



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

ON THE FOLLOWING MEASURE:

S.B. NO. 3327, S.D. 1, RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Tuesday, March 12, 2024 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 430 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Danica L. Swenson, Deputy Attorney General

Chair Ichiyama and Members of the Committee:

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

The purpose of this bill is to make the Commission on Water Resource Management (CWRM) an administratively attached agency to the Department of Land and Natural Resources (DLNR) instead of an executive commission within the DLNR. 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, expands the jurisdiction 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 for several reasons, including but not limited to the expansion of the CWRM's jurisdiction potentially beyond constitutional limits, the provision providing the CWRM with authority to hire its own legal counsel, and administratively attaching the CWRM to DLNR without appropriating funds.

First, the bill allows the CWRM to permit water use outside of the public trust, which may be subject to constitutional challenge for violating article XI, sections 1 and 7, of the Hawai'i Constitution. On page 3, section 2, the bill adds to chapter 174C, Hawaii Revised Statutes (HRS), a new section titled "Public trust purpose" in which the

CWRM will be required to issue water use permits first to existing and new public trust purposes, then to other existing and new uses. This provision suggests that the CWRM would be able to issue water use permits for non-public trust purposes. This would be subject to challenge.

Article XI, section 1, of the Hawai'i Constitution makes clear that any water permits granted by the State must be consistent with the public trust: "All public natural resources are held in trust by the State for the benefit of the people." Article XI, section 7, of the Hawai'i Constitution further provides that the State must "protect, control and regulate the use of Hawaii's resources for the benefit of its people." Allowing any use not consistent with the public trust would be subject to challenge under both article XI, section 1, and article XI, section 7, of the Hawai'i Constitution.

Moreover, the bill could be construed as limiting which uses comport with the public trust. Section 5 of the bill, at page 10, lines 15-21, adds to section 174C-3 a new definition, "Public trust purpose." The Hawai'i Supreme Court, however, has held that it is "neither feasible nor prudent to designate absolute priorities between broad categories of uses under the water resources trust." In re Water Use Permit Applications, 94 Hawai'i 97, 142 (2000) ("Waiāhole I"). While statutes may provide guidance (i.e., prohibiting certain specific uses), the CWRM has the duty of "weigh[ing] competing public and private water uses on a case-by-case basis[.]" Id. The judiciary has made clear that the constitution places within the agency the discretion and duty to balance competing trust interests under the reasonable beneficial analysis. Waiāhole I, 94 Hawai'i at 142.

Second, the bill allows the CWRM to hire its own attorneys. The Department of the Attorney General strongly opposes this.

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.

Third, the bill contains other issues, such as:

- The bill provides that the CWRM shall be "attached to the [DLNR] for administrative purposes only." Page 17, lines 16-17. Article V, section

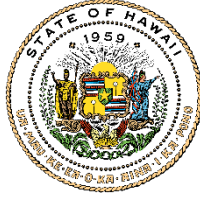
6 of the Hawai'i Constitution requires agencies to be placed within a principal department. Consequently, we believe that the wording on page 17, lines 16-17, should be deleted and the words "for administrative purposes only" should be added to page 17, line 11, to provide "There is established within the department for administrative purposes only a commission on water resources management. . . ."

- The only appropriations for the CWRM are for independent legal counsel. If placed within DLNR for administrative purposes only, the CWRM needs its own operational appropriations.
- The bill references both the CWRM and the "board" throughout. Section 174C-3, HRS, defines the "board" as the BLNR. The bill delegates certain authorities, such as setting the new executive officer's salary, to the BLNR. It is unclear if the bill's intent is to delegate certain decisions to the BLNR despite making the CWRM functionally independent of DLNR, or if this an error.

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

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
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 AND LAND

Tuesday, March 12, 2024
9:00 AM

State Capitol, Conference Room 430 & Videoconference

In consideration of
SENATE BILL 3327, SENATE DRAFT 1
RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Senate Bill 3327, Senate Draft 1 establishes a public trust purpose for the Commission on Water Resource Management (Commission); allows the Commission to retain independent counsel; repeals the First Deputy to the Chairperson of the Commission and establishes the Executive Director of the Commission; administratively attaches the Commission to the Department of Land and Natural Resources (Department); and authorizes members of the Commission to be eligible to serve as chairperson. This bill also requires the Chairperson of the Board of Land and Natural Resources and Director of Health to serve as ex officio voting members ineligible to serve as chairperson; authorizes entities to whom an emergency order is directed to challenge the order under certain conditions; clarifies the notification requirements and contents of declarations of water shortages; establishes fines; and makes conforming amendments. **The Department is providing testimony organized by each section of this measure indicating our support or opposition, respectively.**

SECTION 2 adds a new section to the State Water Code, Chapter 174C, Hawai'i Revised Statutes (HRS), requiring the Commission to prioritize action on water use applications for existing and new public trust purposes of water over other existing and new uses of water in designated water management areas. In its decision making the Commission prioritizes public trust purposes of water while trying to balance and accommodate other legal uses of water in a designated water management area. **The Commission opposes the addition of this new section because it may too narrowly prescribe how the Commission processes water use permits in recognition of public trust purposes.**

SECTION 3 amends Subsection 28-8.3(a), HRS, 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 or retain attorneys who are not a deputy attorney general. **The Department supports these amendments. While the Department believes that its assigned Deputy Attorneys General already provide sound and timely legal services in the best interests of the Commission and that the Department of the Attorney General is best suited to provide legal advice and service to the Commission, the Department also understands that this measure affords the Commission the option to retain independent counsel and legal services when there is a determination of a conflict of interest.**

SECTION 4 amends Subsection 84-14(e) by changing the title of “First Deputy to the Chairperson” to “Executive Director” of the Commission on Water Resource Management in the list of State employees who have restrictions on post-employment activities. **The Department supports this amendment.**

SECTION 5 amends Section 174C-3, HRS, by adding the new definition of “Public trust purpose.” **The Department opposes the addition of the definition of public trust purpose since we do not support prioritizing actions on water use applications for existing and new public trust purposes of water over other existing and new uses of water in designated water management areas, as proposed in SECTION 2 of this measure.**

SECTION 6 amends Section 174C-5, HRS, by adding a new Paragraph 10, to allow the appointment and dismissal of attorneys. **The Department supports this amendment for the reasons given in our position on SECTION 3 of this measure.**

The Department proposes to add a new Paragraph 17 to Section 174C-5, HRS, which was included in the original draft of Senate Bill 3327 (grey highlight below). This amendment would allow the Commission to declare an emergency after consultation with the Governor, the counties, and the Department of Health, that there is an absence of sufficient quantity and quality of water that threatens public health, safety, and welfare, and to take certain actions to address the emergency. Such emergency powers would allow the Commission to give tailored orders to respond to emergencies such as the Red Hill Crisis and the Maui Fires. For example, the Commission could order how water for temporary housing is provided, without having to suspend the State Water Code or whole sections of it, which in return could jeopardize other public trust uses of water in the same region. **The Department strongly recommends this amendment since it allows the Commission to take timely action to address water emergencies after consulting with the Governor and relevant government agencies.**

(17) May declare an emergency if the commission determines, in consultation with the governor, the appropriate county, and the department of health, that there is an absence of sufficient quantity and quality of water in any area, whether within or outside of a water management area, that immediately threatens the public health, safety, and welfare. The commission may issue orders reciting the existence of the emergency and requiring those actions as the commission deems necessary to address the emergency be taken, including but not limited to apportioning, rotating, limiting, or

prohibiting the use of water resources of the area; provided that an emergency order shall expire no later than one year after issuance by the commission; provided further that the order may be extended by a separate or supplementary order.

SECTION 7 amends Section 174C-6, HRS, by replacing the Deputy to the Chairperson of the Commission on Water Resource Management with an Executive Director. **The Department supports this amendment.**

SECTION 8 amends Section 174C-7, HRS, to clarify that the Commission shall be attached to the Department for administrative purposes only. The Department recognizes that the Commission has its independent authority in all matters related to the Water Code. However, the Department's mission is to preserve and protect cultural and natural resources for the present and future generations. Our ability to fulfill our mission is built upon the foundation that water and land are integrally connected from an ecosystem and cultural lens. **The Department opposes this amendment.**

SECTION 8 also amends Section 174C-7, HRS, 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 opposes this amendment. The Department finds that the Commission regularly addresses highly complex water issues in close collaboration with numerous government agencies and community organizations, where the Chairperson often serves as the delegated representative on behalf of the entire Commission. Placing these duties and responsibilities of the Chairperson of the Commission on a volunteer appointed position may be unduly burdensome and present challenges in fulfilling obligations of the role.**

SECTION 9 amends Section 174C-9, HRS, to allow for any party to whom an emergency order is directed to challenge the order while immediately complying with the order, with the Commission giving precedence to a hearing on the challenge. **The Department supports this amendment since this complements the proposed amendment in SECTION 6 giving the Commission authority to declare an emergency, and this amendment would provide a due process right to anyone receiving an emergency order to raise a challenge.**

SECTION 10 amends Section 174C-15, HRS, expanding the scope of violations to include violation of any orders of the Commission, failure to obtain required permits, failure to comply with permit conditions, and failure to comply with water audit requirements. The amendments also increase the maximum allowable fines from \$5,000 per day to \$60,000 per day and specifies the factors that the Commission shall consider when imposing fines.

The Department has found that the current maximum penalty of \$5,000 per violation in Hawai'i Revised Statutes (HRS) Section 174C-15 does not have a sufficient deterrent effect anymore. For example, even a one-time violation of an interim instream flow standard can lead to the diversion of millions of gallons of water and if the violating entity is charging end-users for the delivery of this stream water, \$5,000 will simply be the cost of doing business. Such violations have extreme detrimental effects on public trust uses, which are water in its natural state, i.e. the stream itself and native aquatic life, domestic uses dependent on the stream, and traditional and customary Native Hawaiian practices.

HRS Section 174C-15 has only been amended once since its adoption by Act 45, Session Laws of Hawai'i (SLH) 1987 (Act 45). In 2004, Act 142 raised the maximum penalty from \$1,000 to \$5,000 and added subsection (d). However, in its 1994 Report to the State Legislature, the Review Commission on the State Water Code (Review Commission), pursuant to Section 5 of Act 45, had already proposed a maximum fine of \$25,000 for reckless, knowing, or intentional violations.

The Hawai'i Supreme Court held that the Hawai'i State Constitution in Article XI Section 7 designated the Commission as the "*primary guardian*" of the public trust resource - water.¹ This bill will support the Commission in its affirmative duty "*to protect, control and regulate the use of Hawaii's water resources*" as articulated in Article XI Section 7 of the Constitution of the State of Hawai'i. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversions, and 376 perennial streams, approximately 100 of which have a measurable interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of O'ahu, Moloka'i and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits.

The Department appreciates the clarification of a continuing violation and the addition of mandatory factors for the determination of the penalty amount in the newly added subsection (c) to HRS Section 174C-15, which are identical to the factors DOH considers in HRS Section 342D-31. The Department would like to propose the inclusion of the language of HRS Section 342D-31 (c) for further clarification (grey highlight):

(c) When imposing a penalty, the commission shall consider the following factors, including but not limited to:

(1) The nature, circumstances, extent, gravity, and history of the violation and of any prior violations;

(2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;

(3) The opportunity, difficulty, and history of corrective action;

(4) Good faith efforts to comply;

(5) Degree of culpability; and

(6) Such other matters as justice may require.

It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.

¹ *In re Water Use Permit Applications*, 94 Hawai'i, 97, 141, 9 Pd.3, 409, 453 (2000). (*Waiāhole I*)

Furthermore, these factors in subsection (c) correspond with the Commission's Administrative and Civil Penalty Guideline (G14-01)² that the Commission adopted on October 1, 2014³. The Department notes that G14-01 provides for an initial administrative fee of \$500, if the Commission issued a written notice of alleged violation, in addition to any fine.

The Department, in consultation with the counties, recommends a maximum fine of \$25,000 to match the recommendations of the Review Commission.

SECTION 11 amends Section 174C-62, HRS, adding clarifying language for the declaration of water shortage. **The Department supports these amendments.**

The Department recommends repealing Subsection (g) in Section 174C-62, HRS, as in the original draft of Senate Bill 3327. The Commission's authority to issue orders in emergencies is provided for in the proposed amendment to Section 174C-5 adding Paragraph (17).

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

² https://files.hawaii.gov/dlnr/cwrn/planning/wrpp2019update/WRPP_AppP_201907.pdf

³ <https://files.hawaii.gov/dlnr/cwrn/submittal/2014/sb201410D1.pdf>

**STATE OF HAWAI‘I
KĀNE‘OHE BAY REGIONAL COUNCIL**

P.O. Box 621
Honolulu, Hawai‘i 96809

**House Committee on Water and Land
Hearing: March 12, 2024, at 9:00 AM
State Capitol, Conference Room 430**

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

The Kāne‘ohe Bay Regional Council (KBRC) submits this testimony in **support** of SB 3327, SD 1. The KBRC was established by the State Legislature in 1993 to, among other things, serve as the advocate for Kāne‘ohe Bay; advise the State and County regarding public policy and legislative matters impacting Kāne‘ohe Bay; and implement the goals and recommendations set forth in the Kāne‘ohe Bay Master Plan.

The Kāne‘ohe Bay Master Plan establishes a framework for the sustainable management of the Bay’s natural resources. It recognizes that the health of the Kāne‘ohe Bay watershed, including the pono management of streams and estuaries connected to the Bay and the restoration of fishponds, is critical to protect the Bay’s nearshore and coastal resources, restore fish populations in the Bay to former levels of abundance, and support local food production.

KBRC members, community partners, and allies are actively engaged in the restoration of streams, wetlands, and estuaries surrounding Kāne‘ohe Bay and have identified the lack of consistent freshwater resources as a major impediment to their efforts. Freshwater resources will only grow scarcer as climate impacts worsen, and it is critical for the Commission to have the independence and administrative tools necessary to proactively and comprehensively manage our precious water resources now.

The KBRC strongly believes that SB 3327, SD 1 would strengthen the Water Code by ensuring the Water Commission’s independence and objectivity, and granting the Commission the administrative tools it needs to kahuwai pono according to its constitutional and statutory mandates. Increased fines for violations would also allow the Commission to deter the overuse of limited stream and groundwater resources more effectively. The KBRC urges this Committee to further strengthen this bill by restoring the original emergency declaration language in SB 3327 to enable the Commission to better respond to water crises.

SB 3327, SD 1, as amended to restore its original emergency declaration language, is in line with the objectives of the KBRC to ensure the health and resiliency of the Bay. As such, the KBRC stands in strong support of SB 3327, SD 1, and requests that this Committee pass this bill with the requested amendment. Thank you for the opportunity to provide testimony.

Respectfully submitted,
KBRC Legislative Committee
on behalf of the *Kāne‘ohe Bay Regional Council*

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843
Phone: (808) 748-5000 • www.boardofwatersupply.com

RICK BLANGIARDI
MAYOR
MEIA

ERNEST Y. W. LAU, P.E.
MANAGER AND CHIEF ENGINEER
MANAKIA A ME KAHU WILIKI

ERWIN KAWATA
DEPUTY MANAGER
HOPE MANAKIA



NĀ'ĀLEHU ANTHONY, Chair
KAPUA SPROAT, Vice Chair
BRYAN P. ANDAYA
JONATHAN KANESHIRO
EDWIN H. SNIFFEN, Ex-Officio
GENE C. ALBANO, P.E., Ex-Officio

March 12, 2024

The Honorable Linda Ichiyama, Chair
and Members
House Committee on Water and Land
Hawaii State Capitol, Room 325
Honolulu, Hawaii 96813

Dear Chair Ichiyama and Members:

Subject: Senate Bill 3327, SD 1: Relating to the Commission on Water Resource Management

The Honolulu Board of Water Supply (BWS) supports Senate Bill (SB) 3327, Senate Draft (SD), 1, relating to the Commission on Water Resource Management (Commission). BWS has reviewed the provisions outlined in SB3327, SD 1, which makes several amendments to the state water code pursuant to Hawaii Revised Statutes (HRS) chapter 174C. The BWS would like to highlight its position as follows:

SECTION 4 amends Section 84-18, subsections (e) (41), HRS, by changing the title of the ~~“first deputy to the chairperson”~~ to “executive director” of the commission on water resource management. The BWS strongly supports this amendment as it reduces political influence on water, which is a critical resource to life, health, and our well-being. The Red Hill crisis reinforced the importance of our aquifer. Ola I ka Wai = “Water is Life” for all the people of Hawaii. Back in the late 1920s, the territorial legislature also saw the problems with political influence over decisions related to water, which is vital for life. The BWS was created, in a very similar model of what is proposed in this Section 4. Having the Commission hire its own executive director serving at the pleasure of the Commission, would help to depoliticize even the perception of political influence on water. The BWS strongly supports this concept being applied to the Commission. Like the BWS, this model would allow for more independence on water decisions that are vital for life for our community.

The Honorable Linda Ichiyama, Chair
and Members
March 12, 2024
Page 2

SECTION 7 amends Section 174C-6, HRS, changes the ~~Deputy to the chairperson~~ to Executive Director of the commission on water resource management. For the reasons, stated above the BWS supports the amendments made in this section.

The BWS also respectfully requests consideration of adequate funding for the Commission so that it can complete its water shortage plan.

Thank you for the opportunity to testify on SB 3327, SD 1.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

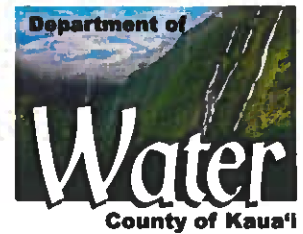


DEPARTMENT OF WATER

COUNTY OF KAUAI

4398 PUA LOKE STREET LIHUE, HAWAII 96766

WWW.KAUAIWATER.ORG (808) 245-5400 BUSINESS (808) 245-5813 FAX



JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

MICHAEL K. HINAZUMI, P.E.
DEPUTY MANAGER-ENGINEER

March 11, 2024

The Honorable Linda Ichiyama, Chair
and Committee Members
House Committee on Water and Land

Hawaii State Capitol, Room 430
415 S. Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Ichiyama, and Committee Members:

Subject: SB 3327, SD1 – Relating to The Commission on Water Resource Management

The County of Kauai, Department of Water (DOW) submits this letter to respectfully express its comments regarding Senate Bill (SB) 3327, SD1.

The DOW has reviewed the proposed amendments outlined in SB 3327, SD1 and has concern with Section 10, which proposes to enable the Department of Land and Natural Resources (DLNR) and the Commission on Water Resource Management (CWRM or Commission) to increase the water code's penalties and fines, from a minimum of \$50 to a maximum of \$60,000, to serve as a deterrence to violators of the State Water Code in section 174C-15, Hawai'i Revised Statutes (HRS). The proposed language provides factors for consideration when the Commission determines the penalty. At the present time, there are no established processes and procedures to determine these penalties. The DOW requests to be included, along with other stakeholders, in a process to determine an equitable penalty schedule and formalized process for enforcement implementation.

Thank you for your attention to this matter, and for your dedication and commitment you have shown in serving our State. We remain hopeful that you will carefully weigh the concerns raised by the DOW and others.

Please feel free to contact me at (808) 245-5403 or via email at jtait@kauaiwater.org with any questions you may have regarding DOW's comments.

Sincerely,

A handwritten signature in black ink that reads "J. Tait". The signature is stylized and written over a horizontal line.

Joseph E. Tait
Manager and Chief Engineer



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

March 11, 2024

TESTIMONY OF KEITH K. OKAMOTO, MANAGER-CHIEF ENGINEER
DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAII

HEARING BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

DATE: Tuesday, March 12, 2024
TIME: 9:00 a.m.
PLACE: Conference Room 430 & Videoconference

SB 3327, SD1 - RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Honorable Chair Ichiyama, Vice-Chair Poepoe, and committee members,

The County of Hawaii, Department of Water Supply (DWS) submits this letter to respectfully express its concerns regarding SB 3327, SD1.

The proposed language under Section 10 proposes to enable the Department of Land and Natural Resources (DLNR) and the Commission on Water Resource Management (Commission) to increase the water code's penalties, from a minimum of \$50 to a maximum of \$60,000, to serve as a deterrence to violators of the State Water Code in section 174C-15, HRS. The proposed language could be used capriciously to assess and impose penalties by the Commission. The lack of form and procedures to determine penalties could lead to arbitrary and inconsistent applications; and could result in disagreements, litigation, associated delays to resolve the imposed penalty, and divert resources away from the greater community benefit of providing safe drinking water. DWS requests to be included, along with other stakeholders, in the process to establish an appropriate penalty schedule and enforcement procedures.

We thank you for your attention to this matter, and for your dedication and commitment to serving our State.

Please feel free to contact me at (808) 961-8050 or via email at dws@hawaiidws.org with any questions you may have regarding DWS' comments. Thank you for your time and consideration of our testimony on SB 3327, SD1.

...Water, Our Most Precious Resource...Ka Wai A Kāne...

The Department of Water Supply is an Equal Opportunity provider and employer.

SB-3327-SD-1

Submitted on: 3/9/2024 9:49:50 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Hawai'i Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

SUPPORT!

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



March 9, 2024

Strong Support for SB3327_SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice-Chair Poepoe and Honorable Committee Members,

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 SB3327,SD1.

SB3327_SD1, when 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 islands’ water resources and fulfilling their kuleana.

