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GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

on Senate Bill 3206, Senate Draft 2 – RELATING TO KAWAI NUI MARSH

**BEFORE THE HOUSE COMMITTEE ON
WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS**

March 12, 2008

Senate Bill 3206, Senate Draft 2 establishes the Kawai Nui Marsh Advisory Council (Council) and appropriates money to the Department of Land and Natural Resources (Department) for the work of the Council. The Department supports the intent of this measure, however has concerns with the budgetary impacts this bill will have on the Executive Supplemental Budget request.

The involvement of the community in the planning and implementation of programs in Kawai Nui Marsh is critical to maintain and increase public support for protecting and preserving this unique treasure. The Board of Land and Natural Resources recognized the key need for community support and participation when it included a requirement for community input in implementing the Kawai Nui Marsh Management Program.

The Department is appreciative of the amendments in Senate Draft 2 and the companion House version of this bill – House Bill 3340, House Draft 1 both of which added the four key participants that were suggested by the Department including a student representative from a Kailua area high school -as selected by a high school council. Of the two versions of the bill, the Department prefers the House version (House Bill 3340, House Draft 1), because it includes the student representative as one of the 12 voting members of the Council, rather than as an ex-officio, non-voting member.



Legislative Testimony
SB 3206, SD 2, RELATING TO KAWAI NUI MARSH
House Committee on Water, Land, Ocean Resources and
Hawaiian Affairs

March 12, 2008

9:00 a.m.

Room: 312

The Office of Hawaiian Affairs (OHA) **SUPPORTS** S.B. 3206, S.D. 2, which would establish the Kawai Nui Marsh Advisory Council and appropriate money to support the work of the council.

Over the years, dedicated groups and individuals have spent countless hours restoring the area and educating the larger community on the significance of the natural and cultural resources found within Kawai Nui Marsh. International organizations such as the Ramsar Convention on Wetlands have also recognized the importance of the natural and cultural resources found within Kawai Nui Marsh, and it has been declared eligible for listing on the National Register of Historic Places.

The establishment of the Kawai Nui Marsh Advisory Council, comprised of members knowledgeable in the significance of the marsh, will be a positive step towards updating and implementing the Kawai Nui Marsh Master Plan and will provide a valuable public forum where the protection and preservation of the natural and cultural resources within the marsh can be discussed and promoted.

OHA urges the Committee to PASS S.B. 3206, S.D. 2. Thank you for the opportunity to testify.

From: Linda Paul [mailto:linpaul@aloha.net]
Sent: Monday, March 10, 2008 1:21 PM
To: WLHtestimony
Subject: SB3206 SD2 testimony



*For the Protection of Hawaii's
Native Wildlife*

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THE HOUSE TWENTY-FOURTH LEGISLATURE 2008

COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS

**Rep. Ken Ito, Chair
Rep. Jon Riki Karamatsu, Vice Chair**

**Wednesday, March 12, 2008
9:30 a.m, Conference Room 212 State Capitol**

**SENATE BILL NO. 3206, SD2
Relating to Kawainui Marsh**

Chair Ito, Vice Chair Karamatsu and members of the committee, my name is Linda Paul and I am testifying as a member of the Hawaii Audubon Society against SB 3206 SD2. We feel it is premature and that the informal, community-based Ho`olaulima network of organizations working to protect Kawainui Marsh can and does adequately fulfill the roll of an advisory council at present.

The members of the Hawaii Audubon Society have worked for many years to protect and preserve Kawainui Marsh, including contributing to the three draft master plans, working with the State to set aside the funds needed to qualify for 3:1 federal funding for waterbird habitat restoration in the Marsh, and urging the City and the State to complete the transfer of lands needed for this restoration work to begin.

The Society is a member of the Ho`olaulima network of organizations that have worked for years to protect Kawainui Marsh. Ho`olaulima is currently completing an interpretive educational plan for the Marsh and will be moving on to address updating the now out-of date 1994 draft master plan, the installation of interpretive signs, as well as the creation of a visitor center, kiosks, boardwalks, and other needs. Each member organization is entitled to one representative and one alternate at Ho`olaulima meetings and has one decision-making vote with regard to policy matters. We have found this model to work very well.

