

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

S.B. 701, S.D. 2, H.D. 1 (Proposed), RELATING TO LANDFILLS

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 24, 2009
9:00 A.M.

Bill No. 701

Support Y N

Date 3/23/09

Time 1627

Cat AF AX B C

Type 2 WI

1 **Department's Position:** The Department respectfully opposes this bill.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This bill proposes to prohibit the construction of new landfills or the
4 expansion of existing private landfills in the Ewa, Waianae, Waialua, Koolauloa, and Koolaupoko
5 Districts on Oahu after August 1, 2009. This prohibition would limit new landfills to only the Wahiawa
6 and Honolulu Districts, which we estimate covers less than 25% of Oahu. This bill does not affect the
7 proposed expansion of the Waimanalo Gulch Sanitary Landfill.

8 The Department opposes this measure because we believe that this is a case of home rule. In
9 general, the counties are responsible for the collection, management, treatment and/or disposal of solid
10 waste. As such, the City and County of Honolulu, in evaluating available solid waste management
11 options, should be given the opportunity to evaluate all possibilities, so that they can select the most
12 appropriate action for their county. We note that the Wahiawa District is over the Central Oahu aquifer,
13 one of Oahu's primary drinking water sources.

14 Thank you for the opportunity to testify on this measure.



KAILUA NEIGHBORHOOD BOARD NO. 31

P.O. BOX 487 • KAILUA, HAWAII 96734
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Bill No. 701

Support Y (N)

Date 3/23/09

Time 1427

Cat AF AS AX (BC)

March 23, 2009

ENERGY & ENVIRONMENTAL PROTECTION (EEP)

Chair **Hermina M. Morita**

Vice Chair **Denny Coffman**

Members: **Rida T.R. Cabanilla, Jerry L. Chang, Pono Chong, Sharon E. Har, Robert N. Herkes, Ken Ito, Chris Lee, Sylvia Luke, Roland D. Sagum, III, Corrine W. L. Ching and Cynthia Thielen**

Type (1) 2 WI

WATER, LAND AND OCEAN RESOURCES (WLO)

Chair **Ken Ito**

Vice Chair **Sharon E Har**, Members: **Rida T. R. Cabanilla, Jerry L. Chang, Pono Chong, Denny Coffman, Robert N. Herkes, Chris Lee, Sylvia Luke, Hermina M. Morita, Ronald D. Sagum, III, Corrine W. L. Ching, Cynthia Thielen**

TESTIMONY IN OPPOSITION TO SENATE BILL 701 SD2 THAT PLACES A MORATORIUM ON ANY NEW SOLID WASTE LANDFILL UNITS AND THE EXPANSION OF ANY EXISTING PRIVATE SOLID WASTE LANDFILL UNITS ON THE LEEWARD COAST (and Companion, House Bill 761)

March 5, 2009 the following motion was adopted 14-0-0 The Kailua Neighborhood Board strongly urges the Committee on Water, Land, Agriculture and Hawaiian Affairs to keep faith with the people of Oahu and not exempt one area of the island over another from the siting process to determine locations of municipal landfills at any date in the future.

December 4, 2003 the following motion was adopted 16-0-0. The Board requested that Mayor Harris use the Blue Ribbon Panel on landfills report developed by panel consensus on November 7, 2003 and to declare null and void the results on the panel's December 1, 2003 meeting.

The area of Oahu commonly known as Kailua, Kaneohe, and Kapaa Valley has been used as municipal landfill sites since the early 1940s up until 1989. The properties known as Aikahi Elementary School, Aikahi Wastewater Treatment Facility, the Model Airplane field situated along Kaiwainui Marsh, the original Kapaa Quarries 1, 2 and 3 have all been used as municipal landfills. The Leeward coast of Oahu has not been discriminated against for the siting of Oahu's municipal landfill.

Removing the existing City & County owned and operated sanitary landfill, known as Waimanalo Gulch –Leeward, from any future expansion and use after August 1, 2009 would render the island of Oahu unable to properly dispose of municipal waste in an area permitted by the department of health that is not over Oahu's aquifers. Coastal dry areas are the only resource left to the City & County of Honolulu to adequately process and manage municipal waste as the Hawaii Department of Health has examined those sites above aquifers and removed those sites from consideration to address the health and safety of the Hawaii drinking water.

