIR
REP. CHRIS TODD, VICE CHAIR
HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

TESTIMONY IN OPPOSITION TO SENATE BILL 2828, SD1

March 11, 2020, 9:00 a.m.
Conference Room 325
State Capitol
415 South Beretania Street

Aloha Chair Yamane, Vice-Chair Todd, and Members of the House Committee on Water, Land, and Hawaiian Affairs:

Native Hawaiian Legal Corporation (NHLHC) **opposes SB 2828 SD1 to the extent that it proposes to amend the State Water Code**, HRS § 174C (“Code”), to insert the maintenance of reservoir water for fire safety purposes as a specific beneficial use under the Code’s “Declaration of Policy,” HRS § 174C-2. In short, while fire safety is certainly in the general public interest, amending the Code to justify the banking of water in former plantation reservoirs specifically or solely for such potential use is neither advisable nor necessary. NHLHC does **not** oppose SB 2828’s other proposed amendment to the Land Fire Protection Law, HRS ch. 185, directing the Department of Land and Natural Resources to cooperate with relevant parties to develop protocols and agreements for the use of reservoir water for fire safety. We do, however, **strongly oppose and advise against the piecemeal amendment to the Code**, as SB 2828 proposes.

As Earthjustice’s testimony points out, the seminal *Waiāhole* case, 94 Hawai’i 97, 9 P.3d 409 (2000), recognizes the Code’s Declaration of Policy is the statutory expression of the public trust doctrine, which is more fundamentally a *constitutional* mandate. *See id.* at 145-46, 9 P.3d at 457-58. The *Waiāhole* Court found that the Code’s statutory public trust is “essentially identical” to the constitutional public trust. *See id.* As such the Code, which has remained the same since enacted more 30 years ago, is not the proper place for an ad hoc water banking amendment to promote a specific use.

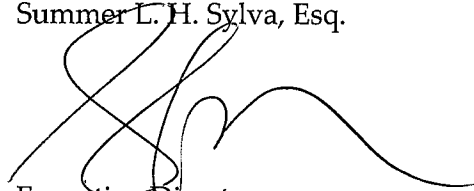
At its worst, SB 2828’s Code amendment would appear to endorse (under the pretense of fire safety) the kind of water banking and waste that has been the practice of successors to former plantations, who have been known to divert flows from public rivers and streams in excess of actual needs only to bank the diverted water in antiquated, unlined former plantation reservoirs, where the water is lost through seepage and evaporation, or dumped out of the reservoirs into drainage ditches and gulches.

Like Earthjustice, NHLC does not oppose the use of reservoir water for fire control as an *ancillary* use and benefit of a reservoir that otherwise supplies actual needs for reasonable-beneficial offstream uses. Declaring the diversion and maintenance of fresh water reservoirs for potential fire control as a categorical beneficial use *in itself*, however, is tantamount to a blanket policy declaration that requires more thoughtful and holistic analyses (i.e., actual reservoir supply needs, the overall benefits and costs of maintaining reservoirs, alternatives, and mitigation) that have yet to be explored.

To the extent that a bona fide public interest and need for reservoir water for fire safety can be shown, nothing in the Code presently prevents the Commission from facilitating and permitting such uses. As a result, SB 2828's proposed Code amendment is unnecessary and will only raise more questions and problems than it resolves.

For the foregoing reasons, NHLC opposes SB 2828 and respectfully requests that it be **held, or at least amended to delete the proposed amendment of the Code**. Mahalo nui for this opportunity to testify.

Summer L. H. Sylva, Esq.

A handwritten signature in black ink, appearing to read 'Summer L. H. Sylva', with a long, sweeping horizontal flourish extending to the right.

Executive Director

Native Hawaiian Legal Corporation



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

March 11, 2020

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

TESTIMONY ON SB 2828, SD1
RELATING TO WATER

Room 325
9:00 AM

Aloha Chair Yamane, Vice Chair Todd, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports SB 2828, SD1, which specifies that fire safety use is a beneficial use of water and requires the Department of Land and Natural Resources, in consultation with the Hawaii Emergency Management Agency and the Office of Hawaiian Affairs, to cooperate with the counties and reservoir owners to develop protocols and agreements for the use of reservoir waters for fire safety purposes.

HFB recognizes that properly maintained reservoirs can play an important role in providing fire safety to our communities. The demise of large scale agriculture has left rural communities, many adjacent to urbanized areas subject to wildfires. In 2019, over 10,000 acres burned in the Central Valley of Maui. Timely action by first responders and volunteers were able to contain the fires without injury to property or people. Reservoir water on former sugar cane lands provided accessible water in the fire area, significantly reducing the travel time for helicopters and water tankers.

