

LATE

BRYAN J. BAPTISTE
Mayor



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County Attorney

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February 6, 2008

**TESTIMONY FROM THE OFFICE OF THE COUNTY ATTORNEY
COUNTY OF KAUA'I TO THE SENATE COMMITTEES ON
AGRICULTURE AND HAWAIIAN AFFAIRS AND
INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Hearing on Senate Bill No. 2521
Date: Thursday, February 7, 2008
Time: 2:45 p.m.
Place: Conference Room 224
State Capitol
415 South Beretania Street

Senate Committee on Agriculture and Hawaiian Affairs
Honorable Jill N. Tokuda, Chair
Honorable J. Kalani English, Vice Chair
Committee members

Senate Committee on Intergovernmental and Military Affairs
Honorable Lorraine R. Inouye, Chair
Honorable Shan S. Tsutsui, Vice Chair
Committee members

Re: Testimony of the Office of the County Attorney,
County of Kaua'i, on Senate Bill No. 2521
Making an Appropriation for Reservoirs, Dams, and Ditch Systems

My name is Harrison K. Kawate, First Deputy County Attorney, County of
Kaua'i, testifying on behalf of the County of Kaua'i.

The County of Kaua'i strongly supports the intent of Senate Bill No. 2521.

The purpose of this bill is to appropriate initial seed money for a feasibility study on the creation of a nonprofit and/or quasigovernmental and/or governmental entity that would manage, maintain, and operate reservoirs, dams, and ditch systems on Kaua'i, and would facilitate compliance with the Hawaii Dam and Reservoir Safety Act of 2007 (Act 262).

The requested monies will be initially used to, inter alia:

1. Fund the initial hiring of an appropriate consultant(s) to conduct a feasibility study and an appropriate business plan;
2. Fund initial hiring of appropriate consultants and/or experts in the area of water management;
3. Fund initial studies deemed appropriate relating to water management; and
4. Fund the initial infrastructure as set out in the adopted business plan.

The proposed entity is sought as this body would, inter alia:

1. Enable cost sharing by dam, reservoirs, and ditch system owners for services that will be required pursuant to Act 262;
2. Facilitate risk management as the County of Kaua'i numerous reservoirs, ditch systems, and approximately 54 dams with 13 separate owners;
3. Coordinate, centralize and organize scheduling for inspection, maintenance and certification processes for the approximately 54 dams;
4. Avoid duplication of funding requests and piecemeal management of the approximately 54 dams;
5. Assure sufficient water supplies for agricultural activities and County of Kaua'i designation of important agricultural lands; and
6. Provide coordination and centralization with County of Kaua'i public safety needs including rain water run off control and fire control activities.

If there are any questions with regard to the foregoing, I will be present to respond at the hearing of this bill.

Sincerely,

HARRISON K. KAWATE
First Deputy County Attorney

testimony

From: Karen Tang [tangio@gmail.com]
Sent: Thursday, February 07, 2008 11:50 AM
To: testimony
Subject: Testimony in Support of S.B. 2521

LATE

Testimony In Care Of Sergeant of Arms: 1-800-586-6659

Regarding Senate Bill 2521 Relating to Making an Appropriation for Reservoirs, Dams, and Ditch Systems.

Hearing to be on Thursday, February 7, 2008, 2:45pm

Committee on Agriculture and Hawaiian Affairs Chairman Jill N. Tokuda, Vice Chairman J. Kalani English

Committee on Intergovernmental and Military Affairs Chairman Lorraine R. Inouye, Vice Chairman Shan S. Tsutsui

Dear Chairman Jill N. Tokuda, Vice Chairman J. Kalani English, Chairman Lorraine R. Inouye, Vice Chairman Shan S. Tsutsui and members of the Senate Agricultural and Hawaiian Affairs and Intergovernmental and military Affairs Committees:

Porter Irrigation, LLC, a private entity that owns an easement to the Kalihiwai Reservoir and Dam in Kilauea, Kauai, supports Senate Bill 2521. As easement owners who perform the maintenance for this reservoir and dam and who control the water levels, we feel the immediate burden of the liability and high costs associated with this responsibility. On several occasions, we have considered drastically lowering the level of the reservoir or completely decommissioning the system altogether; however, we did not want to strip the agricultural and recreational use of the water from so many farmers and families who are affected by it in Kilauea. Thus, we have continued with much inconvenience to keep the system going.

