

STAND. COM. REP. NO. 1799-08

Honolulu, Hawaii

April 10, 2008

RE: H.C.R. No. 350
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and
Judiciary, to which was referred H.C.R. No. 350 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE JUDICIARY TO
CONVENE A TASK FORCE TO REVIEW THE FAMILY COURT'S JUDICIAL
WAIVER PROCESS INVOLVING JUVENILE FELONY DEFENDANTS,"

beg leave to report as follows:

The purpose of this concurrent resolution is to request the
Judiciary to convene a task force to review the family court's
judicial waiver process involving juvenile felony defendants.

For purposes of the public hearing, your Committees
circulated a proposed H.D. 1 version that deletes the provisions
of the concurrent resolution and inserts new language requesting
the Department of Transportation (DOT) to provide an exemption
from environmental assessment requirements for work being done by
The Gas Company to extend a utility gas line under Moanalua Road
for Kaiser Permanente and Moanalua Medical Center.

Kaiser Permanente Hawaii and The Gas Company supported the
proposed H.D. 1. DOT provided comments.

Your Committees have amended this concurrent resolution by
adopting the language in the proposed H.D. 1, and further amending
the H.D. 1 version by:

HCR350 HD1 HSCR EEP-JUD HMS 2008-3577



- (1) Changing the title to read: REQUESTING THE DEPARTMENT OF TRANSPORTATION TO REASSESS ITS DECISION TO REQUIRE AN ENVIRONMENTAL ASSESSMENT FOR WORK BEING DONE BY THE GAS COMPANY TO EXTEND A UTILITY GAS LINE UNDER MOANALUA ROAD FOR KAISER PERMANENTE AND MOANALUA MEDICAL CENTER;
- (2) Requesting DOT to reassess its decision to require an environmental assessment for work being done by The Gas Company to extend a utility gas line under Moanalua Road for Kaiser Permanente and Moanalua Medical Center; and
- (3) Deleting the requirement for reports to be submitted to the Legislature by DOT.

The extension of the utility gas line is necessary to provide emergency power to the new expansion wing of the Moanalua Medical Center facility. The new building has already been built, and is scheduled to open on April 17, 2008. The opening of the Moanalua Medical Center as scheduled would benefit many residents seeking medical attention.

DOT has determined that an environmental assessment is required for the extension of the utility gas line because the installation of the section of line that passes underneath Moanalua Road comes into contact with state property. DOT relies on *Kahana Sunset Owners Association v. County of Maui*, 86 Hawaii 66 (1997), which states that an environmental assessment is mandatory when a 36-inch drainage line connecting to an existing culvert beneath a state highway constitutes a "use of state or county lands" within the class of actions triggering an environmental assessment, unless the project falls within an exemption. In *Kahana*, the project did not fall within a Maui County exemption for "installation of drains, sewers and waterlines within streets and highways" because the new drainage system would extend service to over 300 new residences, and may affect service to a nearby development.

However, it appears that the six-inch synthetic natural gas line that would serve as the fuel source for the emergency backup power system can be distinguished from the project in *Kahana* as having "minimal or no significant effect on the environment" and fall under the "construction or placement of minor structures accessory to existing facilities" exemption in section 11-200-8, Hawaii Administrative Rules. This would be consistent with the intent of the environmental review law to exempt projects that are "very minor projects."

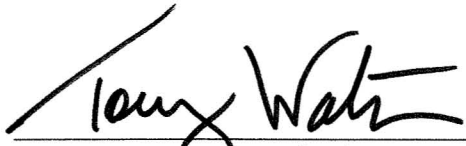


Furthermore, the project which necessitates the extension of the gas line, which is the subject of the environmental assessment, is already complete.

Accordingly, your Committees conclude that an environmental assessment is unnecessary for this project.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Judiciary that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 350, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 350, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Energy &
Environmental Protection and
Judiciary,



TOMMY WATERS, Chair



HERMINA MORITA, Chair