HFB believes that the use of water from the reservoirs is for the public benefit and should be within the scope of the public trust.

We respectfully request your support of this measure, especially for rural areas across the State where reservoirs may be the only source of accessible water.

Thank you for this opportunity to provide our input on this important matter.



Hui o Nā Wai 'Ehā

Ola i ka wai [www.HUIONAWAIEHA.ORG](http://www.huionawaieha.org)

Hui o Nā Wai 'Ehā Board of Directors

Hōkūao Pellegrino
(President)

Koa Hewahewa
(Vice President)

Lani Eckart-Dodd
(Treasurer)

Lucienne de Naie
(Secretary)

Duke Sevila
(Founding Board
Member)

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

Ikaika Nakahashi
(Board Member)

Kōnane Awo DelaNux
(Board Member)

Mariana Löwy-
Gerstmar
(Board Member)

Ka'apuni Aiwohi
(Board Member)

Kamalani Uehara
(Board Member)

Maui Tomorrow (Collaborator)

Albert Perez
(Executive Director)

To: Representative Ryan I. Yamane, Chair, Representative Chris Todd, Vice-Chair of the House Committee on Water, Land & Hawaiian Affairs

Re: Testimony in **OPPOSITION** to Senate Bill 2828, SD1

March 11, 2020, 9:00 am

Conference Room 325



State Capital

415 South Beretania Street

Aloha e Chair Yamane, Vice-Chair Todd and Members of the House Committee on Water, Land and Hawaiian affairs.

Hui o Nā Wai 'Ehā Board of Directors along with their membership base of over 500 Native Hawaiian and Non-Native Hawaiian kuleana kalo and diversified farmers, educators, water rights and aloha 'āina advocates on Maui **strongly oppose SB 2828 SD1 with language pertaining to the State Water Code, HRS § 174C ("Code")**, to insert the maintenance of reservoir water for fire safety purposes as a specific beneficial use under the Code's "Declaration of Policy," HRS § 174C-2. Hui o Nā Wai 'Ehā understands and supports fire safety measures as a means to protect the general public, however, the Hui does not support amending the Water Code to justify the banking of water in unlined and inefficient agricultural reservoirs. The Hui is **supportive of SB 2828** as it relates to the other proposed amendments to the Land Fire Protection Law, HRS ch 185, to direct the Department of Land and Natural Resources to cooperate with relevant parties develop protocols and agreements for the use of reservoirs water fire safety. Hui o Nā Wai 'Ehā respectfully urge the House Committee to **remove any language that seeks to modify and/or amend the Water Code**, as SB 2828 proposes to do.

For over 15 years, Hui o Nā Wai 'Ehā has been and continues to be extensively involved and engaged with the Maui Community around surface and ground water issues. The Hui knows firsthand about problems related to public trust water resources being banked by private entities in outdated, unmanaged, unlined, inefficient and often dangerous irrigation systems which include reservoirs. Allowing widespread practices by successors of former plantations such as Mahi Pono, East Maui Irrigation, Wailuku Water Company, West Maui Land Company, Launiupoko Water Company, Maui Land & Pine and others to divert flows from public rivers and streams, some in a Surface Water Management Designated Area in excess of actual needs and to simply bank the diverted water in problematic reservoirs, as described above, is unacceptable and unwarranted. The Hui has

Hui o Nā Wai 'Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793
(808) 430-4534 • Huionawai4@gmail.com • www.huionawaieha.org •  

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

experienced all too often and as recent as January and February of 2020, that some of these diverters dump and waste surface water by draining their ditches and reservoirs into dry gulches. The Code amendment as outlined in SB 2828 appears to endorse such water banking and waste, all in the name of fire safety. A portion of this bill seeks to reach beyond its intended purpose while giving private corporation entities a free pass at taking additional surface water for non-beneficial and public trust uses. The Hui cannot support this controversial bill as written, allowing a blanket priority for water banking in reservoirs.

Attempting to amend the Water Code is unnecessary and not in line with the Nā Wai ‘Ehā and greater Maui community who work towards (1) Protecting water resources for traditional and customary practices, of Native Hawaiian (lo‘i kalo cultivation, nearshore fishing and gathering), (2) Facilitating upstream and downstream passage for native aquatic species (‘o‘opu, hīhīwai, ‘ōpae), (3) Safeguarding groundwater and aquifer recharge, (4) Reviving native ecosystems such as upland watersheds, estuaries, wetlands, riparian native vegetation and nearshore fisheries, (5) Supporting aesthetic values and outdoor community recreational activities along streams, and (6) Promoting education and research.

