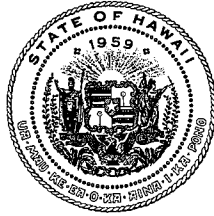
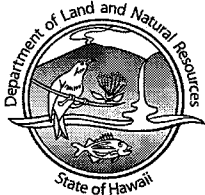


TESTIMONY

HB 1898 HD1

LINDA LINGLE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

On House Bill 1898, House Draft 1 – RELATING TO WATER

**BEFORE THE SENATE COMMITTEE ON
WATER AND LAND**

March 18, 2008

The purpose of House Bill 1898, House Draft 1 is to appropriate funds to address water quality and other issues facing Kailua waterways. The measure specifically proposes the Department of Land and Natural Resources (Department) to conduct an engineering study and environmental assessment for the preliminary design and specification of measures to restore adequate water flow from Kawainui marsh to Kawainui stream using appropriate measures; to conduct a study to maximize the efficiency of monthly stream mouth opening procedures; and to design and implement measures to reduce the amount of polluted runoff delivered to Kaelepulu pond.

The Department strongly opposes this measure and believes it is not the proper agency to implement the studies and design considerations noted above and has concerns with the budgetary implications this bill will have on the Executive Supplemental Budget request. The Department notes the following:

- The Department notes that Chapter 46-11.5, Hawaii Revised Statutes (HRS), and the City and County of Honolulu's Revised Ordinances of Honolulu, Article 26, establishes the maintenance responsibility of channels, streambeds, streambanks and drainageways including their exits to the ocean to the county. The county is also assigned the enforcement powers if the maintenance is deemed a private or state responsibility. The Department further notes that Chapter 46-1.5, HRS, states that the counties "...shall have the power to construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend and maintain projects or undertakings for the control of and protection against floods and flood waters...".
- The Department notes that City and County of Honolulu's Department of Environmental Services, through the Storm Water Quality Branch, is charged with administering the provisions of the City's National Pollutant Discharge Elimination System (NPDES) storm water permit which include activities such as water quality monitoring and spill response and prevention.

- The Department notes that in the Department of Health’s Report to the twenty-fourth Legislature, State of Hawaii, 2008, Pursuant to House Concurrent Resolution 261, House Draft 1, Regular Session 2006 (DOH Report), the DOH states on page 1 that “overlapping jurisdictions and competing objectives for land use, water use, environmental quality, and flood management. Therefore, establishing long-term goals and implementing appropriate solutions may best fall under the umbrella of the Hawaii Ocean Resources Management Plan (State Office of Planning).”
- The Department notes that aside from Hamakua marsh and portions of Mokapu canal, the Kailua wasterways are either privately owned or owned by the City and County of Honolulu (City). The City has a maintenance crew and equipment baseyard on the windward side dedicated to oversee maintenance along the City drainageways.
- The Department notes that the Kawai Nui Marsh Transfer Agreement by the DLNR Land Board stipulated that the City would retain the responsibility for the flood control aspects of the Kawai Nui Marsh Flood Control Project and would remain the US Army Corps of Engineers’ (ACOE) sponsor for this project.

The Department has the following concerns:

Study and Environmental Assessment to Restore Flow to Kawainui Stream

- In relation to the engineering study and environmental assessment of restoring adequate water flows from the Kawai Nui Marsh to the Kawainui Stream, the Department is unclear how this would impact the City/ACOE Local Cooperation Agreement (LCA) for the existing flood control project and the overall operation of the flood control project.
- The Department believes it would be more appropriate for the City and ACOE to partner once again in this effort to evaluate these measures to restore adequate water flows while minimizing any negative impacts associated with their existing LCA for their current flood control project.
- Refer to Attachment A – Subagreement and Acknowledgment of LCA (between the City and the State) dated April 5, 2007. Specifically, Item 2.d. in pertinent part states, “**The State will cooperate with the City** in any planning or requests for funding as it may be necessary to address any problems with the construction and design of the Levee as referenced above (emphasis added).” This clearly indicates that the City and “not the State” is the lead agency as it pertains to the LCA and the flood control features of the Marsh.

Study Efficiency of Stream Mouth Opening and Water Quality

- The City currently opens the Kaelepulu Stream mouth in conjunction with the Kailua Beach Park recreational area.
- The Department believes that the City is the appropriate agency to study the stream mouth openings and associated water impacts. The City currently undertakes water

quality monitoring procedures as part of their current stream mouth opening procedures. This is noted in the last paragraph on page 11 and in the second paragraph on page 15 of the DOH Report.

- Refer to Attachment B – Notification of Opening of Stream Mouths. This memorandum confirms the findings in the report and clearly indicates that the City should be the appropriate agency to effectuate this study.

Reduce Pollutant Runoff into Kaelepulu Pond

- The Department recognizes that the stormwater sewer systems which are contributing to the pollution loading in Kaelepulu pond are under the jurisdiction of the City. Also as noted in the second paragraph on page 19, the City and the Enchanted Lakes Residents Association have entered into an agreement for storm water discharges into the pond. Involvement in this area may lead the Department to infringe upon another agency's jurisdiction as well as an existing agreement between the City and a Community Association.

In summary, the Department believes it is not the appropriate agency to effectuate the purposes of this measure as indicated in Sections 2 and 3. Should this Committee decide to move this measure forward, the Department recommends the following amendments be incorporated:

All reference to the Department of Land and Natural Resources should be replaced with **“the City and County of Honolulu”** in the following locations:

Page 3, Line 4;

Page 3, Line 11;

Page 4, Line 17; and

Page 4, Lines 19 and 20.

Attachments

66592

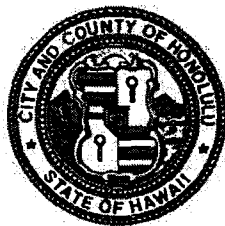
DEPARTMENT OF FACILITY MAINTENANCE

CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, KAPOLEI HALE, SUITE 215, KAPOLEI, HAWAII 96707

TELEPHONE: (808) 768-3343 FAX: (808) 768-3381

MUJI HANNEMANN
MAYOR



07 DEC 31 18:15

LAVERNE HIGA, P.E.
DIRECTOR AND CHIEF ENGINEER

GEORGE K. MIYAMOTO
DEPUTY DIRECTOR

IN REPLY REFER TO:
DRM 07-1083

07 DEC 31 PM 02:32 ENGINEERING

December 28, 2007

Ms. Laura H. Thielen, Acting Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Thielen:

Subject: Notification of Opening of Stream Mouths
File Nos.: OA-3/15/779 – Document No.: 703
OA-12/8/87-779A – Document No.:2733E

In compliance with Condition 4 of your letters of approval dated November 19, 1986 and February 19, 1988, regarding opening of stream mouths on Oahu, we wish to inform you the mouths of the following streams will be opened on dates noted:

Hauula Stream (Maakua), Hauula	January 7, 2008
Muliwai Stream, Hauula	January 7, 2008
Kapakahi Stream*, Kailua	January 7-9, 2008
Waialae Dmg. Channel*, Kahala	January 7-9, 2008
Waipuhi Stream, Hauula	January 8, 2008
Meheiw Stream, Makau	January 9, 2008
Waipilopilo Stream, Hauula	January 9, 2008
Ulehawa Stream*, Nanakuli	January 14-16, 2008
Laie Loa Stream, Laie	January 22, 2008
Kaelepulu Stream*, Kailua	January 22-23, 2008
Ewa Beach Drain Outlet, Ewa	January 22-23, 2008
Laie Wai Stream, Laie	January 22-23, 2008

Ms. Laura H. Thielen
Page 2
December 28, 2007


Streams noted with an asterisk (*) require water quality monitoring.

Work will be done with a dozer/excavator and excess sand will be used to refurbish the beach.

Because of unanticipated events such as weather conditions and equipment breakdowns that may prevent us from opening the stream mouths on scheduled dates, please call Francis Segawa, Acting Equipment Coordinator, at 768-3643, at least one day prior to the scheduled dates for confirmation.

Should there be any questions, please call Mr. Tyler Sugihara, Assistant Chief of the Division of Road Maintenance, at 768-3600.

Sincerely,


for Laverne Higa, P.E.
Director and Chief Engineer

LH: sm

c: Department of Parks and Recreation

**SUBAGREEMENT AND ACKNOWLEDGMENT
OF LOCAL COOPERATION AGREEMENT**

THIS SUBAGREEMENT AND ACKNOWLEDGEMENT is made this 5th day of April, 2007, by and between the STATE OF HAWAII, acting through the Chairperson of the Department of Land and Natural Resources (the "State"), and the CITY AND COUNTY OF HONOLULU (the "City"), acting through the Chief Engineer (collectively the "Parties").