The siting of a landfill is a long and arduous process that involves careful examination of the topography, geography, rainfall, underlying land formations as well as access, zoning, and land use. These rigorous processes of siting as are found in the attached file <Committee_Siting_Criteria Mayor s Blue Ribbon Panel 2003.pdf> and the subsequent recommendations as found in the attached file <Committee_Recommendations Mayor s Blue Ribbon Panel 2003.pdf> it was unfortunate that some members of the same committee, disappointed with the data findings, made invalid and incorrect recommendations to the Mayor as described in the attached file <Mayor al Advisory Committee Violates State Sunshine Law Jan 19, 2004.pdf>.

Further understanding the scope of the sunshine law violation committed is also found in the excerpts of the minutes of the Kailua Neighborhood Board No. 31 from its regularly scheduled meeting of December 4, 2003.



4 COMMITTEE SITING CRITERIA

The criteria discussed in Section 3 related to general limitations on locating landfills. The Committee recognized that there are local community concerns that may not be adequately reflected in the criteria in Section 3. The Committee Siting Criteria were employed to numerically compare potential sites using factors considered important to the Committee. The evaluation of the Criteria had two parts and the Criteria themselves were in five categories. This Section summarizes the Committee Siting Criteria to measure community, environmental, engineering, and cost considerations related to a landfill site. The Committee developed these criteria and weighting factors independent of knowledge of the identity of the sites. During this time, the remaining eight sites were only identified by number. The purpose was to avoid influencing the evaluation of any specific sites.

4.1 Methodology

The general approach to developing local Siting Criteria involved identifying the impacts a landfill could have on a region and then developing measures to enable the Committee to compare the magnitude of local impacts for each of the potential landfill sites. The Siting Criteria also included operational and economic considerations.

The site evaluations were done with a "double blind" process. That is, the Committee assigned the Weighting Factors without the City or consultant's knowledge and the consultants evaluated the sites and assigned point values without the Committee's knowledge of which sites were being evaluated. When the two parts of the evaluation were combined, the resulting site scores were insulated from undue influence or bias from any party.

The Committee recognized that the data needed to evaluate all factors thoroughly was not readily available and that the time schedule precluded additional data collection and analysis. As a result, the Siting Criteria used existing data. All potential sites were evaluated with data of the same age and extent although some of the data used were not as recent as the Committee would have preferred. The evaluations were all fairly and evenly done.

No site was subjected to a different level of analysis or evaluated with a different quality of data than another.

The Committee also recognized that further detailed evaluation would be done on the sites recommended in the Environmental Impact Statement (EIS) that is to be prepared. The EIS has specific requirements for assessing the environmental and social impacts of sites, and those evaluations are subjected to extensive public scrutiny.

It is important to restate that the Committee Siting Criteria were developed by the Committee independent of the consultant's site elimination process outlined in Section 3.

Weighting Factor multiplied by the Point Value, the better a site is for use as a landfill.

Table 2, Siting Criteria

Criterion	Weighting Factor
Community	
1 Displacement of residences and businesses	1
2 Distance to nearest residence, school or business	3
3 Wind direction relative to populated areas	2
4 Population density near the site	3
5 Proximity to parks and recreational facilities	1
Environmental and Land Use	
6 Zoning	1
7 Compatibility with/distance to existing land uses	1
8 Visibility from a general use public road	1
9 Visibility from residences and/or schools.	2
10 Groundwater	3
11 Wetlands	3
12 Flora and fauna habitat	2
13 Site aesthetics	1
14 Residential units along access road	1
15 Schools or hospitals along access road	1
16 Final use of the site when the landfill is closed	1
17 Archeological and/or historical significance	3
Economic	
18 Cost of site acquisition	3
19 Cost of development	3
20 Cost of operations	3
21 Impact of removal of site on tax base	1
22 Haul distance from H-POWER	2
Technical	
23 Landfill capacity or site life	3
24 Annual precipitation	2
25 Adequacy of drainage	1
26 Access to fire protection	1
27 Length of haul	2
28 Geology	1
29 Closure and post-closure cost	1
Other Considerations	
30 Employment	1
31 Access	2

