

Honolulu, Hawaii

Ag. 113, 2006

RE: H.C.R. No. 192  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection, to which was referred H.C.R. No. 192 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO INVESTIGATE INCENTIVES TO PROMOTE ENERGY STORAGE SYSTEMS,"

beg leave to report as follows:

The purpose of this measure is to request the Public Utilities Commission to:

- (1) Investigate electric tariffs and other incentives to promote electric usage during off-peak periods; and
- (2) Provide incentives for electric customers to invest in energy storage equipment that will better utilize Hawaii's existing power system infrastructure through aggressive load shifting.

Prior to the hearing on this measure, your Committees circulated a proposed House Draft 1 requesting the Attorney General to appoint a special deputy attorney general to independently and with impartiality investigate the Kaloko reservoir dam breach.



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Your Committees received testimony in support of the resolution from the Honorable Neil Abercrombie, Congressman for First District of Hawaii, the Honorable JoAnn A. Yukimura, Kauai County Councilmember, and five concerned citizens from Kauai. The Attorney General testified in opposition to the resolution.

Your Committees find that the Kaloko reservoir dam breach is qualitatively and quantitatively different than any other disaster that has struck Hawaii. While your Committees are mindful that asking the Attorney General to step aside is an unusual action, appointing an independent investigator will not establish a precedent for future cases because it is highly unlikely that a case of this nature will ever arise again.

Your Committees further find that the integrity of the Attorney General is not the issue here. Rather, it is the credibility of the outcome of the investigation that is at stake. While some suggest that the Attorney General may be too close to State and private actors and their representatives in potential legal proceedings to arrive at an independent conclusion, others feel just as strongly that the Attorney General is too intent on blaming those same actors.

Finally, your Committees find, that just as appointment of an independent investigator does not constitute an admission that the Attorney General is unable to conduct an independent investigation, the refusal to do so should not be used as a means to vindicate the Attorney General's ability to conduct that investigation. Instead, the public, especially those immediately affected by the Kaloko reservoir dam disaster, must be shown that their government will do whatever is necessary to find the unvarnished truth. The first step in that process is to appoint an investigator whose impartiality cannot be questioned, either in perception or in reality.

Your Committees have amended the proposed House Draft 1 by:

- (1) Updating the reference to House Bill No. 970 to reflect its current status;
- (2) Reciting the language from House Bill No. 970 that provides an appropriation for an independent investigation; and



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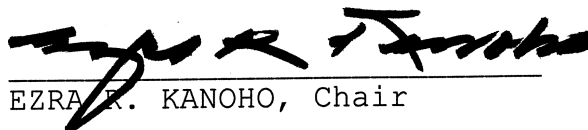
- (3) Specifying that conclusions about the cause of the dam breach are at stake in the absence of an independent investigation.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 192, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 192, H.D. 1.

Respectfully submitted on behalf of the members of the Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection,



HERMINA MORITA, Chair



EZRA R. KANOHO, Chair