WHEREAS, the City desires to transfer to the State, and the State desires to accept, Kawainui Marsh defined as Lot 3, as shown on land division parcel map file no. 18-3-3-13 (the "Kawainui Marsh Parcel") which is located mauka of Kawainui Stream; and

WHEREAS, included in the Kawainui Marsh Parcel is a section of levee beginning at Kailua Road, progressing northwest, skirting Kawainui Marsh, and ending at Oneawa Channel, together with a concrete flood wall that is located atop the levee (the "Levee"); and

WHEREAS, the Levee is the subject of a Local Cooperation Agreement Between the U.S. Department of the Army and the City and County of Honolulu For Construction of The Kawainui Marsh Flood Control Project, dated October 3, 1993, as amended by Amendment #1 dated March 10, 1994 (the "LCA"); and

WHEREAS, the Levee is also the subject of an Operations and Maintenance Manual for Kawainui Marsh Flood Control Project, Kailua, Oahu, Hawaii, prepared by the U.S. Army Corps of Engineers and dated March 1998 (the "Manual"); and

WHEREAS, both the LCA and the Manual contain covenants and restrictions, and impose obligations, that must be observed in connection with the Levee; and

WHEREAS, while the City is the local sponsor of the LCA and responsible for the requirements thereunder, and the City and the State agree that the State shall not be required to become a party to the LCA, or to enter into a separate agreement with the U.S. Department of the Army in order to accept ownership of the Levee, the State agrees to perform, and comply with the LCA and the Manual, as further specified herein; and

NOW, THEREFORE, for and in consideration of the premises and the covenants set forth herein, the Parties hereby agree to the following:

1. Prior to acceptance by the State of the Kawainui Marsh Parcel, the Parties agree to the following:

a. A joint inspection between the City, State, and the U.S. Department of the Army will be held of the Levee for the purpose of ascertaining

whether the condition of the Levee is in compliance with the requirements of the LCA and the Manual, as determined by a representative of the U.S. Department of the Army. Any deficiencies related to the Levee identified by the U.S. Department of the Army's representative shall be corrected by the City to be acceptable to the U.S. Department of the Army.

b. The City shall affirm that it has completed all actions required by the U.S. Department of the Army with regards to the Levee.

c. The parties will have commenced work on a joint emergency action plan and emergency notification plan for both the Levee and Oneawa Channel.

2. After the transfer of the Kawainui Marsh parcel to the State, the Parties agree as follows:

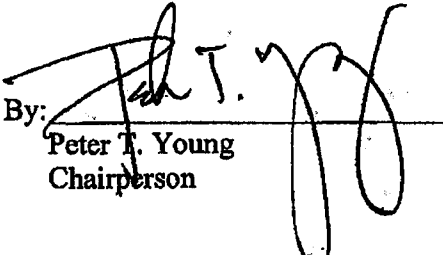
- a. The State shall comply with and faithfully observe, and perform, all terms, requirements, covenants, and conditions of, and maintain the Levee in compliance with, the LCA and the Manual, insofar as they apply or may be interpreted to apply to the Levee.
- b. Without limiting the generality of any other provision contained herein, the State accepts full responsibility for performing the following activities related to the Levee in accordance with the LCA and Manual: (a) maintain, operate, inspect, and patrol the Levee; (b) take immediate steps to correct any condition that may endanger any part of the Levee; (c) emergency planning and preparation relating to the Levee; (d) prepare reports for submission by the City to the U.S. Army Corps of Engineers regarding the Levee; (e) maintain and retain records relating to the Levee; and (f) provide access to records and the Kawainui Marsh Parcel.
- c. The City and State will set up an initial meeting within 30 days of the signing of this agreement and at least annually thereafter for the purpose of consultation and agreement by the parties regarding maintenance schedules and emergency planning and preparation relating to the Levee and other parts of the Kailua watershed and floodplain. These annual meetings may be held in conjunction with the annual inspection required by the LCA.
- d. The State agrees to be responsible for the ongoing maintenance and repair of the Levee. Any repairs or changes to the Levee that the U.S. Department of the Army determines is required as a result of defects or errors with the construction or design of the Levee, as indicated in the LCA, that exist on the date of transfer of ownership, will be the responsibility of the City to undertake and

- fund. The State will cooperate with the City in any planning or requests for funding as it may be necessary to address any problems with the construction and design of the Levee as referenced above.
- e. If, after the date of transfer, the U.S. Department of the Army identifies an additional outstanding deficiency that existed as a deficiency with regards to the Levee prior to the date of transfer, the City agrees to correct such deficiency to be acceptable to the U.S. Department of the Army.
 - f. With respect to the Levee, the State shall be responsible for any damages, losses, or injuries to the extent that the State's liability for such damage, loss or injury has been determined by a court or otherwise agreed to by the State. The State shall pay for such damages and injury to the extent that funds have been authorized and appropriated by the Legislature for such purpose.
 - g. The State shall provide access to the Kawainui Marsh Parcel to the City or the U.S. Department of the Army on request in connection with flood control matters.
 - h. For so long as Oneawa Channel is set aside to the City by Executive Order, the City shall be responsible for Oneawa Channel under the LCA and the Manual.
 - i. The agreement of the State is conditioned upon the 2007 Hawaii State Legislature funding State DLNR for levee and marsh habitat maintenance cost and crew to maintain marsh as part of DLNR operating funds budget out of general funds (without reduction of other parts of DLNR general funds operating budget amounts) in the amount of \$500,000 for year 1 of the biennium budget (7/1/07-6/30/08) and \$420,000 as part of its base budget.

This Agreement may only be modified or terminated by written agreement of both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Subagreement and Acknowledgment of Local Cooperation Agreement as of the date written above.


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

By: 
Peter T. Young
Chairperson

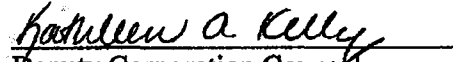
Approved as to form:


Deputy Attorney General

**CITY AND COUNTY OF
HONOLULU
DEPARTMENT OF FACILITY
MAINTENANCE**

By: 
Laverne Higa, P.E.
Director and Chief Engineer

Approved as to legality and form:


Deputy Corporation Counsel

testimony

From: Michael Walther [waltherc001@hawaii.rr.com]
Sent: Sunday, March 16, 2008 6:04 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by stormdrain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Michael Walther
President

Oahu Nature Tours

testimony

From: Karen L Renard [karenlrenard@yahoo.com]
Sent: Sunday, March 16, 2008 5:21 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

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Mahalo,

Karen Renard

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<http://www.yahoo.com/r/hs>

testimony

From: Jan Cook [jancook@aloha.com]
Sent: Sunday, March 16, 2008 2:30 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

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Mahalo,

Jan Cook

testimony

From: Alex Karp [alexkarp@hotmail.com]
Sent: Sunday, March 16, 2008 3:41 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

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Mahalo,
Alex Karp

Connect and share in new ways with Windows Live. [Get it now!](#)

testimony

From: Carol Cunha [ccunha@pplg.com]
Sent: Sunday, March 16, 2008 4:03 PM
To: testimony
Subject: Testimony in Support of HB 1898, Kailua Waterways

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by stormdrain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

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Mahalo,

Carol Cunha

testimony

From: Carol Ann Ellett [carol_ann_ellett@cox.net]
Sent: Monday, March 17, 2008 1:42 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB1898 - Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

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We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and tourists who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Carol Ann Ellett

testimony

From: Dennis Furutani [dennisfurutani@msn.com]
Sent: Sunday, March 16, 2008 6:50 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I am a lake-front resident of Kaelepulu Pond and a member of the Enchanted Lakes Residents Assoc.

The "lake" as well as the entire Kailua waterway has been deteriorating at an alarming rate due to silt and trash from storm drain runoff. I am concerned of possible health hazards as well as loss of property value due to smell, stagnation, sediment buildup and the resulting fish kills and undesirable plant and algae growth.

In addition, recreational access on the lake has been impacted due to the high silt levels.

I would compare it to a neighbors waste water carrying silt and trash running onto your private backyard.

Therefore, I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

**Mahalo,
Dennis Furutani
Kailua**

Shed those extra pounds with MSN and The Biggest Loser! [Learn more.](#)

testimony

From: David & Margaret Brezel [mlbrezel@jps.net]
Sent: Sunday, March 16, 2008 7:42 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

TO: testimony@capitol.hawaii.gov
SUBJECT: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation
CC: senhee@Capitol.hawaii.gov, sentokuda@Capitol.hawaii.gov, repchong@Capitol.hawaii.gov, elra@kaelepulupond.org

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

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Mahalo,

Margaret and David Brezel
160 South Kainalu Drive
Kailua, Hawaii 96734
(808) 263-4040
<mlbrezel@jps.net>

testimony

From: Gil Garcia [code77@hawaii.rr.com]
Sent: Monday, March 17, 2008 5:00 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

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Mahalo,

/s/

Gilbert T. Garcia
& Scott A. Fultz
419 Keolu Drive
Kailua, HI 96734

testimony

From: Kate Braden RA ePRO ABR MS [kateb@katebraden.com]
Sent: Monday, March 17, 2008 7:27 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

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Mahalo,

Katherine F. Braden

testimony

From: Windward Ahupua`a Alliance [info@waa-hawaii.org]
Sent: Sunday, March 16, 2008 10:17 PM
To: testimony
Subject: HB1898 HD1 - RELATING TO WATER

Submitted by:

Shannon Wood, *Interim President*

Windward Ahupua`a Alliance/The Climate Project/RECYCLING FOR CHANGE/BUST-A-DUMPER Campaign

P.O. Box 6366

Kane`ohe, HI 96744

Voicemail: 808/247-6366; Cellular: 808/223-4481 or 808/224-4496

Website: <http://www.waa-hawaii.org>; E-Mail: info@waa-hawaii.org;

Website: <http://www.recycling4change.com>; E-Mail: info@recycling4change.com

Committee on Water & Land
Sen. Clayton Hee, Chair
Sen. Russell Kokubun, Vice Chair

Public Hearing
3:15 pm
Tuesday, March 18, 2008
Conference Room 224

HB1898 - HD1 - RELATING TO WATER
Strongly Support With Comments & Amendments

TO THE COMMITTEE ON WATER & LAND:

My name is Shannon Wood, *Interim President* of the *Windward Ahupua`a Alliance* which has been working on water quality issues in the Kailua *ahupua`a* since 2002. We currently have one major project in the **Kapa`a Stream** and are proposing another one in the waterways between the flood control dike at *Kawanui Marsh's makai* edge and the *Coconut Grove* residential area.

