

GM 609

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



GARY L. HOOSER
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY
CONTROL
235 S BERETANIA ST. SUITE 702
HONOLULU, HAWAII 96813
Tel. (808) 586-4185
Fax. (808) 586-4186
Email: oeqc@doh.hawaii.gov

COMMITTEE ON ENERGY AND ENVIRONMENT

**GM 609, Confirmation of Gubernatorial Nominee, MALIA AKUTAGAWA, to the
Environmental Council, term expiring June 30, 2014**

**Testimony of Gary Hooser
Director of the Office of Environmental Quality Control**

March 31, 2011

1 **Office's Position:** The Office of Environmental Quality Control strongly supports the
2 confirmation of Malia Akutagawa to the Environmental Council.

3 Ms. Akutagawa has an extensive background of community development and
4 environmental planning as well as environmental law, having graduated from the William S.
5 Richardson School of Law at the University of Hawaii at Manoa. Malia's broad experience in
6 project-specific environmental review and environmental policy development are valuable assets
7 that will complement her membership on the Environmental Council.

8 Ms. Akutagawa's current role as the director of the Molokai Rural Development Project
9 as well as being the president and founder of the non-profit, grass-roots organization *Sust 'āina*
10 *ble Molokai*, places her at the forefront of addressing very relevant community concerns and
11 issues. This first-hand experience of directly dealing with grass-roots community issues
12 provides important knowledge and insight to assist sound, objective decisions.

1 We are confident that the experience, knowledge and positive energy Malia brings to the
2 table will be a positive addition to the team we are building in the new Environmental Council
3 and look forward to your endorsement and the ultimate confirmation of her membership.

4 Thank you very much.

GM 573 and GM 609

Aloha Honorable Legislators;

I support the appointment and confirmation of Marjorie Ziegler and Malia Akutagawa to the Environmental Council. Both these women have worked for many years on conservation and environmental issues in Hawaii.

Ms. Ziegler comes from a family long involved in documenting and preserving the natural ecology of the Hawaiian Islands. She has extensive background in federal and state environmental law, as well as federal and state agency rulings including the Endangered Species Act and the Hawaii and National Environmental Protection Acts, from her work as a resource analyst with Earthjustice and as executive director of the Conservation Council for Hawaii. This familiarity with the laws that govern the management of our natural resources will serve the Environmental Council well in its advisory capacity to the Governor and state agencies.

As a keiki o ka aina o Molokai, Ms. Akutagawa brings a profound, thoughtful and eloquent approach to conservation issues in Hawaii that draws from her deep roots in Hawaiian culture. She has the ability to translate that across many cultures and experiences, as her key role in the Sustainable Molokai project demonstrated. The Environmental Council will truly benefit from her experiences in seeking balanced solutions to land and conservation issues on Molokai. Her service on many local projects and boards, including the Molokai Burial Council, the Molokai Rural Development Project and the Molokai Water Working Group provides her with insight to the many environmental issues faced by Maui County.

Both these women bring an opportunity for pro-active, engaged and well researched recommendations to the table if they are confirmed to the Environmental Council by the legislature. Please support the appointment of these two intelligent, educated, culturally grounded and knowledgeable women.

Mahalo for this opportunity to testify.

Penny Levin

Senate Committee on Energy and Environment
Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

Public Hearing: March 31, 2011
3:00 pm, Room 225

**Re: GM609, Relating to Gubernatorial Nominee Malia Akutagawa
for the State Environmental Council**

Dear Chair Gabbard, Vice Chair English, and Members of the Committee,

I am writing in **strong support** of GM609, the gubernatorial nomination of Malia Akutagawa for the State Environmental Council.

I had the pleasure of knowing Malia since she was a law student at the William S. Richardson School of Law the mid-1990s. She graduated the first year I started teaching full-time at Richardson. Malia was a terrific law student, already well versed in the environmental review process based on her work experience for the UH Environmental Center. Since graduating and her return to Moloka`i, Malia has developed a distinguished career in community planning. Having someone like Malia, who has a breadth of review and planning experience and can also represent the unique perspective of smaller communities like Moloka`i will be of great service to the Council.

Please support her nomination.

Thank you for the opportunity to testify.



Denise Antolini
59-463 Alapio Road
Haleiwa, HI 96712

Written Testimony by Malia K.H. Akutagawa, Esq.

before the

**Senate Committee on Energy & Environment,
Senator Mike Gabbard, Chair**

**Thursday, March 31, 2011 at 3:00 pm
Hawaii State Capitol**

**RE: Consideration of My Nomination for Membership on the Environmental,
Gubernatorial Nominee, Malia K. H. Akutagawa, Esq.**

Aloha Chair Gabbard and esteemed members of the Senate Committee on Energy & Environment. Please accept this as my formal written testimony for your favorable consideration of my confirmation to the Environmental Council. I apologize that I will not be able to be physically present at the hearing.

Please find attached for your convenience my resume. As to your specific questions, my written statement is as follows:

My Interest In Serving on the Environmental Council

My interest in serving on the Environmental Council stems from very positive experiences I've had interacting with the Environmental Council's leadership and the Office of Environmental Quality Control. While I was attending UH Manoa in the '90s, I worked part-time for the UH Environmental Center for several years as an Environmental Reviewer. I reviewed a number of land use documents: Environmental Impact Statements and Assessments, Stream Channel Alteration Permit Applications, and the like. From this experience, I gained a wealth of knowledge on the environmental review process, as well as felt myself to be part of a caring community both at the University and with the staff of OEQC and the Council itself.