Hui o Nā Wai ‘Ehā does not oppose the use of reservoir water for fire control as an secondary use and benefit of a reservoir that otherwise supplies actual needs for reasonable-beneficial off-stream uses such as legitimate agriculture. Declaring the diversion and maintenance of surface water reservoirs for potential fire control as a categorical beneficial use in of itself overreaches into highly questionable territory of which Hui o Nā Wai opposes. There should be further detailed analysis that hones in on region-specific issues, overall benefits, impacts and costs (cultural, economic, social, and environmental) of continually maintaining reservoirs, use of other alternatives such as using ocean water and critical mitigation measures, for example, requiring ditches and reservoirs to be lined and eliminating wasteful dumping into gulches, other watershed and streams and open fields.



In conclusion, to the extent that a legitimate public interest and need for reservoir water for fire safety can be demonstrated, nothing in the Water Code as it presently stands prevents the Commission from facilitating and permitting such uses. Therefore, SB 2828’s proposed Water Code amendments is unnecessary and will cause more problems beyond its intended purpose of protecting the health and safety of Maui’s communities.

Hui o Nā Wai ‘Ehā, therefore, opposes SB 2828 and humbly requests that it be held, or at least amended to delete the proposed amendment of the Water Code. On behalf of the Hui Board of Directors and Hui Members, mahalo nui for the opportunity to provide testimony. Please do not hesitate to contact us with any mana‘o or further questions.

Me ka ha‘aha‘a,



Hōkūao Pellegrino
(President)

Hui o Nā Wai ‘Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793
(808) 430-4534 • Huionawai4@gmail.com • www.huionawaieha.org •  

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

SB-2828-SD-1

Submitted on: 3/10/2020 10:27:58 AM

Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

SB-2828-SD-1

Submitted on: 3/9/2020 4:41:53 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support SB2828. An adequate water supply is essential to fighting fires, which are becoming more frequent due to droughts.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei, Maui

SB-2828-SD-1

Submitted on: 3/9/2020 5:49:00 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

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

Comments:

My name is Benton Kealii Pang, and I oppose SB2828 SD1. This measure would encourage and promote corporate and private water banking, in contravention to the public trust doctrine, in a manner that may compromise the integrity and function of our watersheds, with questionable benefits to the overall safety of the public. Allowing private entities to “bank” or reserve water for hypothetical future uses precludes such water from serving public trust purposes and reasonable beneficial uses prioritized under the water code and public trust doctrine, and may lead to the significant and substantial waste of our islands’ most precious and important resource.

Please do not pass SB2828 SD1.

Mahalo for the opportunity to comment.

Benton Kealii Pang, Ph.D.

SB-2828-SD-1

Submitted on: 3/9/2020 9:42:59 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Support	No

Comments:

Committee on Water, Land, & Hawaiian Affairs

March 11, 2020 at 9:00 AM

SB2828, SD1

Aloha e Chair Ryan Yamane, Vice Chair Chris Todd, and Committee on Water, Land, & Hawaiian Affairs,

My name is Kamalani Uehara, I am testifying in opposition to SB2828 as a community member of Maui. I am a water microbiologist by trade but I come from a family of water-loving and protecting people. This bill wants to make fire safety a reason for having it be law to fill reservoirs and that is not pono. Yes, the reservoir owners should have protocols with MFD to fight the fires all over the island. However, if adding “to benefit the public’s health, safety, and welfare by maintaining available fresh water for fire safety purposes” to the state water code (HRS 174C-2c), who will police the (mis)use of their water in these reservoirs? Will this mandate an increase to WUPAs? CWRM already has their hands more than full with the streams at the source. Reservoirs, being so exposed and unmaintained, have seepage and evaporation rates that are substantial compared to how much water is left in the streams right now. We witnessed those massive losses at Wai’ale reservoir with HC&S. I just hope that permit users would not be allowed to ask for more water (or not even have to ask) because of the language added to the state water code. Surface water is already scarce and our Maui community is doing its best to fight off greedy corporations so don’t let them use MFD as an excuse for their waste.

Mahalo for your consideration and time,

Kamalani

SB-2828-SD-1

Submitted on: 3/10/2020 3:18:44 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelei Tancayo	Individual	Oppose	No

Comments:

I OPPOSE any and all amendments to the State Water Code which would allow corporate water diverters, Wailuku Water Co, Mahi Pono, West Maui Land Co, Launiupoko Water Co. are a few named but not limited to those named to divert, bank and waste water in the name of fire safety.

