Department of Land and Natural Resources
Hawaii State Aha Moku
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809

State of Hawaii
Department of Land and Natural Resources
Commission on Water Resource Management
PO box 621
Honolulu, Hawaii 96809

Aug. 15, 2022

Subject: Testimony before the Commission on Water Resource Management meeting Aug. 16, 2022 Regarding agenda Item B. 1 regarding the Well Construction Permit for Well #3957-006 (Ota Well).

Aloha:

My name is Charles Young. I reside in Kealia South Kona, on Hawaii Island. I am the current Aha Moku representative for Hawaii Island and I appreciate this opportunity to provide testimony in support of the proposed mitigation measures. The Aha Moku helped to facilitate and participated in numerous meetings between members of the community and staff from the Commission on Water Resource Management (CWRM) over the past year to discuss the above subject matter. The Aha Moku also participated in briefings with the CWRM and the Hawaii County Council Committee on Agriculture, Water, Energy, and Environmental Management.

The community members who volunteered their personal time to consult with the Aha Moku and the CWRM Staff are of Hawaiian ancestry and live within the boundaries of the Keauhou Aquifer. They are of varying ages and backgrounds. The discussions included historical aspects of the place, a desire to understand how, why and to what degree things have changed and a genuine concern for the resources. The Aha Moku greatly appreciates their generous giving of themselves to this process and recognizes that we could not have made such progress without our community.

In his Ka Pa'akai analysis Deputy Director Manuel summarized how water is viewed from a cultural perspective. To the extent possible and in a present-day context the mitigation measures incorporate the cultural view on the treatment of resources. Although the Ahupua'a is no longer the prevalent land and water planning model, the Island's source of water and natural distribution systems are still here. There are many efforts in place in Hawaii and elsewhere in the country to restore the natural systems driven by both ecological and economic reasons. The Aha Moku sees the mitigation measures as a step in the right direction for the Commission on Water Resource Management to take in carrying out it's duties and responsibilities and as an opportunity in furthering the collaboration of all stakeholders in the process.

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The Aha Moku applauds the efforts of the CWRM and particularly Staff for reaching out to the community for their comments and concerns and for fulfilling our mutual responsibilities under the state's Supreme Court's Ka Pa'akai decision.

Thank you again for this opportunity to provide testimony in support of the proposed mitigation measures regarding Well Construction Permit for Well #3957-006 (Ota Well).

Respectfully,

Charles Young
Aha Moku, Hawaii Island

Cc:

Leimana DaMate, Luna Alaka'i/Executive Director Hawaii State Aha Moku
808-640-1214
Leimana.k.damate@hawaii.gov<mailto:Leimana.k.damate@hawaii.gov

DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAIʻI

345 KEKŪANAŌʻA STREET, SUITE 20 • HILO, HAWAIʻI 96720

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

EMAIL: dws@hawaiidws.org • WWW.HAWAIIDWS.ORG

August 15, 2022

TESTIMONY OF DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAIʻI

HEARING BEFORE THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: August 16, 2022
TIME: 9:00 AM
PLACE: Via Videoconference

RE: APPLICATION FOR A WELL CONSTRUCTION PERMIT
Ota Well (Well No. 8-3957-006), TMK: (3) 7-5-001:165

Thank you for the opportunity to provide testimony on the subject permit application being heard by the Commission on Water Resource Management (CWRM).

The Department of Water Supply (DWS) – County of Hawaii would support the approval of the Ota Well (8-3957-006) construction and pump installation permit **if** the conditions are revised as noted below, versus what is currently summarized in staff's submittal dated August 16, 2022.

DWS provides the following comments on the Recommendations listed in staff's submittal:

Recommendation #1.a.:

1. The formula should use "Recharge quantity" as the denominator versus "Available Water".

2. The fee should not extend into perpetuity. The fee implementation must have a "sundown/sunset" date, say 20 years from the execution of the agreement.

3. Watershed fees implemented for this well construction application should only be used in the region it is designated for. A regular audit should be conducted to ensure the collected fees are being used in the region it is designated for.

4. For future references, DWS would like to understand under what statute or rule is the "Mauka Mitigation Contribution" watershed fee permitted? The implementation of this fee could potentially have impacts across Hawaii island and the State of Hawaii.

Recommendation #1.d.:

DWS does not agree to fund, design, or implement an annual inventory of resources along the shoreline (Makai Mitigation). This requirement should be the responsibilities of other agencies and not DWS.

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Recommendation #5.:

DWS does not agree to Recommendation #5 as its currently written. DWS does not agree to all of the "bulleted" mitigation measures proposed by the NPS. Recommendation #5 needs to be redrafted, so conditions and terms of the permit are understood.

In conclusion, DWS supports this water source development project for the following reasons:

1. Location of proposed well is consistent with the area identified (south of DWS' existing Keahuolu well and mauka of Old Mamalahoa Highway) for future source development as noted in the latest Keauhou Water Use and Development plan.

2. Proposed well anticipates tapping the high-level aquifer versus the basal aquifer. DWS has been working to reduce the need to pump its basal aquifer sources by developing high-level water sources, in North Kona. However, DWS will not agree to eliminate the use of its basal sources because of our need to maintain available and redundant water sources for the community.

3. Proposed well is planned to be pump tested/approved for a 700 gallon per minute (gpm) capacity, which is consistent with DWS' equipment specifications for wells in the high-level aquifer.

Thank you for your time and consideration of DWS' testimony.

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August 15, 2022

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Thank you for your time and consideration of DWS' testimony.

NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism

Written Statement of
Gregory P. Barbour
Executive Director
Natural Energy Laboratory of Hawaii Authority
before the

COMMISSION ON WATER RESOURCE MANAGEMENT

Tuesday August 16, 2022
9:00 am
online via Zoom Meeting ID: 823 5351 3684

in consideration of

Action Item B.1 – Approve with Special Conditions the Natural Energy Laboratory of Hawaii Authority and Hawaii Housing Finance and Development Corporation Application for a Well Construction ~~and Pump Installation~~ Permit, Ota Well (Well No. 8-3957-006), TMK (3) 7-5-001:165, Lanihau 1-2, Moeauo Ahupua'a, Keauhou, Hawai'i.

