

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

RYAN K.P. KANAKA'OLE  
FIRST DEPUTY

DEAN D. UYENO  
ACTING 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 of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
WATER & LAND

Thursday, February 8, 2024  
9:00 AM

State Capitol, Conference Room 430 & Videoconference

In consideration of  
HOUSE BILL 2703  
RELATING TO THE ADMINISTRATION OF THE COMMISSION ON WATER RESOURCE  
MANAGEMENT

House Bill 2703 proposes to replace the position of Deputy to the Chairperson of the Commission on Water Resource Management (Commission) with the position of Executive Officer, who shall be appointed and managed by the Commission. This bill also authorizes the Commission to retain independent legal counsel and makes the Chairperson of the Board of Land and Natural Resources an ex officio member of the Commission and provides that the Commission shall elect a chairperson from amongst its members. This bill also requires the Commission and Department of Land and Natural Resources (Department) to establish procedures and safeguards to avoid conflicts of interest. **The Department is providing testimony organized by each section of this measure indicating our support, opposition, or comments, respectively.**

SECTION 2 amends Hawaii Revised Statutes (HRS) Subsection 28-8.3 (a) to add the Commission to the list of agencies that are allowed to employ or retain any attorney for purposes indicated in subsection (a), and amends Subsection 28-8.3 (c) to include the Commission among agencies that may employ attorneys who are not a deputy attorney general. **The Department opposes these amendments since the Commission believes that its assigned Deputy Attorneys General already provide sound and timely legal services in the best interests of the Commission and that there is no need for employing attorneys directly. The Department of the Attorney General is well-versed in a broad array of matters and is best suited to provide legal advice and service to the Commission.**

SECTION 3 amends HRS Section 174C-5 (9) by allowing the Commission to “engage employees as necessary for the commission to perform its duties.” **The Department offers comments for this amendment. The Department believes this amendment is too vague and does not clarify an existing issue.**

SECTION 3 also amends HRS Section 174C-5 by adding a new Paragraph 16 to allow the appointment and dismissal of attorneys. **The Department opposes this amendment for the reasons given in our position on SECTION 2 of this measure.**

SECTION 3 also amends HRS Section 174C-5 by adding a new subsection (b) providing that “each department and agency of the State shall make available to the commission any data, facilities, supplies, personnel, and administrative support reasonably necessary for the commission to perform its duties.” **The Department offers comments for this amendment. The Department believes this amendment is too broad in its powers with regards to the functions and operations of other State departments and agencies. The Commission works collaboratively with many departments and agencies in carrying out its mission.**

SECTION 4 amends HRS Section 174C-6 by replacing the Deputy to the Chairperson of the Commission on Water Resource Management with an Executive Officer. **The Department supports this amendment with comments. The Department proposes that “Executive Officer” be changed to “Executive Director” as proposed in Senate Bill 3327, and that an amendment also be made to Subsection 84-14(e), HRS in the list of State employees who have restrictions on post-employment activities.**

SECTION 5 amends HRS Section 174C-7 to allow any Commission member to be elected to serve as the Chairperson of the Commission, except that the Chairperson of the Board of Land and Natural Resources (BLNR) and the Director of Health or their designee would be ineligible to serve as the Chairperson of the Commission. **The Department supports this amendment.**

SECTION 5 also amends HRS Section 174C-6 by adding a new subsection (f) to establish procedures and safeguards to avoid actual and perceived conflicts of interests. **The Department supports this amendment.**

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



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2703, RELATING TO THE ADMINISTRATION OF THE COMMISSION ON WATER RESOURCE MANAGEMENT.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER AND LAND

**DATE:** Thursday, February 8, 2024      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 430 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Miranda C. Steed, Deputy Attorney General

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Chair Ichiyama and Members of the Committee:

The Department of the Attorney General opposes this bill as currently drafted.

The purpose of this bill is to make the Commission on Water Resource Management (CWRM) a semi-autonomous agency by removing the Chairperson of the Board of Land and Natural Resources (BLNR) as a voting member of the CWRM. In doing so, this bill replaces the First Deputy to the Chairperson of CWRM with an Executive Officer, makes the Chairperson of the Board of Land and Natural Resources (BLNR) an ex officio member of the CWRM, and allows the CWRM to hire its own attorneys, as needed, without the approval or participation of the Attorney General or the Governor.

The Department opposes this bill because it gives the CWRM with authority to hire its own legal counsel.

The Attorney General is the chief legal officer under the Hawai'i Constitution, serves as legal counsel to the State of Hawai'i, and has statutory legal obligations including providing legal advice to state agencies. Because it has been called the largest "law firm" in Hawai'i, with diverse subject-matter divisions, the Department of the Attorney General is best suited to provide legal advice to its state clients on a broad array of matters, and therefore, as a general matter, state agencies are best served by deputy attorneys general. By utilizing deputy attorneys general, state agencies benefit

from the wide range of experience and expertise in a cost-effective and conflict-free manner. Attorneys retained by the CWRM would not possess the breadth of knowledge and experience available within the Department of the Attorney General. Additionally, because state agencies are regulated by a variety of laws not applicable in private practice—including the Procurement Code, the Sunshine Law, and the Uniform Information Practices Act—the Department’s expertise representing state agencies in these areas would be difficult for private attorneys to duplicate, and certainly not without additional expense. Because deputy attorneys general are separate and apart from the agencies they represent, they are insulated from political issues within the client agency. This insulation permits the Department of the Attorney General to provide objective and high-quality legal counsel.

The Department of the Attorney General is also unique in its ability under the law to undertake concurrent representation of multiple state agencies or parties that may have conflicting interests, something that private attorneys are not able to do under the Hawaii Rules of Professional Conduct, the rules governing lawyers. In State v. Klattenhoff, 71 Hawai‘i 598, 604 (1990), the Hawai‘i Supreme Court recognized that the Department of the Attorney General can concurrently represent conflicting interests when the Department can ensure independent representation for the competing parties. The Department of the Attorney General has done this in past cases to ensure that all client agencies are vigorously represented without conflict. We have provided, and will continue to provide, vigorous and objective legal representation to the CWRM.

Notwithstanding the prohibition against employing or retaining private attorneys, state agencies may submit a waiver request to the Attorney General pursuant to section 28-8.3(a)(22), HRS. Under this provision, the Attorney General may determine that circumstances exist whereby representation by private attorneys is appropriate. In such circumstances, an agency may retain or employ its own attorney, provided that the Governor also waives the provision of section 28-8.3, HRS. Indeed, this avenue has been exercised by other agencies in the past.

We respectfully request that this bill be held in committee. Thank you for the opportunity to testify.



# SIERRA CLUB OF HAWAI'I

## HOUSE COMMITTEE ON WATER AND LAND

February 8, 2024

9:00 AM

Conference Room 430

### In **SUPPORT** of **HB2703**: RELATING TO THE ADMINISTRATION OF THE COMMISSION ON WATER RESOURCE MANAGEMENT

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Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS HB2703**, which would better enable Water Commission members and staff to implement the state Water Code in the public's interest, by reducing the risk of political interference, political retribution, and/or perceived or actual conflicts of interest.

The Sierra Club appreciates that this bill would address political vulnerabilities that could allow powerful corporate interests to unduly influence the important work of the Water Commission. Currently, the Commission's Chair is a member of the Governor's cabinet, as is its legal counsel, the Attorney General. Both individuals have considerable power over the Water Commission and its staff, including the Water Deputy; together, they have the ability to determine whether and how submittals containing recommendations for action reach the Commission, and have most recently claimed that the Chair has the unilateral authority to remove the Water Deputy, without public or Commission notice or input. Since both of these individuals answer directly to the Governor, connected special interests who have the Governor's ear could substantially interfere with the Commission's and its staff's ability to implement the Water Code, and uphold the Public Trust Doctrine.

The provisions of this bill would accordingly provide for important layers of political insulation to ensure that powerful and connected special interests are less able to interfere with the Commission's work, through the office of the Governor.

First, the Commission would be able to decide amongst themselves who among their volunteers should serve as their Chair, preventing the Governor's cabinet members from assuming its leadership.

Second, the Commission would also be able to hire their own legal counsel, rather than rely on the Governor-serving Attorney General.

Third, this bill would further allow the entire Commission to choose an "executive director" as the lead Commission staff person, and clarify that it is the role of the entire Commission, and not just its chair, to take disciplinary action against its executive



# SIERRA CLUB OF HAWAI'I

director. Accordingly, decisions on the hiring and discipline of staff leadership would have to be made in a publicly transparent manner, as required under the Sunshine Law.

Finally, the Commission would be required to promulgate procedures and other safeguards to address the very real risk of conflicts or perceived conflicts of interest and bias that can arise and has arisen with the Department of Land and Natural Resources' position regarding water rights, such as those associated with the historic and ongoing diversions of East Maui's streams.

Accordingly, the Sierra Club of Hawai'i urges the Committee to **PASS** HB2703. Mahalo nui for the opportunity to testify.