SB-2828-SD-1

Submitted on: 3/10/2020 3:25:37 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
amanda	Individual	Oppose	No

Comments:

To: Representative Ryan I. Yamane, Chair, Representative Chris Todd, Vice-Chair of the House Committee on Water, Land & Hawaiian Affairs

Re: Testimony in OPPOSITION to Senate Bill 2828, SD1

March 11, 2020, 9:00 am Conference Room 325 State Capital
415 South Beretania Street



Aloha Kakou Chair Yamane , Vice-Chair Todd and Members of the House Committee on Water, Land and Hawaiian affairs.

Sierra Club Maui members and supporters have watched our waters be mismanaged for many years. While we support having adequate waters available for fire safety, we believe that existing laws already permit that use, when needed and appropriate.

We are aware that A&B, and now its successor, Maui Pono have not always been forthright about how much water is truthfully needed for what functions and how much is just simply being diverted from streams and then wasted. In East Maui, it is estimated that 22.7 % of diverted water will be part of “system losses.” In Na Wai Eha, one large reservoir leaked over 7 mgd for many years.

We are concerned that the passage of SB2828, with language that seeks to modify and/or amend the Water Code, as SB 2828 proposes to do, will only serve as another loophole to avoid accountability for water resources and allow “water banking” of public resources for private gain..

It seems very clear from past firefighting events, that when water is needed, the large landowners make reservoirs available. We have also observed that Maui Fire Department has portable reservoirs that can be filled from water trucks. Our existing reservoir systems are not the only water resource available to our dedicated fire fighters. They appear to have access to water resources they need.

Please support good fire protection WITHOUT creating opportunities for large diverters to “hide” behind fire flow needs whenever they want to escape any oversight of the excessive quantities of public waters they divert.

Please Remove the language in SB2828 that proposes Water Code amendments.

Mahalo nui loa

Lucienne de Naie, Conservation Chair, Sierra Club Maui

LATE

SB-2828-SD-1

Submitted on: 3/10/2020 3:52:21 PM
Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Oppose	No

Comments:

I OPPOSE.. It's tiring to see the same people keep coming back and trying to take water or undo what has already been decided etc. ENOUGH IS ENOUGH.

SB-2828-SD-1

Submitted on: 3/10/2020 4:51:34 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Terez Amato Lindsey	Individual	Oppose	No

Comments:

Aloha,

I am submitting my testimony in opposition to SB2828 SD1

Please do not let a private corporation undermine our state water code. Water is a public trust asset and it must not be undermined so a business can exploit our public resources so they can make money. Please stand in opposition of this measure.

Thank you,

Terez Amato Lindsey, SD6, South Maui

SB-2828-SD-1

Submitted on: 3/10/2020 5:30:26 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Makana	Individual	Oppose	No

Comments:

I oppose any and all amendments to the State Water Code which would allow corporate water diverters (i.e. Wailuku Water Co., Mahi Pono, West Maui Land Co., Launiupoko Water Co., etc.) to divert, bank and waste water in the name of fire safety.



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON WATER, LAND, AND HAWAIIAN AFFAIRS

March 11, 2020 9:00 AM Room 325

In **OPPOSITION** to **SB2828 SD1**: Relating to Water

LATE

Aloha Chair Yamane, Vice Chair Todd, and members of the committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES SB2828 SD1**, which opens up the state's water code to explicitly add fire safety as a reasonable and beneficial use of water resources, thereby encouraging the practice of "waterbanking" our public trust streams to fill private reservoirs.

The diversion of public trust streams has been a contentious issue for decades, where stream diverters have been allowed to exploit public water resources for their own private profit—to the absolute detriment of Hawai'i's streams and communities that depend on them. Permits to divert streams have been granted without any requirement that diverters assess their water needs, their impact on the environment or constitutionally-protected cultural practices, or pay a fair rent to the State for use of resources. This bill seems to endorse this problematic practice of allowing private entities to continue to divert streams and fill their water reservoirs, now in the name of potential fire safety, without any similar assessment.

