

LINDA LINGLE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
WATER, LAND, AGRICULTURE AND OCEAN RESOURCES**

**Friday, February 6, 2009
9:15 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1808
RELATING TO COASTAL AREAS; PUBLIC ACCESS**

House Bill 1808 proposes to require maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance, establish shoreline access as an objective of the Coastal Zone Management Program, and require the Department of Land and Natural Resources (Department) to provide written notice to affected property owners. The Department supports this bill with amendments.

House Concurrent Resolution 258, adopted by the 2008 Legislature, requested the Office of Planning (OP) to coordinate city and state agencies in addressing the overgrowth of vegetation on Kahala beach. Department staff has participated with OP and City and County of Honolulu staff on several coordination meetings on this issue. In addition the Department initiated an effort last summer to work cooperatively with several Kahala Beach landowners by issuing letters to twelve property owners requesting voluntary removal of vegetation that encroached onto the beach seaward of the shoreline. However, only one landowner complied by removing vegetation on the beach seaward of the shoreline. The Department offers the following amendments for consideration:

1. SECTION 2 of this measure amends Chapter 183, Hawaii Revised Statutes (HRS), by adding a new section requiring the Department to provide written notice to all affected landowners. This is over burdensome and would require letters be sent to tens of thousands of landowners. Given the current fiscal difficulties, it would not be prudent to pursue enactment of this section at this time. This particular section of the amendment as written would prohibit the Department from supporting this bill and we recommend replacing this language, and inserting into section §115-9, HRS, to read as follows:

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

“Notice shall be sent to the affected property owner by mailing it to the property owner’s last known address in the State of Hawaii, or to the property owner’s agent at the property owner’s agent’s last known address.”

2. SECTION 3 amends §115-5, HRS, with a new definition of shoreline and also removes the requirement the Counties shall establish public access corridors through condemnation. It is unnecessary to redefine the shoreline and only confuses an already complicated regulation surrounding the term shoreline. The Department has reservations with both of these amendments and suggest the following revisions for these sections of §115-5, HRS:

"§115-5 Transit area and public transit corridor defined. (a) The right of transit along the shoreline exists ~~[below the private property line which is defined as being along the upper reaches of the wash of waves, usually evidenced by the edge of vegetation or by the debris left by the wash of waves.]~~ seaward of the shoreline as defined in Chapter 205A-1 Definitions (or as amended).

3. The Department supports retaining the ability to establish public access corridors along cliffs with the following amendment to §115-5, HRS.

"§115-5 Transit area and public transit corridor defined. (a) “However, in areas of cliffs or areas where the nature of the topography is such that there is no reasonably safe transit for the public along the shoreline below the private property lines, the counties by condemnation shall [may] establish along the makai boundaries of the property lines public transit corridors which shall be not less than six feet wide.

4. SECTION 5 amends §183C-3, HRS, to allow the Department to maintain shoreline public transit. This section provides for a specific duty of maintaining public transit corridors in a section of §183C-3, HRS, which is centered on broader departmental powers and functions, and the Department feels that the language is unnecessary. The Department believes adequate empowering authority would be provided by amending §115-9 and §205A-2, HRS, as included in this bill making additional amendments to §183C-3, HRS, unnecessary. In addition, the Department may also provide for specific enforcement powers through rule making. The Department recommends inserting additional language in Chapter 115, HRS, that specifically authorizes the Department to require the maintenance of vegetation impeding below the shoreline by and from the abutting property owner(s), and which also authorizes the Department to issue notices and enforce the provisions of Chapter 115, HRS, through its broad powers in Chapter 183C, HRS. The Department offers the following language for consideration:

§115-__ Maintaining beach transit corridors. (a) Under chapter 183C and this chapter, the department of land and natural resources shall maintain public transit along beach corridors by requiring private property owners to ensure that beaches abutting or adjoining their lands are kept passable and free from human-induced vegetation that blocks transit. For lands seaward of the shoreline and in the state conservation district, the department of land and natural resources is authorized to issue a violation citation to property owners. If any landowner, after receiving notice from the department of land and natural resources, fails to remove the obstruction, the department of land and natural resources may remove the obstruction as may be

necessary to allow public access. The cost for removal by the department of land and natural resources shall be charged to and against the landowner, and collected from such property owner or the property owner's agent, if not immediately paid by action in the district court.