The Natural Energy Laboratory of Hawaii Authority (NELHA) is pleased to comment on the recommendation in the Staff Submittal to approve a well construction permit for the Ota well subject to the five special conditions therein. This well will provide freshwater for HHFDC's affordable housing projects, DHHL's initiatives to support the native Hawaiian community and NELHA's efforts to develop clean and quality green jobs at the Hawaii Ocean and Science Technology Park for the residents of West Hawaii.

We began this project in 2015 and received funds from the Hawaii State Legislature in 2016 for this exploratory well. We were fortunate to develop a partnership with HHFDC and executed a contract with Water Resources International Inc in 2018 for their services to develop this exploratory well. We have spent considerable effort and time in completing all of the studies and assessments as required. We want to acknowledge the efforts of the Commission's staff in arranging a series of "talk story" sessions over the past several months to allow members of the community to better understand the various perspectives.

We provide specific comments below on the conditions listed in the recommendation on pages 17 and 18 of the Staff Submittal.

73-4460 Queen Kaahumanu Hwy., #101, Kailua-Kona, Hawaii USA 96740-2637
Phone: (808) 327-9585 Fax: (808) 327-9586 Email: nelha@nelha.org Website: http://www.nelha.hawaii.gov

Condition 1.a.

With respect to the annual contribution to the Water Resource Management Fund, we propose that the contribution should be based on the proportion of Ota Well's capacity to the groundwater recharge rate that the Honua'ula Forest Reserve Watershed area supports. Based on a recharge rate of 86 mgd and a potential installed capacity of 1.008 mgd, the annual contribution should be based on a percentage (annual recharge rate/annual pumping volume) of the DLNR's watershed management annual costs as identified in the Honua'ula Forest Reserve Management Plan at the time the Pump Installation Permit and Well Management certificate are issued. DLNR shall provide an audit of their costs to manage the watershed every five years and will be taken into consideration during negotiations of adjustment to the user fee. We request that the annual contribution sunset after 20 years.

Condition 1.c.

We agree that water should not be wasted and should be used as efficiently as possible. NELHA will continue to make its best efforts in using water effectively and efficiently. It is important to note that we have been employing water conservation methods over the past five years and have reduced our annual freshwater consumption by 25 percent.

Regarding the requirement to upgrade the Kealakehe Wastewater Treatment Plant to R-1 capability, we feel that this should be a county responsibility since the County is the owner and operator of the wastewater treatment plant. Neither HHFDC nor NELHA have the authority nor financial means to upgrade the treatment plant to R-1 capability.

Condition 1.d.

NELHA and HHFDC cannot agree to be solely responsible to conduct resource surveys from the Old Kona Airport to the Royal Kona resort and Kailua Bay Fisheries Management Area. Coastal resources in this area are impacted by numerous mauka land uses, sea level rise, and stressors to the coastal ecosystem. It is unfair to place the burden of resource surveys solely on NELHA and HHFDC's planned affordable housing developments. Instead, we propose to contribute up to $5,000 annually for 20 years to the Department of Land and Natural Resources to fund a study beginning with the time that the Pump Installation Permit and Well Management certificate are issued.

Condition 1.e

The reference to "updates on these mitigation measures" is duplicative of Condition 5 below and should be deleted. As a State agency is important to note that we publish an annual report, semi-annual newsletters, maintain an up-to-date website, hold a minimum

of six Board of Directors meetings in Kona open to the public, publish Board of Directors minutes on our website, and are active on various social media to identify existing and proposed projects.

Condition 4.

HHFDC and NELHA agree to fund this study up to a total cost of $20,000. In addition, this condition should be effective at the time that the Pump Installation Permit and Well Management certificate are issued and not August 1, 2021.

Condition 5.

We are unclear what "the bulleted proposed mitigation measures recommended by the NPS" include and these should be identified. In addition, after identification, the appropriate measures would be negotiated and agreed to and be effective at the time that the Pump Installation Permit and Well Management certificate are issued.

We believe that that the proposed exploratory well under consideration meets all of the existing statutory requirements, rulings and stipulations pertinent to its development, and that we have followed all of the rules and requirements and completed our work in a proper manner. Furthermore, in unilaterally requesting delays to the permit application review process, we intentionally paused the development process by over 3 years to allow various stakeholders to continue to discuss and come to greater consensus on issues surrounding water use and well development in North-Kona.

We would like to move forward with this project and complete the exploratory well.

Thank you for the opportunity to offer these comments.

TO: Commission on Water Resource Management

FROM: Loke Aloua
[redacted]
Kailua-Kona, HI 9740

RE: Comment on Item B-1

Date: August 16, 2022

Aloha Commission on Water Resource Management,

My name is Loke Aloua and I am submitting testimony for Item B-1 regarding the mitigation measures for the Ota Well. I have appreciated the time and support created by the Commissioners to facilitate mitigation measures created for the Ota Well. The call for deferral on the well permit birthed a process that can be replicated to help guide future well development in Kona. I would also like to also thank CWRM Deputy Director, Kaleo Manuel, for their time, efforts, and aloha throughout this process. Too, my gratitude is extended to the Aha Moku Council and Kona District Representative, Uncle Charlie, for bringing together the ‘ohana of Kona and listening to the voices of the land and sea. My aloha too is extended to the individuals who have come together offering forward their time, energies, and knowledge for our wai. The mitigation measures that have been brought forward sheds light on the mass of aloha that the collective have for our dear Kona. With the growing uncertainty of the impacts of climate change I feel that the ‘ohana of Kona and aloha that folks have for this wahi will be a guiding light for taking care of our wai.

