LATE

Senator Mike Gabbard, Chair, Committee on Energy and Environment

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Opposition to S.B. No. 2818, Relating to Environmental Protection

The following is submitted as a supplement to the testimony I provided at the joint committee meeting on February 2, 2010. Testimony presented by Denise Antolini, one of the authors of the UH Report, suggested that the current legislative process provides a forum for a full discussion of the proposed legislation. In that spirit, I would like to offer a much more detailed analysis of SB 2818. As the bill reflects, in large part, the recommendations of the UH Report, I am including below a more detailed evaluation of that report.

This supplemental testimony consists of three parts: 1. The recommendations in the Report and bill that I support; 2. A review of the UH Report Methodology; and 3: A commentary on the proposed recommendations.

1. **The Recommendations I Support.**

I can only support four of your recommended amendments:

- Exempting utility and rights-of-way connections from the 343 process;
- Codifying the definitions of primary, secondary and cumulative effects, and incorporating HAR language concerning phasing and significant effects;
- Allowing agencies to skip the EA if an EIS is anticipated; and
- Requiring electronic posting of documents.

However, in so doing, I have a large concern about the use of the term 'utility' in the bill without any attempt to define it. If the electric company proposes a new 138kv transmission line on overhead poles across the Koolau mountains on

O`ahu, to link, for example, the windward side's Koolau substation to the Waiawa substation, would this constitute a utility connection, and therefore be exempt from a Chapter 343 review? The negative implications of this are obvious, but representative of the severe limitations of the proposed legislation.

2. A Review of the UH Report Methodology.

I have very strong reservations about the remaining recommendations, largely because I think they were developed based on a faulty premise: that the system doesn't work!

In fact, the system has worked quite well for the past 40 years. However, between 2005 and 2007 there were several controversies that emerged which collectively brought critical attention to Chapter 343: Turtle Bay, the Super Ferry, the Koa Ridge decision, and the ever-increasing dysfunction at the Environmental Council. These controversies inspired the legislature to call for a review of Chapter 343 and awarded the contract to the UH, which created a study team including Professor Karl Kim from the Urban Planning Department, Professor Denise Antolini from the WSR School of Law, Peter Rappa from the Environmental Center, and a handful of graduate students and law students (hereinafter the UH Team).

The UH Team then proceeded to conduct a two year process of interviewing stakeholders and reviewing legislation from other jurisdictions in an attempt to develop their Report to the legislature, together with specific recommendations.

Regrettably, the methodology they employed was flawed from the beginning. I know, because I was a part of the process and participated in it every step of the way.

Flaw #1: Faulty Premises. The UH Team began with the basic premise that the system is broken and that too many 'big fish' were getting away: meaning that large projects like Wal-Mart on Keeaumoku Street in Honolulu were not required to do an environmental review. To support that position, they developed an analysis of all the determinations issued by the OEQC since 1979 that resulted in no EA or EIS being prepared (see attached "Figure 1"). That analysis depicts a steady decline in the number of determinations, and the UH Team interpreted

that downward slope as representing "...a substantial and steady drop in the number of environmental review documents prepared over the past three decades..." (UH Report, p.11).

But why did the team only review determinations, and not the actual environmental review documents (EAs and EISs)? When these are added to the data base, a very different picture emerges.

I personally reviewed the OEQC's on-line list of 4,038 environmental review documents and developed an analysis that is presented as Figure 2. The OEQC data includes EIS prep notices, Draft EAs, Final EAs, Draft EISs, and Final EISs. Figure 2 demonstrates that the publication of environmental review documents for neighbor islands projects has been remarkably consistent since 1990, with a notable increase on Oahu, Maui and the Big Island beginning in 2006. Oahu is a different story. There was a dramatic drop off from 1990 to 1994, followed by a fairly steady of about 60 documents per year until 2006.

What does Figure 2 show us? First, that the Japanese bubble in the late 1980s, generally referred to by the UH Team as "economic activity", had a dramatic impact on Oahu projects when it burst. This is not surprising given that Oahu is the epicenter of the state's development due to its population size relative to the neighbor islands. The burst of the bubble likely caused the dramatic slide in projects on Oahu. And that short-term slide skews the data when it is combined with the neighbor island data, making the whole system look like it is slowing down.

Second, if you ignore the bursting bubble, you get a relatively flat line from the early 1990s to 2006. Does this suggest that the system is somehow failing? To the contrary, it shows that the system is working just fine.

