

LINDA LINGLE  
GOVERNOR OF HAWAII



LAURA H. THIELEN  
CHAIRPERSON  
MEREDITH J. CHING  
JAMES A. FRAZIER  
NEAL S. FUJIWARA  
CHIYOME L. FUKINO, M.D.  
DONNA FAY K. KIYOSAKI, P.E.  
LAWRENCE H. MIKE, M.D., J.D.  
KEN C. KAWAHARA, P.E.  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
P.O. BOX 621  
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

for the meeting of the  
COMMISSION ON WATER RESOURCE MANAGEMENT

December 19, 2007  
Honolulu, Oahu

Request to Authorize Chairperson to Enter Into  
Memoranda of Agreement to Disburse Act 238,  
Session Laws Hawaii 2007, Drought Mitigation Appropriation

SUMMARY OF REQUEST:

Staff is requesting that the Commission delegate authority to the Chairperson to enter into memoranda of agreement to disburse drought mitigation funds appropriated under Act 238, Session Laws Hawaii 2007, for the purpose of completing drought mitigation projects and measures.

BACKGROUND:

In 2004, County Drought Committees were formed in each of the four Counties to develop individual County Drought Mitigation Strategies. These strategies, which focused on determining drought mitigation needs in the respective Counties, resulted in a prioritized list of drought mitigation projects specific to each County. A key recommendation in these County Drought Mitigation Strategies is to seek out funding opportunities for project implementation.

The 2007 Hawaii State Legislature passed House Bill 400, HD1, SD2, CD1 (Bill), appropriating \$4,000,000 for drought mitigation projects and measures in each County of the State. The Bill recognizes that the County Drought Committees developed their respective County Drought Mitigation Strategies in 2004, which focus on drought mitigation projects and measures. The Bill also designates the Department of Land and Natural Resources (DLNR) as the expending agency. Governor Linda Lingle subsequently signed the Bill into law as Act 238 (Exhibit 1) and recently approved the released of its funding.

In preparation for the eventual availability of Act 238 funds, staff convened meetings of the four County Drought Committees. The meetings were held to determine if the high priority drought mitigation projects identified in the respective County Drought Mitigation Strategies (2004) were still needed, and to find out if other drought mitigation needs have developed since 2004. During

these meetings, the Committees re-evaluated their current drought mitigation needs within their respective Counties working with a presumed budget of \$1,000,000. The County Drought Committees also ranked these projects which are listed in Exhibit 2. Exhibit 3 lists the membership of the County Drought Committees, the Hawaii Drought Council, and the meeting dates.

The Hawaii Drought Council convened a video conference meeting to discuss the distribution of Act 238 funding among the counties and to decide on whether or not to defer the prioritization of drought mitigation projects to the County Drought Committees. The Hawaii Drought Council agreed that the funding should be divided evenly among the four counties and that the County Drought Committees should decide on the priorities in their respective Counties.

#### FUND DISBURSEMENT AND PROJECT OVERSIGHT:

Under Act 238, the sum appropriated shall be expended by DLNR. The Commission is responsible for this within DLNR, and will act to pass funding through to the sponsoring agencies. In order to disburse funding, memoranda of agreement will be prepared between the Commission and the sponsoring agencies. Transmittal of funding to these agencies would constitute encumbrance by Commission. Funding shall only be used for projects listed in Exhibit 2 and having a public purpose. It will be the responsibility of the sponsoring agency to comply with all State laws and County ordinances regarding the expenditure of State funds including procurement (Chapter 103D, Hawaii Revised Statutes [HRS]) and environmental (Chapter 343, HRS) laws.

Commission staff will work closely with project sponsors to carefully monitor the projects. Copies of executed project contracts and quarterly progress reports will also be required of the project sponsors to help Commission staff follow project development.

