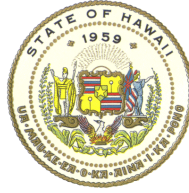
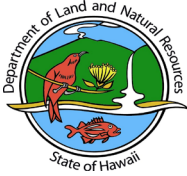


DAVID Y. IGE  
GOVERNOR OF HAWAII



**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  
CONSUMER PROTECTION & COMMERCE**

**Tuesday, April 5, 2022  
2:00 PM**

**State Capitol, Conference Room 329, Via Videoconference**

**In consideration of  
HOUSE CONCURRENT RESOLUTION 39/HOUSE RESOLUTION 34  
REQUESTING THE STATE AND CITY AND COUNTY OF HONOLULU TO  
CONVENE A WORKING GROUP TO COLLABORATE ON MULTI-  
JURISDICTIONAL STREAM MAINTENANCE**

House Concurrent Resolution 39/House Resolution 34 requests the State and the City and County of Honolulu to convene a working group, co-chaired by the Chairperson of the Board of Land and Natural Resources, to collaborate on multi-jurisdictional stream maintenance and produce certain information. **The Department of Land and Natural Resources (Department) opposes these resolutions.**

The resolutions request the working group, as one of multiple complex responsibilities, to produce a list of all streams on Oahu, including ownership of and responsibility for each stream. Determining stream ownership and responsibility would be an extremely time consuming and onerous task that is impossible to be completed by the next legislative session. There are multiple owners along each stream who are mostly private parties. Also, in many instances the stream boundaries are in the center of the stream or are generally described and not fixed as a stream can meander its course.

In order to provide the information requested in these resolutions, the working group would need to research and review the deed to every parcel abutting each stream on Oahu and would severely burden the Department and staff of other working group members who are assigned to other substantive matters (often higher in priority) as there is no additional staffing or funding provided for in the resolutions. Additionally, on previous occasions where the Department has made efforts to determine the jurisdiction of a stream, affected parties have disagreed with the Department's findings. These resolutions do not provide a means for resolving such disputes.

**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

Section 46-11.5, Hawaii Revised Statutes, already delegates the primary responsibility of maintaining streams and drainageways to the respective counties<sup>1</sup>, and also authorizes the counties (in lieu of performing the work) to enforce private stream maintenance against the respective owners. In the event the State is an owner of a stream, then the State is also responsible to maintain its portion of the stream. If the intent of these resolutions is to partially shift private stream maintenance to the Department or other governmental agencies, then Department affirmatively states that it does not have the appropriate staffing, stream maintenance equipment, or funding necessary to assume that responsibility.

Finally, the Department is willing to participate in a working group organized and chaired by the counties where appropriate as an adjacent landowner.

Thank you for the opportunity to comment and oppose these resolutions.

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<sup>1</sup> **[§46-11.5] Maintenance of channels, streambeds, streambanks, and drainageways.** Notwithstanding any law to the contrary, each county shall provide for the maintenance of channels, streambeds, streambanks, and drainageways, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and for the removal from the channels, streambeds, streambanks, and drainageways and from the shores and beaches any debris which is likely to create an unsanitary condition or otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at county expense, and any private entity or person refusing to comply with any final order issued by the county shall be in violation of this chapter and be liable for a civil penalty not to exceed \$500 for each day the violation continues; provided further that it shall be the responsibility of the county to maintain all channels, streambeds, streambanks, and drainageways unless such channels, streambeds, streambanks, and drainageways are privately owned or owned by the State, in which event such channels, streambeds, streambanks, and drainageways shall be maintained by their respective owners.

**HCR-39**

Submitted on: 4/4/2022 9:33:50 AM

Testimony for CPC on 4/5/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Russell Tsuji	DLNR	Oppose	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

**HCR-39**

Submitted on: 4/4/2022 9:41:21 AM

Testimony for CPC on 4/5/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kevin Moore	DLNR	Oppose	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.