Third, the upward trend since 2006 is clear evidence of the Koa Ridge decision's impact upon the number of environmental review documents published. (Koa Ridge, as you recall, was the court decision that resulted in confusion by state and county agencies about what type of development projects constituted "use of government land".) This, in turn, led to a determination that any kind of utility connection to a public roadway or existing infrastructure required an environmental assessment.

Based upon this analysis, I conclude that the system is not failing or broken, as the UH Team believes. By relying upon the data presented in its Figure 1, the UH Team started from a faulty premise. They were charged by Act 1 (2008) to examine the 'effectiveness' of the system. But rather than evaluate the system from an objective point of view, they appear to have immediately leapt to the subjective determination that something was drastically wrong.

This is a serious flaw because it skews the rest of the report.

In addition to the above discussion, the UH Team also errs in its explicit commitment to create an early discretionary review screen (item 4 on page 10 of the report). In so doing, the UH Team demonstrates a lack of understanding about how the development process works, and what the public's role in it is.

I believe that everyone knows and understands that an environmental review document is *disclosure* document, meant to assist decision makers in fulfilling their responsibilities. By introducing the discretionary permit as a trigger, the UH Team requires that an environmental review document provide all of the information pertaining to the required discretionary permit and then evaluate it for its potential environmental effects. But in the case of a project that requires multiple discretionary approvals (e.g. State Land Use approval, County Zoning, Special Design District approval, height variance, and a building permit), it would seem that the environmental review document would require relatively detailed design work to be included in the document, which would then be subjected to public review and comment. This approach is diametrically opposed to our current system and would result in the public being provided an opportunity to comment on any element of design, without the obligation of having any formal understanding or training in a particular discipline. There is a reason now why the building permit review process is not a public process. It is simply too technical. But yet, if a building permit were determined to be a discretionary approval, and I believe this will happen under the proposed legislation, then it will result in an unintended and undesirable consequence: design by committee!

The development process actually works like this. The applicant develops a very preliminary concept based upon a due diligence effort. It then approaches one or more regulating agencies for early consultation. Once the likely entitlement

process is identified and confirmed, the requisite studies are conducted, and an environmental review document, if required, is prepared and presented to all interested parties for review. This process is followed by application for major development permits. Once these are secured, detailed architectural and engineering design commences, followed by application for the second tier of development approvals, including building permits. After all permits are secured, the project is put out to bid, contractors are selected, and construction begins.

In this process, the environmental review document is utilized as a baseline for information. In addition, it is important to understand that even in the absence of an environmental review document, many of our permit processes (e.g. state land use boundary amendment, change of zone, and SMA Use permit) incorporate many of the content requirements of an environmental review document pursuant to Chapter 343.

However, during the permitting and design process that typically follows a 343 review, the scope and character of a project may change and evolve. The final product may, in fact, be quite different than the original project that was presented in the environmental review document. But, if it changes to such a degree that it is no longer consistent with the original environmental review document, then the applicant is obligated to do a new environmental review, or supplement the original document.

Under the proposed legislation, the environmental review document will become formalized by a Record of Decision and any mitigation measures contained in it must be incorporated as conditions of approval for any subsequent permits. The effect is that the disclosure document becomes a decision making document. And because the proposed legislation includes a provision whereby an individual submitting a written comment becomes established as an "aggrieved party" for the purposes of judicial appeal, it suggests that all issues regarding design and implementation might potentially have to be resolved before the process of permit application begins. The implications of this approach are staggering. As a result, the concept of an earliest possible discretionary screen will likely create an unworkable system.

Flaw #2: Faulty Methodology. The UH Team employed a methodology that focused on identifying stakeholders, interviewing them, and then using the input

to identify the problems with Chapter 343. They used an initial written survey instrument to solicit comments (I was included in that first round). They then conducted sit-down interviews with identified stakeholders (I was interviewed). And finally, they conducted a day-long so-called Town and Gown event where they invited all interviewees to provide comments (I attended this as well).

This approach would seem appropriate, but it was seriously flawed for three reasons.

First, the UH Team appears to have suffered from a bias that permeated the process: they considered the "development community" to be the enemy. I recognize that this is a serious charge. But I stand by it.