The Sierra Club acknowledges that Maui faced numerous wildfires in 2019, fire safety is in the public's interest, and that firefighting resources are needed to protect public safety. However, we feel that an amendment to HRS § 174C is not necessary to achieve this purpose. The existing state water code does not prevent the state from using water resources for fire suppression; the code is to be "liberally interpreted to obtain maximum beneficial use of the waters of the State." Furthermore, pursuant to HRS § 185, DLNR is statutorily required to cooperate with established county and federal government fire control agencies "in developing plans and programs and mutual aid agreements for assistance for the prevention, control, and extinguishment of fires." Therefore, if the state determines there is a reasonable need for reservoir water to be utilized for fire safety, they are already authorized to permit and coordinate such uses without this bill.

It is possible to address fire safety needs without authorizing waterbanking under our state water code. We request the committee hold this bill and not encourage corporate entities to reservoir our public trust waters.

Thank you very much for this opportunity to provide testimony in **OPPOSITION** of **SB2828**.

SB-2828-SD-1

Submitted on: 3/10/2020 5:54:25 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Tahiti Ahsam	Individual	Oppose	No

Comments:

Aloha e Chair Kahele and Nishihara, Vice-Chairs Keith-Agaran and Wakai, and other members of Water and Land and Public Safety,

I, Tahiti Ahsam, an individual citizen of the State of Hawai'i and Maui County, am writing to you to hereby **oppose** Senate Bill 2828, which seeks to alter the State Water Code 174C-2 of the Hawai'i Revised Statutes (HRS) to include priority benefit and maintenance of fresh surface water to be diverted into unlined and unsafe reservoirs thus **risking** the health, safety, and welfare of the community.

Although I **do** support fire safety and the amendment of the Land Fire Protection Law in chapter 185 of the HRS that directs Department of Land and Natural Resources to work with appropriate reservoir parties to develop regulations and protocols regarding fire safety, I **do not** support the modification of the State Water Code as it potentially allows private entities to "bank" additional water resources for private interests that do not benefit the welfare of the general public. Also, allowing private entities to take advantage of more water and having water diverted into unregulated reservoirs threatens the restorative community efforts of agricultural kalo farming, cultural gathering and recreation, research and education, as well as mountain to ocean stream flow to ensure the wellbeing of native aquatic resources and fish ponds.

Therefore, I respectfully request that Senate Bill 2828 be **held or amended to delete the proposed amendment of the State Water Code**. I also request that other cultural, economic, social, and environmental impacts, costs, and benefits of other alternatives and/or continuing the maintenance of reservoirs be further analyzed to ensure the absolute safety of the community.

Mahalo for the opportunity to testify on this matter,

Tahiti Ahsam

SB-2828-SD-1

Submitted on: 3/10/2020 6:27:22 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Eaton	Individual	Oppose	No

Comments:

I strongly oppose this bill. Here's a little history for our Senators. King Kamehameha III enacted a bill that allowed diversions of water to Central Maui for agriculture. The King's intention was to stimulate the economy. Furthermore, these leases were for a period Of no more than 30 years and at the end of the leases, the diversions, ditches, siphons and all improvements we're supposed to revert to the Kingdom. It has been known for a 143 years that it should have reverted back to the Kingdom, Territory then the State. It states it in the MOA between EMI and the Board of Water Supply Maui County since 1938. It says it in the 1961 MOA and the 1973 one. Enough of this plantation colonialism. Take the water back! Don't allow corporations to profit from a protected public trust. O IÄ• i ka wai!

SB-2828-SD-1

Submitted on: 3/10/2020 6:30:40 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Konaneakamahina de la Nux	Individual	Oppose	No

Comments:

SB-2828-SD-1

Submitted on: 3/10/2020 6:54:41 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Joanna Maile Pokipala	Individual	Oppose	No

Comments:

I oppose SB2828

SB-2828-SD-1

Submitted on: 3/10/2020 7:09:58 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Isaac de la Nux	Individual	Oppose	No

Comments:

Dear Chair Ryan Yamane, Vice Chair Chris Todd, and members of the House Committee on Water, Land, and Hawaiian Affairs,

Please HOLD this bill or REMOVE all amendments to the State Water Code (HRS Section 174C-2). This bill will help corporations DRAIN our streams to fill LEAKING reservoirs that the state itself has deemed UNSAFE.

THIS IS NOT ABOUT FIRE "SAFETY," THIS IS ABOUT WATER BANKING FOR PRIVATE PROFIT.

Please OPPOSE this bill or get rid of the amendment to HRS Section 174C-2.

Respectfully,
Isaac Ka'iewe Kainoahou de la Nux

SB-2828-SD-1

Submitted on: 3/10/2020 7:13:24 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lexi Figueroa	Individual	Oppose	No

Comments:

I, Lexi Figueroa, oppose SB 2828. I do not support a bill that will make irrigation easier for larger corporations that have no need for more water.

