

From: [Fujii, Neal D](#)
To: [DBEDT LUC](#)
Cc: [Chang, Dawn](#); [Manuel, Kaleo L](#); [Kaakua, Laura](#); [Kealalio, Kanani](#); [Kaaa, Iwalani HR](#)
Subject: Testimony LUC Agenda Item IV November 15, 2023
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Attachments: [Testimony LUC 20231115 Item IV.docx](#)



Aloha,

Please find attached the testimony of Commission on Water Resource Management Chairperson Dawn Chang on LUC Meeting Agenda Item IV, November 15, 2023.

Mahalo,

Neal Fujii
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STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
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Testimony of
DAWN N. S. CHANG
Chairperson

Before the Land Use Commission

November 15, 2023
10:00 AM

Leiopapa A Kamehameha, State Office Tower, Room 405
235 S Beretania Street, Room 405, Honolulu, HI 96813



In consideration of Agenda Item IV. DISCUSSION OF PROPOSED RULE AMENDMENTS TO THE LAND USE COMMISSION ADMINISTRATIVE RULES CHAPTER 15-15

The Commission on Water Resource Management (CWRM) is providing written testimony on portions of the proposed rule amendments to Land Use Commission administrative rules Chapter 15-15, in Section 15-15-50, subsection (c), paragraph (13); and Section 15-15-90, subsection (e), paragraph (9).

While we understand the importance and need to coordinate water and land use planning, policies, and decisions, it is problematic for CWRM to provide approval or certification of water for future projects when there are many factors and uncertainties affecting water availability in Hawai'i. Some factors, such as the designation of water management areas or climate change impacts to water availability, may vary in the time scale of a few years to decades or more. CWRM can reserve water for uses in designated water management areas by rule, and for current and foreseeable development and use by the Department of Hawaiian Home Lands (DHHL). CWRM has never received a request for or reserved water for purposes other than for DHHL.

Comprehensive water resources planning to address the problems of supply and conservation of water is one of the core policies of CWRM. The Hawai'i water plan pursuant to Hawai'i Revised Statutes §174C-31 with its future amendments, supplements, and additions is the guide for developing and implementing this policy. The Hawai'i Water Plan consists of five component parts shown in the table below.

| Hawai'i Water Plan Component | Agency Responsible for Preparing | Date Adopted by CWRM |
|---|---|----------------------|
| Water Resource Protection Plan | Hawai'i Commission on Water Resource Management | 2019 |
| Water Quality Plan | Hawai'i Department of Health | 2019 |
| Agricultural Water Use and Development Plan | Hawai'i Department of Agriculture | 2004 |

| | | |
|--|--|---|
| State Water Projects Plan | Hawai'i Department of Land and Natural Resources | 2020 |
| County Water Use and Development Plans | Respective County Water Departments | Hawai'i (2010) Honolulu (2016) Maui (2023) Kaua'i (1990) |

The respective County Water Use and Development Plans (WUDP), adopted by CWRM, are the planning documents designed to coordinate water and land use planning and ensure that water will be available for future uses. The WUDP are prepared by each county, adopted by ordinance, and sets forth the allocation of water to land use in that county. Each WUDP shall be consistent with the respective county land use plans and policies including general plan and zoning as determined by each respective county. Further, each WUDP shall also be consistent with the state land use classification and policies. The WUDP contain planned future land uses and related water needs over a 20-year planning horizon based on county land use plans and county land use zoning approvals. The WUDP should also consider authorized planned use, which means the use or projected use of water by a development that has received the proper state land use designation and county development plan/community plan approvals. An authorized planned use that may cause the maximum rate of withdrawal from an aquifer to reach 90% of its sustainable yield is one criteria for designation of a ground water management area.

While CWRM supports the intent of the proposed rule amendments, we cannot provide certification or approval of water for future projects, nor can we guarantee water for future projects. Approval of water for projects from CWRM may come in the form of water use permit allocations in designated water management areas, water reservations, and approved well and stream diversion permits in areas which are not designated as water management areas. CWRM can provide a statement of *current* water resource availability describing the affected hydrologic unit's sustainable yield or interim instream flow standard, current withdrawals, and available unused sustainable yield or interim instream flow standard. CWRM can also attest to whether the proposed project is consistent with the respective county WUDP (which has been adopted by CWRM). As such, we respectfully request the following changes to the proposed rule amendments. The proposed deletions are stricken and in brackets, proposed additions are in bold underline.

§15-15-50 Form and contents of petition.

(c) The following information shall also be provided in each petition for boundary amendment:

(13) [~~Certification or approval of the commission on water resource management for utilization of water from a specific aquifer or aquifer(s) for the project.~~] **A statement from the commission on water resource management on current water availability in the hydrologic unit from where the proposed project would withdraw its water.**

§15-15-90 Imposition of conditions; generally.

(e) If a boundary amendment petition filed pursuant to section 205-4, HRS, is approved pursuant to section 91-13.5, HRS, or a petition filed pursuant to section 201H-38, HRS, is deemed approved on the forty-sixth day, the following mandatory conditions shall apply:

(9) Petitioner shall **be required to seek a statement from the commission on water resource management on current water availability in the hydrologic unit from**

~~where the proposed project would withdraw its water [approval of the commission on water resource management for utilization of water from a specific aquifer or aquifer(s) for the project].~~ The commission on water resource management may deny use of water from any existing ~~[aquifer]~~ **hydrologic unit** if it determines such use will harm the ~~[aquifer]~~ **hydrologic unit** or exceed the **currently available** capacity of the ~~[aquifer]~~ **hydrologic unit**. Petitioner shall participate in the funding and construction of adequate wastewater transmission and disposal facilities, on a fair-share basis, as determined by the respective county in which the land to which the boundary amendment applies is located, and the state department of health;

Mahalo for the opportunity to testify.