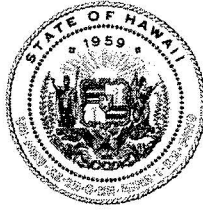
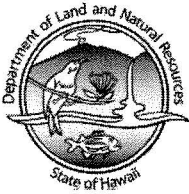


LINDA LINGLE
GOVERNOR OF HAWAII



**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
FINANCE**

**Thursday, February 18, 2010
5:00 P.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2739
RELATING TO DAMS AND RESERVOIRS**

House Bill 2739 proposes to: 1) Establish a dam rehabilitation loan program for the repair and maintenance of dams and reservoirs; and 2) Establish standards for the permitting, inspection, and maintenance of dams, reservoirs, and their appurtenant structures in a manner that avoids emergencies that create a hazard to life and property. The Department of Land and Natural Resources (Department) strenuously opposes this measure because it shifts the responsibility for private land management from the private landowner to the State.

In any year, it would be questionable for the State to take over private land duties. However, at the height of a state fiscal crisis, it is ridiculous and irresponsible for the State to voluntarily assume the duties of private landowners.

The Department is opposed to the establishment of a dam rehabilitation loan program for the following reasons:

- The loan program will not be effective unless large amounts of funding are provided. The Department estimates the cost to rehabilitate or remove the 136 regulated dams statewide, would be in the hundreds of millions of dollars. This would be economically infeasible in the current economic environment. Approximately 70% of dams statewide are privately owned.
- The loan program will not be effective without adequate resources as it would require staffing from multiple programs and divisions. This would result in distractions from immediate priorities and operations, resulting in reduced effectiveness of the Department's Dam Safety and other core programs.

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

The Department is opposed to establishing standards for the permitting, inspection, and maintenance of dams, reservoirs, and their appurtenant structures in a manner that avoids emergencies that create a hazard to life and property through the addition of sections to Chapter 179D, Hawaii Revised Statutes, for the following reasons:

- The measure imposes additional responsibilities on the State or reduces the effectiveness of the current Dam Safety statutes.
 - The current statutes require the dam owner to perform and pay for inspections during the construction of a new dam, or the reconstruction, enlargement, modification or alteration or repair of an existing dam. §179D-H of the proposed measure requires the State to perform these inspections and does not specify that the owner is responsible for the inspection cost.
 - The current statutes require that all permit applications be submitted and approved by the Board of Land and Natural Resources (Board). Board meetings are held in a public forum and public notice of these meetings are given. §179D-G of the proposed measure requires (upon the receipt of a permit application) the Board to twice publish a notice in a newspaper having general circulation within the affected area.
 - The current statutes provides administrative penalty of up to \$25,000 per day of violation. The proposed measure reduces this penalty to a maximum of \$10,000 per violation. The proposed measure also reduces the penalties for non-compliance with the Dam and Reservoir Safety Act of 2007 which result in a conviction. Any reduction in penalties will lessen the enforcement and regulation capabilities of the Dam Safety Program.

The Department believes that the current statutes adequately address the regulatory requirements for Dam and Reservoir safety and no further changes are needed at this time. This measure will negatively impact operations and the progress the Department has made and therefore we strenuously oppose this measure.

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

**WRITTEN TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON FINANCE
THURSDAY, FEBRUARY 18, 2010
5:00 P.M.
ROOM 308**

**HOUSE BILL NO. 2739
RELATING TO DAMS AND RESERVOIRS**

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2739. The purpose of this bill is to add additional requirements to build, modify, or decommission a reservoir. The department respectfully opposes this bill.

The recent changes in Chapter 179, HRS have significantly increased the responsibility of dam owners to maintain their dams and reservoirs. Strong language that ultimately protects the public has caused dam owners to reconsider the purpose of the structure and weigh the need versus the liability. In spite of the preamble in this bill, it seems to make the requirements for dam or reservoir improvements even more onerous than currently exists. Since the new statutes have not had a chance to be thoroughly implemented yet, and as we understand it, the department of land and natural resources still needs to create administrative rules, the department feels that additional changes to the statutes at this time are premature and unnecessary.



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

TESTIMONY OF ALFREDO LEE
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE HOUSE COMMITTEE ON FINANCE
THURSDAY, FEBRUARY 18, 2010
5:00 P.M.
Room 308

HOUSE BILL NO. 2739
RELATING TO DAMS AND RESERVOIRS

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2739. For the dam safety regulatory language in this bill, The Agribusiness Development Corporation (ADC) defers to the State of Hawaii, Department of Land and Natural Resources (DLNR) Dam Safety Program. In regards to the new dam rehabilitation loan revolving fund provision introduced, we have the following comments.

If the reservoirs are kept for agricultural use, the program should require landowner loan recipients to designate the irrigated areas as Important Agricultural Lands (IAL), or agree to put in place conservation easements dedicated to keeping the land in agriculture. This requirement would then ensure that agricultural land and water systems will be preserved for long term use.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2739

February 18, 2010

RELATING TO DAMS AND RESERVOIRS

House Bill No. 2739 establishes standards for the permitting, inspection, and maintenance of dams, reservoirs, and their appurtenant structures; creates the dam rehabilitation loan revolving fund and loan program; and authorizes the issuance of revenue bonds to fund the dam rehabilitation loan program.

Regarding the issuance of revenue bonds for this program, we feel that the Department of Land and Natural Resources (DLNR) would be better suited to issue these revenue bonds than the Department of Budget and Finance. The DLNR has financial control over the program and would have the ability to generate revenues to repay the debt service.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-53.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. No funding has been provided for this fund and it is difficult to determine whether the fund will be self-sustaining.



KAMEHAMEHA SCHOOLS

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

Hearing Date: February 18, 2010

Conference Room 308

February 17, 2010

The Honorable Marcus Oshiro and Members
Committee on Finance
The House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, Hawaii 96813

Subject: Support of HB 2739 and Request for Additional Changes

Good Afternoon Chair Oshiro and Members:

I am Kapu C. Smith, Senior Land Asset Manager for Kamehameha Schools' Kawailoa Plantation in Waiialua, Oahu. Thank you for hearing this bill and providing us with the opportunity to support legislation that recognizes:

1. The need to establish standards for permitting, inspection and maintenance of dams and reservoirs. Since Act 262 became law, the DLNR has not adopted the necessary rules which were required to be enacted by December 31, 2008.
2. The need to create a loan fund for dam owners to use to maintain and repair existing reservoirs which are essential for continued agricultural use without cost to the State.

February 17, 2010

The Honorable Marcus Oshiro and Members
Committee on Finance
The House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, Hawaii 96813

In addition, we would respectfully request additional changes to address the following:

1. The lack of an appeal process for reservoirs with a high hazard classification. Despite our written requests to the DLNR for reconsideration we have received no written response to date.
2. The lack of a process and appeal to request an exemption or removal from the regulatory list. Despite our written requests for exemptions to DLNR we have received no response to date.
3. The need to create an exemption from the regulatory list for "Storage Reservoirs". There is a need to recognize that storage reservoirs may meet the height and impounding criteria but should still be exempted from the regulatory list.

Thank you again for the opportunity to express our views.