



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
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

August 20, 2024
Honolulu, Hawai'i

Authorize the Chairperson to Enter into a Memorandum of Understanding (MOU) with the State of Hawai'i Land Use Commission (LUC) to Encourage Information Sharing and Collaboration Between the Agencies and Delegate to the Chairperson to Finalize an MOU and Make Non-Substantial Edits as Appropriate

SUMMARY OF REQUEST

That the Commission on Water Resource Management (Commission) authorize the Chairperson to enter into a Memorandum of Understanding (MOU) with the State of Hawai'i Land Use Commission (LUC) to share information and collaborate on matters related to water resources that appear before the Commission and LUC.

BACKGROUND

The Commission has jurisdiction and regulatory authority over water resources statewide and aims to balance the protection of water resources and public trust purposes while maximizing reasonable and beneficial uses of water (Chapter 174C, Hawai'i Revised Statutes (HRS)). The State Land Use Law (Chapter 205, HRS) was adopted in 1961, establishing a framework of land use management and regulation in which all lands in the State of Hawai'i are classified into one of four land use districts. The LUC is responsible for administering land use districts, boundary amendments, and declaratory rulings for developments and construction projects.

Cooperation and collaboration between land use and water resource management and planning is essential. Recognizing the Commission and the LUC's respective responsibilities and filling occasional gaps in information sharing, there is a mutual need for a MOU.

DESCRIPTION OF MOU

The proposed MOU is attached as Exhibit 1, which outlines areas of interest and priorities between the Commission and the LUC. The MOU establishes actions to improve cooperation

and collaboration between the two agencies and will allow both agencies to achieve their respective responsibilities in a more efficient manner. LUC staff has reviewed and provided input on this MOU.

MODIFICATION AND TERMINATION OF MOU

The proposed MOU period begins on the date of execution. The MOU may be modified at any time by the mutual written agreement of the parties. The Commission and the LUC may terminate the MOU upon thirty days written notice to each respective agency. During this period, the parties shall make a good-faith effort to resolve any disagreement.

RECOMMENDATIONS

Staff recommends that the Commission authorize the Chairperson to enter into and finalize a Memorandum of Understanding (MOU) with the LUC and make non-substantial edits as appropriate.

Respectfully submitted,



DEAN D. UYENO
Acting Deputy Director

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG
Chairperson

Exhibit 1 – Memorandum of Understanding (MOU)

MEMORANDUM OF UNDERSTANDING

BETWEEN

HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

AND

THE STATE OF HAWAI'I LAND USE COMMISSION

1. In recognition of the regulatory responsibilities and common interests of the Hawai'i Department of Land and Natural Resources, Commission on Water Resource Management ("CWRM") and the State of Hawai'i Land Use Commission ("LUC"), the benefits to both organizations that result from sharing information about regulatory experiences and practices as it relates to land use and water planning, CWRM and the LUC hereby declare their intent to cooperate in this Memorandum of Understanding ("MOU").
2. This MOU identifies topics that CWRM and the LUC intend to focus on in their initial exchange of information.
3. The initial topics under this MOU of interest to the CWRM include the following areas:
 - a. Protection and prioritization of public trust uses of water by the LUC, which are water in its natural state, domestic uses, water for the Department of Hawaiian Homelands, and water for the exercise of traditional and customary Native Hawaiian practices;
 - b. Exchange and review of documents, permits, and petitions that may be reliant on surface and/or ground water within or outside of water management areas, including the establishment of numeric instream flow standards;
 - c. Proactive and timely information sharing on land use district changes, boundary amendments, special permits, and declaratory rulings for developments and construction projects that include water resources.
4. The initial topics under this MOU of interest to the LUC include the following areas:
 - a. Whether the proposed volume of water withdrawals (surface or groundwater) is consistent with CWRM's understanding of water availability with regards to sustainable yields and instream flow standards, existing allocations, and future allocations as identified in the Hawai'i Water Plan, and the protection of public trust uses of water;
 - b. Proposed location of projects as it relates to existing and newly designated water management areas;
 - c. Proposed location of projects as it relates to areas under consideration for surface or ground water management designations.
5. Cooperation under this MOU may include, but is not limited to, the following:
 - a. Direct communication with CWRM regarding land use petitions and other document reviews that require timely input and comments from CWRM.
 - b. Information sharing and discussion of land use and water issues and topics related to regulatory practices, which may include:
 - i. Hydrologic monitoring data collected by CWRM;

- ii. Data on amounts of water withdrawn from the resource as reported to CWRM and the availability of water for the proposed project.
- c. Joint site visits that include CWRM, LUC, and other regulatory entities;
- d. Meetings, webinars, workshops, teleconferences and/or email exchanges;
- e. Training activities.

CWRM and LUC may decide to cooperate in other areas of mutual interest.

- 6. This MOU is not intended to be a binding contract enforceable in a court of law or in an administrative forum. It is intended only to establish a process for further cooperation between the governmental entities signing this document.
- 7. Nothing contained in this MOU requires either CWRM or the LUC to take action that would be inconsistent with any existing or future laws, regulations, and policy directives applicable to it. Activities by CWRM and LUC under this MOU are to be subordinate to their regulatory activities and interests and should be met depending on each entities' resources and priorities.
- 8. CWRM and the LUC, unless otherwise decided upon, intend to bear their own share of financial costs of participating in the activities under this MOU. All activities are subject to approval of funding by each entity involved.
- 9. This MOU will take effect when signed by all the parties hereto. This MOU may be modified at any time by the mutual written agreement of the parties. CWRM and the LUC may terminate the MOU upon thirty (30) days written notice to the other. During this period, the parties shall make good-faith efforts to resolve any disagreement.

Dawn N.S. Chang, Chairperson
Hawai'i Department of Land and Natural Resources
Commission on Water Resource Management

Date

Dan Giovanni, Chair
Hawai'i Land Use Commission

Date