One additional question that the Department would like to raise is the collection of fines and/or reimbursement for costs incurred by the Department in the execution of this law. The Department is interested in evaluating mechanisms to ensure payment of these fines through such means as property liens, or other measures.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LATE TESTIMONY

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
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Statement of
ABBEY SETH MAYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES
Friday, February 6, 2009
9:15 AM
State Capitol, Conference Room 325

in consideration of
HB 1808
RELATING TO COASTAL AREAS.

Chair Ito, Vice Chair Har, and Members of the House Committee on Water, Land and Ocean Resources.

We support HB 1808 Relating to Coastal Areas. HCR 258 requested the Office of Planning (OP) to coordinate city and state agencies in addressing the overgrowth of vegetation on Kahala beach. OP facilitated meetings of state and county agencies and community members on this issue. The provisions in this bill were developed as possible next steps to resolve this issue.

Human induced vegetation that blocks access to beaches is a statewide problem. At Kahala Beach, there have been numerous community complaints about the human induced vegetative growth and its adverse effects on access to and transit along the beach. The Department of Land and Natural Resources issued letters to twelve property owners requesting voluntary removal of vegetation that encroached onto the beach seaward of the shoreline. However, only one landowner removed vegetation on the beach.

Public beach corridors are similar to public sidewalks in the sense that they are for public use. The bill proposes provisions patterned after the sidewalk maintenance

ordinance of the City and County of Honolulu (ROH Ch.14 Article 20) which requires property owners to maintain adjacent sidewalks. If a sidewalk is not maintained, a property owner may be cited and given a certain amount of time to clean up the sidewalk. If the sidewalk is not cleaned, the City cleans up the sidewalk and seeks reimbursement from the property owner.

There are two key issues that this bill is trying to address.

1. The Department of Land and Natural Resources (DLNR) does not have the funding to remove this vegetation. Also, it is not cost-effective to have the DLNR remove the vegetation because it would be a recurring cost as the vegetation grows back. Under this bill, the property owner and not the State would be responsible for removing the vegetation and this would provide an incentive for the property owners to keep the adjacent beachfront free of induced vegetation.
2. Questions have been raised as to whether and under what circumstances government can require property owners to remove irrigation lines or vegetative growth. There is the perception that a burden of proof lies with government agencies to prove that the landowner has caused the vegetation to encroach on the public beach or that the irrigation lines etc. on the beach were placed there by the property owner. This bill places the responsibility to maintain the beach corridor on the adjacent property owner. The enforcing agency, the Department of Land and Natural Resources, does not have to prove that the property owner caused the encroaching vegetation or placed irrigation lines on the beach.

We point out that most of this beach transit area is in the Conservation District or is State-owned land. The Conservation District includes lands seaward from the upper reach of the wash of the waves and are regulated by the Department of Land and Natural Resources. Most of the shoreline land is public land/state-owned land with a few exceptions. See Ch. 171-2, HRS, Definition of public

lands in which public lands are submerged lands. Also see the definition of submerged lands in HAR Ch. 13-5, Conservation District Rules, Section 13-5.2. “Submerged lands” means lands from the upper reaches of the waves on shore seaward to the extent of the State’s jurisdiction.

We have several house-keeping amendments to the provisions of the bill pertaining to Ch. 205A which our office administers.