As an attorney trained in Environmental Law, Native Hawaiian Rights and Water Law, I believe I can add value to the Environmental Council.

My Role & Responsibilities In Serving on the Environmental

I believe the Environmental Council sets the tone for how environmental review is conducted in Hawaii. During my time testifying before the Council on their review of the Hawaii Administrative Rules governing HEPA legislation, I saw that they were very conscientious and took public testimony seriously. At the time, I had requested that the Council look at recent case law clarifying constitutionally protected Native Hawaiian access and gathering rights and that they consider incorporating those protections within the administrative rules. They obliged and presented their recommendations to Governor Cayetano. The governor rejected that recommendation, but the Council went ahead to at least provide cultural impact assessment guidelines that to this day have a profound effect in changing the way in which consultants, applicants, and developers analyze cultural impacts.

For their courage and conscientiousness, I have always felt good about the Environmental Council's work and that of its staff at the Office of Environmental Quality Control. I would be honored to work with them again.

I would see my role on the Environmental Council as upholding the environmental laws of this State and providing from my knowledge and skills base in the law to engage my counterparts on the Council in intelligent, thoughtful, and respectful ways that care for the environment, people, and resources of this land.

Personal Background & Credentials

While attending law school, I focused primarily on Native Hawaiian Rights, Environmental, and Administrative Law. I worked also as an environmental reviewer for the University of Hawaii Environmental Center. Through this work I interacted with various agencies and gained fluency in the interpretation and application of Hawaii Revised Statutes and their companion administrative rules.

I have served as a member of several county and state commissions. I was the Chair of the Molokai Planning Commission for 4 years. This experience helped me to take a balanced and fair approach in terms of decision-making and arriving at mutually beneficial solutions for the community and between parties.

I served as an alternate on the 2007-2008 Molokai Water Working Group and have devised standards of review to assist us in making recommendations to the State Commission on Water Resources Management and the County of Maui for their water management plans. These standards incorporate recent Hawaii Supreme Court rulings on water, provide for protections of the public trust, Hawaiian Homesteader priority rights to water for existing and foreseeable uses, and native Hawaiian traditional and customary practices.

What I Hope to Accomplish on the Environmental Council

I am not sure what the work flow is like on the Environmental Council at this time, but I am up to the task of learning and participating actively. I hope to model sustainability and integrity for others, maintain an openness, transparency, and personal accountability in my actions on the Council. As matters come before us, I will put my heart into working in a way that is pono and caring towards my peers and the rich natural and cultural legacy of our island State.

If we are called to provide certain policies on environmental review and any legal clarifications of Chapter 343 and the companion administrative rules, I will be happy to lend my expertise.

Personal Qualities Beneficial to the Environmental Council

My cultural competency as a Native Hawaiian and kua'āina of Molokai combined with my strong legal background in environmental law distinguish me as a worthy candidate to the Environmental Council. I believe I would also lend a rural, neighbor island perspective that may add value to Environmental Council deliberations. Another quality I possess is a solutions-based, win-win approach. While I am a woman of conviction with

a strong piko (connection) to the `aina, I also have a knack for being creative and solutions-oriented such that even in the most challenging of situations, I am able to elicit a more balanced and cooperative response from those I interact with.

A Distinguishing Personal Experience that Benefits the Environmental Council

I am a two-world walker. I was among expert, Kupuna Hawaiian fishermen travelling around the island of Kaho`olawe to document traditional fishing practices, marine and cultural resources around the island. Uncle Les Kuloloio was one of the fishermen there. I had taught him and the other fishermen how to measure salinity with a refractometer. As they were skirting around within each bay in the zodiac. Uncle Les said, "E Malia, pass me that 'pa`akai stick!" (pa`akai means sea salt). I spent time talking with Uncle Les and he began to educate me in the Hawaiian way the different "families" of species. He said the `opihi is related to the he`e (the limpet is related to the octopus). He said because they both have soft bodies. That is exactly how I learned it in my biological studies at college.

How does this relate to the Environmental Council's work? It relates because sometimes when we are intent upon legal minutiae in protecting the environment, we abandon common sense, innate and indigenous knowledge, and the very basic human and cultural connection to the land. There is value in both ways and our decisions should be guided by them.

Addressing Conflict of Interest Issues

Throughout my professional life, I have been very mindful in steering clear of conflict of interest issues. I believe full disclosure of potential conflicts of interest or appearances of impropriety is critical. As an attorney, I have received professional ethics training. This training has put me in good stead in the public positions I have held in the past and will be useful in my role on the burial council.

Neighbor Island Status

I have been apprised by Gary Hooser, OEQC Director that the Environmental Council will avail itself of the advantages of technology in holding real-time meetings between different islands. In my professional job with the Rural Development Project, we operate as a Statewide organization. We are all (Oahu, Big Island, Kauai, Lanai, Maui, and Molokai) connected on a weekly basis for staff and collaborative meetings via videoconferencing. I am housed at the UH Maui College – Molokai Education Center and have access to this type of technology. I see no problem in being able to attend Environmental Council meetings.

Mahalo for this opportunity to provide written testimony. I look forward to your favorable response.