# Hui o Nā Wai 'Ehā

*Ola i ka wai* [WWW.HUIONAWAIEHA.ORG](http://WWW.HUIONAWAIEHA.ORG)

Hui o Nā Wai 'Ehā  
Board of Directors

February 7, 2024

Hōkūao Pellegrino  
(President)

To: **Committee on Land & Water, Representative Linda Ichiyama (Chair) and Representative Mahina Poepoe (Vice Chair)**

Koa Hewahewa  
(Vice President)

Lani Eckart-Dodd  
(Treasurer)

Hearing: **Thursday February 8, 2024, 9:00 State Capitol Conference Room 430**

Lucienne de Naie  
(Secretary)

Re: **Strong Support for HB2703: Relating to the Water Commission**

Duke Sevila  
(Founding Board Member)

Aloha e Senate Chairs Wakai and Inouye and Honorable Committee Members,

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

My name is Hōkūao Pellegrino, President of Hui o Nā Wai 'Ehā on the island of Maui. I'm testifying today in strong support of HB2703. We further ask that amendments be made to this bill to match that of SB3327.

Ikaika Nakahashi  
(Board Member)

Kōnane Awo DelaNux  
(Board Member)

Hui o Nā Wai 'Ehā was established in 2003. Our mission is to advocate for the restoration and stewardship of mauka to makai streamflow in Waikapū, Wailuku, Waiehu, Waihe'e Streams on Maui, to protect the natural and cultural resources relate to traditional and customary practices of Native Hawaiian kuleana kalo farmers, and to engage the Maui community through outreach education programs and initiatives focused on water resources management. Our organization's core value is centered around "Ola i ka wai", which speaks to the importance of protecting one of our most important natural resources, the life giving waters of Kāne. Hui o Nā Wai 'Ehā strongly believes in and adheres to the Hawai'i State Water Code 174c as well as the need for balance decision making between instream and offstream uses of wai.

Mariana Löwy-Gerstmar  
(Board Member)

Ka'apuni Aiwahi  
(Board Member)

Kamalani Uehara  
(Board Member)

Kaulu Lu'uwai  
(Board Member)

Sesame Shim  
(Board Member)

**Maui Tomorrow  
(Collaborator)**

Albert Perez  
(Executive Director)

**Legal Counsel**

Isaac Moriwake  
(Earthjustice)

Hui o Nā Wai 'Ehā has an active community membership base of over 800 members and a following of over 10,000 throughout our social media outlets, many who are kuleana kalo and diversified farmers, educators, scientists, environmentalists, and concerned Maui and Hawai'i residents who share similar beliefs and practices in water resource management. We are an organization that has a watchful eye not only over water issues in Nā Wai 'Ehā but all across Maui, while engaging and educating members on their role in community-based water resource management.

Our organization strongly supports HB2703 because we feel it will finally implement decades-long recommendations to try to minimize the political influences on our Water Commission. It will also enable the Commissioners and their staff to focus on the resources and do their jobs instead of playing politics.

Hui o Nā Wai 'Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793  
(808) 430-4534 • [Huionawai4@gmail.com](mailto:Huionawai4@gmail.com) • [www.huionawaieha.org](http://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 conduct water resource management education outreach programs for the Maui community.*

In June 2022, Hawai'i's Water Commission unanimously designated Maui Komohana as ground and surface water management areas. In good faith, many of us on Maui invested the better part of a year putting together water use permit applications with the hope that our water rights would finally be recognized. We submitted those applications on August 7, 2023, a day before the wildfires ravaged Lahaina. While we grieved and struggled to recover, the Governor suspended the Water Code and Chair Chang "reassigned" Deputy Director Manuel. Chaos ensued as diverters filled their pools and reservoirs and our streams ran dry. An investigation was undertaken and Deputy Manuel was reinstated, although he later resigned without explanation.

Our Water Commission cannot function with this kind of politicking. And we cannot focus on rebuilding our homes and communities if we are constantly trying to get this Commission to do its job; or, its chair to let the staff do their jobs. This bill is unfortunately necessary to both minimize the Governor's political influence, and to provide other tools for proactive management and enforcement. For example, increasing potential fines will help to encourage compliance and the shortage provisions will be useful in the event of an emergency.

We humbly ask for your support in passing HB2703 with amendments to make this bill identical to SB3327 to help us get our water management back on track.

Ola i ka wai!

*Hökūao Pellegrino*

Hökūao Pellegrino (Board President)



February 7, 2024

House Committee on Water and Land  
Hearing: February 8, 2024, 9:00 AM  
State Capitol Conference Room 430

Re: Testimony in Strong Support of HB 2703: Relating to the Commission on Water Resource Management

Aloha mai Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land. I support much of HB2703 as currently drafted, but please amend it so that it is identical to SB3327, introduced by Senator Lorraine Inouye.

My name is Kāwika Aspili. I am a 7th generation descendant from Lahaina, Maui. I was also recently appointed as President of La‘i Hauola, a Maui Komohana-based nonprofit. Our board is composed almost entirely of residents and lineal descendants of Lahaina. Our mission is to ensure that as our beloved town of Lahaina is rebuilt, it is done so with the guidance and input of the community at every step. We stand behind the voices of Lahaina that have time and again stood up to protect the waters of Maui Komohana when designating the Lahaina aquifer as a water management area, establishing IIFSs, and in the wake of the fires, demanding the reinstatement of Kaleo Manuel and the Water Code.

La‘i Hauola supports this bill as it implements the true intent of the Water Code when the legislature established the Water Commission 45 years ago. HB2703 would remove politics from interfering with the pono management of our wai as we saw following the August fires. HB2703 would have even more teeth if it included the same essential provisions as SB3327 regarding penalty enforcement, water shortage declarations, and public trust purposes.

Especially as our community looks to the future and how we can remedy the development mistakes that contributed to the fires, we need to ensure that the Water Commission is able to make pono decisions for the Lahaina community, not the people that profit from draining our streams.

Mahalo for this opportunity to testify in strong support of HB2703. I urge you to amend and pass this bill in the name of Kaleo Manuel and the people of Lahaina.

Hawai'i State House of Representatives Testimony  
HB2703 – Relating to the Administration of the Commission on Water Resource Management

**RE: Strong support of HB2703**

February 8, 2024

The Council for Native Hawaiian Advancement (CNHA) writes in **strong support of HB2703 with amendments**. Since its creation, the mission of the Commission on Water Resource Management (CWRM) has been to protect and manage the waters of the State of Hawai'i for present and future generations. If this bill is amended to mirror the language of SB3327, it will create the proper tools needed to fulfill CWRM's kuleana to mālama wai.

Since time immemorial, Native Hawaiians have understood the importance and precarity of water across our pae 'āina. For the land and its people to thrive, we must have access to safe and clean water. This has always been true, but has become even more critical in light of the August wildfires. CWRM's kuleana is not one to be taken lightly and should be treated with the utmost care and respect. Ola i ka wai, water is life, and it must be protected.

HB2703 provides the opportunity to strengthen CWRM by finally implementing amendments previously suggested in the 1994 Report by the Review Commission on the State Water Code. The state and all of its subdivisions, including CWRM, have an affirmative duty to protect and preserve our water resources for the benefit of future generations. This bill makes that duty clear by establishing an explicit public trust purpose. HB2703 is necessary for CWRM to be able to 'auamo this constitutional and statutory kuleana.

HB2703 also calls for the necessary disentanglement of CWRM from the Department of Land and Natural Resources to streamline its administrative duties and responsibilities. These amendments to the Commission's administrative structure will provide the autonomy it needs as kahuwai pono to protect and preserve Hawai'i's precious water resources for generations to come.

Since August, CNHA has been working diligently on recovery and rebuilding efforts in Maui. We have seen firsthand the need for increased protections for our water and natural resources. CNHA will continue to do our part to kako'ō this incredible community, but it is critical that this Legislature also support the community through meaningful and long-term policy solutions like HB2703. For these reasons, we humbly ask that you amend the bill to mirror SB3327 and then **PASS HB3327** for the future of Lahaina and the future of wai.

Me ka ha'aha'a,

**Madelyn McKeague**  
Policy Manager, CNHA

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Makamae Alipio

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Mai ke ala ‘ana a‘e o Kanehoalani i ka Hikina a i kona hui pū ‘ana me Niolopua ma ke komohana.

Aloha mai e nā po‘o a me na Lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Makamae Alipio he kupa wau no Ka malu ‘ulu o Lele. ‘Umikuma‘ono o‘u makahiki a hele wau i Ke Kula Kaiapuni o Kekaulike. Ola i ka wai, water is life, water is the center of all living things. Without it we are nothing. Therefore, it should not be in the hands of the greedy. Maui Komohana was once known for its immense amount of water, its lush wetlands, and its abundance of lo‘i kalo, ‘ulu, mai‘a, and many important plant food sources for kānaka. How do we go from a lush green ‘āina to what we have to deal with today? This is the result of greed, mismanagement, and capitalism at its finest.

Right now, 75% of Lahaina’s waters are privately controlled, which is criminal. This leaves only the remaining 25% to be used for the public. When we are on drought restriction, we are subject to fines for using too much water while swimming pools are full and golf courses are green. This bill should be amended to include higher fines substantial enough to deter violations of the Water Code.