Table 4, Site Scores 1

Criterion	Ameron	Bellows	Mali	Makaiwa	Nanakuli B	Ohikilolo	Waimanalo Gulch	Waimanalo North
Community								
1 Displacement of residences and businesses	3	1	3	3	3	3	3	3
2 Distance to nearest residence, school or business	3	3	3	3	3	3	3	3
3 Wind direction relative to populated areas	6	2	2	2	2	2	2	6
4 Population density near the site	3	3	3	3	6	9	6	3
5 Proximity to parks and recreational facilities	2	1	2	1	2	1	2	1
Environmental and Land Use								
6 Zoning	1	1	3	3	3	3	3	3
7 Compatibility with/distance to existing land uses	2	1	1	1	1	3	2	1
8 Visibility from a general use public road	2	3	3	2	1	3	3	3
9 Visibility from residences and/or schools.	6	6	2	2	2	6	2	4
10 Groundwater	9	9	9	9	9	9	9	9
11 Wetlands	3	6	3	6	6	9	3	9
12 Flora and fauna habitat	6	6	6	6	2	2	6	6
13 Site aesthetics	2	2	1	1	2	3	3	2
14 Residential units along access road	3	1	1	3	3	3	3	3
15 Schools or hospitals along access road	3	3	2	3	3	3	3	3
16 Final use of the site when the landfill is closed	1	1	1	1	1	1	1	1
17 Archeological and/or historical significance	6	3	6	3	6	3	6	3
Economic								
18 Cost of site acquisition	6	3	6	6	9	9	9	6
19 Cost of development	6	3	6	6	6	3	9	3
20 Cost of operations	3	3	6	9	3	3	9	6
21 Impact of removal of site on tax base	1	3	1	1	1	2	3	3
22 Haul distance from H-POWER	4	2	4	6	6	4	6	2
Technical								
23 Landfill capacity or site life	6	6	6	9	6	6	6	6
24 Annual precipitation	2	4	6	4	4	6	6	4
25 Adequacy of drainage	1	1	2	2	2	2	1	1
26 Access to fire protection	1	1	2	2	3	1	2	1
27 Length of haul	4	2	2	6	4	2	6	4
28 Geology	2	3	2	2	2	2	3	3
29 Closure and post-closure cost	3	2	3	2	1	1	3	3
Other Considerations								
30 Employment	1	2	3	2	3	3	2	2
31 Access	6	2	2	4	4	4	6	2
Total Site Score	107	89	102	113	109	114	131	109

1 The higher the score a site receives, the better its characteristics are for use as a landfill.

benefits in siting a new landfill for Oahu. Attachment F provides more information about the use of HCB in other jurisdictions on the mainland. These points include:

- HCB can generate a significant amount of revenue to help meet local needs.
- HCB can be used for any type of project, in addition to landfill impact mitigation projects.
- HCB are not unusual. States that have them include New Jersey, Pennsylvania, Illinois, Iowa, Georgia, Michigan, West Virginia, Tennessee, California, and North Carolina.

The Committee recommends that the City Administration and City Council should not zone or permit any site unless a Host Community Benefits package is negotiated with the affected community where a landfill is sited. These benefits should be an integral part of the mitigation measures included in the EIS for the site.

The Committee further notes that HCB should not be mistaken for basic improvements that must be completed prior to operating a landfill, e.g., necessary highway or infrastructure improvements.

6.2.2 Land Banking Sites

The Committee agreed that the selection of the next landfill site will serve a critical public purpose. At the same time, the effort needed to select and develop a landfill site is high, and the list of potential sites so short, that future landfill sites should be land-banked well in advance of their need. Land banking has the potential to reduce land use conflicts and minimize siting difficulties.

The Committee recommends that the City Council take steps to identify sites that address future landfill needs taking into consideration: the development of new technologies; the reduction in the waste stream that may result from such technologies and from current technologies; and the demand for landfill space. The Committee further recommends that land banking should be part of a process separate from the work of this Committee, and not limit the sites considered to those identified in this report.

6.2.3 Underground Injection Control Line and Groundwater Protection Zone

The evaluation done for the criterion related to groundwater illustrates a potential concern with the application of the UIC line and the Groundwater Protection Zone to the siting of landfills. These delineations are not precise enough to clearly identify areas that are appropriate or inappropriate for siting a landfill, nor were they intended to be used for this purpose when introduced. As previously noted, the City Council in 2003 by Resolution 03-09, applied these criteria to protect Oahu's groundwater, by precluding the siting of landfills in these areas. In this site evaluation, the Committee consultants relied on BWS staff expertise to accurately determine whether a potential site might be a problem with respect to current or future groundwater considerations.

The Committee expressed that there may be a need for the State and the City to revisit the protection that the UIC line and the Groundwater Protection Zone provide.

