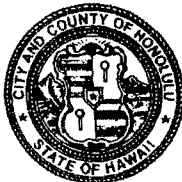


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 3, 2011

The Honorable Hermina M. Morita, Chair
and Members of the Committee on Energy
and Environmental Protection
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hermina and Members:

**Subject: House Bill No. 402
Relating to Environmental Impact Statements**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 402. The proposed changes are redundant and unnecessarily burdensome. This bill asserts that Act 50, Session Laws of Hawaii 2000, which required "cultural practices" to be assessed as part of the environmental documents, has been ineffective.

We disagree. Chapter 343, Hawaii Revised Statutes (HRS), requires an Environmental Impact Statement (EIS) for any project anticipated to have a significant effect, including those actions which may have an adverse impact on cultural practices. The EIS, in turn, must provide measures proposed to minimize any adverse effects, including those impacts to cultural practices. This is adequate for an environmental disclosure document, which is often a prerequisite for a discretionary permit where mitigation measures can be imposed as conditions of approval.

As proposed, the cultural impact assessment appears to be almost independent of the environmental documents, requiring special plans (as approved by the Department of Land and Natural Resources), ethnographic studies, public meetings, and mitigation measures *prior* to the submittal to the accepting agency. This is excessive, and rises to the level of a discretionary permit of its own, particularly because approval of the Office of Hawaiian Affairs (OHA) is required before an agency can accept an EIS or Environmental Assessment. Finally, there is already ample opportunity for review and comment,

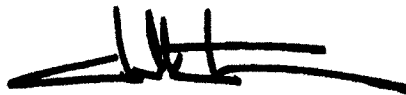
The Honorable Hermina M. Morita, Chair

The Honorable Hermina M. Morita, Chair
and Members of the Committee on Energy
and Environmental Protection
House of Representatives
Re: House Bill No. 402
February 3, 2011
Page 2

both by community groups and public agencies. Further, public hearings are often required as part of any subsequent permit action.

We recommend this measure be held in committee. Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a horizontal line underneath.

David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf

hb402-EIS-ek.doc

coffman3 - Sean

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 01, 2011 11:27 AM
To: EEPtestimony
Cc: mjellings@hawaii.rr.com
Subject: Testimony for HB402 on 2/3/2011 8:30:00 AM

Testimony for EEP 2/3/2011 8:30:00 AM HB402

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Carl Pao Jellings Sr
Organization: Individual
Address: Nanakuli, Waianae ,Hawaii. Nanakuli,Waianae.Hawaii.
Phone:
E-mail: mjellings@hawaii.rr.com
Submitted on: 2/1/2011

Comments:

Chair Hermina Morita Vice Chair Denny Coffman and members of EEP

In Support HB 792.

So far since Madam Chairs moratorium on permits for commercial vessels from State Harbors, Waianae harbor has had a number of permits change hands or sold. from deep sea fishing and rec tourism diving switching use to nearshore dolphin and swim with dolphin tours 2 are considered high speed These type operation's present more of an impact to akule and opelu resources and akule opelu ko'a's. Koolina has also seen an increase in tour vessels traffic, since Chair Morita's and Our legislature's action's. it is estimated an additional 3000 to 5000 more nearshore transits since act 6 of the 2005 special legislative session was passed. 2010 was no different, We continue to suffer severe loses. by both direct and indirect disruption.Vessel's and jet ski's from both Koolina and Waianae disrupted potential targets well over a dozen times .11 years and still no relief. Many Tour Capt's with the exception of one or two have totally disregarded the gentleman's agreement only during fishing efforts will they barely abide by the agreement,

The agreement was designed by Hawaiian's in the community and agreed upon by operator's (around the protection and preservation of the resource and it's habitat, fishing ground's, or ko'a) not around fishing effort. food security, sustainability, and a diverse economy cannot exist without balance.

Mahalo

Carl Pao Jellings Sr

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
Testimony of President Soulee Stroud

Supporting House Bill 402
Thursday; February 03, 2011; Room 325
Committee on Energy & Environmental Protection

Aloha Madam Chair Morita, vice chair Coffman and members of the Committee. I am Soulee Stroud, president of the Association of Hawaiian Civic Clubs, testifying in support of this bill that basically brings clarity to the sections of environmental impact law that gives needed relevance to cultural impact statements.

On January 22, 2011 the Board of Directors of the Association of Hawaiian Civic Clubs met in a quarterly meeting and voted to support the legislative package being introduced by the Office of Hawaiian Affairs. I am here today to voice that support for cultural impact statements as described in HB402.

In amending Chapter 343 of Hawaii Revised Statutes it adds specificity to cultural impact statements that have an effect on native Hawaiian culture. This explicit language was missing from the law when it was passed in 2000, and as an organization that advocates for the native Hawaiian culture on many levels, we believe it will help to protect those vestiges of our culture that would otherwise remain ignored.

Thank you for your consideration. We urge the passage of this measure.

Contact: Jalna Keala at 373-3070 or jalna.keala@hawaiiantel.net



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 1, 2011

The Hon. Mina Morita, Chair, and
Members of the House Committee on
Energy and the Environment

The Hon. Jerry Chang, Chair, and
Members of the House Committee on
Water, Land and Ocean Resources

State Capitol, Room 325
Honolulu, Hawaii 96813

Re: Testimony Regarding House Bill No. 402 Relating to Environmental Impact Statements

Dear Chairs Morita and Chang and Committee Members:

I am submitting this testimony on behalf of NAIOP Hawaii. We are the Hawaii chapter of NAIOP, the Commercial Real Estate Development Association, which is the leading national organization for developers, owners and related professionals in office, industrial and mixed-use real estate. The local chapter comprises property owners, managers, developers, financial institutions and real estate related professionals who are involved in the areas of commercial and industrial real estate in the State of Hawaii.