#### MEMORANDA OF AGREEMENT:

Memoranda of agreement (MOA) will be executed between the Commission and the drought mitigation project sponsoring agencies to transmit Act 238 funding to these agencies. The MOA will detail the duration of the agreement, amount of funding, project description, and sponsoring agencies' responsibilities. Multiple projects which are sponsored by the same agency will be covered under a single memorandum of agreement. Currently, a total of eight MOA are being prepared with separate agencies. However, this may change based on project sponsor's ability to actually initiate and complete the project(s), or if projects are financed by a different source of funding. A template MOA is attached (Exhibit 4), which is modeled after a similar MOA having preliminary approval by the Commission's Deputy Attorney General.

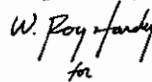
Act 238 funding will lapse on June 30, 2008. Staff is currently working with the project sponsoring agencies to expedite execution of memoranda of agreement to encumber the funding before the end of this fiscal year. Delegating authority to the Chairperson to enter into these agreements would help to streamline this process by allowing the execution of these memoranda of agreement to proceed independently of the Commission's monthly meeting schedule.

Staff will provide the Commission with periodic progress briefings on Act 238 fund disbursement and drought mitigation project updates.

RECOMMENDATION:

Staff recommends that the Commission delegate authority to the Chairperson to enter into memoranda of agreement with drought mitigation project sponsors to disburse drought mitigation funds appropriated under Act 238 for the purpose of completing drought mitigation projects.

Respectfully submitted,

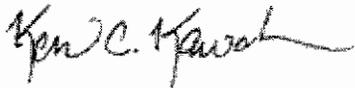


KEN C. KAWAHARA, P.E.  
Deputy Director

Attachments:

- Exhibit 1: Act 238, SLH 2007
- Exhibit 2: Drought Mitigation Project Ranking
- Exhibit 3: Membership of County Drought Committees, Hawaii Drought Council, and 2007 meeting dates
- Exhibit 4: Template MOA between CWRM and other government agencies

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN  
Chairperson

## DROUGHT MITIGATION PROJECT RANKING

The following tables show the results of the County Drought Committees' drought mitigation project evaluation and ranking.

### County of Kauai

RANK	PROJECT SPONSOR	PROJECT	EST. COST
1	Kauai DOW	Facility Testing, Evaluation, and Reporting: Kekaha Amfac Shaft renovation and replacement pipeline	\$500,000
2	DOFAW	Roadside fuel treatments	\$150,000
3	Kauai DOW	County-wide conservation and education program	\$150,000
4	DOFAW	Installation of Remote Automated Weather Stations (RAWS)	\$100,000
4	DOFAW	Maintain and expand fire breaks at Anahola	\$50,000
5	Kauai DOW	Emergency interconnection between Kauai Department of Water Koloa Water System and Grove Farm Koloa Water System	\$50,000
		TOTAL	\$1,000,000

### City and County of Honolulu

RANK	PROJECT SPONSOR	PROJECT	EST. COST
1	HDOA	BWS Waimanalo Well I: Conversion to Agricultural Use (Expand reuse, brackish water, and blending applications)	\$400,000
2	DOFAW	Fuel hazard reduction within the wildland urban interface	\$100,000
3	Honolulu BWS/ DOFAW	Inventory, maintain, and expand fire fighting water sources with consideration for threatened and endangered species, develop protocols for salt water use, and use of supporting technology	\$350,000
4	DOFAW	Installation of Remote Automated Weather Stations (RAWS)	\$50,000
4	FSA/CWRM	Documenting agricultural and other commercial losses due to drought	\$100,000
		TOTAL	\$1,000,000

### County of Maui

RANK	PROJECT SPONSOR	PROJECT	EST. COST
1	Central Maui SWCD	Maui County Storm Water Capture Planning and Engineering Study	\$200,000
2	County of Maui	Kula Agricultural Park Water System Improvements	\$1,000,000

		TOTAL	\$1,200,000
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The total project cost for the County of Maui exceeds \$1,000,000 because the cost of the Kula Agricultural Park Water System Improvements project was initially underestimated. Both projects are listed here in the case that other Counties are unable to use their entire allocation, which would become available to the other Counties.