The list of stakeholders presented on page 59 of the report is notable for those who are excluded:

- Representatives of large land owners (yes, LURF was included, but it is the landowners themselves who have the most direct experience with the 343 review process and the overall land use entitlement process and they were not interviewed);
- Representatives of the visitor industry (HTA, hotel owners, resort owners, etc.);
- Representatives of the military, arguably one of the largest landowners in the state and the generator on an annual basis of a great many environmental review documents;
- Representatives of the *Ali`i* trusts, including Kamehameha Schools (the largest private property owner in the State), Queen Liliuokalani Trust, the Queen Emma Foundation etc.;
- The federal agencies most responsible for environmental issues (EPA, the USFWS, the Army Corps of Engineers, and the National Park Service);
- Land use attorneys who specialize in entitlements (Ben Matsubara, Ben Kudo, Naomi Kuwaye, Douglas Ing, Danton Wong etc.);
- the Hawaii Chapters of the American Planning Association and American Bar Association, both of which whose members are the greatest source of environmental review documents; and

- The UH schools of Architecture, Engineering, Tropical Agriculture, and Earth Sciences (interestingly, the only person they interviewed from the Engineering School was Professor Panos Prevadouros).

Taken together, these groups which were omitted from the study represent the development side of the formula. To conduct a review of Chapter 343 without their participation resulted in a document that is seriously deficient in perspective. With all due respect to the UH Team, they do not have the professional experience or expertise to overhaul Chapter 343, because none of their principals or graduate students has ever prepared an environmental review document or participated directly in the land use entitlement process.

This charge of bias is not the product of a disgruntled individual. The UH Team's Town and Gown event demonstrates otherwise. All the attendees at the event were divided into groups, with colored dots on their nametags to designate their affiliation: Red for agencies, Green for environment-oriented organizations, and Blue for consultants and developers. From the opening remarks of Professor Kim, who ridiculed the so-called "Blue Dots" for the "bias" they brought to the process, it became clear that the UH Team was marginalizing the Blue Dot input. And, of course, wearing a Blue Dot led to targeting and ridicule by other participants.

Second, there appears to be little to no original nor objective analysis in the UH Report. Rather, it is largely a summation of stakeholder viewpoints gathered during the flawed outreach process, followed by the careful selection of those viewpoints that fit best with the study team's world view.

Third, the UH Team rebuffed and ignored offers from developers and consultants to assist in the process. At the end of the day at the Town and Gown event, several of us complained directly to Professor Kim about the UH Team's biased approach, and we requested that we be allowed to participate in a more effective manner. We were ignored. Subsequently, when the UH Team published its original recommendations in October 2009, we offered to assist the team by providing volunteers to help them sort through the 23 alternative approaches they were considering. We recognized that they were running out of time and suggested conducting a "tiger team" process to assist. The "tiger team" process is frequently used by our military clients to facilitate decision making. If involves getting all the principal parties in a room for two days and staying there to

hammer out all the issues and generate a working report. We also sent numerous emails to Professor Kim offering to help, but were ignored.

Flaw #3: Inadequate and Contradicted Team Goals. The UH Report identifies five principles (p. 10) to guide its efforts:

- To protect the environment;
- To improve the quality of information and decision-making;
- To improve public participation;
- To integrate environmental review with planning; and
- To increase the efficiency, clarity and predictability of the process.

Surprisingly, in these harsh economic times, there is no mention of fiscal accountability.

But more significantly, some of the UH Team's recommendations are clearly at odds with the team's stated principles. For example, the Report, and the subsequent bills (SB 2818 and SB 2185) propose that the reconstituted Environmental Council be allowed to adopt new rules without public notice, with no public hearing, and without approval by the Governor. This reduces public participation rather than improve it. I also fear that imposition of fees for the processing and electronic posting of environmental review documents by OEQC will create a "pay-to-play" system which will discourage many applicants from moving forward with their project.

In addition, the Team proposed several revisions to Chapter 343 that would reduce efficiency, clarity and predictability of the process:

- By allowing public comment periods on environmental documents to be arbitrarily extended on a case-by-case basis;
- By failing to define important terms such as "important agricultural lands", "probable impacts", and "utilities";
- By expanding the definition of a discretionary approval to include a "recommendation from an agency", and the definition of a permit to include a lease;

- By proposing that any discretionary permit become a trigger for Chapter 343 but advising the Counties that a category of discretionary permits can be treated on a case-by-case basis;
- By allowing the reconstituted Environmental Council to make determinations regarding the need for a Supplemental EA or EIS on a case-by-case basis; and
- By allowing anyone writing a comment letter to become an aggrieved party for the purpose of judicial appeal.