I ask that you amend the bill to prioritize restoring water for public trust purposes so that our kalo farmers no longer have to struggle and our ‘āina no longer has to suffer. If you protect the public trust then maybe you can regain the public’s trust. I also ask that you consider restoring Moku‘ula and Mokuhinia as this wahipana continues to be one of the most sacred places of Hawai‘i’s Kingdom. We must restore and establish this piko for us to holomua and not repeat this devastation.

In conclusion, I strongly support the implementation of recommendations to improve the Water Code that have long been overdue, and urge the Committee to **PASS** HB2703 with amendments that match SB3327. Mahalo for the opportunity to testify.

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Bella Kuailani

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

‘Ano‘ai me ke aloha e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo:

‘O au ‘o Bella Kamakali‘ulani Kuailani. He 16 o‘u makahiki a he kupa au mai ka moku ‘o Wailuku a me Hāna ma Maui. Aia au ma ka papa 11 a he haumāna kaiapuni ha‘aheo nō au mai ke kula ‘o Kekaulike. Today, I am testifying in **STRONG SUPPORT of HB2703!**

“He nuku he wai ka ‘ai a ka lā‘au.” The Kumulipo, the genealogical chant of Hawai‘i’s birth, explains: Water is the element that gives life to all things. WATER IS LIFE! It feeds and nourishes us physically, mentally, emotionally, and spiritually. The protection and rightful usage of Hawai‘i’s water is at all costs important for our survival. However, exploitation, misuse and over-taxing of our water continues to be improperly managed by greedy capitalists, resulting in kanaka being ignored, and public rights being overpowered by politics.

Disentangling CWRM and BLNR creates true independence amongst these two organizations. This can result in better protection and management of water. Kanaka will be at ease rather than worrying about influencers who make decisions on our wai. Having an executive director can benefit the people and the public by ensuring that their mana‘o is being heard. I believe that the community’s mana‘o is most important, especially for those whose families have been on this ‘āina for generations contributing in ‘ike Hawai‘i. They know what is best. Again and again, we remind you that WATER IS A PUBLIC TRUST. The people should have every right to use the wai for cultural practices and not for big business pockets. LAWA! UA AO KĀKOU!

The WUPAs of the kanaka should be highly prioritized and not thrown to the side to wait or be lumped with non-public trust purpose applicants. We are done waiting! We should be the first to be considered! This bill can prioritize public trust purposes in the water use permit process by looking to the provisions of SB3327.

Finally, the fines for the abuse of the Water Code should be raised way higher than what it is now. There should be more purposeful fines and violations to punish and deter businesses from taking more water than they should. If not, then this desecration will only continue. Our wai and ‘āina should have justice. As a member of the next generation, I want the mana of the people and the ‘āina to be restored so that those in the future do not need to bear this struggle over our wai.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements of the Water Code that are long overdue. I urge the Committee to **PASS** HB2703 with amendments

that include provisions such as the prioritization of public trust purposes in the water use permit process and increased fines. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

**To-** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**From-** J-lyn Ka‘iulani Paa

**Re-** HB2703

Hearing on February 8, 2024

IN STRONG SUPPORT of HB2703

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Ka‘iulani Paa. 16 o‘u makahiki a hele au i Ke Kula Kaiapuni o Kekaulike. I am testifying in strong support of HB2703.

130 years ago, our ‘āina’s precious resources were stripped away from us little by little until we had little to no access and no regulation over our waters and how we use it. On August 8th, 2023, when the tragedy of Lahaina’s fire started, Governor Josh Green suspended the Water Code that later led to private water usage in luxury housing developments rather than for our ‘āina. I support HB2703.

The establishment of an Executive Director of the Water Commission, and the removal of the Chair of DLNR as also the Chair of CWRM, is important to allow CWRM its own oversight in this specific area. Ignorance combined with power is bound for injustice.

But, this bill also needs to be amended to include provisions like the ones in SB3327 that include penalties. Our fresh water springs and rivers are stewarded by nā kānaka Hawai‘i yet are used to make greedy people who call this place “paradise” rich and do not even mālama this ‘āina like we do. We need wai to restore life on our ‘āina, especially in Lahaina after the tragedy it has faced. Private purveyors have long been taking our wai without bounds or restrictions. Even when interim instream flow standards are established, the greed finds no limit and instead chooses to test the extent of regulations. Their criminal acts go without or very minimal punishment. This bill should allow for appropriate fines to deter repeat violations.

This bill should also be amended to allow public trust uses to be prioritized in the water use permit process. I often learn what our kūpuna have done for us and this ‘āina but I rarely get the opportunity to live it. I see it slowly slipping away from our generation because things get more expensive and more difficult for us to live in a backwards economy. It was important to our kūpuna to make sure we have the right resources to be capable of keeping our cultural aspects known for our next generation and to be able to engage in our cultural practices. From lo‘i kalo to loko i‘a, to knowing what kind of native Hawaiian plants we have. Our kalo farmers, those who struggle to feed our lāhui ‘ai pono, should not have to be burdened with a long process of

water use permit applications. They should be prioritized before all other for-profit water uses and non-public trust purposes.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements of the Water Code that are long overdue. I urge the Committee to **PASS HB2703**. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Ka‘iulani Verzosa

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O wau o Ka‘iulani Verzosa, ‘umikumaono o‘u makahiki a no Lahaina mai au. I am testifying in **STRONG SUPPORT of HB2703.**

E ola i ka wai, what does that mean? Water is life. In our mo‘olelo, our cosmological chants, water is our most important resource not only because we need it to live but because the land lives off it as well as Hawaiian people. We should be able to embrace our culture and that entails our land and its needs. For many years, water has been taken and made into profit. However, water is a public trust. That means it is managed by the government for the benefit of the public. Thus, we should be able to have a say in what happens with it and hold those accountable for stealing it. HB2703 would allow the public more input into the management of our wai by separating BLNR’s chair position from CWRM’s chair. This would remove the politics from water management and allow the Water Commission to focus on water.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource management as well as the implementation of recommendations to improve the Water Code that have long been overdue. I urge the Committee to **PASS** HB2703. Mahalo for the opportunity to testify.

**E OLA I KA WAI!!!**



**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Kaleimaile Garcia

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Aloha mai e nā Po‘o a me na Lālā o ka ‘Aha ‘Ōlelo,

‘O Kaleimaile Garcia ko‘u inoa. I am a Junior and haumāna ma Ke Kula Kaiapuni ‘o Kekaulike on Maui where we are taught about the importance of wai and how it is the center of all life. Our connection to the land and ocean runs deep and water is a very vital part of our cultural identity. It sustains us physically, spiritually, and emotionally. It is NOT just an asset to us. This is why I am testifying in **STRONG SUPPORT of HB2703.**

Many years ago, the land of Hawai‘i was lush with greenery and free-flowing water throughout all the islands. Our kūpuna lived with a deep knowledge and understanding of the connection between kanaka and ‘āina. Ola ka ‘āina iā kākou no kākou. Make ka ‘āina iā kākou no kākou. Life is full of gives and takes, but overall it always finds the balance. Acknowledging this ‘ike Hawai‘i has allowed our kūpuna to prosper for generations. We take what we need so the next person can also thrive off of the land. But, our ‘ike Hawai‘i has been ignored by the actions of greedy purveyors, real estate speculators, and the US Military.

Water makes up our whole existence. Everybody knows this. With no water, there is no life. So why is there so much politics involved in something that is a basic living necessity for all humans? Water shouldn’t be a luxury item. We shouldn’t have to fight for something that is a primary right to all. Everybody has a right to water. But there is a line where need becomes want. And these purveyors are constantly crossing the line of taking too much water. Streams are still being drained, our lo‘i are dry, and our people are exhausted. But HB2703 can be the start of a much-needed change for kānaka Hawai‘i and all people in Hawai‘i.

We need the water to be PROPERLY managed. By establishing an Executive Director of CWRM, we can ensure the voices of Hawai‘i are being heard.

I also support amending this bill to match SB3327, which would prioritize kānaka. Not tourists. Not money. Not corporations. People. The real people of Hawai‘i, the ones whose families have been here for generations. We have the right to use water for cultural practices. Our lo‘i need reviving and the only way that’s possible is with water. The process for approval of Water Use Permit Applications

for kalo farmers and other constitutionally-protected public trust uses should be prioritized. We're done waiting at the back of the line. It's time for our rights to be acknowledged.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations to the improvements of the Water Code that have long been overdue. I urge the Committee to PASS HB2703 with amendments to match SB3327. Mahalo for the opportunity to testify.