County of Hawaii

RANK	PROJECT SPONSOR	PROJECT	EST. COST
1	State Civil Defense	Improvements to Kohala Ditch Irrigation System	\$502,000
2	DOFAW	Completion of Puu Waawaa Reservoir	\$250,000
3	HDWS	Emergency Community Water Stations	\$300,000
4	DOFAW	Installation of water and dip tank at eight sites in North Kona and North and South Kohala for water dip tanks.	\$128,000
5	DOFAW	Expansion of the fuelbreak network in Pu'u Anahulu	\$72,000
6	DOFAW	Support Community Wildfire Protection Plans	\$40,000
7	DOFAW	Installation of Remote Automated Weather Stations (RAWS)	\$72,000
8	SWCD	Install Dry Hydrants and develop static water sources	\$10,000 per site
9	DOFAW	Conversion of HWMO Wildfire Resource Map to laptop/notebook format.	\$20,000
10	DOFAW/ SWCD	Agricultural practices to mitigate wildland fires in communities and subdivisions	\$TBD
		TOTAL	\$1,394,000

The total project cost for the County of Hawaii exceeds \$1,000,000 because some of these projects were submitted to the Federal Emergency Management Agency (FEMA) as proposals requesting funding under the FEMA Hazard Mitigation Grant Program. It is anticipated that FEMA funding will be awarded to these projects.

The preceding lists of projects show current needs in each County. Looking ahead, some projects may be implemented or partially implemented using funding sources other than Act 238 allocation. In this situation, the projects no longer requiring Act 238 funding would be removed from the list(s) and new projects may be added.



**GOV. MSG. NO. 1009**

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

June 30, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 30, 2007, the following bill was signed into law:

HB400 HD1 SD2 CD1

A BILL FOR AN ACT RELATING TO AGRICULTURE.  
(ACT 238)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

**EXHIBIT 1**

Approved by the Governor

on JUN 30 2007

HOUSE OF REPRESENTATIVES  
TWENTY-FOURTH LEGISLATURE, 2007  
STATE OF HAWAII

**ACT 238**  
**H.B. NO.** 400  
H.D. 1  
S.D. 2  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO AGRICULTURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that a viable agriculture  
2 industry requires a steady, reliable supply of water. However,  
3 drought conditions continue to adversely affect our farms and  
4 ranches, hampering our ability to produce quality products on a  
5 consistent basis throughout the year.

6           The legislature believes that to address the harmful impact  
7 of droughts, mitigation measures laid out in the Hawaii drought  
8 plan must be implemented. The goal of the Hawaii drought plan  
9 is to develop coordinated emergency response mechanisms while at  
10 the same time outlining steps toward mitigating the effects of  
11 future drought occurrences. The Hawaii drought plan provides  
12 clear policies and specifies response entities to implement  
13 immediate, short-term and long-term response measures to  
14 mitigate the impact of droughts.

15           The legislature also finds that in 2004, county drought  
16 committees were formed for each of the four counties in Hawaii.  
17 Each of the county drought committees developed a drought  
18 mitigation strategy for its respective county, with a focus on

HB400 CD1 HMS 2007-4165



1 drought mitigation projects. These county drought mitigation  
2 strategies represent the local needs and concerns of each county  
3 and are incorporated by reference into the Hawaii drought plan.

4 The legislature further finds that to implement the Hawaii  
5 drought plan adequately, sufficient funding to the counties is  
6 necessary to address the many challenges that our agriculture  
7 industry faces in preparing for droughts.

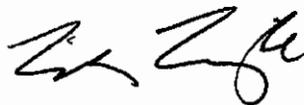
8 The purpose of this Act is to provide funding to pursue  
9 drought mitigation projects and measures in each county of the  
10 state.