Flaw #4: Failure to Fulfill Legislative Mandate. I previously discussed this flaw in my testimony dated February 2, 2010. But I would like to supplement that testimony with the following: The UH Report was commissioned at a time when a variety of controversial issues were looming, including but not limited to the question of whether Turtle Bay needed a supplemental EIS; the agencies collective interpretation and response to the Koa Ridge decision; the `Ohana Pale decision; the Super Ferry fiasco; and the inability of the Environmental Council to fulfill its statutory obligations. Yet, the UH Team, for unknown reasons, elected to defer several of the issues related to these controversies to future rule making by a reconstituted Environmental Council, and then, adding insult to injury, purposefully excluding the Environmental Council from public and government oversight by eliminating the need for a public notice, a public hearing, or gubernatorial approval. I wouldn't be in business as a consultant for long if I was paid $300,000 to do a study and then stated in my final report that I recommended that another consultant do the report. By failing to address the tough issues, the UH Team failed to do what the Legislature asked it to do: recommend solution to the perceived problems.

3. A Commentary on the Proposed Legislation.

Following is my analysis of the proposed legislation. Each major element of the proposed legislation is presented in italics, followed by my commentary.

- *Reduce the number of existing 'triggers' from nine down to two: Use of Conservation Lands and Amending a General Plan; and add two new triggers: Use of Important Agricultural Land and Any Project Requiring a Discretionary Permit.*

Discussion: In so doing, the legislation removes an important trigger: the use of government funds. Clearly there are many activities of government which, under the current system, require environment review even though they may not trigger a discretionary permit. That would change under the proposed legislation. The public would lose its ability to understand and evaluate how its tax dollars are being spent.

I have already touched upon the issue of adding the use of important agricultural land as a trigger: what is the definition of important? For 30 years, the legislature has been struggling with this definition. To now codify it in Chapter 343 in advance of the analysis that the Legislature directed the counties to conduct and report back to the legislature this year would be clearly premature.

But by and large, the notion of adding the need for any discretionary permit as a trigger is the most problematic. The UH Team does not seem to understand what it is suggesting. I have personally reviewed documents of the four counties and have identified a list of 80 land use permits that are discretionary approvals (see Table 1). And this is just a list of land use permits that I am personally familiar with as a professional planner who has worked in Hawaii for over 30 years. There are a host of discretionary approvals by non-line agencies that might qualify.

I understand that the UH Team attempts to "narrow" the interpretation of what is discretionary by providing that only those discretionary permits that would have a "probable, significant and adverse environmental effect" would be applicable. However, because the UH Team does not have experience in the field of development and land use entitlement, and purposefully excluded the professionals who do from the process, it fails to understand that the suggested narrowing is meaningless. A building permit, is, in fact, a discretionary permit under the UH Team's definition because it requires the exercise of free will by the reviewing staff. A great deal of interpretation goes into the process of evaluating a building permit application. Moreover, the failure of a building as the result of lack of compliance with the building code would have, by definition, a probable, significant, and adverse environmental effect. In addition, because the proposed legislation fails to define the term "probable", the question of

what constitutes a discretionary approval is left open to interpretation, which will leave the matter ripe for litigation.

- *Reduce the membership of the Environmental Council from 15 down to 7 members, remove it from the Department of Health, make it advisory to the Governor, and eliminate the Director of the OEQC as an ex officio voting member.*

  Discussion: I would submit that reducing the membership of the Environmental Council is precisely the wrong thing to do. The UH Team appears to have been distracted by the issues surrounding the current membership of the Council. Although Ms. Antolini characterizes the proposed reduction as being consistent with the current philosophy for the appropriate sizing of boards and commissions, I would note that a one-size-fits-all rule is terribly inadequate when it comes to matters of environmental concern. The very dysfunction of the Council speaks volumes about the complexity of the issues it faces. To reduce the size the Council, you would, in effect, be reducing the number of voices at the table. It is precisely because all those voices need to be heard, that the membership of the Council should stay at 15.

- *Direct the Environmental Council to draft new rules, including page limits for environmental assessments and impact statements, procedures for preparing supplemental assessments and impact statements, procedures to address 'comment bombing', procedures for limiting the shelf life of an environmental assessment or impact statement to seven years, and guidance to Counties on determining which of its permits are "discretionary", "ministerial", or should be handled on a "case-by-case" basis.*

  Discussion: I have discussed several of these issues above and in my previous testimonty. I believe that the UH Report is incomplete because it deferred many of the questions rather than address them.

- *Allow the Environmental Council to adopt new interim rules without public notice, public hearing, or approval by the Governor, and allow those 'interim' rules to remain in effect until June 30, 2014.*

Discussion: I have commented on the public oversight issues above. However, the proposed legislation appears to severely stretch the definition of the term "interim" and I am very concerned about the precedent that this would establish.

