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SUZANNE D. CASE
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**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
HOUSING**

**Friday, April 1, 2022
1:05 PM**

State Capitol, Conference Room 229 & Videoconference

**In consideration of
SENATE CONCURRENT RESOLUTION 17/SENATE RESOLUTION 11
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES'
COMMISSION ON WATER RESOURCE MANAGEMENT TO CONDUCT A STUDY
ON WATER RESOURCES FOR THE DEVELOPMENT OF AFFORDABLE HOUSING**

Senate Concurrent Resolution 17/Senate Resolution 11 requests the Commission on Water Resource Management to conduct a study on water resources for the development of affordable housing in the County of Maui. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department and its Commission on Water Resource Management (Commission) acknowledges the critical need for affordable housing in the State of Hawai'i and that planned affordable housing projects would need a reliable and reasonably priced source of water to ensure successful project completion. However, the Department believes that additional study is unnecessary and repetitive, and that the focus should be on the actual creation of affordable housing projects, including water infrastructure. The Commission has not received genuine petitions or claims that the lack of available water resources was preventing or delaying the development of affordable housing projects.

Under the State Water Code, Chapter 174C, Hawai'i Revised Statutes (HRS), the Commission's fundamental responsibility is balancing the protection of the State's water resources with reasonable and beneficial uses while protecting public trust purposes. The Hawai'i Water Plan, Section 174C-31, HRS, was envisioned as a long-range program to carry out the Commission's mission of protection while ensuring supply for the future water needs across the State, including those of the Counties and agriculture, and to protect the quality of the waters of the State. The

Hawai'i Water Plan is comprised of five component parts: (1) *Water Resource Protection Plan*, (2) *Water Quality Plan*, (3) *State Water Projects Plan*, (4) *Agricultural Water Use and Development Plan*, and (5) four respective *County Water Use and Development Plan*.

Plans to provide water for affordable housing in Hawai'i are incorporated into the various components of the Hawai'i Water Plan. In the *County Water Use and Development Plans*, the future water demands in the respective Counties are carefully considered and strategies developed to meet these future demands within the sustainable limits of the resources. This includes the water needs for planned affordable housing projects at the County level. The Hawai'i Housing Finance and Development Corporation is tasked with developing affordable housing projects. These demands are accounted for in the *State Water Projects Plan* and the *County Water Use and Development Plans*.

County of Maui plans also address the need for affordable housing: *Maui Island Plan*, *Maui Community Development Plans*. Affordable housing-specific plans include: *Hawai'i Housing Finance and Development Corporation Annual Report Plan*; *UHERO REPORT: The Maui County Comprehensive Affordable Housing Plan: Understanding its Pros and Cons and Ideas for How to Improve it, October 21, 2021, UHERO*; *County of Maui Affordable Housing Implementation Plan Final Report, August 15, 2018, SMS*; and *Maui County Comprehensive Affordable Housing Plan, June 2021*.

The plans listed above identify the need for affordable housing and the need for water infrastructure to supply water to these developments. If the affordable housing projects are located in areas with limited water resources or competition for water, the affected agencies may develop strategies collaborating with municipal or local water utilities to meet their water needs. These uses must also be balanced with other uses and protecting our precious water resources, including protecting the public trust purposes of water in Hawai'i.

The Hawai'i Supreme Court has affirmed four public trust purposes of water: (1) maintenance of waters in their natural state, (2) Native Hawaiian and traditional and customary rights, (3) domestic water use, and (4) Department of Hawaiian Home Lands reservations of water. Water for affordable housing is a domestic use of water and is thus a protected public trust purpose. If there are competing public trust uses in a hydrologic unit, the Commission must find a balance using administrative functions such as designation of water management areas and permitting allocations of water use. Further, if an affected agency is concerned that water may not be available for future affordable housing projects in a designated water management area, they may petition for a reservation of water under Section 174C-49(d), HRS.

The Department would like to note that a current inventory of ground and surface water resources is listed in the *Water Resource Protection Plan*. This includes water availability for all uses, including affordable housing. Commission administrative procedures exist to address the water needs of affordable housing in Hawai'i. This measure's requested study tasks are already addressed in the existing literature, including the community outreach task that has already taken place in the various County planning processes. The Commission lacks staffing and resources to replicate work already done at various levels of government. If this measure passes, the Commission would need additional funding or staffing to complete this duplicative effort.

Thank you for the opportunity to testify on these measures.

SCR-17

Submitted on: 3/31/2022 10:29:54 AM

Testimony for WTL on 4/1/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Neal Fujii	Testifying for DLNR-CWRM	Comments	Remotely Via Zoom

Comments:

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