HAWAII · January 19, 2004 · Freedom of information

Mayoral advisory committee violates state Sunshine Law

Jan. 19, 2004 -- An opinion letter from Hawaii's Office of Information Practices Jan. 13 cited a mayoral advisory committee in Honolulu for two violations of the state's open meetings laws.

In a letter to committee members Todd Apo and Rep. Cynthia Thielen (R-Kailua), the OIP said the group broke the state open meetings law when members signed a statement prior to a meeting as to how they would vote on an issue. The committee later conducted another vote via e-mail.

The OIP issues opinions on the state's open government laws but lacks any power to enforce its recommendations.

The 15-person Mayor's Advisory Committee on Landfill Siting recommended four sites for a proposed landfill, but refused to consider expanding Waimanalo Gulch, a current landfill. According to the OIP's investigation, some committee members signed a statement of agreement that they would not vote for expanding Waimanalo. That led to the resignation of four committee members, including Thielen.

The e-mail voting violation took place when committee members sought to set a minimum standard of 15 years of use for all landfill sites. The e-mail vote was not in accord with the state Sunshine Law because the statute requires deliberations and decision-making to take place in open meetings.

According to a Jan. 14 story in the *Honolulu Star-Bulletin*, OIP Director Leslie Kondo called on the committee to conduct an open forum debate as a possible remedy to the violations. He said neither committee members nor city staff who worked with them understood that the Sunshine Law applied to them. The OIP offers Sunshine Law training, but none of the committee members had ever taken part.

(OIP Letter No. 04-01, Jan. 13, 2004) -- AB

EEPtestimony

From: Glenn Nohara [gnohara@kogaeng.com]
Sent: Monday, March 23, 2009 2:33 PM
To: EEPtestimony
Subject: Testimony opposing SB701, SD2 Relating to Landfills

To: Chairs Hermina Morita and Ken Ito and the members of the Committees on Energy & Environmental Protection and Water, Land & Ocean Resources
Hearing Date: March 24, 2009
Time: 9:00 A.M.
Place: Conference Room 325

Dear Chairs Morita and Ito and Members of the Committees on Energy & Environmental Protection and Water, Land & Ocean Resources:

My name is Glenn Nohara. I am the president of Koga Engineering & Construction, Inc., a sitework construction company doing business in Hawaii for over 35 years and employing 100 people.

We strongly oppose SB701, SD2 Relating to Landfills. This bill would put a moratorium on the construction of any new solid waste landfills or the expansion of any existing private landfills on the Leeward coast of Oahu from Kaena Point to Waimanalo Gulch after August 1, 2009. Since the only existing private landfill on Oahu that accepts construction demolition and waste is located in this area, preventing its expansion without providing an alternate site would be devastating to the already struggling construction industry. We are very concerned that this bill if passed will increase the cost of construction and will increase illegal dumping throughout Oahu.

We oppose the passage of SB701, SD2 and recommend that this bill not be passed.

Thank you for the opportunity to testify.

Sincerely,
Glenn Nohara
Phone: (808) 842-9302
Cell: (808) 479-7468
Fax: (808) 845-3742
Email: gnohara@kogaeng.com
Website: www.KogaEngineering.com

Think Sitework... Say Koga!



Bill No. 701

Support Y N

Date 3/23/09

Time 1449

Call AF AS C

Type 1 2 WI

March 23, 2009

TO: THE HONORABLE REPRESENTATIVE HERMINA M. MORITA,
CHAIR AND MEMBERS OF THE COMMITTEE ON ENERGY &
ENVIRONMENTAL PROTECTION

THE HONORABLE REPRESENTATIVE KEN ITO, CHAIR AND
MEMBERS OF THE COMMITTEE ON WATER, LAND, & OCEAN
RESOURCES

SUBJECT: S.B. 701, SD2, RELATING TO LANDFILLS

NOTICE OF HEARING

DATE: Tuesday, March 24, 2009
TIME: 9:00 a.m.
PLACE: Conference Room 325

Bill No. 701

Support Y (N)

Date 3/23/09

Time 1606

Cat AF AS AX (B) C

Type 1 2 (WI)

Dear Chairs Morita & Ito and Members of the Committee:

Waltz Engineering, Inc. **opposes** the passage of S. B. 701, SD2, Relating to Landfills.

This bill would put a moratorium on the construction of any new solid waste landfills or the expansion of any existing private landfills on the Leeward coast of Oahu from Kaena Point to Waimanalo gulch after August 1, 2009. Since the only existing private landfill on Oahu that accepts construction demolition and waste is located in this area, preventing its expansion without providing an alternate site would be devastating to the already struggling construction industry. We are very concerned that this bill if passed will increase the cost of construction and will increase illegal dumping throughout Oahu.