Though I do not have any comments in opposition to Item B-1 I offer forward testimony grounded in what I hope is foresight for these larger discussions, gatherings, and unfoldings to come. A common theme of gatherings for the past 2 years have really surrounded water planning and considerations at the region level. Much of these conversations have occurred on the ground with community members and too in formal meetings at various levels of government regarding connectivity of the Keauhou Aquifer (e.g, high level, basal, and deep level) regardless of where they are located (e.g, mauka to makai). I humbly offer my thoughts with hopes that we can further support each other in taking care of our wai and too increasing protections of our wai, Native Hawaiian traditional and customary practices, and groundwater dependent ecosystems. Listed below in bold I highlight the central thought followed by brief discussions.

CWRM RECALCULATION OF THE KEAUHOU AQUIFER SY AND RECONSIDERATION OF DESIGNATING THE KEAUHOU AQUIFER AS A WATER MANAGEMENT AREA (WMA)

> Islandwide it is predicted that there will be a 12-23% decrease for recharge. The Keauhou Aquifer may be reduced -33% to -53% which corresponds to 33 to 53 mgd

(see https://files.hawaii.gov/dlnr/cwrm/submittal/2022/sb20220118A1.pdf).[1] Current Sustainable Yield for the Keauhou Aquifer is 38 mgd. This number does not consider decline in recharge rates. When applied the current SY of 38 mgd is reduced to 24 mgd (-33 mgd) to 15 mgd (-53 mgd).[2] If current pumping of 14 mgd is compared against these recharge estimates we are withdrawing 58-93% of SY for the Keauhou Aquifer.

Submittal B-1 states that "Current Keauhou Aquifer System Area (KASA) Pumpage (12-MAV as of June 2022) is 14.452 mgd (38% of SY) (6:2022)." Item 6 in Submittal B-1 further states that "If authorized planned use reaches eighty percent (80%) of the Keauhou Aquifer System Area (KASA) sustainable yield (which equates to 30.4 mgd of 38 mgd), then the Commission will commence public informational meetings in the Keauhou Aquifer System Area (KASA) in accordance with Hawaii Revised Statutes (HRS) §174C-44 & Hawaii Administrative Rules (HAR) §13-171-7 (5-6:2002)." *When recharge rates are recalculated using projected scenarios perhaps we might reconsider designating the Keauhou Aquifer as a Water Management Area (WMA). Given current scientific findings, one of the larger questions is when will we act to protect our groundwater knowing the climate is changing with increasing drought conditions which will amplify water demand in the years to come further threatening Public trust uses and protections of water.*

Too, even without this reconsideration of WMA designation citizens need CWRM to help establish new projections for SY (if this is the system we will use to govern water) that considers climate change scenarios. At the November 16, 2021 CWRM meeting the Commission asked DWS to provide climate change scenarios for future water availability and demand. These scenarios would be designed around SY determined by CWRM. Thus, CWRM also has responsibilities to help initiate this ask provided to DWS. Perhaps, USGS can help to provide potential predictions further refined for SY? In either case, SY requires revision and action by the Commission.

DWS PROVIDE NECESSARY REVISIONS TO KEAUHOU WATER USE AND DEVELOPMENT PLAN.

Keauhou Water Use and Development Plan remains in draft form requiring necessary revisions. This includes but is not limited to: a water audit, recalculated water availability informed by audit findings and climate change predictions, water demand scenarios too informed by new water availability predictions, codified consultation process with cultural practitioners greater detailed by the Ota Well unfoldings, increased water conservation, accounting for sequencing the cycle of plans that manage water use (e.g., recycled water, State Water Plan), anticipated increase for water in dry season demand, and

[1] Final study has not been published. Numbers provided are the best available public records. For a direct reference view video recorded meeting at 44:11 timestamp..

[2] Similar findings of groundwater decline impacts using RCP 8.5 were used by Bremer et. a (2021) for Pu'uloa. For further information visit https://hawaii.edu/epscor/groundwater-management-for-people-and-ecosystems-under-a-changing-climate-insights-from-the-pu'uloa-aquifer/

cumulative impact assessment of Keauhou Aquifer.[3] Well developers are relying on this draft plan to guide ongoing development even though necessary revisions have yet to be completed. Relying on inaccurate information creates a precarious position for Kona's water future. Too, in its current form the document is being interpreted by developments as being "exempt" from assessing groundwater withdrawal on T&C practices (Planning Solutions 107:2018).

PREVENT WATER CONFLICTS THROUGH GREATER OVERSIGHT AND ENFORCEMENT OF THE KA PA'AKAI ANALYSIS AT ALL STAGES OF PROJECT PLANNING AND DEVELOPMENT.

The Ota Well Final Environmental Assessment (FEA) did not assess impacts of groundwater withdrawal on Native Hawaiian traditional and customary practices, yet the project was approved with a Finding of No Significant Impact (FONSI). Public comments questioning the project's assessment of groundwater withdrawal impacts on Native Hawaiian traditional and customary practices were unaddressed. AICP Planner, Makena White, commented, "The CIA concluded that it is unlikely, given the absence of ongoing cultural practices on, or adjacent to, the project site for the proposed action to have any effect on Native Hawaiian traditional and customary rights, practices, or beliefs (Planning Solutions 112:2018)." Yet, the project did not assess the impact on traditional and customary rights regarding the use of water in the ahupua'a where the project was located and the neighboring ahupua'a.[4] Instead, reference was made to archaeological resources and an assessment strictly limited to well development project site.

Perhaps, well permits initiating the Ka Pa'akai Analysis process should be initiated while or before an EA or EIS is finalized. Projects approved at the EA and EIS planning phase without necessary well permits operate under the assumption that groundwater demands will be approved, even though water for projects have not been secured and may be unavailable. Too, greater coordination and water audit by DWS can help create more conversations about appropriate uses and priorities for water informed by the community which would then guide development based on water availability, not demand. Again, this relies upon the WUDP which needs revisions and finalization, and in turn is guided by new calculations for SY provided by CWRM.

For the record, mitigation measures and consultation with cultural practitioners for the Ota Well occurred after Ashley Obrey, attorney for Native Hawaiian Legal Corp, intervened on behalf of myself introducing the potential for a contested case hearing. Cultural practitioners should not have to bear the burden of ensuring necessary laws like the Ka Pa'akai Analysis are followed. We need greater oversight and enforcement at all stages of project planning and development.