The proposal to have the CWRM deputy position become 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 in its focus on healing the island of Kaho'olawe. Having the BLNR chair serve as 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 forward their recommendation to the Governor. Most state commissions have volunteer chairpersons - Kaho'olawe Island Reserve Commssion, Land Use Commission and the UH Board of Regents.

The bill would also increase fines for violations of rules. We support this. Again, for Kaho‘olawe, substantial fines have served to make the rules that protect the island's marine resources more effective.

Mahalo nui loa for your consideration of this testimony. Respectfully, I urge your committees to pass SB 3327, SD1.

Ola i ka wai!

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

SB-3327-SD-1

Submitted on: 3/10/2024 12:38:11 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Susan B Roberts Emery	Green Party of Hawai'i	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1, on behalf of the Green Party of Hawai'i. This very important measure will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. Let's stand with the people of Hawai'i, and not any outside influences, such as Big Money. Time to put people ahead of profits.

Please pass SB3327 SD1 unanimously.

Mahalo,

Susan RobertsEmery

Co-chair GPH



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON WATER & LAND

March 12, 2024

9:00 AM

Conference Room 430

In **SUPPORT** of **SB3327 SD1**: RELATING TO THE COMMISSION ON WATER RESOURCES MANAGEMENT

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 SB3327 SD1**, which would reduce the risk of political interference, political retribution, and/or perceived or actual conflicts of interest in the management of our islands' most precious resource.

This bill would address long-standing political vulnerabilities that could allow, and have allowed, powerful special 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, and both answer directly to the Governor. Accordingly, special interests who have the Governor's ear could interfere, and have interfered, with the Commission's implementation of the Water Code, contrary to the Legislature's intent and to the detriment of the public interest in our wai.¹

This bill would instead allow Commission members to decide amongst themselves who among their volunteers should serve as their Chair, and would further allow the entire Commission to choose an "executive director" as the lead Commission staff person. Annual performance reviews for the executive director would ensure that any employment decisions are based on a documented and objective assessment of their performance, rather than political opportunism or retribution. Finally, the Commission would be able to hire their own legal counsel, rather than rely on the Governor-serving Attorney General. These provisions are critical to ensuring that the Water Commission can do its important work in the rightful protection and distribution of our most precious resource.

Importantly, this bill would also authorize the Water Commission to impose meaningful fines against those who could otherwise over pump our aquifers and drain our streams dry with impunity – notwithstanding the law or the needs of the community. The current \$5,000 daily

¹ See, e.g. Editorial, *Water Commission: A Decade of Disappointment*, ENVIRONMENT HAWAI'I, February 2005, available at <https://www.environment-hawaii.org/?p=1499> ("First, there's the fact that the governor has made no secret of her hostility to the very idea of a statewide body to manage water resources. Alan Murakami, managing attorney with the Native Hawaiian Legal Corporation and longtime water watcher, says he believes Governor Lingle is engaged 'in a deliberate attempt to make the commission less effective than the Legislature intended.'"); Wayne Tanaka, *State-Aided Disaster Capitalism? Governor's administration targets stream, groundwater protection in the wake of Maui wildfires as water protectors fight back*, KA WAI OLA NEWS, Oct. 1, 2023, available at <https://kawaiola.news/aina/state-aided-disaster-capitalism/>.



SIERRA CLUB OF HAWAI'I

fine the Commission is authorized to levy is wholly insufficient to hold multinational corporations - or the Department of Defense – accountable, if and when their water code violations impact priority public needs, including for affordable housing. Without the increased fines authorized under this measure, millions of gallons of water per day could be illegally monopolized by deep pocket entities for a fraction of a cent per gallon in penalties, harming our precious water resources, and the houses, schools, farms, small businesses, and others that rely on them.

Accordingly, the Sierra Club of Hawai'i urges the Committee to **PASS** SB3327 SD1. Mahalo nui for the opportunity to testify.

Nā Alakaʻi o ka ʻAhahui o Hawaiʻi

Advocates for Native Hawaiian Justice

William S. Richardson School of Law | University of Hawaiʻi at Mānoa



**ʻAHAHUI
O HAWAII**
Advocates for Native Hawaiian Justice

Testimony of Nā Alakaʻi o ka ʻAhahui o Hawaiʻi

Before the House Committees on Water and Land

Tuesday, March 12, 2024 at 9:00 A.M.

State Capitol, Conference Room 430

415 South Beretania Street

Honolulu, HI 96813

Re: Support for SB3327, SD1 Relating to the Commission on Water Resource Management

Aloha e Chair Ichiyama, Vice Chair Poepoe, and committee members,

We are the alakaʻi of ʻAhahui o Hawaiʻi (“the Hui”), an organization of student advocates at the William S. Richardson School of Law. For the last 50 years, the Hui has advocated for Native Hawaiian justice in all areas of law, especially those affecting Native Hawaiian communities, traditional and customary practices, resource management, and environmental protection. Today we submit this **testimony in strong support of SB3327, SD1.**

Over the last year, Hui members have supported the Maui Komohana community in their efforts to ensure the equitable distribution of water, restore streamflow, and uphold the public trust. We have witnessed firsthand the harms inflicted on ʻāina by private water purveyors who ignore instream flow standards and continue to illegally divert and hoard water with impunity. And in the immediate aftermath of the fires that devastated Lahaina last August, we watched as these same purveyors engaged in a naked water grab to wrest even more control of Maui Komohana’s water.

Most disappointing throughout this process has been the Commission on Water Resource Management’s (“CWRM”) inability or unwillingness to step in and act on its constitutional and statutory obligation to protect and manage our water resources. In a time when the Commission’s leadership and decisive action is needed more than ever, CWRM has been hamstrung by political interference from the Governor, the Department of Land and Natural Resources (“DLNR”), and large economic interests.

SB3327, SD1 is about making the structural changes necessary to cure historic issues within the agency and to provide CWRM with the independence and authority it needs to satisfy its constitutional directive. The proposed amendments are not new or radical ideas, but instead are the reiteration of long-recognized solutions that would afford CWRM the autonomy needed to effectively protect and preserve Hawaiʻi’s precious freshwater resources. As this past year has shown, legacy diverters have and will continue to exert influence over CWRM so long as it is housed within DLNR. The provisions in



this bill would separate the two, allowing CWRM to focus on its constitutional mandate without interference.

In order to give these proposed changes their full effect, we also request that this committee **reinsert language from Section 6 of SB3327, as originally drafted, that would add to the Water Code a subsection 174C-5(17) relating to emergency powers.** This emergency language is substantively the same as a provision that this legislature passed last year as part of HB1088. That bill, which was introduced as part of the Governor’s administrative package, was inexplicably vetoed by the Governor. Now, a year later, this emergency provision is even more necessary to empower the Commission to do its job and respond to water emergencies such as devastating wildfires, the Kapūkakī (Red Hill) fuel leaks, and other future crises that may arise as the climate emergency escalates. In Lahaina, an amended SB3327, SD1 can expedite CWRM’s allocation of water for temporary emergency housing, so folks living in hotels or on the beach can move into more stable homes.

Chief Justice Richardson, the namesake of our law school, set the foundation for modern water law and the public trust doctrine that we have today. His court set the precedent that water must be held in trust for the common good and cannot be privately owned or sold. As he would say, when it comes to water, “think of the little guy downstream.” We honor that legacy today by voicing our **support for SB3327, SD1**, a bill that protects the Commission from political interference and protects the “little guys” from commercial interests and plantation water policies that have plagued Hawaiʻi’s wai and its people for over a century.

Please vote today in support of SB3327, SD1 to free the Commission and free our streams.

Mahalo for the opportunity to provide this testimony.

E ola i ka wai!

Nā Alakaʻi o ka ʻAhahui o Hawaiʻi

Nā Alakaʻi:

Dru Hara (ʻ24)

Kawaiuluhonua Scanlan (ʻ24)

B. Oriana McCallum (ʻ25)

Andrea C. Leialoha Swain (ʻ25)

Kyle K. Moriguchi (ʻ26)



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

P. O. Box 664 * Kaneohe, HI 96744 * Ph. (808) 235-8111 *

www.koolaupokohcc.org

House Committee on Water and Land Hearing: March 12 at 9:00AM State Capitol Conference Room 430 Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

The Ko'olaupoko Hawaiian Civic Club (KPHCC) submits this testimony in **strong support** of SB 3327, SD1.

KPHCC is a not-for-profit community organization established in 1937 by a group of kama'āina residents in the Ko'olaupoko area. Our primary mission is to preserve and perpetuate the history, heritage, and culture of Native Hawaiians. *Ola i ka wai*—water is life, and our water resources are among the most important cultural and natural resources to our community, our people, and our continued ability to practice our culture.

In Ko'olaupoko, many of our members, community partners, and allies are working tirelessly to perpetuate our traditional and cultural practices and to increase our community's food security by restoring traditional food systems. We cannot realize the full potential of these efforts without sufficient access to wai. For many years, we have observed conflict within Hawai'i's water policy to the detriment of our communities, our streams, and our 'āina. SB 3327, SD 1 not only gives the Water Commission the tools to proactively manage our limited water resources free from political interference and influence, but it will also help the Commission hold violators that compromise our water resources accountable.

The Water Commission's constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB 3327, SD 1 are a necessary step towards evolving our government to meet the present-day demands on our limited water resources so that the Commission can be *ke kahuwai pono* it was designed to be. This is critical for our community and communities across Hawai'i pae 'āina that are dealing with the impacts of climate change and water scarcity.

We urge your Committee on Water and Land to pass this bill.

Me ke aloha āina,

Charles Naumu
Pelekikena (President)
Ko'olaupoko Hawaiian Civic Club

SB-3327-SD-1

Submitted on: 3/10/2024 4:06:37 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
John & Rita Shockley	Free Access Coalition	Support	Written Testimony Only

Comments:

Aloha!

The Free Access Coalition supports SB3327. We need to keep water issues free from political pressures.

Mahalo for your time.

House Committee on Water and Land
Hearing: March 12, 2024 @ 9:00 AM
State Capitol Conference Room 430 and Via Zoom
Strong Support for SB3327, SD1: Relating to the Water Commission

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

Nā Kia‘i Kai submits this testimony in **strong support** of SB3327, SD1. Nā Kia‘i Kai is a community-based organization established by West Kaua‘i residents, including Native Hawaiian fishers and cultural practitioners, to protect West Kaua‘i’s river and coastal waters, humans, and aquatic life. Waimea River is the lifeblood of our community and supports a host of protected instream public trust uses. A healthy river and nearshore ocean environment are essential for our hui to continue to engage in traditional and cultural practices and subsistence activities, and to pass on these traditions to the next generation.

No problem is more critical than the scarcity of water, and this is something especially felt by our West Kaua‘i community. According to state projections, our Waimea River watershed is expected to see far less rainfall in the coming years. As we prepare for life in our new climate reality, we believe that giving the Water Commission the tools and autonomy it needs to tackle Hawai‘i’s diminishing water supplies is a necessary first step. We have waited 30 plus years to see this recommendation from the Review Commission come to life and are grateful to your committees for hearing this bill.

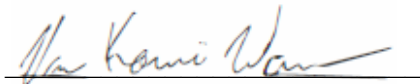
Our community knows first-hand how political interference and plantation politics can unduly influence decision-making regarding the use of ‘āina and wai. For decades, plantations and their corporate successors have hoarded Waimea River water, taking far more water than they could reasonably use, resulting in the outright dumping and waste of millions of gallons of water per day. Our community fought tirelessly to restore stream flow in Waimea River and end the wholesale diversion and waste of our precious water resources. Despite the implementation of minimum flow standards for Waimea River in 2017, these corporate diverters continue to divert streamflow in excess of what they are legally allowed to take and drag their feet to make any adjustments to their diversions, which allow only minimal diverted flows to be returned to the streams.

SB3327, SD1 would enable CWRM to enforce the Water Code by imposing meaningful fines and penalties for violations. This would be especially useful to address the ongoing violations and noncompliance with interim instream flow standards occurring in Waimea River every day. Increasing penalties for violations would encourage diverters to come into compliance with the State Water Code, and it would allow CWRM to begin to redress the ongoing harm to public trust uses and reallocate water to local communities who rely on wai for their survival.

Nā Kia‘i Kai further supports providing CWRM with the true independence it was intended to have when the Constitution was amended in 1978 and the Water Code was passed by this Legislature in 1987. We believe SB3327, SD1 would enable the executive director to proactively focus on fulfilling CWRM’s public trust kuleana, instead of being micromanaged by the Governor and BLNR’s Chair. Administrative independence from the oversight and influence of elected and appointed officials will provide greater accountability and transparency, and result in greater protection of our precious water resources.

We are living in this climate emergency, and we are exhausted from having to constantly police the plantation water systems and the developers who currently operate them. The House actually passed bills with similar language last year – HB153 and HB1088 – that the governor killed. We need these key amendments now more than ever. **These changes were supported by the House then, and must also be supported now.** We need this Legislature to support real and proactive solutions for our community, to prevent the water crisis from continuing to impact future generations to come. Please vote today to **support** SB3327, SD1.

Mahalo for the opportunity to testify on this important bill.



Van Kawai Warren
Nā Kia‘i Kai

SB-3327-SD-1

Submitted on: 3/10/2024 6:35:14 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
john carty	Save Honolua Coalition	Support	Written Testimony Only

Comments:

Save Honolua Coalition strongly supports SB3327. The streams and the water that they carry are the life blood to and essential for the health of our land, sea, culture, and people. Private entities have been allowed to control 75% of this water here in West Maui and look where that has gotten us. Resorts and luxury homes flourish while the land and the people suffer. The fire is a great example of the consequences of greedy hoarding of water. Water is a public trust and needs to be managed accordingly. So pass this bill and also give more effluence to the cultural practitioners and environmental scientists who know how to correctly manage water for the health of our land, sea, and community.

SB-3327-SD-1

Submitted on: 3/10/2024 10:43:46 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sylvia Dolena	Aloha Lokahi Assoc, 501c3-Hawaiian culture org.	Support	Written Testimony Only

Comments:

PLEASE support SB3327 SD1 for Water Resource Management.

Sylvia Dolena

Pele Lani Farm LLC and Aloha Lokahi Association



Testimony of **Lahaina Strong**
Before the House Committees on
Water and Land

In Consideration of Senate Bill No. 3327 SD1
RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

To Chair Ichiyama, Vice Chair Poepoe and the honorable members of the committee,

We are writing on behalf of Lahaina Strong, an organization that was initially formed in 2018 following the Hurricane Lane fire in Lahaina and re-energized last year after the devastating Lahaina fires on August 8. Our organization is the largest grassroots, Lahaina-based community organization, with over 20,000 supporters, engaged in providing support and assistance to the victims of these disasters.

Lahaina Strong stands in support of SB3327 SD1.

This bill represents a crucial step toward ensuring the independence and autonomy of the Commission on Water Resource Management (CWRM), which is essential for effective water management and decision-making in the wake of recent challenges faced by our community.

We would like to recommend adding the bill's original emergency declaration provision back into the language of the proposed legislation. To be most effective this bill must adopt unambiguous language that empowers the water commission to take timely action to address water shortages especially as we continue to experience the impacts of the climate crisis. This language would also expedite the commission's provision of water for temporary emergency housing on Maui, which is at the forefront of our recovery.

The proposed changes, particularly the separation of the CWRM Chair from the Board of Land and Natural Resources (BLNR), address concerns about undue influence over the

actions of the commission and provide a more objective decision-making process. We witnessed the challenges and implications of centralized decision-making in the aftermath of the devastating fires on August 8, 2023. Providing CWRM with greater autonomy will help prevent conflicts of interest and foster more informed, community-driven decisions.

Furthermore, Lahaina Strong recognizes the importance of implementing the recommendations of the 1994 Review Commission report, which are long overdue. The proposed amendments align with the core principles of extending water management areas, establishing a hierarchy of water uses, and strengthening the implementation of Native Hawaiian water rights. These changes are essential for ensuring fair and equitable water distribution, particularly in regions like Maui Komohana.

We would like to highlight the positive impact this bill can have on expediting the processing of Maui Komohana Water Use Permit Applications (WUPAs). Prioritizing public trust purposes and streamlining the permitting process will significantly benefit our community members, aligning with Lahaina Strong's commitment to ensuring the well-being of Lahaina residents.

In conclusion, Lahaina Strong urges the committee to **support SB3327 SD1**, recognizing its importance in establishing a more robust, independent, and community-focused Water Commission.

Mahalo for your attention to this critical matter, and we appreciate your commitment to the well-being of Lahaina and a more resilient and sustainable future for its residents.

Sincerely,

Pa'ele Kiakona, Jordan Ruidas & Courtney Lazo

Lahaina Strong

Hawai'i State House of Representatives, Committee on Water & Land
SB 3327 – Relating to the Commission on Water Resource Management

RE: Strong support of SB 3327

March 12, 2024

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. The Council for Native Hawaiian Advancement (CNHA) writes in **strong support of SB 3327**. 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. CWRM's kuleana is not one to be taken lightly and should be treated with the utmost care and respect. This bill creates necessary independence to fulfill CWRM's constitutional and statutory kuleana to mālama wai. Ola i ka wai, water is life, and it must be protected.

This measure is not reactionary, but instead finally implements 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. SB 3327 is necessary for CWRM to be able to 'auamo this constitutional and statutory kuleana.

SB 3327 calls for the necessary disentanglement of CWRM from the Department of Land and Natural Resources to streamline its administrative duties and responsibilities. We also recommend that the committee **input language from the originally drafted Section 6 of SB 3327 that would add a subsection 174C-5(17) relating to emergency powers to the Water Code**. These emergency provisions will help to expedite the distribution of water for temporary emergency housing in Lahaina so that people can move out of hotel rooms or beach tents and into more stable homes. 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 SB 3327. For these reasons, we humbly ask that you **PASS SB 3327** for the future of Lahaina and the future of wai.

Me ka ha'aha'a,

Kūhiō Lewis

Chief Executive Officer, CNHA



Native Hawaiian LEGAL CORPORATION

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



SB3327 SD1

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

HOUSE COMMITTEE ON WATER AND LAND

March 12, 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 Corporation¹ offers the following testimony in SUPPORT of SB3327 SD1, 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. The changes to law in SB3327 SD1 should be passed. Additionally, SD1 should be amended to add back previously proposed language in SB3327 empowering CWRM to declare emergencies in an area experiencing water shortages that threaten public health, safety, and welfare.

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."² 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.³ 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.

¹ 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.

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

³ 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.

Testimony of the Native Hawaiian Legal Corporation
Regarding SB3327 SD1
March 11, 2024

The state must do more to fulfill its constitutional and statutory duties. The need for improvement was studied decades ago in the 1994 report referenced in all iterations of this bill, which reviewed the effectiveness of CWRM and Water Code and provided recommendations for improvement. SB332 & SB3327 SD1 incorporates many of them, including changes that empower CWRM to:

- Execute its kuleana with less interference by other agencies and state officials;
- Impose meaningful penalties and fines for violations of the water code; and
- Prioritize public trust purposes in water management areas.

As the 1994 report concluded, adopting these recommendations would help the state uphold 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.

First, SB3327 SD1 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 director appointed and evaluated by CWRM allows the 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.

Second, SB3327 SD1 gives CWRM more authority to ensure that water is properly managed. The ability to impose meaningful fines based on violators' current and past conduct could deter improper, illegal, and harmful actions that might otherwise continue without consequence.

Third, SB3327 SD1 explicitly defines and prioritizes public trust purposes over other uses in water management areas in water use permitting decisions. This 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.

These changes better empower CWRM and the State to fulfill their kuleana to wai. That said, the current bill no longer contains language in the original SB3327 empowering CWRM to declare emergencies in any area experiencing water shortages that threaten public health safety and welfare. This language would allow CWRM, as the state agency with specific expertise on water, to take prompt action in serious situations that affect the resource, which would have been a great benefit to community, for example, during the Red Hill and Maui wildfire crises. This language should be added back to the bill.

The state has a history of failure to fulfill its kuleana with regard to water. Those failures and breached trust duties have resulted in a legacy of injury to communities,

Testimony of the Native Hawaiian Legal Corporation
Regarding SB3327 SD1
March 11, 2024

extensive and costly litigation, and a state much less resilient to natural disasters and climate change. Improvements are overdue and critically important now. SB3327 SD1, with the emergency language returned from SB3327, are meaningful steps in the right direction.

Mahalo for the opportunity to testify.

A handwritten signature in black ink, appearing to read 'A. Obrey', is positioned above the typed name.

Ashley K. Obrey
Senior Staff Attorney
Native Hawaiian Legal Corporation

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

FROM: Sesame Shim

**RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1**

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. I am from Pukalani, Maui and I am testifying in STRONG SUPPORT of SB3327 SD1.

I am a mother of 2 keiki and a kumu at Ke Kula Kaiapuni ‘o Kekaulike. As a high school teacher, I have come to realize how brilliant our youth are and why it is important to listen to their voices. Therefore, the first part of my testimony underscores the importance of believing in and listening to the future of Hawai‘i.

A recent article in the Star Advertiser was shared last month that Hawai‘i Teens Report Persistent Mental Health Problems. Stating that one-third of Hawai‘i’s public high school students have felt sad or hopeless almost everyday for 2 or more weeks in a row in the last year. Our next generation carry a heavy weight on their shoulders with the pressures of society on parents & families, the cost of living, the lack of nutrition, and the impacts of cultural and historical intergenerational trauma. When our keiki express their want for change, their desires for a better future, there is no other option than to listen and do all that is within our power to make those changes. They are crying out to us and using their voices to demand a better life, to demand a sense of dignity, and to reconnect with their identity as kānaka. When we ignore their voices, especially when they are right, we push them into hopelessness and fuel their depression.