**E OLA I KA WAI!!!**

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Kamakanōweo Kekauoha-Schultz

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

‘O Kamakanōweo Kekauoha-Schultz ko‘u inoa. He 16 o‘u mau makahiki, a hele au i Ke Kula Kaiapuni ‘o Kekaulike. Eia nō au ke kākau nei iā ‘oukou no ke kāko‘o ‘ana i ka pila ‘o HB2703. He noi ha‘aha‘a kēia no ka hō‘apono ‘ana i kēia pila. ‘O ia ka mea kūpono e hana ai. Inā he aloha kā ‘oukou ma loko ‘o kou pu‘uwai no Hawai‘i a me ka po‘e Hawai‘i, ‘o ia ka mea e hana ai. Ke ‘ike ‘oukou i ka makemake ‘o nā kānaka ‘ōiwi ‘o kēia ‘āina nei, e ‘ike ‘oukou i ka pono o ka ‘āina a me nā kumuwaiwai kūlohelohe. Ke makemake ‘oukou e mālama iā Hawai‘i no nā pua ‘o ka ‘āina e ulu mai nei, no mākou, nā keiki o ka ‘āina, ‘o ka hō‘apono wale ‘ia ‘ana o kēia pila ka mea e hana ai. I am testifying in STRONG SUPPORT of HB2703.

The Water Commission is the expert concerning our wai and the Water Code. They are the kahuwai pono, and should have the final say on all decisions concerning our wai. A person chosen by the Commission and further supported by the people should ultimately be the one to execute the Water Code. Currently, the chair of BLNR, is not the expert in matters concerning water, but has a very general scope concerning all land and natural resources. Their kuleana as such should follow that scope and should not intervene in decisions in which they are not the experts. The separation of CWRM from BLNR oversight as drafted in this bill will put the power in the right hands.

However, this bill should be amended to be like SB3327, which increases the fines needed to improve compliance with the rules, and proper management of our precious resources. The current fines are not strict enough, and allow the greedy capitalists to exploit the wai without regulations. Wai is the most important resource on this ‘āina, and without wai there is no life. We live in a capitalistic society that challenges our indigenous views and threatens our practices as Hawaiians. This continuous battle with wai is one of them. If fines are not increased, the interim instream flow standards will continue to be violated with little to no penalty. The increase of these fines will deter violations, and finally give the proper respect towards our wai. This continual exploitation, as seen with the Kaua‘ula Stream ordeal, is not pono and must be regulated for the well-being of our ‘āina, kai, and kānaka.

Finally, HB2703 should also prioritize public trust uses in the water use permit process as SB3327 does. Our traditional and customary practices, the expression of our identity and way of life, needs to be upheld as a priority in access to wai. As a young mahi'ai (farmer) myself, I am asking for your support because access to wai is vital for me to continue learning and growing in this way, and to cultivate a bountiful land for future generations. The health of our people is dependent on the health of our 'āina. Proper management of our resources will ensure our wellness. Wai is our most valuable resource to sustain life. Water must go to the lo'i before it goes to the pools of the hotels or the grass of the golf courses. If you care about Hawaiians and Hawai'i as a whole, if you care to see us keiki and the future generations flourish in our identity as Hawaiians, if you care about fixing this corrupt system that we currently struggle with and have been struggling with since the establishment of the sugar plantations, then please pass this bill with the recommended amendments.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations to the improvements of the Water Code that have long been overdue. I urge the Committee to **PASS HB2703**. I thank Chair Ichiyama and Members of the House Committee on Water and Land for taking the time to hear our voices and mahalo to Vice Chair Poepoe for introducing this bill.

**E OLA I KA WAI!!!**

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Kehaulani Kealoha-Franco

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Aloha kākou, ‘o Kehaulani Kealoha-Franco ko‘u inoa. No Pā‘ia mai au i ka ua mumuku ma Hāmākuapoko, kahi kaulana i ka he‘enalu ‘ana o nā ali‘i no Lahaina, ‘o Kawao lāua ‘o Kelea ma ka ho‘oilo. He 17 o‘u makahiki a kūlike au i ko‘u mau kūpuna i ke kūpa‘a ‘ana i ka pono o kēia ‘āina nei.

Aloha, my name is Kehaulani Kealoha-Franco, I was born and raised on Maui, Hawai‘i. I am only 17 years old and I am here to stand for the pono of the wai just like how my kūpuna did long ago. I am devastated that this is still happening, devastated that our kanaka continue to struggle for water, for our ‘āina, to simply survive in our home.

I pray that you listen to me and my po‘e kānaka as we say our peace. Our water was taken by greedy developers and people trying to make money off of our resources, off of our culture, off of our dignity as kanaka. While we look at the instream flow standards, developers laugh at us as they continue to drill wells to suck our ‘āina dry all to support hotels and resorts. This is a crime and we need justice. They laugh at us as they escape these violations with small fines, if any. This bill should be amended to include appropriate fines so diverters will not repeat any of these violations.

We need those waters for our lo‘i to feed our ‘ohana, for our trees to shade, and to feed our keiki, to feed our future. There is no future without water. There is no Hawai‘i without kanaka. There is no future for me in Hawai‘i if everything is so expensive, while we beg from tourists and the wealthy. Maui is my home. Water should be prioritized to keep all of us kanaka here, more than surviving, but thriving. There are so many things to fix, and we can fix it now. HB2703 should prioritize our traditional and cultural practices and award the water kanaka needed to continue these practices like SB3327.

We are descendants of Papa and Wākea, of every manu, of every i‘a, of every kumu lā‘au, of every crawling creature, of every limu in our kai, of the very lepo that we stand on. I hope we all remember that as we stand here in Hawai‘i and use our voices. Our voices should have a place when choosing the positions of power. The separation of CWRM from the BLNR chair and creating an executive director of CWRM allows the people some input as to who is chosen.

In conclusion, I strongly support the establishment of an executive director of the Commission on Water Resource Management as well as the implementation of recommendations for the improvements of the Water Code that are long overdue. I urge the Committee to PASS HB2703 with amendments. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Kūpa‘a Lewis Mattos

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Mai ka mokupuni awāwa kaulana ‘o ‘Ihikapalaumaewa, mai ka mauna ki‘eki‘e ‘o Haleakalā me nā pali uliuli Ko‘olau a hiki i Kepaniwai o ‘Īao.

Aloha mai e nā po‘o a me nā lālā o ka ‘Aha ‘Ōlelo,

Eia nō au ‘o Kūpa‘a Lewis Mattos ke wehewehe nei iā ‘oukou. 17 o‘u mau makahiki a he haumāna papa 11 au ma Ke Kula Ki‘eki‘e ‘o Kekaulike. He kupa au no ka ‘āina kaulana ‘o Nā Wai ‘Ehā a me ka ‘ao‘ao hikina ho‘i o ka wai a Kāne Kanaloa ‘o Wailuanui.

Aloha my name is Kūpa‘a Lewis-Mattos, I am 17 years old and I am a junior at King Kekaulike High School. Aside from being a student at Kekaulike I am also a student of the lo‘i kalo, raised with my siblings in the mud. My family has been kalo farmers and water advocates, or kahuwai, for generations. I share today on behalf of myself, my ‘ohana, my community, and my lāhui. I am testifying in **SUPPORT of HB2703**.

The motto of CWRM is “Ke Kahuwai Pono,” kahu meaning caretaker or guardian, wai meaning water, and pono, fair or prosperous. To be a kahuwai is to commit to protect, to be a kahuwai is kuleana. HB2703 aligns with this motto and ensures pono in the decisions that CWRM makes.

For too long, the system of Hawai‘i has not shown beneficial and hopeful outcomes for the future generations. However, a positive change like this can provide a better opportunity and can allow me as well as all the youth of Hawai‘i to have a future in the right direction. There are three main reasons I support HB2703.

First, having distinct leadership for the Water Commission ensures that decisions are made with a diverse range of perspectives and prevents concentration of power. This helps to avoid potential biases. It also prevents the separation of power and independence between different agencies, which will increase pono decision making.

Next, HB2703 allows things to be put back into check and balance. It focuses on fairness and also provides the people with what we need. Also, it allows for diverse expertise. It helps better focus themselves on the field that they are in. CWRM will have better focus on only

water resource management, and BLNR will have better focus on management of land and other natural resources, which can strengthen their expertise or knowledge in their field. Lāulima in true form.

Lastly, this bill will help CWRM gain public trust and accountability. By making pono changes, the agency can gain the trust of the people.

Ho‘omoe wai kāhi ke kāo‘o  
Let us all travel together like water flowing in one direction

Mahalo for your time.



**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Kaylen Lilinoe Pali

**RE:** HB2703  
Hearing on February 8, 2024  
IN STRONG SUPPORT of HB2703

Mai ka pi'i 'ana o ka lā i Haleakalā a i ka napo'ō 'ana o ka lā i Kahālāwai, mai ka moku nui 'ō Keawe a i ka moku 'ō Lehua. Aloha mai e nā po'ō a me nā lala o ka 'Aha 'Ōlelo,

'O au 'ō Kaylen Lilinoe Pali a ke kākau nei au iā 'oukou e ha'i'ōlelo e pili ana i ka HB2703. Noho au ma ka mokupuni u'i loa 'ō Maui ma ka moku 'ō Honua'ula. He haumāna au no Ke kula kaiapuni 'ō Kekaulike a he 16 o'u mau makahiki. He kupa au no Hawai'i nei. I am testifying in STRONG SUPPORT of HB2703.