When *WAA* testified on this bill before the **House Finance Committee** several weeks ago, we suggested that the contents of **HB3341 - Relating to Water** be substituted for the original bill which is what the **Committee** did. However, we still have concerns about providing public funding for privately-owned property unless the public is allowed access - in this instance, *Ka`elepulu Pond* which is often referred to by its Western name of *Enchanted Lake*. The owners of the *Ka`elepulu Pond* have not allowed any outsiders onto/into it without permission for as long as I can remember.

However, *Ka`elepulu Pond* is absolutely critical in restoring the water quality of the streams, and more importantly, *Kailua Bay* itself.

This bill helps address this contradiction by focusing on three of the eleven recommendations from the *Department of Health's Kailua Waterways Study* released in December, 2007, which do not deal directly with *Ka`elepulu Pond*.

The purpose of this Act is to appropriate funds to address water quality and other issues facing Kailua

waterways as follows:

- (1) For the department of land and natural resources to implement three of the eleven aforementioned approaches; and
- (2) For the department of transportation to plan, design, and construct measures to address water quality, siltation, and other waterway problems described in this Act.

SECTION 2. The department of land and natural resources shall:

- (1) Conduct an engineering study and an environmental assessment for the preliminary design and specification of measures to restore adequate water flow from Kawainui marsh to Kawainui stream using siphons, tunnels, pumps, or other appropriate measures;
- (2) Conduct a study to maximize the efficiency of the monthly stream mouth opening procedures as well as, improved procedures to respond to threats of flooding due to a blocked canal mouth. This study shall track the effluent plume from the stream mouth and elucidate the fate of state standard water quality parameters, such as turbidity, nutrients, and bacteria, within Kailua bay recreational waters; and
- (3) Design and implement measures to reduce the amount of polluted runoff delivered to Kaelepulu pond by redesigning and restoring the function of the Keopu flood basin, which receives waters from main separate storm sewer system four, and report to the legislature on those measures.

I realize that the *Department of Land & Natural Resource's* standard response is to say that these issues are someone else's responsibility - the *Department of Transportation*, the *Department of Health*, the *City & County of Honolulu*, or the landowners in the case of *Ka`elepulu Pond*. However, one agency needs to be at the head of the line - and that is *DLNR* because we are talking natural resources here even though they've been badly damaged by humans.

As for money - the current version of **HB1898 HD1** does not include a suggested sum of money. Furthermore, the *City & County's* budgeting period has just opened up so there needs to be consultation with the **Department of Facilities Maintenance** which would be the agency with whom *DLNR* would be working so that they can put some of their money in the pot. Based upon my own experiences in working with various county, state & federal agencies on a variety of environmental projects, an initial sum of \$500,000 would get the studies & the design phases completed and the initial remediation work started. How that would be divided between the *City* and the *State* would need to agreed to by both parties.

We also recommend that, in addition to county & state funds, *DLNR* staff seek federal funding through *Senator Inouye* and *Representative Hirono's* offices for the 2009 - 2010 fiscal year. There may be private funding available as well, but that can wait until state and county dollars have been allocated.

In the long run, the *Legislature*, the state administration, and the owners of *Ka`elepulu Pond* are going to have to deal with ownership vs. access issues in order to resolve the problems within the *Pond* itself. One possibility is to purchase *Ka`elepulu* through the *O`ahu Land Trust*, a newly-formed non-profit created by a group of O`ahu residents working with the *Trust For Public Land*. Stay tuned for more information. This is one of three projects I'll be submitting to the **Board of Directors** by the end of 2008.

For now, however, **HB1898 - HD1 - RELATING TO WATER** is what we have to work with so I urge that you pass it out with a sum of money not yet determined.

Mahalo for the opportunity to testify.

testimony

From: James E. Scofield [coconuts@hawaii.rr.com]
Sent: Sunday, March 16, 2008 10:26 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: SUBJECT: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation
Attachments: CIMG0626.JPG; CIMG0625.JPG

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation."

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Attached are two photos demonstrating what is coming out of the storm drains (asphalt/macadam/mud) and dumping into our waterways.

<<...>> <<...>>

Mahalo,

James E. Scofield

Kailua

3/17/2008

testimony

From: David McClure [lanikaidave1@yahoo.com]
Sent: Sunday, March 16, 2008 3:54 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: SUBJECT: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

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The quality of Kailua's waterways has been seriously degraded by stormdrain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Rev. David W. McClure
1133 Hui Street
Kailua, HI 96734

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testimony

From: Todd Cullison [tcullison@hawaii.rr.com]
Sent: Monday, March 17, 2008 8:17 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 – Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by stormdrain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

The Kailua Bay Advisory Council (KBAC) is actively looking for solutions, creating partnership and implementing projects to addresses water quality problems in Kailua. In a recently completed document completed by KBAC, Kailua's waterways were noted as needing significant improvement and are in violation of clean-water standards. To this end, additional resources and support from the State of Hawaii is welcome and needed.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Todd Cullison

Todd A. Cullison
Executive Director
Kailua Bay Advisory Council
629-A Kailua Road Suite #3
Kailua, HI 96734
Cell: (808) 277-5611
Fax: (808) 262-6242

testimony

From: Billcarlile@aol.com
Sent: Sunday, March 16, 2008 5:14 PM
To: testimony
Subject: Testimony Supporting HB 1898 -- Kailua Waterways

ATTN: Senate Water & Land (WTL) Committee

Please support HB 1898 that will fund an important study of Kailua waterways. We live on the edge of Kaelepulu Wetlands and it is more apparent each year that runoff from other areas, many owned and controlled by the government, is adversely affecting the wetlands. Silt accumulation is increasing, interfering with necessary water flow and protected wildlife maintenance, and degrading water quality.

Government engineers unintentionally created problems years ago when Kuwai Nui March was restructured to protect Kailua Town. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways. The bill would also address the issue of contamination of Kailua beaches from water of poor quality that flows into the ocean from the affected wetlands.

We need this legislation to protect people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo for your support,

Bill and Jane Carlile
1188 Akuila Place
Kailua

263-2626
Billcarlile@aol.com

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testimony

From: Ralph Hedges [ralphhedges@hawaii.rr.com]
Sent: Monday, March 17, 2008 10:28 AM
To: testimony
Subject: Kailua's Waterways...

Attachments: HP_Administrator.vcf



HP_Administrator.v
cf (144 B)

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Ralph Hedges, PhD
1443 Kiukee Place
Kailua, HI 96734
808-722-2894
http://www.cli-al.pl/wsp/index_e.html

testimony

From: Fred Smith [fremar@clearwire.net]
Sent: Monday, March 17, 2008 10:37 AM
To: testimony@capitol.hawaii.gov
Cc: senhee@Capitol.hawaii.gov; sentokuda@Capitol.hawaii.gov; repchong@Capitol.hawaii.gov; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies;Appropriation

ATTN: Senate Water Land (WTL) Committee

We urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality, in line with the requirements of the DOH and the EPA. This is an urgent problem and we need to take action now before it is too late.

This legislation affects the health and well-being of the many people who live in Kailua, as well as the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches. We again urge your support of this critical bill.

Sincerely,

Marilyn and Fred Smith
523-C Keolu Drive
Kailua, Hawaii 96734

testimony

From: George and Evie [lingle@hawaii.rr.com]
Sent: Monday, March 17, 2008 11:00 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org; bmarshall@honolulu.gov
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

I urge you to schedule a hearing before your committee for HB 1898 "Kailua Waterways; Studies; Appropriation".

Due to sediment build up, the storm water control system of Kaelepulu stream and pond can no longer adequately protect the neighboring communities from flood damage. Also, the quality of Kailua's waterways has been seriously degraded by stormdrain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA.

We need this legislation for the health and safety of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's bays and beaches. Also, the state cannot afford more negative publicity attributed to the continued pollution of our pristine waters.