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[3] Listed items were too addressed at the CWRM Meeting on November 16, 2021 as Briefing on Keauhou WUDP UPdate to CWRM and Hawai'i County Council RAWEEMC. See https://vimeo.com/506415261/c01b10f0a1.

[4] §343 **"**Cultural impact assessment**"** means a written evaluation to determine whether an action may have a significant effect on the cultural sites and practices of the community and State, including the traditional and customary rights of native Hawaiians protected pursuant to article XII, section 7, of the Hawaii state constitution.

INCREASED CODIFICATION OF PROTECTIONS FOR GROUNDWATER DEPENDENT ECOSYSTEMS (GDE) AND NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY PRACTICES.

Legislation was introduced in January and March 2022 to fast track Ota Well while consultations with the Aha Moku Council (AMC) and CWRM were occurring. Introduced by Senator Dru Kanuha letters from proponents included well developers, NELHA and HHFDC. Introduced measures sought to fast track Ota Well development, disregard AMC and CWRM oversight of mitigations for the well permit, while threatening water protections beyond this project. Such intervention through special legislation questions the integrity of trusting this process in the future.[5] Codification of this consultation process in relation to GDE is necessary to strengthen protections for traditional and cultural practitioners and the natural environment. Reevaluation and revision of policy through specific language can help to reduce the burden of these processes on cultural practitioners, ʻohana, and community members.[6]

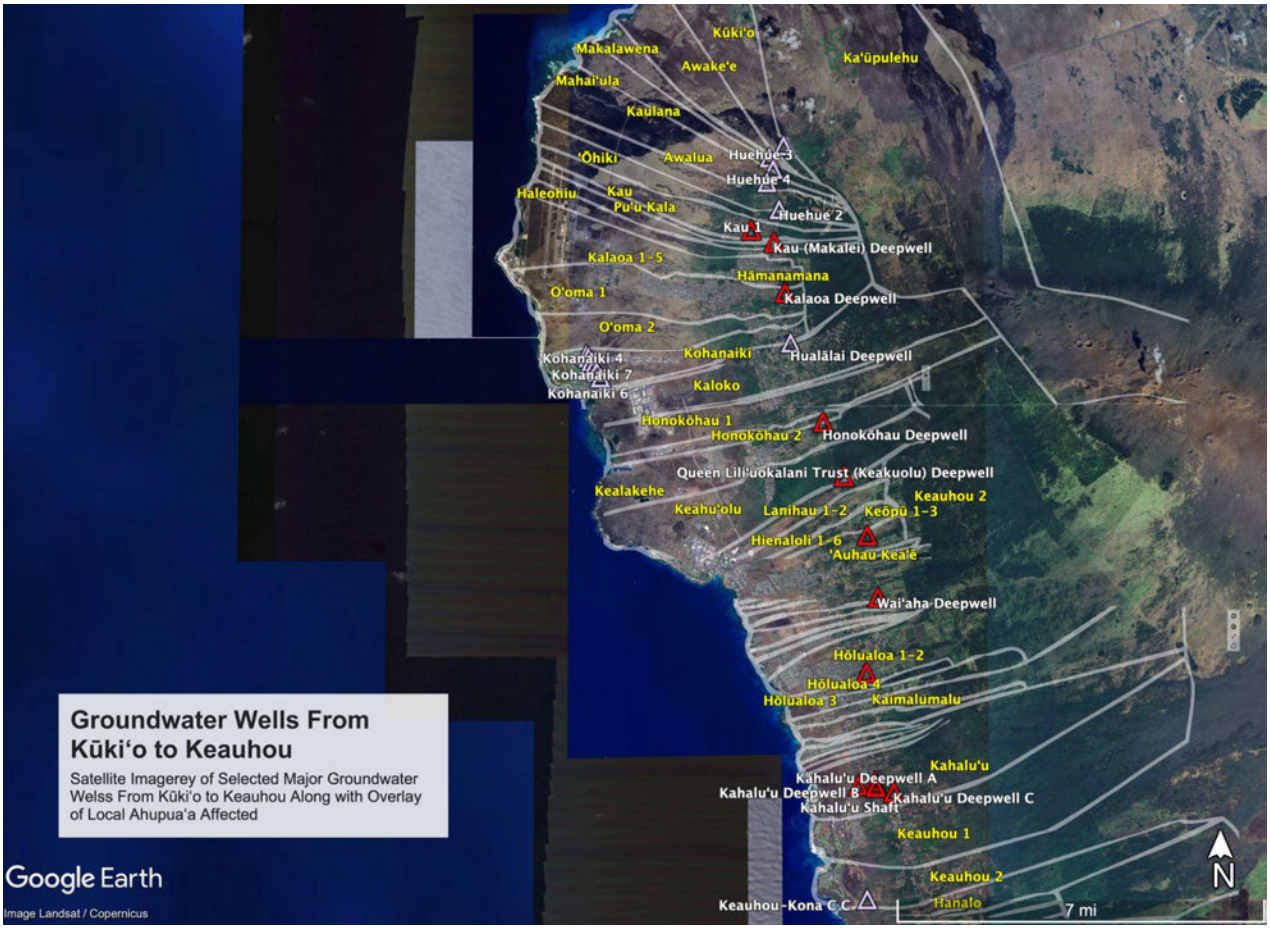
CONSIDERATION OF T&C GROUNDWATER USES AND DEPENDENT ECOSYSTEMS FOR EXISTING WELLS ONLINE

The Ota Well opens a process for the evaluation fo T&C practices at the ahupuaʻa level. There are a number of wells located within the Keauhou Aquifer that runs from Kūkiʻo at the northern point to Kahaluʻu at the southern edge. This includes, but is not limited to the ahupuaʻa of Kūkiʻo, Awakeʻe,[7] Makalawena, Mahaiʻula, Kaulana, Awalua, Oʻoma, Kohanaiki, Keahuʻolu, Hōlualoa, Kahului, Waiʻaha, Hienaloli, and Kahaluʻu. Have the impacts to T&C groundwater uses and dependent ecosystems been assessed? Has a Ka Paʻakai Analysis assessing impacts to cultural practices for these and their neighboring ahupuaʻa been assessed? Such an analysis calls for a regional approach that too should be designed around the traditional boundaries for Kona: Kekaha Wai ʻOle, Kona Kai ʻŌpua, and Kapalilua. The image below provides a general overview of wells in Kona by ahupuaʻa.