11 SECTION 2. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$4,000,000 or so much  
13 thereof as may be necessary for fiscal year 2007-2008 for  
14 drought mitigation projects and measures in each county of the  
15 state.

16 The sum appropriated shall be expended by the department of  
17 land and natural resources for the purposes of this Act.

18 SECTION 3. This Act shall take effect on July 1, 2007

APPROVED this 30 day of JUN, 2007



GOVERNOR OF THE STATE OF HAWAII



**DROUGHT MITIGATION PROJECT RANKING**

The following tables show the results of the County Drought Committees' drought mitigation project evaluation and ranking.

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HAWAII DROUGHT COUNCIL

Laura H. Thielen, DLNR  
Sandra Lee Kunimoto, DOA  
vacant, Governor's Office  
Larry Kanda, State Civil Defense  
Mark Marshall, County of Kauai Civil  
Defense Agency  
Clifford Lum, Honolulu Board of Water  
Supply  
Jeff Eng, County of Maui Department of  
Water Supply  
Milton Pavao, County of Hawaii  
Department of Water Supply  
Michelle Watson, Hawaii Association of  
Conservation Districts  
Warren Watanabe, Hawaii Farm Bureau  
Federation  
Pono VonHolt, Hawaii Cattlemen's  
Council  
Garret Hew, East Maui Irrigation System

COUNTY OF KAUAI DROUGHT  
COMMITTEE

Mark Marshall, County of Kauai Civil  
Defense Agency  
Wayne Souza, DLNR, State Parks  
Division  
Robert Ishikawa, USDA, FSA  
Bobby Ferreira, Hawaii Cattlemen's  
Council  
Lex Riggle, USDA, NRCS  
Alvin Kyono, DLNR, DOFAW  
Roy Oyama, Kauai Farm Bureau  
Jerry Ornellas, EKWUC  
Howard Greene, Gay and Robinson  
Thomas Oi, DLNR, Land Division  
Gregg Fujikawa, Kauai DOW  
Steven Hironaka, PMRF  
Larry Dill, Princeville Utilities  
Roland Licona, DHHL  
Greg Williams, Kauai Coffee  
Daryl Date, County of Kauai Fire  
Department  
Wynne Ushigome, Kauai DOW  
Ted Inouye, East Kauai SWCD  
Brian Kau, Hawaii DOA

Robert Westerman, County of Kauai  
Fire Department

OAHU DROUGHT COMMITTEE

Barry Usegawa, Honolulu BWS  
Brian Kau, Hawaii DOA  
Alfredo Lee, ADC  
Jason Shitanishi, USDA, FSA  
Paul Eyre, Department of the Navy  
Wayne Ching, DLNR, DOFAW  
Dudley Kubo, USDA, NRCS  
Paul Matsuo, Hawaii Farm Bureau  
Federation  
Glenn Higashi, DLNR, ARD  
Mark Fox, Nature Conservancy  
Mike Silbernagle, USDOJ, USFWS  
Murray Towill, Hawaii Hotel and  
Lodging Association  
Gordon Tribble, USGS  
Kevin Kodama, NWS  
Richard Fontaine, USGS  
Kenneth Gilbert, City and County of  
Honolulu Department of Emergency  
Management  
Chester Lao, Honolulu BWS  
Kent Anderson, Department of the Army  
Nathan Ramos, Honolulu Fire  
Department  
Gary Chock, Chock & Associates  
Stuart Yamada, Hawaii DOH  
Ryan Lum, North Shore Cattle Company  
Dean Nakano, Honolulu BWS  
Chad Kacir, USDA, NRCS  
Miranda Smith, Koolau Mountains  
Watershed Partnership  
Ryan Peralta, DLNR, DOFAW

COUNTY OF MAUI DROUGHT  
COMMITTEE

James Robello, USDA, FSA  
Warren Watanabe, Hawaii Farm Bureau  
Federation  
Sumner Erdman, Ulupalakua Ranch  
Garret Hew, East Maui Irrigation Co.  
John Cumming, DLNR, DOFAW  
Teena Rasumsen