Mahalo for your support of HB-1898,

George Lingle
383-0509

testimony

From: Linda Jenks [linda.jenks@gmail.com]
Sent: Monday, March 17, 2008 11:01 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Kailua waterways

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Linda Jenks

testimony

From: Hina Adventures [hina@hinaadventures.com]
Sent: Monday, March 17, 2008 10:55 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Ena Sroat

testimony

From: Diane Nahl [dmnahl@gmail.com]
Sent: Monday, March 17, 2008 11:19 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 -- Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,
Diane Nahl
Kailua resident

testimony

From: Emmy Lou Runyan [elrunyan@hawaii.rr.com]
Sent: Monday, March 17, 2008 11:26 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Testimony in Support of HB 1898 - Kailua Waterways; Studies; Appropriation

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality and maintenance of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways. Kailua area water run off catch basins such as Kaelepulu Pond are silting up and without proper maintenance will eventually lead to flooding such as happened in recent storms at Kailua beach park only over wider areas.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches. Please pass this legislation that will support enhancement of the water quality and maintenance of Kailua basin waterways.

Mahalo,

Raymond E. Runyan
Kailua

testimony

From: Barbara Fossum [bf002986@yahoo.com]
Sent: Monday, March 17, 2008 11:40 AM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: Support HB 1898 "Kailua Waterways; Studies; Appropriation"

ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an urgent problem and action must be taken now before it is too late.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,
B. Fossum
Kailua, HI 96734

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ATTN: Senate Water & Land (WTL) Committee

I urge you to support HB 1898 "Kailua Waterways; Studies; Appropriation".

The quality of Kailua's waterways has been seriously degraded by storm drain runoff and the re-routing of the natural flow of water from Kawai Nui Marsh. Government, developers, engineers unintentionally created these problems years ago. Technology has advanced and solutions are now available that will either stop or reverse the damage that has been done to Kailua's waterways.

This bill would appropriate funds to find solutions to our poor water quality -- in line with the requirements of the DOH and the EPA. This is an problem and action must be taken now before it is too late, it already has visibly effected the water quality in the bay.

We need this legislation for the health and well-being of the many people who live in Kailua, as well as for the thousands of other Hawaii residents and visitors who enjoy Kailua's wetlands, streams, bays and beaches.

Mahalo,

Doug and Joni Kroll

testimony

From: Robert Bourke [rbourke@OCEANIT.COM]
Sent: Monday, March 17, 2008 12:53 PM
To: testimony
Cc: Sen. Clayton Hee; Sen. Jill Tokuda; Rep. Pono Chong; elra@kaelepulupond.org
Subject: hb1898 testimony

Monday, March 17, 2008

Senate Water & Land (WTL) Committee
Hearing: Monday March 18,

Dear Senator Hee and Committee Members;

Thank you for the opportunity to speak in favor of HB 1898. I will be present at the hearing to deliver a synopsis of this testimony and would be happy to answer any of your questions or concerns about this important piece of legislation.

In the last century man kind asserted his dominance over nature in almost every corner of the world. As we progress forward into the 21st century mans role must change from one of conqueror to that of a steward. We have shown that we have the strength and capacity to change the face of the earth, but now must show that we have the wisdom to make these changes in a way that will allow future generations to enjoy these natural resources.

Fifty years ago, faced with a burgeoning population and the threat of seasonal flooding in Kailua, our leaders decided to fill in most of Kaelepulu Pond to create the community of Enchanted Lake, and then to construct a flood control dike and new drainage canal to keep Kawainui Marsh from flooding residential homes. While these changes did have the desired effect of allowing windward Oahu to bloom into the wonderful community it is today, it also had secondary effects on the environment that were not understood at the time and have proven to be quite detrimental.

In recognition of these problems the legislature in 2005 requested the DOH to review the issues and produce a report to the legislature summarizing the problems and proposing appropriate solutions. This report, delivered to the Legislature at the end of 1007, lists eleven reasonable actions that may be taken to mitigate primarily water quality problems in the Kailua Waterways. House Bill 1898 has selected three of the key measures for implementation that are within the preview of the State. Other actions on the list are either already underway or are more appropriately the preview of the City or other organizations.

The three measures proposed by the bill, and their rationale for State action are:

- Fund an engineering study to design the most efficient way to restore water from Kawainui Marsh to Kawainui Stream without adversely impacting the integrity of the flood control dike.

The DLNR now (or very soon) has the management responsibility for both the Kawainui

Marsh and the flood control dike structure. The waters within the marsh as well as within the Kawaiui canal on the makai side of the flood control dike, are both state waters under at least occasional tidal influence. DLNR has clear responsibility to restore and manage the flow of waters from Kawaiui Marsh to Kawaiui Stream (Canal).

- Work with DOH and the City to develop a more efficient method for opening the sandbar mouth of Kaelepulu Stream at Kailua Beach and better understand potential health impact from this action.

Kaelepulu Stream is tidal when open to the ocean accross Kailua Beach and directly impacts endangered bird habitat in the Hamakua Wetlands managed by DLNR on Kawaiui Stream (Canal). The DOH has expressed concerns that the low water quality in Kaelepulu Canal may adversely impact the health of residents and visitors at Kailua Beach, or adversely impact nearby coral reef resources.

- Work with DLNR and DOT to redesign the Keopu flood control basin so that it acts as a BMP to intercept sediments and pollutants before they get into the Kailau Waterways System.

The Keopu flood control basin receives flows from at least three large storm drains constructed under Kalaniana'ole Highway with Federal NPDES permits granted to the DOT. A large portion of silt, sediment, and potentially other pollutants emanates from the Norfolk Community and slopes of Olomano Mt. and flows through these DOT drains. The Keopu flood basin is the logical and probably lowest cost site to control these pollutants before they reach public waters.

HB1898 allows DLNR to take the necessary first steps towards the design of solutions to these problems.

Thank you for the opportunity to testify.

Sincerely

Robert E. Bourke
ELRA Board Member.
437 Keolu Drive
Kailua Hawaii

Phone 256 2057

TESTIMONY

HB 1898 HD1

(END)

TESTIMONY

HB 839 HD1

testimony

From: Rich Figel [figeli001@hawaii.rr.com]
Sent: Saturday, March 15, 2008 4:27 PM
To: testimony
Subject: WTL Testimony in strong support of HB839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839
DATE: Tuesday, March 18, 2008 - 3:15 p.m.
PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

As co-founder of Beach Access Hawaii, a group that represents over 300 members, I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

Although the DLNR opposed this bill on the grounds that they feel beach access is the responsibility of the counties, we believe the State should share that responsibility. In fact, there already is a DLNR provision to have the State provide matching funds to counties for the purpose of acquiring public rights of way. Doesn't it make sense then to have the DLNR make recommendations as to how those matching funds should be best used?

Oahu has only 89 beach rights of ways for over a hundred miles of coastline. There is currently no State law pertaining to minimum standards for public access to our shorelines. Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "guideline" says there should be public access every quarter mile of beach in "urbanized" areas.

Until we actually measured the distances ourselves, no one knew precisely how far apart the Kailua public access ways really were. City Council Chair Barbara Marshall insisted that none of them were farther than a quarter mile apart, based on information she got from the State and City. This is why a comprehensive, up-to-date survey is needed. It should tell us actual distances between public accesses; how many gated or open beach roads are in between them; and recommend where efforts should be made to negotiate easements in perpetuity with private homeowners -- or as a last resort, initiate condemnation to protect public beach access.

There is also potential financial liability for the State if the issue of locked gates on private beach rights of way isn't addressed. In Kailua, first responders have stated at Neighborhood Board meetings that these barricades pose a serious threat to public safety. Delays reaching emergency victims could be the difference between life and death. And who will be sued if someone dies as a result of those gates? The homeowners on those gated roads -- or the State for allowing this to happen?

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access, while semi-private beachfront areas are being created by the unchecked proliferation of gated roads. It's time the State does something about it, rather than place the onus solely on the counties.

Please pass HB839 and amend it, so that it can serve as a tool to help the counties work with the State to protect shoreline access for future generations.

Mahalo for your consideration.

Rich Figel
Co-founder, Beach Access Hawaii
801 Kainui Drive
Kailua, HI 96734

Phone: 808-262-5073

testimony

From: Lisa DePonte [lisa_deponte@hotmail.com]
Sent: Sunday, March 16, 2008 11:57 AM
To: testimony
Subject: Support of HB 839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839
DATE: Tuesday, March 18, 2008 - 3:15 p.m.
PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

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The county "guideline" says there should be public access every quarter mile of beach in "urbanized" areas and that is not so here in Kailua. City Council Chair Barbara Marshall has insisted that none were farther than a quarter mile apart. I believe a comprehensive, up-to-date survey is necessary which should include the following information: 1) actual distances between public accesses, 2) how many gated or open beach roads are in between them and 3) recommend where efforts should be made to negotiate easements in perpetuity with private homeowners -- or as a last resort, initiate condemnation to protect public beach access.

My children, as do many other, are in the water often along that stretch of Kailua Bay in which public access is a problem. I am deeply concerned about the access for emergency assistance. These **gates are obstacles for emergency responders** that pose a serious threat to public safety. Delays reaching emergency victims **could be the difference between life and death.**

For the safety of the majority of Kailua residents and others, please pass HB839 and amend it, so that it can serve as a tool to help the counties work with the State to protect shoreline access for our future generations.

