

OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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DAVID Y. IGE
GOVERNOR

SCOTT GLENN
DIRECTOR

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Testimony of
SCOTT GLENN, Director

before the
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Friday, April 13, 2017

1:15 PM

State Capitol, Conference Room 224

in SUPPORT of
GOVERNOR'S MESSAGE 702
RELATING TO THE NOMINATION OF NICOLE MAHINA TUTEUR TO THE ENVIRONMENTAL COUNCIL

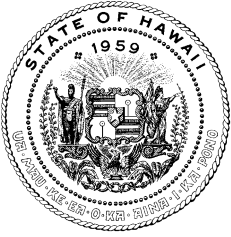
Chair Gabbard, Vice Chair Riviere, and Members of the Senate Committee on Agriculture and Environment,

The Environmental Council ("Council") is established in Section 341-3, HRS, which also directs membership "to assure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups."

The functions of the Council are to serve as a liaison between the OEQC Director and the general public and to make recommendations concerning ecology and environmental quality. The Council monitors the progress of state, county, and federal agencies in achieving the State's environmental goals and policies. It issues an annual report with recommendations for improvement to the Governor, the Legislature, and the general public (HRS § 341-6). Finally, the Council promulgates administrative rules for implementing Chapter 343, HRS (HRS § 343-6).

Ms. Tuteur has actively participated in rulemaking, conducting educational events, and conveying the perspectives and concerns of O'ahu residents. With respect to the Council's functions, duties, and powers, and in consideration of Ms. Tuteur's experience as demonstrated on her resume and participation to-date, OEQC supports her re-nomination to the Council.

Thank you for the opportunity to testify on this measure.



STATE ENVIRONMENTAL COUNCIL

DEPARTMENT OF HEALTH, STATE OF HAWAII
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Robert Parsons
Charles Prentiss
Ron Terry
Michael Tulang
N. Mahina Tuteur

Testimony of
Puananionaona Thoene
Council Chair on behalf of the State Environmental Council

Before the
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The functions of the Council are to serve as a liaison between the Office of Environmental Quality Control (OEQC) Director and the general public to make recommendations concerning ecology and environmental quality. The Council monitors the progress of the State, county, and federal agencies in achieving the State's environmental goals and policies. It issues an annual report with recommendations for improvement to the Governor, the Legislature, and the general public (HRS § 341-6). Finally, the Council promulgates administrative rules for implementing Chapter 343, HRS (HRS § 343-6).

Ms. Tuteur has served on the Council since 2016. Her experience as an attorney and in environmental and native Hawaiian law has been very valuable to the Council's work and discussions. With respect to these functions, duties, and powers, and in consideration of Ms. Tuteur's experience as demonstrated on her resume and participation to date, the Council supports the nomination and confirmation of Ms. Tuteur to continue to serve on the Council.

Thank you for the opportunity to testify on this measure.



GM702

SUBMITTING FOR CONSIDERATION AND CONFIRMATION TO THE ENVIRONMENTAL COUNCIL, GUBERNATORIAL NOMINEE, NICOLE TUTEUR, FOR A TERM TO EXPIRE ON 06-30-2022

Senate Committee on Agriculture and Environment

April 13, 2018

1:15 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** GM702, which would confirm Nicole Tuteur to the Environmental Council.

Ms. Tuteur is an outstanding Native Hawaiian law graduate whose dedication to and deep knowledge of Native Hawaiian and environmental issues has been and will continue to be invaluable to the Environmental Council, in the fulfillment of its important responsibilities. OHA has particularly benefited from Ms. Tuteur's diligent, thoughtful, and extremely effective work as a Post-Juris Doctor Fellow with the Ka Huli Ao Center for Excellence in Native Hawaiian Law, most recently coordinating the OHA-sponsored Native Hawaiian Law training course for state board and commission members; working with law students, researchers, and professors to assist neighbor island community groups and grateful community members with their environmental stewardship and cultural perpetuation efforts through the William S. Richardson Law School's Environmental Law Clinic and OHA's A'o Aku A'o Mai Initiative; and further facilitating community-accessible trainings on water law, the public trust, and Native Hawaiian traditional and customary rights. OHA believes that such experiences, combined with Ms. Tuteur's legal expertise, clearly demonstrate the invaluable insight, analytical skills, and breadth of relevant knowledge she will continue to bring to Environmental Council.