1. Section 6 of the bill amends Sec. 205A-2 (b) (1), HRS, to add an objective for recreational resources: “Provide and maintain coastal recreational access to and along the shoreline for public use.” This is not necessary. This is already reflected in the subsection §205A-2(c)(1)(B)(iii) which reads “Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value.”
2. Section 6 of the bill also amends Sec. 205A-2 (b) (9) to add an objective for beach protection: Protect and maintain access to and along the shoreline for public use and recreation.” This is also not necessary because it is reflected in the subsection cited above.
3. Section 6 also adds a policy for beach protection under Sec. 205A-2 (c). The new policy is too broad. We recommended that the amendment be rewritten as “Prohibit private property owners from inducing vegetation seaward of the shoreline where it causes interference with public lateral access or natural shoreline processes.”

Further, Section 2 of the bill which adds a new section, Sec. 183C-Notice to Property Owners, should be deleted. Section 2 as currently written pertains to any amendments to Ch. 183D, Conservation District and is too broad since Conservation District regulation covers many issues, many of which are not specifically related to induced vegetation.

Thank you for the opportunity to offer these comments.

HB1808- Coastal areas

LATE TESTIMONY

Friedel, John M. [jfriedel@honolulu.gov]

Sent: Thursday, February 05, 2009 5:48 PM

To: WLOtestimony

Cc: [REDACTED]

Attachments: hb1808-sct.pdf (42 KB)

To Whom It May Concern:

I am the legislative liaison for the City & County of Honolulu, Department of Planning and Permitting (DPP). Attached is the DPP testimony for the subject bill to be heard by the House Committee on WLO on Friday, 02/06/09.

Sorry, I had to send this testimony to this address because the address listed in the hearing notice was underliverable.

Should you have any questions, please contact me at 768-8110

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
ACTING DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 6, 2009

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ito and Members:

**Subject: House Bill No. 1808
Related to Coastal Areas**

The Department of Planning and Permitting (DPP) **opposes** this bill, which calls for beachfront property owners to keep adjacent public transit corridors along shoreline free of vegetation. Our concern is based on perceived difficulties with enforcement. Some of our concerns are as follows:

1. Like the Department of Land and Natural Resources (DLNR), the county does not have the resources to enforce vegetation overgrowth. Moreover, the overgrowth is most often on the conservation land, which is under the jurisdiction of DLNR.
2. For vegetation overgrowth not on conservation land, the county building inspectors would have difficulty proving that the vegetation overgrowth is human-induced or enhanced as they are not normally trained for this type of enforcement.

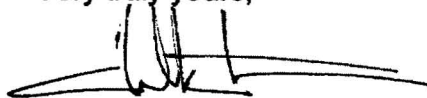
In conclusion, while DPP recognizes the importance of HB1808, problems of these types of violations are best administered and enforced by the DLNR. As such, we respectfully recommend this bill be filed.

LATE TESTIMONY

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
House of Representatives
February 6, 2009
Page 2

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', with a long horizontal flourish extending to the left.

David K. Tanoue, Acting Director
Department of Planning and Permitting

DKT: jmf
hb1808-sct.doc


Testimony for HB1808 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 4:35 PM
To: WLOtestimony
Cc: john@oahusbesthomes.com
Attachments: Aloha Lawmakers.doc (24 KB)

LATE TESTIMONY

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: John Stallings
Organization: Individual
Address: 153 Kuulei Rd Kailua
Phone: 808.294.1794


Submitted on: 2/5/2009

Comments:
Aloha Lawmakers,

During the past number of years, more and more of Hawaii's beaches, our most precious resource, is be stolen by private landowners. I strongly oppose these practices and encourage you to act quickly to protect the beaches and the accesses to the beaches.

Please vote for the following:

HB1447
HB593
HB1808

Mahal for your Kokua, let's do the right thing for the keiki.

