



**TESTIMONY BEFORE THE HOUSE COMMITTEE  
ON  
ENERGY & ENVIRONMENTAL PROTECTION  
HOUSE BILL 2510  
BY  
STEVEN GOLDEN**

**THURSDAY, JANUARY 31, 2008**

Chair Morita and members of the Committee:

I am Steve Golden, Vice President of External Affairs for The Gas Company. Thank you for the opportunity to provide testimony on House Bill 2510, relating to the Environment.

This bill would, among other things, revive a study commissioned of the University of Hawaii concerning the modernization of Hawaii's environmental laws in Chapters 341, 343, and 344 of the Hawaii Revised Statutes, and the rules and ordinances enacted under those laws, as pertains to the need for environmental assessments (EAs) and other environmental reviews. The Gas Company strongly supports an overhaul and modernization of the state's environmental review system.

The rules administered by the Council of Environmental Quality Control at HAR Section 11-20-8(a) (3)(D) deal with exemptions for utility installations, including gas mains and services, under state roads. As a result of court decisions interpreting Chapter 343, in May of 2007, the State Department of Transportation asked the Council of Environmental Quality Control for a clarification of its rules to the effect that the installation of utility mains and services within the public highway right of way continues to fall within an exemption and therefore does not require an EA. The Council rejected the clarification request. As a result, The Gas Company, as a utility, is now expected to produce an EA, possibly every time it takes an action that touches any state road right of way. A study of Hawaii's environmental review system, as provided for in this bill, will address the need for and propriety of exemptions from the EA requirements for utilities engaged in the normal course of their businesses.

We believe that the uncertainty in the current status of the environmental laws and rules has burdened the franchise rights of The Gas Company to add new customers by installing underground pipelines. Our franchise allows us to “lay pipes, mains, conduits, etc. in, on, above, along or under public rights of way throughout the State of Hawaii.”

One example of the problems that The Gas Company has encountered occurred very recently when Kaiser Hospital asked The Gas Company for gas service that requires the installation of a utility gas line for 1600 feet under Moanalua Road. The State Highways Division asked Kaiser to submit a copy of its EA for its existing facilities—an EA that does not exist because it was not required for the area covered by the rules in effect when the hospital was built. Now the issue has arisen as to whether The Gas Company itself must prepare an EA prior to installing a line and meter to connect the hospital. If such a requirement is imposed, gas service needed by the hospital could be delayed for several months.

A comprehensive study to modernize Hawaii’s environmental review system, and other prompt action to reinstate certain exemptions while the study is underway, is needed to create clear, efficient and equitable rules, especially as applicable to franchised utilities. Under the current interpretation of the laws and rules, the ability of The Gas Company to answer the demands of Hawaii’s homes and businesses for clean-burning gas is in jeopardy.

In the two-year period before the study is presented to the Legislature, the utility exemption should be reinstated, with a sunset date consistent with the date the Legislature and state agencies act on the recommendations in the study. Other proposed legislation, including HB 3209 and HB 3451, would accomplish the needed exemption.

Thank you for allowing The Gas Company to present these comments.

**Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 2510 Relating to the Environment  
House Committee on Energy and Environmental Protection  
Thursday, January 31, 2008, 8:30AM, Room 312**

The Nature Conservancy of Hawaii supports H.B. 2510 Relating to the Environment.

The health of Hawaii's unique but threatened natural resources directly affects our economy and quality of life. Residents and visitors alike are awed and inspired by the Hawaiian Islands' natural wonders. Beyond breathtaking beauty, these resources provide essential natural services that make life possible in the middle of the vast Pacific Ocean. From native forests that give us fresh water, erosion control, and cultural treasures, to abundant coral reefs that provide food, recreation, and protection from storms, we all depend daily on nature to sustain us.

Now more than ever in the past, we have come to appreciate the importance of balancing environmental protection with the obvious need to maintain a vibrant economy that supports and does not threaten the needs of future generations. It is appropriate at this time to take a thorough look at Hawaii's environmental review system. Rather than take a piecemeal or hasty approach, we think it is worth a bit of extra time and effort to undertake the comprehensive review of HRS Chapters 341, 343 and 344 as proposed in this bill.

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Emailed to: [EEPttestimony@Capitol.hawaii.gov](mailto:EEPttestimony@Capitol.hawaii.gov)

January 29, 2008

**Denise Antolini** 59-463 Alapi`o Road Pūpūkea, O`ahu 96712  
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**HB2510 – EIS Study**

Dear Chair Morita, Vice-Chair Carroll, and Members:

I write in **SUPPORT of HB2510**, which would enable the University of Hawaii to conduct a comprehensive study of Hawaii's EIS system.