- *Transfer the OEQC from the Department of Health to the Department of Land and Natural Resources, eliminate the role of the OEQC Director as a public liaison, and assign the Environmental Council as an advisor to the Governor while being "attached" to DLNR.*

  Discussion: As the DLNR is a unique public agency, in that is governed by a Chairperson, who in turn is a member of a governing board, I believe the transfer of the OEQC to DLNR is not as simple as it sounds. Within which division of DLNR would it be place? What would the role of the Chairperson be in its oversight? What would the role of the BLNR be? In addition, what does the term "attached" mean and who within DLNR would have authority over the Environmental Council? Finally, by its very nature, the DLNR operates under a conservation non-development ethic. Its purpose is to limit, if not discourage, development. This ethic appears to contradict the nature of the development process, which the OEQC in effect oversees.

- *Require all environmental assessments and impact statements to be posted electronically on the OEQC website.*

  Discussion: I support this recommendation.

- *Create a new Environmental Review Special Fund to provide revenue for the operation of the OEQC and the Environmental Council and fund it by charging fees for the processing of environmental assessments and impact statements.*

  Discussion: While this recommendation would appear to be attractive in economically challenged times, I believe it is ill-conceived because of the larger implications of the proposed legislation. The inclusion of discretionary permits as a 343 trigger would arguably increase the amount

of environmental review documents being done, which would arguably generate a great deal of revenue (depending upon the rates charged). But the uncertainties that I have previously discussed that are created by the proposed legislation will, I believe, have a dampening effect upon land use development in the State of Hawaii. Thus, the 'pay-to-play' system may very well fail to generate the revenue needed to support the OEQC and Environmental Council. Thus, the legislature will be left with the task of finding the funds needed to keep these bodies running.

- *Relocates definitions of Significant Effects, Secondary Effects and Cumulative Effects from the Hawaii Administrative Rules to Chapter 343.*

  Discussion: I support these recommendations.

- *Expands "energy consumption" significant effect to include "substantial quantities of green house gases".*

  Discussion: I believe that by failing to address the global issues of climate change, as I discussed in my oral testimony to the committee on February 2nd, the UH Team has elected to address the matter in a minor band-aid solution with no intrinsic value from a policy perspective. Moreover, this recommended 'solution' will exacerbate the situation by creating a piecemeal system where every environmental review document will offer its own, non-standardized analysis. This places the burden on the applicant but does nothing to improve our collective understanding of the larger issues.

- *Expands "natural hazards" significant effect to include erosion caused by climate change during the lifetime of a project.*

  Discussion: By failing to define what constitutes the lifetime of a project, this recommendation will leave the issue ripe for litigation. In addition, the issues of secondary and cumulative effects render this requirement very difficult, if not impossible, to analyze and disclose. Moreover, the lifetime of a particular building in virtually every instance will be out of the hands of the applicant who initially caused the analysis to be prepared. How can the applicant be made to be responsible for renovations that are conducted 30

or 50 years hence by a new owner, or as the result of a governmental directive in the form of a change to the building code, and what effect might those renovations, unanticipated at the time of the analysis, ultimately have upon erosion?

- *Adds new definitions for discretionary approval, ministerial approval, action, permit, and project.*

  Discussion: I have previously expressed my concerns with these definitions.

- *Requires the Accepting Authority for a Chapter 343 review document to prepare a Record of Decision.*

  Discussion: This recommendation demonstrates the lack of understanding on the part of the UH Team, especially in light of its failure to consult with the lead environmental agencies of the federal government. In the federal system, a Record of Decision (ROD) is required because federal projects are largely exempt from permitting requirements. A ROD is a clear and specific milestone in the federal development process. But in the State of Hawaii and the Counties, we have development permits which provide for conditional approval. The requirement for a ROD is directly at odds with the responsibilities of individual agencies as expressed by their agency rules. How is agency staff expected to accommodate a ROD? Which takes precedent, the ROD or the agencies conditions of approvals? Implicit to this recommendation is an apparent belief by the UH Team that agency staff is incapable of doing its job and has no interest in protecting the environment. Nothing could be further from the truth. I believe this is why the City's Department of Planning and Permitting is now on record opposing the proposed legislation.

- *Requires agencies to monitor the implementation of mitigation measures presented in environmental assessments and impact statements.*

  Discussion: Given the large number of discretionary permits I have discussed above, the ability of agencies to monitor the mitigation measures contained in the myriad of potential environmental review documents will likely require a sizeable increase in the number of agency staff needed to

monitor the system. (But, if the proposed legislation results in the grid-lock I anticipate, then the following discussion will be moot.)