Therefore, OHA urges the Committee to **PASS** GM702. Mahalo nui for the opportunity to testify on this important matter.

Environmental Council Nomination Questions
N. Mahina Tuteur
April 5, 2018

(1) Why do you wish to be a member of the Environmental Council?

I see this as an invaluable opportunity to fulfill my kuleana to protect the environment, serve the community, and actively shape the environmental review process, ensuring that it is effective for all stakeholders, both in the present and into the future.

(2) How do you perceive the role and responsibilities of a member of the Environmental Council?

Members of the Environmental Council have several important responsibilities. By statute (HRS § 341-6), the Environmental Council serves as a liaison between the general public and the OEQC by soliciting information on matters of environmental quality and ecology. The Council also monitors the progress of State, County, and Federal agencies in achieving the State's environmental goals and policies and produces an annual report with recommendations to the Governor, the Legislature, and the public. Apart from these statutory duties, I believe the Environmental Council has an ethical responsibility to discuss Hawai'i's most critical environmental issues and improve how the environmental review process should address them. Members of the Environmental Council should also work to increase public participation in all aspects of the process.

(3) Given your understanding of the role and responsibilities of a member of the Environmental Council, why do you believe that you are qualified for the position? Please include a brief statement of your skills, expertise, or knowledge that would aid in your decision-making ability as a member of the Environmental Council.

I graduated *magna cum laude* from the William S. Richardson School of Law in 2014 with certificates in Environmental Law and Native Hawaiian Law. Most of my legal research has focused on water rights, various climate change issues, and clean energy. I have worked for various legal and non-profit organizations, including the Office of Hawaiian Affairs and Earthjustice. Through these experiences, I have gained a broad understanding of Hawai'i's most critical environmental issues. Years of academic training and community work, as well as my grounding in cultural values, will aid in my decision-making ability as an Environmental Council member.

(4) What do you hope to accomplish during your term of service?

I hope to contribute to the Council's ongoing work to update the administrative rules implementing the environmental impact statement law. I worked on the Rules Committee for the duration of my current term, and am interested in seeing the rules process through to completion, including the public hearings process, reviewing proposed language, and integrating public comments.

In terms of the content of environmental review documents, I also want to help develop guidance on integrating sea level rise and climate change in the environmental review process, in addition to incorporating environmental justice considerations, as recommended by the recently published Hawai'i Sea Level Rise Vulnerability and Adaptation Report.

(5) Name three qualities that best describe you and that would make you stand out. How would these qualities benefit the Environmental Council?

1. An understanding of the intersection between environmental law and Native Hawaiian law through both academic training and work experience. Awareness and appreciation for how the two are intimately linked, and the complexities of these issues, can benefit the Council because decision-makers in Hawai'i have a unique public trust duty to protect our natural and cultural resources.
2. I am very open to hearing different perspectives and have the ability to gather information and evaluate it objectively. This quality can be useful in the Council's work to encourage public participation.
3. My attention to detail is helpful in sifting through large amounts of information, distilling it into concise summaries, and prioritizing the most critical issues, which the Environmental Council must do in collecting public comments and incorporating that input into its recommendations to the Governor, Legislature, and State agencies.

(6) Name one previous experience that would make you stand out. How would this benefit the Environmental Council?

In general, I believe my experience in various legal settings, and with environmental litigation in particular, could benefit the Environmental Council. I have clerked at the federal district court, the Hawai'i Supreme Court, and the Intermediate Court of Appeals, which has given me unique insight into judicial decision-making, from trial through the appellate level. In addition, my experience with Earthjustice helped me better understand environmental/public interest litigation from the perspective of attorneys and community members. In my current role as a Post-Juris Doctor Research and Teaching Fellow at the Ka Huli Ao Center for Excellence in Native Hawaiian Law, I co-teach the Environmental Law Clinic, which is a live-client, non-litigation course through which second and third year law students work directly with community members in rural Neighbor Island communities, collaborate with clients and experts, conduct factual and legal research, and develop and implement case strategy. I am hopeful that this range of legal training, along with my extensive work relating to the public trust and the mandates it imposes on both decision-makers and applicants, will help to improve the Council's actions.

(7) Can you foresee any possible conflicts of interests that could arise during your service on the Environmental Council? How would you overcome any possible conflicts of interest?

No, I do not foresee any conflicts of interest that could arise during my term of service. Should something come up, however, I would seek the advice of the Deputy Attorney General to determine if an actual conflict existed.