We have some substantial practical concerns about this bill. The intent of Act 50, Session Laws of 2000, was to insure that all cultural impacts be considered in the environmental review process, not just native Hawaiian cultural impacts. This is in line with the intent of Chapter 343, which is that all relevant impacts be considered and addressed. However, this bill would limit consideration of cultural impacts to those affecting native Hawaiian cultural practices and sites. This would go against the intent of Chapter 343.

Second, the Environmental Impact Statement Rules of the Department of Health, contained in Hawaii Administrative Rules Ch. 11-200, already cover cultural impacts. This bill conflicts with those regulations. Further, the Environmental Impact Statement Rules already require EAs and EISs to cover impacts on all cultural resources, which would include impacts on native Hawaiian cultural practices.

Third, environmental assessments and environmental impact statements are informational documents. It is not a permit process. However, this bill would give the right to OHA to "approve" all cultural impact assessments as a prerequisite before an EA or EIS can be accepted. Essentially, this turns the environmental review process into another layer of discretionary permitting by OHA. Like all other State and county agencies, OHA presently has the right to comment on the adequacy of an EA or EIS, and if it feels that protection of Hawaiian cultural practices and sites is inadequate, it has the right

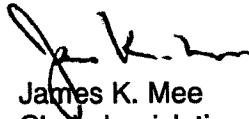
Chairs Morita and Chang &
Committee Members
February 1, 2011
Page 2

subsequently to oppose the granting of permits. But there should not be another layer of permitting created as part of the environmental review process, under which all proposed projects within Chapter 343 must first obtain OHA approval before they can move forward.

Finally, complying with all the requirements established by this bill would be cost-prohibitive in many cases, and especially so with regard to preparation of environmental assessments.

Thank you for the opportunity to testify on this measure.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James K. Mee', written over a faint, illegible stamp.

James K. Mee
Chair, Legislative Affairs Committee

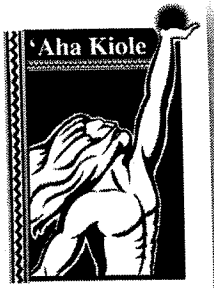
coffman3 - Sean

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 02, 2011 2:35 PM
To: EEPtestimony
Cc: kuhiau@hotmail.com
Subject: Testimony for HB402 on 2/3/2011 8:30:00 AM

Testimony for EEP 2/3/2011 8:30:00 AM HB402

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Cheryl Lovell-Obatake
Organization: Individual
Address: 3407 Rice Street Lihue, Hawaii 96766
Phone: 808 652-3982
E-mail: kuhiau@hotmail.com
Submitted on: 2/2/2011

Comments:
Former Kauai/Niihau Islands Burial Council(1991-2000, Chair-Nawiliwili Watershed Council, former Citizens Advisory Committee Kauai General Plan Update 2000 (Chapter 3 Caring for Land, Water & Culture), Aha Kiole Puna Moku, Kauai Rep., testify @ the Kauai Planning Commission re: Native Hawaiian culture and rights, therefore, I support HB 402 re: Cultural Impact Assessments/EIS.



Aha Kiole Advisory Committee

TESTIMONY IN SUPPORT OF HB 402,
RELATING TO ENVIRONMENTAL
IMPACT STATEMENTS; CULTURAL
IMPACT ASSESSMENTS

Submitted to: Hearing of the Committee on Energy and Environmental Protection, Chair
Hermina Morita, Vice Chair Coffman and Members of the Committee

Hearing Date: February 3, 2011, 8:30a.m., Room 325

Submitted by: Vanda Hanakahi, Moloka'i (Chair), Leslie Kuloloio, Kahoolawe, (Vice-Chair)
Testimony is submitted on behalf of the other Members of the Aha Kiole Advisory Committee
and the 43 moku from each island they represent:; Timmy Bailey, Maui; Winifred Basques,
Lana'i; Pi'ilani Ka'awaloa, (Po'o) Hawai'i; Charles Kapua, O'ahu; Sharon Pomroy, Kaua'i;
Keith Robinson, (Konohiki) Ni'ihau..

Aloha Chair Morita and Members of the House Committee on Energy and Environmental
Protection

Thank you for the opportunity to testify in support of H.B. 402 that requires all environmental
assessments and environmental impact statements to include a cultural impact assessment. This
bill requires OHA's approval of the cultural impact statements (CIS).

In our work with the moku districts on all of the islands, the issues of cultural impact statements
come up constantly. And while the intent of Act 50 was always meant to require cultural impact
statements to protect Native Hawaiians, the host culture, from having their sacred areas and lands
desecrated by development, that intent has not been met. In fact, there are those who actually
used the CIS and Act 50 as a tool to further their own agendas and in doing so, adversely
affected Native Hawaiian resources and culture.

We believe that the Office of Hawaiian Affairs will be diligent in true cultural impact
assessments. We urge the passage of HB 402.

Vanda Hanakahi, Chair, Aha Kiole Advisory Committee

P.O. Box 507

Hoolehua, HI 96729

Phone: 808-336-6184

Email: Kaiwilauula@yahoo.com

(Or contact the following for further information)

Leimana DaMate, Administrative Director

Phone: 808-497-0800, email: Leimana@fastnethi.com