The students I teach in particular at Ke Kula Kaiapuni ‘o Kekaulike are educated on historic and current events. Knowing where they come from, they can see the path to setting things right for Hawai‘i’s future. They no longer accept common western societal stressors as normal and are doing their homework to thoroughly understand the society around them so that they can become agents of change. They take pride in who they are and where they come from. As representatives of our people, please hear these testimonies of our youth and respect their

capacity to understand what a better future looks like for all of us. Please do not let their cries go unheard.

I have been following this bill since the first hearing in the Senate on February 7, 2024 because I know the changes it proposes will help to mitigate problems attributed to the government since the illegal overthrow of the Hawaiian Kingdom. Private water purveyors and land speculators have strategized, manipulated, and influenced our governmental decisions to benefit their capitalist goals. However, because of our 'ike, our culture, and our relationship with 'āina, kānaka have continuously fought to establish and maintain rights to our resources that benefit all. As we, the people, fight for what is right for the land and the general population, capitalists fight harder to maintain control. In the wake of the Lahaina fires, we have seen how political influence can detrimentally impact collective progress.

SB3327 SD1 should be passed because it implements many necessary amendments to the structure and administration of the Water Code and CWRM. First, we *need* protections from political corruption. We need protections from the abuse of power. We need the establishment of an administrator that 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 SB3327 SD1. Moreover, making the BLNR chair separate from the Water Commission chair will ensure the Executive Director is insulated from political pressure and would give the Water Commission the proper oversight to protect, develop, and control water according to its constitutional purpose. A critical question relative to this amendment is, who is opposed to this amendment and how might it affect their control or power?

KULEANA is essential to separating BLNR from CWRM. The true Hawaiian perspective of 'auamo kuleana is more than just taking on a responsibility; it is a privilege. While the foreign perspective finds this to be burdensome, it is rather understood that we have the privilege to fulfill this responsibility as our people, our kūpuna, our 'āina call us, trust us, and depend on us to do so. It is our Ea. While some see the implementation of a voluntary CWRM chair as futile, to the contrary it would allow only those committed to service the right to oversee such an important commission. The more we can redefine our government systems in 'ike Hawai'i, the more we can move towards the *PONO* of this 'āina.

Secondly, the Water Commission should have the power to seek out its own legal counsel that is consistent with its policies and understanding. In the past, the Attorney General has not provided the counsel necessary to support the Water Commission's needs. Instead, it has sometimes even worked against the interests of the Water Commission to fulfill the political whims of the executive branch. The Water Commission should be permitted to seek its own counsel like other specially-tasked departments. As noted above, a critical question to ask is why has the Attorney

General opposed this recommended change and what does that office and the Governor stand to gain by keeping the status quo?

Finally, the time of simply being reactionary to unjust actions and criminal politics is over. We are organizing in order to be preventative and anticipate problems we may face as the result of the climate crisis and the abuse of our resources. SB3327 originally contained language regarding emergency declaration powers that would give the Water Commission the authority to take timely action in an emergency. Such authority would have been a critical component in supporting the health and safety during emergencies such as the Lahaina Fires and Red Hill.

In conclusion, I strongly support the amendments to the Water Code that SB3327 SD1 proposes. Further, please reinsert provisions granting CWRM emergency powers. I urge the Committee to PASS SB3327 SD1. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

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

FROM: Makamae Alipio

RE: **SB3327 SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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. As a kama‘āina of Lahaina, I know that without water 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.

In the wake of the fires on August 8th, the hands of greed saw this disaster as an opportunity to gain power over our freshwater resources in Maui Komohana. Governor Josh Green suspended the Water Code, which led to private water purveyors hoarding more water than they are legally allowed in unlined reservoirs in the name of fire suppression while kānaka were left displaced.

When the plantation era came along 130 years ago, our most precious resource started to be abused for corporate greed. When the plantation era ended, it was replaced by greedy businesses who profit off of our ‘āina and off of our wai. We need to end the political corruption that helps line pockets instead of protecting our ‘āina and people. We must limit the influence of politics over our established experts like the Water Commission. The Water Commission should have an Executive Director that is chosen by the Water Commission and approved by the people.

Right now, more than 75% of Lahaina’s waters are privately controlled, which is criminal. This leaves only the leftovers 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 from ma uka to ma kai are full and golf courses are green. But the problem is not that we do have enough water, the problem is the government’s management. Even when the government attempts to monitor purveyors, they still seem to violate the law. This bill will hopefully reduce political corruption and also enforce fines substantial enough to deter violations of the Water Code.

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 SB3327 SD1**.

Mahalo for the opportunity to testify.

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

FROM: Bella Kamakali‘ulani Kuailani

RE: **SB3327 SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327, SD1

‘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. Being from Maui Hikina, home to a rural and traditional Native Hawaiian community, wai is an abundant, precious, and valuable resource in that district. For my family who are kalo farmers and kanaka lawai‘a, we are dependent on water to feed our lo‘i patches, our loko i‘a, our limu, and our fish. Wai keeps our traditions alive. It sustains us and our culture. Today, I am testifying in **STRONG SUPPORT of SB3327, SD1!**

This is my second time writing testimony to this Committee on a similar topic. Before I share my thoughts on the details of the bill, I would like to lay the foundation with the Kumulipo, the genealogical chant of Hawai‘i’s birth. “He nuku he wai ka ‘ai a ka lā‘au.” The Kumulipo 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 water use permit applications of the kanaka should also be 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!

The fines for abusing 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.

Finally, SB3327 SD1 should include language that enables the power of CRWM to act on emergencies such as water crises and wildfires. For Lahaina and Red Hill, this would have made a difference. Also, with climate change drastically becoming more detrimental, we should empower CWRM to act when it needs to. As people, we need security in the right hands. This will provide us with a sense of protection and support when future disasters occur.

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 this Committee to **PASS** SB3327 SD1. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

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

FROM: Kamakanōweo Kekauoha-Schultz

RE: **SB3327 SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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 SB3327. 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 SB3327 SD1

First, the Water Commission is the expert concerning our wai and the Water Code. The Commissioners 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. As a voluntary position, the executive director will have taken on this role with a clear understanding of its responsibilities. He/she will also have the support of the community and build important community relationships that can bring a collective sense of decision making.

Second, the increase of fines is 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. But the passing of SB3327 SD1 would change that. If not, 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.

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.

Finally, giving CWRM the authority to declare emergencies within the scope of its kuleana is a must to ensure the safety of our kanaka. With CWRM being able to make the call on emergency water shortages and crises, it would be much safer for the community in times of calamity. If this was the case all the while, then the emergency crises that we have seen so far, such as the Red Hill oil leaks and Lahaina wildfires could have been far less critical than what it was. Let the ones most knowledgeable in this area have authority, it is only right.

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 SB3327 SD1**. I thank Chair Ichiyama, Vice Chair Poepoe, and Members of this committee for hearing this bill and hearing our voices.

E OLA I KA WAI!!!

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

FROM: J-lyn Ka'iulani Paa

RE: **SB3327, SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327, SD1

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 SB3327, SD1. This is my second time submitting testimony on water issues. First for HB 2703. Now, SB3327, SD1.

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 SB3327, SD1 for the following reasons:

First, the establishment of an Executive Director of the Water Commission, and the removal of the Chair of BLNR 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.

Second, 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 provides appropriate fines to deter repeat violations.

Third, 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 had 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 endemic and native 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 non-public trust purposes. SB3327 SD1 makes this prioritization law.

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 SB3327, SD1**. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

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

FROM: Kaleimaile Garcia

RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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 SB3327 SD1**.

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 kānaka 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 are 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 SB3327 SD1 can be the start of a much-needed change for kānaka Hawai‘i and all people in Hawai‘i.

With the approval of this bill, kānaka can once again become the priority. 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. Through this bill, the process for approval of Water Use Permit Applications for kānaka and other constitutionally-protected public trust uses will be prioritized. We're done waiting at the back of the line. It's time for our rights to be acknowledged.

But this is not the only thing that needs to be changed. 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. Further, giving that Executive Director emergency powers would have avoided the confusion that occurred on the day of the Lahaina fires.

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, and we urge the Committee to PASS SB3327 SD1, and make it effective immediately. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

To: Chairperson Linda Ichiyama, Vice Chairperson Mahina Poepoe, and
House Committee Members on Water and Land

From: Kamaluokalani Kuloloio Vedder

RE: SB3327 SD1
Hearing on March 12, 2024

Aloha everyone. 'O wau 'o Kamaluokalani Kuloloio Vedder. Hele au i Ke Kula Kaiapuni o Kekaulike.

I stand here surrounded by the multitudes of my kūpuna and 'aumākua. I am a student learning about the conversion of Hawaiian Kingdom Law to Hawai'i Revised Statutes, jurisdiction, policies, rules, and codes regulating Kanaka 'Ōiwi, land and water purveyors, foreign investors, and local residents in Hawai'i. Maneuvering under the de facto government is tiresome. Several questions I asked myself after reading this bill are: How will I, my family, and friends living on Maui benefit? What will happen to my water access rights from mauka to makai as a farmer, shoreline gatherer, and fisherman? How many more court cases will my 'ohana and other Kanaka 'Ōiwi in my generation and those after me have to suffer and endure?

First, I am in support of this bill and appreciate the clarity it provides by defining Public Trust Purpose as stated in Sections 2 and 5.

Second, I am in support of having an Executive Director who is a qualified and experienced leader in Native Hawaiian traditional and customary water resources management systems. This person should have some experience in hydrology, understand appurtenant rights and riparian uses, and government policies and regulations. I hope that the Executive Director is a problem-solver and leads this commission to find equitable decisions and solutions.

Lastly, I support revising Section 10 relating to Water Code 174C-15 to enforce a fine not less than \$50 with a maximum penalty of \$60,000 for violators to the Hawai'i Water Code in consideration to certain circumstances and extent of violation. We should not tolerate those who abuse the system paying no regard to legal ramifications and its effect on stream flow, ecosystems, and marine life.

Amendments to this bill should be reviewed to create checks and balances that do not severely affect Article 12 Section 7 of the Hawai‘i Constitution - Native Hawaiian Traditional and Customary Rights and Practices for me, my ‘ohana, and lāhui.

Mahalo commissioners for allowing me to testify today. E ola i ka wai!

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

FROM: Mauiola Aki

RE: **SB3327 SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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

‘O wau ‘o Mauiola Kīwalauapō Aki. Noho a kupa au ma ka mokupuni ‘o ‘Ihikapalaumaewa mai ka mauna o Haleakalā a i Kahalawai. Noho a kupa ko‘u ‘ohana ma ka moku ‘o Pū‘ali Komohana ma ka ‘ahupua‘a ‘o Wailuku ma ka ‘ili o Kumuwilwili a ma ke ‘āwawa ‘o ‘Iao.

My name is Mauilola Kīwalauapō Aki and I am from the ‘ili of Kumuwilwili, in the valley of ‘Iao, in the ‘ahupua‘a of Wailuku. I remember as a child we would have no water flowing in Wailuku river. There was no wai to jump off the rocks and no wai for our ‘ō‘opu and ‘ōpae ‘ula to live. My family along with the Hui o Nā Wai ‘Ehā recognized the impacts of the plantation diversions taking all the water, and engaged in protests with our community to return waterflow from mauka to makai. I am testifying today on behalf of my ‘ohana and kūpuna to continue this kuleana of taking care of our most precious resource that gives life to all.

Mahalo for the opportunity to testify. I strongly support SB3327 SD1 as it is a crucial need in our community!

Under the pressures of work and cost of living, our community struggles to keep up with everyday life, and maintaining our traditional and customary practices is a challenge in itself. While I see the importance of regulating our water usage, this bill is needed for our community to make it easier to obtain water use permits for our public trust purposes, such as kalo farmers and families who still live along our waterways who depend on that water for everyday living. For way too long our people have dealt with improper distribution of our freshwater resources by building huge diversions that take the wai for profit. Diverting our wai for the pleasure and enjoyment of tourists, drying up our waterways, and many other misuses needs to end!

The Public Trust Doctrine needs to be upheld so the right people get access to the water. SB3327 SD1 reinforces the Public Trust Doctrine. This bill not only helps our ecosystem but helps our community in so many ways. The bill explicitly prioritizes Public Trust purposes and does not expand permitting beyond the scope of CWRM’s current permitting. Rather than limiting public trust purposes, SB3327 SD1 elevates them.

“He ali‘i ka ‘āina, he kauā ke kanaka.” (The land is a chief; man is its servant).

I strongly support the that the disentanglement of Board Of Natural Resources (BLNR) and the Commission On Water Resources Management (CWRM). CRWM and BLNR are two different concepts, one department is for water and one is for land. Therefore, they should be governed separately.

In conclusion, this bill will not just help kānaka Hawai‘i, but to change how the Water Commission is administered for the better. Water is very important to me because my ecosystem means a lot to me. There are so many extraordinary species and different types of plants that I cherish very much. These plants and animals give us life for our kino, giving us air to breath and food to nourish our bodies. Day by day our ecosystem is crumbling because of the misuse of land and water.

“I nā ‘a‘ohe wai ‘a‘ohe ola, i nā ‘a‘ohe ola ‘a‘ohe kanaka.” (If there is no water there is no life. If there is no life there are no humans)

Mahalo no ka ho‘olohe ‘ana ia‘u!

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

FROM: Hōkūao Aki

**RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1**

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

‘O wau ‘o Hōkūao Makali‘i Aki. Noho a kupa au ma ka moku o Nā wai ‘ehā.

My name is Hōkūao Makali‘i Aki. I live on the island of Maui. I am testifying today in STRONG SUPPORT of SB3327 SD1!

Being from ‘Īao Valley and living next to the kahawai, my ‘ohana and I have always had connection to our wai and have witnessed the impacts of the plantations’ history of taking water, the impacts of tourism, and also the impacts kanaka can make when we take a stand for what is pono for our ‘āina. It is a constant battle and struggle over the power of our wai.

I support the following changes that SB3327 SD1 would make to the Water Code. First, the Water Commission should not be subject to the control of BLNR and under the hands of the Governor. It is important for regulatory bodies to lead by example and adhere to the laws they’re meant to enforce. Consistency and compliance are key to maintaining trust and upholding the integrity of the regulatory process. We need to create a role that the community can select and endorse, free from political influence. This position should prioritize the needs of the people and ensure transparency and accountability in decision making processes. Furthermore, relying on political influence tends to attract those chasing profit or those misled, rather than those who are reasoning clearly. We should push for leadership that is rooted in integrity and clear thinking, focusing on the true needs of the community. Moreover, our community has been speaking up about our needs, but it seems like none of it has been acknowledged. It is essential that our voices are not only heard but also truly listened to and acted upon for the betterment of all.

The Public Trust Doctrine also needs to be upheld so the right people get access to the water. SB3327 SD1 reinforces the Public Trust Doctrine. This bill will benefit our ecosystem and community by allowing kalo farmers, for example, to have sufficient water to continue a practice that is scientifically proven to improve our environment.

Secondly, fines are currently capped at \$5,000 per violation of the Water Code. This is not enough to deter private purveyors from repeatedly taking more water than they are allowed. This

situation not only undermines the intent of the regulations but also suggests the limited fine is politically motivated at the expense of equitable resource distribution. It is important to preserve this vital resource of freshwater for essential needs and not waste it on luxury activities. Water is the essence of life, sustaining all living beings on Earth. In turn, life itself is intricately linked to the presence and availability of water. This interconnected relationship highlights the fundamental importance of water in supporting and nourishing all forms of life. Let's respect and protect our water sources for the well-being of everyone.

“He ali‘i ka ‘āina, he kauwā ke kanaka” (the land is chief, and humans are its servants).

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 this Committee to PASS SB3327 SD1. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

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

FROM: Kūpa‘a Lewis Mattos

RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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 have 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 **STRONG SUPPORT of SB3327 SD1**.

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 and is kuleana. SB3327 SD1 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 SB3327 SD1.

First, having distinct leadership for the Water Commission ensures that decisions are made by people with diverse perspectives and prevents concentration of power. This helps to avoid potential biases. It also promotes the separation of power and independence between different agencies, which will increase pono decision making. As a voluntary position, the person to take this responsibility, will do so with full understanding of what this position entails along with the support of the community. Burden often follows those who are appointed to positions that have been given more responsibilities than they can manage.

Next, SB3327 SD1 allows things to be put back into 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. This bill should also provide CWRM with emergency powers that will give it the power to react during times of great need, just like what Deputy Director Kaleo Manuel needed during the Lahaina fires.

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 House Committee Members on Water and Land

FROM: Ka‘iulani Verzosa

RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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 SB3327 SD1.**

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 because the land lives off it as well as Hawaiian people. As Hawaiians living in our homeland of Hawai‘i, we should be able to embrace our culture and that entails our land and its needs. The law should also be updated to Hawaiian values.

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. SB3327 SD1 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. This is my second time submitting testimony on water this legislative session. I urge the Committee to **PASS** SB3327 SD1. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

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

FROM: Kaylen Lilinoe Pali

**RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1**

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

'O au 'o Kaylen Lilinoe Pali a ke kākau nei au iā 'oukou e ha'i'ōlelo e pili ana i ka pila 'o SB3327 SD1. Noho au ma ka mokupuni u'i loa 'o Maui ma ka moku 'o Honua'ula. He haumāna au o Ke kula kaiapuni 'o Kekaulike a he 16 o'u mau makahiki. He kupa au no Hawai'i nei. I am testifying in STRONG SUPPORT of SB3327 SD1.

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 relies on water. 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 put someone in place 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 this Committee to **PASS SB3327 SD1**. Mahalo for the opportunity to testify.

E OLA I KA WAI!!!

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

FROM: Kehaulani Kealoha-Franco

RE: **SB3327 SD1**
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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‘oilō. 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 my kūpuna did long ago. I am devastated that this is still happening, devastated that our kānaka 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 kānaka. 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. They should be appropriately fined so that they 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 kānaka. 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 kānaka here, more than surviving, but thriving. There are so many things to fix, and we can fix it now. SB3327 SD1 will prioritize our traditional and cultural practices and award the water kānaka need to continue these practices.

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 this Committee to PASS SB3327 SD1. Mahalo for the opportunity to testify. **E OLA I KA WAI!!!**

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

FROM: Kamalani Koko

RE: SB3327 SD1
Hearing on March 12, 2024
IN STRONG SUPPORT of SB3327 SD1

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

‘O Kamalani Koko ko‘u inoa, no Maui mai au a hele wau i ke Kula Ki‘eki‘e o Kekaulike. I am testifying in **STRONG SUPPORT of SB 3327 SD1.**

First, I firmly believe that the wai should be returned to the ‘āina and to the people who have stewarded it for generations.

SB3327 SD1 would provide long overdue changes that were already recommended years ago to provide proper management of our water. WAI is LIFE ! WAI is also an everyday essential and it is a part of the way we ALL LIVE. Farmers need water, especially those that submitted water use permit applications that are still pending. They have been waiting for too long and they deserve water before new buildings or hotels and golf courses. SB3327 SD1 would prioritize their water needs in the process, which is essential to upholding the public trust and the perpetuation of Hawaiian culture in these areas.

In conclusion, I strongly support the establishment of the changes to the Water Code that SB3327 SD1 would make and in particular the prioritization of public trust purposes in the water use permit application process over other non-public trust purposes. This is an improvement to the Water Code that is long overdue. I urge the Committees to **PASS** SB3327 SD1. Mahalo for the opportunity to testify.



Hui o Nā Wai 'Ehā

Ola i ka wai WWW.HUIONAWAIEHA.ORG

Hui o Nā Wai 'Ehā
Board of Directors

March 10, 2024

Hōkūao Pellegrino
(President)

To: **House Committee on Water and Land**

Koa Hewahewa
(Vice President)

Hearing: **March 12, 2024 at 9:00 AM, State Capitol Conference Room 430**

Lani Eckart-Dodd
(Treasurer)

Re: **In Strong Support for SB3327 SD1: Relating to the Commission on Water Resource Management**

Lucienne de Naie
(Secretary)

Duke Sevila
(Founding Board Member)

Aloha e Chair Ichiyama, Vice Chair Poepoe 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 SB3327 SD1.**

Ikaika Nakahashi
(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.

Kōnane Awo
DelaNux
(Board Member)

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.

We urge this legislature to **pass SB3327, SD1 and make it effective immediately.** Climate change is not going to wait another 25 years. We need a Commission that is empowered to take proactive steps to address Hawai'i's diminishing water supplies.

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

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

The DLNR Chair's February 7 testimony is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management, before *and* after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position in public hearings as she cautioned committee members to be "thoughtful and not reactionary." Now, we aren't even sure she still supports this bill.

This bill is far from "reactionary." On the contrary, SB3327, SD1 implements the original intent of the Water Code when the legislature first established the Water Commission 37 years ago. Today, just like half a century ago, large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our 'āina. The Commission's constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Lahaina needs this the most. This is vital for temporary, emergency housing in particular.