SB-2828-SD-1

Submitted on: 3/10/2020 7:22:54 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Paula Alcoseba	Individual	Oppose	No

Comments:

Aloha pumehana,

As a student of Maui, I strongly oppose SB 2828 SD1, in particular to insert the maintenance of reservoir water for fire safety measures as a specific beneficial use under the Code's "Declaration of Policy." While I do support efforts for fire safety, I do not think it is necessary to amend the Water Code to justify the banking of water in inefficient and unlined agricultural reservoirs.

The part of SB 2828 that I do support is the amendment to HRS ch 185 which will allow DLNR to cooperate with relevant parties and develop protocols and agreements for the use of reservoirs for fire safety. With that being said, I respectfully ask you to please remove any language that seeks to modify or amend the Water Code, as SB 2828 proposes to do.

We are all aware of the problems the Maui and greater Hawai'i community has faced with large corporations seeking to monopolize public trust water resources. These irrigation systems being used to bank our freshwater are outdated, inefficient, unmanaged, unlined and downright dangerous! A portion of SB 2828 will without a doubt open the doors to unnecessary water banking and waste. It is a blanket statement bill that gives private corporations a free pass to take additional surface water, all under the guise of water banking in reservoirs for fire safety.

Declaring the diversion and maintenance of surface water reservoirs for potential fire control as a categorical beneficial use in of itself overreaches into highly questionable territory of which I and many others oppose and are very concerned about. Before blindly approving this bad and dangerous bill, you all must conduct detailed analysis that hones in on region-specific issues, overall benefits, impacts and cost (cultural, economic, social, and enviromental) of continually maintaining reservoirs, and look into alternatives like using ocean water and critical mitigation measures such as requiring ditches and reservoirs to be lined and eliminating wasteful dumping into gulches, other watershed, streams, and open fields.

Currently, nothing in the Water Code prevents the Commission from facilitating and permitting the use of reservoir water for fire safety. Therefore, the amendments

proposed to the Water Code in SB 2828 is unnecessary and will cause more problems for the health and safety of Maui's residents.

SB-2828-SD-1

Submitted on: 3/10/2020 7:31:20 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Hoku Vasconcellos	Individual	Oppose	No

Comments:

Please stop these water thieves. Give the Wai back to the rightful people who use it for farming. Not to big corporations. Mahalo

SB-2828-SD-1

Submitted on: 3/10/2020 7:52:14 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Kanoeaunainoa Awo	Individual	Oppose	No

Comments:

I oppose bill SB2828 because it simply only benefits and protects the interest of private companies to continue further theft of our natural water sources. This bill clearly has no interest in supporting Hawaiian kalo farmers who have been facing extreme consequences due to the shortage of water. We have sat by for years as A&B stole water from our streams and now Mahi Pono! Today no longer will we stand by as our resources are being raped by private corporations. When are you going to start looking out for the people who are from this land and who have been for generations?

SB-2828-SD-1

Submitted on: 3/10/2020 7:54:38 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Hanada	Individual	Oppose	No

Comments:

Please do not allow SB2828 to move forward. Safety is always a priority. However, the State and/or the County government should control the water not a private entity.

Thank you.

Paul Hanada

SB-2828-SD-1

Submitted on: 3/10/2020 8:36:16 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Lani Eckart-Dodd	Individual	Oppose	No

Comments:

Aloha Chair Yamane, Vice Chair Todd, and members of the House Committee on Water, Land, and Hawaiian Affairs,

Please do not enable private corporations to continue to divert our stream water unnecessarily into antiquated and dysfunctional reservoirs that the State itself has recognized as unsafe. It is certainly not prudent to create one unsafe situation to prevent another.

Furthermore, the State Water Code (HRS Chapter 174C) intends to protect our streams and streamlife, and this bill would undermine the much needed protections for our waterways here in Maui by creating a loophole for diverters who waste water!

Please OPPOSE this bill (SB 2828) and DO NOT AMMEND the State Water Code.

Me ke aloha,

Lani Eckart-Dodd

SB-2828-SD-1

Submitted on: 3/10/2020 8:38:02 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Harley Simmons	Individual	Oppose	No

Comments:

SB-2828-SD-1

Submitted on: 3/10/2020 9:03:48 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Grace Shigetani	Individual	Oppose	No

Comments:

As a fourth-generation resident of Wailuku, I oppose the amendment of the State Water Code, HRS § 174C as proposed in SB 2828 SD1. The proposed amendment is unnecessary to support the development of appropriate fire safety measures through the existing State Water Code and reaches beyond its intended purpose of protecting the health and safety of Maui's communities.