Respectfully,

Lisa DePonte

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testimony

From: Surfrider Maui [maui.surfrider@hawaiiantel.net]
Sent: Sunday, March 16, 2008 8:55 AM
To: testimony
Subject: strong support of HB839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839
DATE: Tuesday, March 18, 2008 - 3:15 p.m.
PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

As chair of the Surfrider Foundation Maui Chapter, I am writing on behalf of our 165 members in strong support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We ask that the bill be amended to identify needed additional public access ways, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

Although the DLNR opposed this bill on the grounds that they feel beach access is the responsibility of the counties, we believe the State should share that responsibility. In fact, there already is a DLNR provision to have the State provide matching funds to counties for the purpose of acquiring public rights of way. Therefore, it is sensible for the DLNR to make recommendations about how to spend these matching funds.

Surfrider Maui has received complaints about beach access issues in West Maui, South Maui, and on Maui's North Shore. Now we are faced with the closure of Kahului Harbor to recreational users in favor of the visitor industry, in addition to the problems at Maliko boat launching ramp. Residents are being "stuffed in the tube" more often, left with fewer access coastal points while the state looks to expand access for tourists. There has to be a compromise. We believe HB839 can close the gap between what the state is doing to increase its capacity for accommodating visitors without shrinking the capacity for Hawaii residents to enjoy the ocean.

HB839 will increase public safety, which would serve to reduce potential government liability. HB 839 is the all important first step to address the statewide problem of diminishing shoreline access, checking semi-private beachfront gated lots.

It's time for the State to address these issues, rather than shoveling the matter under the sand for the counties to manage.

Please pass HB839 and amend it, so that it will help the Counties and State team up to protect shoreline access for future generations.

Mahalo for your consideration.

3/16/2008

Jan Roberson
Maui Chapter Chair
The Surfrider Foundation
PO Box 790549
Paia, HI 96779
(808) 575-2716 home
(808) 298-8254 cell

testimony

From: randy ching [oahurandy@yahoo.com]
Sent: Saturday, March 15, 2008 12:09 PM
To: testimony
Subject: WTL: in support of HB839 HD1 - relating to public access to beaches

Senate Water and Land Committee
Clayton Hee, Chair
Russell Kokubun, Vice Chair

In support of HB839 HD1 - relating to public access to beaches

Hearing on Tuesday, March 18
3:15 p.m. in conference room 224

Aloha Chair Hee, Vice Chair Kokubun and members of the committee,

The Sierra Club, Oahu Group strongly supports HB839 HD1, which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We want the bill amended to identify where additional rights of way are needed and recommend how best to acquire them.

DLNR opposes it on the grounds that shoreline access is solely a county responsibility. It should be a joint responsibility between the State and counties.

Any survey of public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaheo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

HB839 HD1 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access. Meanwhile, semi-private beachfront areas are being created by the unchecked proliferation of gated roads that deny access to the public. It's time we do something about it.

Please pass HB839 HD1 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations. Mahalo.

Randy Ching
Sierra Club, Oahu Group chair
oahurandy@yahoo.com
942-0145

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testimony

From: mjimmermaid@aol.com
Sent: Sunday, March 16, 2008 7:48 AM
To: testimony
Subject: IN STRONG SUPPORT OF HB839

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB839

DATE: Tuesday, March 18, 2008-3:15

PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

In July of 2006, I witnessed my first drowning at Kailua Beach. The First Responders took what seemed like an inordinate amount of time to reach the victim, who later was pronounced dead at Castle Hospital. This incident happened on North Kaleheo, which has more open Beach Access Right-of-Ways than South Kaleheo in Kailua.

It is because of this incident that I became a member of BAH (Beach Access Hawaii).

It is my understanding that there will be a hearing for HR839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. I would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the state and counties to acquire rights-of-way to areas that are lacking access.

I realize how First Responders have a hard time determining how they can get to the beach to respond to emergencies. Referring to my first paragraph, we sent people to wave to the responders so they could get to the victim on Wilikoki Place, which was not locked. At a Neighborhood Board meeting in October, said responders testified that locked gates have posed serious threats to public safety.

I have lived in the Kuulei Tract since 1969, we have used our right-of-way for almost forty years (40). However, in the late 80's a Texan tried to close our right of way. We were successful in keeping our right-of-way through legal maneuvering. We need to remember that the mauka developers, i.e., Castle built these tracts with the assurances that the tract homeowners could use the right-of-ways.

HR839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access while semi-private beach front areas are being created by the unchecked proliferation of gated roads that deny access to the public.

Please pass HB839 and amend it so that both counties and State will work to protect and preserve public shoreline access for our future generations.

Sincerely,

Mary Jo Morrow

3/16/2008

testimony

From: annmarie@hawaii.rr.com
Sent: Sunday, March 16, 2008 8:25 PM
To: testimony
Subject: Testimony in Support of HB839 relating to public access to the shoreline

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

HB 839, HD1 RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Tuesday, March 18, 2008 @ at 3:15 pm in Conference Room 224

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members,

We are an island community. It is the ocean which unites our islands, not separates them. As island people it is the right of all citizens of Hawai'i throughout our State to have safe and reasonable access to the shoreline on every island. However, this right is being continually denied and the problem is ever increasing due to urban development and imported cultural values into our state which are not reflective of our island culture and kama'aina communities.

Our open island ocean communities are turning into isolated and closed communities where all citizens rights to access the shoreline are being denied by just a few. Every beach in Hawai'i is public but they essentially become private beaches when there are no Public Rights of Way to access them. Across the islands this has led to ever escalating hostility between community members. All people want is to reach the shoreline in a reasonable manner. Where are the blue Public Right of Way signs?

I strongly support HB839 to survey and map all existing Public Rights of Way to the shoreline statewide. And I humbly ask the bill be amended to add "identify where additional rights of way are needed statewide in Hawai'i."

For example, the Honolulu City Council in 1998 identified and passed a resolution to acquire 4 Public Rights of Way on Portlock Road to Maunaloa Bay in East O'ahu. The City Council recognized they were not following their own 1/4 mile standard. Unfortunately the City has not completed the acquisition. State legislation would enhance and solidify the needed action to make those Public Rights of Way a reality.

It should be noted some of this very important work to identify existing Public Rights of Way is already taking place. On Maui, Ocean IT completed an island wide survey identifying all Public Rights of Way and additional point of access to the shoreline. This survey was completed in March of 2005. Maui County was one of the main supporters of the survey.

NOAA Fisheries is in the process of identifying every Public Right of Way on O'ahu and is also identifying additional access points to the shoreline. NOAA's survey should be completed by the end of 2008.

The survey on O'ahu was prompted by the concern of fishermen who were increasingly dealing with being denied access to shoreline areas to fish and also the lack of information about access locations.

To quote NOAA "shoreline access information for O'ahu is not as easily accessible or as comprehensive as Maui Counties'. Using the Maui report as a model, the goal of this project is to make shoreline access information for O'ahu more comprehensive and available to the fishing community, and the ocean using community as a whole."

There is a great opportunity here for DLNR to use the work already completed on Maui and the work now being done on O'ahu, which has already kick- started the process, to move forward and complete a statewide survey which HB 839 has identified as necessary.

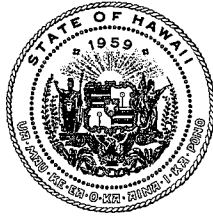
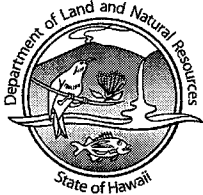
I ask for your support of House Bill 839.

Mahalo for your consideration.

Aloha,
Ann Marie Kirk
PO Box 25342
Hawai'i Kai, Hawai'i
371-3072

Liveable Hawai'i Kai Hui

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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KAAHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

On House Bill 839, House Draft 1 – RELATING TO PUBLIC ACCESS TO BEACHES

BEFORE THE SENATE COMMITTEE ON
WATER AND LAND

March 18, 2008

House Bill 839, House Draft 1 proposes to appropriate funds for Fiscal Year 2008-2009 for the Department of Land and Natural Resources (Department) to survey and map all existing public access ways to shoreline areas throughout the State. The Department opposes this bill. At present, the Counties have been delegated the primary responsibility for establishing and maintaining public access to shoreline areas by statute. Additionally, the Department opposes this measure as the proposed appropriation may adversely affect the priorities of Executive Supplemental Budget request.

The Department notes that shoreline access is typically under the purview of the respective counties. §46-6.5, Hawaii Revised Statutes (HRS), provides that:

“[§46-6.5] **Public access.** (a) Each county shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision, in cases where public access is not already provided, to dedicate land for public access by right-of-way or easement for pedestrian travel from a public highway or public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access by right of way from a public highway to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails.

(b) These ordinances shall be adopted within one year of May 22, 1973.

(c) Upon the dedication of land for a right-of-way, as required by this section and acceptance by the county, the county concerned shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.

(d) For the purposes of this section, "subdivision" means any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots are offered as part of a common promotional plan of advertising and sale.

(e) The right-of-way shall be clearly designated on the final map of the subdivision or development.

(f) This section shall apply to the plan of any subdivision or development which has not been approved by the respective counties prior to July 1, 1973.”