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. Lahaina is our latest wake up call, and **this bill is a necessary step towards evolving our government to be reflective of the climate emergency we are now living in.**



Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Hökūao Pellegrino

Hökūao Pellegrino (Board President)

Hui o Nā Wai 'Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793

(808) 430-4534 • Huionawai4@gmail.com • www.huionawaieha.org •  

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REPRESENTATIVE LINDA ICHIYAMA, CHAIR
REPRESENTATIVE MAHINA POEPOE, VICE CHAIR
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY IN SUPPORT OF SENATE BILL 3327, SD1

March 12, 2024, 9:00 a.m.
Room 430 State Capitol
415 South Beretania Street

Dear Chair Ichiyama, Vice-Chair Poepoe, and Committee Members:

Earthjustice **strongly supports Senate Bill 3327, SD 1, with one recommended amendment.** Our office has decades of experience in Hawai'i water law, including precedent-setting Hawai'i Supreme Court cases interpreting and implementing our Water Code, Hawai'i Revised Statutes ("HRS") chapter 174C. In addition to expressing our support for the bill, we also address several misguided concerns raised by the Department of the Attorney General in its testimonies in opposition.

SB 3327 implements long-overdue recommendations to improve the Code and help protect the Water Commission from undue political influence and interference, ensure its independence and objectivity, and restore the public's trust and confidence in the Commission and the rule of law. The alarming political assault on the Commission and Code after the Lahaina wildfire disaster is only the latest example underscoring the need for these reforms.

We **recommend one amendment** to restore the original language in SB 3327, adding a provision in HRS § 174C-5(17) that would strengthen the Commission's emergency powers. This language was already passed by the Legislature last session and was again part of this bill. The provision will only help the Commission respond to exigencies such as the Lahaina wildfires, including the need for water for temporary emergency housing.

In addition, Earthjustice takes this opportunity to directly respond to several arguments that the AG has repeatedly raised in its testimonies against this bill. First, the AG sows unnecessary confusion by claiming that SB 3327 "expands" the Commission's jurisdiction and raises constitutional concerns. The bill does no such thing; exactly to the contrary, it upholds and reinforces constitutional protections of established public trust purposes. SB 3327 merely recognizes the public trust purposes that the Hawai'i Supreme Court has already established and ensures they receive the priority protection they require. Both the Constitution and Code

MID-PACIFIC 850 RICHARDS STREET, SUITE 400 HONOLULU, HI 96813

T: 808.599.2436 F: 808.521.6841 MPOFFICE@EARTHJUSTICE.ORG WWW.EARTHJUSTICE.ORG

mandate that the Commission assure appurtenant rights and traditional and customary Native Hawaiian rights. The Code, for example, mandates that its provisions shall not be “construed to deny the exercise of an appurtenant right,” and that any “permit for water use based on an existing appurtenant right *shall be issued upon application.*” HRS § 174C-63 (emphasis added); *see also* HRS § 174C-101(d) (appurtenant and T&C rights “shall not be diminished or extinguished by a failure to apply for or to receive a permit under this chapter”). SB 3327 clarifies that permits for such public trust uses (assuming such permits are necessary) should be processed before non-public trust uses. Such an orderly procedure is in no way “beyond constitutional limits,” and the AG provides no coherent explanation or support for these claims.

The AG also opposes SB 3327’s provision allowing the Commission to hire its own counsel. The AG, of course, has an institutional conflict of interest on this issue. But more fundamentally, the AG’s own historical track record demonstrates the need for independent Commission counsel. Not only has the AG’s representation of the Commission fallen short over the years (as reflected in its record before the Hawai’i Supreme Court), but during critical moments in the Commission’s history, the AG has either completely abandoned the Commission or actively worked against its interests.

In the *Waiāhole* case, for example, the Hawai’i Supreme Court admonished the AG for lacking “any consideration of the Commission’s interests” in leaving it without representation at the determinative stage of the case. *In re Waiāhole Ditch Combined Contested Case Hr’g*, 94 Hawai’i 97, 126, 9 P.3d 409, 438 (2000). More recently, the AG backed the Commission Chair’s removal of Deputy Director Kaleo Manuel, while leaving the other Commissioners and the Commission itself without representation in the face of this flagrant conflict of interest. In short, in both its past record as well as its current testimony, the AG has done more than enough to justify the Commission at least having the option of retaining its own independent counsel.

In conclusion, SB 3327, SD 1 helps the Commission fulfill its vital, constitutionally mandated role in increasingly challenging times. The bill would also help rebuild the public’s trust and confidence in the Commission that has seriously eroded in the aftermath of the Lahaina wildfires. Earthjustice respectfully requests that the House Committee on Water and Land **pass SB 3327, SD1 with the requested amendment**. Mahalo for the opportunity to testify. Please do not hesitate to contact us with any further questions or for further information.



Elena Bryant, Esq.

Earthjustice, Mid-Pacific Office



Officers

Kaipo Kekona
State President

Anabella Bruch
Vice-President

Maureen Datta
Secretary

Reba Lopez
Treasurer

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

The Hawaii Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports SB3327.**

The Commission on Water Resource Management plays a critical role in ensuring that Hawaii's water resources are managed sustainably and in the best interest of the public. This bill establishes a public trust purpose for the commission, allowing it to operate independently and make decisions based on the needs of the people of Hawaii. By authorizing the commission to declare emergencies and establish fines for water use offenses, this bill strengthens the commission's ability to effectively manage the state's water resources.

For Hawaii farmers, this bill is particularly relevant as it ensures that the commission on water resource management is focused on public trust purposes, such as protecting water resources for future generations and promoting the sustainable use of water for agriculture. By allowing entities to challenge emergency orders and establishing fines for water use offenses, this bill provides accountability and transparency in the management of water resources, ultimately benefiting farmers who rely on these resources for their livelihoods.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

Chapter Presidents

Clarence Baber
Kohala, Hawai'i

Odysseus Yacalis
East Hawai'i

Puna, Hawai'i

Andrea Drayer
Ka'u, Hawai'i

Kona, Hawai'i

Fawn Helekahi-Burns
Hana, Maui

Mason Scharer
Haleakala, Maui

Kaiea Medeiros
Mauna Kahalawai,
Maui

Kaipo Kekona
Lahaina, Maui

Rufina Kaaupai
Molokai

Negus Manna
Lāna'i

India Clark
North Shore, O'ahu

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Natalie Urminska
Kauai

SB-3327-SD-1

Submitted on: 3/11/2024 1:17:01 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Kaaumoana	Hui Hoomalu i ka Aina	Support	Written Testimony Only

Comments:

Aloha Senators,

Hui Hoomalu i ka Aina was formed in 1985 to address threats to cultural resources and practices.

We are fishermen, weavers, hunters and farmers.

We support this legislation which intends to provide critical independence of our Water Commission. Water is Hawaii has unique value and constitutional protections and our Commission must reflect this very important fact.

Please support.SB3327SD1

Mahalo,

Makaala Kaaumoana

Vice Chair



House Committee on Water & Land / House Committee on Energy & Environmental Protection

Hawai'i Alliance for Progressive Action (HAPA) Supports: SB3327 SD1

Tuesday, March 12th, 2024 9:00 a.m. Conference Room 430

Aloha Chair Ichiyama Vice Chair Poepoe and Honorable Committee Members,

HAPA is writing in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media.¹ This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.²

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director.

SB 3327 SD1 very importantly disentangles CWRM from the BLNR so that it is no longer subject to the control of the chairperson of BLNR with regard to any of its functions, duties, and powers. This bill also provides CWRM with the true independence it was intended to have when it was established. This independence is necessary to oversee water management in a manner consistent with the Commission's constitutional and statutory purposes.

1

<https://www.hawaiipublicradio.org/local-news/2023-09-21/regaining-public-trust-could-be-an-uphill-battle-for-the-state-water-commission>

2

<https://www.theguardian.com/commentisfree/2023/aug/17/hawaii-fires-maui-water-rights-disaster-capitalism>



Furthermore the increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers. This is particularly critical in communities such as west Maui where water resources are already severely constrained.

SB 3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date. Contested case hearings can provide a check on potential abuses of this important authority.

Please support SB 3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick
Executive Director

House Committee on Water and Land
Hearing: Tuesday, March 12 at 9:00 am
State Capitol Conference Room 430
Strong Support for SB3327, SD1: Relating to the Water Commission

*Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,
My name is Lia Sabina Maria Martinez Cook, and I live in Honolulu, Hawai'i. I'm testifying
today in strong support of SB3327, SD1.*

*We urge this legislature to **pass SB3327, SD1 and make it effective immediately**. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.*

The DLNR Chair's response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be "thoughtful and not reactionary." Now, she has changed her position yet again and is opposing even more of the bill's provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our 'āina. The Commission's constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai'i needs this the most.

*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. **This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in.** It will benefit communities across Hawai'i, such as those on Maui who desperately need water for temporary emergency housing and those O'ahu whose water supplies have been poisoned by Red Hill.*

*The Water Commission needs to be able to act. **Please help us get our water management back on track and pass SB3327, SD1 today.***

Ola i ka wai!

Lia Sabina Maria Martinez Cook

SB-3327-SD-1

Submitted on: 3/8/2024 9:22:16 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kyle K Kajihiro	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Kyle Kajihiro, and I live in Mō‘ili‘ili. I’m testifying today in strong support of SB3327, SD1.

We urge this legislature to **pass SB3327, SD1 and make it effective immediately.** We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai‘i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O‘ahu, where the U.S. military’s negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair’s response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, she has changed her position yet again and is opposing even more of the bill’s provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Thank you for this opportunity to testify.

Kyle Kajihiro

SB-3327-SD-1

Submitted on: 3/8/2024 11:15:08 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ty Kawika Tengan	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Ty Kawika Tengan, and I live in Wai‘oma‘o, Palolo, O‘ahu. I’m testifying today in strong support of SB3327, SD1.

I urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai in a time of climate change and water shortages. I am originally from Maui, and my family and many of my friends have been impacted greatly by the fires. In order to better empower the Water Commission to respond to present and future crises, I urge you to pass this bill and include the bill’s original emergency declaration provision.

SB-3327-SD-1

Submitted on: 3/9/2024 8:32:15 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Archie Kalepa	Individual	Support	Written Testimony Only

Comments:

House Committee on Water and Land
Hearing: March 12, 2024, 9:00 AM
State Capitol Conference Room 430

Strong Support for SB3327, SD1: Relating to the Commission on Water Resource Management

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committees on Water and 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 SB3327, SD1. 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. SB3327, SD1 will actually benefit

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our community while also helping others across Hawai'i pae 'āina – similar to HB2703, which I also testified in support of.

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 SB3327, SD1 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.

SB 3327, SD1 will help us to make this happen. Please pass out this bill today.

Mahalo for your time and consideration.

Me ka ha'aha'a,

Archie Kalepa

SB-3327-SD-1

Submitted on: 3/9/2024 8:35:28 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Christina Kaleiwahea	Individual	Support	Written Testimony Only

Comments:

Aloha,

Please support this bill.

Christina

Resident of 'Aiea, O'ahu

Worker in internal audit

SB-3327-SD-1

Submitted on: 3/9/2024 9:03:29 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard	Individual	Support	Written Testimony Only

Comments:

SUPPORT

SB-3327-SD-1

Submitted on: 3/9/2024 9:40:07 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Stacey Alapai	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

SB-3327-SD-1

Submitted on: 3/9/2024 9:45:18 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Linda Lyerly	Individual	Support	Written Testimony Only

Comments:

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

My name is Linda Lyerly and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Please pass this very important law for our aina.

Sincerely, Linda Lyerly

100 Ala Hoku Pl. , Lahaina 96761

SB-3327-SD-1

Submitted on: 3/9/2024 9:52:16 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephanie Austin	Individual	Support	Written Testimony Only

Comments:

Support this important bill: water is a public trust!

SB-3327-SD-1

Submitted on: 3/9/2024 9:58:08 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Valentine	Individual	Support	Written Testimony Only

Comments:

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

I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/9/2024 10:10:03 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sanford Yee	Individual	Support	Written Testimony Only

Comments:

Please pass SB3327, SD1 today!

SB-3327-SD-1

Submitted on: 3/9/2024 10:10:36 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Hansen	Individual	Support	Written Testimony Only

Comments:

Please support this bill / mahalo

Elizabeth Hansen / Hakalau HI 96710

SB-3327-SD-1

Submitted on: 3/9/2024 10:18:18 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Diopilo Hardison	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Diopilo Hardison, and I call the beautiful upper Punchbowl area of Honolulu my home. Today, I stand before you not just as a resident, but as a deeply concerned citizen who cherishes the land and its people. I'm here to voice my strong support for SB3327, SD1.

I implore this legislature to pass SB3327, SD1 without delay. Our Water Commission needs the power to take proactive steps to manage our precious wai. The urgency of this matter cannot be overstated. As we speak, Hawai'i is suffering from the devastating effects of resource abuse and global warming. Our freshwater resources are dwindling, unable to sustain local families. This is a harsh reality whether we look at Maui, where streams have been sucked dry by large corporate diverters, or O'ahu, where our aquifers have been compromised due to the U.S. military's negligence. This bill is not just a piece of legislation, it's a beacon of hope. It will empower the Water Commission to hold violators accountable and be more responsive in times of emergency.

The DLNR Chair's response to this bill is a stark reminder of the political whiplash that has paralyzed our water policy. We stand before the Commission and this legislature in unified support of proactive management, yet Chair Chang continues to undermine our calls for ke kahuwai pono. Her wavering position is disheartening.

SB3327, SD1 is thoughtful. It's a tool that will equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. It's not reactionary, it's necessary. A Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 is simply implementing the original intent of the Water Code. It's an old idea with modern support. The House passed bills with similar language last year – HB 153 and HB1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now more than ever. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy. This is detrimental to our communities, our streams, and our 'āina. The Commission's constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai'i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai'i, such as those on Maui who desperately need water for temporary emergency housing and those on O'ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Diopilo Hardison

SB-3327-SD-1

Submitted on: 3/9/2024 10:21:01 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Milena Kari	Individual	Support	Written Testimony Only

Comments:

My name is MilenaKari and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As a resident deeply concerned about the future of our environment and community, I believe SB3327 is a crucial step towards safeguarding our precious water sources in the face of impending climate change. Hawaii, like many other regions across the globe, is experiencing the adverse impacts of climate change, most notably through prolonged drought conditions. These conditions have placed immense strain on our water resources, necessitating urgent and comprehensive action to ensure their sustainability for generations to come.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/9/2024 10:33:17 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Benton Kealii Pang, Ph.D.	Individual	Support	Written Testimony Only

Comments:

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

My name is Benton Kealii Pang, a biologist with over three decades of dedication to conservation efforts in Hawai‘i. I am here to strongly advocate for SB3327 SD1, a crucial step towards securing a just and resilient future for our water resources and, by extension, our entire island community.

As we confront the escalating challenges of the climate crisis and the increasing scarcity of our water, it is imperative that we manage our precious wai as a public trust resource, in alignment with the principles outlined in our Constitution and Water Code. We must shield it from the ongoing threat of corporate water hoarding and misuse.

Regrettably, entrenched political vulnerabilities have hindered and will continue to obstruct the vital work of the Water Commission in implementing our Water Code and safeguarding the public trust in our water resources. Presently, the Commission is chaired by an appointee of the Governor, the Chairperson of the Board of Land and Natural Resources, and legal advice is exclusively provided by another gubernatorial appointee, the state Attorney General. This arrangement raises significant concerns about the influence of politically connected special interests, potentially impeding the Commission's effectiveness.

By mandating the Commission to select its own Chair, appoint its executive director, and secure its legal counsel, SB3327 SD1 introduces essential layers of political insulation necessary for the Commission to carry out its mission effectively and independently. These provisions, coupled with a performance review process aimed at ensuring impartiality in employment decisions, will empower Commission staff to fulfill their constitutional and statutory obligations without fear of political repercussions.

Therefore, I earnestly urge the Committee to PASS this measure and mahalo for the opportunity to testify.

Aloha ‘Āina,

Benton Kealii Pang, Ph.D.

SB-3327-SD-1

Submitted on: 3/9/2024 10:57:21 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

support

SB-3327-SD-1

Submitted on: 3/9/2024 11:06:05 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Danelle Guion	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Danielle Guion, Makakilo, Hawaii

SB-3327-SD-1

Submitted on: 3/9/2024 11:42:19 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Susan Douglas	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Susan Douglas, Kihei, HI

SB-3327-SD-1

Submitted on: 3/9/2024 12:39:05 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Nanea Lo and I live in Mō‘ili‘ili, O‘ahu. I’m testifying today in strong support of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai‘i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O‘ahu, where the U.S. military’s negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair’s response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, she has changed her position yet again and is opposing even more of the bill’s provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

me ke aloha ‘āina,

Nanea Lo, Mō‘ili‘ili, O‘ahu

SB-3327-SD-1

Submitted on: 3/9/2024 12:54:43 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Strong protection of our water must be supported.

SB-3327-SD-1

Submitted on: 3/9/2024 1:36:43 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

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

My name is Greg and I STRONGLY SUPPORT SB3327 SDI, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/9/2024 2:14:27 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Eliel Starbright	Individual	Support	Written Testimony Only

Comments:

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence. Mahalo for your consideration. Ola i ka wai! Eliel, Kapaa

SB-3327-SD-1

Submitted on: 3/9/2024 2:47:32 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Alyssandra	Individual	Support	Written Testimony Only

Comments:

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

My name is Alyssandra Rousseve, a UH graduate student, and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to **PASS** this measure.

Mahalo nui for the opportunity to testify as SB3327 has now made its way to the House.

SB-3327-SD-1

Submitted on: 3/9/2024 2:55:51 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
KEALA FUNG	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Keala Fung, Honolulu

SB-3327-SD-1

Submitted on: 3/9/2024 3:12:03 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Irena Bliss	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo nui for your consideration. Ola i ka wai!

Irena Bliss
Ha'ikū, Maui 96708

SB-3327-SD-1

Submitted on: 3/9/2024 3:36:17 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorna Holmes	Individual	Support	Written Testimony Only

Comments:

Please pass SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise its constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your support.

SB-3327-SD-1

Submitted on: 3/9/2024 3:46:10 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT SB3327 SD1. Our water supply is already at risk due to the effects of the climate crisis. It is critical that great care be taken to protect and manage this precious resource. This bill ensures that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine, without fear of political interference or retribution.

I urge you to pass this important measure.

Mahalo for the opportunity to testify.

SB-3327-SD-1

Submitted on: 3/9/2024 5:09:52 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Denise Boisvert	Individual	Support	Written Testimony Only

Comments:

I fully support Bill SB3327 SD1. Mahalo for your consideration to pass it.

SB-3327-SD-1

Submitted on: 3/9/2024 5:24:23 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kim Jorgensen	Individual	Support	Written Testimony Only

Comments:

SB3327 SD1 is a very important bill for the future of Hawai'i in its strategy to deal with climate change. Please support it.

SB-3327-SD-1

Submitted on: 3/9/2024 5:42:34 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Nelson	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. Thank you.

SB-3327-SD-1

Submitted on: 3/9/2024 5:50:31 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

SB-3327-SD-1

Submitted on: 3/9/2024 6:05:48 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

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

I stand in support of SB3327.

We all know the saying, “water is life.” Water is one of the most vital and important resources in our islands, and without it, no life will be able to survive. As such, the management of our water resources should remain outside of any political party or influence, and thus be removed from BLNR’s chairperson, and not appointed to the position by BLNR’s chairperson, nor report to or serve said chairperson. I believe that having the Executive Director of CWRM being independent of BLNR’s chair is most beneficial and shall provide the board with the consistency that has been needed for a while.

I have 2 recommendations for changes to this bill:

1. Require the Executive Director to have experience or expertise in traditional water resource management techniques and in traditional Hawaiian riparian usage
2. Increase the number of members from 1 to 3 that shall have substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage.

The result of Native Hawaiian cultural practices and water usage beliefs and understandings around water led us to a water resource rich environment that was here when Captain Cook and the missionaries arrived. Water was abundant throughout these islands and it supplied enough to not just sustain the population of Native Hawaiians, but also to produce enough food to sustain the population. These cultural practices and understandings is what guided our kupuna and resulted in abundance. These practices and understandings should also guide the Executive Director of the water commission.

Currently, of the 5 members of the commission, only 1 member is required to have experience or expertise in traditional water resource management techniques and in traditional Hawaiian riparian usage. Having this experience and expertise is of the utmost importance and the majority of the board shall have this, not just a single member. This experience and expertise shall be the norm, not the exception.

Mahalo nui loa for your time and consideration.

Keoni Shizuma

SB-3327-SD-1

Submitted on: 3/9/2024 7:18:14 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kauila Tengan	Individual	Support	Written Testimony Only

Comments:

Senate Committee on Ways and Means; and Senate Committee on Judiciary

Hearing: Friday, March 1, 2024 10:31 AM

State Capitol Conference Room 211

Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Kauila Tengan, and I live in Pālolo. I'm testifying today in strong support of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair's response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management, before and after the fires, Chair Chang continues to undermine our

repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, we aren’t even sure she still supports this bill.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. Lahaina is our latest wake up call, and we stand with Lahaina. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Kauila

SB-3327-SD-1

Submitted on: 3/9/2024 10:36:15 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Noel Shaw	Individual	Support	Written Testimony Only

Comments:

Please vote yes on SB3327 and give the water commission the authority to fulfill their mission. They must be able to implement thr Water Code and uphold the public trust doctrine without fear of political interference or retribution.

Water is our most important resource in Hawai'i and it should be cared for with the utmost care. A trusting and power holding water commission helps ensure this.

ol i ka wai.

SB-3327-SD-1

Submitted on: 3/9/2024 10:50:30 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Janice Toma Shiira	Individual	Support	Written Testimony Only

Comments:

I support SB3327 SD 1

SB-3327-SD-1

Submitted on: 3/9/2024 10:53:31 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
emily gambino	Individual	Support	Written Testimony Only

Comments:

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

My name is Emily Gambino and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.