[5] Letters from proponents of these bills are included in Appendix 1 and Appendix 2.

[6] Codification of necessary language and the need to consider equity and community have been noted by CWRM in November 16, 2021 as Briefing on Keauhou WUDP UPdate to CWRM and Hawaiʻi County Council RAWEEMC. See https://vimeo.com/506415261/c01b10f0a1.

[7] Though outside of the Keauhou Aquifer the ahupuaʻa are listed because of the clustered Huʻehuʻe Ranch Wells operating and extending into the Keauhou Aquifer to provide water for the resort development.



Conclusion

I am asking for your help. We need greater coordination and oversight by agencies to help prevent water conflicts. Though growing and changing rapidly our community is small. We need the help of CWRM, DWS, AMC, and NPS to work together with the community as we move forward. Conversations must be inclusive and responsive to traditional and customary practitioners. Litigation is a last resort. If we are on the verge of litigating then marks were missed and there is backtracking to be done. Moreover, there are other methods we can use to uplift our wai and the many voices and beings who rely on wai for life.

Mahalo for the opportunity to comment. I look forward to the vibrant discussions to be had and collective voices to be heard surrounding caring for our precious wai.

Me ke aloha,

Loke Aloua

Appendix 1

SB 2884
Special Interest Legislation

Introduced on 1/21/2022
By Dru Kanuha

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2884

JAN 2 1 2022

A BILL FOR AN ACT

RELATING TO WATER RESOURCE MANAGEMENT FOR AFFORDABLE HOUSING DEVELOPMENT.

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

SECTION 1. The legislature finds that the cost and availability of housing in the State are significant challenges facing Hawai'i residents. Due to the barriers hindering the production of new housing, such as geographic limitations, lack of major infrastructure, and government regulation, the legislature finds that new potable water resources will enable more affordable housing development. As the regulation of water resources are administered by multiple agencies at the county and state level, depending on the legal designation of the water source in question and the quantity of water being used, providing access to potable water for affordable housing development is critical to solve the State's affordable housing crisis.

The legislature further finds that water use in the State frequently requires approval by the commission on water resource management, which currently lacks a process to identify and

support affordable housing development. The commission is authorized by chapter 174C, Hawaii Revised Statutes, to issue permits upon application for the use of water resources, pursuant to rules adopted by the commission. Section 174C-53(c), Hawaii Revised Statutes, requires the commission to issue a decision on an application within ninety days if the application does not require a hearing, or within one hundred eighty days if a hearing is required. Included in the existing decision-making timeline, pursuant to section 174C-49(b), Hawaii Revised Statutes, is a sixty-day window within which the affected county may comment on the proposed use.

The legislature additionally finds that there is a lack of potable water sources for affordable housing, especially in rural areas, and that this lack is exacerbated by delays in the permit approval process. Additionally, there is a lack of any current process to address federal inquiries related to the activities of the commission on water resource management, which can result in further delays when an inquiry is initiated.

Accordingly, the purpose of this Act is to:

(1) Provide a process for the commission on water resource management to support affordable housing development

by issuing a decision on a water use permit application within the statutory period set forth in subsection 174C-53(c), Hawaii Revised Statutes, and if not issued in the prescribed time, the application will be deemed approved; and

(2) Establish a water resource management for affordable housing development working group that shall convene upon a federal agency or authority's initiation of an inquiry or investigation relating to the commission on water resource management to address the inquiry or investigation.

SECTION 2. The commission on water resource management shall review and issue a decision on any permit application relating to a new water source or new water use within the time period provided under subsection 174C-53(c), Hawaii Revised Statutes. If the commission does not issue a decision on an application within the time period provided, the application shall be deemed to be approved.

SECTION 3. (a) If a federal agency or authority initiates an inquiry or investigation relating to the commission on water resource management, a water resource management for affordable

housing development working group shall be convened for the purpose of addressing the concerns raised by the inquiry or investigation.

(b) The working group shall consist of:

(1) A member of the board of land and natural resources;

(2) One person designated by the office of the mayor of each county;

(3) One person designated by the department of Hawaiian home lands; and

(4) One person designated by each county's department of water supply.

(c) The working group shall create a process to remediate the concerns of the federal agency or authority and submit the working group's recommendations to the commission on water resource management. After receiving the recommendations of the working group, the commission on water resource management shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement the process developed by the working group.

SECTION 4. The auditor shall submit a report on the effectiveness of this Act, including recommendations and

proposed legislation, to the legislature no later than twenty days prior to the convening of the Regular Session of 2023.

SECTION 5. This Act shall take effect upon its approval; provided that this Act shall be repealed two years after the effective date of this Act.

INTRODUCED BY: _____

S.B. NO. 2084

Report Title:
Commission on Water Resource Management; Permit Applications; New Water Sources; New Water Uses; Deadline for Review and Approval; Working Group

Description:
Provides that, if the Commission on Water Resource Management fails to review a permit application relating to new water uses or new water sources for affordable housing development, and issue a decision on that application within the existing statutory period, the application is deemed to be approved. Convenes a Water Resource Management for Affordable Housing Development Working Group upon the initiation of a federal investigation or inquiry relating to the Commission on Water Resource Management to address the concerns raised by the investigation or inquiry. Requires the Auditor to submit a report on the effectiveness of this Act. Sunsets two years after the effective date of the Act.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

DAVID Y. IGE
GOVERNOR

DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON HOUSING
February 10, 2022 at 1:00 p.m.
State Capitol, Room 225

In consideration of
S.B. 2884
RELATING TO WATER RESOURCE MANAGEMENT FOR AFFORDABLE HOUSING DEVELOPMENT.