Additionally, §115-2, HRS, provides that:

“§115-2 Acquisition of lands for public rights-of-way and public transit corridors. When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines, the sea, and inland recreational areas, and for public transit corridors where topography is such that safe transit does not exist.”

As is evident above, this is clearly a county function. The lands along the coastlines are predominately private, and land uses generally are for residential, industrial, urban, or agricultural purposes, that are planned and regulated by the counties. The counties have existing planning and regulatory mechanisms to manage growth and development of these lands and the ability to incorporate requirements into the planning and permitting process and the statutory responsibility to do so.

It is the Department's understanding that each county maintains inventories of beach accesses although they differ in types of information and formats. The City and County of Honolulu (City) has a listing of City-owned beach rights-of-way and has been placing those rights-of-way in its Geographic Information System. Both Counties of Maui and Hawaii have been relying on a tax map report of beach rights-of-way. Those reports were completed years ago using Coastal Zone Management funds. The County of Kauai conducted a study in 1991 and has individual files on beach rights-of-way that include ownership documentation, pictures and survey maps.

Surveying and mapping of public access locations clearly fall within the purview of governmental agencies with planning functions and capabilities and is not an appropriate mandate for the Department. The Department's principal role and function in relation to public access to and along the shorelines is one of regulation of use and enforcement of violations. The Department is actively performing that responsibility to protect lateral public access along the coasts by enforcing its statutes and regulations against unauthorized encroachments and violations in the in those areas that may in fact or by appearance impede or hinder such access. The Department recently fined a private landowner in Kailua for the unauthorized landscaping of state land that discouraged public access by giving the false impression that it was private property and directed the landowner to remove those improvements. The Department is also conducting an area-wide enforcement of encroachment violations on state beach reserve lands on Maui to ensure public access along the Kihei coast. Moreover, on an ongoing basis, the Department requires the removal of encroachments and satisfactory resolution of unauthorized improvements in the shoreline area as an integral part of its shoreline certification program.

If the Legislature is inclined the pass this measure in some form, the Department respectfully requests that it consider replacing the Department with the respective counties or some other government agency that has planning resources and capabilities that are more appropriately suited the tasks proposed by the bill.

testimony

From: Windward Ahupua`a Alliance [info@waa-hawaii.org]
Sent: Sunday, March 16, 2008 10:47 PM
To: testimony
Subject: HB839 HD1 - RELATING TO PUBLIC ACCESS TO BEACHES

Submitted by:

Shannon Wood, *Interim President*
Windward Ahupua`a Alliance/The Climate Project/RECYCLING FOR CHANGE/BUST-A-DUMPER Campaign
P.O. Box 6366
Kane`ohe, HI 96744
Voicemail: 808/247-6366; Cellular: 808/223-4481 or 808/224-4496
Website: <http://www.waa-hawaii.org>; E-Mail: info@waa-hawaii.org;
Website: <http://www.recycling4change.com>; E-Mail: info@recycling4change.com

Committee on Water & Land
Sen. Clayton Hee, Chair
Sen. Russell Kokubun, Vice Chair

Public Hearing
3:15 pm
Tuesday, March 18, 2008
Conference Room 224

HB839 HD1 - RELATING TO PUBLIC ACCESS TO BEACHES
Strongly Support With Comments & Amendments

TO THE COMMITTEE ON WATER & LAND:

The purpose of **HB839 HD1 - RELATING TO PUBLIC ACCESS TO BEACHES** is to create an inventory of beach accesses open to the public all across the state. However, as a representative of an organization which has had numerous interchanges with both the *City and County of Honolulu* as well as the *Department of Land & Natural Resources* on a wide range of related issues, each one will say that it's a great idea which they agree with in principle, but it's either outside their *kuleana* and/or they don't have the necessary human & financial resources to take on these added responsibilities.

DLNR claims that it is the responsibility of the counties to identify, purchase and maintain beach accesses while the counties will claim that "everyone" already knows where these accesses are already and, besides, there's no money to buy more and maintain them.

Actually, purchasing easements with funds from sources other than state or county funds is doable including federal grants, private foundations, and the *O`ahu Land Trust*, a newly-formed non-profit created by a group of O`ahu residents working with the *Trust For Public Land*. Purchasing easements in each of the eight development planning areas is one of three projects I'll be submitting to the **OLT Board of Directors** by the end of 2008. Other land trusts exist in the other three counties which might provide similar support.

3/17/2008

But before we can begin to talk about creating additional easements, we need to identify where the current ones are located and where additional ones are needed. At the same time, we need to survey locked gates and closed beach accesses including unmarked lanes.

One suggestion which has come up is to place the survey work in the **Office of Planning** which is already working on related issues through its **Coastal Zone Management** programs. However, **DLNR** and the various county planning departments need to be actively involved in both doing the research and drafting the final report.

The beaches belong to all of us, but if we cannot get access to them in a reasonable fashion, then they might as well be sold off to the highest bidder. The **Legislature** must take the lead in establishing state-wide policies.

Mahalo for the opportunity to provide input on these critically important issues.

The Windward Ahupua`a Alliance works to educate & inform residents, visitors, businesses, policymakers, and the media about using Smart Growth planning principles which promote sustainability. These include: Designing long-term waste management systems; improving illegal dumping/derelict vehicle legislation & enforcement; developing & implementing comprehensive curbside recycling programs; providing research & support on public access issues; establishing both state & county-level "legacy lands" funds to support affordable workforce housing initiatives and critical land purchases to protect against inappropriate development; creating alternative energy systems to reduce Hawai`i's dependency on fossil fuels & to mitigate the impacts of global warming; and, setting long-term watershed protection policies based upon ahupua`a concepts & principles.

testimony

From: Tia Bourke [tiabourke@comcast.net]
Sent: Monday, March 17, 2008 2:17 AM
To: testimony
Subject: Support HB839

I am in strong support of HB839 with changes to include a new survey.

Edward and Celestia Bourke

testimony

From: Pia & Steve Sektan [pia_steve@hawaiiantel.net]
Sent: Sunday, March 16, 2008 5:48 PM
To: testimony
Subject: testimony in strong support of HB839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839
DATE: Tuesday, March 18, 2008 - 3:15 p.m.
PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

I strongly support bill HB839, and would like it amended to identify where additional rights of way are needed. I believe public beach access IS the joint responsibility of the State and counties.

I live in Kailua on a stretch of over half a mile of NO public beach access. Barbara Marshall claims, that there is a beach access every quarter mile, which is simply not true. If she only made the effort of driving down North Kalaheo Ave. in her car, she would notice how far apart the public accesses truly are, before making such false claims. I have two young children, 2 and 4 years old and a dog and when we are walking to the nearest beach access with beach gear, it is absolutely unsafe. There is no defined sidewalk on North Kalaheo.

Besides I am very concerned that emergency services will be held up by the many gates put up on the private roads leading from Kalaheo Ave to the beach. Many children and elderly people enjoy Kailua beach. Many people play in the water. It is a big safety issue that needs to be addressed.

Who will be sued in case someone is forever disabled or dies, just because emergency services couldn't get to the person quick enough? And suing will not bring them back anyway...

Please help resolve this urgent issue.

Mahalo

Pia Sektan and family

testimony

From: *Scott Werny* [clearwater@hawaii.rr.com]
Sent: Monday, March 17, 2008 6:43 AM
To: testimony
Subject: Testimony in Strong Support of HB839, HD1 relating to public access to beaches

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

HB 839, HD1 RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Tuesday, March 18, 2008 at 3:15 pm in Conference Rm. 224

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members,

The Surfrider Foundation O'ahu Chapter, representing more than 500 members on O'ahu, **strongly supports HB839** which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We respectfully request that the bill be amended so it may identify where additional public access ways are needed most, and forwards a prioritized list to the State and counties to acquire rights of way in areas that are lacking access.

Our oceans and beaches are precious resources that are highly valued by most of us who live here. They are public property, for all to enjoy. Families, fishermen, surfers, divers, swimmers, paddlers, artists, walkers, and many others visit the ocean for recreational needs. We rely on open beach access paths and adequate parking and trust our government to provide this access for them. Hawaii law (HRS 115*) makes it clear that beach access is a right that is guaranteed. Yet sadly, we see areas all around our islands where beach access paths are being gated or fenced; we see ocean-side parking areas being reduced, *No Parking* signs erected, and fees being imposed; and we see land development that threatens to diminish or block access. It's becoming harder to reach the beach.

O'ahu has only some 89 beach rights of ways for over a hundred miles of coastline, according to the Department of Planning and Permitting. This access is adequate in some areas and is sorely inadequate in others. We believe the State needs to determine where access is needed. We also think the State should issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds as provided by State law, since we view this as both a State and county responsibility to protect and provide adequate public beach access.

It is our belief that we must provide adequate shoreline access if we are to create sustainable communities in Hawaii. This may be done by requiring the City to use funds from the Clean Water and Natural Lands Fund to acquire right-of-ways with matching State funds, but there needs to be a prioritized list with which to work.

A survey of public access ways should include the actual distances between them and note the

number of closed off "private" or public streets with private rights of way in between that are gated. It should also include an estimate of free and proximate parking that is available for beach users, and posted signage.