George Maioho, DHHL Molokai  
Robert Collum, County of Maui Civil  
Defense Agency  
Carl Kaupalolo, County of Maui Fire  
Department  
Ranae Ganske, USDA, NRCS  
Adolf Helm, DOW Seed Co.  
Robert Granger, MIS Water User  
Advisory Board  
Doug MacCluer  
JoLoyce Kaia, Hana SWCD  
Glenn Shishido, DLNR, DOFAW  
Lance DeSilva, DLNR, DOFAW  
Jeff Pearson, Maui Land and Pineapple  
Co.  
Gen Iinuma, County of Maui Civil  
Defense Agency  
James Ino, USDA, NRCS  
Jeffery Eng, County of Maui DWS  
Joe Kaakua, Lanai Water Co.

COUNTY OF HAWAII DROUGHT  
COMMITTEE

Milton Pavao, Hawaii DWS  
Lee Kunitake, USDA, FSA  
Harry Toki  
Randy Cabral, Kau SWCD  
Monty Richards, Kahua Ranch  
Roger Imoto, DLNR, DOFAW

Shari Komata, Hawaii DWS  
Ken Kaneshiro, Mauna Kea SWCD  
Pono Von Holt, Ponoholo Ranch  
Jim DuPont, DHHL  
Aileen Yeh, Puna SWCD  
Matthew Wung, USDA, NRCS  
Darryl Oliveira, County of Hawaii Fire  
Department  
Lorie Farrell, Hawaii Farm Bureau  
Federation  
Steve Bergfeld, DLNR, DOFAW  
Jay Hatayama, DLNR, DOFAW  
Miles Nakahara, DLNR, DOFAW  
Brian Kau, Hawaii DOA  
Chris Kanazawa, Parker Ranch  
Roy Takemoto, Mayor's Office  
Troy Kindred, County of Hawaii Civil  
Defense Agency  
Gail Byrne, Hawaii Wildfire  
Management Organization  
Lesley Hill, Kona SWCD  
Mary Roblee, Kona SWCD  
Jeff Knowles  
Nancy Pisticchio, County of Hawaii  
Planning Department  
Corky Brian, Parker Ranch  
Loren Mochida, Puna SWCD  
Ryan Quitariano, Hawaii DWS

MEETINGS AND SIGNIFICANT DATES

May 3, 2007, HB 400, HD 1, SD 1, CD 1, passes in Legislature  
May 14, 2007, County of Hawaii Drought Committee Meeting (Hilo)  
May 15, 2007, County of Hawaii Drought Committee Meeting (Kona)  
May 30, 2007, County of Maui Drought Committee Meeting (Kahului)  
June 30, 2007, Governor Lingle signs HB 400 into law (Act 238)  
July 9, 2007, Oahu Drought Committee (Honolulu)  
July 10, 2007, County of Kauai Drought Committee (Lihue)  
July 12, 2007, Hawaii Drought Council (videoconference meeting)  
September 12, 2007, County of Hawaii Drought Committee (Waimea)  
September 18, 2007, Staff request to Governor Lingle to release Act 238 appropriation  
November 23, 2007, Governor Lingle approves request

DRAFT

MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT (AGREEMENT), entered into on this \_\_\_\_\_ Day of \_\_\_\_\_, 2008, by and between the State of Hawaii COMMISSION ON WATER RESOURCE MANAGEMENT, hereinafter referred to as "CWRM," whose address is 1151 Punchbowl Street, Room 227, Honolulu, Hawaii 96813 and the \_\_\_\_\_, on behalf of its \_\_\_\_\_, hereinafter referred to as "\_\_\_\_," whose address is \_\_\_\_\_.