-Emily Gambino

SB-3327-SD-1

Submitted on: 3/10/2024 11:27:35 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Natasha Latta	Individual	Support	Written Testimony Only

Comments:

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

My name is Natasha Latta and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/10/2024 12:28:29 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Bradford Baang	Individual	Support	Written Testimony Only

Comments:

PLEASE ensure that the Water Commission and its staff can **focus on implementing the Water Code and uphold the public trust doctrine**, without fear of political interference or retribution.

MAHALO

BRAD

SB-3327-SD-1

Submitted on: 3/10/2024 12:41:18 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Anela Evans	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is ‘Ānela Evans. I currently live in the ahupua‘a of Wai‘alae, in the moku of Kona, on the island of O‘ahu. I was raised from birth on the island of Lāna‘i. I’m testifying today in ***strong support*** of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai‘i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O‘ahu, where the U.S. military’s negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair’s response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, she has changed her position yet again and is opposing even more of the bill’s provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while

SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

SB-3327-SD-1

Submitted on: 3/10/2024 1:00:28 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Bianca Isaki	Individual	Support	Written Testimony Only

Comments:

Please support better governance for our water resources by approving SB3327.

Bianca Isaki

SB-3327-SD-1

Submitted on: 3/10/2024 1:00:47 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dyson Chee	Individual	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to testify in strong support of SB3327!

SB-3327-SD-1

Submitted on: 3/10/2024 1:03:06 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Valerie Weiss	Individual	Support	Written Testimony Only

Comments:

I am in support of ensuring the water commission can implement the Water Code without interference.

SB-3327-SD-1

Submitted on: 3/10/2024 1:10:19 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Penelope Hazzard	Individual	Support	Written Testimony Only

Comments:

I support Senate Bill 3327 SD1.

We on Oahu have seen firsthand lack of political will to clean up Red Hill despite the head of our Board of Water Supply issuing warnings for years. We were too wedded to military money to raise a fuss here and in DC.

take politics out of water issues as much as possible and hire professionals to oversee it, not politicians without scientific experience.

SB-3327-SD-1

Submitted on: 3/10/2024 1:22:58 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

Strongly Support SB3327 SD1

SB-3327-SD-1

Submitted on: 3/10/2024 1:38:08 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nandita Sharma	Individual	Support	Written Testimony Only

Comments:

I support this bill because it ensures that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine, without fear of political interference or retribution. This is crucial to ensure transparency, accountability, and trust in this important process.

SB-3327-SD-1

Submitted on: 3/10/2024 1:45:02 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	Individual	Support	Written Testimony Only

Comments:

Free the Water Commission” bill ensures that the Water Commission and its staff can **focus on implementing the Water Code and uphold the public trust doctrine**, without fear of political interference or retribution - Mahalo Sierra Club of Hawai‘i for bringing this to our attention!

SB-3327-SD-1

Submitted on: 3/10/2024 1:48:05 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Janis Turner	Individual	Support	Written Testimony Only

Comments:

please pass this bill. We must do everything to protect our water. Were it not for the board of water supply and the Sierra Club, the Navy would probably still be poisoning our water supply with impunity.

SB-3327-SD-1

Submitted on: 3/10/2024 1:52:03 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
pamela burrell	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

Please ensure that the Water Commission and its staff can **focus on implementing the Water Code and uphold the public trust doctrine**, without fear of political interference or retribution
- support bill SB3327 SD1

Regards,

Pamela Burrell, Kalihiwai, Kaua'i

SB-3327-SD-1

Submitted on: 3/10/2024 2:24:42 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
David Pullman	Individual	Support	Written Testimony Only

Comments:

Please pass this bill. It's important that our water commission be independent!

Tuesday, March 12, 2024 @ 9:00 AM
House Committee on Water and Land
State Capitol Conference Room 430 and via Videoconference

Written Testimony in SUPPORT of SB3327 SD1: Relating to the Water Commission

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

Thank you for this opportunity to testify in strong SUPPORT of SB3327, SD1. I am a second-year law student at the William S. Richardson School of Law participating in the Native Hawaiian Rights Clinic. Born and raised in Hawai'i, I have seen firsthand how climate change has increased the frequency and magnitude of natural disasters in these islands in only a few decades. Hawai'i is on the frontline of the climate emergency and we must pass appropriate, thoughtful legislation to address this reality.

Of utmost importance - now and in the future - is safeguarding our freshwater as a public trust resource, in line with the Hawai'i State Constitution. From Red Hill to the Lahaina wildfire, water issues in Hawai'i will only accelerate the longer we abide by the status quo. As the lead agency tasked with protecting our wai, the Water Commission must have the authority to take comprehensive, decisive action in water emergencies. We need an independent and well-funded Water Commission in order to address the climate crisis and protect Hawai'i's wai for future generations.

SB3327, SD1 does this by expanding the Water Commission's decision-making authority and insulating such decisionmaking from the executive's political pressure. Creation of the Executive Director position, with procedures for regular review of the Executive Director's performance, will help extricate BLNR/DLNR from Water Commission proceedings while allowing the Commission to more meaningfully fulfill its constitutional and statutory responsibilities. During emergencies, experts in Hawai'i water management and Native Hawaiian traditional and customary practices should be the ones making critical decisions regarding our wai - not those with deep pockets and skilled lobbyists.

Similarly, the Water Commission should have statutory authority to increase fines of up to \$60,000 per violation of the State Water Code in order to reflect the significant government interest in protecting this public trust resource for all Hawai'i's people. In light of Hawai'i's history of water injustice, current fines of \$5,000 are not effective deterrents to those institutions and corporations that continue to profit from violating the State Water Code.

For these reasons, I respectfully urge the Committees to pass SB3327, SD1. Mahalo for the opportunity to testify.

Ola i ka wai,
Chiemi Bryant

SB-3327-SD-1

Submitted on: 3/10/2024 2:34:05 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Maryanoff	Individual	Support	Written Testimony Only

Comments:

Please ensure that the Water Commission and its staff can **focus on implementing the Water Code and uphold the public trust doctrine**, without fear of political interference or retribution

SB-3327-SD-1

Submitted on: 3/10/2024 2:47:43 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
TOM DIGRAZIA	Individual	Support	Written Testimony Only

Comments:

Strongly support!

SB-3327-SD-1

Submitted on: 3/10/2024 2:51:10 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kelly Klocker	Individual	Support	Written Testimony Only

Comments:

I support separating the Water Commission from DLNR.

SB-3327-SD-1

Submitted on: 3/10/2024 2:51:12 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shay Chan Hodges	Individual	Support	Written Testimony Only

Comments:

My name is Shay Chan Hodges and as a former Chair of the Maui County Board of Water Supply, I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

Shay Chan Hodges'

Haiku, Maui

SB-3327-SD-1

Submitted on: 3/10/2024 3:11:38 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Micha'el Leventhal	Individual	Support	Written Testimony Only

Comments:

Aloha,

As you know, the “Free the Water Commission” bill ensures that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine without fear of political interference or retribution. *Mahalo nui* for supporting Senator Inouye's vital initiative and doing the right thing for our community!

SB-3327-SD-1

Submitted on: 3/10/2024 3:21:17 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sharde Freitas	Individual	Support	Written Testimony Only

Comments:

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

My name is Sharde Freitas and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

As a law student, I wrote a paper that used a contextual legal analysis to review the injustices, particularly to kānaka maoli, with the Water Commission upholding the status quo. My analysis reviewed a consistent pattern with those who benefit and those who are harmed as a result of the Water Commission maintaining the status quo. This bill is necessary to facilitate needed change, and will ultimately support the Water Commission fulfilling its affirmative duty to uphold the public trust.

Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.

Ola i ka Wai!

SB-3327-SD-1

Submitted on: 3/10/2024 3:32:02 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert N Mansfield, Jr	Individual	Support	Written Testimony Only

Comments:

Allow the Water Commission and its staff to focus on implementing the Water Code and uphold the public trust doctrine.

SB-3327-SD-1

Submitted on: 3/10/2024 3:36:22 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Teresa Landreau	Individual	Support	Written Testimony Only

Comments:

Water is Life. Support the independence and integrity of Hawaii water protectors.

SB-3327-SD-1

Submitted on: 3/10/2024 3:41:25 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Melissa Barker	Individual	Support	Written Testimony Only

Comments:

Honorable Chairs Inouye and Wakai and Honorable Committee Members,

I am writing to ask that you please support of SB3327 SD1 which will implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

This bill is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Thnak you for your attention and consideration.

Melissa Barker

Kapaa, HI

SB-3327-SD-1

Submitted on: 3/10/2024 4:01:42 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Anita Anderson	Individual	Support	Written Testimony Only

Comments:

I support SB 3327. It is important the Water Commission be able to focus on implementation of the Water Code and uphold the public trust doctrine without fear of political interference. Thank you

SB-3327-SD-1

Submitted on: 3/10/2024 4:33:43 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gwen Rodrigues	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Gwen Rodrigues, Hili, Hawaii

SB-3327-SD-1

Submitted on: 3/10/2024 4:50:48 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
irene kloepfer	Individual	Support	Written Testimony Only

Comments:

Control of our water is not a political issue or football. Please pass this bill. Mahalo

SB-3327-SD-1

Submitted on: 3/10/2024 5:12:44 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Georgia L Hoopes	Individual	Support	Written Testimony Only

Comments:

I strongly support SB3327

Mahalo

Georgia Hoopes, Kalaheo

SB-3327-SD-1

Submitted on: 3/10/2024 5:33:43 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

SUPPORT!

SB-3327-SD-1

Submitted on: 3/10/2024 6:19:27 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Rodney Evans	Individual	Support	Written Testimony Only

Comments:

We need to safeguard our water and our natural water sources. I was at the ancient Hawaiian artesian well where the Moanalua Do Park is located near the viaduct leading to Tripler hospital in the period of the Red Hill contamination. The area wreaked of fuel, not just that day but for months afterwards. We need to take local direct and unimpeded responsibility for our resources. Humanity and Nature above power and profit. It has gone the other way for far too long. If this govt cannot face their responsibilities then the entire system may end up needing REPLACED!!!

SB-3327-SD-1

Submitted on: 3/10/2024 6:26:32 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Darlene	Individual	Support	Written Testimony Only

Comments:

Please free the water commission to do its job without fear of retaliation. Mahalo.

SB-3327-SD-1

Submitted on: 3/10/2024 6:55:08 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael D. Lillie	Individual	Support	Written Testimony Only

Comments:

Committee Members,

“Free the Water Commission” bill ensures that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine, without fear of political interference or retribution.

Let’s build a Hawai‘i together that puts kama‘āina and kānaka maoli, local people, first — not big money interests. Please, do the right thing.

Mahalo for the good work that you do.

Mike Lillie

Hawi

SB-3327-SD-1

Submitted on: 3/10/2024 6:58:42 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
John Carty	Individual	Support	Written Testimony Only

Comments:

I write in support of SB3327. Water needs to be a public resource and here in West Maui we see what happens when a greedy private entity controls 75% of the water! It is not working and needs to end!!!!!! This bill will help restore balance. Water as a public trust will be supported by this bill. Right now luxury developments are prioritized instead of the health of the environment, culture and the people.

SB-3327-SD-1

Submitted on: 3/10/2024 7:00:04 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Wailani	Individual	Support	Written Testimony Only

Comments:

I am a ten year old girl who lives next to a dry stream. We need water to grow food and for the land to be healthy. Stop taking care of rich people who don't live here! Take care of the people who take care of the land.

Testimony in Support of **SB3327, SD1**
with a new amendment

Dear Chair Ichiyama, Vice Chair Poepoe, and House Committee on Water and Land Members,

I am testifying in support of SB3327, SD1 relating to the Commission on Water Resources Management.

My name is Lacey Quintero. My family and I are survivors of the Red Hill water crisis. While we continue to suffer through the health effects of drinking jet fuel, I remain engaged in making sure this type of thing does not happen again to anyone. Unfortunately, that is exactly what is happening because the Navy waterlines continue to deliver water contaminated with total petroleum hydrocarbons, and new families continue to report new symptoms consistent with exposure to jet fuel including chemical burns of the skin, eyes, nose, and throat, and significant issues with digestion and cognition, among many other health problems.

Obviously, this should have never happened to us. If the Water Commission had the kind of independence, transparency, and accountability that we see in the Honolulu Board of Water Supply, then maybe my family and the thousands of people living on the Navy waterlines would have been spared this suffering. We will never know, but we do know that we cannot continue as before because the system as it is currently operating is injuring people and whole communities.

I support this bill because:

- 1) It helps to make the Water Commission more accountable for its actions to protect water resources and more independent from the influence of irresponsible water users like the Navy and others.
- 2) It allows the Water Commission to charge more meaningful penalties, which are so low right now that they hardly provide any incentive for bad actors to do the right thing.
- 3) It allows the Water Commission to elect its own chairperson, instead of just declaring it will always be the Director of DLNR.
- 4) It gives the Water Commission the option of hiring outside attorneys to help them.
- 5) It converts the deputy director into an Executive Director, who must answer directly to the Commission.

I think of these powers are essential. I have experienced two very different DLNR Directors in my time here and I find it very troubling how both ran the Water Commission meetings in ways that shielded the Navy from responsibility, even though several Commissioners tried to their best to take deliberate action. Making the water deputy into an Executive Director also removes some of the finger pointing we experienced when trying to urge the Water Commission to take meaningful action in the Red Hill crisis. Having the option to hire an independent attorney will also be helpful. The deputy Attorney Generals advising the Water Commission often gave us confusing and contradictory explanations of what the Commission could do in response to the Red Hill Water Crisis which poisoned my family and neighbors. In fact, it was the Attorney General's office that told us new bills for emergency authority and higher penalties were necessary to do what the Commission members proposed to do. So, we testified and got two bills passed for higher penalties and emergency powers only to have the Governor's office tell us that the Attorney Generals had recommended vetoing this bill because they are unnecessary. **How does this make sense?!** It doesn't. At this point, this bill is necessary for the simple fact that people do not trust the Water Commission to protect Hawaii's water resources anymore. So much damage has been done to us and every day I worry about damage that may come to others in the community unless together, we change the way we are operating. This is one step toward repairing some of the things can be repaired.

I urge this Committee to please pass out SB3327 to help make the Water Commission more transparent, independent, and accountable for the decisions it makes about water in the Hawaiian Islands. And I urge this committee to reinsert the language granting the Water Commission authority to declare emergencies. The need for emergency powers at the Water Commission is the most obvious lesson learned from all the missteps in the Commission's response to the Red Hill water crisis. It is outrageous that the Governor vetoed that bill. And to think that this authority is exactly the kind of thing that would have helped to quickly secure drinking water for the emergency temporary housing in Lahaina. Please do not make another community suffer through what our communities have suffered through. Please, let us learn the lessons from the past in order to prevent future harm.

Thank you for your time and this opportunity to testify.

Sincerely,

Lacey Quintero

House Committee on Water and Land
Hearing: March 12, 2024 @ 9:00 AM
State Capitol Conference Room 430 and Via Zoom
Strong Support for SB3327, SD 1: Relating to 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 Denielle Pedro, and I live in Kalihi Valley, O‘ahu. I am a third-year law student passionate about indigenous and environmental justice. I am testifying today in **strong support of SB 3327, SD1.**

Crucially, SB 3327, SD1 is the only bill that will immediately address water needs after crossover. These amendments to the Water Code will be needed more than ever. The Red Hill crisis continues to develop—recent water sampling has revealed “forever chemicals” in the form of petroleum-based contaminants. And in Maui Komohana, plans to rebuild infrastructure will require efficient and responsible enforcement of the Water Code. **SB 3327, SD1 is a common-sense solution** for Hawaii’s future, that would effectuate lessons learned from decades of water mismanagement.

This bill is not reactionary. Over the last decade, we have seen *many* bills seeking to strengthen vulnerabilities in our state’s water management. Some were in direct response to the Red Hill tank leaks as far back as 2014. Just last year, HB1088 and HB153 proposed to give CWRM crucial powers to declare water emergencies and enforce higher penalties. **Both measures were passed by the House and strongly supported by DLNR**—both were vetoed by the Governor just months before the Lahaina Wildfires. **SB 3327, SD1 will achieve both of these goals.**

We have learned that water emergencies can occur in an instant. Due to decades of water mismanagement and a global climate crisis, future water crises are no longer mere speculation—they are an inevitability. Because lawmaking is gruelingly slow, it is necessary that lawmakers take action *now*. We have the important kuleana of setting our children up for success by implementing smart, preventative measures today. I am the proud child of a surgeon and an epidemiologist from the remote Pacific Islands. One of the most crucial best practices in medicine and public health is *preventative* rather than reactionary care, when a patient has become too ill to save. Let us plant this tree today.

OLA I KA WAI!
Denielle M. Pedro

SB-3327-SD-1

Submitted on: 3/10/2024 8:32:44 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marcia Kemble	Individual	Support	Written Testimony Only

Comments:

Please support this bill to ensure that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine without fear of political interference or retribution.

SB-3327-SD-1

Submitted on: 3/10/2024 8:35:26 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

I very much support this bill.

malama wai

Diane Ware

Moku Ka'u Keauhou ahupua'a

House Committee on Water and Land
Hearing: Tuesday, March 12, 2024 9:00 AM
State Capitol Conference Room 430
Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Dru Hara, I live in Niu, O‘ahu, and I am a third-year law student at the University of Hawai‘i at Mānoa William S. Richardson School of Law. Mahalo nui for hearing this bill today and providing the community an opportunity to testify on behalf of our precious freshwater resources. I am testifying today **in strong support of SB3327, SD1**.

During my time as a law student, it has been my privilege to work closely with Maui Komohana community members as they navigate the water use permitting process and continue to zealously advocate for the preservation of their natural resources and their legal rights to water under the Hawai‘i Constitution and the state Water Code, HRS chapter 174C. This community believes in the Water Code and believed, for a time, in the Water Commission’s ability to enforce the Code’s mandates and protections. This belief in the Commission was shattered after the fires when the BLNR Chair removed deputy Kaleo Manuel without cause and the Governor suspended the Water Code, leaving CWRM powerless in Lahaina’s time of need. In response, hundreds of Lahaina residents paused their recovery to advocate for the reinstatement of the Water Code last Fall. And though that particular harm has been addressed in part, the people of Maui Komohana continue to demand that CWRM take a more proactive role in their recovery.

SB3327, SD1 is an extension of that demand. As expressed in over 200 pages of testimony submitted in support of this bill before each of its Senate committee hearings, the people of Lahaina and others across Hawai‘i firmly believe that **SB3327, SD1** is a necessary measure to enact long-needed structural changes and to enable CWRM to exercise its duty and authority as trustee of our water resources. To give this bill its full effect, I also urge you to **reinsert the proposed amendment** to the Water Code that was included in the original version of SB3327 and would add a subsection **HRS § 174C-5(17)** granting CWRM the authority to directly address water emergencies. This would provide a concrete mechanism for CWRM to help deliver **water for temporary emergency housing** in Maui Komohana. I note that this emergency provision, along with the penalties provision contained in SB3327, SD1, were part of an administration package that was passed by this legislature last year but were ultimately vetoed by the Governor.

My plea is simple, **support SB3327, SD1 to support Lahaina**. There has been much talk this session about what is needed to help the people affected by the fires, but at this juncture there are very few bills still alive that will actually result in any real benefit to the Lahaina community. This bill provides an opportunity for the legislature to respond to Lahaina’s needs and provide greater protection of our water resources across Hawai‘i. **Please pass SB3327, SD1 today**. Mahalo nunui for your consideration of this testimony.

E ola i ka wai!

Dru Hara

SB-3327-SD-1

Submitted on: 3/10/2024 8:57:19 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tamara Paltin	Individual	Support	Written Testimony Only

Comments:

Aloha e Chair Ichiyama and Vice Chair Poepoe

Mahalo for your service. I am writing in strong support of this bill so that the CWRM staff can focus on implementing the Water Code and uphold the public trust doctrine, without fear of political interference or retribution. As we saw in the days immediately after the most catastrophic fire and loss of life Hawai'i has ever seen, the political scapegoating of the first deputy of the Water commission, this must be changed. The truth was we were starting to restore stream flow and mitigate the harm that over 130 years of diversion had led to the desertification of what was once called the venice of the Pacific. Lahaina, Ka Malu 'Ulu o Lele, Loko o Mokuhinia, Moku'ula was once abundant with water, over a century of diversions and western colonialism, has led to the tragedy of last August not the First Deputy who was just trying to uphold the public trust doctrine.

Mahalo for your commitment and service to our communities

Tamara

SB-3327-SD-1

Submitted on: 3/10/2024 8:58:14 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maki Morinoue	Individual	Support	Written Testimony Only

Comments:

Aloha

I support SB3327 SD1. It is time to align and **focus on implementing the Water Code and uphold the public trust doctrine!**

The time is now!

Mahalo

Maki Morinoue

SB-3327-SD-1

Submitted on: 3/10/2024 9:01:52 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Peggy Brandt	Individual	Support	Written Testimony Only

Comments:

I am writing in support of SB3327 SD1 because it is important for the Water Commission be able to focus on implementing the water code without interference from political entities or fear of retribution.

SB-3327-SD-1

Submitted on: 3/10/2024 9:05:57 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tanya Yamanaka Aynessazian	Individual	Support	Written Testimony Only

Comments:

I am Tanya Yamanaka Aynessazian from Pahoā. I support SB3327 SD1 to ensure the Water Commission and its staff can uphold the public trust doctrine without fear of political interference or retribution.