HB839 is an important step in addressing a statewide problem: diminishing shoreline access. It's time we do something about it. Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve adequate public shoreline access for future generations.

Mahalo,
Scott Werny
Honolulu, HI
Co-chair Surfrider Foundation Oahu Chapter

The Surfrider Foundation O'ahu Chapter is a non-profit grassroots organization run solely by volunteers with more than 500 members on O'ahu. In its 12th year of activism, the O'ahu Chapter works to improve ocean water and beach quality, to keep and open access to the ocean for all to enjoy, and to assure that development on our island is responsible by having minimal impact on our coastal environment. The chapter is one of 80 Surfrider Foundation chapters worldwide with over 50,000 members. For more information go to: www.surfrider.org/oahu or www.myspace.com/oahusurfriderchapter or call 531-SURF.

*** Hawaii Revised Statutes §115-1**

Findings and purpose. The legislature finds that miles of shorelines, waters, and inland recreational areas under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties and properties bordering inland recreational areas; that the population of the islands is increasing while the presently accessible beach, shoreline, and inland recreational areas remain fixed; and that the absence of public access to Hawaii's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal and inland recreational areas. The purpose of this chapter is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors. [L 1974, c 244, §1; am L 1977, c 164, §3]

testimony

From: Jeannine Johnson [jeannine@hawaii.rr.com]
Sent: Sunday, March 16, 2008 6:41 PM
To: testimony
Subject: Testimony in Strong Support of HB839, HD1 relating to public access to beaches

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
 Senator Russell S. Kokubun, Vice Chair

HB 839, HD1 RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Tuesday, March 18, 2008 @ at 3:15 pm in Conference Room 224

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members,

I **strongly** support HB839, HD1 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. O'ahu has only 89 beach rights of ways (BROW) for over a hundred miles of coastline according to the Department of Planning and Permitting (DPP). In Niu Valley, we only have one public rights of way (TMK 3-7-001:035) listed on the BROW list below that I received from the DPP, however, we do not have a blue public rights of way sign even though we've requested one. Having been threatened to be personally sued by the beachfront owner abutting this access, the City forces my community to continually fight for this one access until that blue sign is put up.

Many shoreline paths were created with the intent to provide beach access and are tax assessed at only \$100, yet they remain closed to the public. In Niu Valley, two are blocked with walls that have no permit (TMKS 3-7-001:023 and 3-7-001:033). Therefore, I would humbly suggest that HB839 be amended to add "and identify where additional public rights of way are needed or blocked."

Mahalo!

Jeannine
 Jeannine Johnson, Secretary
 Niu Valley Community Association
 5648 Pia Street
 Honolulu, Hawaii 96821
 Ph: 373-2874 / 523-5030 (w)
 Email: jeannine@hawaii.rr.com
 Website: www.neighborhoodlink.com/honolulu/niuvalley

Park Name	Link No.	Size of Park in Acres	Address	City	State	Zip Code	Primary Tax Map Key
<i>Beach Rights-of-Way</i>							Public (C&C) street provides access to beach across State-owned land (TMK 3-1-040:067)
Kaalawai (Kulamanu Place)	405	0.00	Kulamanu Place	Honolulu	HI	96821	
Kahala Avenue at Elepaio Street	245	0.07	Kahala Avenue & Elepaio Street	Honolulu	HI	96821	3-5-003:039
Kahala Avenue at Hunakai Street	246	0.08	Kahala Avenue & Hunakai Street	Honolulu	HI	96821	3-5-004:053
Kahala Avenue at Kala Place	247	0.07	Kahala Avenue & Kala Place	Honolulu	HI	96821	3-5-003:041
Kahala Avenue at Koloa Street A	248	0.15	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-005:076
Kahala Avenue at Koloa Street B	249	0.14	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-005:073
Kahala Avenue at Koloa Street C	250	0.15	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-006:032
Kaikoo Place	313	0.03	Kaikoo Place	Honolulu	HI	96821	3-1-041:026
Kalia Road	79	0.10	Kalia Road	Honolulu	HI	96815	2-6-004:
Paoa Place	138	0.38	Paoa Place	Honolulu	HI	96815	2-6-008:
Camp Malakole	406	0.25	Malakole	Kapolei	HI	96707	9-1-074:39 and 036(por.)
Ewa Beach Road A	340	0.03	next to TMK 9-1-006:012	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road B	341	0.03	next to TMK 9-1-006:033 & 034	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road C	342	0.03	next to TMK 9-1-006:001	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road D	343	0.03	next to TMK 9-1-024:052 & 053	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road E	344	0.03	next to TMK 9-1-024:018	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road F	345	0.03	next to TMK 9-1-024:063 & 087	Ewa Beach	HI	97606	9-1-024:
Ewa Beach Road G	346	0.03	next to TMK 9-1-024:008	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road H	347	0.03	next to TMK 9-1-023:035 & 079	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road I	348	0.03	next to TMK 9-1-023:030	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road J	349	0.03	next to TMK 9-1-023:056 & 076	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road K	350	0.03	next to TMK 9-1-023:011	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road L	351	0.03	next to TMK 9-1-023:001	Ewa Beach	HI	96706	9-1-023:
Ko Olina Lagoon & Roadway Easement	290	42.00	Kamoana Place	Kapolei	HI	96707	9-1-057:001(por.) & 015 (por.)
Oneula Place	146	0.03	Oneula Place	Ewa Beach	HI	96706	9-1-025:061
Paradise Cove	292	0.03	Aliinui Drive	Kapolei	HI	96707	9-1-057:027(por.)
Parish Drive	320	0.02	next to lot at 91-049 Parish Drive	Ewa	HI	97606	9-1-007:039
Pupu Place	205	0.00	Makai end of Pupu Place	Ewa Beach	HI	96706	9-1-030:017
Hanapepe Loop	261	0.03	Hanapepe Loop	Honolulu	HI	96825	3-9-028:025
Kalaniana'ole Highway	223	0.09	Kalaniana'ole Highway	Honolulu	HI	96821	3-7-001:0350(por.)
Kokee Beach Right-Of-Way	281	0.46	158 Kokee Place	Honolulu	HI	96825	3-9-026:002
Koko Kai Beach Right-Of-Way	282	0.60	10 Hanapepe Place	Honolulu	HI	96825	3-9-028:019
Lumaha'i Street	283	0.07	Lumaha'i Street	Honolulu	HI	96825	3-9-013:034
Paiko Drive	357	0.01	Between 216 & 218 Paiko Drive	Honolulu	HI	96821	3-8-001:022
Alii Landing Shoreline Access	384	0.03	Ipuka Street	Kaneohe	HI	96744	4-6-007:113

Kaimalino Street	327	0.05	Kaimalino Street	Kaneohe	HI	96734	4-4-039:060
Kaneohe Bay Beach Remnant	389	0.06	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-021:054
Kaneohe Bay Drive A	137	0.02	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-016:020
Kaneohe Bay Drive B	355	0.13	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-021:020
Milokai Place	326	0.03	Milokai Place	Kaneohe	HI	96734	4-4-039:059
Mokulua Drive A	224	0.08	Mokulua Drive	Kailua	HI	96734	4-3-003:089
Mokulua Drive B	225	0.08	Mokulua Drive	Kailua	HI	96734	4-3-005:087
Mokulua Drive C	226	0.07	Mokulua Drive	Kailua	HI	96734	4-3-007:062
North Kalaheo Ave at Kawainui Canal	176	0.29	Kalaheo Avenue & Kawainui Canal	Kailua	HI	96734	4-3-083:069
North Kalaheo Avenue at Ainoni St.	147	0.21	Kalaheo Avenue & Ainoni Street	Kailua	HI	96734	4-3-018:008
North Kalaheo Avenue at Dune Street	175	0.12	Kalaheo Avenue & Dune Street	Kailua	HI	96734	4-3-017:001
North Kalaheo Avenue at Pueohala Pl	177	0.18	Kalaheo Avenue & Pueohala Place	Kailua	HI	96734	4-3-017:025
South Kalaheo at Kuuniu Street	390	0.18	South Kalaheo Avenue at Kuuniu St.	Kailua	HI	96734	4-3-012:034(por.); 4-3-013:001(por.)
Laumilo Street A	391	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street B	392	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street C	393	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street D	394	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street E	395	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street F	396	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street G	397	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street H	398	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street I	399	0.03	Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Hauula Beach Remnant	65	0.01	Kamehameha Highway	Laie	HI	96762	5-4-010:005
Kaluanui Road	356	0.05	Kaluanui Road	Laie	HI	96762	5-3-010:030
Kaluanui on Kamehameha Hwy. A	408	0.21	Kamehameha Highway	Laie	HI	96763	5-3-009:044
Kaluanui on Kamehameha Hwy. B	410	0.40	Kamehameha Highway	Laie	HI	96764	5-3-009:020
Kamehameha Highway	153	0.04	Kamehameha Highway	Laie	HI	96762	5-5-002:073
Au Street A	158	0.04	Au Street	Waialua	HI	96791	6-8-011:042 (por.)
Au Street B	159	0.03	Au Street	Waialua	HI	96791	6-8-012:041
Banzai Rock	402	0.33	59-446 Ke Waena Road	Haleiwa	HI	96712	5-9-003:031 & 083
Crozier Drive	353	0.09	Crozier Drive	Waialua	HI	96791	6-8-004:003(por.)
Crozier Drive Brow Parking	403	0.26	68-620 Crozier Drive (temp. addr.)	Waialua	HI	96791	6-8-013:066(por.)
Hoomana Place	404	0.03	middle of Hoomana Place	Waialua	HI	96791	6-8-010:012
Huelo Street	209	0.03	Huelo Street	Haleiwa	HI	96712	5-9-001:
Kahauola Street	208	0.01	Kahauoloa Street	Haleiwa	HI	96712	5-9-001:
Ke Iki Road A	213	0.10	Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Iki Road B	214	0.16	Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Iki Road C	215	0.08	Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Nui Road A	210	0.12	Ke Nui Road	Haleiwa	HI	96712	5-9-002:
Ke Nui Road B	211	0.14	Ke Nui Road	Haleiwa	HI	96712	5-9-002:
Ke Nui Road C	216	0.11	Ke Nui Road	Haleiwa	HI	96712	5-9-019:
Ke Nui Road D	217	0.04	Ke Nui Road	Haleiwa	HI	96712	5-9-019:
Ke Nui Road E	218	0.05	Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Nui Road F	219	0.06	Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Nui Road G	220	0.03	Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Waena Road	212	0.06	Ke Waena Road	Haleiwa	HI	96712	5-9-003:
Makaleha	401	0.27	Farrington Highway	Waialua	HI	96791	6-8-003:042 (por.)
Oopuola Street	207	0.09	Oopuola Street	Haleiwa	HI	96712	5-9-001:
Papailoa Road	275	0.05	Papailoa Road	Haleiwa	HI	96712	6-1-004:091
Waialua Beach Road	318	0.08	Waialua Beach Road	Waialua	HI	96791	6-7-014:042
Makau Street A	178	0.02	Makau Street	Waianae	HI	96792	8-4-009:017
Makau Street B	206	0.02	Makau Street	Waianae	HI	96792	8-4-010:017
Moua Street	148	0.02	Moua Street	Waianae	HI	96792	8-4-005:012
Upena Street	149	0.01	Upena Street	Waianae	HI	96792	8-4-007:012