LATE TESTIMONY



OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

HB 1808, RELATING TO COASTAL AREAS; PUBLIC ACCESS

House Committee on Water, Land, & Ocean Resources

February 6, 2009

9:15 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) SUPPORTS, with amendments, HB1808, which would require maintenance of public beach access corridors by adjacent landowners and imposes penalties for noncompliance. This bill would also require the Department of Land and Natural Resources to provide written notice to property owners affected by this Act.

OHA has always been a strong advocate for shoreline access issues in our state. So many of our beneficiaries not just recreate in these areas, but heavily depend on them as a source of sustenance, both physically and spiritually. In these times, shoreline areas are threatened from a variety of sources: ranging from coastal development to sea level rise. O'ahu alone has lost nearly 25 percent of its beaches due to shoreline hardening. It is vital for us all that we preserve what public trust shoreline we have left.

We recognize that the state's beaches are a public trust resource and are to be kept open for the use and benefit of us all. OHA also points out that the Native Hawaiian gathering practices that occur along beach areas are recognized as protected traditional and customary rights under the Hawai'i Constitution article XII, section 7.

For homeowners privileged enough to live along our state's shores to promote the growth of shoreline vegetation, or even to simply not maintain the makai limits of the vegetation, violates the legal definition of the shoreline, the public trust, and also Native Hawaiian - our beneficiaries - rights. Many homeowners will trim the vegetation to maintain their viewplane while letting the makai side grow shoreward unchecked. This cannot be allowed to continue.

This bill would be a much-needed tool to use in the shoreline access arena. As it stands now, agencies are hobbled in their efforts to enforce the clear polices that promote an open shoreline.

OHA's only concern resides with the part of HB 1808, Section 3 that proposes to strike the second paragraph of Hawaii Revised

Statutes, Section 115-5 (Page 3 of the bill, lines 10-15), providing for public transit corridors along parts of the shoreline that are unsafe for pedestrians (e.g., cliff faces). OHA requests that this paragraph remain in Section 115-5, to preserve a continuous lateral shoreline access, as the policies of this state and country require.

Therefore, OHA urges the Committee to PASS HB1808. Thank you for the opportunity to testify.

Testimony for HB1808 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 8:45 PM
To: WLOtestimony
Cc: robertharris@mac.com
Attachments: HB 1808 - Public Access_Ve~1.pdf (205 KB)

LATE TESTIMONY

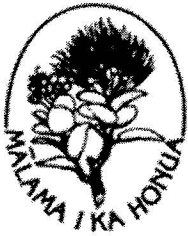
Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: Robert D. Harris
Organization: Sierra Club, Hawai`i Chapter



Submitted on: 2/5/2009

Comments:



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

LATE TESTIMONY

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 6, 2009, 9:15 A.M.

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 1808

Chair Ito and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 1808, requiring maintenance to ensure access to our public beaches.

Overgrown plants, sometimes intentionally allowed to overgrow the shoreline and beach access, deter the reasonable use of our public beaches and trails. We need to take steps to ensure that access and use of our beaches is maintained.

As one Sierra Club member on Kauai notes:

Landscaping on the public beach has become rampant here on Kauai's North Shore. Our pristine sandy beaches are now oasis of lush green vegetation. Salt tolerant plants continue to grow seaward onto the public beach. More plants continue to be planted, further and further seaward in what appears to be a never ending movement seaward.

Beach front landowners and their landscapers have planted the beach very aggressively, creating colonies of salt tolerant vegetation on the beach.

Naupaka, spiderlilies, ironwood trees, wedlia, and beach heliotrope trees, are most commonly used. The heliotropes are repeatedly trimmed low to encourage their low lateral growth, covering large expanses of what was public beach. Naupaka is regularly planted and replanted after the seasonal high surf.

The vegetating of our beaches has become a problem of epic proportions. Low growing salt tolerant grasses such as aki aki grass have been planted even more seaward of the planted naupaka. The vegetation has the effect of privatizing the beach for the adjacent landowners.