For many years locals have come second after tourists in Hawai'i and we are tired of it. The Hawaiian mindset is the only mindset we should consider. From Hāloanakalaukapalili, to Papa and Wākea, in school, we are taught that our history goes beyond us and starts with darkness, the Kumulipo. We should be allowed to have our cultural practices and we should be allowed to make that our priority. Water is a public trust, water is our right, and water is our source of life.

Politicians should have no say in our rights and we as kānaka Hawai'i deserve to have our water back. Tourists should not have more rights than the people you are obligated to serve. Passing this bill is one step closer to making sure the public trust is upheld. Having our Governor, who knows nothing about our wai, influence decisions on it makes no sense. Consider the bias he holds towards people and consider the certifications he has as well. Being Governor is one thing, picking someone to control our source of life with no knowledge is a whole other thing. Let's bring someone who knows about our wai and knows the importance it has to us.

Our history is important to us and it should be important to you. Kānaka 'ōiwi depend on water and we depend on you to do what is right.

In conclusion, I strongly support the implementation of recommendations to improve the Water Code that have long been overdue, and I urge the Committee to **PASS HB2703** with amendments that reflect the important provisions in SB3327. Mahalo for the opportunity to testify.

**E OLA I KA WAI!!!**



# Native Hawaiian LEGAL CORPORATION

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## HB2703

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

COMMITTEE ON WATER AND LAND

February 8, 2024

9:00 a.m.

Conf. Rm. 430 & Videoconference

Aloha e Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee,

The Native Hawaiian Legal Corporation<sup>1</sup> offers the following testimony in SUPPORT of HB2703, which proposes changes to the law to better ensure that the state, through the Commission on Water Resource Management, fulfills its important constitutional and statutory kuleana to wai.

Our state constitution recognizes the importance of water in Hawai'i. Article XI, § 1 provides that "all public natural resources are held in trust by the State for the benefit of the people."<sup>2</sup> CWRM is the state agency with the specific duty "to protect, control and regulate the use of Hawaii's water resources for the benefit of its people[.]" Haw. Const. Art. XI, § 7, and to implement the State Water Code.<sup>3</sup> As trustee, it has an "affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." *Waiāhole I*, 94 Hawai'i at 141, 9 P.3d at 453.

The state must do more to fulfill its constitutional and statutory duties. The need for improvement was studied in 1994 by the Review Commission on the State Water Code, which reviewed the effectiveness of CWRM and Water Code and provided recommendations for improvement. HB2703 incorporates a few of them, including changes that empower CWRM to execute its kuleana with less interference by other agencies and state officials. gives CWRM more autonomy to do its job. Removing the Department of Land and Natural Resources' substantive oversight over the agency, allowing it to hire independent counsel, and converting the deputy position into an executive officer appointed and evaluated by CWRM allows the

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<sup>1</sup> NHLC is a non-profit, public interest law firm committed to the protection and advancement of Native Hawaiian identity and culture, including the protection of Hawai'i waters and other aspects of the natural environment upon which Native Hawaiian well-being and culture depend.

<sup>2</sup> See *In re Waiāhole Combined Contested Case Hearing*, 94 Hawai'i 97, 132, 9 P.3d 409, 444 (2000) ("Article XI, [§] 1 and article XI, [§] 7 adopt the public trust doctrine as a fundamental principle of constitutional law in Hawai'i.").

<sup>3</sup> CWRM is mandated to "set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawaii's water resources." Haw. Const. Art. XI § 7.

agency to operate independently with less outside influence. Conflicts of priorities or interests should not encumber or inhibit CWRM from fulfilling its water management duties.

As the committee is aware, there is a similar bill in the senate addressing these issues, SB3327, which proposes these and other recommendations from the 1994 review commission. The recommendations authorize CWRM to:

- Impose meaningful penalties and fines for violations of the water code, which could deter improper, illegal, and harmful actions that might otherwise continue without consequence;
- Declare emergencies and take prompt action in any area experiencing water shortages that threaten public health, safety, and welfare; and
- Prioritize public trust purposes (consistent with the definition set forth by the Hawai'i Supreme Court<sup>4</sup>) in water management areas, which is especially significant as the west Maui community recovers from the wildfires and seeks access to water for kalo cultivation and other traditional Native Hawaiian practices, appurtenant rights, and domestic water uses.

Amending HB2703 to include these recommendations, consistent with SB3327, would further improve the state's process to meet its trust duties and constitutional mandate to protect water. Indeed, the disadvantages and challenges of the current law and structure of CWRM have been demonstrated many times since 1994, not the least of which by the events immediately following the tragic Lahaina wildfires last year.

Given the decades of community-policing-turned-litigation based on the state's failures to meet its kuleana and this critical juncture of disaster recovery and climate change, it is high time to address the shortcomings of the current management structure and set the state up for success. HB2703, with the proposed amendments, is a step in the right direction to ensure that our water laws function as intended.

Mahalo for the opportunity to testify.



Ashley K. Obrey  
Senior Staff Attorney  
Native Hawaiian Legal Corporation

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<sup>4</sup> See *Kauai Springs, Inc. v. Planning Comm'n of the Cnty. of Kaua'i*, 133 Hawai'i 141, 172, 324 P.3d 951, 982 (2014) (recognizing public trust uses as waters in their natural state, domestic water use, Native Hawaiian tradition and customary rights, and the reservation of water for the Department of Hawaiian Home Lands).

**PROTECT KAHO‘OLAWE ‘OHANA**  
**1733 Wili Pa Loop, B-1**  
**Wailuku, Hawai‘i 96793**



February 7, 2024

**Strong Support for HB2703: Relating to the Water Commission**

Aloha Chair Lind Ichiyama

My name is Dr. Davianna Pōmaika‘i McGregor and I am testifying today on behalf of the Protect Kaho‘olawe ‘Ohana in strong support of HB2703. I apologize for submitting this after the 24 hour window, as the notice of the hearing was posted late. I hope that this testimony can still be considered.

HB2703, if passed, will implement decades-long recommendations to try to have the Water Commission be free from the variable influence of changes in gubernatorial politics. The proposed changes will enable the Commissioners and their staff to better focus on protecting our state’s water resources and fulfilling their kuleana.

The proposal to have the CWRM deputy position be an Executive Director who reports directly to the Water Resource Management Commission, is a positive structural change, similar to the structure of the Kaho‘olawe Island Reserve Commission (KIRC). This structure has been effective for the KIRC. Having the BLNR chair serve a member of the commission, instead of the chair has also been effective for the KIRC. Instead on the KIRC, the commissioners take a poll on who should serve as chair and forwards their recommendation to the Governor.

The companion bill, SB 3327 would also increase fines for violations of rules. We support this. Again, for Kaho‘olawe, substantial fines have served to have the rules that effectively protect the island's marine resources. The companion bill, SB 3327 also prioritizes the public trust purposes for fresh water sources, in alignment with the state constitution and Supreme Court rulings. I would like to suggest that HB 2703 be amended to include these provisions from SB3327.

Mahalo nui loa for your consideration of this testimony. Respectfully, I urge your committees to pass HB2703 and include the suggested amendments.

Ola i ka wai!

Mahalo  
Davianna Pōmaika‘i McGregor  
Protect Kaho‘olawe ‘Ohana

Aloha e Chair Ichiyama, Vice Chair Poepoe,  
and Members of the Committee on Water  
and Land,

My name is Lauren Palakiko and I am  
privileged to live in Kaua'ula Valley on 'āina  
kuleana. My husband is a kalo farmer and our  
entire 'ohana has been deeply engaged in the  
battle over wai in Maui Komohana and  
Kaua'ula Valley in particular. Mahalo for the  
opportunity to testify on HB2703. I support  
much of HB2703 as currently drafted, but  
please amend it so that it is identical to Chair  
Inouye's SB3327. As I explain below, Chair  
Inouye's provisions regarding increased  
maximum penalties, water shortage  
declarations, and public trust purposes are  
critical.

The events of the last six months have made

it clear that politics is poisoning our water. Last August, when fires ripped through Maui Komohana and devoured Lahaina, the Governor's first response was to suspend the Water Code, stripping away hard-won constitutional protections with the stroke of a pen. Then, the governor-appointed chair of BLNR removed CWRM's deputy director without cause, leaving the Commission leaderless and impotent so that large private interests could tighten their grasp on our wai in Kaua'ula in particular. Even after our 'ohana and community stood up to get the Code reinstated and made our voices heard, CWRM has taken no action on our water use permit applications, meanwhile, the IIFS for Kaua'ula Stream continues to be violated while other streams across Maui Komohana run dry. Adopting SB3327's mandate requiring the Water Commission to act on existing and new public trust purposes in a separate proceeding before all other applications will

help the Commission fulfill its kuleana under the water code to prioritize public trust uses. It will also help the Commission avoid the disastrous results in Nā Wai 'Ehā where kuleanas had to wait 14 years for their permits to be processed as litigation unfolded, even though no one contested that they had first priority.