Because projects usually require multiple discretionary permits, which agency would be responsible for the monitoring? For example, the lead agency is typically the agency that approves the first development permit. Let us assume, for the sake of example, that that agency in a particular case is the DLNR. If a project's environmental review document has to include mitigation measures that extend to its various discretionary approvals, would DLNR staff be qualified to review the implementation of mitigation measures related to such issues as building permits, air quality permits, or wastewater plant operations? Who would conduct those reviews? If several agencies end up becoming involved, how is this effort coordinated? The devil here is in the details, but because the UH Team does not have any expertise in the field of land use entitlements, it doesn't seem to be able to appreciate the complexity involved.

- *Requires lead agencies to include Chapter 343 mitigations as conditions on grants, permits or other approvals.*

Discussion: The legislation includes this provision under the discussion of a requirement for a ROD. But, as discussed above, a ROD is essentially contradictory to our state's land use entitlement process. Adding a ROD to the process is the artificial and inappropriate insertion of an exclusive federal enforcement mechanism into a state system for which it was not intended. Moreover, by expanding the definition of a discretionary permit to include a "recommendation" and the definition of a permit to include a "lease", this legislative proposal will create an unenforceable bureaucratic nightmare. It seems to require that a lease of land could ultimately have environmental conditions attached to it. It would also seem to have a chilling effect upon the ability of an agency to provide an informal recommendation.

It is important to note something which the UH Team appears to not understand. Our land use entitlement system, as well as Chapter 343, is predicated upon the principle of early consultation. Applicants are now encouraged to consult with agencies to determine how to proceed with the

both the environmental review and entitlement processes. But if an informal agency recommendation constitutes a discretionary approval, agencies will avoid any contact with the applicant. This outcome benefits no one and will have a chilling effect upon economic development, precisely when we need it most.

- *Allows agencies to skip the EA process and move directly to an EIS, if it is likely to be required.*

  Discussion: I agree with this recommendation, but in reality, this provision already exists. As the result of early consultation, an applicant or an agency can proceed directly to the preparation of an EIS because the lead agency can advise the applicant on the likelihood that a given project might result in a significant effect.

- *Extends provisions for judicial appeal to include the lack of supplemental assessments or impact statements; and*

  Discussion: At face value, this recommendation would seem to be appropriate. But I am concerned about the legislative provision that would allow the Environmental Council to make determinations about the need for a supplemental document on a case-by-case basis; essentially politicizing the system. I fear that adding the lack of supplements as an appealable issue would increase uncertainty and the potential for litigation.

- *Provides that persons who provided written comments shall be judged aggrieved parties for the purpose of bring judicial action.*

  Discussion: This recommendation will likely result in an exponential increase in litigation. It will also likely result in development projects creating more polarization in the community over issues that are beyond the expertise of the opposing parties.

Conclusion

For these reasons, I oppose the proposed legislation and request that it be deferred until such time that the Report is revised and completed. Thank you for this opportunity to supplement my previous testimony.