Irrigation of the planted vegetation is commonplace as is the fertilizer used to encourage its growth. The fertilizer has an additional negative impact on our coral reefs. The vegetation also changes the slope and profile of the sandy beach. When the waves wash, the sand gets trapped in the vegetation. After a period of time, the beach is much steeper, leading to scarping. It also impacts the Hawaiian Monk Seals ability to haul out of the ocean and rest on the beach.

By ensuring the public continues to have access and use of our beaches, HB 1808 helps protect Hawaii's proud public access tradition. Please move this measure forward.

Thank you for the opportunity to testify.

Testimony for HB1808 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 8:40 PM

To: WLOtestimony

Cc: sipolanco@hotmail.com

LATE TESTIMONY

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Susan Polanco de Couet

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

I support this bill to protect our nearshore areas and access.

Aloha,

Susan Polanco de Couet

HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

February 6, 2009, 9:15 A.M.

TESTIMONY IN SUPPORT OF HB 1808

Chair Ito, Vice Chair Har, and members of the Committee:

As stated in the testimony of the Director of the Sierra Club, Robert Harris, the Hawai'i Chapter firmly supports House Bill 1808. I am a volunteer for the Sierra Club Hawai'i Chapter and appreciate the opportunity to share with you my reasoning for backing the forward movement of this bill.

The intent of House Bill 1808 is to protect our rights to access and transit our shorelines from being further degraded. Although public access to beaches and other coastal recreational areas is a right that we in Hawaii take immense pride in, it is a right that has been compromised by property owners that fail to maintain the distinction between their seaward property line and the adjacent coastal conservation district, a.k.a. property in the public trust. Considering that the Department of Land and Natural Resources does not have the funding, nor the financial responsibility, to remove the human-induced vegetative overgrowth that currently inhibits access to and transit along certain beaches, I find it necessary that the property owners responsible for the overgrowth be required to address the situation.

House Bill 1808 mandates that the DLNR will notify property owners affected by this Act in writing and impose penalties for noncompliance. In addition to this, the bill recommends that the general public be educated on this issue in order to stimulate public awareness and promote public involvement in coastal zone management processes. It is vital that the public understands that penalties will only be given to property owners that do not comply as a means of reimbursing DLNR for their maintenance labor costs that result from the noncompliance.

On page 8 of House Bill 1808, line 10 (Section 6, 3 (A)), it reads:

"Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources."

I hope that passage will be used not only to require property owners to maintain coastal access, but for DLNR to take notice of all of the coastal property owners that have illegally extended their seaward property line by landscaping the public beach adjacent to their homes with salt tolerant vegetation. Even if the extension does not impede on coastal access, it should be recognized as an act that detracts from the value of our coastal conservation district and therefore be prohibited.

Please take this opportunity to reaffirm our right to public coastal zone access and encourage preservation of our beaches. Please move this measure forward. Mahalo for considering my testimony.

Sincerely,

Mele Coleman

Sierra Club, Hawai'i Chapter Volunteer
melecoleman@gmail.com
(808) 285-8581



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LATE TESTIMONY

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

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Statement of
ABBEY SETH MAYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES
Friday, February 6, 2009
9:15 AM
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ordinance of the City and County of Honolulu (ROH Ch.14 Article 20) which requires property owners to maintain adjacent sidewalks. If a sidewalk is not maintained, a property owner may be cited and given a certain amount of time to clean up the sidewalk. If the sidewalk is not cleaned, the City cleans up the sidewalk and seeks reimbursement from the property owner.

There are two key issues that this bill is trying to address.