WHEREAS, drought is a normal, recurring feature of Hawaii's climate; and

WHEREAS, drought is a natural hazard that can occur almost anywhere in Hawaii; and

WHEREAS, drought impacts include reduced crop yields, diminished livestock herds, desiccated streams, irrigation ditches and reservoirs, depleted groundwater supplies, and increased risk of wildland fires; and

WHEREAS, periods of drought invariably give rise to water crises, sometimes requiring imposition of emergency conservation measures; and

WHEREAS, mitigation measures and actions can be taken to prepare for drought and reduce its impacts; and

WHEREAS, county drought committees have developed drought mitigation strategies which identifies and prioritizes drought mitigation projects and measures in their respective counties; and

WHEREAS, Act 238, Session Laws of Hawaii, 2007, appropriated \$4,000,000 for drought mitigation in four counties; and

WHEREAS, the Hawaii Drought Council has elected to evenly divide funding appropriated under Act 238, Session Laws of Hawaii, 2007, among the four counties of Hawaii and defer the drought mitigation project prioritization to the respective county drought committees; and

WHEREAS, CWRM was designated as the expending agency for Act 238 appropriations and will serve to pass these appropriations through to the sponsoring agency who is responsible for project implementation and expenditure of these appropriations; and

NOW THEREFORE, in consideration of the mutual promises set forth in this AGREEMENT, the parties mutually agree as follows:

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1. The purpose of this AGREEMENT is to support the implementation of the drought mitigation project \_\_\_\_\_ to mitigate the impacts of drought in the area.
2. Period of Agreement. This AGREEMENT covers the period beginning upon execution of this AGREEMENT and ending \_\_\_\_\_. This period may be extended upon mutual agreement between both parties by written amendment to this AGREEMENT.
3. Scope of Work. The description of repairs and cost estimate of the project to \_\_\_\_\_, hereinafter referred to as the "PROJECT," are detailed in Exhibit 1.
4. Funding. Subject to availability of State funds CWRM agrees to advance \$\_\_\_\_\_ to \_\_\_\_\_ in consideration of the work described in Exhibit 1. This full amount shall be transmitted to \_\_\_\_\_ upon request.
5. Funding Administration. \_\_\_\_\_ agrees to be the sponsoring agency and responsible for overseeing the expenditure of State funds as it relates to this AGREEMENT, subject to any and all applicable state laws, rules, and county ordinances governing and regulating the expenditure of State funds including Chapter 103D and Chapter 343, Hawaii Revised Statutes. A copy of the executed contract(s) for this PROJECT shall be provided to CWRM.
6. Project Oversight. \_\_\_\_\_ will provide PROJECT oversight in order to ensure that expenditures are consistent with actual work done and that the PROJECT is completed in a timely fashion.
7. Progress and Final Reports. \_\_\_\_\_ is required to submit to CWRM quarterly financial and performance reports. Report due dates are March 31, June 30, September 30, and December 31 for the duration of the project. \_\_\_\_\_ shall submit a final summary report to CWRM at the conclusion of the PROJECT.
8. Modifications. This AGREEMENT may only be amended in writing and signed by both parties.
9. Termination. If either party determines that the terms of this AGREEMENT are not being met in a mutually satisfactory manner, either party may terminate this AGREEMENT upon 60-calendar days written notice to the other party. Both parties shall use their best efforts to resolve agreement disputes cooperatively, including, if both parties agree, the use of alternative dispute resolution, prior to any notice of termination. Upon termination or conclusion of this AGREEMENT, \_\_\_\_\_ shall refund CWRM the balance of unused funding based on the total work completed up to the time of such termination or conclusion.

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the day, month, and year first above written.

APPROVED AS TO FORM:

STATE OF HAWAII  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

By: \_\_\_\_\_  
Deputy Attorney General

By: \_\_\_\_\_  
LAURA H. THIELEN  
Chairperson

APPROVED AS TO FORM:

PROJECT SPONSORING AGENCY

By: \_\_\_\_\_  
Deputy Attorney General

By: \_\_\_\_\_