When major landowners and private developers such as West Maui Land Company pick up the phone or send a letter, their demands are met overnight. Yet when our community and supporters from across ka pae 'āina turn out in the hundreds to demand that CWRM fulfill its kuleana as ke kahuwai pono, the Commission drags its feet and refuses to act. This is hewa. An amended HB2703 will provide this legislature with an opportunity to liberate CWRM from DLNR and to get the politics out of our water policy.

Under this bill, CWRM's Executive Director would be insulated from corruption and political pressure, and empowered to deliver on the Commission's constitutional and statutory obligations to protect and manage our wai for the benefit of all Hawai'i's people.

For too long, private purveyors have been allowed to illegally divert and hoard water with impunity. There is no better example of this than in Maui Komohana where private companies continue to control over 75% of our water. Their boundless greed has depleted our streams and endangered public safety. A \$5,000 fine, the current maximum allowed under the Water Code, is nothing more than a slap on the wrist to developers like West Maui Land Company who have made millions by exploiting a public trust resource when those with priority rights, such as other kuleana stewards in Kaua'ula, lack



water for basic household needs such as bathing their babies. I myself have had to bathe my son in a bucket when our water was cut off. Importantly, many 'āina kuleana in Kaua'ula rely on the stream for our domestic water needs. Higher fines are what is necessary to deter repeated violations. This is why HB2703 must be amended to include SB3327's provisions regarding penalties. Increasing the maximum amount CWRM can fine to \$60,000 will improve compliance with the Water Code by enabling the Commission to impose meaningful fines and penalties, especially for repeat offenders.

The reality is that we are living in a climate crisis. Extreme weather events are becoming more frequent each year, and the perpetuation of plantation water politics is only making our communities more vulnerable to disasters. Our hurt is not over.

We need proactive solutions and a Commission that is empowered to take timely action in times of emergency. This is why amending HB2703 to include SB3327's provision expanding the Water Commission's ability to declare water shortages even in undesignated areas is crucial. We ask that this legislature please vote today to support an amended HB2703 that, like SB3327, empowers the Commission to more effectively do its job. We have waited too long already. We implore you to take this necessary stand to protect our wai and to support our community so that we can actually focus on recovery.

Mahalo and ola i ka wai!

Lauren Palakiko



**HB-2703**

Submitted on: 2/6/2024 7:46:53 PM

Testimony for WAL on 2/8/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Charlie Palakiko	Individual	Support	Written Testimony Only

Comments:

Aloha e Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee on Water and Land,

My name is Charlie Palakiko and I am privileged to live in Kaua‘ula Valley on ‘āina kuleana. I am a kalo farmer and our entire ‘ohana has been deeply engaged in the battle over wai in Maui Komohana and Kaua‘ula Valley in particular. Mahalo for the opportunity to testify on HB2703. I support much of HB2703 as currently drafted, but please amend it so that it is identical to Chair Inouye’s SB3327. As I explain below, Chair Inouye’s provisions regarding increased maximum penalties, water shortage declarations, and public trust purposes are critical.

The events of the last six months have made it clear that politics is poisoning our water. Last August, when fires ripped through Maui Komohana and devoured Lahaina, the Governor’s first response was to suspend the Water Code, stripping away hard-won constitutional protections with the stroke of a pen. Then, the governor-appointed chair of BLNR removed CWRM’s deputy director without cause, leaving the Commission leaderless and impotent so that large private interests could tighten their grasp on our wai in Kaua‘ula in particular. Even after our ‘ohana and community stood up to get the Code reinstated and made our voices heard, CWRM has taken no action on our water use permit applications, meanwhile, the IIFS for Kaua‘ula Stream continues to be violated while other streams across Maui Komohana run dry. Adopting SB3327’s mandate requiring the Water Commission to act on existing and new public trust purposes in a separate proceeding before all other applications will help the Commission fulfill its kuleana under the water code to prioritize public trust uses. It will also help the Commission avoid the disastrous results in Nā Wai ‘Ehā where kuleanas had to wait 14 years for their permits to be processed as litigation unfolded, even though no one contested that they had first priority.

When major landowners and private developers such as West Maui Land Company pick up the phone or send a letter, their demands are met overnight. Yet when our community and supporters from across ka pae ‘āina turn out in the hundreds to demand that CWRM fulfill its kuleana as ke kahuwai pono, the Commission drags its feet and refuses to act. This is hewa. An amended

HB2703 will provide this legislature with an opportunity to liberate CWRM from DLNR and to get the politics out of our water policy. Under this bill, CWRM's Executive Director would be insulated from corruption and political pressure, and empowered to deliver on the Commission's constitutional and statutory obligations to protect and manage our wai for the benefit of all Hawai'i's people.

For too long, private purveyors have been allowed to illegally divert and hoard water with impunity. There is no better example of this than in Maui Komohana where private companies continue to control over 75% of our water. Their boundless greed has depleted our streams and endangered public safety. A \$5,000 fine, the current maximum allowed under the Water Code, is nothing more than a slap on the wrist to developers like West Maui Land Company who have made millions by exploiting a public trust resource when those with priority rights, such as other kuleana stewards in Kaua'ula, lack water for basic household needs such as bathing their babies. I myself have had to bathe my son in a bucket when our water was cut off. Importantly, many 'āina kuleana in Kaua'ula rely on the stream for our domestic water needs. Higher fines are what is necessary to deter repeated violations. This is why HB2703 must be amended to include SB3327's provisions regarding penalties. Increasing the maximum amount CWRM can fine to \$60,000 will improve compliance with the Water Code by enabling the Commission to impose meaningful fines and penalties, especially for repeat offenders.

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Mahalo and ola i ka wai!

Charlie Palakiko

**HB-2703**

Submitted on: 2/6/2024 10:00:20 PM

Testimony for WAL on 2/8/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kawaiuluhonua Scanlan	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee,

My name is Kawai Scanlan and I am from Pālolo, O‘ahu. I am currently a student at the University of Hawai‘i at Mānoa William S. Richardson School of Law. I am writing in **strong support of HB2703** as it will take the politics out of our water by separating DLNR from the Commission on Water Resource Management (“CWRM”), and allowing them to declare emergencies in areas that are experiencing water shortages that threaten the health and safety of the public.

While at Richardson, I have decided to pursue a certificate in Native Hawaiian Law. Much of my coursework has been focused on traditional and customary practices, the public trust doctrine, and more recently water law in Hawai‘i. I was lucky enough to work closely with the Maui Komohana community on water issues they faced, both before and since the fires. What the people of Lahaina have gone through, particularly in the last six months, is absolutely unacceptable. The political nonsense that this administration has dragged them through, while they needed time to focus on recovery, is cruel. If we have learned anything since the fires, it is that the way CWRM is organized now allows the Governor to use the Chair as his puppet to push his own political agenda. I urge this committee to **pass HB2703 with amendments** to put an end to the political games and actually kōkua Lahaina. I also recommend **including the language of SB3327** to this bill, such as including the provisions related to increased penalty maximums, to ensure that CWRM can meaningfully carry out its constitutional duty.

As the impacts of the climate crisis intensify, CWRM needs to have the ability to declare emergencies in all areas, not just those that are designated. Climate change is not going to wait for all of the State’s waters to be regulated. The Commission needs to be able to act now in declaring water shortages and addressing the effects of climate change so that what happened in Lahaina doesn’t happen anywhere else. This bill will allow them to make the necessary decisions to restore stream flow and allocate water to areas that are facing droughts in order to prevent any more catastrophic fires.

The climate crisis is here and happening now. We need your help to ensure that CWRM can uphold their constitutional duty to take care of our waters, without interference by a power-hungry, pro-development Governor. Please **pass HB2703 with amendments** so CWRM can do its job as kahuwai pono.

Mahalo for the opportunity to testify.

**VIA ELECTRONIC DELIVERY**

February 7, 2024

House Committee on Water and Land  
Hearing: February 8, 2024, 9:00 AM  
State Capitol Conference Room 430

Re: Testimony in Strong Support of HB 2703: Relating to the Commission on Water Resource Management

Aloha mai e Chair Ichiyama, Vice Chair Poepoe, a me nā Members o ka House Committee on Water and Land,

My name is Karyn Kanekoa and I am a kupa of Honokōhau. I am also the kahu of Pūnana Leo o Lahaina, which, as many of you know, we lost in the fire. I also serve on several community boards all dedicated to the betterment of this ‘āina and its natural resources. Our ‘ohana also cultivates lo‘i kalo and stewards the ‘āina that continues to sustain us in Honokōhau. I mention all of these things not to uplift myself as an individual, but to illustrate that our community is filled with experts about this place and its resources. This is our home. Please work with us to restore our ‘āina and wai. The introduction of HB2703 and now this hearing, are both steps in the right direction. Mahalo for scheduling this important matter and for welcoming our mana‘o.

I write to you in **strong support of HB2703** and ask that you pass it out of your committee today with amendments that mirror Senator Inouye’s SB3327. I also ask you to “e ho‘i ka nani,” or return the glory to Maui Komohana! This bill would prioritize us, the kama‘āina and working class, who have generational ties to this place, over private purveyors. We are at a critical juncture in our history where you have the choice to chart a better path for our ‘āina and wai, or to continue to uphold the injustices that have been cemented in our streambeds.