The creation of a private or governmental entity to manage, operate, and maintain reservoirs and dams across Kauai County, or even the entire state, would provide great benefits to all. Our latest battle is the issue of liability insurance, the premiums for which have soared so high after the Ka Loko breach that it is now completely out of reach for most reservoir and dam owners. If we do not choose to shut down the system, we are left either completely broke and disheartened about keeping the system alive or simply without insurance—neither of which are favorable situations. This is a problem that a larger, over-arching entity could help curb.

Additionally, as the State has determined a set of maintenance standards for all dams across Hawaii, it would make sense for one single entity to ensure that those standards are met in a uniformly safe manner. It could also instate a consistent system of maintenance and operation across all the reservoirs, dams and ditches. In our present situation, we are scattered individual operators trying to figure out how to do it on our own.

Furthermore, there would be no pointing of fingers when there is an issue, as has happened in so many cases with reservoirs and dams in our recent past when something went awry. One entity would be responsible and can be in control of the safety and use of all the systems.

Finally, the State could save time and money by only having to correspond and meet with one entity in

regards to all field inspections and studies. Currently, the DLNR expends many funds and efforts to notify, correspond, and convene with individual operators.

While Porter Irrigation has been able to stretch our efforts to keep the Kalihiwai Reservoir going, many other private owners and operators have not been able to do the same, eliminating valuable agricultural water to farmers and recreation users, amongst others. Please appropriate the \$350,000 in order to study the possibility of the formation of a private or governmental agency to manage all of Kauai's reservoirs, dams, and ditch systems.

Thank you for your attention and continued public service.

Respectfully and with aloha,

William Porter
Owner/Manager
Porter Irrigation, LLC

LATE

Chairperson Jill N. Tokuda
Senate Committtee on Agriculture and Hawaiian Affairs
February 7, 2008, 2:45 PM

Re: SB2521, Making an Appropriation for Reservoirs, Dams and Ditch
Systems

Aloha Chair and Committee Members,

My name is Aimee Moorhead. I am a H.O.F.A. certified organic farmer.
I farm 13 acres at 4121- C North Waiakalua Street (TMK # 5-1-005-041),
between mile marker 20 and 21 on Kuhio Hwy. Kilauea, Kauai, Hawaii. I
have been a farming for the past eight years on this property and
currently employee four residents of Kauai County.

My main crop is gourmet baby lettuce, which we package and wholesale to
grocery stores on Kauai and Oahu. We also maintain a tropical fruit
orchard as well, offering some of the finest quality certified organic
produce available in Hawaii.

My Ag water is supplied solely by the Ka Loko Reservoir. I have no
other way to water my crops. And without the availability of this water
supply, my livelihood as a north shore farmer is seriously threatened
or at worse could cease to exist.

In 1930, Hawaii produced almost 100% of its food supply. In 2006, it's
estimated we import 80-90% of our food. Our farmers are an endangered
species and we need all the protection and support our local, state,
and federal governments can assemble at this critical time.

Please fight to restore and keep this vital water supply available to
me and all the other farmers that are dependent on the Ka Loko
Reservoir. We desperately need your help. Take action now. VOTE YES ON
SB2521.

Truly,

Aimee Moorhead

testimony

From: lisa breen [lotusfarm@hawaiian.net]
Sent: Thursday, February 07, 2008 7:55 AM
To: testimony
Subject: SB2521

LATE

Committee on Agriculture and Hawaiian Affairs,
Senator Jill N. Tokuda Chair, Hawaii State Senate,
Re: SB2521 (Reservoirs) Hearing on February 7, 2008, 2:45 PM

Aloha Chair and Committee Members,

My husband and I have been farming our land in the Kilauea Farms Subdivision since we acquired it in 1981. Since 1986, we have been customers of Kilauea Irrigation Company, getting our agricultural water from the Ka' Loko Reservoir. We need this water! Our livelihood depends upon it. Using the water from the county pipes is not an option in our neighborhood. We were proactive enough and fortunate enough to enter into a legal agreement with our CPR partner to become part owners of a well. This is not a long term solution.

Proliferation of well digging in our area has tapped the aquifers and dramatically reduced the daily flow by millions of gallons. Please don't abandon us on this. We greatly appreciate your efforts to preserve our dams and have the state take over the management of one of our most valuable resources. If we allow the DLNR to stop the flow from Ka'Loko, we will be foolishly cutting ourselves off from the most sustainable sources of water we have.

Thank you for your time and consideration.

Aloha,
Lisa Breen
Lotus Farm and Nursery
Kilauea Farms, Kaua'i

TESTIMONY IN SUPPORT

This testimony was previously identified as testimony in opposition.
We apologize for any inconvenience that this error may have caused.