HHFDC is in ***strong support*** of S.B. 2884, which provides that, if the Commission on Water Resource Management fails to review a permit application relating to new water uses or new water sources for affordable housing development, and issue a decision on that application within the existing statutory period, the application is deemed to be approved, among other things.

HHFDC needs access to potable water for its affordable housing development in the Village of Laiopua. This bill would help address delays in issuing water use permits connected to affordable housing.

Thank you for the opportunity to testify.

NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism

Written Only

Statement of
Gregory P. Barbour
Executive Director
Natural Energy Laboratory of Hawaii Authority
before the

SENATE COMMITTEE ON WATER AND LAND
and
SENATE COMMITTEE ON HOUSING

Thursday, February 10, 2022
1:00 pm
State Capitol, Conference Room 225 & Videoconference

in consideration of

SB 2884
RELATING TO WATER RESOURCE MANAGEMENT
FOR AFFORDABLE HOUSING DEVELOPMENT.

The Natural Energy Laboratory of Hawaii Authority (NELHA) strongly supports SB 2884 which amends the existing Commission on Water Resource Management (CWRM) decision-making timeline, pursuant to section 174C-49(b), Hawaii Revised Statutes, for water use permit applications with respect to affordable housing projects.

NELHA is jointly developing, with the Hawaii Housing and Finance Development Corporation (HHFDC), an exploratory well for new potable water resources which will supply freshwater to NELHA's Hawaii Ocean Science and Technology Park and the HHFDC's Kamakana Village affordable housing development. We have obtained all the final permits required for

73-4460 Queen Kaahumanu Hwy., #101, Kailua-Kona, Hawaii USA 96740-2637
Phone: (808) 327-9585 Fax: (808) 327-9586 Email: nelha@nelha.org Website: nelha.hawaii.gov

construction except for a permit from the Commission on Water Resource Management (CWRM) to begin drilling the exploratory well.

NELHA continues to invest significant time and effort working with CWRM staff, HHFDC, well development partners, and other stakeholders in keeping the process moving forward. This measure will facilitate the permitting process.

Thank you for the opportunity to offer these comments.

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director

Susan K. Kunz
Housing Administrator

Harry M. Yada
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development
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Kona: (808) 323-4300 • Fax (808) 323-4301

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair
Committee on Housing

Senator Lorraine R. Inouye, Chair
Senator Gilbert Keith-Agaran, Vice Chair
Committee on Water and Land

Thursday, February 10, 2022, 1:00 p.m.

Support for S.B. 2884, Relating to Water Resource Management for Affordable Housing Development

Thank you to Senate Committee on Housing Chairman Stanley Chang, Vice Chairman Dru Mamo Kanuha, and Senate Housing Committee members, and Senate Committee on Water and Land Chairperson Lorraine R. Inouye, Vice Chairman Gilbert Keith-Agaran and Senate Water and Land Committee members for this opportunity to submit testimony in support of SB 2884, a bill relating to water resource management for affordable housing development.

The shortage of affordable housing on Hawai`i island remains a challenge. The 2019 Hawai`i Housing Planning Study conducted by SMS Research cites a need for an additional 10,796 housing units, at the 140% AMI and below, by the year 2025. The Hawai`i County Office of Housing and Community Development supports this measure in its ability to assist in alleviating a crucial barrier for developing affordable housing, which is having access to potable water.

We support this measure which would require the Commission on Water Resource Management to review a permit for a new water use or new water source within a 90 day time period for applications not requiring a hearing, and a 180 day time period for applications requiring hearings. We also support the 60 day time period which would allow the affected County to comment on the proposed use.

Thank you for the opportunity to testify.

Susan K. Kunz
Housing Administrator

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director

County of Hawai'i
Office of the Mayor
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February 9, 2022

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair
Committee on Housing

Senator Lorraine R. Inouye, Chair
Senator Gilbert Keith-Agaran, Vice Chair
Committee on Water and Land

Hawai'i State Legislature
415 S. Beretania Street
Honolulu, Hawai'i 96813

Subject: **SB 2884 RELATING TO WATER RESOURCE MANAGEMENT AND AFFORDABLE HOUSING**
Hearing Date: Thursday, February 10, 2022 at 1:00 p.m.
Time/Place of Hearing: Via Video Conference
Conference Room 225

Aloha Chair Chang, Vice Chair Kanuha, and Housing Committee members; Chair Inouye, Vice Chair Keith-Agaran and Water and Land Committee members;

On behalf of the County of Hawai'i, I am expressing my unequivocal support for SB 2884 for fiscal year 2022-2023 which addresses water resource management issues and supports affordable housing development.

The availability of potable water is the single greatest hindrance to the development of affordable housing in West Hawai'i. SB 2884 would increase access to potable water which in turn would benefit homestead and farm lot development on Hawaiian Homes land; enhance technology and innovation initiatives at the Natural Energy Laboratory of Hawai'i and support fixed based operations such as Ellison Onizuka International Airport. The entire Kona Enterprise Zone would blossom under the expansion of potable water sources.

I firmly believe SB2884 has the potential to produce a multiplier effect that will enhance the quality of life for residents in West Hawai'i as well as our entire county.

Your consideration of this bill is sincerely appreciated. Please feel free to contact me for any additional information.

Mahalo,

Mitchell D. Roth
Mayor
County of Hawai'i

STANFORD CARR DEVELOPMENT, LLC

February 7, 2022

Honorable Lorraine R. Inouye, Chair
Honorable Gilbert S.C. Keith-Agaran, Vice Chair
and Committee Members, Senate Committee on Water and Land

Honorable Stanley Chang, Chair
Honorable Dru Mamo Kanuha, Vice Chair
and Committee Members, Senate Committee on Housing
Hawaii State Capitol
Honolulu, Hawaii 96813

Dear Senator Inouye, Senator Chang, and Committee Members:

SUBJECT: SB 2884 Relating to Water Resource Management for Affordable Housing Development

I am writing to express **support** for Senate Bill 2884 that proposes to establish a process to identify, support, and expedite the approval of potable water sources for affordable housing development.