SB-3327-SD-1

Submitted on: 3/10/2024 9:17:55 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Holden Takahashi	Individual	Support	Remotely Via Zoom

Comments:

March 12, 2024

House Committee on Water and Land

Hearing: March 12, 2024 at 9:00 AM

State Capitol Conference Room 430 and via Zoom

Re: Testimony in Strong Support of SB3327, SD1: Relating to the Commission on Water Resource Management

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

My name is Kalama‘ehu Takahashi from Maui. Kā‘anapali Moku is my home now. I am an advocate and supporter of Ke Kula Kaiapuni o Lahaina and a parent with aloha for this ‘āina. I testify today in **strong support of SB3327, SD1** to demand a future that puts the needs of kama‘āina, our ‘āina, and our resources above politics, private developers, purveyors, and resorts. This bill is a crucial first step in giving the Water Commission the independence it needs to effectively administer the Water Code.

Maui Komohana has been ravaged by the effects of colonization for over a century. Sugar plantations, and more recently, tourism, luxury developments, and private utility corporations continue to abuse and steal our resources for economic gain. Tourists have flocked to Maui Komohana to enjoy a vacation while so many ‘ohana and our friends are still struggling to keep a

roof over their heads and grieve what was lost. In the aftermath of the fires, we watched plantation disaster capitalism try to double down on its stronghold. Private corporations continue to give us the runaround and get away with it while we are just trying to do what our ancestors have done since time immemorial. Enough is enough! With the climate calamity upon us, and with the stakes higher than ever, it is time to put the needs of our ‘āina above the status quo and privateers who have personally benefited for far too long. We need our Water Commission to take bold action to prioritize our resources. This bill would give them the power to do that. It would shield them from the chaos of politics and significantly improve the implementation of Hawai‘i’s Water Code. We need this now!

Our State Water Commission has the power to create a safe and abundant future for our Maui Komohana communities – beyond colonial barriers that have disenfranchised ‘ohana and desolated our ‘āina for decades. The kalo farmers, working-class kama‘āina, and kupa are key to realizing this abundant future. The disproportionate amount of control private purveyors have on a public trust resource is unsustainable, extractive, and highly inequitable for ‘ohana, the greatest stakeholders, and our resources.

The House actually passed bills with similar language last year – HB153 and HB1088 – that the governor killed. We need these key amendments now more than ever. **These changes were supported by the House then, and must also be supported now.**

We will continue to fight for the right to mālama our own ‘āina and resources and to do what is pono. Please do what is pono and **pass** SB3327, SD1 out of your committees today.

E ola i ka wai!

Kalama‘ehu Takahashi

SB-3327-SD-1

Submitted on: 3/10/2024 9:25:50 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ramona Hussey	Individual	Support	Written Testimony Only

Comments:

I support SB3327 which would strengthen the water commission's independence from political pressure.

SB-3327-SD-1

Submitted on: 3/10/2024 10:37:55 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jamie Simic	Individual	Support	Remotely Via Zoom

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and members of the House Water and Land Committee,

Mahalo for accepting my testimony in support of SB3327 and thank you for all you have done on Red Hill and water issues recently.

My name is Jamie Simic. My children and myself were seriously injured after we drank jet fuel from the tap in our home in the Fall of 2021. I am urging you all to pass out SB3327 because I think it could help prevent this from happening to other families like my mine in the future.

This bill does several things that help to strengthen the Water Commission and insulate it from meddling by those that do not have the public's best interest at heart. In my experience with Red Hill, I think this is critical.

At the Water Commission hearings on Red Hill immediately after we were poisoned, I could see that the deputy director and other Commission members wanted to take action. But the Water Commission chairperson and the Attorney General made it very difficult. There was a lot of confusion, fingerpointing, and ultimately no real action.

The Attorney General told us a bill had to be passed to authorize the Water Commission to declare a water emergency when the island's main aquifer was taken offline due to significant pollution. So we testified on bills and got them passed, even through this very committee. And then inexplicably the Attorney General told the Governor to veto the bills because they were not necessary.

It is so frustrating and heartbreaking to go through all of that just to be back here again asking for the same thing, knowing that had that bill become law last year it would have helped the Lahaina Community in the aftermath of the wildfires to secure water for emergency temporary housing.

This bill this year goes much farther than just penalties and emergency authority, this bill seeks to address more fundamental improvements to the structure of the Commission. With this bill, the Water Commission would be more like the Board of Water Supply, which has done an amazing job standing up for the public's best interest despite its limitation.

Having an Executive Director run the Water Commission and answer to that Commission for their performance in fulfilling the Commission's mission is a better structure than having the Water Commission staff under the Director of another agency. And having the Commission elect its own chairperson is far better than a requirement that only the DLNR director can be chairperson. I have never seen that before and it really doesn't make sense to me.

You want a Water Commission that is fully empowered to fulfill its mission, and transparent and accountable for how it does that. This bill helps make sure the Water Commission can and does protect Hawaii's resources from waste and damage.

Mahalo for the opportunity to testify.

Jamie E Simic

SB-3327-SD-1

Submitted on: 3/10/2024 10:57:15 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Thomas Brandt	Individual	Support	Written Testimony Only

Comments:

Strong support. Please protect commisioners from political manipulation and retaliation.

Mahalo!

SB-3327-SD-1

Submitted on: 3/10/2024 11:05:25 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Allison Mikuni	Individual	Support	Written Testimony Only

Comments:

I support this measure to focus on implementing the Water Code and upholding the public trust doctrine.

SB-3327-SD-1

Submitted on: 3/10/2024 11:37:49 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
LorrieAnn Santos	Individual	Support	Written Testimony Only

Comments:

In regards to SB3327 SD1, relating to the Commission on Water Resource Management, I SUPPORT Senator Lorraine Inouye and the Sierra Club of Hawaii, to ensure the Water Commission and its staff can focus on implementing the Water Code and upholding the public trust doctrine without fear of political interference or retribution. Water is precious resource that must be protected. We can look to the mission statement of The Board of Water Supply, Ka Wai Ola - Water is Life". Continued access to safe and dependable water supplies must be ensured for now and into the future. Respectfully, Lorrie Ann Santos

SB-3327-SD-1

Submitted on: 3/10/2024 11:40:26 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

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

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Tereari`i Chandler-`Iao and I live in Kula, where I have relocated since the Lahaina fire. I am testifying today in **strong support of SB3327, SD1.**

Mahalo to the people who crafted and supported this bill. Few things are more important than the health and stewardship of our finite water resources. SB3327, SD1 provides proactive solutions to safeguard the important work of the Water Commission and protect our water future. This bill will also allow the Commission to be more responsive in times of emergency, including with temporary housing for those displaced by the Lahaina fire.

Mahalo for your efforts to ensure decisions related to our precious water resources are made in the best interest of our resources and people, not profits or politics. The people of Hawai'i, and the people of Lahaina in particular, deserve to finally be able to trust in the "Public Trust," and that water resources will be allocated in accordance with the law.

I urge this Committee to **pass SB3327, SD1 and include the bill's original emergency declaration provision.**

Mahalo,

R. Tereari`i Chandler-`Iao

SB-3327-SD-1

Submitted on: 3/10/2024 11:44:27 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Shimizu	Individual	Support	Written Testimony Only

Comments:

Dear Honorables Representative Ichiyama (Chair), Representative Poepoe (Vice Chair) and Members of the Water & Land (WAL):

I am typing to strongly support the water resource management as specified in this SB 3327 SD1 and the amendment to add emergency powers, so the water commission should have the authority to declare an emergency to protect public health and the safety of our wai. Because of our remote geographical location, we must conserve our limited resources and take proactive measures for future needs.

Sincerely,

Sherry Shimizu

Oahu

House Committee on Water and Land
Hearing: March 12, 2024 at 9:00 AM
State Capitol Conference Room 430 and via Zoom
Strong Support for SB3327, SD1: Relating to the Water Commission

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

Mahalo nui for this opportunity to testify in **strong support** of SB3327, SD1. My name is Elena Chang, and I am a third-year law student at the University of Hawai‘i at Mānoa William S. Richardson School of Law. I am writing to urge this committee to **pass** a further amended SB3327. I have had the privilege of working closely with the Maui Komohana community, as they navigated the water use permitting process and appeared countless times in front of the Water Commission – before *and* after the devastating August 2023 fires – to advocate for timely enforcement and implementation of the state Water Code, HRS Chapter 174C.

This bill is key to protecting Hawai‘i’s public trust resources and restoring the public’s trust in the Water Commission. While this bill responds to current water crises, it is not merely reactionary, and its proposed amendments are nothing new or radical. As you likely already know, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. These established recommendations have broad-based support today, too, from communities across Hawai‘i. The House actually passed critical water bills with similar language last year – HB 153 and HB1088 – that the governor vetoed. We need these changes now more than ever.

Further amendments are necessary to provide the Water Commission with maximum flexibility to address emergencies likely to arise in the future. In its current form, SD1 retains key provisions that safeguard the Water Commission from outside influence and provide proactive solutions to protect Hawai‘i’s precious water resources. But, SD1 removes an important proposed amendment to the Water Code that provides the necessary language to authorize the Water Commission to take timely action to address water shortages, whether within or outside of a water management area. **I urge your Commission to reinsert subsection HRS 174C-5(17)** granting the Water Commission maximum flexibility to directly address emergencies, especially as communities across Hawai‘i continue to experience impacts of the climate crisis.

Your kōkua right now is critical. SB3327, SD1 is the last remaining bill with potential to enact positive changes to the way we manage our wai. This bill is a necessary step towards evolving our government to meet the real needs of the climate emergency we are now living in. **Please pass SB3327, SD1 today.** Mahalo nunui for your time and consideration.

Ola i ka wai!

Elena Chang

SB-3327-SD-1

Submitted on: 3/11/2024 12:03:17 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Melinda Healani Sonoda-Pale	Individual	Support	In Person

Comments:

TESTIMONY

House Committee on Water and Land

Tuesday March 12, 2024 at 9AM in room 430

In Strong Support of SB3327, SD1

with suggested amendments

Aloha Chair Ichiyama, Vice Chair Poepoe, and House Committee on Water and Land Members,

I am testifying in strong support of SB3327, SD1 relating to the Commission on Water Resource Management, and have one recommendation for improvements to the bill. This bill is critical because it helps better insulate the Water Commission from the influences of wealthy and well-connected people on our water policies, that way the science, the Water Code, and the longterm best interests of the public drive the decisions made about our water.

My name is Healani Sonoda-Pale. I am a water protector. I have been working to advocate for the shutdown of Red Hill since before the 2021 fuel release, and I have supported Maui Komohana residents advocating for the restoration of their streams for many years.

I was shocked to watch in the aftermath of the Lahaina fires how West Maui Land Company took advantage of the chaos to grab more than their fair share of water. They were willing to mislead the DLNR Director about what really happened to get more water, and then the DLNR Director was willing to take unilateral action that benefited their water grab and removed the most successful water deputy the Commission has ever had. We cannot have faith that the Water

Code will be properly implemented and the public's interests well protected, if outside competing uses can have such a direct and negative influence on water policies.

Compare that to how the Honolulu Board of Water Supply responded to the Navy's poisoning of O`ahu's water supply. Because BWS is set up as a semi autonomous entity, it is better able to make decisions about our water supply that are truly in the public's best interest and not beholden to outside influence. Imagine where we would be if BWS had not been free to speak truth to power when the Navy was trying to convince us all that the Red Hill fuel tanks were safe.

CWRM should operate more like BWS. Passing SB3327 would give CWRM a little more independence -- and accountability -- to make decisions about our water resources that are rooted in the science and uphold the public trust. And in doing that this bill may help to restore some of the lost faith in this government's management of our water resources.

Lastly, I recommend that the SD1 be amended to include the authority to declare an emergency. This was in the original version of the bill and is essential to ensure that CWRM has the authority it needs to make the kind of rapid decisions needed during these extremely uncertain times. We already demonstrated once how necessary this basic authority is for our resources. And if only the Green Administration had not vetoed this idea last session, then CWRM could make the kind of informed, urgent decisions necessary to quickly adapt to the need for emergency housing after the Lahaina fires.

How many rivers do we have to cross to have our pleas heard, our needs met? And here we have to now cross this particular river twice? It is outrageous. Two dire situations in three years more than prove the need for CWRM to have its own emergency powers.

Thank you for this opportunity to testify in support of SB3327.

SB-3327-SD-1

Submitted on: 3/11/2024 4:07:45 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jean Jewell	Individual	Support	Written Testimony Only

Comments:

I fully support this bill!

Jean Jewell

96725

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

My name is Roy Morioka and I STRONGLY SUPPORT SB3327 SD1, to secure future water resources for our state.

As our population grows our water resources will be taxed with greater demands, it is critical that our precious wai is managed as a public trust resource, as provided in our Constitution, Water Code and Statutes with special care and oversight free from special interests.

We have not yet assessed each island's carrying capacity to ensure that sufficient natural resources, especially fresh water are available for a sustainable legacy for generations that follow as provided in sections of HRS 226-108.

[§226-108] Sustainability. Priority guidelines and principles to promote sustainability shall include:

- (2) Encouraging planning that respects and promotes living within the natural resources and limits of the State;
- (4) Encouraging respect for the host culture;
- (5) Promoting decisions based on meeting the needs of the present without compromising the needs of future generations;

and

- (7) Emphasizing that everyone, including individuals, families, communities, businesses, and government, has the responsibility for achieving a sustainable Hawaii. [L 2011, c 181, §2]

Currently, the Water Commission is subjected to the special interests by their influence on each administration. It is important to free the Water Commission from such potential political bias by requiring the Commission to select its own Chair, Executive Director and retain its own Legal Counsel, as provided in this measure.

I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.

Sincerely,

Roy N Morioka

SB-3327-SD-1

Submitted on: 3/11/2024 5:10:57 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

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

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

Mahalo for this opportunity to testify on SB3327, SD1, which I strongly support.

As a recent graduate of the William S. Richardson School of Law, University of Hawai‘i at Mānoa, who has spent a fair bit of time reading about Hawai‘i water law. I have only one point to make in support of SB3327 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 convince, 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=gnrblmt2bRdr4A8j&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 SB3327, SD1 to help prevent the possibility of this law being broken in the future.

Not only would this bill have prevented these sort of possibility law breaking activities but it would address the long term problem about, what are mostly likely, unconstitutional private water utilities.

Please vote yes on SB3327, SD1.

Thank you for your consideration,
Erik Meade, Honolulu

SB-3327-SD-1

Submitted on: 3/11/2024 5:31:19 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tony Radmilovich	Individual	Support	Written Testimony Only

Comments:

Strongly supporting the bill!

House Committee on Water and Land

Hearing: March 12, 2024, 9:00 AM

Conference Room 430

Strong Support for SB 3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and House Committee Members on Water and Land:

I'm Ke'eaumoku Kapu, a kupa of Kaua'ula and a kia'i and kahu of Moku'ula and Mokuhinia. As you all know, wai is one of our most important resources. Many of us have been working on this for generations, but I feel like the eyes of the world are now on Maui and have focused on water because of all the action that has gone down since the August 2023 fires. To be honest, most of it hasn't been good. In fact, it's pretty pilau. The Water Code was suspended, Deputy Director Manuel was "redeployed," and water was taken from Kaua'ula Stream not to fight fires, but to fill swimming pools. No can this kine. We need to be able to count on our Water Commissioners to be pono. Their motto is: Ke Kahuwai Pono, and pono is the highest standard that we have as Kanaka.

I am testifying today in strong support of SB 3327, SD1. Because to be pono, the Water Commission needs kōkua, and this bill initiates some necessary changes. The political gamesmanship around our wai in Maui Komohana is hewa. It has forced our community and my 'ohana in particular to invest too much of our time and energy trying to get the Water Commission and Chair to do their jobs, instead of playing politics. Unfortunately, I have many examples – such as the failure to enforce the interim instream flow standard in Kaua'ula and allowing the reactivation of Pioneer Mill's skimming wells – that have undermined our faith that this Commission will be pono unless changes are made to its administrative structure. And we need the Water Commission to be pono because too much is at stake.

After the fires, Nā 'Aikāne o Maui filed a water use permit application for the restoration of Moku'ula Island and Loko o Mokuhinia. Words cannot explain how sacred and important these wahi pana are. They were the historic seat of power for our Hawaiian Kingdom, home of our revered mo'ō Kihawahine, and where Maui's highest ranking ali'i were laid to rest. Like many of our sacred spaces they were drained dry when Pioneer Mill began taking water from area streams, including Kaua'ula, and pumping its skimming wells in particular. Today, Moku'ula and Mokuhinia are entombed by three feet of sediment and an abandoned baseball field within Malu'ulu o Lele Park.

Since long before the August 2023 fires, our community has struggled to restore Moku'ula, Mokuhinia, and this traditional 'auwai system. The Pioneer Mill skimming wells that dried Mokuhinia were recently reactivated by Waivee Land and Homes LLC. We objected at every stage of the skimming wells' reactivation process and since, but nothing was done by the Water Commission's groundwater branch. For example, we lodged objections with the Water Commission when the pump test for the shaft occurred because we saw an immediate impact on the flow of Pahumanamana 'Auwai. No response. In all the time that we have had kuleana toward this 'āina, this 'auwai held the last visible remaining wai on the surface of what was once

an area of significant fresh water abundance and cultural mana. This summer, it was totally dry, although some flow returned after the fires while the skimming well was shut down. My point here is that we need the Water Commission to uphold the law and protect and restore our sacred spaces, but politics keep getting in the way.

To be Kahawai Pono, the Water Commission must revitalize the glory and mana of this wahi pana that was once the political, religious, and cultural center of Maui and our pae 'āina. This is just one example of the fundamental re-examination of water distribution that is necessary in Maui Komohana that will help to support the continued exercise or reemergence of cultural practices. It would also put Kānaka Maoli with lineal ties to this 'āina at the forefront of reconstruction, and establish a foundation of cultural and environmental values on which to build back Lahaina from the devastation of the fires. E ho'i ka nani i Moku'ula!

Those of us who have been appearing before the Water Commission for years and even generations are not confident that this will happen unless changes are made. **Please pass SB 3327, SD1 to begin that process of healing and restoration. E ho'i ka nani!**

Ke Aloha 'Āina,

Ke'eumoku Kapu

SB-3327-SD-1

Submitted on: 3/11/2024 6:34:13 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Emily Garland	Individual	Support	Written Testimony Only

Comments:

Please support.

Mahalo,

Emily

SB-3327-SD-1

Submitted on: 3/11/2024 6:48:04 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michele Nihipali	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

SB-3327-SD-1

Submitted on: 3/11/2024 6:57:14 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Julia Marrack	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

Julia Marrack, Kamuela

House Committee on Water and Land
Hearing: March 12, 2024 @9:00 AM
State Capitol Conference Room 430
Strong Support for SB3327, SD1:
Relating to the Commission on Water Resource Management

Aloha Chair Ichiyama, Vice Chair Poepoe, and Water and Land Committee Members!

My name is Emma Palmer and I support Senate Bill 3327, SD1 because it gives Hawai'i's Water Commission the agency and independence that it requires to be able to respond more quickly and efficiently to community needs. This is important to both our communities in Maui Komohana and near Red Hill because the current structure of management requires significant oversight and allows politics to muddy the Water Commission's work. We have seen the dangers of this since the Commission was established, and it was heartbreaking to see it again in the wake of both Red Hill and the Maui fires. People became sick and died because the Commission was not free to act swiftly.

Enough is enough. If this bill is passed, the Commission will have the agency to be able to protect water resources in a real way, as it should have had since inception. Through this bill, SB 3327, SD1, the CWRM deputy will become Executive Director, and will be empowered to protect resources and respond to water shortages with the agency that the job requires.

The original version of this bill included a section that empowered the Commission to declare an emergency when water scarcity threatens public health, safety, and welfare. This section of the bill, HRS 174C-5 (17), also allowed the Commission to take action to conserve water for the public benefit when there is such an emergency. This amendment must be added to the current version of the bill so that the Commission can act to get water to the people who really need it, both the folks surrounding Red Hill and the folks in Lahaina's temporary emergency housing.

The individuals who have been storing far more water than they need for generations have proven they will not steward this resource for our future. The Commission needs tools to enforce compliance with the law. The existing fines are a small slap on the wrist. They have done little in the past, and they will do little in the future. Fines must be increased for the Commission to be able protect water in a meaningful way. Water is everything. It is our lifeforce. Without it, our islands cannot sustain themselves. We need it now, our children will need it, and our grandchildren will need it.

I ask that the House Committee on Water and Land pass SB 3327, SD1 with one amendment (once again adding HRS 174C-5 (17)).

Thank you for your time,
Emma Palmer

SB-3327-SD-1

Submitted on: 3/11/2024 7:25:40 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Rick Gerding	Individual	Support	Written Testimony Only

Comments:

staff can **focus on implementing the Water Code and uphold the public trust doctrine,**
without fear of political interference or retribution

House Committee on Water and Land

Hearing: March 12, 2024 @9:00 AM

State Capitol Conference Room 430

**Strong Support for SB3327, SD1:
Relating to the Commission on Water Resource Management**

Aloha Chair Ichiyama, Vice Chair Poepoe, and Water and Land Committee Members!

My name is Kekai Keahi and I am a 9th generation Lahaina resident. Like so many others in our community, my ‘ohana and I have toiled for generations to protect and restore our water resources. From interim instream flow standards, to water management area designation, water use permits, and more. We know our wai. The question is: do you know wai?

