

STAND. COM. REP. NO. 1704

Honolulu, Hawaii

APR 28 2015

RE: GOV. MSG. NO. 820

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Water and Land, to which was referred Governor's Message No. 820, submitting for study and consideration the nomination of:

COMMISSION ON WATER RESOURCE MANAGEMENT

G.M. No. 820 WILLIAM BALFOUR, JR.,  
for a term to expire 6-30-2019,

begs leave to report as follows:

Your Committee has reviewed the personal history, resume, and statement submitted by the nominee and finds William Balfour, Jr., to possess the requisite qualifications to be nominated to the Commission on Water Resource Management.

Your Committee received testimony in support of William Balfour, Jr., from the Department of Land and Natural Resources; Department Of Agriculture; Hawaii Cattlemens Council; Hawaii Crop Improvement Association; Hawaii Farm Bureau; Hawaii LECET; Big Island Toyota; Building Industry Association Of Hawaii; Laiopua 2020; Hawaii Agricultural Partnerships; Hawaii Leeward Planning Conference; Cyanotech Corporation; ILWU Local 142; Hawaii Operating Engineers Industry Stabilization Fund; Larry Jefts Farms LLC; Hawaii Fish Company; Rosehill & Associates; Hunt Development Group; Hawaii Forest Industry Association; Hawaii Hunting Association; Maui County Farm Bureau; Chamber of Commerce Hawaii; Hawaii Agricultural Research Foundation; Land Use Research Foundation of Hawaii; and eighteen individuals.



Your Committee received testimony in opposition to William Balfour, Jr., from the Native Hawaiian Legal Corporation; Waihuena Farm; GMO Free Maui; Hoomana Pono LLC; Na Moku Aupuni O Koolau Hui; Hawaii's Thousands Friends; University Of Hawaii Biology Alumni Association; Haiku Aina Permaculture Initiative; Roth Ecological Design Int; Hui Hoomalu I Ka Aina; Conservation Council for Hawaii; The Outdoor Circle; National Parks Conservation Association; Hookipa Network - Kauai; Sierra Club; Surfrider Foundation; International Ecological Safety Organization; numerous individuals; and a petition signed by nearly 3,500 individuals. Your Committee also received comments from the Office of Hawaiian Affairs and three individuals.

William Balfour, Jr., received a Bachelor of Science degree in General Agriculture from the University of Missouri. His experience in water resource management includes working for Lihue Plantation Company as Irrigation Division Overseer and Irrigation Superintendent, East Kauai Irrigation System as President and General Manager, and Waiahole Irrigation System as President and General Manager.

Mr. Balfour served as an Interim Commissioner starting in August 2009. He was subsequently nominated and confirmed to serve a full four-year term from July 2010 to June 2014.

In addition to his corporate work experience, Mr. Balfour brings to the Commission a small business perspective, having served for two years as President of Aloha Farms, a start-up 320-acre banana farm operation. His impressive work history also includes public service as the City and County of Honolulu's Director of the Department of Parks and Recreation for eight years, including the botanical gardens, and Civil Defense Administrator for two years.

Your Committee believes that Mr. Balfour's work history meets the statutory qualifications to serve on the Commission on Water Resource Management, in view of his forty-seven-year work history encompassing water systems management on Oahu, Kauai, and Maui.

Mr. Balfour emphasized in oral testimony that he listens closely to all testimony, is aware of the importance of water, seeks to conserve water, believes in protecting watersheds which funnel water to aquifers, is concerned about invasive plant species which threaten the proper functioning of watersheds, and most importantly believes in preserving the sustainable yield of



fresh water. He supports providing one hundred percent of the water needed for small farms and taro farming. He is against total diversion of stream water, which results in one area getting far less water than another.

Your Committee wishes to address the testimony in opposition to Mr. Balfour. The opposition cited three decisions of the Commission on Water Resource Management made while Mr. Balfour was a Commissioner. Two of the decisions were recommended by the staff of the Commission, were approved by the Department of the Attorney General, and received near-unanimous votes of the Commissioners. However, those two decisions were appealed through the courts, which overturned those decisions. The third decision involved a continuation, rather than a denial, of a petition to designate a certain area as a water management area and involved procedural technicalities. While Mr. Balfour voted against the extension, the official record reflects that the failure to extend the deadline would have no prejudice against the petitioner's right to continue to pursue their claim. The proceedings were postponed for one year to give the petitioner more time to provide data. The case has continued for two or more years, with a deadline at the end of May 2015 for the petitioner to furnish the data.

In response to questions regarding the Court instructions when remanding the two water cases back to the Commission, Mr. Balfour made a personal commitment to honor in all future cases the public trust doctrine established by the Hawaii Supreme Court as it applies to water resources under article XI, section 7, of the Hawaii State Constitution and the hierarchy of water rights as outlined in the State Water Code, as described by the Courts. Specifically, Mr. Balfour committed to honoring the four priority uses of state water resources: traditional and customary rights; the natural resources within the streams and near shore waters; reservations for the Department of Hawaiian Home Lands; and domestic uses. The nominee understood that commercial, industrial, and agricultural uses of water may only be discussed if there is sufficient water to meet the four public trust purposes of water uses, and if there is not waste or alternative water sources available.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be



qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Respectfully submitted on behalf of the members of the Committee on Water and Land,



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LAURA H. THIELEN, Chair