Act 350 enacted during the 1997 Regular Session of the Nineteenth State Legislature recognized the critical need for housing affordability and availability, further noting the cost added by government regulation. In the public interest of expediting affordable housing, Act 350 created Hawaii Revised Statutes (HRS) section 201E-118 requiring counties to approve or disapprove a project within 45 days or on the forty-sixth day a project is deemed approved.

The 2005 Regular Session of the Twenty-Third Legislature enacted Act 196 whereby section 35 established a joint legislative housing and homeless task force to further identify solutions to Hawaii's affordable housing problem. Recommendations of the task force included a need to "streamline government approvals and permitting of affordable housing projects."

Consistent with the HRS 201H process that expedites agency review related to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units, the same approval language is recommended for implementation by the Commission on Water Resource Management of potable water sources for affordable housing development. Specifically, if a decision on the water use permit application is not issued within the statutory period set forth in HRS 174C-53(c), the application will be deemed approved with no further action.

ALAKEA CORPORATE TOWER • 1100 ALAKEA STREET, 27TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 537-5220 • FACSIMILE: (808) 537-1801 • WEBSITE: www.stanfordcarr.com

February 4, 2022

Thank you for the opportunity to share my perspective on the urgency and importance of expediting approvals for potable water sources that are vital to the development of affordable housing.

Respectfully,

Stanford S. Carr

Kona-Kohala
CHAMBER OF COMMERCE

LATE

February 9, 2022

RE: SB 2884 Relating to Water Resource Management for Affordable Housing Development

Dear Chair Chang and the Senate Committee on Housing and Chair Inouye and the Senate Committee on Water and Land.

The Kona-Kohala Chamber of Commerce brings together the business community as a strong, united voice to address key issues on our island and in our state. With 425 member businesses and organizations, we strive to enhance the quality of life for our community through a strong, sustainable economy on Hawai'i Island.

The Kona-Kohala Chamber of Commerce 2022 top priorities are Housing and Water Development. We **strongly support housing projects** at all inventory levels in West Hawai'i. This includes the development of infrastructure to support more housing along with an emphasis on improvements in permitting processes. We also believe new water resource development, maintenance and protection are crucial considerations.

We appreciate that legislators aim to address Hawai'i's critical need for housing and **support Senate Bill 2884** relating to water resource management for affordable housing development.

Mahalo for this opportunity to testify.

Sincerely,

Wendy J. Laros, President and CEO
Kona-Kohala Chamber of Commerce

Kona-Kohala Chamber of Commerce
75-5737 Kuakini Hwy. Suite 208 | Kailua-Kona, HI 96740
Ph. (808) 329-1758 Fax (808) 329-8564
info@kona-kohala.com | www.kona-kohala.com

Appendix 2

SR 152 and SR 160
"Preauthorize" Water Applications to Facilitate Affordable Housing

Introduced 3/11/2022

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.R. NO. 152

MAR 1 1 2022

SENATE RESOLUTION

REQUESTING THE ESTABLISHMENT OF A PROCESS FOR AFFORDABLE HOUSING PROJECTS IN THE COMMISSION ON WATER RESOURCE MANAGEMENT TO ADDRESS HAWAI'I'S HOUSING SHORTAGE.

WHEREAS, Hawai'i faces a crisis of housing availability and affordability; and

WHEREAS, the high cost of housing in Hawai'i is primarily the result of insufficient housing production and affordable housing inventory; and

WHEREAS, while there are numerous barriers inhibiting the development of new housing in Hawai'i, one of the most significant is the lack of adequate infrastructure, including infrastructure necessary to deliver potable water; and

WHEREAS, the regulation of water resources is administered by multiple agencies at the county and state level, depending on the designation of the water source in question and the quantity of water being used; and

WHEREAS, installation of water use infrastructure requires approval from the Commission on Water Resource Management, which currently lacks a process to identify and prioritize permitting for affordable housing developments; and

WHEREAS, after years of permitting new drinking water sources through an administrative process, the Commission on Water Resource Management recently began processing well permits, which has not been a normal procedure for areas that are not designated as a groundwater management area; and

WHEREAS, without a clearly defined process to respond to permit applications for new drinking water sources, the development of affordable housing in the State will continue to be delayed by the lack of available potable water; now, therefore,

DAVID Y. IGE
GOVERNOR

DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER AND LAND
AND
SENATE COMMITTEE ON HOUSING
April 01, 2022 at 1:05 p.m.
State Capitol, Room 229

In consideration of
S.C.R. 160/ S.R. 152
REQUESTING THE ESTABLISHMENT OF A PROCESS FOR AFFORDABLE HOUSING PROJECTS IN THE COMMISSION ON WATER RESOURCE MANAGEMENT TO ADDRESS HAWAI'I'S HOUSING SHORTAGE.

HHFDC ***strongly*** ***supports*** S.C.R. 160/ S.R. 152. This resolution requests that the Commission on Water Resource Management establish a working group to develop and implement a permitting process that supports the preauthorization for the development of affordable housing throughout the State.

HHFDC needs access to potable water for its affordable housing development in North Kona called the Villages of Laiopua. This resolution would help address delays in issuing water use permits connected to affordable housing.

Thank you for the opportunity to testify.

Hawaii Island Economic Development Board

Phone: (808) 935-2180 Fax: (808) 443-0873
Mail: 67-1185 Mamalahoa Hwy, Unit D104 #353, Kamuela, HI 96743
Email: hiedb@hiedb.org Website: www.hiedb.org

Water resource and availability is critical to development including for housing. Estimates are that we have a shortage in excess of 5,000 units on Hawaii Island alone which exacerbates other socio-economic challenges including and not limited to, the current labor shortages. Unless CWRM can identify a process that mitigates the current bottleneck in permits for water resource development, the problems will expand exponentially. Hawaii Island Economic Development Board strongly supports SR152 and all efforts to increase water resource development and management in an environmentally and scientifically sound manner, and address the unprecedented and critical housing shortage.

Mahalo for this opportunity to voice our support for SR152.