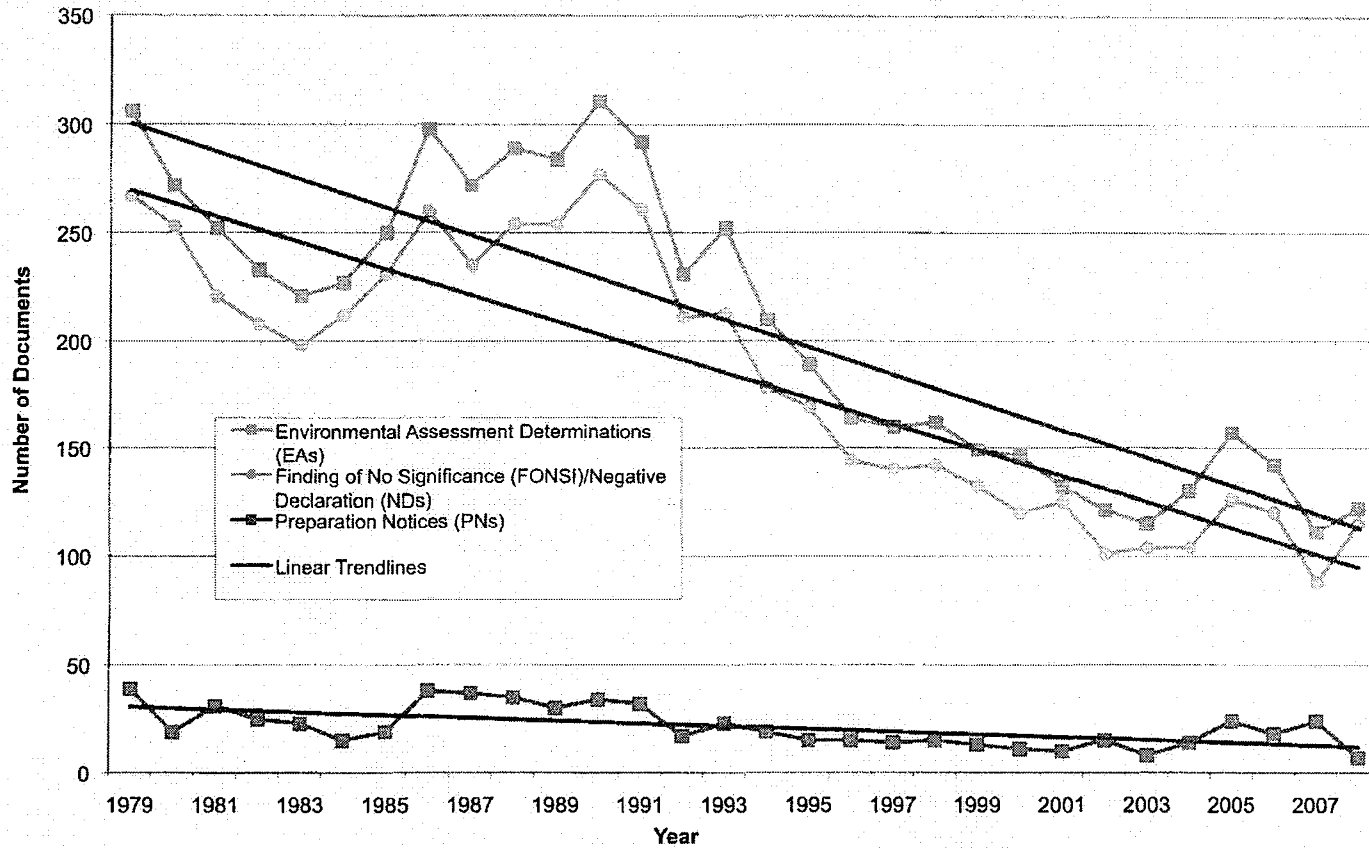
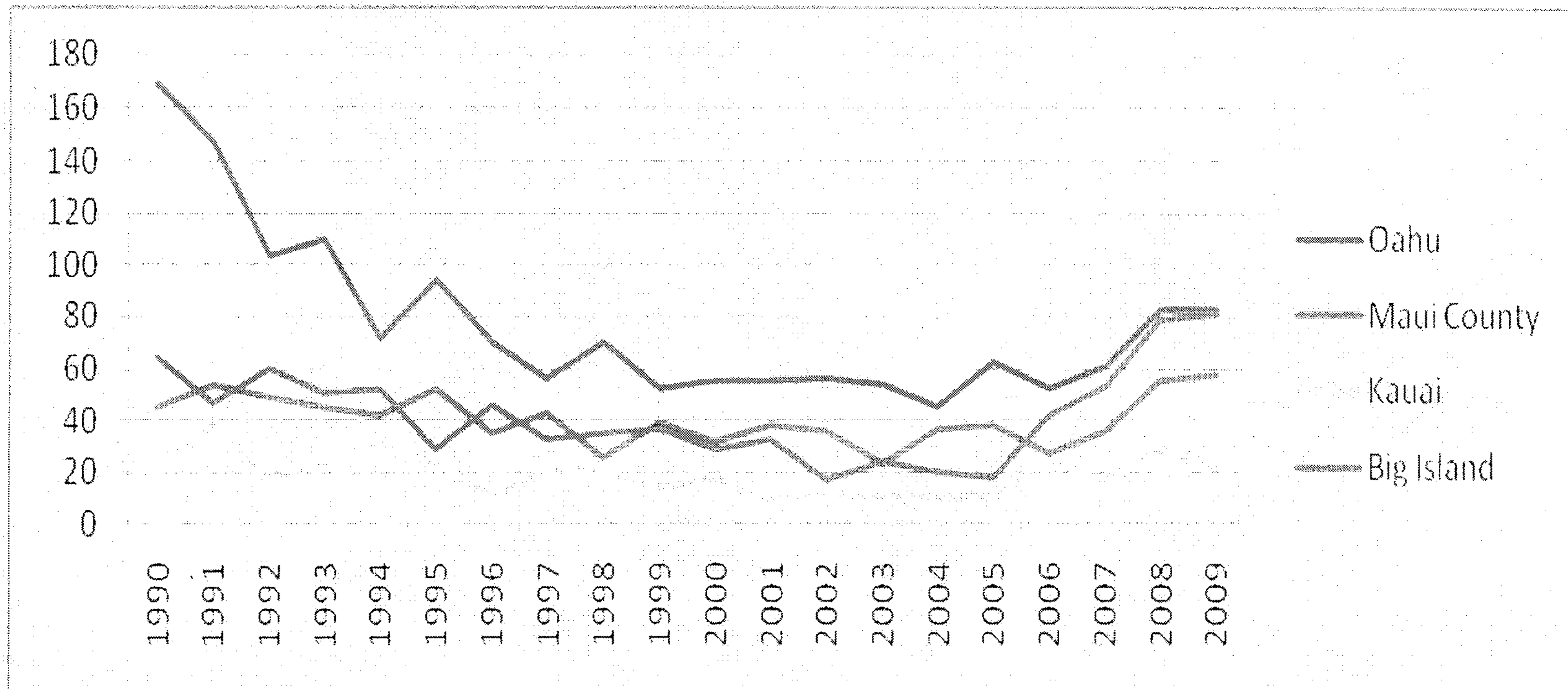