SB-2828-SD-1

Submitted on: 3/10/2020 9:29:11 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Leialoha Lani-Montira	Individual	Oppose	No

Comments:

Dear Chair Ryan Yamane, Vice Chair Chris Todd, and members of the House Committee on Water, Land, and Hawaiian Affairs,

Please HOLD this bill or REMOVE all amendments to the State Water Code (HRS Section 174C-2). This bill will help corporations DRAIN our streams to fill LEAKING reservoirs that the state itself has deemed UNSAFE.

THIS IS NOT ABOUT FIRE "SAFETY," THIS IS ABOUT WATER BANKING FOR PRIVATE PROFIT.

Please OPPOSE this bill or get rid of the amendment to HRS Section 174C-2.

Respectfully,
Leialoha Lani-Montira

SB-2828-SD-1

Submitted on: 3/10/2020 9:31:48 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Jade Chihara	Individual	Oppose	No

Comments:

Aloha Chair Yamane and Members of the House Committee on Water, Land and Hawaiian affairs.

My name is Jade Chihara and I am a Maui resident born and raised in Lahaina. I am testifying in opposition of SB2828. Such changes to the State Water Code will affect not just the watersheds of Maui but each of those across Hawaii as well. The suggested alterations to the State Water Code would jeopardize the integrity of this deed and the entirety of the Hawai'i State Constitution. Simply put like my father says, "If it ain't broke, don't fix it."

Mahalo for your time and the opportunity to submit testimony.

SB-2828-SD-1

Submitted on: 3/10/2020 9:40:03 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon B. Lindsey	Individual	Oppose	No

Comments:

I am in OPOSITION to this bill as it would create other problems with rightful water usage.

LATE

SB-2828-SD-1

Submitted on: 3/10/2020 9:42:16 PM
Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Evelyne Randles	Individual	Comments	No

Comments:

Representative Ryan I. Yamane, Chair

Representative Chris Todd, Vice Chair

Committee on Water, Land, & Hawaiian Affairs

Carol Axtelle, Micalah Crane-Worley, Inka Ovaska, Thomas Perez, Ev Randles
Hawaii Pacific University

Hearing scheduled for Wednesday 03/11/2020, 9:00am, Room 325

Support with reservations S.B. 2828, S.D.1. Relating to Water.

Aloha Chair Yamane, Vice Chair Todd and Members of the Committee on Water, Land, & Hawaiian Affairs. We are students at Hawai'i Pacific University, attending a class in Natural Resource Management. In the class, our group focuses on issues relating to water on the islands. We are concerned about availability of freshwater on O'ahu. This bill would specify fire safety as beneficial use of water. We support the suggested bill with reservations.

We recognize fire safety as a primary concern and an important use of our water resources. May of 2019 made this especially clear, considering the brush fires that occurred. We also recognize that the bill takes into account the protection and preservation of important resources such as fish and wildlife as well as

maintaining the ecological balance. Having consistent water resources available in case of fires is crucial. However, the bill allows the Hawaii Emergency Management Agency and Office of Hawaiian Affairs to cooperate with private reservoir owners for water supply. This could encourage private water banking which could potentially be detrimental to ecosystems, watersheds, public water use, and agricultural use. Private sectors could be more inclined to sequester water for future usage in the hopes of financial gain, restricting the supply of water for public benefit. If water is privately owned and distributed, inflation of water rates is a possibility for the future.

The USGS provides up to date data regarding the gauge height in each of the reservoirs on Oahu, so it would be relatively simple to determine which reservoirs have enough water to supply water and which ones need to be charged (USGS).

We respectfully request for this bill to be passed with amendments. Mahalo for the opportunity to testify.

SB-2828-SD-1

Submitted on: 3/10/2020 9:49:23 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Curren Ohama	Individual	Oppose	No

Comments:

SB-2828-SD-1

Submitted on: 3/10/2020 10:03:17 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Bronson Kainoa Kiyoshi Azama	Individual	Oppose	No

Comments:

I would like to express my deep distaste for this bill as it seems to be supportive of corporate water theft, it can be easily interpreted and manipulated to fit the needs of corporations seeking to obtain this precious resource. To protect against fires on Maui, is to restore the streams. Through Lo'i restoration in wai'anae on O'ahu, I have heard stories of the return of some of the traditional rains, as the water changes the percipitation in the air. If you truly would like to see the environment and people protected from these fires, you would draft a bill that supports and protects are water from diversion and endorses restoration efforts in the stream and reforestation efforts up mauka. Environmental restorative efforts are often the solution rather than the bandage this bill proposes. I would prefer to see a bill drafted to divert resources to long term solutions rather than legislation that would justify water theft.