As the committee knows, a study of Chapter 343 was authorized by the Legislature two sessions ago, but was terminated due to an unfortunate contract problem between the UH Environmental Center and the Department of Health.

The last such review was conducted the Environmental Center in 1991, over 17 years ago. Given almost two decades of judicial, administrative, and practical developments in EIS law, including the recent Hawaii Superferry decision, the need for modernizing Hawaii's 1970s-style EIS law study is even greater now than before.

The expertise of UH Manoa's Department of Urban and Regional Planning, as well as the Law School's Environmental Law Program, would be added to the Environmental Center to ensure adequate capacity and a comprehensive, balanced approach.

As the Director of the Environmental Law Program, I am honored to be a part of the UH Manoa team that is eager to re-start this important study in collaboration with the multitude of communities in Hawaii that interact with the EIS system.

I hope that the Committee approves the bill.

Thank you.

Emailed to: [EEPtestimony@Capitol.hawaii.gov](mailto:EEPtestimony@Capitol.hawaii.gov)

January 30, 2008

**Robert King**  
72 Kalola Place  
Kihei, HI 96753  
808-283-4102

**REF: HB2510 – EIS Study**

Dear Chair Morita, Vice-Chair Carroll, and Members:

I strongly SUPPORT HB2510.

A comprehensive review of the EIS law is needed as a tool to properly steer future legislation and administrative rule making. As Chair of the Environmental Council, I see an immediate need for this report.

Lacking this study, a fragmented approach to modernizing Chapter 343 will occur, the results of which may cause unintended impacts. I urge you to approve this bill.

Aloha,

A handwritten signature in black ink that reads "Robert King". The signature is written in a cursive, flowing style.

## Janice Lehner

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**From:** John Harrison [jth3@hawaii.rr.com]  
**Sent:** Wednesday, January 30, 2008 8:41 AM  
**To:** EEPtestimony  
**Subject:** Testimony in support of HB 2510: EEP Hearing 8:30 on January 31, 2008

January 30, 2008

Ref: HB 2510 - EIS Study

Chair Morita, Vice Chair Carroll, and Members of the Committee:

The Environmental Center on two prior occasions has conducted comprehensive studies of the State EIS system (Cox, et al., 1978; Rappa, et al., 1991.) Each of these prior studies was commissioned in response to recognition of the need to reconcile evolving State environmental management needs with the statutory and regulatory frameworks of the EIS system. Each contributed recommendations for amendments in provisions of these frameworks, most of which subsequently were adopted.

In the 17 years that have elapsed since the most recent review of the EIS system, numerous changes have occurred in the theory and practical application of environmental management. Advances in understanding of ecological relationships, growing appreciation of more subtle implications of human impacts on natural systems, and evolving policy formulations within government agencies with environmental management responsibilities have created new challenges for professional environmental managers. These challenges have led to both general and particular shortcomings in the ability of existing EIS procedures to deal adequately with new and continuing development proposals.

Findings of the Hawai'i Supreme Court published on August 31, 2007 illuminated in detail definitive legal standards relating to interpretation of the State's EIS law. Subsequent legislative proceedings further underscore the need for a comprehensive approach to evaluate existing law and practices relating to environmental management in Hawai'i. The breadth and scope of public concern regarding environmental planning, policy, and sustainable practices now is comparable to levels that induced the legislature to convene the Temporary Commission on Environmental Planning in 1973, ultimately leading to our EIS law (HRS 343) and our Environmental Policy Act (HRS 344.) No less comprehensive an effort now is warranted, and the findings in Section 1 of HB 2510 reflect this urgency. Anything less than a thorough examination and critique of the State's EIS infrastructure and environmental planning and policy processes would amount to simply tinkering at the margins of what has proven to be the foundation of Hawai'i's future.

I strongly support expedited approval and enactment of this measure, to allow the important work begun by Dr. Doak Cox, Governor Burns, Senator Kenny Brown, and countless others to be carried forward deliberately and comprehensively.

John T Harrison, PhD  
3232 Kaohinani Drive  
Honolulu, HI 96817



# Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Energy & Environmental Protection

Hearing: Thursday, January 31, 2008 8:30 am

Conference Room 312

Support for HB 2510 Relating to the Environment

Aloha. The Conservation Council for Hawai'i supports HB 2510 which provides an appropriation to the state auditor to contract the University of Hawai'i for a study of the Hawai'i's EIS process.

We do not support amending the EIS law, HRS Chapter 343, on a case-by-case basis to exempt projects from the EIS process. We suspect businesses and agencies are attempting to do this after the Superferry fiasco.

Please support this bill for a comprehensive review of HRS Chapter 343. Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler



***Working Today for the Nature of Tomorrow!***

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