testimony

From: Jeannine Johnson [jeannine@hawaii.rr.com]
Sent: Sunday, March 16, 2008 6:57 PM
To: testimony
Subject: Testimony in Strong Support of HB839, HD1 relating to public access to beaches
Attachments: image001.jpg

Jeannine Johnson, Legislative Sub-Committee Chair
Kuli'ou'ou / Kalani Iki Neighborhood Board #2

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 523-5030 (w)

March 16, 2008

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

HB 839, HD1 RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Tuesday, March 18, 2008 @ at 3:15 pm in Conference Room 224

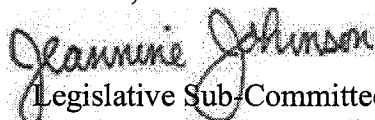
Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members,

As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, I am pleased to inform you Neighborhood Board #2 strongly supports HB839, HD1 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawaii Data Book 2002) in East Honolulu.

At its October 5, 2006 meeting, residents from the East Honolulu communities of 'Āina Haina, Niu Valley and Portlock expressed their concerns of beachfront landowners along the shoreline from Portlock Road to Kāhala denying the public access to the beach with a planned gated subdivision, locked gates and/or walls. Therefore, **Neighborhood Board #2** voted unanimously to **strongly** oppose any development which would gate off the access to our beaches that has been traditionally used by our residents, fisherman and/or surfers and recommended the City place blue public right of way signs at public rights of way along our shoreline from Portlock Road and continuing west along Kalaniana'ole Highway to Kāhala.

Locating all existing public access ways to the shorelines throughout the State would help ensure the rights of the public to access the shoreline for recreational and cultural purposes. Therefore, your support of HB839, HD1 is respectfully requested.

Mahalo,


 Jeannine Johnson
 Legislative Sub-Committee Chair

Kuli'ou'ou / Kalani Iki Neighborhood Board #2

cc via email: Chair Robert Chuck
Sen. Sam Slom
Sen. Fred Hemmings
Rep. Lyla Berg
Rep. Barbara Marumoto
Rep. Gene Ward

testimony

From: Wendy [wne@hawaii.rr.com]
Sent: Monday, March 17, 2008 2:39 AM
To: testimony
Subject: WTL Testimony in strong support of HB839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839
DATE: Tuesday, March 18, 2008 - 3:15 p.m.
PLACE: Conference Room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

My name is Wendy Watson-Erickson and I am one of the co-founders of Beach Access Hawaii. I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

It doesn't matter which island you are on, which town you are in, you will hear people concerned and upset over our loss of beach access. In Kailua, most of the bay is empty because you can't get to it due to private roads with locked gates. Certain spots are congested but the great majority of it is bare. This is the same for all beaches around our islands. Emergency responders have a difficult time reaching people in time because of locked gates. We have been lucky so far but one of these days someone is going to get hurt and you can bet on the state being sued.

This is an issue that is not going to go away but will only get bigger and more heated. We are all passionate about our Island home. I was born here when it was a territory and have seen many changes over the years. Some good and some bad. These changes for the worse may never have occurred if our past and present powers that be had been paying attention instead of turning a blind eye, passing the buck and pointing fingers. It's time to make things right.

People make up the state and the state belongs to its people. The state legislators are chosen by the people. They have an obligation to take care of the needs of the people and make sure that our lands and rights are not abused.

We want you to work together to stop private development and wealthy landowners from being allowed to take away anymore of our beach accesses.

We want help in getting back accesses every quarter mile in areas where the law states they are to be. We want the state and counties to come up with whatever funds are needed to secure access to our beaches.

A comprehensive, up-to-date survey is needed. It should tell us actual distances between public accesses; how many gated or open beach roads are in between them; and recommend where efforts

should be made to negotiate easements in perpetuity with private homeowners -- or as a last resort, initiate condemnation to protect public beach access.

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access, while semi-private beachfront areas are being created by the unchecked proliferation of gated roads. It's time the State does something about it, rather than placing the onus solely on the counties.

Please pass HB839 and amend it, so that it can serve as a tool to help the counties work with the State to protect shoreline access for future generations.

Mahalo for your consideration.

Wendy Erickson
805 Kainui Pl.
Kailua, HI 96734

Phone: 808-391-1568

testimony

From: Miriam Rappolt [mimhawaii@gmail.com]
Sent: Monday, March 17, 2008 11:53 AM
To: testimony
Subject: HB839

SUBJECT: WTL Testimony in strong support of HB839

TO: COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chairman
Senator Russell Kokubun, Vice- Chairman

NOTICE ON HEARING ON HB839

DATE: Tuesday, March 18, 2008 3:15 p.m.

PLACE: Conference Room 224, State Capitol

Aloha Chairman Hee, Vice-Chairman Kokubun and Honorable Committee Members:

As longtime Kailua residents, my husband and I strongly support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access. My husband and I believe that the State should share the responsibility with the counties and thereby ensure that residents and visitors alike be guaranteed reasonable access to the shorelines

-- access which should be mandated at intervals of no more than a quarter mile distance apart. Should emergencies arise, frequent access paths would enable personnel to reach victims of accidents and minister critically important care to needy individuals. Indeed, it should be emphasized to homeowners' groups that locked private gates which hinder access for emergency personnel could result in liability claims, and this failure to ensure well-marked, frequent access could place the State at risk for lawsuits as well.

A public safety issue is involved, and we would hope that the committee will take a proactive stance about frequent beach access.

Passing HB839 would be a step forward and an indication that the State and counties can work together to create an environment that assures citizens that the State of Hawaii is concerned about the safety of both residents and visitors.

Thank you for your consideration.

Miriam and Ken Rappolt
783 N. Kalaheo Avenue (corner Kainui Drive) Kailua, HI 96734

testimony

From: Ed Birdsong [bird-joyce@att.net]
Sent: Monday, March 17, 2008 12:06 PM
To: testimony
Subject: HB 839, HD1 Testimony

To: testimony <testimony@capitol.hawaii.gov>

Subject: Testimony in support of HB839

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING
DATE: Tuesday, March 18, 2008
TIME: 3:15 p.m.
PLACE: Conference Room 224
State Capitol
415 South Beretania Street

HB 839, HD1

Dear Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

I am writing to support HB839 as a step toward a solution to a public safety problem in areas that limit beach access through privately owned rights-of-way. The issue is the lack of quick access for "FIRST RESPONDERS" in an emergency situation. Areas that impede first responders because of such conditions need to be identified. Funding for the appropriate agency will allow the identification process to begin at the earliest possible time.

Subsequently solutions for directing first responders might be as simple as posting numbered signage on both the beach and roadway sides of the selected rights-of-way.

Identifying the necessary and best access routes is the first step.

Thank you for your consideration,

Edward M. Birdsong

3/17/2008

TESTIMONY

HB 839 HD1

(END)