DAVID Y. IGE
GOVERNOR

DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
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FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER AND LAND
AND
SENATE COMMITTEE ON HOUSING
April 01, 2022 at 1:05 p.m.
State Capitol, Room 229

In consideration of
S.C.R. 160/ S.R. 152
REQUESTING THE ESTABLISHMENT OF A PROCESS FOR AFFORDABLE HOUSING PROJECTS IN THE COMMISSION ON WATER RESOURCE MANAGEMENT TO ADDRESS HAWAI'I'S HOUSING SHORTAGE.

HHFDC ***strongly*** ***supports*** S.C.R. 160/ S.R. 152. This resolution requests that the Commission on Water Resource Management establish a working group to develop and implement a permitting process that supports the preauthorization for the development of affordable housing throughout the State.

HHFDC needs access to potable water for its affordable housing development in North Kona called the Villages of Laiopua. This resolution would help address delays in issuing water use permits connected to affordable housing.

Thank you for the opportunity to testify.

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director

County of Hawai'i
Office of the Mayor

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March 31, 2022

Senator Lorraine R. Inouye, Chair
Senator Gilbert Keith-Agaran, Vice Chair
Committee on Water and Land

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair
Committee on Housing

Hawai'i State Legislature
415 S. Beretania Street
Honolulu, Hawai'i 96813

Subject: **SCR 160/SR 152 REQUESTING THE ESTABLISHMENT OF A PROCESS FOR AFFORDABLE HOUSING PROJECTS IN THE COMMISSION ON WATER RESOURCE MANAGEMENT TO ADDRESS HAWAII'S HOUSING SHORTAGE**
Hearing Date: Friday, April 1, 2022 at 1:05 p.m.
Time/Place of Hearing: Via Video Conference
Conference Room 229

Aloha Chair Inouye, Vice Chair Keith-Agaran and Water and Land Committee members; Chair Chang, Vice Chair Kanuha, and Housing Committee members;

On behalf of the County of Hawai'i, I am expressing my strong support for SCR 160/SR152 which requests the Commission on Water Resource Management to establish a process for addressing water resource issues that support affordable housing development. The availability of potable water is one of the major obstacles to developing affordable housing in our county. SCR160/SR152 provides an opportunity to engage stakeholders and collectively move our efforts forward in that regard.

Your consideration of these resolutions are sincerely appreciated.

Mahalo,

Mitchell D. Roth
Mayor
County of Hawai'i

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director

Susan K. Kunz
Housing Administrator

Harry M. Yada
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development
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Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

March 31, 2022

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice-Chair
Committee on Housing

Senator Lorraine R. Inouye, Chair
Senator Gilbert Keith-Agaran, Vice-Chair
Committee on Water and Land

RE: Support for S.C.R. 160 and S.R. 152, Requesting the establishment of a process for affordable housing projects in the Commission on Water Resource Management to address Hawai`i's housing shortage.
Hearing Date: Friday, April 1, 2022 at 1:05 p.m.
Location of Hearing: Via Video Conference, Conference Room 229

Aloha Chair Chang, Vice-Chair Kanuha, and Housing Committee members; Chair Inouye, Vice-Chair Keith-Agaran and Water and Land Committee members;

I am expressing my support for S.C.R. 160 & S.R. 152 for fiscal year 2022-2023 which will address a permitting process to identify and prioritize water resource management infrastructure for affordable housing development.

The shortage of affordable housing on Hawai`i island remains a challenge. The 2019 Hawai`i Housing Planning Study conducted by SMS Research cites a need for an additional 10,796 housing units, at the 140% AMI and below, by the year 2025. The Hawai`i County office of Housing and Community Development supports this measure in its intent to provide potable water for affordable housing.

I firmly believe S.C.R. 160 & S.R. 152 will also affect and enhance the quality of life for residents in West Hawai`i as well as our entire County.

Your consideration of this bill is sincerely appreciated. Please feel free to contact me for any additional information.

Thank you for the opportunity to testify.

Susan K. Kunz
Housing Administrator

3016pkrr

EQUAL HOUSING OPPORTUNITY

SCR-160
Submitted on: 3/29/2022 8:56:47 PM
Testimony for HOU on 4/1/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacqui Hoover	Testifying for Hawaii Leeward Planning Conference	Support	Written Testimony Only

Comments:

Water resource, infrastructure, and availability is critical to development including for housing. Estimates are that we have a shortage in excess of 5,000 units on Hawaii Island alone which exacerbates other socio-economic challenges including and not limited to, the current labor shortages. Unless CWRM can identify a process that mitigates the current bottleneck in permits for water resource development, the problems will expand exponentially. HLPC supports SCR160 and all efforts intended to water resource development and management in an environmentally and scientifically sound manner, and address the criticaly housing shortage. Mahalo for this opportunity to voice our support for SCR160.

Hawaii Island Economic Development Board

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Mail: 67-1185 Mamalahoa Hwy, Unit D104 #353, Kamuela, HI 96743
Email: hiedb@hiedb.org Website: www.hiedb.org

Water resource and availability is critical to development including for housing. Estimates are that we have a shortage in excess of 5,000 units on Hawaii Island alone which exacerbates other socio-economic challenges including and not limited to, the current labor shortages. Unless CWRM can identify a process that mitigates the current bottleneck in permits for water resource development, the problems will expand exponentially. Hawaii Island Economic Development Board strongly supports SCR160 and all efforts to increase water resource development and management in an environmentally and scientifically sound manner, and address the unprecedented and critical housing shortage. Mahalo for this opportunity to voice our support for SCR160.

SCR-160
Submitted on: 3/31/2022 9:37:14 AM
Testimony for HOU on 4/1/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Craig Bo Kahui	Individual	Support	Remotely Via Zoom

Comments:

Laiopua Community Development Corporation is in support of SR 160. The Commission on Water Resource Management could use the assistance of local County Water agency and the DHHL who by State constitution has an interest in water resource development in the State that benifit native Hawaiians.

We are in full support of SCR160.

Mahalo

Bo Kahui