E ho‘i ka nani means fundamentally re-examining the way wai has been managed in Maui Komohana for decades or even a century. It means restoring wai to our streams across Maui Komohana and holding large developers and water purveyors accountable for what they do. Too often, the kuleana to police these foreign entities falls upon us, the community. We have been fighting and advocating for pono use of wai for years. Take Honokōhau, for example. I am deeply concerned about Honokōhau Stream. Maui Land and Pine (MLP) has failed to fulfill its kuleana to implement ditch upgrades as required by the Water Commission. To date, we are not aware of the completion of any of the upgrades that they are required to do. We have also documented MLP illegally dumping unused Honokōhau wai without repercussions. Time and time again, these private companies fail to do what the law and the Water Commission require.



And then our community has to go back to the Commission to watchdog ongoing issues. For these reasons, increasing the penalty ceiling for Water Code violations is incredibly important. We ask this Committee to **pass HB2703 with amendments** that include the penalty provisions within SB3327 so private companies are actually deterred from breaking the law.

Additionally, separating the Water Commission from BLNR would allow the Commission and its staff to focus on executing its mission and purpose without being micromanaged by BLNR's Chair, a political appointee. The increase in fines and penalties would also put a rest to the rigamarole that has failed to deter violators like those in Honokōhau from abusing water that our 'ohana and others depend on to drink, shower, and grow our kalo.

Finally, I ask that this Committee also amend the bill to include the language from SB3327 that would prioritize the review of water use permit applications for public trust purposes. This is especially important for me as my 'ohana has a pending application before the Commission. Our community and our 'ohana worked so hard to complete the permitting process as outlined by the Commission. Our uses are constitutionally protected. We have waited many years for the day our water is no longer at the whim of private purveyors. Allowing the permits of the kupa to be heard first is the pono path, especially because we are not represented by private attorneys and cannot afford to be dragged into a protracted contested case hearing, which we understand happened to permit applicants like us in Nā Wai 'Ehā.

I want to thank Vice Chair Poepoe and all the other Representatives for introducing this bill. It feels like we are finally being heard and we are on the cusp of a meaningful and positive change to better manage our wai.

I urge you to pass HB2703 with amendments that include the penalties and public trust provision within SB3327 . Mahalo for this opportunity to share.

Me ka ha'aha'a,

Karyn Kanekoa

**VIA ELECTRONIC DELIVERY**

**House Committee on Water and Land  
Hearing: February 8, 2024 @ 9:00 AM  
State Capitol Conference Room 430 and Via Zoom  
Strong Support for HB2703: Relating to the Administration of the Commission on  
Water Resource Management**

Aloha mai e Chair Ichiyama, Vice Chair Poepoe, a me nā Members o ke Kōmike on Water and Land,

My name is Kanoelani Steward and I am a kupa of Lahaina. Mahalo for the opportunity to testify in strong support of HB2703. I support much of HB2703 as currently drafted, but **please amend it so that it is identical to Chair Inouye’s SB3327**. As I explain below, **Chair Inouye’s provisions regarding increased maximum penalties and public trust purposes are critical**.

I am committed to the future of this ‘āina and its resources and have appeared before the Commission on Water Resource Management for a number of years advocating for pono water management in Maui Komohana.

My master’s thesis focused on wai in Maui Komohana paying attention to its place within the history of water in Hawai‘i and the sugar plantation era in particular. I outlined historical accounts from nūpepa that detailed Maui Komohana as an abundant ‘āina momona as well as results suffered from the plantation era that continue to affect water usage and distribution today. Because of that research, I am keenly aware of the consequences of these plantation systems and the dire need to restructure the Water Commission to make much-needed progress – especially in the wake of these fires. I strongly urge you to pass HB2703 out of your committees today with amendments.

Alongside various community groups, I have appeared before the Water Commission to restore water to ‘āina and streams for the past few years. While we are grateful for the progress we have made over the years in partnership with the Water Commission, it has also been discouraging to witness private companies’ flagrant disregard of the Commission’s orders. In addition to restoring our traditional and customary practices, we are also faced with having to monitor and ensure compliance. Amending this bill to align with SB3327 would help to hold these companies accountable through increased fines and penalties and by requiring the Water Commission to act on existing and new public trust purposes.

In the wake of the fires, our community spent so much time and energy asking for transparency and for the Commission to uphold pono. We watched them battle one another and unnamed forces. In a time when we should have been focusing on our families and town, it was exhausting. And, there’s no guarantee that it won’t happen again. The Commission needs to be able to do its job independently of any political chaos or powers that arise. The Water

Commission, with kuleana over our most precious resources, *needs* to be independent to prioritize wai.

This bill has the potential to bring the law to life at a crucial point in our history and when Lahaina needs this the most. This bill would allow the Commission to focus on achieving its constitutional and statutory purposes and to ensure our water is managed in a pono manner.

Please amend and pass HB2703 today.

Me ka ha'aha'a,

Kanoelani Steward

**HB-2703**

Submitted on: 2/7/2024 7:46:01 AM

Testimony for WAL on 2/8/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Archie Kalepa	Individual	Support	Remotely Via Zoom

Comments:

House Committee on Water and Land  
Hearing: February 8, 2024, 9:00AM  
State Capitol Conference Room 430

Strong Support for HB2703: Relating to the Administration of the Commission on  
Water Resource Management

Aloha Chair Ichiyama, Vice Chair Poepoe, & Members of the Committee Water & Land,

My name is Archie Kalepa and I am a kupa of Lahaina. My people have stewarded this ‘āina since time immemorial, and that is a kuleana that I proudly ‘auamo. We have lived with the struggle for water in our community for more than 130 years. Over a century ago, plantations completely diverted our streams, forcing us off our ancestral lands because without fresh water we were no longer able to feed ourselves.

After decades of advocacy for our wai, the Water Commission finally took the initiative to proactively manage Maui Komohana’s public trust resources by establishing numeric instream flow standards and designating a water management area. Water was finally returned to our streams and our community immediately saw a rebound in native stream life such as ‘o‘opu and ‘ōpae. Fish came back to the mouth of the streams to spawn. ‘Ohana with generational ties to this area returned to their ancestral lands to resume kalo cultivation. My ‘ohana restored our ancestral lands in Kahoma and we worked hard to reclaim that space so that hāloa could thrive once again, at least until the 2023 wildfires intensified the battle for wai in Maui Komohana.

The forward progress our community made to protect and restore our wai was undone via the political maneuvering of Chair Chang and her higher ups as well as West Maui Land Company executives who used this tragedy to exert even more control over our public trust water resources. Auē. It is impossible for me to put into words the degree to which our community is still struggling, months after the fires. We remain in disaster recovery mode and yet we are taking the time away from restoration and rebuilding to appear before your committees because we know that our community cannot rebuild and will not survive without our wai.

My request is a simple one: please pass HB2703 with amendments to make it identical to SB3327. Given Chair Chang’s behavior in the wake of the fires, our trust has been broken. This bill will help to address political imbalances and maneuvering and

restore the public's trust in government. There are so many bills this session that claim to support Lahaina. An amended HB2703 will actually benefit our community while also helping others across Hawai'i pae 'āina.

2

In Maui Komohana our streams are the lifeblood of our community. We are in a new era that requires a different allocation of water to support our community, ensure a healthier ecosystem, and distribute water consistent with the priorities set forth by law and traditional concepts of land management, such as aloha 'āina. Our community is more resolute than ever and urges you to pass HB2703 with amendments so that our resources will be managed based on law, policy, and science – not politics.

Wai is the most important resource for Lahaina, for Maui, and for our entire pae 'āina. Without wai, there can be no waiwai. We have to get this right if there is any hope for Lahaina to rebuild in a way that respects and centers community, and it starts with the values with which we embrace our water resources. I implore your committees to stand in solidarity with the kupa of Lahaina in our efforts to rebuild our community and steward our water resources in a way that is pono and ensures that our community can continue to survive and thrive.

With amendments, HB2703 will help us to make this happen. Please pass out an amended bill today.

Mahalo for your time

Me ka ha'aha'a, Archie Kalepa

**TO:** Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land

**FROM:** Sesame Shim

**RE: HB2703**  
**Hearing on February, 8, 2024**  
**IN STRONG SUPPORT of HB2703**

Mai ka 'ūkiu e hihio ana i ka nāulu a ka ua Nahua me ka ua Lililehua e ola ai ka 'āina o ke komohana, e ola ai nā 'ia, nā holoholona, nā kānaka ho'i i ke kahe pono 'ana o ka wai mai uka a i kai. Eia nō mākou ke kāko'o nei i ko Lahaina a me ka pono o ka wai a puni ka Pae 'Āina o Hawai'i nei. Na ko Lahaina e alaka'i i ka pono no Lahaina, Na ko Maui e alaka'i i ka pono no Maui, Na ka Hawai'i e alaka'i i ka pono no Hawai'i nei.