SB-2828-SD-1

Submitted on: 3/10/2020 10:14:29 PM

Testimony for WLH on 3/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Halas	Individual	Oppose	No

Comments:

LATE

SB-2828-SD-1

Submitted on: 3/10/2020 10:18:04 PM
Testimony for WLH on 3/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Cabalse	Individual	Oppose	No

Comments:

SB-2828-SD-1

Submitted on: 3/10/2020 10:42:26 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Thomas	Individual	Support	No

Comments:

Aloha Chair Yamane, Vice Chair Todd and Members of the Committee on Water, Land, & Hawaiian Affairs. We are students at Hawai'i Pacific University, attending a class in Natural Resource Management. In the class, our group focuses on issues relating to water on the islands. We are concerned about availability of freshwater on O'ahu. This bill would specify fire safety as beneficial use of water. We support the suggested bill with reservations.

We recognize fire safety as a primary concern and an important use of our water resources. May of 2019 made this especially clear, considering the brush fires that occurred. We also recognize that the bill takes into account the protection and preservation of important resources such as fish and wildlife as well as maintaining the ecological balance. Having consistent water resources available in case of fires is crucial. However, the bill allows the Hawaii Emergency Management Agency and Office of Hawaiian Affairs to cooperate with private reservoir owners for water supply. This could encourage private water banking which could potentially be detrimental to ecosystems, watersheds, public water use, and agricultural use. Private sectors could be more inclined to sequester water for future usage in the hopes of financial gain, restricting the supply of water for public benefit. If water is privately owned and distributed, inflation of water rates is a possibility for the future.

The USGS provides up to date data regarding the gauge height in each of the reservoirs on Oahu, so it would be relatively simple to determine which reservoirs have enough water to supply water and which ones need to be charged (USGS).

We respectfully request for this bill to be passed with amendments. Mahalo for the opportunity to testify.

SB-2828-SD-1

Submitted on: 3/10/2020 11:58:38 PM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Maeva Tahauri	Individual	Oppose	No

Comments:

'O Maeva Tahauri kĀ“ia! I am a kanaka 'Ā• iwi wahine. My tĀ«puna is this 'Ā• ina. I am opposing SB 2828 because Mahi Pono, Wailuku Water Company and other entities should not be allowed to have such access to Maui wai (water) at all. This is capitolism, 'a'ole pono to give these dishonest crooks any right to access or take any part of diversion. May our laws be written to protect, preserve and properly be restored to it's rightful place and back to our people. I have the name Mahi'ai in only 5 generations back. This means farmer. We are born of this land and will stand up to those who continue to disrespect, dishonour, disacknowledge us as descendants and as people. Therefore we do not want any more of this uneducated and dishonesty handling our precious wai. Water is life and we hope to see better management to protect and cultivate our own resources. Please hear my voice. This is for my 'ohana and I and our future!! It matters.

SB-2828-SD-1

Submitted on: 3/11/2020 2:08:33 AM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Kaniloa Kamaunu	Aha Moku Oâ€™Wailuku an affiliate of Aha Moku Oâ€™Maui LLC	Oppose	No

Comments:

I Kaniloa Kamaunu Kuleana Heir of Maikaaloa, Pi'imaiwa'a and Kekahuna of Ahupua'a Waihee have been recognized by the State Commission on Water Resource as having superior rights. I was one of the original Kuleana involved in contested case hearing for NÄ• Wai Eha on Maui.

I am also the Chair for the Water Committee for Aha Moku O'Wailuku operating under Act 212 under the Department of Land and Natural Resources.

I am opposing to this bill, because I believe this is a scheme to allow business's such as MAHI Pono and any other private business entity to BANK our water, because whose going to monitor the use and storage of the water.

Also there hasn't been any discussion with me as a Kuleana heir or with Aha and since both myself are recognized as having standing that this bill be stopped and not allowed to move forward due to not being afforded our due process.

Mahalo,

Kaniloa Kamaunu

SB-2828-SD-1

Submitted on: 3/11/2020 2:45:15 AM

Testimony for WLH on 3/11/2020 9:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Luksic	Individual	Oppose	No

Comments:

This is an obvious deception under the guise of public safety. How will the public protect our water resources if our legislature obeys the greed of corporations shame on you. Kill this bill and stop this water theft.