1. The Department of Land and Natural Resources (DLNR) does not have the funding to remove this vegetation. Also, it is not cost-effective to have the DLNR remove the vegetation because it would be a recurring cost as the vegetation grows back. Under this bill, the property owner and not the State would be responsible for removing the vegetation and this would provide an incentive for the property owners to keep the adjacent beachfront free of induced vegetation.
2. Questions have been raised as to whether and under what circumstances government can require property owners to remove irrigation lines or vegetative growth. There is the perception that a burden of proof lies with government agencies to prove that the landowner has caused the vegetation to encroach on the public beach or that the irrigation lines etc. on the beach were placed there by the property owner. This bill places the responsibility to maintain the beach corridor on the adjacent property owner. The enforcing agency, the Department of Land and Natural Resources, does not have to prove that the property owner caused the encroaching vegetation or placed irrigation lines on the beach.

We point out that most of this beach transit area is in the Conservation District or is State-owned land. The Conservation District includes lands seaward from the upper reach of the wash of the waves and are regulated by the Department of Land and Natural Resources. Most of the shoreline land is public land/state-owned land with a few exceptions. See Ch. 171-2, HRS, Definition of public

lands in which public lands are submerged lands. Also see the definition of submerged lands in HAR Ch. 13-5, Conservation District Rules, Section 13-5.2. “Submerged lands” means lands from the upper reaches of the waves on shore seaward to the extent of the State’s jurisdiction.

We have several house-keeping amendments to the provisions of the bill pertaining to Ch. 205A which our office administers.

1. Section 6 of the bill amends Sec. 205A-2 (b) (1), HRS, to add an objective for recreational resources: “Provide and maintain coastal recreational access to and along the shoreline for public use.” This is not necessary. This is already reflected in the subsection §205A-2(c)(1)(B)(iii) which reads “Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value.”
2. Section 6 of the bill also amends Sec. 205A-2 (b) (9) to add an objective for beach protection: Protect and maintain access to and along the shoreline for public use and recreation.” This is also not necessary because it is reflected in the subsection cited above.
3. Section 6 also adds a policy for beach protection under Sec. 205A-2 (c). The new policy is too broad. We recommended that the amendment be rewritten as “Prohibit private property owners from inducing vegetation seaward of the shoreline where it causes interference with public lateral access or natural shoreline processes.”

Further, Section 2 of the bill which adds a new section, Sec. 183C-Notice to Property Owners, should be deleted. Section 2 as currently written pertains to any amendments to Ch. 183D, Conservation District and is too broad since Conservation District regulation covers many issues, many of which are not specifically related to induced vegetation.

Thank you for the opportunity to offer these comments.

LATE TESTIMONY



Via Capitol Website

February 2, 2009

**House Committee on Water, Land and Ocean Resources
Hearing Date: Friday, February 06, 2009, 9:15 a.m. in CR 325**

**Opposition and Comments to HB 1808: Relating to Coastal Areas
(Maintaining shoreline vegetation and public transit)**

Honorable Representative Chair Ken Ito, Vice Chair Sharon Har
and Members of the House Committee on Water, Land & Ocean Resources:

I am Dave Arakawa, the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony regarding HB 1808, which would require maintenance of public beach accesses by adjacent landowners and impose penalties for non-compliance; establishes shoreline access as an objective of the coastal zone management program; and requires the Department of Land and Natural Resources to provide written notice to property owners affected by this act.

LURF's Position. LURF generally supports the intent and purpose of HB 1808, however we must respectfully **oppose** the provisions which change the definition of the transit area and public transit corridor; requirements that private property owners maintain public areas belonging to the State of Hawaii; and requirements that landowners to pay reimbursements to the State for maintenance of state lands.

The shoreline access and maintenance issues are important issues that affect the State's coastal lands and the public's right to enjoy the shoreline. Likewise, we believe that landowners who live along the shoreline also have important property rights, and the right not to be charged fees or prosecuted by the State for responsibilities which should be performed by the State.

Understanding the importance of the shoreline issues raised by HB 1808, LURF would respectfully request that the bill be **deferred** to allow stakeholders, including, but not limited to government agencies, the public, private landowners, legal experts and other interested parties to meet and work together to come to a consensus regarding the provisions of SB 1808.

Thank you for the opportunity to express our views on this matter.