Aloha mai e nā po'o a me nā lālā o ka 'Aha 'Ōlelo,  
My name is Sesame Shim from Pukalani, Maui. I am testifying in **STRONG SUPPORT of HB2703.**

I am writing today as a mother of 2 keiki, as a kumu, and always and simply, as a kanaka of this 'āina. Just like everyone else in support of this bill. Just like all of you on the senate committee of water and land, just like all politicians in seats of power. We are ALL KANAKA and we all deserve the same rights as one another, not one superseding the other, not one benefiting and filling their deep pockets over another, not one or two or three abusing their power to benefit a few. WE ALL DESERVE THE SAME EQUAL RIGHTS.

However, in the past 200 years, we have been at war over power. A war between the people of this 'āina and the people who want to exploit this 'āina. While our ali'i were able to maintain their power for the benefit of the people, we succumbed to the criminal militant tactics for exploitation. HOWEVER we never gave up, and we will never give up. A criminal is a criminal based on his crime, not the color of his suit.

For far too long those who want to exploit this 'āina have been in the pockets of those in positions of power, in positions created and intended to serve THE PEOPLE. Even in a time of devastation for the entire community of Lahaina, these greedy capitalists will stop at nothing to kā'ili i ka mana. As if the pressures of the cost of living were not enough, as if the lack of resources to maintain our traditional way of life was not enough, as if the overcrowding of tourists and their trampling on the graves of our kūpuna were not enough... The power struggle continues, and our current powers are corrupted at the hand of greed and capitalism in the midst of a very UNNATURAL disaster.

We NEED protections from political corruption. We need protections from the abuse of power. We need the establishment of a position who can be chosen and supported by the people and not swayed by money. Just as the position of Executive Director of the water commission is described in **HB2703**.

Second, these protections are necessary due to the criminal privileges that for-profit entities have received since the Bayonet Constitution. The privileges that have dried up our rivers, that have starved our people, that have decimated our ‘āina, that have forced our kanaka away from their homes and cultural traditions. Our kanaka, those who are already protected by the public trust deserve to be prioritized in permitting and quickly approved for water under that public trust.

Third, it is time for justice to be served. Such that it is not a mere slap on the wrist and a small fee to be paid, but a large sum that will dissuade the criminal from repeat violations.

I stand with the next generation of kānaka, and we stand with all of our kūpuna as well. We know our history, we know our language, we know where we come from, and we know where we need to go and how we need to get there. But, we also know the history of our colonizers and exploiters, we are privy to their tactics and their brutality to gain power. We know how they paint their myths and white their crimes. We see their truth and we see their fear. So do not be dissuaded by their fearful narratives, support and stand with the people, with the public trust, and approve **HB2703**. Mahalo for this opportunity to testify.

**E OLA I KA WAI!!!**

**HB-2703**

Submitted on: 2/7/2024 9:38:52 AM

Testimony for WAL on 2/8/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

support



**House Committee on Water and Land**  
**Hearing: February 8, 2024 @ 9:00 AM**  
**State Capitol Conference Room 430 and Via Zoom**  
**Strong Support for HB2703: Relating to the Administration of the Commission on**  
**Water Resource Management**

Aloha mai e Chair Ichiyama, Vice Chair Poepoe, a me nā Members o ke Kōmike on Water and Land:

I am a third-year law student at the William S. Richardson School of Law. I support much of HB2703 as currently drafted, but **please amend it so that it is identical to Chair Inouye’s SB3327**. As I explain below, **Chair Inouye’s provisions regarding increased maximum penalties is critical to the success of the Water Commission’s ability to carry out its duties**.

It is crucial that the Water Commission can carry out its responsibilities as regulators of *wai*, a precious public trust resource. As we have come into another executive administration, we have laid witness to the horrific consequences that a change in administration can have on our communities. Politics should never get in the way of the public trust. Community leaders like Kaleo Manuel should never be scapegoated by corrupt capitalists in the pockets of public servants.

**HB2703 should be amended to include SB3327’s provision regarding enforcement of maximum penalties.** The Water Commission’s authority to impose fines on violators is one of its most important enforcement mechanisms. When fines are too low, they lose their “teeth,” or ability to deter bad actors from violating the law. This is especially dangerous in Hawai‘i, where the benefit of violations outweighs the costs for private water hoarders.

As it stands now, \$5000 fines have not dissuaded wealthy and powerful interests from trampling on the public’s water rights. Instead, corporate entities and private water hoarders have continued to treat these nominal fines as easily absorbed business expenses. Because the cost of a violation is only \$5000, and the benefits of violations promise tremendous capital gains off the backs of the State’s every day, hard-working constituents, it is crucial that this bill pass to ensure bad actors have less incentive to continue to exploit and hoard *wai* in Hawai‘i.

As we all know, so much of Hawai‘i’s water resources have been destroyed by those who do not respect the law – from Red Hill to West Maui and beyond. In Maui Komohana, diversions and overpumping transformed what was historically a lush wetland into a parched desert. Community members fought tooth and nail to have the region designated as a Water Management Area in 2022. As a result, these same community members embarked on a difficult and extended permitting process. Why would an exhausted, depleted community willingly bring this permitting process upon itself? It is because this permitting process offered the possibility of finally regulating wealthy plantation capitalists who refused to play by the rules.

*Wai* is a public trust resource—for Kanaka Maoli, *ola i ka wai*, water is life. A \$5000 price tag on this resource, that has the power to bring life or death to our communities and environment, is unconscionable. It is crucial that more severe fines be brought against any party who violates the Water Code, for the protection of the resource, the environment, the public, and our future.

For these reasons, **I strongly support HB2703 with amendments.**

**HB-2703**

Submitted on: 2/7/2024 12:56:49 PM

Testimony for WAL on 2/8/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Erik Meade	Individual	Support	Written Testimony Only

Comments:

Thank you for introducing this bill and offering proactive solutions for the DLNR Chair and the Governor's blatant politicking. It's gone too far, they have derailed the career of a public servant who had the trust of the people. I will not mention the unspeakable things that were being suggested online to be done to him. We need to fix this. I have only one point to make in support of HB2703 and that is: had this already been in place, it would not have been possible for Chair Chang to break the law as the Chair admitted to at least twice at the September 19, 2023 Water Commission Meeting.

The law I am referring to is HRS §26-35(a)(4) which I read at the meeting at timestamp 10:11:37. Here, the all the links I provide includes the timestamps so one doesn't have to search through the nearly 12 hour long recording:

<https://www.youtube.com/live/i7cDjJD9gp0?si=EqTq5xZeTEBSYZ-D&t=36698>

For convience, I will also include the text of the Hawai'i Revised Statutes here:

HRS §26-35(a)(4) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the board or commission shall be determined by the board or commission subject to the approval of the head of the department and to applicable personnel laws;

About 18 minutes later at timestamp 10:29:24, Chair Chang admits that this was not at the approval of the commission.

<https://www.youtube.com/live/i7cDjJD9gp0?si=gnrb1mt2bRdr4A8j&t=37764> Chair Chang said, "... this is not the commission's decision this is mine."

Then just over 5 minutes later at timestamp 10:34:38 Chair Chang admits this was not subject to the approval of the commission

again. <https://www.youtube.com/live/i7cDjJD9gp0?si=1DalpMfU-mBRNvuM&t=38078> "The Commission, they do not share my decision. They do not support the decision... These commissioners they are not in unison with the decision that I made."

Instead of investigating Deputy Director Manual, they should have investigated what the Chair and Governor were up to.

Please vote yes on HB2703 to help prevent the possiblity of this law being broken.

Erik Meade

**HB-2703**

Submitted on: 2/7/2024 3:29:58 PM

Testimony for WAL on 2/8/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Rhiannon Tereari'i Chandler-'Iao	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Ichiyama and Poepoe and Honorable Committee Members,

My name is Tereari'i Chandler-'Īao, and I live in Kula, where I relocated after the Lahaina fire. I am testifying today in strong support of HB2703.

HB2703 is urgently needed to assist the Hawai'i Water Commission in its important work. Following the Commission's unanimous designation of Maui Komohana as ground and surface water management areas, community members on Maui worked hard for almost a year, investing significant amounts of time preparing and submitting water use permit applications with the hope that their water resources would be protected. Those applications were submitted on August 7, 2023, the day before the Lahaina fire. While we mourned our losses and struggled to recover in the aftermath of the fire, diverters with political support filled their pools and reservoirs and our streams ran dry.

The State's Water Commission cannot function with this kind of political interference. And we cannot focus on the work of restoring our communities if we are constantly spending time trying to get this Commission to 'auamo its kuleana and protect our most precious natural resource - water.

HB2703 would give life to recommendations made many years ago to improve the Water Commission's ability to operate and carry out the important work of water resources management without the threat of political influence or retaliation.

In this time of changing climate and unexpected and devastating challenges like the Lahaina fire, please help to ensure the most effective water management possible for Hawai'i and pass HB2703 today. I am extremely grateful to your committee for this opportunity to share my support.

Mahalo,

R. Tereari'i Chandler-Īao