I am testifying today in strong support of SB3327, SD1. Unfortunately, this bill is vital to both protect our public trust in Hawai‘i’s water resources and restore the public’s trust in the Water Commission. In the wake of the wildfires that ravaged our community, we watched as our legal protections needed their own protection from both the Water Commission’s Chair and the governor. Instead of focusing on our loved ones and rebuilding our homes, in the aftermath of the fires, we had to fly to O‘ahu to testify before the Water Commission to urge Dawn Chang to reinstate Deputy Director Kaleo Manuel, whom she had removed because West Maui Land Company didn’t like that Kaleo did his job and respected the law. And it doesn’t stop there. Those same interests have long ignored and continue to ignore the streamflow minimums that our community and the Water Commission worked so hard to establish. The bottom line is that SB3327, SD1 proposes amendments to free the Water Commission from politicking, while also providing specific tools to address violations of the Water Code and ensure that the water use permitting process underway in Maui Komohana appropriately prioritizes public trust purposes.

Further amendments to SB3327 are necessary to provide the Water Commission with maximum flexibility to supply water for temporary emergency housing in Lahaina so that folks can move off the beaches and into homes. Page 15 of the original version of this bill added section (17) to HRS 174C-5. It was eliminated in the SD1, but we are urging your Committee to please put it back. That amendment would help to resolve the scrap over water for temporary emergency housing in Lahaina, as well as issues around Red Hill, not to mention other emergencies that are likely to arise in the future – especially given the climate crisis.

At the start of this legislative session, we heard a lot about what would be done for Lahaina. I’m sorry to see that after crossover, very few bills remain that would truly help our community. SB3327 is the only one that I am aware of that would make positive changes with respect to our wai and that also has broad based support from our Lahaina community.

We need action today. Please pass a further amended SB3327.

Ola i ka wai!
Kekai Keahi

SB-3327-SD-1

Submitted on: 3/11/2024 8:21:47 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Janik	Individual	Support	Written Testimony Only

Comments:

I fully support "free the water commission" bill.

Richard J JANik, MD

PO Box 1311

Lihue, HI 96766

House Committee on Water and Land
Hearing: March 12 at 9:00AM
State Capitol Conference Room 430
Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Holly Doyle, and I live in Wailupe (‘Āina Haina, O‘ahu, 96821). I’m Representative Mark Hashem’s constituent. I’m testifying today in strong support of SB3327, SD1.

I urge this legislature to **pass SB3327, SD1 and make it effective immediately**. Hawai‘i needs a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever. Hawai‘i is literally burning as a combined result of resource abuse and global warming. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O‘ahu, where the U.S. military’s negligence has compromised our aquifers. Representative Hashem, as a member of the Special Committee of Red Hill, knows this well. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for those displaced by the Lahaina wildfires, Red Hill, and beyond.

The DLNR Chair’s response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management, before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” At the next hearing she shifted her position yet again, opposing even more provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now more than ever. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large, landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our

water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai'i needs this the most.

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. **This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in.** It will benefit communities across Hawai'i, such as those on Maui who desperately need water for temporary emergency housing and those O'ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. **Please help us get our water management back on track and pass SB3327, SD1 today.**

Ola i ka wai!

Holly Doyle
96821

VIA ELECTRONIC DELIVERY

March 12, 2024

House Committee on Water and Land
Hearing: March 12, 2024 at 9:00 AM
State Capitol Conference Room 430 and via Zoom

Re: Testimony in Strong Support of SB3327, SD1: Relating to the Commission on Water Resource Management

Aloha mai e Chairs Ichiyama a me Poepoe, a me nā Members o ka House Committee 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 SB3327, SD1. 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 SB3327, SD1 out of your committees today.

Alongside various community groups, we 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. This bill would be a step in the right direction and hold these companies accountable through increased fines and penalties.

SB3327, SD1 would also prioritize public trust purposes in a meaningful way and separate the Water Commission from politics. 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.

The House actually passed bills with similar language last year – HB153 and HB1088 – that the governor killed. We need it now more than ever. It was supported by the House then, and it must also be supported now. Please kōkua!

I ask that you please pass SB3327, SD1 today.

Me ka ha‘aha‘a,

Kanoelani Steward

SB-3327-SD-1

Submitted on: 3/11/2024 8:28:40 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cassandra Chee	Individual	Support	Written Testimony Only

Comments:

I strongly support SB3327 SD1. Please pass this to protect the wai and the health of all who depend on it.

SB-3327-SD-1

Submitted on: 3/11/2024 8:39:23 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Frederick Reppun	Individual	Support	Written Testimony Only

Comments:

House Committee on Water and Land

Hearing: March 12 at 9:00AM

State Capitol Conference Room 430

Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

*My name is Frederick Reppun, and I live in Kahalu‘u on O‘ahu. I‘m testifying today in strong support of SB3327, SD1. I urge this committee to **pass SB3327, SD1**. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. Throughout my life, my family has been involved in establishing water rights for traditional and customary uses and stream and ocean ecosystems. I remember when water was returned to Waiahole Stream when I was 11 years old--since then I have heard the stories from farmers and fishers about how much healthier the taro became, how much more fish they saw in the stream and estuary. Today, in working for the He‘eia National Estuarine Research Reserve I see how communities around the country are working for the same protections of their freshwater resources. It took years of court battles to protect Waiahole Stream. We need a Water Commission that has the ability to take proactive steps to do the same for the 400 other streams and all other water resources throughout the state. The Commission must have the staffing and legal tools to do its job of protecting public trust resources. Please, pass this bill.*

Mahalo,

Fred

SB-3327-SD-1

Submitted on: 3/11/2024 8:46:04 AM

Testimony for WAL on 3/12/2024 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 Committees,

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 SB 3327, SD1** as it will take the politics out of our water by separating DLNR from the Commission on Water Resource Management (“CWRM”), and by holding legacy diverters accountable for mismanagement of our wai.

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 have been 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 organization of CWRM allows the Governor to manipulate the Commission to push his own political agenda. I urge this committee to **pass SB 3327, SD1** to put an end to the political games and actually kako‘o Lahaina.

I also recommend that the committee **amend SB 3327, SD1 to include the provision originally drafted (Section 6, SB3327) that would add a subsection 174C-5(17) relating to emergency powers to our Water Code.** As we have seen in Kapūkakā and Lahaina, CWRM needs to have the ability to declare emergencies without first declaring a water shortage. The Commission needs to be able to act preemptively in declaring water emergencies and addressing the effects of climate change, and be able to react swiftly to unexpected disasters. Specific to the problems currently faced by Lahaina, this provision would allow CWRM to more quickly authorize water for temporary emergency housing.

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 support SB 3327, SD1** so CWRM can do its job as kahuwai pono.

Mahalo for the opportunity to testify.

Ola i ka wai!

SB-3327-SD-1

Submitted on: 3/11/2024 8:50:52 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Madison Owens	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Madison Owens, and I live in Manoa, Oahu. I'm testifying today in strong support of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair's response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be "thoughtful and not reactionary." Now, she has changed her position yet again and is opposing even more of the bill's provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review

Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Madison Owens



Restore the Commons

Tuesday, March 12, 2024, 9:00 am

House Committee on Water and Land

SENATE BILL 3327 – RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

Position: Oppose

Me ke Aloha, Chair Ichiyama, Vice-Chair Poepoe, and Members of the House Committee on Water and Land:

Amending the Water Code is fraught with limited perspectives. The original Water Code was drafted by a composite of different experts. It took ten whole years for competing perspectives to resolve a holistic view of water management issues. Since then, a number of contested cases have sharpened our view of how to use and interpret it. There is a risk of amending the Water Code as if it were solely a legal or political document (as opposed to encompassing ecological, hydrological, and cultural dimensions). A single profession sees only its own image, as a hammerer sees only nails. We have seen this problem rear its head under recent administration, which abandoned time-honored and thoroughly vetted principles of administration in favor of personal agendas. It is an appropriate time to look more closely at improving the choice of administrators. Statutory changes may be unnecessary and create new problems.

One of the beauties of the Water Code experience to date, in view of the famous dictum “water is for fighting”, is that policy flexibility and programmatic, administrative flexibility have enabled the Water Commission to adapt to ripening understandings of the values, uses, protections, and priorities of water, and the appropriate means to adjudicate conflicts. The early Commissions, administrators, and staff were drawn from a wide variety of backgrounds, working in concert to produce progressive results in typically complex cases, which of course have perpetually been dissatisfying to loud voices of opinion. As another saying has it, making every competing voice a little unhappy means you’re probably getting it right from an overall perspective.

Early Commissioners, administrators, and staff have been rightfully wary of powerful, too-smart people from one field or another coming up with “brilliant” suggestions to “fix” the Water Code. The inevitably incomplete Code has provided for numerous contested cases to improve its application to water resource challenges, welcoming Supreme Court rulings that interpreted situations according to real life conditions rather than hypothetical or presumptuous judgment. It has been interesting to read critiques of this situation from different viewpoints as if the Commission has repeatedly failed, when in fact the opposite is true – flexibility and adaptability has been its strength.

SB3327 must be viewed through this lens. Beware of one who thinks its ox is being gored, who has an axe to grind, particularly as they rarely reflect experience in administering a program, but of course favor one range of solutions over another. Every perspective is tantalized by the prospect of tweaking the Code in their direction. Can wiser heads prevail?

It seems sorely tempting to want the Code to be more definitive by one’s own lights, when its broadness and administrative awkwardness has been a saving grace, allowing an evolving world of decision-makers to shape water policy according to actual and unique, not theoretical conditions. Do we really want a more independent, authoritarian structure to narrow the Code’s flexibility and adaptability? Do we distrust the access of competing voices and the achievement of balancing science and culture?

SB3327 alters the organizational structure to create a more strong-armed authority where what has been needed over 30 years of competing interests is akamai, flexible administration devoted to wending through difficult processes to achieve better clarity, specificity, applicability, and management. Some must be getting impatient or pecunious.

“Efficiency” is an easily misguided term. Making the Code actually work in real life turns out to be an administrative chore, not simply a legal proposition. Purely legal council has ignored key issues in past disputes, leading to incomplete results. Diverse staff should be incorporated into dispute proceedings to assure that complex scientific and administrative dimensions are addressed. As is becoming a familiar case, lack of adequate staffing is a matter of nickel-and-dimeing important issues to unsatisfactory *in*conclusion for all considered. Adequate staffing, not just in numbers but in deep background and administrative experience, is the key to more efficient performance.

“Experienced leadership” is a loaded phrase. Over the years, the Commission has been blessed with experience of all kinds, reflecting and respecting different expertise and wisdom. Sometimes it seems that the impatient prefer “experienced manipulation”. Crises tend to bring out the worst in manipulative expedience when what it is truly needed is better listening and more humility. Competition ultimately needs to give way to collaboration, with earnest heads understanding the need for decisiveness amid inclusiveness. This kind of leadership seems harder to come by than drum-thumping “leaders” on a mission.

SB3327 also desires statutory language on declaring emergencies, but the Water Code already has administrative rules for it, duly approved through a public process, in virtually the same language.

Another questionable proposal is to give priority to public trust uses of water. This will inevitably prevent timely action on a host of simpler matters. Requiring separate proceedings interrupts the flow of work, creating unnecessary obstructions. Someone’s “theory” misses administrative reality.

Many of us have been appropriately wary of messing with such a precariously balanced, determinative agency. SB3327 seems like a shot in the dark by disgruntled players who actually don’t know how to administer a difficult program. We hope cooler heads will prevail.

Mahalo for the opportunity to address this issue,

/s/ Charley Ice, Hydrologist (retired), Commission on Water Resource Management (25 years)

SB-3327-SD-1

Submitted on: 3/11/2024 8:57:01 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brent Nagami	Individual	Support	Written Testimony Only

Comments:

House Committee on Water and Land

Hearing: Tuesday, March 12 at 9:00 am

State Capitol Conference Room 430

Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Brent Nagami, and I live in Mililani Mauka, Hawai'i. I'm testifying today in strong support of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair's response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls

for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, she has changed her position yet again and is opposing even more of the bill’s provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Brent Nagami

SB-3327-SD-1

Submitted on: 3/11/2024 8:57:53 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Paanaakala	Individual	Support	In Person

Comments:

House Committee on Water and Land

Hearing: March 12 at 9:00AM

State Capitol Conference Room 430

Strong Support for SB3327, SD1: Relating to the Water Commission

Ke aloha nō e Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members. My name is Pā'anaakalā Baybayan Tanaka, and I live in Wailuku, Maui. I'm testifying today in strong support of SB3327, SD1.

I implore this legislature to pass SB3327, SD1 and make it effective now. Our Water Commission must have the autonomy to take proactive steps to manage our invaluable wai. The recent Lahaina wildfires are a clear example of the combined result of resource abuse and global warming. Whether on Maui where water has been diverted from our streams, or Oahu where the aquifer has been poisoned by the militaries' fuel leaks there is not enough freshwater to sustain local families. This bill will help the Commission to do their job and hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for those displaced by the Lahaina wildfires, Red Hill, and beyond.

We have called for and continue to call for ke kahuwai pono. The current commission's actions under the DLNR Chair's response by changing the provisions shows that politics has greater importance than ensuring that our water resource is protected.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB1088 – that the governor killed. We needed the support provided by

SB3327, SD1 in the early 1990s, we needed it last year, and we need it now more than ever. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

Pā‘anaakalā Tanaka

SB-3327-SD-1

Submitted on: 3/11/2024 9:07:01 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Thal	Individual	Support	Written Testimony Only

Comments:

I strongly support SB3327.

Mahalo

SB-3327-SD-1

Submitted on: 3/11/2024 9:18:03 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michele Harman	Individual	Support	Written Testimony Only

Comments:

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

My name is Michele Harman and I STRONGLY SUPPORT SB3327 SD1.

It is critical that our wai be managed as a public trust resource that is protected from politics and corporate interests. By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations.

I strongly and respectfully request that the Committee PASS this measure. Mahalo nui for the opportunity to testify. Aloha, michele

SB-3327-SD-1

Submitted on: 3/11/2024 9:18:22 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nancy Hall	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill

SB-3327-SD-1

Submitted on: 3/11/2024 9:25:11 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert Douglas	Individual	Support	Written Testimony Only

Comments:

Strongly support

Bob Douglas

Hilo, HI

SB-3327-SD-1

Submitted on: 3/11/2024 9:26:25 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Julie Stowell	Individual	Support	Written Testimony Only

Comments:

Please support SB3327 SD1. The Water Commission should be able to uphold the public trust doctrine with out fear of political interference or retribution.

Mahalo

Julie Stowell

SB-3327-SD-1

Submitted on: 3/11/2024 9:34:19 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
John NAYLOR	Individual	Support	Written Testimony Only

Comments:

Aloha,

Please uphold the public trust doctrine.

Mahalo,

JN Makawao

SB-3327-SD-1

Submitted on: 3/11/2024 9:41:37 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sven Sorge	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration. Ola i ka wai!

SB-3327-SD-1

Submitted on: 3/11/2024 10:09:41 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Riley Bond	Individual	Support	Written Testimony Only

Comments:

Chair and Members of the Committee,

As a resident of Lahaina, a place deeply impacted by the mismanagement of water resources, I am writing to express my strong support for S.B. NO. 3327. This bill, which aims to enhance the Commission on Water Resource Management's ability to effectively steward our precious water resources, is critical for safeguarding our environment and ensuring the well-being of our community for generations to come.

The urgency of addressing these challenges cannot be overstated, especially in the face of the climate crisis and post Lahaina fires, which exacerbates existing water resource issues.

S.B. NO. 3327 addresses these pressing concerns by establishing a clear public trust purpose for the Commission on Water Resource Management, allowing it to retain independent legal counsel, and defining public trust purposes of the commission. These measures will provide greater accountability and protection for our state's waters, ensuring that decisions regarding water use prioritize the common good over individual interests. This bill enhances the composition of the Commission on Water Resource Management, ensuring that it includes individuals with substantial experience in water resource management, traditional Hawaiian water management techniques, and riparian usage. This diverse representation will bring valuable perspectives to the decision-making process, fostering more holistic and equitable water management strategies.

In conclusion, I urge the legislature to pass S.B. NO. 3327. By strengthening the Commission on Water Resource Management and promoting sustainable water practices, we can preserve our precious water resources for future generations and safeguard the natural landscape and resilience of our islands. Thank you for considering my testimony in support of this critical bill.

Sincerely,

Riley Bond

SB-3327-SD-1

Submitted on: 3/11/2024 12:03:40 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Malia Taylor-Wolfe	Individual	Support	Written Testimony Only

Comments:

House Committee on Water and Land

Hearing: Tuesday, March 12 at 9:00 am

State Capitol Conference Room 430

Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Malia Taylor-Wolfe, and I live in Honolulu, HI. I'm testifying today in **strong support** of SB3327, SD1.

We urge this legislature to **pass SB3327, SD1 and make it effective immediately**. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

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for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be “thoughtful and not reactionary.” Now, she has changed her position yet again and is opposing even more of the bill’s provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our ‘āina. The Commission’s constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai‘i needs this the most.

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. **This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in.** It will benefit communities across Hawai‘i, such as those on Maui who desperately need water for temporary emergency housing and those O‘ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. **Please help us get our water management back on track and pass SB3327, SD1 today.**

Ola i ka wai!

Malia Taylor-Wolfe

SB-3327-SD-1

Submitted on: 3/11/2024 12:11:08 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Glenn Choy	Individual	Support	Written Testimony Only

Comments:

I urge passage of this bill, for the good of hte land and its people

SB-3327-SD-1

Submitted on: 3/11/2024 12:16:27 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Janice Palma-Glennie	Individual	Support	Written Testimony Only

Comments:

aloha,

Please help insure that the Water Commission upholds the Public Trust Doctrine by supporting this bill. Citizens need to know that Water Commission staff can focus on implementing the Water Code without fear of political interference or retribution.

Mahalo and sincerely,

janice palma-glennie

kailua-kona

SB-3327-SD-1

Submitted on: 3/11/2024 12:21:14 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Konia Freitas	Individual	Support	Written Testimony Only

Comments:

Senate Committee on Ways and Means; and Senate Committee on Judiciary

Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Konia Freitas and I live in the ahupua‘a of Hālawā on O‘ahu island. I’m testifying today in strong support of SB3327, SD1. The time is now to free the Water Commission. This long overdue bill ensures that the Water Commission and its staff can **focus on implementing the Water Code and uphold the public trust doctrine**, without fear of political interference or retribution.

Do what is right for the wai and our ‘āina and not profiteering land developers, tourism industry hacks, or powerful landowners, like the US military (who have a record of destroying with impunity the precious resources of Hawai‘i nei). Support SB3327 SD1.

Thank you,

Konia Freitas, PhD

To: House Committee on Water and Land
RE: Testimony in support of SB3327, SD1: Relating to the Water Commission
Date: March 11, 2024

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Candace Fujikane, and I live in Kāneʻohe. I'm testifying in strong support of SB3327, SD1. I am an English professor at the University of Hawai'i where I teach my students about struggles to protect lands and waters in Hawai'i, and in my ENG 388 "Literature and the Environment" course, we are closely following the movement of SB3327, SD1. Many of my students are interested in law and will go on to work in legal arenas involving environmental justice.

I urge you to support SB3327, which will implement measures recommended by the 1994 Review on the Commission on Water Resources Management.

**The Review Commission's recommendations for improving the Code emphasized:
1. Reorganizing the administrative structure of the Commission on Water Resource Management to ensure independence from the Department of Land and Natural Resources**

CWRM was established under Article XI, section 7 of the Hawaii State Constitution within the Department of Land and Natural Resources (DLNR). The Review Commission found that CWRM required increased independence from DLNR to protect and manage water for the use of all residents of Hawai'i.

Why has this recommendation not been implemented?

I was one of the hundreds of people who gave testimony for twelve hours at the September 19, 2023 CWRM meeting demanding the reinstatement of Deputy Director Kaleo Manuel, who had been wrongly accused of denying the people of Lahaina water they needed for the August wildfires, and was "redeployed" without an investigation. The public is well aware of the political nature of that "redeployment" of Manuel by the Chair of BLNR. The public learned about the corporate attempts of West Maui Land Company to take down newly established June 2022 Water Management Area protections for Maui Komohana by suggesting that kuleana land holders and Water Commission Deputy Director Kaleo Manuel were at fault for preventing water from being used to fight the fire. The public now knows that this is false. Kaleo Manuel was targeted by developers precisely because of his pono leadership. During the fires, water diverters in multi-million dollar homes filled their pools, and reservoirs and the streams ran dry, leaving kuleana landholders vulnerable to the fires.

When the DLNR Director "redeployed" Manuel, the public immediately saw the political nature of that decision, and it underscores the need for CWRM to have its own Executive Director with greater autonomy. In that moment, DLNR lost the public trust, and we see how vulnerable CWRM is to political interests of the wealthy.

Residents of Lahaina flew to O‘ahu to ask that DLNR reinstate Manuel at a time when they were still grieving for their loved ones and the homes and trying to figure out how they would survive. It was unthinkable that they had to fly at that time to O‘ahu, burdened with a kuleana of protecting Manuel, a man of integrity who had been wrongfully removed from his position. They should not have had to go to such extremes to protect the autonomy of the Water Commission.

Our Water Commission should not be hindered or influenced by this kind of politicking. The people of Maui Komohana cannot focus the water issues that directly affect their communities if CWRM is under constant threat by the BLNR chairperson and the influence of the governor. As the system is set up now, the Governor appoints the Board of Land and Natural Resources Chairperson who chairs the Water Commission. In addition, the Attorney General who provides legal advice to the Water Commission is also a Governor appointee. As we have seen, those with influence over the Governor, including corporations who engage in water banking, have obstructed the work of the Commission.