Waltz Engineering, Inc. is **opposed** to the passage of S. B. 701, SD2 and recommends that this bill not be passed.

Thank you for the opportunity to provide our views on this issue.

Lorinda L.S. Waltz
President

cc: D Waltz

Representative Hermina M. Morita, Chair, Committee on Energy & Environmental Protection

Representative Ken Ito, Chair, Committee on Water, Land & Ocean Resources

Tuesday, March 24, 2009

9:00 a.m., Conference Room 325

Testimony in **Support** to SB 701 SD2 HD1(Proposed)

Aloha Chairs Morita and Ito, and members of the committees:

My name is Cynthia K.L. Rezentes and I am a concerned resident of the Wai'anae Coast.

I support the intent of the bill to place a moratorium on all new landfills on the island of O'ahu.

As an island state, Hawai'i faces continuing challenges of sustainability and landfills, with today's technologies, are not a sustainable practice. While there are products to be mined from landfills, they are still landfills that take up valuable land space and are not fully recoverable.

While this bill goes far to put us on the road to realizing that a paradigm shift is needed in how we approach the problems associated with solid waste management, I would request that Waimanalo Gulch Sanitary Landfill be considered and included in your moratorium. At least no further expansion of Waimanalo Gulch Sanitary Landfill should be allowed beyond when the City and County of Honolulu implements technologies to handle the current amount of municipal solid waste that is currently handled by today's management methods, i.e. H-Power, recycling, etc. In other words, once the new third boiler at H-Power is operational and the shipping off shore of solid waste is implemented, there should not be any further expansions allowed to Waimanalo Gulch Sanitary Landfill.

Therefore, I support the intent of this bill and would request serious consideration be given to placing a future moratorium on further expansion of Waimanalo Gulch Sanitary Landfill.

Bill No. 701

Support Y N

Date 3/24/09

Time 615

Cat AF AS AX B C

Type 1 2 WI



March 23, 2009

TO: THE HONORABLE REPRESENTATIVE HERMINA M. MORITA, CHAIR
AND MEMBERS OF THE COMMITTEE ON ENERGY &
ENVIRONMENTAL PROTECTION

THE HONORABLE REPRESENTATIVE KEN ITO, CHAIR AND MEMBERS
OF THE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

SUBJECT: S.B. 701, SD2, RELATING TO LANDFILLS

NOTICE OF HEARING

DATE: Tuesday, March 24, 2009
TIME: 9:00 a.m.
PLACE: Conference Room 325

Dear Chairs Morita & Ito and Members of the Committee:

Unitek Insulation, LLC. **opposes** the passage of S. B. 701, SD2, Relating to Landfills.

This bill would put a moratorium on the construction of any new solid waste landfills or the expansion of any existing private landfills on the Leeward coast of Oahu from Kaena Point to Waimanalo gulch after August 1, 2009. Since the only existing private landfill on Oahu that accepts construction demolition and waste is located in this area, preventing its expansion without providing an alternate site would be devastating to the already struggling construction industry. We are very concerned that this bill if passed will increase the cost of construction and will increase illegal dumping throughout Oahu.

Unitek Insulation, LLC. is **opposed** to the passage of S. B. 701, SD2 and recommends that this bill not be passed.

Thank you for the opportunity to provide our views on this issue.

From: Dennis Ideta [dideta@smsihawaii.com]
Sent: Tuesday, March 24, 2009 8:40 AM
To: EEPtestimony
Cc: 'Gerard Sakamoto'
Subject: S.B. 701, SD2, Relating to Landfills

LATE TESTIMONY

To: The Honorable Representative Hermina M. Morita, Chair of the Energy & Environmental Protection Committee and
The Honorable Representative Ken Ito, Chair of the Water, Land & Ocean Resources Committee

Dear Chairs Morita & Ito and Members of their Respective Committees:

S&M Sakamoto, Inc. opposes the passage of S.B. 701, SD2, Relating to Landfills.

We are very concerned that the lack of new solid waste landfills on the Leeward Coast of Oahu will negatively impact the local construction industry with higher costs of doing business. We respectfully request that your Committees do not pass this legislation.

Thank you.

Dennis M. Ideta, SVP
S&M Sakamoto, Inc.