Figure 1
Environmental Assessment Determinations from 1979-2008
EA Determinations, FONSI/Negative Declarations,
and Preparation Notices for EISs
Number of Documents
350
300
250
200
150
100
50
0
Environmental Assessment Determinations (EAs)
Finding of No Significance (FONSI)/Negative Declaration (NDs)
Preparation Notices (PNs)
Linear Trendlines
1979
1981
1983
1985
1987
1989
1991
1993
1995
1997
1999
2001
2003
2005
2007
Year

FIGURE 2

Prep Notices, Draft & Final EAs, Draft & Final EISs



Source: http://oeqc.doh.hawaii.gov/gis/statewide_list.html

TABLE 1

LAND USE-RELATED DISCRETIONARY PERMITS IN HAWAII

CITY AND COUNTY OF HONOLULU

Change of Zone	General Plan Amendment	Development Plan Amendment
Zoning Adjustment	Zoning Variance	Height Variance
Conditional Use Permit-Minor	Conditional Use Permit-Major	Special Use Permit
Special District Permit-Minor	Special District Permit-Major	Plan Review Use
Agricultural Cluster	Country Cluster	Shoreline Setback Variance
Planned Development-Housing	Planned Development-Resort	Flood Hazard Variance
Existing Use Permit	Waiver	Subdivision Approval
Building Permit	Temporary Use Permit	Non-Conforming Use Certificate
Declaratory Order	Modification or Deletion of a Condition	Petition to Intervene
Ohana Dwelling Permit	Zoning Code Amendment	Lease of Government Land
Joint Development Agreement Approval	Special Management Area Use Permit –Major	SMA Use Permit - Minor

STATE OF HAWAII

SLUD Boundary Amendment	State Highway Drainage System Discharge Permit	SLUD Boundary Interpretation
Conservation District Use Permit	Conservation District Management Plan Approval	Subzone Boundary Amendment
Revocable Permit for Use of State Lands	Well Construction/Pump Installation Permit	Revocable Water Permit
Boat Harbor Agreement & Use Permit	Fire Contingency Plan Approval	Stream Channel Alteration Permit
Wastewater Treatment Plant Approval	Section 401 Water Quality Certification	Covered Source Permit
Air Quality Certification	Community Noise Permit	Underground Injection Control Permit
Underground Storage Tank Permit	Heating, Ventilation, Air Conditioning (HVAC) permit	Group Living Facility Approval
Care Home Permit	Certificate of Need	Data Recovery Plan Approval
Archaeological Inventory Survey Approval	Site Preservation Plan Approval	Burial Treatment Plan Approval
Coastal Zone Management Certification	State Highway R.O.W.Occupancy & Use Permit	NPDES Permit
State Highway Drainage Sys'm Connection Permit		

KAUAUI COUNTY

Class I Zoning Permit	Class II Zoning Permit	Class III Zoning Permit
Class IV Zoning Permit	Use Permit	

HAWAII COUNTY

Project Development Use Permit	Project District Approval	Kailua Village Special District
ApprovalCluster Plan Approval	Home Occupation Approval	

MAUI COUNTY

Community Plan Amendment	Country Town Design Review	County Special Accessory Use Approval
Project Master Plan Approval	Historic District Approval	Project District Development Approval