SB3327 will do the right thing by enabling the Commission to choose its own Chair, select its own executive director, and retain its own legal counsel. This measure will ensure that the CWRM Director can make decisions that will benefit all people in Hawai‘i without fear of political retribution.

I urge you to support SB3327.

Candace Fujikane
Professor of English
University of Hawai‘i

SB-3327-SD-1

Submitted on: 3/11/2024 12:57:46 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Teri Corpuz	Individual	Support	Written Testimony Only

Comments:

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

My name is Teri Corpuz and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/11/2024 1:13:28 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mariko Whitenack	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou! My name is Mariko Whitenack and I am a resident of Kaimukī. I STRONGLY SUPPORT SB3327 SD1.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327-SD-1

Submitted on: 3/11/2024 1:16:10 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gretchen Losano	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

Please support SB3327, SD1. This bill is incredibly important for responsible management of our wai, particularly for Maui Komohana, as we move forward after the fires.

It is really important for CWRM to function as an independent entity, as well as to be able to increase fines for water code violations. We are at a critical juncture in west Maui, where we really need to pivot the way our most precious resource is managed. We need to be able to rely on CWRM to not be susceptible to deep pockets and independent interests.

Please support this bill.

Mahalo Piha,

Gretchen Losano

Lahaina, Maui

SB-3327-SD-1

Submitted on: 3/11/2024 1:45:54 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Linda Char	Individual	Support	Written Testimony Only

Comments:

I strongly support this legislation!

Please pass this into law, allowing our water commission to function freely and for the good of the people and the land.

SB-3327-SD-1

Submitted on: 3/11/2024 1:51:08 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Clemens Mayer	Individual	Support	Written Testimony Only

Comments:

My name is Clemens Mayer and I STRONGLY SUPPORT SB3327 SD1.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to PASS this measure. Mahalo nui for the opportunity to testify.

House Committee on Water and Land
Hearing: March 12, 2024 @ 9:00 AM
State Capitol Conference Room 430
Strong Support for SB3327, SD1: Relating to the Water Commission

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

My name is Charlie Palakiko and I am a kalo farmer in Kaua'ula Valley. My 'ohana have been stewards of 'āina kuleana in Kaua'ula for generations, and we have worked tirelessly to restore wai and waiwai to this 'āina since the plantations shut down. In that time, I have experienced first hand how politics continue to influence our water policy at the expense of our community, our environment, and our wai. **Mahalo for this opportunity to testify today in strong support of SB3327, SD1.**

Our community in Maui Komohana fought hard to get the Lahaina Aquifer designated as a water management area because we believe in the Water Code. We also believed in the integrity of CWRM and in its ability to enforce the code in its role as ke kahuwai pono. But what we have experienced in the 18 months since designation is more of the same, profit-over-people approach to water management that we have been dealing with for years. Under the current system, with CWRM under DLNR control, us kalo farmers and true domestic users are at the bottom. We are the first ones to get our water shut off. We are the ones who have to constantly fight for our rights to water with the private diverters upstream. Our lo'i and streams run dry before their swimming pools ever do. And last summer, after the fires, we were the ones who got blamed. Not the plantations and land companies who dried out Lahaina by diverting water for the last 150 years, but us, the kalo farmers who have only ever advocated for the restoration of our wai and the health of our 'āina.

In the time when Maui Komohana most needed the State's support, the Governor and the DLNR sided with the diverters. They bought into the false narrative being pushed by West Maui Land Company that somehow consideration for downstream users and restrictions imposed by the Water Code resulted in insufficient water for fire suppression. Even worse, the media ran with the Governor's comments to paint the kanaka deputy director of CWRM and kalo farmers like me as criminals. The Governor suspended the Water Code and DLNR removed the CWRM deputy director without cause or explanation. And even after hundreds of our community put their recovery on pause to fly to O'ahu and advocate for our wai, all we got was a reset to the status quo. Still yet, nothing has been done to repair this harm. Our water use permit applications sit in limbo, the IIFS for Kaua'ula Stream continues to be violated, and I still worry if I will have enough water to wash my keiki, grow my kalo, and fight the next fire when it comes.

I support **SB3327, SD1** as a necessary measure to provide CWRM with the independence and authority needed to implement the Water Code as the legislature intended. An independent CWRM, under the direction of an Executive Director not beholden to DLNR, would be empowered to deliver on the Commission's constitutional and statutory obligations to protect and manage Hawai'i's wai for the benefit of the people. This bill would give CWRM a real means of enforcement against the true violators of the Water Code, the ones who take and then take more until there is nothing left.

The House actually passed bills with similar language last year – HB153 and HB1088 – that the governor killed. We need it now more than ever. It was supported by the House then, and it must also be supported now. Please kōkua!

Please **vote today in support of SB3327, SD1**. Take the politics out of our streams, out of our lo'i, and out of our water policy. Our community should no longer have to bear the burden of enforcing the Water Code. I ask that you give CWRM the tools it needs to protect our wai, and allow our community the space and peace of mind we need to heal.

Mahalo and ola i ka wai!

Charlie Palakiko

House Committee on Water and Land
Hearing: March 12, 2024 @ 9:00 AM
State Capitol Conference Room 430
Strong Support for SB3327, SD1: Relating to the Water Commission

Aloha 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 this opportunity to testify today in strong support of SB3327, SD1.**

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.

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. **SB3327, SD1** provides 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. **SB3327, SD1** will improve compliance with the Water Code by enabling CWRM to impose meaningful fines and penalties, especially for repeat offenders.

The House actually passed bills with similar language last year – HB153 and HB1088 – that the governor killed. We need it now more than ever. It was supported by the House then, and it must also be supported now. Please kōkua!

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. We ask that this legislature **please vote today in support of SB3327, SD1**. 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

SB-3327-SD-1

Submitted on: 3/11/2024 2:57:11 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jordan Kapono Nakamura	Individual	Support	Written Testimony Only

Comments:

My name is Jordan Kapono Nakamura, a kama'aina worker, and I support this bill.

SB-3327-SD-1

Submitted on: 3/11/2024 4:12:02 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes to “Free the Water Commission” bill ensuring that the Water Commission and its staff can focus on implementing the Water Code and uphold the public trust doctrine, without fear of political interference or retribution

SB-3327-SD-1

Submitted on: 3/11/2024 4:55:53 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Barry	Individual	Support	Written Testimony Only

Comments:

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

As a small organic farmer in Ha'ikū, Maui, I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

Drought conditions and water restrictions are becoming a regular occurrence, we must protect our Wai , it's a very precious resource.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that shamefully continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure.
Mahalo nui for the opportunity to testify.*

Mahealani Cypher
P. O. Box 4749, Kaneohe, HI 96744
(808) 226-4195
malamapono744@aol.com
March 11, 2024

March 11, 2024

To: Rep. Linda Ichiyama, Chair
Rep. Mahina Poepoe, Vice Chair
& Members, Committee on Water & Land

From: Mahealani Cypher
Community Advocate

Re: S.B. 3327, S.D. 1 – RELATING TO THE COMMISSION
ON WATER RESOURCE MANAGEMENT - SUPPORT

Aloha Chair Ichiyama, Vice Chair Poepoe and Committee Members:

I offer my strong support for Senate Bill 3327, Senate Draft 1, which would reorganize the State Water Commission into a semi-autonomous agency charged with safeguarding the water resources of our islands.

I worked for the Honolulu Board of Water Supply for over 25 years as their community relations chief, during which I learned its history and experienced the many challenges that our water officials encountered, particularly when it came to difficult, politically-motivated influences. Former Mayor Jeremy Harris was a case in point. He tried to dismantle the BWS so that he could use its finances to fund his special projects - it was a terrible challenge that, thankfully, we employees were able to persuade the City Council to block it.

More recently, the dispute over the past few years over Red Hill water contamination brought pressures from the city administration to dissuade BWS water manager Ernie Lau from taking issue with the Navy's handling of the threats of fuel leaking into the Pearl Harbor aquifer.

Were it not for the fact that BWS is a semi-autonomous body, Ernie could have been ordered to stay silent about Red Hill.

That's the benefit of having our water agencies function a little more independently.

And why I am strongly urging you, as members of the House Water/Land Committee, to add your support - and the support of your colleagues at upcoming hearings on this bill - to approve this bill and move it forward. Mahalo for your consideration of my mana`o.

HOUSE COMMITTEE ON WATER AND LAND

March 12, 2024, 9:00AM

State Capitol Conference Room 430

TESTIMONY IN SUPPORT SB3327 Kumu Hula Victoria Holt Takamine

Aloha Chair Ichiyama, Vice Chair Poepoe, and House Committee on Water and Land Members:

My name is Victoria Holt Takamine. I wear many hats in our kaiāulu: I am a Kumu Hula of Pua Ali'i 'Ilima having graduated through the 'uniki rituals of hula from Maiki Aiu Lake. I am also active with a myriad of organizations dedicated to protecting Native Hawaiian culture, customs, resources, and people. In addition, I am a founding member of 'Īlio'ulaokalani, a coalition of traditional practitioners who rallied to protect our Native Hawaiian customs and traditions from legislative action over twenty years ago. I have kept a close eye on the Water Commission in recent years because their work is critical to our future in these islands.

I am in strong support of SB3327, SD1 and suggest additional amendments.

This bill takes politics out of our water management by separating the administration of the Commission on Water Resource Management (Water Commission) from the Board of Land and Natural Resources (BLNR), and removing the Department of Land and Natural Resources (DLNR) influence over Water Commission staff. It also helps ensure the Water Code is upheld by defining the public trust and authorizing stiffer penalties for violations.

After wildfires devastated Lahaina in August 2023, influential landowners wasted no time grabbing Maui's water resources... and they didn't stop there. After private companies falsely accused Water Commission Deputy Kaleo Manuel of failing to let firefighters access stream water to battle the fires, they appealed to DLNR's Chair for immediate action. She removed Deputy Manuel without explanation or notice to the Water Commission.

This unilateral decision was strongly opposed, both by those in Lahaina and by community members across Hawai'i, including myself. Hundreds of people supported Kaleo's reinstatement, and a Water Commission meeting held on September 19, 2023 lasted for nearly 12 hours, with a constant stream of testifiers asking the Commission to reinstate Kaleo. I believe I testified about nine hours after the meeting started. This meeting ended with DLNR's Chair claiming that it was her call, not the Commission's, to reassign the Deputy Director. This unilateral "re-deployment" eviscerated the public's trust in the DLNR Chair and the obvious influence of big business on our government officials. This has undermined years of progress and good governance by the Water Commission and questions the future of our natural and cultural resources.

Passing SB3327 SD1 is critical to restore the public's faith in the Commission. I urge your Committee to go a step further and restore the Emergency Powers section of the original bill that was previously removed. This authority in particular is key to ensuring that our water is properly managed through the uncertainty of this age of climate chaos.

Granting the Water Commission emergency powers is a no brainer. The Legislature already granted this authority – at the Green Administration's behest, only to have it vetoed by the same Administration, again without a meaningful explanation – because we learned through the Red Hill water crisis that the Water Commission could fulfill its mission better with more explicit emergency powers.

Indeed, if the Green Administration had allowed HB1088 to become law last year, then the Water Commission would have the ability today to directly assist the Lahaina community with critical water infrastructure decisions in support of temporary housing in Maui Komohana. The Water Commission is the proper entity to make the highly technical decisions quickly about how to best meet water needs in an emergency, while also avoiding unintended negative consequences for water needs in the future. Please let Lahaina be the last community in Hawai'i to have to demonstrate the importance of having a Water Commission fully empowered to make urgent, well-informed decisions about water resources, and sufficiently shielded from the influence of special interests to fulfill its mission.

Because we all want a water management system that ensures the Water Code applies equally and equitably to everyone – no special treatment. Accomplishing this goal means politics must be removed from water policymaking. **Please pass SB3327 with amendments.** Mahalo for this opportunity to testify.

SB-3327-SD-1

Submitted on: 3/11/2024 7:41:03 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Noelle Lindenmann	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Inouye and Wakai and Honorable Committee Members,

I am testifying in strong support of SB3327 SD1 which will finally implement decades-long recommendations to try to minimize political influences on our Water Commission. It will also enable the CWRM Commissioners and their staff to focus on their important duties instead of responding to political maneuvering.

We unfortunately witnessed the worst kind political influence and attempted water grabs in the aftermath of the Lāhainā fires. Wealthy developers seeking water for luxury developments, using the cover of the recent disaster, engaged in a damaging misinformation campaign that was parroted in both local and national media. This misinformation campaign led to the temporary revoking of the water code, threats of undoing the hard won Maui Komohana water management area and the unwarranted scapegoating and reassignment of then Deputy Director Manuel.

It was only after massive outcry from a still grieving community that the administration walked back its suspension of the water code, threats to undo the water management area and reassignment of former Deputy Director Manuel. This kind of politicking placed an additional burden on an already traumatized community by forcing them to defend a ground and surface area water management they already fought decades to enact. Despite just losing homes and loved ones, hundreds of displaced Lāhainā residents took time while still grieving and flew to another island multiple times to defend their water rights and an unfairly scapegoated Deputy Director. No community should ever be put in this position.

Increased fine limit provides the necessary power to dissuade private interests from repeatedly taking more water than allowed and overstressing aquifers.

SB3327 SD1 also provides CWRM the appropriate authority to take action in the case of an emergency, which it has not been the case to date.

Please support SB3327 SD1. It is an important measure to restore trust in the State Commission on Water Resources, and to ensure it can exercise it's constitutional and statutory duties to uphold Hawai'i's water code and protect our precious public trust water resources free from political influence.

Mahalo for your consideration.

Noelle Lindenmann, Kailua-Kona

SB-3327-SD-1

Submitted on: 3/11/2024 7:53:13 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Isis Usborne	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama, Vice Chair Poepoe, and Honorable Committee Members,

My name is Isis Usborne, and I live on Kapahulu Ave. in zip code 96815. I'm testifying today in strong support of SB3327, SD1.

We urge this legislature to pass SB3327, SD1 and make it effective immediately. We need a Water Commission that is empowered to take proactive steps to manage our precious wai. This is true now more than ever as Hawai'i is literally burning as a combined result of resource abuse and global climate change. There is not enough freshwater to sustain local families, whether that is on Maui, where large corporate diverters have sucked the streams dry, or O'ahu, where the U.S. military's negligence has compromised our aquifers. Importantly, this bill will help the Commission hold violators accountable. It will also allow the Commission to be more responsive in times of emergency, including with temporary housing for Maui fire victims, Red Hill, and beyond.

The DLNR Chair's response to this bill is emblematic of the political whiplash that has paralyzed our water policy, particularly in the wake of the Maui fires. Even as many of us continue to appear before the Commission and this legislature in unified support of proactive management before and after the fires, Chair Chang continues to undermine our repeated calls for ke kahuwai pono. After submitting written testimony in support of restructuring the Commission, 24 hours later, Chair Chang backpedaled on her position. She cautioned committee members to be "thoughtful and not reactionary." Now, she has changed her position yet again and is opposing even more of the bill's provisions.

SB3327, SD1 is thoughtful. It will better equip the Water Commission to respond to the devastating wildfires, to Red Hill, and to similar water emergencies in the future. And while SB3327, SD1 is responsive to current water crises, it is not reactionary. Actually, a Review Commission assembled by the legislature offered many similar recommendations in the early 1990s. SB3327, SD1 implements the original intent of the Water Code when this legislature first passed the Water Code 37 years ago. But, these old agreed-upon ideas have modern support as well. The House actually passed bills with similar language last year – HB 153 and HB 1088 – that the governor killed. We needed the support provided by SB3327, SD1 in the early 1990s, we needed it last year, and we need it now. It was supported by the House then, and it must also be supported now. Please kōkua!

Today, the military and other large landed interests continue to exert outsized influence on our water policy to the detriment of our communities, our streams, and our 'āina. The Commission's constitutional mandate has always been to protect and manage our water resources for the benefit of present and future generations. The amendments proposed in SB3327, SD1 have the potential to bring the law to life at a crucial point in our history and when Hawai'i needs this the most.

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. This bill is a necessary step towards evolving our government to meet the demands of the climate emergency we are now living in. It will benefit communities across Hawai'i, such as those on Maui who desperately need water for temporary emergency housing and those O'ahu whose water supplies have been poisoned by Red Hill.

The Water Commission needs to be able to act. Please help us get our water management back on track and pass SB3327, SD1 today.

Ola i ka wai!

- Isis Usborne, 96815
Student at the William S. Richardson School of Law

SB-3327-SD-1

Submitted on: 3/11/2024 8:16:11 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Raelyn Reyno Yeomans	Individual	Support	Written Testimony Only

Comments:

I am in Support. Thank you!

SB-3327-SD-1

Submitted on: 3/11/2024 8:29:03 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Keri Zacher	Individual	Support	Written Testimony Only

Comments:

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

My name is Keri Zacher and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327-SD-1

Submitted on: 3/11/2024 8:30:56 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
malcolm mackey	Individual	Support	Written Testimony Only

Comments:

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

My name is Malcolm Mackey and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

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Accordingly, I respectfully urge the Committee to PASS this measure. Mahalo nui for the opportunity to testify.

SB-3327-SD-1

Submitted on: 3/11/2024 8:55:30 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Breanne Fong	Individual	Support	Written Testimony Only

Comments:

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

My name is Breanne Fong, and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our pae 'āina as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.

SB-3327-SD-1

Submitted on: 3/11/2024 9:47:40 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Fehren Jones	Individual	Support	Written Testimony Only

Comments:

Protect our most valuable resource, water.

SB-3327-SD-1

Submitted on: 3/11/2024 10:26:41 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Peter Wilson	Individual	Support	Written Testimony Only

Comments:

My name is Peter Wilson and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/11/2024 10:31:34 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Bo Breda	Individual	Support	Written Testimony Only

Comments:

My name is Bo Breda and I STRONGLY SUPPORT SB3327 SD1, to secure a just and resilient future for our water resources and by extension, our islands as a whole.

As our climate crisis inevitably worsens, and our water resources become ever more scarce, it is critical that our precious wai is managed as a public trust resource, as envisioned in our Constitution and Water Code - and protected from the legacy of corporate water hoarding and waste that continues to this day.

Unfortunately, longstanding political vulnerabilities have hampered and will continue to hamper the Water Commission in its work to implement our Water Code and uphold the public trust in our water resources. Currently, a Governor appointee - the Board of Land and Natural Resources Chairperson - chairs the Commission. Another Governor appointee, the state Attorney General, is the sole entity allowed to provide the Commission with legal advice. This has raised and continues to raise serious concerns regarding politically connected special interests influencing the Governor and his appointees, to impede the work of the Commission and its staff.

By requiring the Commission to choose its own Chair, select its own executive director, and allowing it to retain its own legal counsel, this measure will provide important layers of political insulation that the Commission will need to fulfill its critical mission in a meaningful and timely manner. These provisions, as well as a performance review process to ensure an objective, apolitical basis for staff employment decisions, would also allow Commission staff to fulfill their constitutional and statutory obligations without the fear of political retribution.

*Accordingly, I respectfully urge the Committee to **PASS** this measure. Mahalo nui for the opportunity to testify.*

SB-3327-SD-1

Submitted on: 3/11/2024 11:52:05 PM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sancia Miala Shiba Nash	Individual	Support	Written Testimony Only

Comments:

Aloha Committee members,

I'm in support of SB 3327. It's important that decisions around wai are made in the interests of the public and our future generations. NOT controlled and influenced by wealthy private interests.

In addition, the U.S. Navy has an annual budget of 245 billion dollars, and they need to be penalized for polluting our wai.

Mahalo,

SB-3327-SD-1

Submitted on: 3/12/2024 4:15:56 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cedar Wilson	Individual	Support	Written Testimony Only

Comments:

Aloha kakou,

My name is Cedar and I'm writing you today to vocalize my support for SB3327 SD1 in regards to holding the military accountable for contaminating our wai and adding emergency powers to the water commission. This bill is critical because it'll help better insulate the Water Commission from influences of the rich and imperialist, all of this being in the best interest of our communities. Water is life and I'm so sick and tired of our communities having to suffer from the hands of U.S. imperialism and their wrecklessness with all forms of life. Increasing penalties to actually deter them from poisoning our water and lands and people even more has never been more important.

Mahalo for your consideration,

Cedar

SB-3327-SD-1

Submitted on: 3/12/2024 8:30:27 AM

Testimony for WAL on 3/12/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jackie Keefe	Individual	Support	Written Testimony Only

Comments:

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

My name is Jackie Keefe and I am a resident of Lahaina. I am writing in support of SB3327 SD1 with comments.

Lahaina and the pae 'aina desperately needs CWRM to be split from DLNR and to have it restructured. I am wholeheartedly in support of this.

What brings me hesitancy is the proposed structure of CWRM. The power is disproportionately put in the hands of the Governor. The Governor is set to select all members of the commission from a nominating committee *and* gets to choose 2 of the 4 people who make up the nominating committee. Unpaid boards are a dangerous thing in Hawai'i, since it limits those who could participate to afford to dedicate substantial time to unpaid work.

There should be a more democratic process as to who is able to apply for nomination and/or who selects the nominating committee.

I'd also like to ask that the verbiage on page 20, line 4 be amended from "may enforce" to "shall enforce."

Thank you for your consideration.

Jackie Keefe