This bill, although well intentioned, was drafted and submitted in a hurry without community input, is fundamentally flawed and should be deferred for the following reasons:

1. It does not mandate that DLNR consult regularly with either the proposed Advisory Council or Ho`olaulima ia Kawainui for purposes of coordinating efforts to protect, preserve and maintain the natural and cultural resources of the Marsh.
2. It does not mandate that DNLNR meet with either the AC or Ho`olaulima on a regular basis (i.e. quarterly) to review and assess the progress and programs pertaining to the Marsh.
3. It does not mandate that DLNR give recommendations by the AC or Ho`olaulima any serious consideration, nor does it contain a process by which the AC's recommendations on DLNR submittals to the BLNR shall be incorporated into all final submittals and thereby become part of the public record.
4. By becoming a state-sponsored Advisory Council the bill will result in the slowing down of the process of creating visitor and education centers, restoring habitat, etc., because the AC will be subject to all the state sunshine and notice and comment requirements, and meetings will be subject to the willingness and availability of DLNR staff to schedule and hold them.
5. The bill lists four things, and only four things, that the AC can do, there is no catch-all phrase i.e. "including, but not limited to..."
6. The Advisory Council members in the bill do not fairly represent the many organizations that have contributed time, effort and funding to preserving the Marsh over the last 30 years:
Ahahui Malama I Ka Lokahi gets two of the 11 voting seats, the Kailua Hawaiian Civic Club gets one, the Kailua Chamber of Commerce gets one, and every other seat is subject to the political process. The two "community representatives" could very well end up representing existing month-to-month permit holders in the Marsh who do not share Doc Burrows' or Ho`olaulima's vision.
7. There is no decision needed from an Advisory Council regarding the use of the \$4 million from the federal government. That money was earmarked years ago for the waterbird habitat restoration project. The 3:1 match was/is available because it was/is for an Army Corps of Engineers 404 mitigation project for work the ACE did in the Marsh that resulted in a net loss of wetlands. What has been holding up construction of the ponds is, of course, the land transfer.

Please defer this bill until the next year to give the Ho`olaulima network an opportunity to explored advisory council management models that might work well for the Marsh.

Thank you,

Linda Paul
262-6859

-----Original Message-----

From: Ken Conklin [mailto:ken_conklin@yahoo.com]
Sent: Monday, March 10, 2008 6:59 PM
To: WLHtestimony
Subject: SB 3206, SD2 KAWAI NUI MARSH

WLHtestimony@Capitol.hawaii.gov

TO:
COMMITTEE ON WATER, LAND, OCEAN RESOURCES &
HAWAIIAN AFFAIRS
Rep. Ken Ito, Chair

RE:
TESTIMONY IN SUPPORT OF
SB 3206, SD2
RELATING TO KAWAI NUI MARSH.
Establishes the Kawai Nui marsh advisory council;
appropriates moneys to DLNR for the work of the
council.

DATE: Wednesday, March 12, 2008
TIME: 9:00 a.m.
PLACE: Conference Room 312

From:
Kenneth R. Conklin, Ph.D.
46-255 Kahuhipa St. Apt. 1205
Kane'ohe, HI 96744
tel/fax (808) 247-7942
e-mail Ken_Conklin@yahoo.com

Aloha Chairman Ito, members of the committee, and
members of the public,

I would like to express my appreciation to Dr.
Chuck Burrows, the members of 'Ahahui Malama I Ka
Lokahi, and the thousands of community members
who have worked very hard for many years to
restore and improve the Kawai Nui marsh and the
adjoining Na Pohaku a Kawahine rock outcropping.

Approximately ten years ago I had the good
fortune to meet Dr. Burrows and accompany him on
a tour of the marsh and other nearby areas of
historical and cultural significance. His
knowledge of the history, biology, and culture
was broad and deep. His explanations were clear
and inspiring. I was also able to participate in
occasional workdays there, where the enthusiasm
of Dr. Burrows and his volunteers was highly
contagious.

I am pleased to see that the state of Hawaii is
creating a Kawai Nui marsh advisory council and
providing some funding for it. I am also pleased
that 'Ahahui Malama I Ka Lokahi will have a seat

on the council. It has been a long struggle to resolve jurisdictional conflicts between Honolulu County and the State of Hawaii. Hopefully the creation of this council will resolve those conflicts and facilitate the work of community members who love the land, love each other, and come together in unity to malama 'aina.

As the 'olelo no'eau says: "He ali'i ka 'aina, he kauwa ke kanaka." Land is chief; people are its humble servants.

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From: Robert Bourke [mailto:rbourke@OCEANIT.COM]
Sent: Tuesday, March 11, 2008 5:12 PM
To: WLHtestimony
Cc: Chuck Burrows; Linda Paul
Subject: SB 3206 SD2

Dear Sirs;

This testimony is being offered in favor of passage of SB 3206 SD2 mandating the formation of a Kawainui Advisory Council, with the following recommendations. The bill should be amended to

- mandate a certain number of meetings annually
- provide a budget to DLNR or other State agency to cover the cost of the meetings and organization and require their participation in scheduled meetings
- require that measures, suggestions, or recommendations agreed upon by the Council be forwarded to the BLNR for consideration
- require that the Council set up a community concerns committee that is tasked to stay coordinated with other organizations with interest in the management of Kawainui Marsh.

Essentially, if the Council is established, the rules that govern it need to assure that it is responsive to the wide array of community interests in the marsh and that the State government is in turn responsive to input from the Council.

Respectively submitted.

Robert E. Bourke
Board Member
Enchanted Lake Residents Association